[4910-06-P]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 240

[Docket No. FRA-2025-0132; Notice No. 2]

RIN 2130-AD60

Qualification and Certification of Locomotive Engineers

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

ACTION: Final rule.

SUMMARY: This rule updates FRA's locomotive engineer certification requirements to reduce the information required on a locomotive engineer's certificate, and allowing certificates to be electronic. This rule also changes the certification revocation process and the Administrative Hearing Officer (AHO) process. Lastly, this rule makes administrative updates, including revising definitions and correcting errors in the regulatory text.

DATES: This rule is effective [**INSERT DATE 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 revising requirements to reduce unnecessary regulatory burdens without compromising transportation safety.

On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed various changes to 49 CFR part 240 (part 240).[1] Specifically, the NPRM proposed: (1) reducing the information required on an engineer's certificate and allowing certificates to be electronic; (2) requiring railroads to include findings of fact in support of their certification revocation decisions; (3) changing the administrative hearing process so railroads always carry the burden of proof; and (4) making miscellaneous administrative updates to part 240. FRA also requested comments on whether to remove the requirement that FRA is a mandatory party in the administrative hearing process.

FRA received three comments. The Brotherhood of Locomotive Engineers and Trainmen (BLET), the International Association of Sheet Metal, Air, Rail, and Transportation Workers – Transportation Division (SMART-TD), and the Transportation Trades Department, AFL-CIO (TTD) (collectively, "the labor organizations") each submitted a comment supporting some of the changes proposed in the NPRM and opposing other changes. The labor organizations generally supported FRA's proposal to require railroads to provide findings of fact when issuing their revocation decisions and placing the burden of proof on railroads during administrative hearings. However, they opposed allowing railroads to use electronic certificates exclusively and removing FRA as a mandatory party to administrative hearings.

[1] 90 FR 28672 (July 1, 2025).

In response to this feedback, FRA is proceeding with the changes it proposed in the NPRM. In addition, FRA has decided to amend 49 CFR 240.409(p) and (r) to remove FRA as a mandatory party in the administrative hearing process described in section 240.409, and instead, provides FRA the option of participating.

II. Section-by-Section Analysis

Except as otherwise noted below, FRA has adopted the rule text as proposed, and readers may refer to the NPRM's Section-by-Section Analysis for extensive discussion of FRA's rationale for the revisions.

Section 240.7 Definitions

FRA proposed revising the definition of "Serve or service" in this section to have the meaning given in 49 CFR 209.5. BLET opposed this change, asserting that it would require service of documents to be done by registered or certified mail which would increase the burden of this rule.[2] However, on July 1, 2025, FRA issued an NPRM[3] proposing to revise section 209.5 to allow for electronic service, an action FRA finalized on April 24, 2026. This should alleviate BLET's concern, as parties will not have to use registered or certified mail to serve documents under this part.

Section 240.11 Penalties and Consequences for Noncompliance

FRA's proposed revisions to this section included replacing references to specific penalty amounts with a reference to 49 CFR part 209, appendix A. BLET commented that this revision is not problematic if the actual penalty amounts are readily available and easy to locate. As this information is clearly stated in 49 CFR part 209, appendix A, FRA concludes that BLET does not oppose this proposed revision, and FRA is amending section 240.11, as proposed, with some minor formatting edits.

Section 240.103 Approval of Design of Individual Railroad Programs by FRA

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[2] FRA-2025-0132-0003.

[3] 90 FR 28612 (July 1, 2025).

FRA proposed a technical correction to this section, as it contained inaccurate cross-references. BLET noted its support for making this correction. FRA amends § 240.103, as proposed.

Section 240.217 Time Limitations for Making Determinations

FRA proposed amending paragraph (a)(3) of this section to correct a previous drafting error. BLET agreed with this proposed change, noting that it clarifies ambiguity in the regulation. SMART-TD also wrote in support of this change, stating that this clarification prevents unnecessary and duplicative testing that wastes railroad and worker resources.[4] Therefore, FRA amends section 240.217, as proposed.

