FEDERAL RAILROAD ADMINISTRATION
Track Safety Standards
(Title 49 Code of Federal Regulations Part 213)
SUPPORTING JUSTIFICATION
RIN: 2130-AC53; OMB Control No. 2130–0010

Summary

- This submission is a revision to the last approved submission pertaining to Part 213 that was approved by the Office of Management and Budget (OMB) on August 6, 2020, which expires on August 31, 2023.

- The Federal Railroad Administration (FRA) is publishing a Final rule revising Part 213 titled Rail Integrity Amendments & Track Safety Standards in the *Federal Register* on October 7, 2020. See 85 FR 63362. FRA has not received comments.

- The total number of burden hours requested for this information collection is 234,016 hours. The total number of burden hours previously approved by OMB was 233,899 hours.

- The total number of responses requested for this information collection is 1,429,776. The total number of responses previously approved by OMB was 1,404,410.

- Overall, the adjustments (including program changes) increased the burden by 117 hours and increased responses by 25,366.

  ** The answer to question number 12 itemizes the hourly burden.
  ** The tables in answer to question number 15 itemize program changes and adjustments.

1. Circumstances that make collection of the information necessary.

The first Federal Track Safety Standards were published on October 20, 1971, following the enactment of the Federal Railroad Safety Act of 1970, Pub. L. No. 91–458, 84 Stat. 971 (October 16, 1970), in which Congress granted to FRA comprehensive authority over "all areas of railroad safety."[1] FRA envisioned the new Standards to be an evolving set of safety requirements subject to continuous revision allowing the regulations to keep pace with industry innovations and agency research and development. The most comprehensive revision of the Standards resulted from the Rail Safety Enforcement and Review Act of 1992, Pub. L. No. 102–365, 106 Stat. 972 (Sept. 3, 1992), later amended by the Federal Railroad Safety Authorization Act of 1994, Pub. L. No. 103–440, 108 Stat. 4615 (Nov. 2, 1994). The amended statute is codified at 49 U.S.C. 20142 and required the Secretary of Transportation (Secretary) to review and then revise the Track Safety

[1] 36 FR 20336.

Standards, which are contained in 49 CFR Part 213. The Secretary has delegated such statutory responsibilities to the FRA Administrator.[2] FRA carried out this review on behalf of the Secretary, which resulted in FRA issuing a final rule amending the Standards in 1998.[3]

Pursuant to 49 U.S.C. 20103, the Secretary may prescribe regulations as necessary in any area of railroad safety. FRA began its examination of rail integrity issues through the Railroad Safety Advisory Committee (RSAC) on October 27, 2007. On October 16, 2008, the Rail Safety Improvement Act (RSIA) (Pub. L. 110–432, Division A) was enacted. Section 403(a) of the RSIA required the Secretary to conduct a study of track issues, known as the Track Inspection Time Study (Study). The Study was completed and presented to Congress on May 2, 2011. Section 403(c) of the RSIA further provided that FRA prescribe regulations based on the results of the study two years after its completion.

FRA notes that Section 403 of the RSIA contained one additional mandate, which FRA has already fulfilled, promulgating regulations for concrete crossties. On April 1, 2011, FRA published a final rule on concrete crosstie regulations per this mandate in Section 403(d). That final rule specifies requirements for effective concrete crossties, for rail fastening systems connected to concrete crossties, and for automated inspections of track constructed with concrete crossties.[4]

Beginning in 2015, the Track Safety Standards Working Group of the RSAC met numerous times to "consider specific improvements to the Track Safety Standards . . . designed to enhance rail safety by improving track inspection methods, frequency, and documentation." To streamline and ensure its regulations are as up to date as practicable, FRA periodically reviews and proposes amendments to its regulations.

In this final rule, FRA is amending subparts A, D, F, and G of the TSS to (1) allow for continuous rail testing, (2) incorporate longstanding waivers related to track frogs, (3) remove the exception for high-density commuter lines from certain track inspection method requirements, and (4) incorporate several consensus-based, RSAC recommendations.

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

This information collection request is a revision to the last approved submission. The information collected under Part 213 is used by FRA to ensure and enhance rail safety. Railroads initially use inspection reports/records to see that tracks are inspected periodically; confirm that the inspectors are properly qualified in carrying out their duties; and ensure that tracks are in safe condition for train operations.

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[2] 49 CFR 1.89.

[3] 63 FR 34029, June 22, 1998; 63 FR 54078, Oct. 8, 1998.

[4] See 76 FR 18073.

Railroads also use these reports/records for maintenance planning, particularly where defective track is discovered and where repetitive unsafe conditions occur. This information helps railroads address and correct track problems and provides invaluable information in the event of a train derailment, collision, or other train accident/incident.

This final rule will ament part 213 to allow for what is commonly referred to as "continuous rail testing." Currently, some railroads use continuous testing under a waiver. Under § 213.240 in this final rule, railroads that use continuous testing must provide an annual report to FRA. This report verifies what section of track was tested and how many defects and service failures were found. This ensures that safety is not compromised by allowing continuous testing.

This final rule will incorporate two existing waivers into part 213 to provide additional flexibility in the use of track frogs. Under § 213.137, railroads will be required to document the location and specifications of flange-bearing frogs, including inspection and repair of those frogs. Additionally, the information collected under § 213.143 will be used by FRA track owners verify the location and description of each turnout containing a heavy-point frog.

