

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.

* * * * *

■ 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.

* * * * *

■ 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.

* * * * *

■ 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."

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,
Administrator.

[FR Doc. 2026-08257 Filed 4-27-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 240 and 242

[Docket No. FRA-2025-0131; Notice No. 2]

RIN 2130-AD32

Qualification and Certification of Locomotive Engineers and Conductors: Incorporation of Longstanding C³RS Waivers

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

ACTION: Final rule.

SUMMARY: This rule amends FRA regulations governing the qualification and certification of locomotive engineers and conductors, to codify longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored Confidential Close Call Reporting System (C³RS).

DATES: This rule is effective May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Mike Long, Director of Railroad Operations and Outreach, FRA, telephone: (202) 770-8203, email: Mike.Long@dot.gov; or Elizabeth A. Gross, Attorney Adviser, FRA, telephone: (202) 253-6281, email: Elizabeth.Gross@dot.gov.

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 49 CFR parts 200 through 299 and updating requirements to reduce unnecessary burdens without compromising transportation safety.

The requirements for FRA-regulated entities to establish programs for certifying the qualifications of locomotive engineers and conductors are established in 49 CFR part 240, Qualification and Certification of

Locomotive Engineers, and part 242, Qualification and Certification of Conductors, respectively. On July 1, 2025, FRA published a notice of proposed rulemaking (NPRM) that proposed to amend parts 240 and 242 to codify longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored C³RS program. See 90 FR 28676–28684. Interested persons can read more about the history of C³RS and the waiver process in the NPRM preamble. *Id.* at 28676–28677.

II. Discussion of Comments Received on the NPRM and FRA's Response

FRA received five comments on the NPRM. Four of the comments were received from the following non-profit employee labor organizations: (1) the Brotherhood of Locomotive Engineers and Trainmen, a Division of the Rail Conference of the International Brotherhood of Teamsters (BLET);¹ (2) the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters (BMWED–IBT);² (3) the Transportation Division of the International Association of Sheet Metal, Air, Rail and Transportation Workers (SMART–TD);³ and (4) the Transportation Trades Department, AFL–CIO (TTD).⁴ One comment was received from the New York State Metropolitan Transportation Authority (MTA).⁵

All comments expressed general support for C³RS and FRA's goal of implementing the program nationwide but also raised some concerns. After thoroughly considering the comments, FRA has decided to finalize the rule as proposed, except for minor clarifying revisions to the definitions of “C³RS Implementing Memorandum of Understanding (C³RS IMOU),” “Close call,” and “Peer Review Team (PRT).”

A. Concerns Regarding Labor Organization Exclusion

All labor organization commenters expressed concerns that the NPRM contemplated implementing C³RS programs through an Implementing Memorandum of Understanding (IMOU) that had only been signed by FRA and the participating railroad, in certain

circumstances. These comments focused primarily on FRA's proposed definition for “C³RS Implementing Memorandum of Understanding (C³RS IMOU),” which stated, in part, that if participating employees are not represented by a non-profit employee labor organization, or if a non-profit employee labor organization representing employees covered by a C³RS IMOU is not a stakeholder to the program, a C³RS IMOU may be signed only by FRA and the participating railroad. The labor organizations generally asserted that excluding labor organizations as a stakeholder to a C³RS IMOU would undermine employees' trust in the program and result in fewer close calls being reported. TTD also specifically asserted that employees would not feel comfortable reporting if a Peer Review Team (PRT) did not have labor representatives. Overall, these comments asked FRA to issue a final rule that requires labor organizations to be signatory stakeholders to a C³RS IMOU.

FRA agrees that having labor organization stakeholders strengthens C³RS and promotes employee trust in the program. FRA has expended significant time and resources in promoting labor organization participation in C³RS and will continue to do so. However, for the following reasons, FRA is declining to require that a C³RS IMOU be signed by a labor organization stakeholder. To reflect the important stakeholder role that labor organizations play in C³RS overall, and as discussed in the Section-by-Section Analysis below, FRA is replacing language in the proposed definition about a labor organization not being a stakeholder to a particular C³RS IMOU with language about a labor organization not being a signatory party. FRA is otherwise finalizing the definition of “C³RS Implementing Memorandum of Understanding (C³RS IMOU)” as proposed.

