

§ 240.401

49 CFR Ch. II (10–1–05 Edition)

or other body for the resolution of disputes duly constituted under the provisions of the Railway Labor Act.

(h) For reporting purposes each category of detected poor safety conduct identified in paragraph (d) of this section shall be capable of being annotated to reflect the following:

(1) The total number of incidents in that category;

(2) The number of incidents within that total which reflect incidents requiring an FRA accident/incident report; and

(3) The number of incidents within that total which were detected as a result of a scheduled operational monitoring effort.

[56 FR 28254, June 19, 1991, as amended at 64 FR 60994, Nov. 8, 1999]

Subpart E—Dispute Resolution Procedures

§ 240.401 Review board established.

(a) Any person who has been denied certification, denied recertification, or has had his or her certification revoked and believes that a railroad incorrectly determined that he or she failed to meet the qualification requirements of this regulation when making the decision to deny or revoke certification, may petition the Federal Railroad Administrator to review the railroad's decision.

(b) The Federal Railroad Administrator has delegated initial responsibility for adjudicating such disputes to the Locomotive Engineer Review Board.

(c) The Locomotive Engineer Review Board shall be composed of at least three employees of the Federal Railroad Administration selected by the Administrator.

[56 FR 28254, June 19, 1991, as amended at 58 FR 19005, Apr. 9, 1993]

§ 240.403 Petition requirements.

(a) To obtain review of a railroad's decision to deny certification, deny recertification, or revoke certification, a person shall file a petition for review that complies with this section.

(b) Each petition shall:

(1) Be in writing;

(2) Be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 1120 Vermont Avenue, NW, Washington, DC 20590;

(3) Contain all available information that the person thinks supports the person's belief that the railroad acted improperly, including:

(i) The petitioner's full name;

(ii) The petitioner's current mailing address;

(iii) The petitioner's daytime telephone number;

(iv) The name and address of the railroad; and

(v) The facts that the petitioner believes constitute the improper action by the railroad, specifying the locations, dates, and identities of all persons who were present or involved in the railroad's actions (to the degree known by the petitioner);

(4) Explain the nature of the remedial action sought;

(5) Be supplemented by a copy of all written documents in the petitioner's possession that document that railroad's decision; and

(6) Be filed in a timely manner.

(c) A petition seeking review of a railroad's decision to deny certification or recertification filed with FRA more than 180 days after the date of the railroad's denial decision will be denied as untimely.

(d) A petition seeking review of a railroad's decision to revoke certification in accordance with the procedures required by § 240.307 filed with FRA more than 120 days after the date of the railroad's revocation decision will be denied as untimely except that the Locomotive Engineer Review Board for cause shown may extend the petition filing period at any time in its discretion:

(1) Provided the request for extension is filed before the expiration of the period provided in this paragraph (d); or

(2) Provided that the failure to timely file was the result of excusable neglect.

(e) A party aggrieved by a Board decision to deny a petition as untimely