The information collected under § 213.237 is used by FRA to ensure and enhance rail safety. Specifically, railroads are required to send a detailed request to FRA to change the designation of a rail inspection segment or establish a new segment. Collecting service failure rates that are averaged over excessively large segments of track (such as segments longer than a subdivision length) might fail to identify discrete areas of weakness with chronically high concentrations of service failures. At the same time, if a segment size is too small, one random failure could trigger a service failure rate in excess of the railroad's/track owner's performance target under this section. In order to maintain consistency and uniformity, FRA requires that if a railroad wishes to change or deviate from its segment lengths, the railroad must receive FRA approval to make that change. Also, under § 213.237, railroads/track owners must notify FRA and all affected employees of the designation's effective date after FRA's approval or conditional approval. FRA inspectors use this notification to ensure that railroads conduct necessary internal rail inspections over these specified segments as appropriate. Further, this information is used by railroad employees to understand any changes to their duties, particularly pertaining to maintenance activities and conducting internal rail inspections over these designated segments.

Additionally, under § 213.237, if the service failure rate identified in paragraph (a) of this section is not achieved, railroads/track owners must inform FRA of this fact within 45 days of the end of the defined 12-month period in which the performance target is exceeded, and they must provide an explanation as to why the performance target was not achieved. FRA uses this information to determine whether railroads are properly carrying out their internal rail inspections and whether they need to take additional measures to meet their performance targets, reduce rail defects, and maintain rail safety.

The information collected under § 213.7 is used by FRA to ensure that individuals designated by railroads/track owners as qualified to inspect continuous welded rail (CWR) track or supervise the installation, adjustment, and maintenance of CWR track meet the criteria detailed in this section.

The information collected under § 213.118 and § 213.119 is used by FRA to ensure that railroads/track owners develop and implement plans containing written procedures which address the installation, adjustment, maintenance and inspection of CWR, inspection of CWR joints, and a training program for the application of those procedures. To ensure compliance with the requirements of this rule, FRA confirms that railroads or track owners specify in their written procedures that all joints in CWR in the various track classes are inspected according to the schedule prescribed in § 213.119(h)(6)(i).

FRA uses the information collected to ascertain those line segments on which Gage Restraint Measurement Systems (GRMS) technology—supplemented by the use of Portable Track Loading Fixtures (PTLF)—needs to be implemented by track owners. Specifically, FRA reviews the information to ensure that certain minimal data are provided by railroads, including the segment's timetable designation milepost limits, track class, million gross tons of traffic per year, and any other identifying characteristics of the segment. FRA uses the information provided to evaluate the appropriateness of implementing GRMS technology on a given segment of track. FRA uses the technical data provided to ensure that minimum GRMS design requirements have been met and that GRMS vehicles have been properly calibrated in order to maintain the integrity of the data they provide.

Moreover, FRA reviews records of the two most recent GRMS inspections at locations meeting the requirements specified in section 213.241(b) of this Part to ascertain the location and nature of each First Level exception and the nature and date of initiated remedial action, if any, for each First Level exception identified.

Other Track Safety Information

Under § 213.4, FRA uses the information collected to ensure that railroads properly identify a segment(s) of track as excepted either in their timetables, special instructions, general orders, or other appropriate records. When a piece of track is designated excepted that is not listed in its timetables, a railroad will issue special instructions or a general order identifying the excepted track so that its employees know what procedures or practices to follow. Also, FRA uses the information collected to verify that the FRA has been notified by the railroad, at least 10 days in advance, when a segment of track is removed from excepted status. Ensuring the safety of railroad employees and the traveling public is FRA's paramount concern.

Under § 213.5, FRA uses the information collected to verify that the agency is properly

informed in writing, at least 30 days in advance, when a track owner assigns responsibility for the track to another person by lease or otherwise. FRA reviews the notifications provided by railroads to make sure essential information is transmitted to the agency.

Under § 213.17, FRA reviews exemption petitions to see if it is safe and in the public interest to grant exemptions from any or all requirements prescribed in this Part to a railroad.

Under § 213.57, FRA uses the information collected to ensure that the track owner notifies the agency at least 30 calendar days in advance before a proposed implementation of the higher curving speeds allowed under the formula specified in paragraph (c) of this section.

Under § 213.234, track owners are required to maintain a record of the inspection data and the exception data for a minimum of two years. FRA inspectors review these records to ensure that concrete crosstie deterioration or abrasion prohibited by § 213.109(d)(4) is identified and reported, particularly rail seat deterioration. FRA inspectors closely scrutinize exception reports/records not only to verify that they accurately reflect the conditions of the track, but also to ensure that a qualified person has taken appropriate remedial actions in a timely manner.

Under revised § 213.237, currently, Classes 4 and 5 tracks, as well as Class 3 track over which passenger trains operate, are required to be tested for internal rail defects at least once every accumulation of 40 million gross tons (mgt) or once a year (whichever time is shorter), and Class 3 track over which passenger trains do not operate are required to be tested at least once every accumulation of 30 mgt or once per year (whichever time is longer). The railroads then utilize this information to generate and maintain a service failure performance target.

Under § 213.238, FRA requires that each provider of rail flaw detection have a documented training program to ensure that a flaw detection equipment operator is qualified to operate each of the various types of equipment currently utilized in the industry for which he or she is assigned.

Under § 213.241, track owners to which this Part applies must keep a record of each inspection required to be performed on its track under this subpart. FRA reviews this information to ensure that track inspections are completed as required and to ensure that essential records are maintained and available to its inspectors so they can carry out their duties. Federal and State investigators examine these inspection records to determine a railroad's compliance with the inspection frequency requirement of the Track Safety Standards and to verify that persons assigned to inspect tracks have been properly designated. The track owners must retain these records for at least two years after the inspection and for one year after remedial action is taken. In the event of an accident/incident, these records provide extremely valuable information, particularly if a

problem with track caused the unfortunate event. The absence of these inspection records would substantially harm the Federal Government's railroad safety program.

Moreover, railroads, too, use the information mentioned above. Railroad companies initially use inspection reports/records to see that tracks are inspected periodically, to confirm that the inspectors are properly qualified in carrying out their duties, and to ensure that tracks are in safe condition for train operations. Railroad companies also use these reports/records for maintenance planning, particularly where defective track is discovered and where repetitive unsafe conditions occur.

