

**SUPPORTING JUSTIFICATION FOR
IDENTIFICATION OF CARS MOVED IN ACCORDANCE WITH 49 CFR
232.3 (d) (FORMERLY ORDER 13528)
OMB No. 2130-0506**

Summary

- This submission is a request for an extension without change to the last approval granted by OMB on **January 23, 2015**, which expires on **January 31, 2018**.
- FRA published the required 60-day **Federal Register** Notice on **September 13, 2017**. See 82 FR 43079. FRA received **no** comments in response to this Notice.
- FRA is publishing the required 30-Day Notice in the **Federal Register** on **December 11, 2018**. See 82 FR 58267. Although comments by the public or interested parties will be sent directly to the Office of Information and Regulatory Affairs (OIRA), FRA expects that OMB will not receive any.
- The total number of burden **hours requested** for this submission is **67 hours**.
- The total number of burden **hours previously approved** for this submission was **67 hours**.
- The total number of burden **responses requested** for this submission is **800**.
- Total number of **responses previously approved** for this submission was **800**.
- There is **no change** then in the number of burden hours and burden responses.
- ****The answer to question number 12** itemizes the hourly burden associated with each requirement of this rule (See pp. 5-6).

1. Circumstances that make collection of the information necessary.

Background

On October 16, 1970, Congress enacted Public Law 96-458; the Federal Railroad Safety Act of 1970 (which is now positive law at 49 U.S.C. 20103). This Act gave the Secretary of Transportation the authority to prescribe as necessary appropriate rules, regulations, orders, and standards for all areas of railroad safety.

This paper refers to the identification of freight cars that may be moved in accordance

with the provisions as set forth in 49 CFR, Part 232.3(d), formerly ICC Order 13528. The original Order 13528 was issued May 30, 1945, by the Interstate Commerce Commission (ICC) and was amended September 30, 1952 (17 FR 8653), October 7, 1952 (17 FR 8957), November 26, 1952 (17 FR 10738), and further amended November 3, 1953 (18 FR 6942). The provisions formerly contained in Interstate Commerce Commission Order 13528, of May 30, 1945, as amended, now revoked, are now codified in 49 CFR 232.3 (Jan. 17, 2001).

Prior to the formulation of Order 13528, the movements of cars without power brakes were handled within the provisions as set forth in the Safety Appliance Acts. These Acts are very binding and, without the benefit of Order 13528, it would be unlawful for any movement of freight equipment not equipped with air brakes from initial terminal locations or through interchange locations.

The card used to indicate that a freight car is being moved in accordance with Order 13528 is usually a carrier bad order form. These forms are readily available from all carrier repair facilities. The purpose of this form is to identify a freight car as being moved legally within the scope of Order 13528; otherwise, exception would be taken and the car would be set out of the train and not delivered.

Order 13528 sets forth specific restrictions that have to be complied with when it is deemed necessary to move equipment by this Order. The information mandated to be recorded is specified in 49 CFR 232.3(d). This Part requires that cars be properly identified by a card – signed by shippers stating that such movement is being made under authority of this Order – which must be attached to each side of the car. Order 13528 does not require that cards or tags be retained. When a car bearing tags for movement under Order 13528 arrives at its destination, the tags are simply removed.

It is necessary to place a tag on each side of the equipment because there are railroad locations where only one side of the train is visible while entering the yard. Therefore, if only one tag is applied, it could be missed and the equipment could continue en route beyond the destination, causing safety and other problems, including additional expense to the shipper.

2. How, by whom, and for what purpose the information is to be used.

The information collected is used by railroad employees to ensure that cars moved in accordance with 49 CFR 232.3(d) (formerly Order 13528) arrive at the correct destination. These records are not maintained for the purpose of information collection per se. It is imperative that rolling stock being moved under this Order be properly tagged so that it may be readily observed and identified. If this tagging process were not complied with, freight cars/equipment without power brakes could possibly be put in service, causing injury to railroad workers and perhaps members of the public as well. Also, if this tagging process were not complied with, the affected freight equipment

might be removed from the train during subsequent en route inspections. Thus, the tags serve both to enhance railroad employees' safety and reduce expenses to the railroads when rolling stock is moved to designated locations.

At destination, the tags are removed. The Federal Railroad Administration (FRA) does not have a retention requirement.

