

FEDERAL RAILROAD ADMINISTRATION
Filing of Dedicated Cars
(Title 49 Code of Federal Regulations Part 215)
SUPPORTING JUSTIFICATION
RIN 2130-AC94; OMB Control No. 2130-0502

Summary of Submission

- This submission is a revision to the last approved submission pertaining to Part 215 (Filing of Dedicated Cars), that was approved by the Office of Management and Budget (OMB) April 24, 2023, which expires April 30, 2026.
- The Federal Railroad Administration (hereafter “FRA” or “the Agency”) is publishing a final rule revising Part 215 titled Freight Car Safety Standards Implementing the Infrastructure Investment and Jobs Act in the *Federal Register* (FR) on December 19, 2024. See 89 FR 103677.
- Program change increased the burden by 46 hours and increased responses by 35.
- The answer to question number 12 itemizes all information collection requirements.

1. Circumstances that make collection of the information necessary.

On October 16, 1970, Congress enacted Public Law 91-458 (now 49 U.S.C. 20103), the Federal Railroad Safety Act of 1970. 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.

Title 49 CFR part 215 contains freight car safety standards, including conditions for freight cars in dedicated service. “Dedicated service” means the exclusive assignment of railroad cars to the transportation of freight between specified points under the conditions listed in 49 CFR 215.5(d), including stenciling, or otherwise displaying, in clear legible letters on each side of the car body, the words “Dedicated Service.” The railroad must notify FRA in writing that the cars are to be operated in dedicated service.

On November 15, 2021, President Joseph R. Biden signed the Infrastructure Investment and Jobs Act (the Act)¹. Section 22425 of the Act places certain restrictions on newly built freight cars placed into service in the United States (U.S.), including: (1) limiting content that originates from a country of concern (COC) or is sourced from a state-owned enterprise (SOE); and (2) prohibiting the use of sensitive technology that originates from a COC or SOE. The Act mandates that FRA issue a regulation to monitor and enforce industry’s compliance with the

¹ Part of the Infrastructure Investment and Jobs Act (IIJA), the Stopping America’s Foreign Enemies Through Rail and Infrastructure National Security Act (or the SAFE TRAINS Act). Sec. 22425, Pub. L. 117-58, 135 Stat. 752 (Nov. 15, 2021) (codified at 49 U.S.C. 20171).

standards of the Act. The Secretary of Transportation conferred FRA with the responsibility of implementing the Act. On December 8, 2023, FRA published a notice of proposed rulemaking (NPRM)² to initiate a rulemaking as required by the Act.³ The NPRM proposed amending the Freight Car Safety Standards (FCSS) to incorporate the Act's requirements into the Federal regulations and establish FRA's process to monitor and enforce industry's compliance with those requirements. This final rule will fulfill FRA's obligation to issue a rulemaking to implement the Act.

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

49 CFR part 215 prescribes the minimum Federal rail safety standards for railroad freight cars. Under the existing regulation, the railroad must notify FRA in writing when cars are to be operated in dedicated service. FRA reviews the information collected to determine if the equipment is safe to operate and if the operation qualifies for dedicated service.

With this final rule, under part 215, subpart E, FRA will codify a process for FRA to monitor and enforce compliance as mandated by the Act. To carry out the Act's certification requirement, FRA will require railroad freight car manufacturers to certify annually by electronic submission to FRA that each freight car introduced into service complies with the Act before it operates on the U.S. general railroad system of transportation. The certification must identify each car being offered for operation and include the manufacturer's name and the name of the individual responsible for certifying compliance with the Act. The manufacturers will also be required to maintain all records showing information to support certification including content calculations from COC and/or SOE. Lastly, manufacturers must make available such records to FRA upon request.

3. Extent of automated information collection.

FRA strongly encourages the use of advanced information technology, wherever feasible, to reduce the burden on respondents. FRA estimates that approximately 95 percent of all responses will be collected electronically.

4. Efforts to identify duplication.

The information collection requirements are not duplicated elsewhere. Similar data are not available from any other sources.