3. Extent of automated information collection.

FRA strongly encourages the use of advanced information technology, wherever feasible, to reduce burden on respondents. The Track Safety regulations permit great flexibility in the methods employed to establish employee qualifications and to determine track conditions and only specify information which must be contained in the records. The form of that record is discretionary, and entities may use any medium capable of displaying information, including electronic recordkeeping. Records and reports in Part 213 may be either in hardcopy or electronic form.

Part 213 allows each railroad to design its own electronic system if the system meets the specified criteria to safeguard the integrity and authenticity of each record. Currently, approximately 75% of all responses are submitted/collected electronically by railroads/track owners.

The final rule clarifies requirements when using electronic recordkeeping. It requires that the track owner monitor its electronic records database to ensure record accuracy. This final rule also contains a provision for maintaining and retrieving electronic records of track inspections.

4. Efforts to identify duplication.

Records of track inspection results describe a continuously changing condition at any given moment in time. Records of qualified track inspectors are unique to a specific railroad property, and no duplication of information exists. Consequently, there is no duplication of information because this information is new. The information regarding GRMS systems involves a relatively recent technology, and, therefore, there is no possibility of duplication.

The data collected under this rule or similar data are not available from any other source.

5. Efforts to minimize the burden on small businesses.

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq*.) and Executive Order 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to assess their impacts on small entities.

"Small entity" is defined in 5 U.S.C. 601 as a small business concern that is independently owned and operated and is not dominant in its field of operation. The U.S. Small Business Administration (SBA) 1has authority to regulate issues related to small businesses and 1stipulates in its size standards that a "small entity" in the railroad industry is a for profit "line–haul railroad" that has fewer than 1,500 employees, a "short line railroad" with fewer than 500 employees, or a "commuter rail system" with annual receipts of less than seven million dollars.[5]

Federal agencies may adopt their own size standards for small entities in consultation with SBA and in conjunction with public comment. Pursuant to that authority, FRA has published a final statement of agency policy that formally establishes "small entities" or "small businesses" as railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1–1, which is $20 million or less in inflation adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less.[6]

1The $20 million limit is based on the Surface Transportation Board's revenue threshold for a Class III railroad carrier. Railroad revenue is adjusted for inflation by applying a revenue deflator formula in accordance with 49 CFR 1201.1–1. The current threshold is $39.2 million or less.[7]

The requirements of this Part are applicable to all railroads, although not all requirements will be relevant to all railroads. Based on the railroads that are required to report accident/incidents to FRA under part 225, FRA estimates there are approximately 752 Class III railroads, with 714 of them operating on the general system. These are of varying size, with some a part of larger holding companies.

FRA published an Initial Regulatory Flexibility Analysis (IRFA) in the NPRM. FRA requested comments on the impact of small entities and received none. Consistent with the findings in FRA's initial regulatory flexibility analysis, and the lack of any comments received on it, the Administrator of FRA certified that the final rule will not have a significant economic impact on a substantial number of small entities.

6. <u>Impact of less frequent collection of information</u>.

[5] Size Eligibility Provisions and Standards, 13 CFR part 121, subpart A.

[6] 68 FR 24891 (May 9, 2003) (codified at appendix C to 49 CFR part 209).

[7] The Class III revenue threshold is $39,194,876 or less, last updated in 2018. (The Class II threshold is between $39,194,876 and $489,935,956; and the Class I threshold is $489,935,956 or more.)

If the information were not collected, or were collected less frequently, rail safety in the United States would be seriously jeopardized. The data collected under Part 213 allows FRA to verify that track inspections are being done in accordance with the regulation.

Without this information, FRA would not know—and not be able to determine—whether track is safe and whether the track owner/railroad conducted necessary rail inspections sufficient to maintain prescribed service failure target rate.

Information collected and reviewed by FRA as a result of the Track Safety Standards enhance rail safety by ensuring that track owners designate only qualified persons to inspect and maintain track and to supervise restorations and renewals of track under traffic conditions. This, in turn, will help to reduce the number of accidents/incidents and corresponding injuries, deaths, and property damage.

Inspection records are extremely important and are used by Federal and State investigators in the enforcement of the Track Safety Standards and, thus, help promote rail safety. Track owners are required to retain inspection records for at least two years after the actual inspection and for one year after the remedial action is taken. The frequency of inspection is related to the rate of track degradation. A relaxation of that frequency would increase the risk of an accident caused by an undetected defect. In the event of a train accident/incident, particularly one implicating track structure, these inspection records would provide invaluable investigatory assistance in determining the exact cause(s) of the accident/incident and keen insight into designing appropriate remedial measures.

The new information collected from requirements in this final rule will ensure that continuous testing is done in accordance with the regulation and track safety is not compromised. The information collected regarding heavy-point and flange-bearing frogs ensures that FRA is aware of the locations of these types of frogs and that they are being maintained in a safe manner.

In sum, the information collected aids FRA in its primary mission, which is to promote and enhance rail safety throughout the nation.

7. Special circumstances.

All information collection requirements contained in this rule are in compliance with this section.

8. Compliance with 5 CFR 1320.8.

As noted in the summary section, FRA is publishing a Notice of final rule in the **Federal Register** on October 7, 2020, titled Rail Integrity Amendments and Track Safety Standards. See 85 FR 63362. FRA received comments pertaining to the rule; however,

there were no comments pertaining to this collection of information in response to this notice.

On December 31, 2019, FRA published a Notice of Proposed Rulemaking (NPRM). See 84 FR 72526.

9. Payments or gifts to respondents.

There are no monetary payments or gifts made to respondents associated with the information collection requirements contained in this information collection request.

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.

There are no questions or information of a sensitive nature or data that would normally be considered private in this collection of information.

12. Estimate of burden hours for information collected.

In the following table, estimates for the respondent universe, annual responses, and average time per responses are based on the experience and expertise of FRA's Rail Integrity Division.