Section 240.223 Criteria for the Certificate

This section details what information must be included on a locomotive engineer's certificate. FRA proposed removing the requirement found in paragraph (a)(3) of this section that these certificates include the engineer's year of birth. FRA received support from the labor organizations on this proposed change. BLET agreed that the year of birth has little value in confirming an individual's identity and removing this requirement could protect the release of an engineer's identity following a grade-crossing accident. SMART-TD described this change as "a positive step for privacy and data protection," as putting the year of birth on a certificate needlessly exposes engineers to identity theft. Based on these positive comments, FRA is proceeding with removing the year of birth requirement from engineer certificates.

FRA also proposed amending paragraph (a)(8) of this section to allow certificates to be electronic. In response, BLET stated paper licenses should not be eliminated, as paper licenses allow engineers to provide their identification quickly upon request from railroad officers, inspectors, and police officers. Instead, BLET suggested that engineers

[4] FRA-2025-0132-0002.

should have a paper certificate with an electronic version as a backup, as this would align with other forms of electronic recordkeeping and would provide engineers with multiple ways to comply with the requirement that they possess their certificate while on duty.

SMART-TD and TTD[5] similarly advocated for engineers to have both electronic and paper certificates. Both organizations acknowledged that electronic certificates could reduce administrative delays by preventing lost or damaged certificates. However, they expressed concern that not all engineers have equal access to digital devices or reliable connectivity. If the railroad only provides electronic certificates, certain engineers could be at a disadvantage or face discipline for circumstances beyond their control. SMART-TD added that if a system outage, cyberattack, or tracking capability linked an engineer's credentials to a specific train or assignment, that could create operational vulnerabilities and personal security risks.

In response to the labor organizations' concerns, FRA first clarifies that its proposed revision to paragraph (a)(8) does not prohibit the use of paper certificates. It simply gives railroads the option of issuing paper certificates, electronic certificates, or both. Despite the arguments from the labor organizations, FRA does not find a need to mandate that railroads issue both paper and electronic certificates. If an engineer does not have a railroad-issued electronic device, the railroad will need to ensure that he or she has a physical copy of their certificate to comply with 49 CFR 240.305(b), which requires engineers to have their certificate in their possession while on duty. For engineers that have a railroad-issued electronic device, they can still print a paper copy of their certificate if they desire. They can also save a copy of their certificate to their device, which would protect against any connectivity concerns.

[5] FRA-2025-0132-0004.

With respect to SMART-TD's concerns that electronic certificates could create operational vulnerabilities or personal security risks, the purpose of the certificate, whether paper or electronic, is to document certification status under part 240. It does not contain or link to operational data such as train numbers or assignments. Any such information resides within a railroad's internal crew management system, which is separate from certification records. FRA's change to allow electronic certificates is intended only to provide administrative flexibility and does not create any new vulnerabilities or tracking mechanisms.

In summary, FRA has determined to allow, but not require, railroads to issue certificates electronically. This will provide railroads with greater flexibility while decreasing the likelihood of certificates getting lost or damaged and having to be replaced.

Section 240.307 Revocation of Certification

FRA proposed clarifying in this section that railroad revocation decisions must contain findings of fact, and the basis for those findings, regardless of what is required under the applicable collective bargaining agreement (CBA). All three labor organizations wrote in support of this change, stating that it would provide transparency, ensure due process, and allow engineers to understand the reasoning behind the railroad's decision. SMART-TD and TTD requested that FRA establish timelines for railroads to produce these findings of fact, as delays in the revocation process can cause significant harm to engineers. They also requested that FRA adopt enforceable penalties to ensure compliance with this requirement.

Findings of fact must be included in a railroad's revocation decision. Railroads with applicable CBAs must comply with any timelines in those agreements for issuing such decisions. FRA declines to override the timelines established in those agreements, especially since the applicable labor organization has already agreed to those terms.

