



## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### 49 CFR Part 213

[Docket No. FRA-2025-0116; Notice No. 2]

RIN 2130-AD49

#### Repealing a Track Surface Requirement

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

**ACTION:** Final rule.

**SUMMARY:** This rule repeals the runoff parameter from FRA’s track surface requirements for track Classes 1 through 5. FRA has found that other geometry requirements in FRA’s regulations already address the same safety issue.

**DATES:** This rule is effective [INSERT 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

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#### SUPPLEMENTARY INFORMATION:

##### I. Background

Consistent with Executive Order (E.O.) 14192, Unleashing Prosperity Through Deregulation (90 FR 9065, Feb. 6, 2025), and E.O. 14219, Ensuring Lawful Governance and Implementing the President’s “Department of Government Efficiency” Deregulatory Initiative (90 FR 10583, Feb. 25, 2025), FRA is reviewing its regulatory requirements in parts 200 through 299 of title 49, Code of Federal Regulations (CFR) and repealing requirements that are outdated and redundant.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed to repeal the runoff parameter from 49 CFR 213.63 in FRA’s track surface requirements. 90 FR 28626. During the comment period that closed on September 2, 2025, FRA received comments from the Brotherhood of Maintenance of Way Employees Division (BMWED)<sup>1</sup> and the International Association of Sheet Metal, Air, Rail, and Transportation Workers – Transportation Division (SMART-TD).<sup>2</sup>

In summary, BMWED supports the repeal of the runoff parameter in section 213.63(a), contingent upon the continued enforcement of overlapping and technically sufficient surface condition standards, as that runoff parameter is redundant. Conversely, SMART-TD urges FRA to withdraw this rulemaking, as SMART-TD contends that the runoff parameter is unique, necessary, and irreplaceable. FRA disagrees with SMART-TD and discusses the comments it received further in the *Section-by-Section Analysis* of this final rule. FRA finalizes the NPRM as proposed.

## **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 the table. A working group of FRA’s Railroad Safety Advisory Committee (RSAC) previously considered removing the surface runoff parameter from FRA’s regulations between 2019 and 2022.<sup>3</sup> In the NPRM, FRA proposed to repeal the runoff parameter from the existing table in paragraph (a) (*i.e.*, the first row of the table).<sup>4</sup> The other parameters in FRA’s regulations, including the

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<sup>1</sup> <https://www.regulations.gov/comment/FRA-2025-0116-0002>.

<sup>2</sup> <https://www.regulations.gov/comment/FRA-2025-0116-0003>.

<sup>3</sup> 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>.

<sup>4</sup> 90 FR 28626 (July 1, 2025).

thresholds outlined in existing paragraph (a), already capture the same track surface safety concerns.

In its comments, BMWED supports the repeal of the runoff parameter in section 213.63(a), contingent upon the continued enforcement of overlapping and technically sufficient surface condition standards. BMWED comments that runoff has become functionally redundant and is a legacy parameter no longer necessary for ensuring compliance or safety. BMWED also requests that FRA take the following actions: (1) clarify that inspectors retain the authority to cite hazardous surface conditions outside specific numeric thresholds, including updating FRA's Track Safety Standards Compliance Manual to make that statement; (2) reaffirm its commitment to the RSAC process for future technical rulemakings; and (3) conduct post-repeal monitoring to verify continued safety performance.

FRA appreciates BMWED's support of this rule and agrees that the runoff parameter under existing section 213.63(a) is redundant and unnecessary. In response to BMWED's three requests, first, FRA clarifies that this final rule does not limit an FRA inspector's ability to take enforcement action for unsafe conditions, consistent with 49 CFR part 213. FRA will continue enforcing its track safety requirements. Also, FRA expects railroad inspectors to protect a geometry condition before it reaches the limit, if they are concerned the track may degrade further prior to the next inspection.

Second, FRA appreciates BMWED's support for RSAC and agrees that RSAC may be the appropriate forum for the agency's various stakeholders to exchange information relating to the safety of rail operations. Third, FRA will continue to oversee railroads' track safety, including by conducting field inspections and automated track inspections.

