

1FEDERAL RAILROAD ADMINISTRATION
Bad Order, Home Shop Card, and Stenciling Reporting Mark
(Title 49 Code of Federal Regulations Part 215)
SUPPORTING JUSTIFICATION—Part A
OMB Control No. 2130-0519

Summary of Submission

- This submission is a request for a three-year extension with a change of the previous approval granted by the Office of Management and Budget (OMB) on **January 17, 2017**, which now expires on **January 31, 2020**.
- The Federal Railroad Administration (FRA) published the required 60-day Notice in the *Federal Register* on **October 7, 2019**. (See 84 FR 53556.) FRA received no comments in response to this Notice.
- The total number of burden **hours** requested for this information collection submission is **38,250 hours**. The total number of burden hours **previously approved** for this information collection was **15,750 hours**.
- The total number of **responses** requested for this information collection submission is **300,000**. The total number of responses **previously approved** for this information collection submission is **270,000**.
- Adjustment(s) increased the burden by 22,500 hours and responses by 30,000.
(Note: the increase in burden hours and responses is solely due to the addition of the burdens covered under OMB Control No. 2130-0520.)
- There are no program changes at this time.
- ****The answer to question number 12 itemizes the hourly burden associated with each requirement of this rule. (See pages 5-6).**
- ****The answer to question number 15 itemizes all adjustments associated with this rule. (See pages 6-7).**

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 (now 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.

The second standards promulgated by FRA under the authority of this Act were Federal Freight Car Safety Standards (Title 49 Code of Federal Regulations [49 CFR] Part 215, *Railroad Freight Car Safety Standards*.). These standards require each railroad to inspect freight cars placed in a train and take the necessary remedial action when defects are found. FRA enforces the regulations by monitoring the railroad's compliance activities using FRA field personnel and/or qualified state inspectors.

For years, the railroad industry has moved cars for its benefit with bad order tags for shifted loads, car body defects, and other conditions not subject to CFR Part 215 without penalty. Part 215 defects are specific in nature and relate to items that have or could cause accidents or incidents. Railroads also provided their reporting mark and car number to all cars of their ownership.

A railroad freight car with a Part 215 defect may be moved to another location for repair only after the railroad has complied with the process under 49 CFR 215.9, *Movement of defective cars for repair*. Section 215.9 requires railroads to affix a “bad order” tag describing each defect to each side of the freight car. It is imperative that a defective freight car be tagged “bad order” so it can be readily identified and moved to another location for repair purposes only. Bad order cars also have a maximum speed along with other restrictions necessary for safely conducting the movement of the car. At the repair location, the bad order tag serves as a notification of the defective condition of the freight car. Railroads must retain each tag for 90 days to verify that proper repairs were made at the designated location. When inspecting a freight car, FRA and State inspectors review all pertinent records to determine railroads’ compliance with the movement restrictions of 49 CFR 215.9.

Additionally, Section 215.301, *General*, requires railroads and private car owners to stencil or otherwise display identification marks on freight cars. FRA uses the identification marks to determine the railroads affected, the number and type of cars involved, the commodities being carried, and the territorial and speed limits within which the cars will be operated. FRA reviews this information to determine if the freight car is safe to operate and if the operation qualifies for dedicated service and is excluded from the requirements of Part 215. Railroads use the required information to provide identification and control so that dedicated cars remain in the prescribed service.

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

This submission is a request for an extension with change to the last approved submission. The information is used by railroads and their employees (e.g., railroad crews) to safely move rail equipment that has been inspected and found defective according to FRA regulations (specifically freight cars) and to ensure that such freight car removed for repair arrives at the correct destination. It is crucial for safety that defective freight cars be tagged with essential information so that these cars may be readily identified and not moved beyond the designated repair point, or, if required, be removed

from the train during subsequent inspections en route. Among the items of essential information that railroad crews need to know are the following: (1) the reporting mark and car numbers; (2) the name of the inspecting railroad; (3) the inspection location and date; (4) the nature of each defect; (5) movement restrictions (maximum speed and other restrictions necessary for safely conducting the movement); (6) the destination for shopping or repair; and (7) the name of the person, designated as qualified under § 215.11, *Designated inspectors*, to inspect railroad freight cars for compliance with this Part, who conducted the inspection and made the determination that the freight car had a defective component/components.

At the prescribed destination, the tag is used by mechanics as a repair record and is retained for 90 days to confirm to all concerned that proper repairs were made at the designated location.

FRA and State inspectors use the required record (tag) as an enforcement tool to ensure compliance with Federal and State safety regulations and laws. Further, this record is used by FRA to establish knowledge when necessary to assess penalties under 49 CFR 215.7, *Prohibited acts*. The records are also reviewed by FRA and certified State inspectors to determine if defective cars that are an immediate hazard are being moved in trains.

Additionally, the stenciling requirement is used by railroad carriers, railroad employees, and FRA to identify railroad freight cars. Railroads use this information to move trains safely and efficiently, while FRA inspectors use this information during the routine performance of their inspection and enforcement duties.

3. Extent of automated information collection

FRA strongly encourages and highly endorses the use of advanced information technology, wherever possible, to reduce burden on respondents. However, in consideration of the specific use of the bad order tag and the specific use of identifying freight cars by stenciling, FRA has not been advised of improved information technology to reduce the burden of stenciling and tagging defective cars.

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

4. Efforts to identify duplication

There is no known duplication of this method of identifying defective equipment. The tag is placed on the car when a defect is detected and is removed after the defect is corrected. The tag is retained. In these instances, no other repair record is prepared.

Additionally, there is no known duplication of this method of identifying freight cars. A car is stenciled when it is built or rebuilt, and this process is not repeated unless the car

ownership changes or the stenciling becomes illegible or graffiti marked.