3. Extent of automated information collection.

FRA strongly endorses and highly encourages the use of advanced information technology and, wherever possible, to reduce burden on respondents. FRA has done so for many, many years now, and it has especially encouraged the use of electronic records. However, in consideration of the specific use of these tags, FRA believes the current practice best ensures that freight cars without power brakes will not inadvertently be put in service, and furthermore will reach their assigned locations as scheduled. As a matter of safety and efficient movement of trains, it is critical that this special equipment be marked in such a way that it is clearly visible to railroad workers on both sides of the car. Tags are an effective and inexpensive means to accomplish this goal.

It should be noted that the burden for this collection of information is extremely minimal.

4. Efforts to identify duplication.

There is no known duplication concerning this method of identifying special equipment. The tags are placed on the car when it is placed in a train, and are removed at the designated destination point. There is no retention requirement for these tags.

No other similar information is available. These tags are used en route for the sole purpose of properly identifying special equipment so that it may reach its designated location.

5. Efforts to minimize the burden on small businesses.

As noted previously, these tags are not used for the purpose of information collection per se, and are only used by railroads. They involve small businesses (i.e, small railroads) very little, if at all. It should be noted that the impact on all railroads, primarily large ones, is already minimal, since all that is required is filling out cards or tags and placing them on the special equipment.

Again, it should be noted that the estimated burden for this information collection is extremely minimal, since only a small number of cars (approximately 400) is moved each year under this provision.

6. Impact of less frequent collection of information.

If this information collection were not conducted or conducted less frequently, the safety of railroad workers might be seriously jeopardized because special equipment would not be appropriately marked and readily visible. As a result, railroad workers would not know the appropriate actions to take, the necessary procedures to follow, or the proper destination for cars moved under this Order. Therefore, they might then put freight cars without power brakes into service, which could lead to an increased number of accidents/incidents and injuries to these railroad workers. Additionally, railroads would incur increased business expenses if this special equipment were not marked and then mistakenly sent to undesignated/improper destinations.

This collection of information assists FRA in its main mission, which is to promote and enhance rail safety throughout the United States.

7. Special circumstances.

All information collection requirements are in full compliance with this section.

It should be noted that this is not a routine collection of information or reporting requirement. The requirement must be performed only when the carrier has a need to move equipment under the provisions set forth by 49 CFR Part 232.3(d) (which codified ICC Order 13528).

8. Compliance with 5 CFR 1320.8.

In accordance with the Paperwork Reduction Act of 1995, FRA published a Notice in the Federal Register on September 13, 2017, soliciting comment on this particular information collection. See 82 FR 43079.

FRA received **no** comments from the public, interested parties, or from railroad respondents regarding the activities involved in this information collection and no comments on the agency hour burden estimates or burden responses contained in the Notice.

As noted in the Summary on page 1 of this document, FRA is publishing the required 30-Day Notice in the **Federal Register** on **December 11, 2018**. See 82 FR 58267. Although comments by the public or interested parties will be sent directly to the Office of Information and Regulatory Affairs (OIRA), FRA expects that OMB will not receive any.

Background

As noted earlier, this Order was issued on May 30, 1945, and Order 13528 has now been codified in 49 CFR 232.3(d). The changes were made following the prescribed rulemaking procedures with public comment from the industry and interested parties.

9. Payments or gifts to respondents.

There are no monetary payments provided or gifts made to respondents in connection with this information collection.

10. Assurance of confidentiality.

This is not an information collection per se, and no confidentiality is promised/implied to any respondent. The information is not of a sensitive or confidential nature.

11. Justification for any questions of a sensitive nature.

As noted above, there is no information of a sensitive nature or data that would normally be considered private contained in this information collection. Specifically, the reporting/recordkeeping requirement pertains solely to railroad cars, and does not involve information of a personal nature.

12. Estimate of burden hours for information collected.

Note: Based on the latest agency data, FRA estimates that there are presently 755 railroads in the United States broken down as shown in the following table:

<i>Class I Railroads</i>	<i>7</i>
<i>Class II Railroads</i>	<i>11</i>
<i>Class III Railroads</i>	<i>704</i>
<i>Passenger Railroads</i>	<i>33</i>

Per OMB's request, FRA is including the annual cost equivalent of the requested burden hours below. FRA derived this cost estimate from the 2017 AAR publication Railroad Facts (p. 57). FRA uses the average annual wages for maintenance of equipment employees that includes 75 percent overhead costs. This cost amounts to \$59 per hour).