When there is no applicable CBA, paragraph (c)(10) of this section requires that a railroad's revocation decision, containing findings of fact, be prepared and signed no later than 10 days after the close of the record. Therefore, the requested timelines have already been established, and FRA does not need to make further changes to this section beyond what was proposed in the NPRM.

For railroads that fail to comply with this revised section by not providing engineers with adequate findings of fact, FRA may exercise its enforcement authority pursuant to 49 CFR part 209. In addition, any alleged occurrence of a railroad's non-compliance with this section may be reported to FRA for further investigation.

Section 240.409 Hearings

All three labor organizations that commented on this NPRM supported FRA's proposed change to paragraph (q) of this section making the railroad the "hearing petitioner" in the administrative hearing regardless of who the prevailing party was at the Operating Crew Review Board (OCRB). SMART-TD noted it was fundamentally unfair to require an engineer to prove their innocence against a corporation with substantial resources. Though SMART-TD and TTD support this change, they expressed concern that it could lead railroads to retaliate against engineers by using the certification process as a disciplinary weapon. Both organizations asked FRA to guard against, and to penalize, railroads that act in bad faith and attempt to revoke certifications illegitimately for retaliatory purposes.

FRA finds that SMART-TD and TTD may be overstating the likelihood that the revision to paragraph (q) will lead to railroads taking retaliatory action. Over the last several years, an administrative hearing has been requested in fewer than one percent of all engineer certification revocations. Thus, this change will have no effect on most cases where an engineer's certification is revoked. Therefore, FRA is unclear why this change

would motivate railroads to retaliate against engineers. However, if such retaliation occurs, FRA encourages that it be reported for further investigation.

Existing paragraph (r) of this section states that FRA is a mandatory party to the administrative hearing and will be a respondent at the start of the hearing. FRA requested comments on whether this paragraph should be removed in its entirety, to no longer require the agency to be a mandatory party. The labor organizations strongly opposed removing the requirement that FRA be a mandatory party. BLET commented that FRA "is uniquely qualified to offer important insight and information to the AHO."[6] SMART-TD and TTD argued that FRA serves as an independent check on railroad overreach, and if FRA were to step back from this role, administrative hearings would become railroad-dominated proceedings and engineers would be significantly disadvantaged. They implored FRA to remain fully engaged in these certification disputes to preserve fairness and legitimacy.

The labor organizations' comments appear to be imputing the responsibilities of the AHO onto FRA. It is the AHO (or presiding officer), not FRA, who ensures a fair hearing.[7] Also, their comments presume that FRA would always be aligned with the engineer or engineer candidate in these disputes. However, in some cases, FRA would be aligned with the railroad, which presumably would work to the railroad's benefit and the engineer or engineer candidate's disadvantage.

FRA acknowledges that in some cases, it may be able to provide important insights, which is why, after consideration of these comments, FRA has decided that instead of requiring FRA to be a party in these proceedings, it will revise this section to

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[6] FRA-2025-0132-0003.

[7] *See*, *e.g.*, 49 CFR 240.409(b) ("The presiding officer may exercise the powers of the Administrator to regulate the conduct of the hearing for the purpose of achieving a prompt and fair determination of all material issues in controversy."); 49 CFR 240.409(d) ("The presiding officer may authorize discovery of the types and quantities which in the presiding officer's discretion will contribute to a fair hearing without unduly burdening the parties.").

state that FRA *may* be a party to the administrative hearing. This preserves the agency's ability to participate in disputes where it believes it has important insights to provide. FRA may also decide to participate in cases where it thinks its participation will prevent an injustice from occurring. However, this also gives FRA flexibility not to participate in matters where FRA's participation would be unnecessary, waste agency resources, or not serve the agency's best interests. This change will allow FRA to maximize its allocation of resources, while also participating in matters of significant importance to the agency. Therefore, FRA is revising paragraph (p) to state that FRA *may* be a party at the hearing. As there is no need to repeat this statement in paragraph (r), FRA is also removing existing paragraph (r) and redesignating paragraphs (s) through (u) as paragraphs (r) through (t).

