

SUPPORTING JUSTIFICATION DISQUALIFICATION PROCEEDINGS

1. EXPLAIN THE CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY. IDENTIFY ANY LEGAL OR ADMINISTRATIVE REQUIREMENTS THAT NECESSITATE THE COLLECTION. ATTACH A COPY OF THE APPROPRIATE SECTION OF EACH STATUTE AND REGULATION MANDATING OR AUTHORIZING THE COLLECTION OF INFORMATION.

This collection of information is a request for an extension of a currently approved submission. FRA has revised the information in this collection – where appropriate and necessary – to reflect the most current data, and FRA’s experience over the past three years in implementing the requirements of Part 209, Subpart D.

Background

Section 3(a) (4) of the Rail Safety Improvement Act of 1988 (RSIA), Pub. L. 100-342, dated June 22, 1988, authorizes the Federal Railroad Administration (FRA) to issue orders disqualifying railroad employees, including supervisors, managers, and other agents from performing safety-sensitive functions in the rail industry for violations of rail safety rules, regulations, standards or orders that evidence unfitness to perform safety-sensitive functions. Congress' purpose in giving FRA authority to bar an individual from safety-sensitive functions was to remove the risk unfit individuals pose to their co-workers and the public.

FRA's regulation (49 CFR 209, Subpart D) seeks to set out the procedures regarding proposed disqualifications. Specifically, Subpart D spells out the responsibilities of the Federal Railroad Administration, and the rights and responsibilities of railroads and railroad employees. Furthermore, Subpart D aims to enforce disqualification orders by requiring: (1) a railroad employing or formerly employing a disqualified individual to disclose the terms and conditions of the order to the individual's new or prospective employer railroad; (2) a railroad considering hiring an individual in a safety-sensitive position to inquire from the individual's prior employer railroad whether the individual is serving under a disqualification order; and (3) a disqualified individual to inform his employer of the disqualification order and provide a copy of it to the employer and to inform a prospective employer railroad of the disqualification order and provide a copy thereto. Additionally, the regulation prohibits a railroad from employing a person serving under a disqualification order in a safety-sensitive position, and prohibits such a person from working in such a position.

2. INDICATE HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED. EXCEPT FOR A NEW COLLECTION, INDICATE THE ACTUAL USE THE AGENCY HAS MADE OF THE INFORMATION RECEIVED FROM THE CURRENT COLLECTION.

FRA uses the information to promote and maintain rail safety by ensuring that disqualified individuals do not serve in safety-sensitive positions, most notably as locomotive engineers. Employees who demonstrate unfitness may be disqualified temporarily or permanently from performing safety-sensitive functions. FRA, through its Chief Counsel's Office, begins a disqualification by serving notice of the proposed disqualification on the individual charging him/her with having violated one or more rules, regulations, orders, or standards promulgated by FRA which render the individual unfit to perform safety-sensitive functions.

FRA also uses the information to ensure that railroad employees' rights are fully protected so that safety-sensitive workers are not disqualified without sufficient cause and due process. Employees can only be disqualified under specified terms and conditions. Individuals facing disqualification have several options. They can stipulate to the charges and consent to the imposition of the disqualification order under the conditions set forth in the notice. They can also make an informal response and submit to FRA's Chief Counsel's Office such written explanations, information, affidavits, or other materials as he/she may desire in answer to the charges or in mitigation of the proposed disqualification.

Individuals facing disqualification may include in the informal written response a request for a conference. Written explanations, information, or materials submitted by individuals facing disqualification and relevant information presented during any conference held in response to such an individual's request are used by FRA's Chief Counsel's Office in reviewing the notice of proposed disqualification, including the question of the individual's fitness and the conditions of any disqualification which may be imposed. After careful consideration of the informal response, FRA's Chief Counsel's Office will take one of the following actions: (1) It will dismiss all the charges and terminate the notice of proposed disqualification; (2) It will dismiss some of the charges and mitigate the proposed disqualification; (3) It will mitigate the proposed disqualification; or (4) It will sustain the charges and proposed disqualification. Individuals facing disqualification who make an informal response do not waive their right to a hearing.