First, requiring each C³RS IMOU to be signed by a labor organization representative could exclude non-represented employees from the program, including non-represented employees who are currently covered through C³RS programs that have been implemented on railroads where some or all employees are not represented by a labor organization.⁶ In these cases, some C³RS IMOUs have been signed by an employee of the covered craft,⁷ while

others have been signed by only FRA and the railroad.⁸ Except for railroads that have joined C³RS through the Short Line Safety Institute (SLSI),⁹ these C³RS IMOUs also provide that the railroad will appoint employees to participate in the PRT, which ensures that an employee's perspective is heard when the PRT reviews and analyzes reports.¹⁰ The success of these C³RS programs shows that the program can be implemented without a signatory labor organization representative, and railroads should not be excluded from the railroad safety benefits of C³RS simply because they have non-represented employees. Further, except for railroads that join C³RS through the SLSI, FRA does not intend to sign a C³RS IMOU that does not provide for employee participation in the PRT, regardless of whether the participating employees are represented by a labor organization that has signed the C³RS IMOU. To reflect the importance of employee participation in a PRT, and as discussed further in the Section-by-Section Analysis below, FRA is adding language to the definition of “Peer Review Team (PRT)” noting that a PRT can include employees who are not represented by a labor organization that has signed the C³RS IMOU (as well as other types of representatives).

In addition, there is currently no requirement for C³RS to be implemented through an IMOU signed by a labor organization representative, and establishing one when none has existed is unnecessary and could hinder

department employees (in addition to represented crafts), and the IMOU is signed by the Lead Carman. See <https://railroads.dot.gov/elibrary/buffalo-and-pittsburgh-c3rs-imou> (last accessed Apr. 20, 2026). Similarly, the C³RS IMOU covering non-represented employees for the Strasburg Rail Road Company is signed by multiple PRT members. See <https://railroads.dot.gov/elibrary/strasburg-imou> (last accessed Apr. 20, 2026).

⁸ For example, the C³RS IMOU for Denton County Transportation Authority/Rio Grande Pacific Transit Group/Stadler is signed exclusively by FRA and management representatives from the participating railroad and contract operators. See <https://railroads.dot.gov/elibrary/dcta-train-c3rs-imou> (last accessed Apr. 20, 2026).

⁹ SLSI is a non-profit corporation that conducts safety culture assessments and is an education and training source for short line and regional railroads concerning safety culture. See <https://www.shortlinesafety.org/>. Railroads that have joined C³RS through SLSI include the D&I Railroad Company (<https://railroads.dot.gov/elibrary/di-railroad-c3rs-imou>); the Delaware Lackawanna Railroad (<https://railroads.dot.gov/elibrary/delaware-lackawanna-railroad-c3rs-imou>); the Goose Lake Railway, LLC (<https://railroads.dot.gov/elibrary/c3rs-implementing-memorandum-understanding-goose-lake-railway>); and St. Mary's Railway West (<https://railroads.dot.gov/elibrary/st-marys-railway-west-c3rs-imou>).

¹⁰ For railroads participating in C³RS through the SLSI, the SLSI PRT is comprised of a group of SLSI representatives.

¹ Docket No. FRA–2025–0131–0005.

² Docket No. FRA–2025–0131–0002.

³ Docket No. FRA–2025–0131–0004.

⁴ FRA–2025–0131–0006. TTD's comment indicates it consists of 39 affiliated unions who represent members across the freight rail industry, and TTD included a list of member labor organizations represented by TTD as part of its comment.

⁵ Docket No. FRA–2025–0131–0003.