The total annual burden hours, under the fourth column, is calculated by multiplying total annual responses by average time per responses. For example, 15 notices * 10 minutes = 2.5 hours.

The total cost equivalent, under the fifth column, is calculated by multiplying total annual burden hours by the appropriate employee group hourly wage rate that includes a 75-percent overhead charge. For example, 2.5 hours * $76 = $190. FRA is including the dollar equivalent cost for each of the itemized hours below using the Surface Transportation Board's (STB) Full-Year Wage A&B data series as the basis for each cost calculation. For railroad executives, officials, and staff assistants, the hourly wage rate is $115 per hour ($65.44 * 1.75 = $115). For professional and administrative staff, the hourly wage rate is $76 per hour ($43.37 * 1.75 = $76).

Note: The hourly wage rate of $76 was used to calculate total cost equivalent for all items except for 213.345(h) which is $115.

CFR Section	Respondent universe	Total annual responses (A)	Average time per responses (B)	Total annual burden hours (C) = A * B[8]	Total cost equivalent (D) = C * wage rate[8]	Section analyses and estimates
213.4(f) — Excepted track — Notification to FRA about removal of excepted track	746 railroads	15 notices	10 minutes	2.5 hours	$190	(f) A track owner shall advise FRA at least 10 days prior to removal of a segment of track from excepted status. The notification can be either by phone or letter. FRA estimates that a phone call will take approximately five (5) minutes per notification while a letter will take approximately 5 minutes per notifications. Thus, FRA estimates it will take an average of 10 minutes per notification.
213.5(c) – Responsibility for compliance – Notification of assignment to FRA	746 railroads	15 notices	1 hour	15 hours	$1,140	If an owner of track to which this part applies assigns responsibility for the track to another person (by lease or otherwise), written notification of the assignment must be provided to FRA at least 30 days in advance of the assignment. The notification may be made by any party to that assignment, but must be in writing and include: 1) The name and address of the track owner or the person to whom responsibility is assigned (assignee); 2) A statement of the exact relationship between the track owner and the assignee; 4) A precise identification of the track; 5) A statement as to the competence and ability of the assignee to carry out the duties of the track owner under this part; and 6) A statement signed by the assignee acknowledging the assignment to him of

[8] Totals may not add due to rounding

						responsibility for purposes of compliance with this part. FRA estimates that it will take a railroad approximately one (1) hour to prepare its notification, review and approve it, and forward it to FRA.
213.7(a)-(b) – Designations: Names on list with written authorizations	746 railroads	2,500 documents	10 minutes	416.7 hours	$31,669	Designation of qualified persons to supervise certain renewals and inspect track for defect. FRA estimates about 2,500 written authorizations will be added each year at an estimated effort of 10 minutes each.
213.17(a) – Waivers	746 railroads	10 petitions	2 hours	20 hours	$1,520	Any owner of track to which this part applies, or other person subject to this part, may petition the Federal Railroad Administrator for a waiver from any or all requirements prescribed in this Part. Each petition for waiver must be filed in the manner and contain the information required by Part 211 of this chapter. FRA estimates that it will receive approximately 10 waiver petitions annually. It is estimated that it will take about 2 hours to prepare its petition and forward it to FRA.
213.57(e) – Curves, elevation and speed limitations – Request to FRA for vehicle type approval	746 railroads	4 requests	8 hours	32 hours	$2,432	The track owner or railroad shall transmit the results of the testing specified in paragraph (d) of this section to FRA's Associate Administrator for Railroad Safety/Chief Safety Officer requesting approval for the vehicle type to operate at the desired curving speeds allowed under the formula in paragraph (b) of this section. The request shall be made in writing

						FRA estimates that it will receive approximately four (4) requests annually, each of which will take eight (8) hours.
—(f) Written notification to FRA prior to implementation of higher curving speeds	746 railroads	4 notifications	2 hours	8 hours	$608	In approving the request made pursuant to paragraph (e) of this section, FRA may impose conditions necessary for safely operating at the higher curving speeds. Upon FRA approval of the request, the track owner or railroad shall notify FRA in writing no less than 30 calendar days prior to the proposed implementation of the approved higher curving speeds allowed under the formula in paragraph (b) of this section. The notification shall contain, at a minimum, identification of the track segment(s) on which the higher curving speeds are to be implemented. Given the above two requests, FRA estimates that approximately four (4) notifications will be sent to FRA under this requirement. It is estimated that it will take the track owner or railroad approximately two (2) hours to complete each notification and it to FRA.
—(g) Written consent of track owners obtained by railroad providing service over that track	746 railroads	4 written consents	45 minutes	3 hours	$228	The documents required by this section must be provided to FRA by the track owner or railroad that provides service over the track. FRA estimates that approximately four (4) written consents of other track owners will be obtained by track owners/railroads under the above requirement. It is estimated that it will take approximately 45 minutes to obtain the necessary written

						consent.
213.110(a) – Gage restraint measurement systems (GRMS) – Implementing GRMS – notices & reports	746 railroads	1 notification	45 minutes	.8 hours	$61	A track owner may elect to implement a Gage Restraint Measurement System (GRMS), supplemented by the use of a Portable Track Loading Fixture (PTLF), to determine compliance with the crosstie and fastener requirements specified in §§213.109 and 213.127 provided that: (1) The track owner notifies FRA at least 30 days prior to the designation of any line segment on which GRMS technology will be implemented; and (2) The track owner notifies FRA at least 10 days prior to the removal of any line segment from GRMS designation. FRA estimates that approximately one (1) notification will be provided to FRA under the first part of this requirement. FRA also estimates that approximately once a year track owners will provide the necessary technical data under the second part of this requirement. It is estimated that it will take approximately 45 minutes to complete each notification and forward it to FRA.
—(g) GRMS vehicle output reports	746 railroads	1 report	5 minutes	.1 hours	$8	The GRMS vehicle shall be capable of producing output reports that provide a trace, on a constant-distance scale, of all parameters specified in paragraph (l) of this section. FRA estimates that approximately 1 output report will be produced each year under the above requirement. The output reports are generated in real time. It is estimated that it will take approximately five (5) minutes for the entire process to