Railroads also use the information to prevent individuals serving under a disqualification order from retaining and obtaining employment in a safety-sensitive position in the rail industry. Individuals subject to a disqualification order must inform their employer of the order and provide a copy within five (5) days after receipt of the order. Such an individual must likewise inform any prospective employer who is considering hiring the

individual to perform-safety sensitive functions of the order and provide a copy within five (5) days after receipt of the order or upon application for the position, whichever occurs first.

In sum, FRA uses the information collected to enforce compliance with its regulations, and applicable Federal laws, particularly the Rail Safety Improvement Act. The agency uses the information to make sure that the highest possible levels of safety are maintained on the nation's rail system by ensuring that only qualified personnel perform safety-sensitive functions. FRA uses the information to make warranted determinations concerning disqualifications of railroad workers performing safety-sensitive functions.

3. DESCRIBE WHETHER, AND TO WHAT EXTENT, THE COLLECTION OF INFORMATION INVOLVES THE USE OF AUTOMATED, ELECTRONIC, MECHANICAL, OR OTHER TECHNOLOGICAL COLLECTION TECHNIQUES OR OTHER FORMS OF INFORMATION TECHNOLOGY, E.G. PERMITTING ELECTRONIC SUBMISSION OF RESPONSES, AND THE BASIS FOR THE DECISION FOR ADOPTING THIS MEANS OF COLLECTION. ALSO DESCRIBE ANY CONSIDERATION OF USING INFORMATION TECHNOLOGY TO REDUCE BURDEN.

FRA strongly encourages and highly endorses the use of advanced information technology, wherever possible, to reduce burden on respondents. However, the use of advanced information technology is not really practicable concerning this collection of information because the burden is so extremely minimal.

4. DESCRIBE EFFORTS TO IDENTIFY DUPLICATION. SHOW SPECIFICALLY WHY ANY SIMILAR INFORMATION ALREADY AVAILABLE CANNOT BE USED OR MODIFIED FOR USE FOR THE PURPOSES DESCRIBED IN ITEM 2 ABOVE.

To our knowledge, this information is not duplicated anywhere.

Similar data are not available from any other source.

5. IF THE COLLECTION OF INFORMATION IMPACTS SMALL BUSINESSES OR OTHER SMALL ENTITIES (ITEM 5 OF OMB FORM 83-I), DESCRIBE ANY METHODS USED TO MINIMIZE BURDEN.

Since FRA believes that there will be very few disqualification proceedings in any given year, the burden is extremely minimal. Consequently, the collection of information has no impact on small businesses.

6. DESCRIBE THE CONSEQUENCE TO FEDERAL PROGRAM OR POLICY ACTIVITIES IF THE COLLECTION IS NOT CONDUCTED OR IS CONDUCTED LESS FREQUENTLY, AS WELL AS ANY TECHNICAL OR LEGAL OBSTACLES TO REDUCING BURDEN.

If this information were not collected or collected less frequently, rail safety might be seriously jeopardized. Specifically, if this information were not collected, unsuitable or unqualified individuals might perform safety-sensitive jobs or might continue to serve in these positions, especially as locomotive engineers. By not performing safety-sensitive functions capably, there could be an increase in the number and severity of accident/incidents, notably derailments and collisions, which could lead to significant increases in the number of injuries and possibly fatalities to members of the traveling public, train crews, and other rail workers. Without this information collection, railroads would not have necessary data to determine the qualifications of current employees or prospective employees to be placed in very important safety-sensitive positions, especially as locomotive engineers. Without this collection of information, railroad workers might unfairly or erroneously be disqualified from safety-sensitive positions and earning their livelihood without full due process. Finally, without this collection of information, FRA would not have another tool for monitoring and enforcing Federal safety regulations and applicable Federal laws.

In sum, this collection of information aids FRA in its primary mission, which is to promote and maintain rail safety throughout the United States.