5. Efforts to minimize the burden on small businesses.

²88 FR 85561

³The Infrastructure Investment and Jobs Act (IIJA), Sec. 22425, Public Law 117-58, 135 Stat. 752 (Nov. 15, 2021) (codified at 49 U.S.C. 2017) and generally referred to in this rule as the Act, or section 20171).

Freight car manufacturers are classified within the North American Industry Classification System (NAICS) 336510 *Railroad rolling stock manufacturing*.⁴ The SBA size standard for NAICS 336510 is 1,500 employees.⁵

Based on FRA subject matter expert input, three of the six freight car manufacturers are considered small entities, the analysis conducted in this final rule, concluded that the three small freight car manufacturers currently comply with the proposed requirements in this rule related to content and sensitive technology limitations. Therefore, FRA concludes that the provisions related to content and sensitive technology limitations will have no impact on the three small freight car manufacturers.

The three small freight car manufacturers will be required to comply with the new compliance certification requirements of this final rule related to: (1) affirming newly designed freight cars comply with the Act; (2) annual certification of compliance letter; and (3) participation in a periodic audit of freight car manufacturers. FRA estimates that each year small manufacturers introduce approximately six unique freight car design builds. For each of these introductions, the small manufacturer would need to inform FRA that the new designs are compliant with the Act. However, the associated paperwork burden (1.25 hours for each freight car) does not impose a significant burden on these small businesses.

6. Impact of less frequent collection of information.

The collection of information under this final rule aids FRA’s comprehensive safety program and serves to promote safe rail travel and the safe operation of trains for both the traveling public and railroad workers. For instance, without the information collected:

Under §215.403(a)(1)(ii) FRA will require that railroad freight car manufacturers maintain all records showing information support certification, including content calculations, and make available such records to FRA upon request. Specifically, this collection of information provides FRA access to the information on sensitive technology being placed on newly built freight cars, which if coming from a COC or SOE, could potentially compromise rail safety.

This final rule will help to protect the U.S. rail system from risks that come from manufacturing freight cars with sensitive technology and technological components, necessary to the functionality of the sensitive technology, from a COC or SOE such as potential vulnerabilities in information security. As such, the information collections under this rule will mitigate potential issues related to compromised national security and corporate espionage.

⁴ This NAICS classification comprises establishments primarily engaged in one or more of the following: (1) manufacturing and/or rebuilding locomotives, locomotive frames, and parts; (2) manufacturing railroad, street, and rapid transit cars and car equipment for operation on rails for freight and passenger service; and (3) manufacturing rail layers, ballast distributors, rail tamping equipment, and other railway track maintenance equipment. <https://www.census.gov/naics/?input=336510&year=2022&details=336510>

⁵ “Table of Small Business Size Standard”, U.S. Small Business Administration, Size Standards effective as of March 17, 2023, p. 16 of 41 <https://www.sba.gov/document/support-table-size-standards>.

7. **Special circumstances.**

There are no special circumstances.

8. **Compliance with Title 5 Code of Federal Regulations § 1320.8.**

FRA is publishing a final rule in the Federal Register on December 19, 2024,⁶ titled Freight Car Safety Standards Implementing the Infrastructure Investment and Jobs Act.

FRA received 18 comments in response to the NPRM published on December 8, 2024⁷. Of the 18 comments received, four⁸ discussed issues pertaining to the information collection requirements of the compliance certification requirements. Commenters⁹ also advocated a five-year limit to the recordkeeping requirement. FRA disagrees, because records may be needed to enforce the Act beyond a five-year period.

Commenters also suggested that FRA should provide a standard certification form for manufacturers to certify compliance. FRA disagrees and adopts the proposed rule, which provides FRA the information needed to implement the certification requirements and allows manufacturers flexibility to determine how best to comply. If desired, the industry may expand upon the minimum certification requirements and create an industry-wide certification form. The details of those comments and FRA response are covered in the final rule document.

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 regulation.

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.

⁶89 FR 103677

⁷ 89 FR 85561

⁸ Trinity Industries, Rail Security Alliance, Railway Supply Institute, Wabtec Corporation.