						produce each output report.
—(h) GRMS vehicle exception reports	746 railroads	1 report	5 minutes	.1 hours	$8	The GRMS vehicle shall be capable of providing an exception report containing a systematic listing of all exceptions, by magnitude and location, to all the parameters specified in paragraph (l) of this section. The exception reports required by this section shall be provided to the appropriate person designated as fully qualified under §213.7 prior to the next inspection required under §213.233 of this part. FRA estimates that approximately 1 exception report will be provided to appropriate person designated as fully qualified under §213.7 prior to the next inspection required under §213.233 of this part. Again, this report is generated in real time. It is estimated that it will take approximately five (5) minutes to complete each output report.
—(j) GRMS/PTLF – procedures for data integrity	746 railroads	1 documented procedure	1 hour	1 hour	$76	The track owner shall institute the necessary procedures for maintaining the integrity of the data collected by the GRMS and PTLF systems. FRA estimates that approximately one (1) documented calibration procedure for GRMS vehicles will be developed and made available to FRA under this requirement. It is estimated that it will take approximately one (1) hour for each railroad to compose the required documented calibration procedure and forward it to FRA.
—(n) GRMS inspection	746 railroads	2 records	30 minutes	1 hour	$76	The track owner shall maintain a record of

records						the two most recent GRMS inspections at locations which meet the requirements specified in §213.241(b) of this part. FRA estimates that approximately 2 records will be maintained under this requirement. It is estimated that it will take approximately 30 minutes to complete each record.
213.118(a)–(c) – Continuous welded rail (CWR) – Revised plans w/procedures for CWR	438 railroads	10 plans	4 hours	40 hours	$3,040	Each track owner with track constructed of CWR must have in effect and comply with a plan that contains written procedures which address: the installation, adjustment, maintenance and inspection of CWR; inspection of CWR joints**;** and a training program for the application of those procedures. The track owner must file its CWR plan with the FRA Associate Administrator for Safety/Chief Safety Officer (Associate Administrator). Within 30 days of receipt of the submission, FRA will review the plan for compliance with this subpart. FRA will approve, disapprove or conditionally approve the submitted plan, and will provide written notice of its determination. The track owner's existing plan shall remain in effect until the track owner's new plan is approved or conditionally approved and is effective pursuant to paragraph (d) of this section. FRA estimates that 10 railroads will revise their plans to include the new CWR procedures required under the above

						requirement. It is estimated that it will take approximately four (4) hours to revise each plan and submit it to FRA.
—(d) Notification to FRA and RR employees of CWR plan effective date	438 railroads	750 notifications to employees	15 seconds	3.1 hours	$236	The track owner shall, upon receipt of FRA's approval or conditional approval establish the plan's effective date. The track owner shall advise in writing FRA and all affected employees of the effective date. FRA estimates that approximately 750 notifications advising affected employees will be made by track owners/railroads under the above requirement. It is estimated that it will take approximately 15 seconds to complete and provide each written notification to affected employees.
—(e) Written submissions after plan disapproval	438 railroads	5 written submissions	2 hours	10 hours	$760	FRA, for cause stated, may, subsequent to plan approval or conditional approval, require revisions to the plan to bring the plan into conformity with this subpart. Notice of a revision requirement shall be made in writing and specify the basis of FRA's requirement. The track owner may, within 30 days of the revision requirement, respond and provide written submissions in support of the plan. FRA estimates that approximately 5 plans will require revisions and, as a result, 5 written submissions will be sent to the agency in support of the plan under the above requirement. It is estimated that it will take approximately two (2) hours to complete each written submission.
—(e) Final FRA disapproval and plan amendment	438 railroads	5 amended plans	1 hour	5 hours	$380	FRA renders a final decision in writing. Not more than 30 days following any final

						decision requiring revisions to a CWR plan, the track owner must amend the plan in accordance with FRA's decision and resubmit the conforming plan. The conforming plan becomes effective upon its submission to FRA. FRA estimates that approximately 5 plans will be amended under the above requirement. It is estimated that it will take approximately one (1) hour to complete each amended plan.
213.234(f) – Automated inspection of track constructed with concrete crossties – Recordkeeping requirements	30 railroads	2,000 records	30 minutes	1,000 hours	$76,000	The track owner shall institute the necessary procedures for maintaining the integrity of the data collected by the measurement system. FRA estimates then that approximately 2,000 records will be kept under this requirement. It is estimated that it will take approximately 30 minutes to complete each record.
213.237(b)(2) – Inspection of Rail – Detailed request to FRA to change designation of a rail inspection segment or establish a new segment	65 railroads	4 requests	15 minutes	1 hour	$76	To change the designation of a rail inspection segment or to establish a new segment pursuant to this section, a track owner must submit a detailed request to the FRA This requirement will affect Class II railroads primarily. FRA estimates then that approximately 4 requests to change the designation of a rail inspection segment or to establish a new segment pursuant will be made by track owners to FRA under the above requirement. It is estimated that it will take approximately 15 minutes to complete each detailed request and send it to FRA.