7. EXPLAIN ANY SPECIAL CIRCUMSTANCES THAT WOULD CAUSE AN INFORMATION COLLECTION TO BE CONDUCTED IN A MANNER:

-REQUIRING RESPONDENTS TO REPORT INFORMATION TO THE AGENCY MORE OFTEN THAN QUARTERLY;

-REQUIRING RESPONDENTS TO PREPARE A WRITTEN RESPONSE TO A COLLECTION OF INFORMATION IN FEWER THAN 30 DAYS AFTER RECEIPT OF IT;

-REQUIRING RESPONDENTS TO SUBMIT MORE THAN AN ORIGINAL AND TWO COPIES OF ANY DOCUMENT;

-REQUIRING RESPONDENTS TO RETAIN RECORDS, OTHER THAN HEALTH, MEDICAL, GOVERNMENT CONTRACT, GRANT-IN-AID, OR TAX RECORDS FOR MORE THAN THREE YEARS;

-IN CONNECTION WITH A STATISTICAL SURVEY, THAT IS NOT DESIGNED TO PRODUCE VALID AND RELIABLE RESULTS THAT CAN BE GENERALIZED TO THE UNIVERSE OF STUDY;

-REQUIRING THE USE OF A STATISTICAL DATA CLASSIFICATION THAT HAS NOT BEEN REVIEWED AND APPROVED BY OMB;

-THAT INCLUDES A PLEDGE OF CONFIDENTIALITY THAT IS NOT SUPPORTED BY AUTHORITY ESTABLISHED IN STATUE OR REGULATION, THAT IS NOT SUPPORTED BY DISCLOSURE AND DATA SECURITY POLICIES THAT ARE CONSISTENT WITH THE PLEDGE, OR WHICH UNNECESSARILY IMPEDES SHARING OF DATA WITH OTHER AGENCIES FOR COMPATIBLE CONFIDENTIAL USE; OR

-REQUIRING RESPONDENTS TO SUBMIT PROPRIETARY TRADE SECRET, OR OTHER CONFIDENTIAL INFORMATION UNLESS THE AGENCY CAN DEMONSTRATE THAT IT HAS INSTITUTED PROCEDURES TO PROTECT THE INFORMATION'S CONFIDENTIALITY TO THE EXTENT PERMITTED BY LAW.

All information collection requirements are in compliance with this section.

- 8. IF APPLICABLE, PROVIDE A COPY AND IDENTIFY THE DATE AND PAGE NUMBER OF PUBLICATION IN THE FEDERAL REGISTER OF THE AGENCY'S NOTICE, REQUIRED BY 5 CFR 1320.8(d), SOLICITING COMMENTS ON THE INFORMATION COLLECTION PRIOR TO SUBMISSION TO OMB. SUMMARIZE PUBLIC COMMENTS RECEIVED IN RESPONSE TO THAT NOTICE AND DESCRIBE ACTIONS TAKEN BY THE AGENCY IN RESPONSE TO THOSE COMMENTS. SPECIFICALLY ADDRESS COMMENTS RECEIVED ON COST AND HOUR BURDEN.**

DESCRIBE EFFORTS TO CONSULT WITH PERSONS OUTSIDE THE AGENCY TO OBTAIN THEIR VIEWS ON THE AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, THE CLARITY OF INSTRUCTIONS AND RECORDKEEPING, DISCLOSURE, OR REPORTING FORMAT (IF ANY), AND ON THE DATA ELEMENTS TO

BE RECORDED, DISCLOSED, OR REPORTED.

CONSULTATION WITH REPRESENTATIVES OF THOSE FROM WHOM INFORMATION IS TO BE OBTAINED OR THOSE WHO MUST COMPILE RECORDS SHOULD OCCUR AT LEAST ONCE EVERY 3 YEARS--EVEN IF THE COLLECTION OF INFORMATION ACTIVITY IS THE SAME AS IN PRIOR PERIODS. THERE MAY BE CIRCUMSTANCES THAT MAY PRECLUDE CONSULTATION IN A SPECIFIC SITUATION. THESE CIRCUMSTANCES SHOULD BE EXPLAINED.