⁶ FRA has posted signed C³RS IMOUs on its website at <https://railroads.dot.gov/railroad-safety/divisions/safety-partnerships/c3rs/participating-railroads> (last accessed Apr. 20, 2026).

⁷ For example, the C³RS IMOU for the Buffalo & Pittsburgh Railroad covers non-represented car

the further expansion of C³RS. While FRA always strives to get consensus from all potential parties to a C³RS IMOU, even a C³RS IMOU without a labor organization as a signatory party still provides employees an opportunity to report close calls confidentially to an independent third party and to receive protection from discipline and revocation of certification for accepted reports that did not exist before.

B. BLET Comment Regarding the Railroad Safety Advisory Committee Process

Related to concerns about labor organization exclusion, BLET commented that it believes a C³RS IMOU that has been agreed upon by all stakeholders could be reached through the Railroad Safety Advisory Committee (RSAC) process, requesting that FRA hold the NPRM as a proposal until all involved stakeholders could agree upon such an IMOU. FRA understands BLET's comment to be referencing RSAC Task No. 2022–03: Confidential Close Call Reporting System, which had involved a series of C³RS Working Group meetings. As explained in the NPRM, FRA withdrew Task No. 2022–03 from the RSAC in March 2025, in part to begin a rulemaking that would propose amending parts 240 and 242 to remove the need for C³RS waivers. BLET also commented that the ongoing reconstitution of the RSAC would set back progress made by the C³RS Working Group.

FRA is declining BLET's suggestion to wait to finalize this rulemaking until there is a standard C³RS IMOU agreed upon by all stakeholders. FRA appreciates BLET's support for RSAC and agrees that RSAC may be the appropriate forum for the agency's various stakeholders to exchange information relating to the safety of rail operations. However, FRA does not believe it should delay finalizing this rulemaking until a standard C³RS IMOU is agreed upon, whether through the RSAC process or otherwise. As explained in the NPRM, after a series of RSAC C³RS Working Group meetings, it became apparent that stakeholders generally agreed that FRA should engage in a rulemaking that would streamline C³RS participation by relieving railroads of the burden associated with submitting waivers and recurrent waiver extension requests. *See* 90 FR 28677. Even if no additional railroads join C³RS, whether in accordance with a standard C³RS IMOU template or not, FRA believes streamlining the process to participate in C³RS is a meaningful burden reduction, both for FRA and the current

participants. While BLET also questions whether granting C³RS waivers should be a *pro forma* exercise, FRA notes that no railroad request for a C³RS waiver has ever been denied. Further, FRA notes that though it publishes a **Federal Register** notice providing an opportunity for public comment on all C³RS waiver petitions, few comments expressing blanket opposition to a C³RS waiver have been received on any of the dozens of waiver and waiver extension requests FRA has granted (though some comments have expressed concerns about various specific aspects of the program or advocated for greater communication between railroad and labor organization parties to the program).¹¹ FRA also notes that BLET, SMART–TD, and TTD all commented in support of FRA granting a C³RS waiver submitted by the Association of American Railroads (AAR) on behalf of Class I freight railroads (though SMART–TD and TTD also urged FRA to ensure that the Class I railroads joined C³RS in accordance with standards contained in C³RS IMOUs for current participants).¹²

Further, while BLET is concerned that the reconstitution of the RSAC will hinder the C³RS Working Group's progress, FRA notes that it had disbanded the Working Group in March 2025, after concluding that further meetings were not likely to produce meaningful results. This was several months before the RSAC reconstitution process began in August 2025, meaning that the reconstitution will have no additional effect on the C³RS Working Group.

C. MTA Comment Requesting Clarity on C³RS Report Acceptance

MTA commented that while it generally supports incorporating waivers to streamline the ongoing operation of C³RS, it thought the final rule should clarify that the PRT plays no role in determining whether a C³RS report is accepted, as that decision is made by the independent third party alone. Specifically, MTA suggested revising the proposed definition of “Close call” to remove the reference to PRT acceptance and to make conforming changes throughout the proposed rule to remove references to the PRT accepting a report.

