

and the percent of driver logs by operating division found to be in violation of 49 CFR 395.8(e).

Furthermore, the support systems must provide a complete audit trail of edits (changes) made to "driving" time shown on driver duty status records.

#### *FMCSA Access to Safety Management Information System*

Werner must allow FMCSA personnel reasonable access to its safety management information system(s). If FMCSA requests access to the system(s), agency personnel will determine the scope and nature of the assessment. At a minimum, access to records will include:

- (a) Driver records of duty status created by Werner's GPS and related safety management computer systems;
- (b) Driver-dispatch "message histories" and detailed position histories associated with driver records of duty status;
- (c) Driver payroll records associated with the driver records of duty status;
- (d) Driver shipping document records; and
- (e) Miscellaneous trip expense records.

#### *Reporting of Violations of Hours-of-Service Rules*

Werner must furnish FMCSA, upon request, a driver-specific report of violations of the requirements related to maximum driving time rules (49 CFR 395.3). With regard to falsification of records of duty status, information must be provided on violations of 49 CFR 395.8(e) for each individual driver requested. Werner must also agree to furnish upon request information indicating what disciplinary and/or remedial action, if any, was taken as a result of a driver's violation of rules set forth in 49 CFR 395.3 and 49 CFR 395.8(e).

#### *Reporting of Corrections or Amendments to Records*

Werner must agree to furnish, upon request, information indicating the number of times the "driving" time on driver records of duty status was changed for each driver, and identifying who authorized each altered record.

#### *Documenting Distance Traveled*

Werner would be required to ensure that the system for monitoring and recording drivers' hours of service has a means of determining that the mileage each driver travels is based on data from the vehicle's electronic control module or other on-board vehicle system, rather than on less accurate methods such as GPS-based (point-to-point) calculations

that may underestimate the distance traveled.

#### *Enforcement of Hours of Service While the Exemption Is in Effect*

Under the terms and conditions of this exemption, Werner may require its drivers to use the company's GPS technology and complementary safety management computer systems to record their hours of service in lieu of complying with the requirements of 49 CFR 395.8. FMCSA would, to the greatest extent practicable, communicate with State, Provincial, and local enforcement agencies regarding the terms and conditions of the exemption, if granted. FMCSA would continue its policy of not divulging to any third party proprietary information related to Werner's GPS technology or related safety management computer systems.

In the event that FMCSA conducts a compliance review or any other type of motor carrier safety management investigation of Werner, FMCSA would review, using its automated hours-of-service assessment system, 100 percent of the applicable operating division's hours-of-service records for compliance with the maximum driving time limitations set forth in 49 CFR 395.3. The 100 percent sampling would not extend to any other portion of the regulations reviewed. With respect to the investigation of the accuracy of hours-of-service records (49 CFR 395.8(e)), FMCSA would reserve the right to conduct a sampling of records in accordance with FMCSA policies applicable to all motor carriers, and Werner would retain the right to contest the validity of the sampling used.

Notwithstanding the additional recordkeeping requirements of the quarterly compliance reports that Werner must prepare (see *Quarterly Reports* above), the agency would not hold Werner to a higher standard of compliance than the rest of the industry, nor would it treat Werner differently in conducting investigations of complaints or other types of investigations. At any time during the exemption period, FMCSA may conduct compliance reviews of Werner, consistent with standard operating policies applicable to all motor carriers. These compliance reviews would result in the assignment of a safety rating, and the agency could initiate enforcement action against Werner for serious violations.

Werner's drivers and vehicles would continue to be subject to roadside inspections conducted by FMCSA or State enforcement personnel during the period of the exemption. Werner must ensure that its drivers cooperate with

Federal and State enforcement personnel who request information, during roadside inspections, concerning its drivers' hours of service.

#### **Request for Comments**

In accordance with 49 U.S.C. 31315 and 31136(e), FMCSA is requesting public comment from all interested persons on the agency's intent to grant Werner an exemption to allow the use of GPS technology and related safety management computer systems to document its drivers' hours of service. All comments received before the close of business on the comment closing date indicated at the beginning of this notice will be considered and will be available for examination in the docket at the location listed under the address section of this notice. Comments received after the comment closing date will be filed in the public docket and considered to the extent practicable, but FMCSA may grant or deny the exemption at any time after the close of the comment period. In addition to late comments, FMCSA also will continue to file in the public docket any relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

**Authority:** 49 U.S.C. 31136 and 31315; 49 CFR 1.73.

Issued on: December 5, 2003.

