

111FEDERAL RAILROAD ADMINISTRATION
Locomotive Cab Sanitation Standards
(Title 49 Code of Federal Regulations Part 229)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0552

Summary of Submission

- This submission is a request for an extension without change (with changes in estimate) of the last three-year approval granted by the Office of Management and Budget (OMB) on December 16, 2020, which expires December 31, 2023.
- The Federal Railroad Administration (hereafter “FRA” or “the Agency”) published the required 60-day Notice in the Federal Register on August 18, 2023. See 88 FR 56698. FRA received no comments in response to this Notice.
- Overall, the adjustments decreased the burden by 1 hour and the responses remained the same at 113,256, after a thorough review of the data.
- The answer to question number 12 itemizes all information collection requirements.
- The answer to question number 15 itemizes all adjustments.

1. Circumstances that make collection of the information necessary.

In 1992, Congress enacted Section 10 of The Rail Safety Enforcement and Review Act (RSERA) (Public Law 102-365, September 3, 1992, codified at 49 U.S.C. 20103) in response to concerns raised by employee organizations, congressional members, and recommendations of the National Transportation Safety Board concerning working conditions in locomotive cabs. In this legislation, Congress included mandates concerning locomotive crashworthiness and cab working conditions. Section 10 of RSERA, entitled *Locomotive Crashworthiness and Working Conditions*, required FRA “to consider prescribing regulations to improve the safety and working conditions of locomotive cabs” throughout the railroad industry. In order to determine whether regulations would be necessary, Congress asked FRA to “assess the extent to which environmental, sanitary and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.”

In response to Section 10 of RSERA, FRA studied a variety of working conditions in locomotive cabs including sanitation, noise, temperature, air quality, ergonomics, and vibration. In September 1996, FRA submitted its Locomotive Crashworthiness and Cab Working Conditions Report (“Report”) to Congress, which describes the results of these studies.¹ FRA found a wide range of conditions, which varied due to weather, type of

¹ The Report was discussed in detail in FRA’s Notice of Proposed Rulemaking (NPRM) on Locomotive Cab Sanitation Standards, which was published on January 2, 2001. (See 66 FR 136).

sanitation system in place, carrier maintenance and service programs, locomotive model, and economic status of the railroad. In addition, some locomotives were not equipped with sanitation facilities. FRA found dirty floors and toilet seats, missing toilet seats, poor ventilation, offensive odors, and lack of toilet paper. In very cold weather, some units tended to freeze and become inoperable. Of the cabs surveyed, approximately thirty percent were deficient in some manner related to the use of sanitation facilities.

The Report noted that employees and rail management play a role in the condition of sanitary facilities; poor sanitary conditions aboard locomotives are caused by inadequate maintenance and/or heavy use or misuse by operating crews. Nearly all railroads have programs in place to service toilet and washing units, although the program requirements vary from property to property depending on degree of use, toilet system in place, and weather conditions. In addition, FRA found that adherence to the servicing programs is uneven throughout the industry, and that poor servicing is often the primary cause of unsanitary sanitation facilities. The Report also explained that there is disparity in the legal treatment of locomotive cab sanitation among state and federal regulatory and enforcement bodies and that confusion exists among industry members concerning applicable standards and guidelines.

In light of these concerns, FRA determined that cab sanitation must be revisited and addressed so that cab employees would have access to adequate sanitary facilities, as well as to ensure uniform application of the law. On April 4, 2002, FRA amended its sanitation regulations by adding standards that address toilet and washing facilities for employees who work in locomotive cabs.²

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

The information collection is used by FRA to promote rail safety and the health of railroad workers by ensuring that all locomotive crew members have access to adequate sanitary facilities. Specifically, railroads are prohibited from placing a locomotive with an unsanitary or defective toilet facility in the lead position.

The collection of information requires railroads to clearly mark defective toilet facilities as unavailable for use when these locomotive units are placed in a trailing position or in switching, transfer train service. This information is used by locomotive crewmembers as a warning to avoid using a locomotive toilet facility which is defective, unsanitary, or both.