BLET also requested that FRA add language to existing paragraph (r) stating that FRA would be the petitioner or respondent depending on which party lost before the OCRB. BLET's rationale is that without this added language, FRA could choose to align with a railroad even though the railroad lost before the OCRB, which BLET claims would be unjust. FRA finds that adding this language is unnecessary, especially because FRA is no longer a mandatory party to the administrative hearing. If FRA decides to participate in an administrative hearing, it will most likely align with the prevailing party before the OCRB. However, if facts or circumstances have changed FRA's stance on a case, the agency should have the flexibility to align with either party. Therefore, FRA is not adopting BLET's proposed change.

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 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. FRA makes several clarifications in this final rule, such as the definition of "serve or service," references to penalty amounts, and technical corrections to eliminate confusion in the regulations. The clarifications to section 240.217 help prevent unnecessary duplicative knowledge examinations, saving railroads and workers the time and expense required to perform such exams. The revisions to section 240.223 on locomotive engineer's certificates will provide railroads with greater flexibility and will reduce the time and resources spent replacing lost or damaged certificates. These revisions will also have the qualitative benefit of enhancing privacy and data protection for workers. The revisions to section 240.307 on revocation decisions will impose a small cost by requiring some railroads to provide information that they do not currently provide. However, these revisions will also provide qualitative benefits to workers, including enhanced transparency, fairness, and understanding. Finally, the revisions to § 240.409 on hearings will offer the Government greater flexibility and will save government resources by no longer requiring mandatory FRA participation in hearings. These revisions will also have the qualitative benefit of increased fairness for workers by making the railroad the petitioner in all hearings. Overall, FRA finds that this rule will result in net costs less than zero.

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."[8] 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.[9]

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 net costs less than zero, and therefore it will be considered an E.O. 14192 deregulatory action upon issuance.

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 Enforcement Fairness Act of 1996,[10] requires Federal agencies to consider the effects of the regulatory action on small businesses 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)).

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. The regulatory relief provided by this rule will result in cost savings for many regulated entities, including small entities. However, the impact to small entities is not expected to be significant. Consequently,

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

[9] Executive Office of the President, OMB, Guidance Implementing Section 3 of Executive Order 14192, Titled "Unleashing Prosperity Through Deregulation," Memorandum M-25-20 (Mar. 26, 2025).

[10] Pub. L. No. 104–121, 110 Stat. 857 (Mar. 29, 1996).

FRA certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

This final rule offers regulatory flexibilities, and there is no new information collection requirement, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Therefore, an information collection submission to OMB is not required. The recordkeeping and reporting requirements already contained in part 240 became effective when they were approved by OMB on July 12, 2024. The OMB approval number is 2130-0533, which expires on July 31, 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."[11] FRA has evaluated this final rule in accordance with 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

[11] 66 FR 28355 (May 22, 2001).

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 240

Administrative practice and procedure, Locomotive engineer, Penalties, Railroad employees, Railroad operating procedures, Railroad safety, Reporting and recordkeeping requirements.

The Final Rule

For the reasons discussed in the preamble, FRA amends part 240 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 240—QUALIFICATION AND CERTIFICATION OF LOCOMOTIVE ENGINEERS

1. The authority citation for part 240 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

2. In § 240.7, revise the definitions of "File, filed and filing" and "Serve or service" to read as follows:

§ 240.7 Definitions.

* * * * *

File, filed, and filing mean submission of a document under this part on the date when the DOT Docket Clerk or FRA receives it, or if served as that term is defined under 49 CFR 209.5, the date of service.

* * * * *

Serve or service, in the context of serving documents, has the meaning given in 49 CFR 209.5. The computation of time provisions in Rule 6 of the Federal Rules of Civil Procedure as amended are also applicable in this part. *See also* the definition of "file, filed, and filing" in this section.