As required by the Paperwork Reduction Act of 1995, FRA published a notice in the Federal Register on April 7, 2006, soliciting comment on this particular information collection. *71 FR 17945*. FRA received no comments in response to this notice.

Background

On December 9, 1988, FRA published in the Federal Register a Notice of Proposed Rulemaking (NPRM) to amend 49 CFR 209, entitled "Railroad Safety Enforcement Procedures," by revising Subpart A (General) and adding a new Subpart D (Disqualification Procedures) prescribing procedures for disqualifying railroad employees, including managers, supervisors, and other agents from performing safety-sensitive functions in the rail industry (53 FR 49695). A public hearing was held in Washington, D.C., on January 5, 1989, at which seven organizations were represented: three railroads, one organization representing railroads, and three organizations representing railroad employees. In addition, written comments were received from one individual, one labor union, and six other railroads.

Two commenters suggested that FRA retain a listing of disqualified employees. One stated that it should include only disqualification orders in effect. The other recommended that it include all disqualification orders imposed -- both current and expired. Neither proposal proved acceptable to FRA. The latter confused the sections 209.327-.331 in the Final Rule, which aimed to enforce disqualification orders in force, not to serve as a repository for previous actions. The former proposal raised some unresolved Privacy Act issues, and it would have imposed an additional administrative burden on FRA. FRA argued that the disqualification order enforcement procedure, as proposed and adopted, imposed no hardship on the railroads or the employees involved.

9. EXPLAIN ANY DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS, OTHER THAN ENUMERATION OF CONTRACTORS OR GRANTEES.

There are no monetary payments or gifts made to respondents associated with the

information collection requirements contained in this regulation.

10. DESCRIBE ANY ASSURANCE OF CONFIDENTIALITY PROVIDED TO RESPONDENTS AND THE BASIS FOR THE ASSURANCE IN STATUTE, REGULATION, OR AGENCY POLICY.

Information collected is not of a confidential nature, and FRA pledges no confidentiality. Further, it should be noted that disqualification hearings are public proceedings. (See 49 CFR 209.321(a)).

11. PROVIDE ADDITIONAL JUSTIFICATION FOR ANY QUESTIONS OF A SENSITIVE NATURE, SUCH AS SEXUAL BEHAVIOR AND ATTITUDES, RELIGIOUS BELIEFS, AND OTHER MATTERS THAT ARE COMMONLY CONSIDERED PRIVATE. THIS JUSTIFICATION SHOULD INCLUDE THE REASONS WHY THE AGENCY CONSIDERS THE QUESTIONS NECESSARY, THE SPECIFIC USES TO BE MADE OF THE INFORMATION, THE EXPLANATION TO BE GIVEN TO PERSONS FROM WHOM THE INFORMATION IS REQUESTED, AND ANY STEPS TO BE TAKEN TO OBTAIN THEIR CONSENT.

No sensitive information or information of a private nature is requested.

12. PROVIDE ESTIMATES OF THE HOUR BURDEN OF THE COLLECTION OF INFORMATION. THE STATEMENT SHOULD:

-INDICATE THE NUMBER OF RESPONDENTS, FREQUENCY OF RESPONSE, ANNUAL HOUR BURDEN, AND AN EXPLANATION OF HOW THE BURDEN WAS ESTIMATED. UNLESS DIRECTED TO DO SO, AGENCIES SHOULD NOT CONDUCT SPECIAL SURVEYS TO OBTAIN INFORMATION ON WHICH TO BASE HOUR BURDEN ESTIMATES. CONSULTATION WITH A SAMPLE (FEWER THAN 10) OF POTENTIAL RESPONDENTS IS DESIRABLE. IF THE HOUR BURDEN ON RESPONDENTS IS EXPECTED TO VARY WIDELY BECAUSE OF DIFFERENCES IN ACTIVITY, SIZE, OR COMPLEXITY, SHOW THE RANGE OF ESTIMATED HOUR BURDEN, AND EXPLAIN THE REASONS FOR THE VARIANCE. GENERALLY, ESTIMATES SHOULD NOT INCLUDE BURDEN HOUR FOR CUSTOMARY AND USUAL BUSINESS PRACTICES

-IF THIS REQUEST FOR APPROVAL COVERS MORE THAN ONE FORM, PROVIDE SEPARATE HOUR BURDEN

ESTIMATES FOR EACH FORM AND AGGREGATE THE HOUR BURDENS IN ITEMS 13 OF OMB FORM 83-I.