**Annette M. Sandberg,**  
*Administrator.*

[FR Doc. 03-30692 Filed 12-10-03; 8:45 am]

**BILLING CODE 4910-EX-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Federal Railroad Administration**

#### **Proposed Agency Information Collection Activities; Comment Request**

**AGENCY:** Federal Railroad Administration, DOT.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 and its implementing regulations, the Federal Railroad Administration (FRA) hereby announces that it is seeking renewal of the following currently approved information collection activities. Before submitting these information collection requirements for clearance by the Office of Management and Budget (OMB), FRA is soliciting public comment on specific aspects of the activities identified below.

**DATES:** Comments must be received no later than February 9, 2004.

**ADDRESSES:** Submit written comments on any or all of the following proposed activities by mail to either: Mr. Robert Brogan, Office of Safety, Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 17, Washington, DC 20590, or Ms. Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB control number \_\_\_\_." Alternatively, comments may be transmitted via facsimile to (202) 493-6230 or (202) 493-6170, or e-mail to Mr. Brogan at [robert.brogan@fra.dot.gov](mailto:robert.brogan@fra.dot.gov), or to Ms. Steward at [debra.steward@fra.dot.gov](mailto:debra.steward@fra.dot.gov). Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493-6292) or Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Public Law 104-13, 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR. Part 1320, require Federal agencies to provide 60-days notice to the public for comment on information collection activities before seeking approval for reinstatement or renewal by OMB. 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested respondents to comment on the following summary of proposed information collection activities regarding (i) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (ii) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (iii) ways for FRA to enhance the quality, utility, and clarity of the information being collected; and (iv) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses). See 44 U.S.C. § 3506(c)(2)(A)(i)-(iv); 5 CFR 1320.8(d)(1)(i)-(iv). FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information mandated by Federal regulations. In summary, FRA reasons that comments received will advance three objectives: (i) Reduce reporting burdens; (ii) ensure that it organizes information collection

requirements in a "user friendly" format to improve the use of such information; and (iii) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

Below are brief summaries of the three currently approved information collection activities that FRA will submit for clearance by OMB as required under the PRA:

*Title:* Track Safety Standards (Gage Restraint Measurement Systems Amendment).

*OMB Control Number:* 2130-0010.

*Abstract:* Qualified persons inspect track and take action to allow safe passage of trains and ensure compliance with prescribed Track Safety Standards. FRA amended the Track Safety Standards to provide procedures for track owners to use Gage Restraint Measurement Systems (GRMS) to assess the ability of their track to maintain proper gage. Under the current Track Safety Standards, track owners must evaluate a track's gage restraint capability through visual inspections conducted at frequencies and intervals specified in the standards. With this amendment, track owners may monitor gage restraint on a designated track segment using GRMS procedures. Individuals employed by the track owner to inspect track must be permitted to exercise their discretion in judging whether the track segment should also be visually inspected by a qualified track inspector.

*Form Number(s):* None.

*Affected Public:* Businesses.

*Respondent Universe:* 685 railroads.

*Frequency of Submission:* On occasion.

*Affected Public:* Businesses.

*Reporting Burden:*

CFR section	Respondent universe (railroads)	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
213.14—Excepted Track	160	25 orders	15 minutes	6	\$228
—Notification to FRA—Removal of Track Segment From Excepted Statutes.	160	20 notifications	10 minutes	3	114
213.5—Responsibility of Track Owners—Assignment.	685	12 notifications	8 hours	96	3,648
213.7—Designation of Qualified Persons to Supervise Certain Renewals and Inspect Track.	685	1,500 names	10 minutes	250	9,500
—Designations (Partially Qualified under Paragraph c).	31	250 names	10 minutes	42	1,596
213.17—Exemptions	685	8 petitions	24 hours	192	7,296
213.57—Curves; Elevations & Speed Limits.	685	4 requests	40 hours	160	6,080
—Notification to FRA	685	2 notifications	45 minutes	2	76
—Requests for FRA Approval—Test Plans.	1	4 test plans	16 hours	64	2,432
213.110—Gage Restraint Meas. Sys.—Implementing.	685	40 notifications + 4 tech. rpts.	45 minutes/4 hrs	46	1,748 46,250