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3. In 240.11, revise paragraph (a) to read as follows:

§ 240.11 Penalties and consequences for noncompliance.

(a) A person who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least the minimum civil monetary penalty and not more than the ordinary maximum civil monetary penalty per violation. However, penalties may be assessed against individuals only for willful violations, and a penalty not to exceed the aggravated maximum civil monetary penalty per violation may be assessed, where a grossly negligent violation, or a pattern of repeated violations, has created an imminent hazard of death or injury to persons, or a death or injury has occurred. See 49 CFR part 209, appendix A. Each day a violation continues shall constitute a separate offense. See FRA's website at *https://railroads.dot.gov/* for a statement of agency civil penalty policy.

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4. In § 240.103, revise paragraphs (b)(1) and (2) and (c) introductory text to read as follows:

§ 240.103 Approval of design of individual railroad programs by FRA.

* * * * *

(b) * * *

(1) Simultaneous with its filing with FRA, provide a copy of the submission filed pursuant to paragraph (a) of this section, a resubmission filed pursuant to paragraph (g) of this section, or a material modification filed pursuant to paragraph (h) of this section to the president of each labor organization that represents the railroad's employees subject to this part; and

(2) Include in its submission filed pursuant to paragraph (a) of this section, a resubmission filed pursuant to paragraph (g) of this section, or a material modification

filed pursuant to paragraph (h) of this section a statement affirming that the railroad has provided a copy to the president of each labor organization that represents the railroad's employees subject to this part, together with a list of the names and addresses of persons provided a copy.

(c) Not later than 45 days from the date of filing a submission pursuant to paragraph (a) of this section, a resubmission pursuant to paragraph (g) of this section, or a material modification pursuant to paragraph (h) of this section, any designated representative of railroad employees subject to this part may comment on the submission, resubmission, or material modification.

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5. In § 240.217, revise paragraph (a)(3) to read as follows:

§ 240.217 Time limitations for making determinations.

(a) * * *

(3) Demonstrated knowledge and the knowledge examination being relied on was conducted more than 366 days before the date of the railroad's certification decision except as provided for in paragraph (a)(4) of this section;

* * * * *

6. In § 240.223, revise paragraphs (a)(3) and (8) to read as follows:

§ 240.223 Criteria for the certificate.

(a) * * *

(3) Identify the person to whom it is being issued (including the person's name, employee identification number, and either a physical description or photograph of the person);

* * * * *

(8) Be electronic or be of sufficiently small size to permit being carried in an ordinary pocket wallet.

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7. In § 240.307, revise paragraph (d) to read as follows:

§ 240.307 Revocation of certification.

* * * * *

(d) A hearing required by this section which is conducted in a manner that conforms procedurally to the applicable collective bargaining agreement shall be deemed to satisfy the procedural requirements of this section except that the railroad's decision must comply with the requirements in paragraph (c)(11) of this section.

* * * * *

8. In § 240.409:

a. Revise paragraphs (p) and (q).

b. Remove paragraph (r); and

c. Redesignate paragraphs (s) through (u) as paragraphs (r) through (t).

The revisions read as follows:

§ 240.409 Hearings.

* * * * *

(p) The petitioner before the Operating Crew Review Board and the railroad involved in taking the certification action shall be parties at the hearing. FRA may also be a party at the hearing. All parties may participate in the hearing and may appear and be heard on their own behalf or through designated representatives. All parties may offer relevant evidence, including testimony, and may conduct such cross-examination of witnesses as may be required to make a record of the relevant facts.

(q) Regardless of the prevailing party before the Operating Crew Review Board, the railroad involved in taking the certification action shall be the "hearing petitioner" and shall have the burden of proving its case by a preponderance of the evidence. The

impacted locomotive engineer or locomotive engineer candidate shall be the "hearing respondent."

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

David A. Fink,

Administrator.

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