



U.S. Department
of Transportation

**Federal Railroad
Administration**

Memorandum

Date: February 3, 2004

Reply to Attn of: OP-04-08

Subject: Requirement for Certified Engineers at the Controls of
Moving Locomotives or Trains

Original Signed By:

From: Edward W. Pritchard

Director, Office of Safety Assurance and Compliance

To: Regional Administrators

FRA inspectors have encountered several situations wherein non-certified individuals have been observed at the controls of moving locomotives. In each situation, the certified locomotive engineer has vacated the seat (e.g., to use the toilet in the cab nose; to attend to an alarm bell on a trailing locomotive; to “rest,” etc.). In each case, the engineer has been replaced by a non-certified train crew member.

The regulation [49 CFR Part 240.201 (d)] clearly provides parameters within which we expect railroads and individuals to abide: “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 Part 240.223.”

In order to ensure consistent application of the rule in such situations, the following instructions are provided:

- The regulation requires that only a certified individual may operate a moving locomotive. A certified engineer, or a certified student engineer under the immediate supervision of an instructor engineer,¹ must be at the controls of a moving locomotive at all times. The only exceptions to this are defined in 49 CFR Part 204.7 in the definition of locomotive engineer, and include:

- (1) A person who moves a locomotive or group of locomotives within the confines of a locomotive repair or servicing area as defined in 49 CFR 218.5 and 218.29 (a) (1); or

¹The student must be carrying a certification card which designates him as a "Student." The certified engineer who is instructing the student must be certified either "Train Service" or "Locomotive Servicing," whichever is appropriate, and be designated by the railroad as an instructor.

(2) A person who moves a locomotive or group of locomotives for distances of less than 100 feet and this incidental movement of a locomotive or locomotives is for inspection or maintenance purposes.

- "Operation" of a locomotive means that an individual is at the controls of a moving locomotive, in a position to control the locomotive should the need arise. It does not mean that there has to be actual manipulation of a control.²
- The same rationale applies if nobody is at the controls, i.e., an engineer leaves the seat vacant, and leaves the control compartment for any reason, while the locomotive is in motion.³ We consider this action as a violation of the rule.

If an inspector encounters a situation which violates the rule as described above, he/she should contact his/her supervisory specialist for guidance. Depending upon the circumstances, both the certified and non-certified employees may be subject to individual liability action under Part 209. The railroad may also be liable depending upon their policy addressing such situations.⁴

We recognize that long standing industry practice has included temporary augmentation of a locomotive engineer by another crewmember for short periods. However, Part 240 now renders such practice unacceptable while a locomotive is in motion, except as provided in 240.7.

Please disseminate this information to your operating practices specialists and inspectors.

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² Some misunderstanding is apparent here. Some individuals believe it acceptable for a non-certified individual to "sit in the seat" and "watch" or sound the horn while the certified engineer is temporarily away. We consider such action as "operating" even if no controls are touched.

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This does not prohibit the locomotive engineer from exiting the engineers chair in order to move around the control compartment of the locomotive. However, it does require that he remain personally in charge of the operation of the locomotive at all times.

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Keep in mind that this is not a revokable event for the locomotive engineer under Part 240.