FRA understands MTA's concern, as there are different understandings of what it means for a close call to be accepted among current C³RS stakeholders. The purpose of the

proposed definition was to reflect that a PRT's review and analysis of a reported close call may uncover information that was not reported to the independent third party that makes the close call ineligible for the C³RS IMOU's protections against suspension or revocation of certification. For example, a PRT may discover that even though the current independent third party, the National Aeronautics and Space Administration (NASA), accepted a close call, the underlying event was not eligible for the C³RS IMOU's protections because it was visually observed by a railroad manager in real-time.¹³ FRA emphasizes that it is unusual for a PRT to determine that an event reported to and accepted by NASA is not eligible for a C³RS IMOU's protections, but it does happen occasionally. Further, because PRTs have an FRA representative, any such determination is made with FRA's advice and assistance, in addition to being a consensus decision made by all PRT stakeholders (including labor organization representatives).

The proposed definition of “Close call” also prevents an employee from receiving C³RS protections in the (highly unlikely) situation that the employee deliberately withheld information from the report that would indicate the underlying event was not a reportable close call (such as information indicating the event involved prohibited use of alcohol or a controlled substance or a willful violation of Federal railroad safety laws of railroad operating rules). To prevent such bad faith misuse of C³RS, FRA believes it is important to allow a PRT, when it has access to additional information that was not available to the independent third party, to determine that a close call reported to and accepted by the independent third party may still be ineligible for a C³RS IMOU's protections. If the PRT did not have this authority, the primary alternative remedy for bad faith misuse of C³RS would be for a railroad participant or FRA to terminate its participation in that C³RS program, which would unfairly deprive railroad employees adhering to the C³RS IMOU's reporting criteria of the opportunity to improve railroad safety by reporting close calls.

¹³ All current C³RS IMOUs provide that employees do not receive the protections of the C³RS IMOU when a reported event is a “Real-Time Observation.” While the definition of “Real-Time Observation” differs slightly among the different C³RS IMOUs, it is always defined to include an event that was visually observed in real-time by an FRA inspector or railroad manager.

¹¹ *See, e.g.*, Docket No. FRA–2023–0065–0003.

¹² *See* Docket Nos. FRA–2023–0042–0003; FRA–2023–0042–0004; and FRA–2023–0042–0005.

FRA has been working to clarify what it means for a close call to be accepted by both NASA and the PRT in recent C³RS IMOU's. For example, in the C³RS IMOU signed by Norfolk Southern Railway, FRA, BLET, and SMART-TD in February 2024,¹⁴ Section 6.2 (“Conditions Under Which a Reporting Employee Is Not Protected from Railroad Discipline, Railroad Revocation of Certification, or FRA Civil Enforcement”) specifies seven conditions under which employees do not receive the C³RS IMOU's protections and affirmatively states that the PRT shall determine whether any of the conditions exist.¹⁵ FRA acknowledges, however, that there remains some uncertainty among C³RS participants regarding the PRT's role in determining whether a reported close call is eligible for the protections of a C³RS IMOU.

To address this uncertainty, and in response to MTA's request for additional clarity, FRA is adding language to the proposed definition of “Close call” stating that “For purposes of this definition, a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.” FRA believes this additional language clarifies what it means for a PRT to “accept” a close call report, both in the definition of “Close call” and elsewhere in the rule. FRA is otherwise finalizing the definition as proposed.

III. Section-by-Section Analysis

FRA is amending parts 240 and 242 to codify longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored C³RS program.¹⁶ FRA is codifying these longstanding C³RS waivers by revising parts 240 and 242 to provide that a railroad may not revoke an engineer's or conductor's certification for a close call event that has been reported in accordance with all applicable provisions of a C³RS IMOU. 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 and Section 242.7—Definitions

“C³RS Implementing Memorandum of Understanding (C³RS IMOU)”

For the reasons discussed above in Section II.C, FRA is finalizing the definition of “C³RS Implementing Memorandum of Understanding (C³RS IMOU)” in both sections 240.7 and 242.7 as proposed, except that FRA is replacing language in the proposed definition about a labor organization not being a stakeholder to a particular C³RS IMOU with language about a labor organization not being a signatory party to a C³RS IMOU. The new language reflects that labor organizations can be important stakeholders to the overall C³RS program, even if they are not signatory parties to a particular C³RS IMOU.