213.237(b)(3) – Notification to FRA and all affected employees of designation's effective date after FRA's approval/conditional approval	65 railroads	1 notice to FRA + 15 bulletins	15 minutes	4 hours	$304	To change the designation of a rail inspection segment or to establish a new segment pursuant to this section, a track owner must submit a detailed request to FRA. This requirement will affect Class II railroads primarily. FRA estimates then that approximately 1 notice and 15 bulletins will be made by track owners to FRA under the above requirement. It is estimated that it will take approximately 15 minutes to complete each detailed request and send it to FRA.
—(d) Notice to FRA that service failure rate target in paragraph (a) of this section is not achieved	65 railroads	4 notices	15 minutes	1 hour	$76	If the service failure rate target identified in paragraph (a) of this section is not achieved, the track owner must inform FRA of this fact within 45 days of the end of the defined 12-month period in which the performance target is exceeded. In addition, the track owner may provide to FRA an explanation as to why the performance target was not achieved and provide a remedial action plan. FRA estimates that it will receive approximately 4 notifications that the service failure rate identified in paragraph (a) of this section has not been achieved under the above requirement. It is estimated that it will take approximately 15 minutes to complete each notification and send it to FRA.
—(d) Explanation to FRA as to why performance target was not achieved and provision to FRA of	65 railroads	4 letters of explanation/ Plans	15 minutes	1 hour	$76	If the service failure rate target identified in paragraph (a) of this section is not achieved, the track owner must inform FRA of this fact within 45 days of the end

remedial action plan						of the defined 12-month period in which the performance target is exceeded. In addition, the track owner may provide to FRA an explanation as to why the performance target was not achieved and provide a remedial action plan. FRA estimates that it will receive approximately 4 letters of explanation as to why the performance target was not achieved and remedial action plans under the above requirement. It is estimated that it will take approximately 15 minutes to complete explanation/plan and send them to FRA.
213.238 – Qualified operators – Written or electronic of qualification[9]	3 railroads + 5 Testing Entities	250 records	5 minutes	20.8 hours	$1,581	Each provider of rail flaw detection shall have a documented training program in place and shall identify the types of rail flaw detection equipment for which each equipment operator it employs has received training and is qualified. A provider of rail flaw detection may be the track owner. Each employer of a qualified operator shall maintain written or electronic records of each qualification in effect. Each record shall include the name of the employee, the equipment to which the qualification applies, date of qualification, and date of the most recent reevaluation, if any. FRA estimates that approximately 250 records will be kept under the above requirements. Each record will take approximately five (5) minutes to

[9] Includes burdens associated with proposed § 213.240(d)(2).

						complete.
213.240(b) – Continuous Rail Testing – Procedures for conducting continuous testing **(New requirement)**	12 railroads	4 procedures	8 hours	32 hours	$2,432	Section 213.240 Continuous Rail Testing: Under this new requirement, the track owners conducting continuous rail testing will be required to adopt procedures addressing how (1) test data will be transmitted and analyzed; (2) suspect locations will be identified for field verification; (3) suspect locations will be categorized and prioritized according to their potential severity; (4) suspect locations will be field-verified; and (5) suspect locations will be designated following field verification. FRA estimates that approximately four (4) procedures will be developed. It is estimated that it will take about eight (8) hours to develop each procedure.
—(c) Type of rail test (continuous or stop-and-verify) – Record **(New requirement)**	12 railroads	25,000 documents/ records	2 seconds	13.9 hours	$1,064	Under this new requirement, the track owners will be required to designate and record the type of rail test to be conducted, whether continuous or stop-and-verify, prior to commencing the testing. FRA estimates that approximately 25,000 records will be made. FRA estimates that it will take approximately two (2) seconds to record the type of rail test.
—(c) Type of rail test (continuous or stop-and-verify) – Documented changes **(New requirement)**	12 railroads	100 documents	1 minute	1.7 hours	$129	Under this new requirement, if the type of rail testing changes after the test has commenced, FRA will then require the track owners to document the changes and include the time the test was started and when it changed, and the milepost where

						the test started and where it was changed. Thus, FRA estimates that it will take about one (1) minute to document the changes.
—(g) Annual reports to FRA **(New requirement)**	12 railroads	12 reports	4 hours	48 hours	$3,648	Under this new requirement, track owners utilizing continuous rail testing will be required to submit an annual report to the FRA Associate Administrator for Railroad Safety/Chief Safety Officer no later than 45 days following the end of each calendar year. This will apply only to track owners that have conducted continuous rail testing under § 213.240 within the previous calendar year. The annual report must be in a reasonably usable format, or its native electronic format, and contain at least all the information required by paragraphs (g)(1) through (10) for each track segment requiring internal rail inspection under either § 213.237 or § 213.339. Thus, FRA estimates that it will take about four (4) hours to develop each report.
213.241 – Inspection records[10]	746 railroads	1,375,000 records	10 minutes	229,166.7 hours	$17,416,669	Section 213.241 Inspection Records: Each owner of track to which this part applies shall keep a record of each inspection required to be performed on that track under this subpart. FRA is amending § 213.241 by revising paragraphs (b), (f), and (g), and adding

[10] Note: Each record of an inspection under §§ 213.4, 213.119, 213.233, 213.235, and 213.237 is covered under § 213.241.

						paragraphs (h) through (j). The burden associated with track and rail inspections is based on track mileage by type and track class. Thus, FRA estimates that it will take about 10 minutes to keep a record of each inspection (including continuous rail testing) required to be performed.
213.303(b) – Responsibility for compliance – Notification of assignment to FRA	2 railroads	5 notices	30 minutes	2.5 hours	$190	If an owner of track to which this subpart applies assigns responsibility for the track to another person (by lease or otherwise), notification of the assignment must be provided to FRA at least 30 days in advance of the assignment. The notification may be made by any party to that assignment. FRA estimates that it will receive approximately five (5) notices annually under the above requirement. It is estimated that it will take approximately 30 minutes to complete the notification and forward it to FRA.
213.305(a)-(c) – Designation of qualified individuals; general qualifications -- Written authorization for remedial actions	2 railroads	20 written documents	30 minutes	10 hours	$760	Each track owner to which this subpart applies shall designate qualified individuals who shall be responsible for the maintenance and inspection of track in compliance with the safety requirements prescribed in this subpart. It is estimated that it will take 30 minutes to prepare each document.

