

1111FEDERAL RAILROAD ADMINISTRATION
Disqualification Proceedings
Title 49 Code of Federal Regulations (CFR) Part 209 (Subpart D)
SUPPORTING JUSTIFICATION
OMB Control No. 2130-0529

Summary of Submission

- This submission is a request for an extension without change (with changes in estimates) of the last three-year approval granted by the Office of Management and Budget (OMB) on July 19, 2022, which expires on July 31, 2025.
- The Federal Railroad Administration (hereafter “FRA” or “the Agency”) published a required 60-day Notice in the Federal Register (FR) on April 29, 2025. 90 FR 17879. FRA received no comments in response to this Notice.
- Overall, the adjusted estimates decreased the burden by 39 hours and responses by 18.
- The answer to question number 12 itemizes all information collection requirements.

1. Circumstances that make collection of the information necessary.

Section 3(a) of the Rail Safety Improvement Act of 1988 authorizes FRA to disqualify individuals who are shown to be unfit to perform safety-sensitive functions, based on the individual’s violation of an FRA safety rule, regulation, order, or standard. These procedures are intended to assure the prompt and efficient conduct of disqualification proceedings under the Act while affording administrative due process to those against whom such proceedings are initiated.

Under 49 U.S.C. 20103, the Secretary of Transportation (Secretary) has broad authority to issue regulations governing every area of railroad safety. The Secretary has delegated rulemaking responsibility under section 20103 to the Administrator of FRA, 49 CFR 1.89(a). Pursuant to its general statutory rulemaking authority, FRA promulgates and enforces rules as part of a comprehensive regulatory program to address all areas of railroad safety. In the area of Disqualification Procedures, FRA issued regulations under 49 CFR part 209, subpart D (§§ 209.301 – 209.337).

Subpart D—Disqualification Procedures prescribes procedures for disqualifying railroad employees, including managers, supervisors, and other agents from performing safety-sensitive functions in the rail industry.¹

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

¹ 54 FR 42907 (Oct. 18, 1989).

FRA regulations at 49 CFR part 209, subpart D, explain FRA's responsibilities, and the rights and responsibilities of railroads and railroad employees, regarding disqualification procedures.

FRA uses the information collected to promote and maintain rail safety by ensuring that disqualified individuals do not serve in safety-sensitive positions. Employees who demonstrate unfitness may be disqualified temporarily or permanently from performing safety-sensitive functions.

Under § 209.331, *Enforcement of disqualification order*, requires: (a) 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; (b) a railroad considering hiring an individual in a safety-sensitive position to inquire with the individual's prior employer, if the former employer is a railroad, whether the individual is serving under a disqualification order; and (c) a disqualified individual to inform the individual's employer of the disqualification order, provide a copy of the order to the employer, inform a prospective employer railroad of the disqualification order, and provide a copy of the order.

Railroads 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.

3. Extent of automated information collection.

FRA strongly encourages the use of information technology, wherever possible, to reduce burden on respondents.

4. Efforts to identify duplication.

The information collected is not duplicated anywhere. Similar data is not available from any other source.

5. Efforts to minimize the burden on small businesses.

FRA processes few disqualification proceedings in any given year; thus, the burden is minimal. Consequently, the collection of information has little impact, if any, on small businesses.

6. Impact of less frequent collection of information.

The collection of information facilitates the accomplishment of FRA's primary mission,

which is to promote and enhance railroad safety throughout the nation. Specifically, if this information collection were not collected, unsuitable or unqualified individuals might perform safety-sensitive jobs or might continue to serve in these positions. By not performing safety-sensitive functions capably, there could be an increase in the number and severity of accident/incidents.

Additionally, without this information collection, railroads would not have necessary data to determine the qualifications of current employees or prospective employees to be placed in important safety-sensitive positions.

7. Special circumstances.

No special circumstances exist with respect to these information collection requirements.

8. Compliance with 5 CFR 1320.8.

As required by the Paperwork Reduction Act of 1995 (PRA) and 5 CFR 1320, FRA published a notice in the Federal Register on April 29, 2025.² FRA received no comments in response to this notice.

Consultations with representatives of the affected population:

Individuals from the railroad industry are generally in direct contact with FRA and can provide any comments or concerns to FRA.

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.

The information collected is not of a confidential nature, and FRA pledges no confidentiality.

11. Justification for any questions of a sensitive nature.

There are no questions or information of a sensitive nature, nor data that would normally be considered private contained in this rule.

12. Estimate of burden hours for information collected.

² 90 FR 17879.

The estimates for the respondent universe, annual responses, and average time per response are based on the experience and expertise of FRA's Office of Railroad Safety and Office of the Chief Counsel.

CFR Section	Respondent Universe	Total Annual Responses (A)	Average Time per Response (B)	Total Annual Burden Hours (C) = A * B	Wage Rate (D) ³	Total Cost Equivalent (E) = C * D
Subpart D, Disqualification Procedures						
209.307 Reply.	The paperwork burden associated with this regulatory requirement is exempt under 5 CFR 1320.4(a)(2).					
209.309 Informal response.	The paperwork burden associated with this regulatory requirement is exempt under 5 CFR 1320.4(a)(2).					
209.331 Enforcement of disqualification order: —(a) A railroad that employs or formerly employed an individual serving under a disqualification order must inform other prospective employers.	754 railroads	2	30 minutes	1	\$89.13	\$89.13
—(b) A railroad considering hiring an individual to perform safety-sensitive functions is required to check with previous railroad employer for any disqualification orders.	This is a common practice for the railroad industry to do routine personnel checks on individuals whom they are planning on hiring. Thus, there is no burden associated with this requirement.					
—(c) Individual subject to a disqualification order shall inform employer.	181,210 employees	2	30 minutes	1	\$89.13	\$89.13
Total ⁴	181,210 employees 754 railroads	4 responses	N/A	2 hours	N/A	\$178.26

³ The dollar equivalent cost is derived from the 2023 Surface Transportation Board's Full Year Wage A&B data series using the employee group 200 (Professional & Administrative) hourly wage rate of \$50.93. The total burden wage rate (straight time plus 75%) used in the table is \$89.13 (\$50.93 x 1.75 = \$89.13).

⁴ Total may not add up due to rounding.

13. Estimate of total annual costs to respondents.

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

14. Estimate of Cost to Federal Government.

There is no cost to the Federal Government associated with this information collection.

15. Explanation of program changes and adjustments.

This is an extension without change (with changes in estimates) to a current collection of information.

When FRA last renewed this ICR in 2022, it included two sections under subpart D in its paperwork burden estimates in addition to § 209.331.⁵ Upon further review, FRA has determined that the inclusion of §§ 209.307 and 209.309 is not required by the PRA. Specifically, the requirement under §§ 209.307 or 209.309 from a person who receives a Notice of Proposed Disqualification is not subject to the PRA and OMB approval because the information is collected “during the conduct of an administrative action, investigation, or audit involving an agency against specific individuals or entities.” 5 CFR 1320.4(a)(2). Consequently, the previously reported burden hours for those sections, and the government cost for review of the disqualification orders have been removed from this ICR. Accordingly, estimated burden hours under this ICR have decreased from 41 hours to 2 hours, and the number of estimated responses has decreased from 22 to 4 responses.

16. Publication of results of data collection.

FRA does not plan to publish the information collected.

17. Approval for not displaying the expiration date for OMB approval.

FRA intends to display the expiration date.

18. Exception to certification statement.

No exceptions are taken at this time.

⁵ 87 FR 5933 (Feb. 2, 2022).