⁹ Rail Security Alliance, Railway Supply Institute, and Wabtec Corporation.

12. Estimate of burden hours for information collected.

The estimates for the respondent universe, annual responses, and average time per responses 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 Response (B)	Total Annual Burden hours (C=A*B)	Total cost ¹⁰ equivalent in U.S. dollar (D = C * wage rates)	Section analyses and estimates
215.5(d)(6)—Dedicated Service— Notification to FRA	784 railroads	4 notifications	1 hour	4.00 hours	\$356.52	Railroads are required to notify FRA in writing that the cars are to be operated in dedicated service. After careful review, FRA estimates it will take approximately 1 hour to prepare each notification.
215.403(a)(1)—Certification of Compliance— Manufacturers to electronically certify to FRA that the cars comply with the requirements of this subpart <i>(New requirement)</i>	6 manufacturers	35 Certifications	1.25 hours	43.75 hours	\$3,084.81	Prior to providing any cars for operation on the United States general railroad system of transportation, each freight car manufacturer shall electronically certify to FRA that the cars comply with the 49 U.S.C. 20171. After careful review, FRA estimates that it will take approximately 1.25 hours for each affirmation.
—(a)(1)(ii) Records and such records shall be made available to FRA upon request <i>(New requirement)</i>	6 manufacturers	0.33 Reports	6 hours	1.98 hours	\$139.61	This collection is labor intensive which is reflected in the high average time per response. Total annual burden however is low due to FRA projecting that such a request for records would be a rare occurrence because of strict penalties associated with non-compliance.

¹⁰ The dollar equivalent cost is derived from U.S. Bureau of Labor Statistics, 2023 NAICS 336500 – Railroad Rolling Stock Manufacturing; 13-1000 Business Operations Specialist median wage \$70.51 (\$40.29 x 1.75 overhead costs). The one exception is section 215.5 (d)(6), which is derived from the Surface Transportation Board’s Full Year Wage 2023, group 200 Professional and Administrative of \$89.13 (\$50.93 x 1.75 overhead costs).

						After careful review, FRA estimates that it will take approximately 6 hours to make these records available.
Total ¹¹	784 railroads + 6 manufacturers	39 notifications	N/A	50 hours	\$3,581	

13. Estimate of total annual costs to respondents.

There is no additional cost to the respondents outside of the burden hours accounted for under question number 12.

14. Estimate of Cost to Federal Government.

FRA estimates that approximately two hours (at the GS-14 level, step 5) are spent processing the respondents' notifications. This excludes time spent during routine compliance and enforcement activities. To calculate the government administrative cost, the 2024 Office of Personnel Management wage rates were used. Wages were considered at the burdened wage rate by multiplying the actual wage rate by an overhead cost of 75 percent (or times 1.75). Multiplying 2 times \$75.70 per hour times 1.75 (75 percent for overhead) equals \$265 (rounded) in annualized costs.

¹¹ Totals may not add up due to rounding.

15. Explanation of program changes and adjustments.

This is a revision to a current collection of information. The current OMB inventory for this information collection shows a total burden of 4 hours and 4 responses, while the requesting inventory estimates a total burden of 50 hours and 39 responses. Overall, the burden for this submission has increased by 46 hours and increased by 35 responses. The increase in burden is solely due to a program change.

CFR Section	Total Annual Responses			Total Annual Burden Hours		
	Previous Submission (Average Time per Response)	Current Submission (Average Time per Response)	Difference	Previous Submission	Current Submission	Difference
215.403(a)(1)—Certification of Compliance— Manufacturers to electronically certify to FRA that the cars comply with the requirements of this subpart (New requirement)	0	35.00 certifications (1 hour)	35.00 affirmations	0	43.75 hours	43.75 hours
—(a)(1)(ii) Records and such records shall be made available to FRA upon request (New requirement)	0	0.33 reports (6 hours)	0.33 reports	0	1.98 hours	1.98 hours
Total	4 notifications	39 notifications	35 notifications	0	50 hours	46 hours

16. Publication of results of data collection.

FRA plans no tabulation, or publication of responses.

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.