—(e) Recordkeeping requirements for designations	2 railroads	200 records	10 minutes	33.3 hours	$2,531	FRA estimates that approximately 200 individuals will be designated partially qualified under the above requirements. It is estimated that it will take approximately 10 minutes for track owners to so designate each employee or contract worker.
213.317(a)-(b) – Waivers	2 railroads	2 petitions	8 hours	16 hours	$1,216	Any owner of track to which this subpart applies may petition the Federal Railroad Administrator for a waiver from any or all requirements prescribed in this subpart. Each petition for exemption under this section must be filed in the manner and contain the information required by §§ 211.7 and 211.9. FRA estimates that it will receive approximately two (2) petitions under the above requirement. It is estimated that it will take approximately eight (8) hours to complete each petition in the prescribed manner and forward it to FRA.
213.329(e) – Curves, elevation and speed limitations – FRA approval of qualified vehicle types based on results of testing	2 railroads	2 cover letters + 2 technical reports + 2 diagrams	30 minutes + 16 hours + 15 minutes	33.5 hours	$2,546	FRA estimates that approximately 2 documents for vehicle type approval with all the necessary information (including cover letters, technical reports, and diagrams) will be submitted to FRA under the above requirement. It is estimated that it will take the track owner or railroad approximately 30 minutes, 16 hours, and 15 minutes to complete the necessary document and send it to FRA.
—(f) Written notification to FRA 30 days prior to implementation of higher curving speeds	2 railroads	2 notices	2 hours	4 hours	$304	The track owner or railroad shall notify FRA prior to the proposed implementation of the approved higher curving speeds allowed under paragraph (b) of this section.

						FRA estimates that there will be approximately 2 notices sent to FRA under the above requirement. It is estimated that it will take the track owner/railroad approximately four (4) hours to complete each notification and it to FRA.
—(g) Written consent of other affected track owners by railroad	2 railroads	2 written consents	45 minutes	1.5 hours	$114	The documents required by this section must be provided to FRA. It is estimated that two (2) written consents will be received, each of which will take 45 minutes.
213.333(d) – Automated vehicle-based inspection systems – Track Geometry Measurement System (TGMS) output/exception reports	7 railroads	7 reports	1 hour	7 hours	$532	Each TGMS shall be capable of producing an output report that plots all measured track geometry parameters required in paragraph (c). It is estimated that seven (7) reports will be produced, each taking one (1) hour to complete.
213.341(b)-(d) – Initial inspection of new rail & welds – Inspection records	2 railroads	800 records	2 minutes	26.7 hours	$2,029	The track owner shall obtain a copy of the manufacturer's report of inspection. The track owner shall also retain a record of initial CWR inspections under Section 213.339. It is estimated that 800 records will be retained annually, each of which will take approximately two (2) minutes.
213.343(a)-(e) – Continuous welded rail (CWR) – Procedures for installations and adjustments of CWR	2 railroads	2 plans	4 hours	8 hours	$608	Each track owner with track constructed of CWR shall have in effect written procedures which address the installation, adjustment, maintenance and inspection of CWR, and a training program for the application of those procedures, which

						shall be submitted to FRA. The track owner shall have in effect a comprehensive training program for the application of these written CWR procedures, with provisions for periodic re-training, for those individuals designated under §213.305(c) of this part as qualified to supervise the installation, adjustment, and maintenance of CWR track and to perform inspections of CWR track. The track owner shall prescribe recordkeeping requirements necessary to provide an adequate history of track constructed with CWR. FRA estimates that approximately two (2) plans will be made by track owners under the above requirement. It is estimated that it will take approximately four (4) hours to create each plan.
—(h) Recordkeeping requirements	2 railroads	8,000 records	2 minutes	266.7 hours	$20,269	FRA estimates that approximately 8,000 records will be kept by track owners under the above requirement. It is estimated that it will take approximately two (2) minutes to make the corresponding record.
213.345(a)-(c) – Vehicle qualification testing – Vehicle qualification program for all vehicle types operating at track Class 6 speeds or above	2 railroads	2 program plans	120 hours	240 hours	$18,240	All vehicle types intended to operate at track Class 6 speeds or above, or at any curving speed producing more than 5 inches of cant deficiency, shall be qualified for operation for their intended track classes in accordance with this Subpart. A qualification program shall be used to ensure that the vehicle/track

						system will not exceed the wheel/rail force safety limits and the carbody and truck acceleration criteria specified in § 213.333 FRA estimates that approximately two (2) program plans will be developed under the above requirement. It is estimated that it will take approximately 120 hours to develop each qualification program and submit it to FRA.
—(d) Previously qualified vehicle types qualification programs	2 railroads	2 program plans	8 hours	16 hours	$1,216	Vehicle types previously qualified under this Subpart for a track class and cant deficiency on one route may be qualified for operation at the same class and cant deficiency on another route through analysis or testing, or both, to demonstrate compliance with paragraph 213.345(a). FRA estimates that approximately two (2) program plans will be developed under the above requirement. It is estimated that it will take approximately eight (8) hours to develop each qualification program and submit it to FRA.
—(h) Written consent of other affected track owners by railroad	4 railroads	4 written consents	30 minutes	2 hours	$230	Based on the test results and all other required submissions, FRA will approve a maximum train speed and value of cant deficiency for revenue service, normally within 45 days of receipt of all the required information. FRA may impose conditions necessary for safely operating at the maximum approved train speed and cant deficiency. (i) The documents required by this section must be provided to FRA by (2) The track

						owner; or (3) A railroad that provides service with the same vehicle type over trackage of one or more track owner(s), with the written consent of each affected track owner. FRA estimates that approximately four (4) written track owner consents will be obtained by railroads under the above requirement. It is estimated that it will take approximately 30 minutes to obtain the written each consent.
213.369(d) – Inspection Records – Record of inspection of track	2 railroads	15,000 records	10 minutes	2,500 hours	$190,000	Each owner of track to which this part applies shall keep a record of each inspection required to be performed on that track under this subpart. Except as provided in paragraph (e) of this section, each record of an inspection under § 213.365 shall be prepared on the day the inspection is made and signed by the person making the inspection. Records must specify the track inspected, date of inspection, location and nature of any deviation from the requirements of this part, and the remedial action taken by the person making the inspection. FRA estimates that approximately 15,000 records will be kept by track owners under the above requirement. It is estimated that it will take approximately ten (10) minutes to record the required information.
Total	746 railroads	1,429,776 responses	N/A	234,016 hours	$17,785,272	

13. Estimate of total annual costs to respondents.

There are no additional costs to respondents other than the hour burden costs.