Furthermore, the information collected is used by FRA to ensure that railroads repair defective toilet facilities within the prescribed timeframe. In cases where railroads utilize a locomotive equipped with a defective toilet facility in switching service or in transfer train service, they are required to repair the toilet facility within 10 calendar days of the

² See 67 FRA 16032.

date on which the toilet facility becomes defective. The collection of information requires railroads to report the date on which the toilet facility becomes defective on the daily inspection report. FRA uses the information on the daily inspection report, including required notations concerning sanitary facilities, to enforce compliance with agency safety regulations. Daily inspection report forms must be made available to FRA upon request.

In sum, this collection of information assists FRA in fostering a safer rail environment by improving railroad employee working conditions so that the health of locomotive crews is safeguarded.

3. Extent of automated information collection.

FRA highly encourages the use of advanced information technology to assist respondents and to reduce burden, wherever possible. FRA continues that policy in the language of this rule. In keeping with the Government Paperwork Elimination Act, FRA has included language in this rule providing an electronic option for the Daily Inspection reports/records required under § 229.21. Additionally, FRA has placed its Daily Inspection Report (FRA Form No. 2), as well as many of its other safety forms, on its Website so that railroads/other respondents can easily download them.

It should be noted that two of the information collection requirements involve clearly Marking defective toilet facilities as unavailable for use. This can be done either with a tag or with tape, and does not readily lend itself to advanced information technology. A third information collection requirement involves marking the date a toilet facility became defective on the daily inspection report.

4. Efforts to identify duplication.

The collection of information pertains to railroad workplace safety, specifically to the necessity for and the maintenance of sanitary locomotive cab facilities. Similar data are not available from any other source. This information to our knowledge is not duplicated anywhere.

5. Efforts to minimize the burden on small businesses.

This collection of information will have a slight, if any, impact on small businesses for two reasons. First, information collection requirements are a bare minimum, and so will require little time (if applicable). Second, small railroads engaged in operations other than switching or transfer train service are provided an exemption from the requirement to have a functioning toilet in any lead locomotive, if the railroad provides ready access to facilities at frequent intervals. Thus, these railroads do not have to worry about marking defective toilet facilities or making notations on the daily inspection report. Tourist, scenic, historic and excursion railroad operations, which are not propelled by

steam power and which operate on the general system, are also exempt from the proposed toilet facility requirement as long as affected employees have ready access to railroad provided facilities outside of the locomotive cab.

6. Impact of less frequent collection of information.

The failure to collect this information would eliminate a valuable oversight tool which can be used by FRA to ensure that railroad carriers fulfill their obligation regarding the necessary maintenance and repair of locomotive toilet facilities. The collection of information advances the health of train crew members and seeks to further enhance the safe operation and movement of trains.

7. Special circumstances.

There are no special circumstances.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995 (PRA) and 5 CFR 1320, FRA published a notice in the *Federal Register* on August 18, 2023,³ soliciting comment from the public, railroads, and other interested parties on these information collection requirements. FRA received no comments.

Consultations with representatives of the affected population:

As a part of FRA's oversight and enforcement, individuals from the railroad industry are generally in direct contact with FRA's inspectors at the time of site inspections and can provide any comments or concerns to them.

9. Payments or gifts to respondents.

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

³88 FR 56698

10. Assurance of confidentiality.

No assurances of confidentiality were made by FRA. Information collected is not of a private nature.

11. Justification for any questions of a sensitive nature.

The information collected is not of a confidential nature and FRA pledges no confidentiality.

12. Estimate of burden hours for information collected.

The estimates for the respondent universe, annual responses, and average timer per response are based on the experience and expertise of FRA’s Office of Railroad Safety.

CFR Section	Respondent universe	Total annual responses (A)	Average time per responses (B)	Total annual burden hours (C=A *B)	Total cost equivalent in U.S. dollar (D = C* wage rates) ⁴	PRA Analyses and Estimates
229.21(a-b)— Daily inspection— Written report	The burden for this requirement is included under §229.137 and §229.139, OMB Control No. 2130-0004.					
229.137(d)— Defective, unsanitary toilet facility; use in trailing position— Tagging	784 railroads	11,700 tags	90 seconds	292.50 hours	\$19,392.75	If the railroad determines during the daily inspection required by § 229.21 that a locomotive toilet facility is defective or is unsanitary, or both, the railroad may use the locomotive in trailing position. If the toilet facility is defective and the unit becomes occupied, the railroad shall clearly mark the