-PROVIDE ESTIMATES OF ANNUALIZED COST TO RESPONDENTS FOR THE HOUR BURDENS FOR COLLECTIONS OF INFORMATION, IDENTIFYING AND USING APPROPRIATE WAGE RATE CATEGORIES. THE COST OF CONTRACTING OUT OR PAYING OUTSIDE PARTIES FOR INFORMATION COLLECTION ACTIVITIES SHOULD NOT BE INCLUDED HERE. INSTEAD, THIS COST SHOULD BE INCLUDED IN ITEM 14.

Note: Based on the 2005 edition of the Association of American Railroads (AAR) publication entitled Railroad Facts, FRA has used the following labor rate for railroad hourly wages in its cost calculations: \$50 per hour for locomotive engineers.

§ 209.307- Reply

- a. Within 30 days after receipt of the notice of proposed disqualification issued under § 209.335, the respondent shall reply in writing to the charges. The respondent may furnish affidavits and any other documentary evidence in support of the reply. Further, the respondent may elect to (1) stipulate to the charges and consent to the imposition of the disqualification order under the conditions set forth in the notice; (2) make an informal response as provided in § 209.309; or (3) request a hearing as provided in § 209.311.

FRA estimates that there will be approximately one (1) disqualification order each year. FRA estimates that the respondent will furnish affidavits and other documentary evidence in support of his/her reply to the disqualification order. It is estimated that it will take three (3) hours to assemble, and send this material to FRA. Total annual burden for this requirement is three (3) hours.

Respondent Universe:

40,000
locomotive
engineers

Burden time per response:

3 hours

Frequency of Response: On
occasion

Annual number of Responses: 1 documented reply
Annual Burden: 3 hours
Annual Cost: \$150

Calculation: 1 documented reply x 3 hrs. = 3 hours
3 hrs. x \$50 = \$150

- b. The Chief Counsel may extend the reply period for good cause shown, provided the request for extension is served before the expiration of the period provided in paragraph (a) of this section.

FRA estimates that it will receive zero (0) requests for extension of the reply period under the above provision. Consequently, there is no burden associated with this requirement.

Total annual burden for this entire requirement is three (3) hours.

§ 209.309- Informal Response

- a. If the respondent elects to make an informal response to a notice of proposed disqualification, he or she shall submit to the Chief Counsel such written explanations, information, or other materials as respondent may desire in answer to the charges or in mitigation of the proposed disqualification. The respondent may include in an informal written response a request for a conference. Upon receipt of such a request, the Chief Counsel shall arrange for a conference at a time and place designated by the Chief Counsel.

FRA estimates that it will receive one (1) informal response with a request for a conference. It is estimated that it will take one (1) hour to compose the informal response and make a request for a conference. Total annual burden for this requirement is one (1) hour.

Respondent Universe:

40,000
locomotive
engine
ers

Burden time per response: 1 hour

Frequency of Response: On occasion

Annual number of Responses: 1 informal response
Annual Burden: 1 hour
Annual Cost: \$50

Calculation: 1 informal response x 1 hr. = 1 hour
1hr. x \$50 = \$50

- b. By electing to make an informal response to a notice of proposed disqualification, the respondent does not waive the right to a hearing. However, the respondent must submit the hearing request required by § 209.311(a) within 10 days after receipt of the notice of termination of settlement negotiations from the Chief Counsel. Failure to submit such a request constitutes a waiver of the respondent's right to appear and contest the charges or the proposed disqualification. (*Note: The burden for this requirement is covered under that of § 209.311(a) below.*)

The Chief Counsel may extend the period for requesting a hearing for good cause shown, provided the request for extension is served before the expiration of the period provided in paragraph (g) of this section.