CFR section	Respondent universe (railroads)	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
GRMS Output Reports .....	685	150 reports .....	5 minutes .....	13	494
—GRMS Exception Reports .....	685	150 reports .....	5 minutes .....	13	494
—Procedures For Maintaining GRMS Data.	685	10 doc. proc. ....	2 hours .....	20	760
—GRMS Training .....	685	10 training prog. + 25 tr. sessions.	16 hours .....	560	21,280
—GRMS Inspections—Two Most Recent Records.	685	200 records .....	2 hours .....	400	15,200
213.119—Continuous Weld Rail (CWR)—Records.	150	3,000 records .....	10 minutes .....	500	19,500
213.233—Track Inspections By Person/Vehicle—Rcds.	685	2,500 notations .....	1 minute .....	42	1,260
213.241—Inspection Records .....	685	20,000 .....	5 minutes .....	1,763,941	52,918,230
213.303—Responsibility for Compliance—High Speed Track: Assignment of Responsibility.	2	1 petition .....	8 hours .....	8	304
213.305—Designation of Fully Qualified Individuals.	2	150 designations .....	10 minutes .....	25	950
—Designation of Partially Qualified Individuals.	2	15 designations .....	10 minutes .....	3	114
213.317—Exemption From Any/All Requirements.	2	1 .....	24 hours .....	24	912
213.329—Curves, Elevation, and Higher Speed Limits.	2	3 notifications .....	40 hours .....	120	4,560
—Passenger/Commuter Service Over More Than 1 Trk..	2	3 notifications .....	45 minutes .....	2	76
213.333—Track Geometry Measurement Sys.—Rpts..	3	18 reports .....	20 hours .....	360	10,800
—Track/Vehicle Measurement Perf. Sys.—Procedures.	1	1 written proc .....	8 hours .....	8	304
—Exception Printouts .....	2	13 printouts .....	20 hours .....	260	7,800
213.341—Initial Inspection—New Rail/Welds Mill Insp.	2	2 reports .....	8 hours .....	16	608
—Welding Plant Inspection .....	2	2 reports .....	8 hours .....	16	608
—Inspection of Field Welds—Records.	2	200 records .....	20 minutes .....	67	2,546
213.343—Continuous Weld Rail—History—Records.	2	200 records .....	10 minutes .....	33	1,254
213.345—Vehicle Qualification Testing—Results/Rcds.	1	2 reports .....	16 hours .....	32	1,216
213.14—Excepted Track .....	160	25 orders .....	15 minutes .....	6	228
—Notification to FRA—Removal of Track Segment From Excepted Statuses.	160	20 notifications .....	10 minutes .....	3	114
213.5—Responsibility of Track Owners—Assignment.	685	12 notifications .....	8 hours .....	96	3,648
213.7—Designation of Qualified Persons to Supervise Certain Renewals and Inspect Track.	685	1,500 names .....	10 minutes .....	250	9,500
—Designations (Partially Qualified under Paragraph c).	31	250 names .....	10 minutes .....	42	1,596
213.17—Exemptions .....	685	8 petitions .....	24 hours .....	192	7,296
213.57—Curves; Elevations & Speed Limits.	865	4 requests .....	40 hours .....	160	6,080
—Notification to FRA .....	685	2 notifications .....	45 minutes .....	2	76
—Requests for FRA Approval—Test Plans.	1	4 test plans .....	16 hours .....	64	2,432
213.110—Gage Restraint Meas. Sys.—Implementing.	685	40 notifications + 4 tech rpts.	45 minutes/4 hrs .....	46	1,748
—GRMS Output Reports .....	685	150 reports .....	5 minutes .....	13	494
—GRMS Exception Reports .....	685	150 reports .....	5 minutes .....	13	494
—Procedures For Maintaining GRMS Data.	685	10 doc. proc. ....	2 hours .....	20	760
—GRMS Training .....	685	10 training prog. + 25 tr. sessions.	16 hours .....	560	21,280
—GRMS Inspections—Two Most Recent Records.	685	200 records .....	2 hours .....	400	15,200
213.119—Continuous Weld Rail (CWR)—Records.	150	3,000 records .....	10 minutes .....	500	19,500
213.233—Track Inspections By Person/Vehicle—Rcds.	685	2,500 notifications .....	1 minute .....	42	1,260
213.241—Inspection Records .....	685	20,000 records .....	5 minutes .....	1,763,941	52,918,230