Similar data are not available from any other source.

5. **Efforts to minimize the burden on small businesses**

There are no known methods that are used, or can be used, at the present time to minimize burden. The majority of the estimated burden for bad order tags and stenciling will be experienced by the major railroads. The list of designated inspectors almost exclusively falls on the major railroads because of their greater financial resources and facilities.

Again, as noted earlier, the burden for this information collection is fairly minimal.

6. **Impact of less frequent collection of information**

Without this collection of information, FRA and State inspectors would be impeded in their enforcement of Federal and State rail safety regulations and laws. Specifically, they would be unable to access records concerning the inspection and movement of freight cars (including necessary restrictions) that did not meet the requirements of Part 215. This information might prove critical in an investigation to determine the cause(s) or contributing cause(s) of an accident/incident in which railroad workers experienced injuries or fatalities. Also, without this collection of information, specifically the list of designated inspectors under § 215.11, FRA would have no way to know whether a qualified railroad inspector made the determination that a freight car did not meet the requirements of Part 215 and was defective. This situation becomes a serious safety issue, since having unqualified personnel inspecting freight cars might cause an increase in accidents/incidents and corresponding casualties to railroad employees and possibly members of the public as well. Not having access to lists of designated inspectors would also prevent FRA from assessing responsibility in the event of an accident/incident and from imposing civil penalties under § 215.7 for violations of this Part. Being unable to conduct a thorough investigation, assess responsibility, and impose penalties because it did not have access to the information in this collection would deprive FRA of a useful enforcement tool necessary to promote and maintain rail safety.

Furthermore, without reporting marks on both sides, extra employees would be needed in order to identify cars entering trains yards. This would be costly and inefficient for railroads. The other option would be for an employee to attempt to identify entering freight cars on their own. This option could expose railroad employees to greater risk of injuries or fatalities.

The burden associated with this information collection is fairly minimal.

7. **Special circumstances**

This requirement is not a routine collection or reporting burden. It must be performed only when a rail carrier moves a car under the provisions set forth under § 215.9.

All information collection requirements are in compliance with this section.

8. Compliance with 5 CFR 1320.8

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the *Federal Register* on **October 7, 2019**, soliciting comment on this particular information collection. (See 84 FR 53556.) FRA received no comments in response to this notice.

9. Payments or gifts to respondents

No payment or gift is made to respondents.

10. Assurance of confidentiality

Information collected is not of a confidential nature, and FRA pledges no confidentiality.

11. Justification for any questions of a sensitive nature

This information collection does not contain any data of a personal or sensitive nature.

12. Estimate of burden hours for information collected

CFR Section	Respondent Universe	Total Annual Responses	Average Time per Responses	Total Annual Burden Hours	Total Cost Equivalent	Hourly Wage Rate ¹
215.9— Movement of defective cars for repair— Tagging	752 railroads	150,000 tags	5 minutes	12,500 hours	\$715,000	\$57 (80%) + \$58 (20%)
Notifications of removal of defective car tags	752 railroads	75,000 notifications	2 minutes	2,500 hours	\$143,000	\$57 (80%) + \$58 (20%)

¹ The hourly wage rate is obtained from the Surface Transportation Board’s Full Year Wage A&B data series using the appropriate employee group hourly wage rate (plus the 75-percent overhead).

215.11— Designated inspectors— Records	752 railroads	45,000 records	1 minute	750 hours	\$42,900	\$57 (80%) + \$58 (20%)
215.301— Stenciling— General ²	752 railroads	30,000 repainted/stenciled	45 minutes	22,500 hours	\$1,287,000	\$57 (80%) + \$58 (20%)
Total	752 railroads	300,000 responses	N/A	38,250 hours	\$2,187,900	N/A

13. Estimate of total annual costs to respondents

\$4,500 - Printing of 150,000 tags @ 3 cents each.

14. Estimate of Cost to Federal Government

There is no cost to the Federal Government in connection with the tagging, stenciling, and recordkeeping requirements of 49 CFR 215.9 and 215.301. Compliance is monitored during routine inspection activity and carriers' records are examined as part of FRA enforcement activities.

15. Explanation of program changes and adjustments

Currently, the OMB inventory for this collection of information shows a total burden of 15,750 hours and 270,000 responses, while this updated submission reflects a total burden of 38,250 hours and 300,000 responses. Overall, the adjustments increased by 22,500 hours and 30,000 responses due to the addition of burdens associated with Section 215.301 currently covered under OMB Control Number 2130-0520.

TABLE FOR ADJUSTMENTS

CFR Section	Responses & Avg. Time (Previous Submission)	Responses & Avg. Time (This Submission)	Burden Hours (Previous Submission)	FRA Burden Hours (This Submission)	Difference (plus/minus)
215.301— Stenciling— General		30,000 repainted/stenciled 45 minutes		22,500 hours	+22,500 hours +30,000 responses

² The burdens associated with Section 215.301 were formerly covered under OMB Control Number 2130-0520.

There is also no change in costs to respondents.

16. Publication of results of data collection

There are no plans for publication involving these information collection requirements.

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, rail safety in the United States would be seriously impaired. Specifically, train and maintenance crews would not know what precautions to take concerning the movement of defective cars. Consequently, they might put these cars into service, which could result in an accident/incident in which both railroad passengers and train crews are seriously injured, or possibly killed. Additionally, this collection of information promotes safety by ensuring that only designated personnel make the determinations required by this Part to move defective cars. Thus, unqualified personnel cannot inspect freight cars and make erroneous determinations that could have harmful, perhaps even disastrous, consequences.

Furthermore, the collection of information—the required reporting marks or stenciling—serves to promote safety by making defective freight cars easily identifiable, and thus eliminating an unnecessary risk to railroad workers.

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.