FRA estimates that it will receive zero (0) requests for extending the period for requesting a hearing under the above provision. Consequently, there is no burden associated with this requirement.

Total annual burden for this entire requirement is one (1) hour.

§ 209.311- Request for Hearing

- a. If the respondent elects to request a hearing, he or she must submit a written request within periods specified in § 209.307(a) or § 209.309(g) to the Chief Counsel referring to the case number that appears on the notice of proposed disqualification. The request must contain the following information: (1) The name, address, and telephone number of the respondent and the respondent's designated representative, if any; (2) A specific response admitting, denying, or explaining each allegation of the notice of disqualification order; (3) A description of the claims and defenses to be raised by the respondent at the hearing; and (4) The signature of the respondent or the representative, if any.

FRA does not anticipate any requests for hearings. FRA believes that the issues involved in any disqualification order would be resolved either before or soon after the requested conference takes place. Consequently, there is no burden associated with this requirement.

§ 209.327 - Appeal

- a. Any party aggrieved by an initial decision under § 209.323 may file an appeal. The appeal must be filed within 35 days of issuance of the initial decision with the Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. A copy of the appeal must be served on each party. The appeal shall set forth objections to the initial decision, supported by reference to applicable laws and regulations, and with specific reference to the record

Historically, disqualification proceedings have not reached the hearing and appeal stages. FRA does not anticipate an appeal in the one disqualification order that will occur each year. Consequently, there is no burden associated with this requirement.

- b. A party may file a reply to an appeal within 25 days of service of the appeal. If the party relies on evidence contained in the record for the reply, the party shall specifically refer to the pertinent evidence in the record.

Since FRA does not anticipate any appeals, there will be no reason to file a reply to an appeal. Consequently, there is no burden associated with this requirement.

- c. The Administrator may extend the period for filing an appeal or a response for good cause shown, provided the written request for extension is served before the expiration of the applicable period provided in paragraph (c) or (d) of this section.

FRA estimates that it will receive zero (0) written requests for extension of the period for filing an appeal or response under the above provision. Consequently, there is no burden associated with this requirement.

209.331 - Enforcement of Disqualification Order

- a. A railroad that employs or formerly employed an individual serving under a disqualification order shall inform prospective or actual employers of the terms and conditions of the order upon receiving notice that the disqualified employee is being considered for employment with or employed by another railroad to perform any of the safety-sensitive functions described in § 209.303. As stated in § 209.307 above, FRA estimates that there will be approximately one (1) disqualification order each year and thus one (1) railroad will need to send a written letter notifying a prospective or actual employer of the terms and conditions of its employee's or former employee's disqualification order. It is estimated that it will take approximately 15 minutes to complete and send the letter to the prospective or actual other employer. Total annual burden for this requirement is .25 hour.

Respondent Universe:

6
8
7

R
a
i
l
r
o
a
d
s

Burden time per response: 15 minutes

Frequency of Response: On occasion

Annual number of Responses: 1 informational letter
Annual Burden: .25 hour
Annual Cost: \$13

Calculation: 1 informational letter x .25 hr. = .25 hour

$$.25 \text{ hr.} \times \$50 = \$13$$

- b. A railroad that is considering hiring an individual to perform the safety-sensitive functions described in § 209.303 shall ascertain from the individual's previous employer, if such employer was a railroad, whether the individual is subject to a disqualification order.

It is usual and customary for railroads to do routine personnel checks on individuals who they are planning on hiring. Consequently, there is no burden associated with this requirement.

- c. An individual subject to a disqualification order shall inform his or her employer of the order and provide a copy thereof within five (5) days after receipt of the order.

FRA estimates that approximately one (1) disqualification order will be issued each year. It is estimated that it will take the individual approximately 30 minutes to notify orally and/or in writing, and provide a copy of the order to the employer that he/she has been disqualified to function in a safety-sensitive position. Total annual burden for this requirement is .5 hour.