14. Estimate of Cost to Federal Government.

This final rule does not increase the cost to the Federal Government.

The estimated costs to the Federal Government pertain to the Part 213 requirements associated with the Vehicle/Track Interaction Safety Standards Final Rule, which was published on March 13, 2013 (78 FR 16051). To calculate the government administrative cost, the 2020 Office of Personnel Management wage rates were used for the Washington, D.C. area. For each GS level, step 5 was used as a midpoint. Wages were considered at the burdened wage rate by adding in an overhead cost of 75 percent (or multiplying the wage rate by 1.75).

1. $544 – Section 213.333(a) & (b) – Four (4) hours for FRA Track Staff Director (GS–15) to review request from railroads concerning track geometry measurements taken from a distance different from that specified under section 213.333(b)(1).
2. $5,879 – Section 213.333 (k)(1) – 16 hours each for FRA Track Staff Director (GS–15) and two staff members (GS–14) to review requests for alternate location of devices for measuring lateral accelerations mounted on a truck frame.
3. $19,324 – Section 213.333(l) – 40 hours each for FRA Track Staff Director (GS–15) and three staff members (GS–14) to review reports submitted to FRA of monitoring data collected in accordance with sections 2132.333 (j) and (k).
4. $19,324– Section 213.345(a) – 40 hours each for FRA Track Staff Director (GS–15) and three staff members (GS–14) to review railroad vehicle type qualification programs developed to ensure that vehicle/track system will not exceed the wheel/rail force safety limits and the carbody and truck acceleration criteria specified in section 213.333(a)(1) and 21.333(a)(2).
5. $20,956 – Section 213.345(a) – 40 hours each for FRA Track Staff Director (GS–15) and three staff members (GS–14) to review railroad vehicle type qualification programs (that include analyses and tests) for operation at the same class and cant deficiency on another route.
6. $925 – Section 213.333(h) – Eight (8) hours for FRA Track staff member (GS–14) to review written consent of track owner submitted by railroad that provides service with the same vehicle type over trackage of one or more track owner(s).

TOTAL Vehicle/Track Interaction Costs = $66,952

FRA's cost for CWR requirements:

1. $8,009 – 75 hours for FRA staff to review 279 revised procedures/plans (under section 213.118, which describe the scheduling and conduct of physical track inspections to detect cracks and other incipient failures in CWR). The cost for FRA

reviewing staff is equally divided between GS–13s and GS–14s.
2. $23,853 – 235 hours for FRA staff to review 20 additional revised procedures/plans, 100 written notifications, and 20 amended training programs. The cost for FRA reviewing staff is equally divided between GS–12s, GS–13s, and GS–14s.

TOTAL CWR Costs = $31,187

Additionally, FRA's cost for GRMS requirements:

1. $9,575 – 16 hours for 2 GS–14s to review technical data + 30 hours for 2 GS–13s to review notifications.
2. $494 – 6 hours for one GS–12 to review training programs.

Total GRMS Costs = $10,069

GRAND TOTAL COST = $108,209

15. Explanation of program changes and adjustments.

This information collection request is a revision to the last approved submission. The current OMB agency inventory exhibits a total burden of 233,899 hours and 1,404,410 responses, while the present submission reflects a total burden of 234,016 hours and 1,429,776 responses. Overall, the burden for this submission has increased by 117 hours and by 25,366 responses due to a program change (96 hours) and one adjustment (21 hours). The tables below provide specific information on the review of any of the estimates that have changed.

Table for Program Change

CFR Section/Subject	Total Annual Responses			Total Annual Burden Hours		
	Previous Submission	Current Submission	Difference	Previous Submission	Current Submission	Difference
213.240(b) – Continuous Rail Testing – Procedures for conducting continuous testing **(New requirement)**	0	4 procedures (8 hours)	4 procedures	0	32 hours	32 hours
—(c) Type of rail test (continuous or stop-and-verify) – Record **(New**	0	25,000 documents/ records (2 seconds)	25,000 documents/ records	0	14 hours	14 hours

requirement)						
—(c) Type of rail test (continuous or stop-and-verify) – Documented changes **(New requirement)**	0	100 documents (1 minute)	100 documents	0	1.7 hours	1.7 hours
—(g) Annual reports to FRA **(New requirement)**	0	12 reports (4 hours)	12 reports	0	48 hours	48 hours
Total	0	26,116 responses	25,116 responses	0	95.7 hours	95.7 hours

Program changes listed above increased the burden by 96 hours (rounded) and increased the number of responses by 25,116.

Table for Adjustments

CFR Section/Subject	Total Annual Responses			Total Annual Burden Hours			Notes
	Previous Submission	Current Submission	Difference	Previous Submission	Current Submission	Difference	
213.238 – Qualified operators – Written or electronic of qualification	0	250 records (5 minutes)	250 records	0	20.8 hours	20.8 hours	*An increase due to the estimated number of submission expected to be received.*

Adjustment changes listed above increased the burden by 21 hours (rounded) and increased the number of responses by 250.

16. Publication of results of data collection.

There will be no publications 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._In this information collection, as in all its information collection activities, FRA seeks to do its very best to fulfill DOT Strategic Goals and to be an integral part of One DOT.