In its comments, SMART-TD urges FRA to withdraw this rulemaking, as SMART-TD expects that repealing the runoff parameter will embolden railroads to accept

track conditions that place crews and the public at greater risk of injury and derailment. SMART-TD argues that the runoff parameter is unique, necessary, and irreplaceable in the rulebook. SMART-TD asserts that the runoff parameter exists for a reason—that is, to control lateral motion in track transitions: “Lateral instability increases the risk of derailment, introduces unsafe forces into locomotives and cars, and magnifies wear and tear on track components. Over time, unchecked lateral motion compounds into more rapid track degradation, creating a cycle of instability that ends in catastrophe.”<sup>5</sup>

FRA does not agree with SMART-TD that the runoff provision is “irreplaceable,” or that repealing it will reduce safety. The runoff parameter under section 213.63(a) was meant to confront situations where track is elevated because of surfacing or bridge work, not degradation or deterioration. When trains encounter this ramp, they experience a vertical pitch or bounce if the elevation occurs in too short a distance. However, FRA’s experience is that railroad maintenance practices make the limit unnecessary. FRA is confident that the existing limits for surface profile detect the same unsafe conditions. Like runoff, the profile parameter covers vertical changes in the surface uniformity of the rail, the only difference being it is measured over a 62-foot distance as opposed to runoff, which is measured at a 31-foot distance.

With that said, FRA generally agrees with SMART-TD’s comments about the safety risks of track surface conditions causing undesirable in-train forces and the value of locomotive engineers and conductors reporting rough track. The existing geometry limits under profile, crosslevel, and warp cover this concern, and are not modified by this rulemaking.

### **III. Regulatory Impact and Notices**

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<sup>5</sup> <https://www.regulations.gov/comment/FRA-2025-0116-0003>.

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

FRA has considered the impact of this final rule under E.O. 12866 (58 FR 51735, Oct. 4, 1993), Regulatory Planning and Review, and DOT Regulatory Policies and Procedures. The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) determined that this final rule is not a significant regulatory action under section 3(f) of E.O. 12866.

FRA analyzed the potential costs and benefits of this final rule. This final rule repeals the runoff parameter in FRA's track surface requirements, and therefore, this final rule will 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 rule will provide cost savings to regulated entities. In addition, this rule will provide some qualitative benefits to regulated entities and the U.S. government by eliminating an unnecessary requirement from part 213.

**B. Executive Order 14192 (Unleashing Prosperity Through Deregulation)**

E.O. 14192, Unleashing Prosperity Through Deregulation, requires that for "each new [E.O. 14192 regulatory action] issued, at least ten prior regulations be identified for elimination."<sup>6</sup> Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, March 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192 deregulatory action, and an E.O. 14192 regulatory action.<sup>7</sup>

An E.O. 14192 deregulatory action is defined as "an action that has been finalized and has total costs less than zero." This final rule will have total costs less than zero, and

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<sup>6</sup> Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 90 FR 9065-9067 (Feb. 6, 2025).

<sup>7</sup> Executive Office of the President, OMB, *Guidance Implementing Section 3 of E.O. 14192, Titled "Unleashing Prosperity Through Deregulation," Memorandum M-25-20, (Mar. 26, 2025)*.

therefore it will be considered an E.O. 14192 deregulatory action upon issuance of this final rule.

**C. Regulatory Flexibility Act and Executive Order 13272**

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Fairness Act of 1996,<sup>8</sup> 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, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000 (5 U.S.C. 601(6)).

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. By extending this regulatory relief, many regulated entities, including small entities, will experience cost savings. Consequently, FRA certifies that this final rule will not have a significant impact on a substantial number of small entities.

**D. Paperwork Reduction Act**

This final rule offers regulatory flexibilities, and it does not impose any new information collection requirements or modify any existing information collection requirements. Therefore, an information collection submission to OMB is not required under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.* The existing recordkeeping and reporting requirements contained in part 213 became effective when

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<sup>8</sup> Pub. L. No. 104-121, 110 Stat. 857 (Mar. 29, 1996).

they were approved by OMB on February 7, 2024. The OMB control number is OMB No. 2130-0010, and OMB approval expires on February 28, 2027.

**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 5610.1D, FRA has determined that this rule is categorically excluded pursuant to 23 CFR 771.116(c)(15). 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.

**F. Federalism Implications**

This final rule will 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 final rule will 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. No. 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 requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.”<sup>9</sup> FRA has evaluated this final rule in accordance with

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<sup>9</sup> 66 FR 28355 (May 22, 2001).

E.O. 13211 and determined that this final rule is not a “significant energy action” within the meaning of E.O. 13211.

**I. Executive Order 13175 (Tribal Consultation)**

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, Consultation and Coordination with Indian Tribal Governments (65 FR 67249, Nov. 6, 2000). The final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will 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 1979 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 final rule 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.

**List of Subjects in 49 CFR Part 213**

Penalties, Railroad safety, Reporting and recordkeeping requirements.

**The Final Rule**

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

**PART 213—TRACK SAFETY STANDARDS**

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

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* <sup>1, 2</sup>	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

<sup>1</sup> 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.

<sup>2</sup> 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.

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Issued in Washington, D.C., under authority delegated in 49 CFR 1.89.

**David A. Fink,**

*Administrator.*