CFR section	Respondent universe (railroads)	Total annual responses	Average time per response	Total annual burden hours	Total annual burden cost
213.303—Responsibility for Compliance—High Speed Track; Assignment of Responsibility.	2	1 petition .....	8 hours .....	8	304
213.347—Automotive or RR Crossing at Grade—Plans.	1	2 plans .....	8 hours .....	16	608
213.353—Turnouts and Crossovers ...	1	1 guide book .....	40 hours .....	40	1,520
213.361—Right of Way—Class 8 & 9—Plan Approv..	1	1 plan .....	40 hours .....	40	1,520
213.369—Inspection Records .....	2	500 records .....	1 minute .....	8	240
213.369—Inspection Records .....	2	500 records .....	1 .....	8	240
—Designation records .....	2	2 designations .....	15 minutes .....	1	38
—Inspection Records of Defects and Remedial Actions.	2	50 records .....	5 minutes .....	4	120

*Total Responses:* 1,635,052.  
*Total Estimated Total Annual Burden:* 1,767,433 hours.  
*Type of Request:* Extension of a Currently Approved Collection.  
*Title:* Special Notice For Repairs.  
*OMB Control Number:* 2130-0504.  
*Abstract:* The Special Notice For Repairs is issued to notify the carrier in writing of an unsafe condition involving a locomotive, car, or track. The carrier must return the form after repairs have been made. The collection of information is used by State and Federal inspectors to remove freight car or locomotives until they can be restored to a serviceable condition. It is also used by State and Federal inspectors to reduce the maximum authorized speed on a section of track until repairs can be made.  
*Form Number(s):* FRA F 6180.8; FRA F 6180.8a.  
*Affected Public:* Businesses.  
*Respondent Universe:* 685 railroads.  
*Frequency of Submission:* On occasion.  
*Total Responses:* 58.  
*Total Estimated Annual Burden:* 7 hours.  
*Type of Request:* Extension of a currently approved collection.  
*Title:* Designation of Qualified Persons.  
*OMB Control Number:* 2130-0511.  
*Abstract:* The collection of information is used to prevent the unsafe movement of defective freight cars. Railroads are required to inspect freight cars for compliance and to determine restrictions on the movements of defective cars.  
*Form Number(s):* None.  
*Affected Public:* Businesses.  
*Respondent Universe:* 685 railroads.  
*Frequency of Submission:* On occasion.  
*Total Estimated Annual Burden:* 40 hours.  
*Total Responses:* 1,200.  
*Type of Request:* Extension of a Currently Approved Collection.

Pursuant to 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.  
**Authority:** 44 U.S.C. 3501-3520.  
 Issued in Washington, DC on December 5, 2003.  
**Maryann Johnson,**  
*Acting Director, Office of Information Technology and Support Systems, Federal Railroad Administration.*  
 [FR Doc. 03-30652 Filed 12-10-03; 8:45 am]  
**BILLING CODE 4910-06-P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Railroad Administration**

**Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

**Canadian Pacific Railway**

[Waiver Petition Docket Number FRA-2003-16439]  
 The Canadian Pacific Railway Company (CPR) seeks a waiver of compliance from certain provisions of the Railroad Locomotive Safety Standards, 49 CFR Part 229, on behalf of themselves, their U.S. subsidiaries, the Delaware & Hudson and the Soo Line Railroads, and the New York Air Brake Corporation (NYAB). Specifically, CPR requests relief from the

requirements of 49 CFR 229.27(a)(2) Annual Tests and 49 CFR 229.29(a) Biennial Tests, in order to evaluate extending the required periodic maintenance time intervals for NYAB generation II Computer Controlled Brake (CCB) equipment.  
 CPR currently owns and operates 213 GE AC4400 locomotives built between December 1998 and September 2003, that are equipped with CCB II brake equipment. In August 2003, CPR, Transport Canada, and NYAB jointly performed a 5-year COT&S with a detailed tear-down inspection of the CCB II brake equipment from two randomly selected locomotives. According to CPR, all of the parties agreed that continued testing of extended COT&S intervals on a year-to-year basis was warranted, based on the encouraging results of the tests and inspections.  
 CPR has proposed evaluating the extended COT&S intervals according to a test plan that NYAB developed for CPR and Transport Canada. The test plan has assigned locomotives into tests groups based on the scheduled periodic maintenance cycles. Candidate locomotives for test tear-downs would only include those units which have not had a prior COT&S and which have had the least amount of air brake maintenance activity since entering service.  
 Approval of this waiver will permit the continued operation of the test locomotives in the United States, as the COT&S time intervals are extended beyond the five-year requirement. Also, it will further add to the industry's knowledge of the reliability of the CCB technology, building on a similar waiver (FRA-1999-6252) which was granted to CSXT on in September 1, 2000. It is CPR's intention that FRA would join Transport Canada and NYAB in evaluating the extended COT&S intervals for their CCB equipped locomotives, if this waiver is approved.