

## § 240.129

(2) The constraints applicable to its operation; and

(3) The factors observed and relied on for evaluation purposes by the designated supervisor.

[56 FR 28254, June 19, 1991, as amended at 64 FR 60992, Nov. 8, 1999]

### § 240.129 Criteria for monitoring operational performance of certified engineers.

(a) Each railroad's program shall include criteria and procedures for implementing this section.

(b) A railroad shall have procedures for monitoring the operational performance of those it has determined as qualified as a locomotive engineer in either train or locomotive service.

(c) The procedures shall:

(1) Be designed to determine that the person possesses and routinely employs the skills to safely operate locomotives and/or trains, including the proper application of the railroad's rules and practices for the safe operation of locomotives and trains;

(2) Be designed so that each engineer shall be annually monitored by a Designated Supervisor of Locomotive Engineers, who does not need to be qualified on the physical characteristics of the territory over which the operational performance monitoring will be conducted;

(3) Be designed so that the locomotive engineer is either accompanied by the designated supervisor for a reasonable length of time or has his or her train handling activities electronically recorded by a train operations event recorder;

(d) The procedures may be designed so that the locomotive engineer being monitored either (i) is at the controls of the type of train normally operated on that railroad or segment of railroad and which this person might be permitted or required by the railroad to operate in the normal course of events after certification or (ii) is at the controls of a Type I or Type II simulator programmed to replicate the responsive behavior of the type of train normally operated on that railroad or segment of railroad and which this person might be permitted or required by the railroad to operate in the normal course of events after certification.

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(e) The testing and examination procedures selected by the railroad for the conduct of a monitoring program shall be:

(1) Designed so that each locomotive engineer shall be given at least one unannounced test each calendar year.

(2) Designed to test engineer compliance with provisions of the railroad's operating rules that require response to signals that display less than a "clear" aspect, if the railroad operates with a signal system that must comply with part 236 of this chapter;

(3) Designed to test engineer compliance with provisions of the railroad's operating rules, timetable or other mandatory directives that require affirmative response by the locomotive engineer to less favorable conditions than that which existed prior to initiation of the test;

(4) Designed to test engineer compliance with provisions of the railroad's operating rules, timetable or other mandatory directives violation of which by engineers were cited by the railroad as the cause of train accidents or train incidents in accident reports filed in compliance with part 225 of this chapter in the preceding calendar year;

(5) Designed so that the administration of these tests is effectively distributed throughout whatever portion of a 24-hour day that the railroad conducts its operations; and

(6) Designed so that individual tests are administered without prior notice to the engineer being tested.

[56 FR 28254, June 19, 1991, as amended at 64 FR 60992, Nov. 8, 1999]

## Subpart C—Implementation of the Certification Process

### § 240.201 Schedule for implementation.

(a) After October 30, 1991, each railroad in operation on that date shall designate in writing any person(s) it deems qualified as a designated supervisor of locomotive engineers. Each person so designated shall have demonstrated to the railroad through training, testing or prior experience that he or she has the knowledge, skills, and ability to be a designated supervisor of locomotive engineers.

(b) No later than November 1, 1991, each railroad shall designate in writing all persons that it will deem to be qualified as certified locomotive engineers for the purpose of initial compliance with paragraph (d) of this section, except as provided for in paragraph (h) of this section.

(1) Each person so designated shall have demonstrated to the railroad through training, testing or prior experience that he or she has the knowledge and skills to be a certified locomotive engineer.

(2) Each railroad shall issue, no later than December 31, 1991, a certificate that complies with § 240.223 to each person that it designates as qualified under the provisions of paragraph (b) of this section.

(c) No railroad shall permit or require a person, designated as qualified for certification under the provisions of paragraph (b) of this section, to perform service as a certified locomotive or train service engineer for more than the 36-month period beginning on the pertinent date for compliance with the mandatory procedures for testing and evaluation set forth in the applicable provisions of paragraph (e), (f) or (g) of this section unless that person has been determined to be qualified in accordance with procedures that comply with subpart C.

(d) After December 31, 1991, no railroad shall permit or require any person to operate a locomotive in any class of locomotive or train service unless that person has been certified as a qualified locomotive engineer and issued a certificate that complies with § 240.223.

(e) After December 31, 1991, no Class I railroad (including the National Railroad Passenger Corporation) or railroad providing commuter service shall designate any person it deems qualified as a designated supervisor of locomotive engineers or initially certify or recertify a person as a locomotive engineer in either locomotive or train service unless that person has been tested, evaluated, and determined to be qualified in accordance with procedures that comply with subpart C.

(f) After May 31, 1992 no Class II railroad shall designate any person it deems qualified as a designated supervisor of locomotive engineers or ini-

tially certify or recertify a person as a locomotive engineer in any class of locomotive or train service unless that person has been tested, evaluated and determined to be qualified in accordance with procedures that comply with subpart C.

(g) After November 30, 1992 no Class III railroad (including a switching and terminal or other railroad not otherwise classified) shall designate any person it deems qualified as a designated supervisor of locomotive engineers or initially certify or recertify a person as a locomotive engineer in any class of locomotive or train service unless that person has been tested, evaluated and determined to be qualified in accordance with procedures that comply with subpart C.

(h) A railroad may continue to designate any person it deems qualified as a designated supervisor of locomotive engineers or as a certified engineer, on the basis of paragraph (b) determinations, prior to the pertinent date by which a railroad of its class must comply with the procedures for testing and evaluating persons required under subpart C. Each person designated as a locomotive engineer shall be issued a certificate that complies with § 240.223 prior to being required or permitted to operate a locomotive.

(i) A railroad commencing operations prior to the pertinent date for compliance by a railroad of its class may designate any person it deems qualified as a designated supervisor of locomotive engineers or as a certified locomotive engineer on the basis of paragraph (b) until the pertinent date for compliance with the procedures for testing and evaluating required under subpart C. Each person designated as a locomotive engineer shall be issued a certificate that complies with § 240.223 prior to being required or permitted to operate a locomotive.

**§ 240.203 Determinations required as a prerequisite to certification.**

(a) Except as provided in paragraph (c), after the pertinent date specified in paragraph (e), (f), or (g) of § 240.201, each railroad, prior to initially certifying or recertifying any person as an engineer for any class of service, shall,