



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 213

[Docket No. FRA-2025-0116]

RIN 2130-AD49

Repealing a Track Surface Requirement

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FRA proposes to repeal the runoff parameter from its track surface requirements for track Classes 1 through 5. FRA has found that other geometry requirements in FRA's regulations already capture the same safety concerns.

DATES: Comments on the proposed rule must be received by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. FRA may consider comments received after that date, but only to the extent practicable.

ADDRESSES: *Comments:* Comments related to Docket No. FRA-2025-0116 may be submitted by going to <https://www.regulations.gov> and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name, docket number (FRA-2025-0116), and Regulatory Identification Number (RIN) for this rulemaking (2130-AD49). All comments received will be posted without change to <https://www.regulations.gov>; this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov> and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Yu-Jiang Zhang, Staff Director, Track and Structures Division, Federal Railroad Administration, telephone: (202) 493-6460, email: yujiang.zhang@dot.gov; or Aaron Moore, Senior Attorney, Federal Railroad Administration, telephone: (202) 853-4784, email: aaron.moore@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with the deregulatory agenda of President Donald J. Trump and Secretary of Transportation Sean P. Duffy, which seeks to unleash America's economic prosperity without compromising transportation safety, FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR). Under 49 CFR part 213, *Track Safety Standards*, FRA prescribes minimum safety requirements for railroad track that is part of the general railroad system of transportation. Some of the requirements contained in part 213 could be updated to reduce burdens, make technical or conforming changes, or otherwise adjust to advancing technology without any adverse effect on railroad safety. Please review the **SECTION-BY-SECTION ANALYSIS** below for the relevant information related to FRA's proposed change.

II. Section-by-Section Analysis

Section 213.63 Track Surface

Paragraph (a) of this section requires each track owner to maintain the surface of its track within certain parameters set forth in a table. FRA proposes to repeal the runoff parameter from these track surface requirements. A working group of FRA's Railroad Safety Advisory Committee previously considered removing this parameter from FRA's

regulations in 2019 and 2022.¹ The other parameters in FRA's regulations, including the thresholds outlined in existing paragraph (a), already capture the same track surface safety concerns. FRA proposes removing the runoff parameter from the existing table in paragraph (a).

III. Regulatory Impact and Notices

A. Executive Order (E.O.) 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FRA has considered the impact of this proposed rule under E.O. 12866, Regulatory Planning and Review (58 FR 51735, Oct. 4, 1993), and DOT Order 2100.6B, Policies and Procedures for Rulemaking (Mar. 10, 2025). The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this NPRM is not a significant regulatory action under section 3(f) of E.O. 12866. FRA proposes to remove the runoff parameter from the track surface requirements in 49 CFR 213.63(a), as it is unnecessary and the other geometry requirements in that paragraph capture the same safety concerns.

FRA analyzed the potential costs and benefits of this proposed rule. Because this proposed rule would reduce the regulatory burden on track owners by eliminating the costs to measure and meet the runoff parameters currently set forth in 49 CFR 213.63(a), this proposed rule would provide cost savings to regulated entities. In addition, this proposed rule would provide some qualitative benefits to regulated entities and the U.S. government by eliminating an unnecessary requirement from part 213.

B. E.O. 14192 (Unleashing Prosperity Through Deregulation)

¹ See Track Standards Working Group Update, June 27, 2022, available at <https://rsac.fra.dot.gov/meetings?id=61>; Track Standards Working Group Update, Dec. 12, 2022, available at <https://rsac.fra.dot.gov/meetings?id=62>; Approved Minutes from Dec. 12, 2022, RSAC Meeting, available at <https://rsac.fra.dot.gov/meetings?id=63>.

E.O. 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Jan. 31, 2025), requires that for “each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination.”² Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.³

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This proposed rulemaking is expected to have total costs less than zero, and therefore it would be considered an E.O. 14192 deregulatory action upon issuance of a final rule. While FRA affirms that each amendment proposed in this NPRM has a cost that is negligible or “less than zero” consistent with E.O. 14192, FRA still requests comment on the extent of the cost savings for the changes proposed in this NPRM.

C. Regulatory Flexibility Act and E.O. 13272

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996,⁴ requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies strive to lessen any adverse effects on these businesses. The term *small entities* comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

² Executive Office of the President. *Executive Order 14192 of January 31, 2025. Unleashing Prosperity Through Deregulation.* 90 FR 9065–9067 (Feb. 6, 2025).