Respondent Universe:

4
0
,
0
0
0

l
o
c
o
m
o
t
i
v
e

e

Burden time per response:	30 minutes
Frequency of Response:	On Occasion
Annual number of Responses:	1 disqualification notification + 1 disqualification order copy
Annual Burden:	.5 hour
Annual Cost:	\$25

Calculation: 1 disqualification notification + 1 disqualification order
copy x .5 hour = .5 hour
.5 hr. x \$50 = \$25

- d. Such an individual shall likewise inform any prospective employer who is considering hiring the individual to perform any of the safety-sensitive functions described in § 209.303 of the disqualification order against him/her and provide a copy thereof within five (5) days after receipt of the order or upon application for the position, whichever first occurs.

FRA believes that the issues involved in a disqualification order would be resolved well before the point that a locomotive engineer would apply to another railroad for employment. Consequently, there is no burden associated with this requirement.

Total annual burden for this entire requirement is one (1) hour (.25 hour + .50 hour).

Total annual burden for this entire information collection requirement is five (5) hours (3 + 1 + 1).

13. PROVIDE AN ESTIMATE OF THE TOTAL ANNUAL COST BURDEN TO RESPONDENTS OR RECORDKEEPERS RESULTING FROM THE

COLLECTION OF INFORMATION. (DO NOT INCLUDE THE COSTS OF ANY HOUR BURDEN SHOWN IN ITEMS 12 AND 14).

-THE COST ESTIMATES SHOULD BE SPLIT INTO TWO COMPONENTS: (A) A TOTAL CAPITAL AND START-UP COST COMPONENT (ANNUALIZED OVER IT EXPECTED USEFUL LIFE); AND (B) A TOTAL OPERATION AND MAINTENANCE AND PURCHASE OF SERVICES COMPONENT. THE ESTIMATES SHOULD TAKE INTO ACCOUNT COSTS ASSOCIATED WITH GENERATING, MAINTAINING, AND DISCLOSING OR PROVIDING THE INFORMATION. INCLUDE DESCRIPTIONS OF METHODS USED TO ESTIMATE MAJOR COSTS FACTORS INCLUDING SYSTEM AND TECHNOLOGY ACQUISITION, EXPECTED USEFUL LIFE OF CAPITAL EQUIPMENT, THE DISCOUNT RATE(S), AND THE TIME PERIOD OVER WHICH COSTS WILL BE INCURRED. CAPITAL AND START-UP COSTS INCLUDE, AMONG OTHER ITEMS, PREPARATIONS FOR COLLECTING INFORMATION SUCH AS PURCHASING COMPUTERS AND SOFTWARE; MONITORING, SAMPLING, DRILLING AND TESTING EQUIPMENT; AND RECORD STORAGE FACILITIES.

-IF COST ESTIMATES ARE EXPECTED TO VARY WIDELY, AGENCIES SHOULD PRESENT RANGES OF COST BURDENS AND EXPLAIN THE REASONS FOR THE VARIANCE. THE COST OF PURCHASING OR CONTRACTING OUT INFORMATION COLLECTION SERVICES SHOULD BE A PART OF THIS COST BURDEN ESTIMATE. IN DEVELOPING COST BURDEN ESTIMATES, AGENCIES MAY CONSULT WITH A SAMPLE OF RESPONDENTS (FEWER THAN 10), UTILIZE THE 60-DAY PRE-OMB SUBMISSION PUBLIC COMMENT PROCESS AND USE EXISTING ECONOMIC OR REGULATORY IMPACT ANALYSIS ASSOCIATED WITH THE RULEMAKING CONTAINING THE INFORMATION COLLECTION, AS APPROPRIATE.

-GENERALLY, ESTIMATES SHOULD NOT INCLUDE PURCHASES OF EQUIPMENT OR SERVICES, OR PORTIONS THEREOF, MADE (1) PRIOR TO OCTOBER 1, 1995, (2) TO ACHIEVE REGULATORY COMPLIANCE WITH REQUIREMENTS NOT ASSOCIATED WITH THE INFORMATION COLLECTION, (3) FOR REASONS OTHER THAN TO PROVIDE INFORMATION

OR KEEP RECORDS FOR THE GOVERNMENT, OR (4) AS PART OF CUSTOMARY AND USUAL BUSINESS OR PRIVATE PRACTICES.