⁴ Totals may not add due to rounding. The dollar equivalent cost is derived from the 2022 Surface Transportation Board Full Year Wage A&B data series using the burdened hourly wage of employee groups, 400 (Maintenance of Equipment & Stores) \$67.11, and 600 (Transportation, Train & Engine) \$63.07. The wage rate is shared with group 400 accounting for 80%, and group 600 accounting for 20%. The total burden wage rate (Straight time plus 75%) used in the table is \$63.30. 80% of \$67.11 = \$53.69, 20% of \$63.07 = \$12.61 for a total of \$66.30 hourly burdened wage rate.

						defective toilet facility as unavailable for use. FRA estimates, after careful review, that it will take approximately 90 seconds to tag each defective toilet.
229.137(e)— Defective, sanitary toilet facility; use in switching, transfer service—Tagging	784 railroads	7,956 tags	90 seconds	198.90 hours	\$13,187.07	If the railroad determines during the daily inspection required by § 229.21 that a locomotive toilet facility is defective, but sanitary, the railroad may use the locomotive in switching service, as set forth in paragraph (b)(1)(ii) of this section, or in transfer service, as set forth in paragraph (b)(1)(iii) of this section for a period not to exceed 10 days. In this instance, the railroad shall clearly mark the defective toilet facility as unavailable for use. FRA estimates, after careful review, that it will take approximately 90 seconds to tag each defective toilet.
229.139(d)— Switching or transfer service—defective locomotive toilet facility—Notation on daily inspection report	784 railroads	93,600 notations	30 seconds	780.00 hours	\$51,714.00	Where the railroad uses a locomotive pursuant to § 229.137(e) in switching or transfer service with a defective toilet facility, such use shall not exceed 10 calendar days from the date on which the defective toilet facility became defective. The date on which the toilet facility becomes defective shall be entered on the daily inspection report. FRA estimates, after careful review, that it will take approximately 30 seconds to record the date on which the toilet became defective.
Total	784	113,256				

	railroads	responses	N/A	1,271 hours	\$84,294	
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13. Estimate of total annual costs to respondents.

Respondents will incur costs for tags/tape. FRA estimates the cost for each tag at \$.75, or a total of \$14,742 for 19,656 tags.

Number of tags/tap	Cost per tag/tape	Total cost
19,656	\$0.75	\$14,742

14. Estimate of Cost to Federal Government.

The cost to the federal government includes employing Railroad Safety Inspectors, MP&E, Job Classification (GS-12, Step 5) who will inspect the safety and working conditions of locomotive cabs throughout the railroad industry. The 2023 Office of personnel Management wage rates were used for the Washington, D.C. area. FRA uses an hourly burdened wage rate of \$89.51⁵. Annually, as shown in the following table, FRA employees are expected to spend 200 hours fulfilling these duties for a total cost of \$17,902.

Number of FRA burden hours	FRA employee hourly burden rate	Total cost
200	\$89.51	\$17,902

15. Explanation of program changes and adjustments.

This is an extension without change (with changes in estimates) to a current collection of information (ICR). Currently, the OMB inventory for this collection of information shows a total burden of 1,272 hours and 113,256 responses, while the requesting inventory reflects an estimate of a total burden of 1,271 and 113,256 responses. Overall, the adjustments for this submission have decreased the burden by 1.00 hour due to a rounding error.

⁵ GS-12, Step 5 hourly wage rate of \$51.15 + 75% overhead costs is 51.15 * 1.75 + \$89.51

The table below provide specific information on the review of any of the estimates that have changed:

CFR Section/Subject	Total Annual Responses			Total Annual Burden Hours			PRA Analyses and Estimates
	Previous Submission	Current Submission	Difference	Previous Submission	Current Submission	Difference	
229.137(d)— Defective, unsanitary toilet facility; use in trailing position— Tagging	11,700 tags	11,700 tags	0	293 hours	292.50 hours	(0.50)	Adjustments due to rounding.
229.137(e)— Defective, sanitary toilet facility; use in switching, transfer service— Tagging	7,956 tags	7,956 tags	0	199 hours	198.90 hours	(0.10)	Adjustments due to rounding.
Total	113,256 responses	113,256 responses	0	1,272 hours	1,271 hours	(0.60)	

16. Publication of results of data collection.

FRA does not plan to publish the results of the data collection.

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

FRA is not seeking approval to not display the expiration date.

18. Exception to certification statement.

No exceptions are taken at this time.