§ 232.3(d) Identification of Cars Moved in Accordance with 49 CFR 232.3(d) (Formerly Order 13528)

The provisions formerly contained in Interstate Commerce Commission Order 13528, of May 30, 1945, as amended, now revoked, are codified in this paragraph. This part is not

applicable to the following equipment: (1) Scale test weight cars; (2) Locomotive cranes, steam shovels, pile drivers, and machines of similar construction, and maintenance machines built prior to September 21, 1945; (3) Export, industrial, and other cars not owned by a railroad which are not to be used in service, except for movement as shipments on their own wheels to given destinations. Such cars shall be properly identified by a card attached to each side of the car, signed by the shipper, stating that such movement is being made under authority of this paragraph; (4) Industrial and other than railroad-owned cars which are not to be used in service except for movement within the limits of a single switching district (i.e., within the limits of an industrial facility); (5) Narrow-gauge cars, and (6) Cars used exclusively in switching operations and not used in train movements within the meaning of the Federal safety appliance laws (49 U.S.C. 20301-20306).

This requirement/record comes into play only when a railroad finds it necessary to move equipment as specified above. FRA estimates that approximately 400 cars per year are moved under this Order. As stipulated above, equipment must be tagged on both sides. FRA estimates that it takes approximately five (5) minutes to record the necessary information on each tag and attach the tags to the equipment. There is no retention requirement relative to the tags at destination. Total annual burden for this requirement is 67 hours.

Respondent Universe:

755
railroads

Burden time per response:

5
minutes

Frequency of Response:

On occasion

Annual number of Responses: 800 tags

Annual Burden: 67 hours

Annual Cost: \$3,953

Calculation: 800 tags x 5 min. = 67 hours

Total annual burden for this entire information collection is 67 hours.

13. Estimate of total annual costs to respondents.

Total Additional Cost to Respondents

\$40.00 -- Printing of 800 tags at approximately \$.05 cents each.

14. Estimate of Cost to Federal Government.

There is no cost to the Federal Government in connection with the tagging of equipment moved under Order 13528. Carriers are examined on a somewhat routine basis in conjunction with regular enforcement activities that monitor their compliance with inspection and testing requirements.

15. Explanation of program changes and adjustments.

This is a request for an extension without change. Upon a complete and careful review by its subject matter experts, FRA believes that the burden hour estimates and burden response estimates that it previously submitted remain valid. Therefore, there are **no program changes** or **adjustments** at this time.

The total **burden requested** for this collection of information is **67 hours** and the total number of **responses requested** is **800**. The total burden **previously approved** was **67 hours** and the total number of **responses previously approved** was **800**. Hence, nothing has changed. [Note: As depicted in the answer to question number 12 above, the dollar equivalent cost of the requested 67 burden hours amounts to \$3,953. This estimate is based on an average hourly wage of \$59 per hour, which includes 75 percent overhead costs.]

There is no change in cost to respondents from the previously approved submission.

16. Publication of results of data collection.

This is not an information collection activity per se, and the agency does not intend to publish anything in connection with the requirements of § 215.103.

17. Approval for not displaying the expiration date for OMB approval.

Once OMB approval is received, FRA will publish the approval number for these information collection requirements in the Federal Register.

18. Exception to certification statement.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. Without this collection of information, special train equipment would not be appropriately marked as required by 49 CFR 232.3(d), which codified ICC Order 13528. As a result, railroad workers would not know the proper action to take or the necessary procedures to follow concerning this type of equipment. Railroad workers might then put freight cars without power brakes into service. This could lead to increased accidents/incidents where serious injuries occurred to railroad workers and, possibly, members of the general public as well. Moreover, in the event of an accident/incident, there could be considerable property damage, which would translate in to high dollar losses to the affected railroad(s). Proper marking also prevents removal of this special equipment from the train during en route inspections and thus ensures delivery to the correct destination. This not only serves the cause of enhancing rail safety, but it also serves the cause of promoting rail efficiency by ensuring special rail equipment is not sent beyond the designated destination point.

In this information collection, as in all its information collection activities, FRA seeks to do its utmost to fulfill DOT Strategic Goals and to be an integral part of One DOT.