There are no additional costs outside of the burden hour costs.

- 14. PROVIDE ESTIMATES OF ANNUALIZED COST TO THE FEDERAL GOVERNMENT. ALSO, PROVIDE A DESCRIPTION OF THE METHOD USED TO ESTIMATE COSTS, WHICH SHOULD INCLUDE QUANTIFICATION OF HOURS, OPERATIONAL EXPENSES SUCH AS EQUIPMENT, OVERHEAD, PRINTING, AND SUPPORT STAFF, AND ANY OTHER EXPENSE THAT WOULD NOT HAVE BEEN INCURRED WITHOUT THIS COLLECTION OF INFORMATION. AGENCIES ALSO MAY AGGREGATE COST ESTIMATES FROM ITEMS 12, 13, AND 14 IN A SINGLE TABLE.**

The cost to the Federal Government for the information collection requirements contained in FRA's regulation (49 CFR 209, Subpart D) is approximately \$192.50 which includes a total of 3.5 hours of attorneys' time (at an hourly wage for a GS-14 of \$55 with 40% overhead added) to review both the locomotive engineer's reply to the disqualification order, and to review the locomotive engineer's request for a conference.

- 15. EXPLAIN THE REASONS FOR ANY PROGRAM CHANGES OR ADJUSTMENTS REPORTED IN ITEMS 13 OR 14 OF THE OMB FORM 83-I.**

There has been no change in the burden since the last submission. The total burden for this information collection remains five (5) hours. Also, there has been no change in the cost covered under item 14.

- 16. FOR COLLECTIONS OF INFORMATION WHOSE RESULTS WILL BE PUBLISHED, OUTLINE PLANS FOR TABULATION, AND PUBLICATION. ADDRESS ANY COMPLEX ANALYTICAL TECHNIQUES THAT WILL BE USED. PROVIDE THE TIME SCHEDULE FOR THE ENTIRE PROJECT, INCLUDING BEGINNING AND ENDING DATES OF THE COLLECTION OF INFORMATION, COMPLETION OF REPORT, PUBLICATION DATES, AND OTHER ACTIONS.**

There are no plans for publication involving these information collection requirements.

- 17. IF SEEKING APPROVAL TO NOT DISPLAY THE EXPIRATION DATE FOR OMB APPROVAL OF THE INFORMATION COLLECTION, EXPLAIN THE REASONS THAT DISPLAY WOULD BE**

INAPPROPRIATE.

Once OMB approval is received, FRA will publish the approval number for these information collection requirements in the Federal Register.

18. EXPLAIN EACH EXCEPTION TO THE CERTIFICATION STATEMENT IDENTIFIED IN ITEM 19, "CERTIFICATION FOR PAPERWORK REDUCTION ACT SUBMISSIONS," OF OMB FORM 83-I.

No exceptions are taken at this time.

Meeting Department of Transportation (DOT) Strategic Goals

This information collection supports the top DOT strategic goal, namely transportation safety. Without this collection of information, rail safety in the United States would be jeopardized. Specifically, unsuitable individuals might be hired or might continue to serve as locomotive engineers. Such individuals might not perform this safety-critical position capably. This could put the safety of the traveling public and train crews at great risk (since locomotive engineers control the operation of the train), and could result in increased numbers of accidents/incidents, such as derailments or collisions, where both railroad passengers and train crews are seriously injured and possibly killed. Also, there could be significant damage to train property and cargo. Thus, the collection of information promotes safety by serving as a screening mechanism so that unfit individuals do not function as locomotive engineers. Moreover, this collection of information promotes safety by providing FRA another tool for monitoring and enforcing its safety regulations and applicable Federal laws.

In this information collection, as in all its information collection activities, FRA seeks to do its utmost to fulfill DOT Strategic Goals and to be an integral part of One DOT.