³ Executive Office of the President. Office of Management and Budget. Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.” Memorandum M-25-20. Mar. 26, 2025.

⁴ Pub. L. 104–121, 110 Stat. 857 (Mar. 29, 1996).

No regulatory flexibility analysis is required, however, if the head of an Agency or an appropriate designee certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule proposes to remove an unnecessary requirement from part 213 that would otherwise require entities to measure and meet the runoff parameters in existing 49 CFR 213.63(a). While this rule may impact many regulated entities, including small entities, the proposed rule would reduce the regulatory burden on track owners and provide benefits by eliminating the costs associated with measuring and meeting runoff parameters. Consequently, FRA certifies that the proposed action would not have a significant economic impact on a substantial number of small entities.

In accordance with section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), FRA wants to assist small entities in understanding this proposed rule so they can better evaluate its effects on themselves and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

D. Paperwork Reduction Act

This proposed rule offers regulatory flexibilities, and it contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Therefore, an information collection submission to OMB is not required.

E. Environmental Assessment

FRA has analyzed this rule for the purposes of the National Environmental Policy Act of 1969 (NEPA). In accordance with 42 U.S.C. 4336 and DOT NEPA Order 5610.1C, FRA has determined that this rule is categorically excluded pursuant to 23 CFR

771.118(c)(4), “[p]lanning and administrative activities that do not involve or lead directly to construction, such as: [p]romulgation of rules, regulations, and directives.”

This rulemaking is not anticipated to result in any environmental impacts, and there are no unusual or extraordinary circumstances present in connection with this rulemaking.

Pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties. FRA has also determined that this rulemaking does not approve a project resulting in a use of a resource protected by Section 4(f).

F. Federalism Implications

This proposed rule would not have a substantial effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with E.O. 13132, “Federalism” (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This proposed rule would not result in the expenditure, in the aggregate, of \$100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” FRA has evaluated this proposed rule in accordance with E.O. 13211 and determined that this proposed rule is not a “significant energy action” within the meaning of E.O. 13211.

I. E.O. 13175 (Tribal Consultation)

FRA has evaluated this proposed rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (Nov. 6, 2000). The proposed rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979⁵ prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

K. Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to <https://www.regulations.gov>, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.transportation.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you

⁵ 19 U.S.C. ch. 13.

wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

L. Rulemaking Summary

As required by 5 U.S.C. 553(b)(4), a summary of this rule can be found at regulations.gov, Docket No. FRA-2025-0116, in the SUMMARY section of this proposed rule.

List of Subjects in 49 CFR Part 213

Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend part 213 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

1. The authority citation for part 213 continues to read as follows:

Authority: 49 U.S.C. 20102–20114 and 20142; 28 U.S.C. 2461 note; and 49 CFR 1.89.

2. Revise § 213.63(a) to read as follows:

§ 213.63 Track surface.

(a) Except as provided in paragraph (b) of this section, each track owner shall maintain the surface of its track within the limits prescribed in the following table:

Track surface (inches)	Class of track				
	1	2	3	4	5
The deviation from uniform profile on either rail at the mid-ordinate of a 62-foot chord may not be more than	3	2 ¾	2 ¼	2	1 ¼
The deviation from zero crosslevel at any point on tangent or reverse crosslevel elevation on curves may not be more than	3	2	1 ¾	1 ¼	1
The difference in crosslevel between any two points less than 62 feet apart may not be more than* ^{1,2}	3	2 ¼	2	1 ¾	1 ½
*Where determined by engineering decision prior to June 22, 1998, due to physical restrictions on spiral length and operating practices and experience, the variation in crosslevel on spirals per 31 feet may not be more than	2	1 ¾	1 ¼	1	¾

¹ Except as limited by § 213.57(a), where the elevation at any point in a curve equal or exceeds 6 inches, the difference in crosslevel within 62 feet between that point and a point with greater elevation may not be more than 1½ inches.

² However, to control harmonics on Class 2 through 5 jointed track with staggered joints, the crosslevel differences shall not exceed ¼ inches in all of six consecutive pairs of joints, as created by seven low joints. Track with joints staggered less than 10 feet apart shall not be considered as having staggered joints. Joints within the seven low joints outside of the regular joint spacing shall not be considered as joints for purposes of this footnote.

* * * * *

Issued in Washington, DC.

Kyle D. Fields,

Chief Counsel.