“Close call”

For the reasons discussed above in Section II.C, FRA is finalizing the definition of “Close call” in both sections 240.7 and 242.7 as proposed, except that FRA is including additional language clarifying that a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.

“Peer Review Team (PRT)”

FRA is adopting the definition of “Peer Review Team (PRT)” as proposed, except for two clarifications. First, FRA is replacing the term “primary stakeholders” with “signatory parties” to reflect that not all C³RS stakeholders may be a signatory party to a particular C³RS IMOU. Second, FRA is adding language noting that a PRT may also include the following persons: a representative from the independent third party; employees covered by the C³RS IMOU who are not represented by a non-profit employee labor organization that has signed the C³RS IMOU; and other subject matter experts on an ad hoc basis when their expertise would assist the PRT in developing recommendations. This additional language reflects that most C³RS IMOU's provide for NASA and other subject matter experts to participate in a PRT when requested, and that C³RS IMOU's that cover non-represented employees generally provide that a railroad will appoint employees to participate in the PRT. FRA also notes that the intent of this definition is to describe PRT composition, not to regulate it, as PRT

composition is subject to the provisions of a signed C³RS IMOU. This definition does not, for example, override IMOU's for railroads that participate in C³RS through the SLSI, which provide that the PRT is comprised of FRA and SLSI representatives.

IV. 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 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. This rule amends FRA's regulations governing the qualification and certification of locomotive engineers and conductors and codifies longstanding waivers that have granted relief from certain certification requirements for railroads that participate in the FRA-sponsored C³RS program. This final rule will reduce the burden on C³RS-participating railroads. Nothing in this final rule changes the voluntary and cooperative nature of C³RS, as participants retain the ability to terminate their participation in the program in accordance with the provisions of the applicable C³RS IMOU. Moreover, this rule will provide some qualitative benefits to regulated entities and the U.S. Government, by clarifying, simplifying, and updating the language of parts 240 and 242. This final rule will also promote more efficient use of Government resources by reducing the time spent by FRA on reviewing and approving these types of waivers.

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.”¹⁷ Implementation guidance for E.O. 14192 issued by OMB (Memorandum M-25-20, Mar. 26, 2025) defines two different types of E.O. 14192 actions: an E.O. 14192

¹⁴ See <https://railroads.dot.gov/elibrary/norfolk-southern-pilot-program-smarttd-blet-c3rs-imou>.

¹⁵ *Id.*

¹⁶ FRA does not intend this final rule to be a disincentive to railroads implementing alternative close call reporting programs outside C³RS, which the agency believes can still positively impact safety culture. FRA would still entertain waiver requests to implement alternative close call reporting programs, as necessary.

¹⁷ Executive Office of the President, *Executive Order 14192 of January 31, 2025, Unleashing Prosperity Through Deregulation*, 90 FR 9065–9067 (Feb. 6, 2025).

deregulatory action, and an E.O. 14192 regulatory action.¹⁸

An E.O. 14192 deregulatory action is defined as “an action that has been finalized and has total costs less than zero.” This rulemaking will have total costs less than zero, and therefore will be considered an E.O. 14192 deregulatory action upon issuance of this final rule.

C. Regulatory Flexibility Act and Executive Order 13272

The Regulatory Flexibility Act of 1980 ((RFA), 5 U.S.C. 601 *et seq.*) and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). 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, 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)).

In the NPRM, FRA certified that this rule would not have a significant economic impact on a substantial number of small entities. No comments were received on this certification.

This final rule will not preclude small entities from continuing practices that comply with parts 240 and 242. By extending this regulatory relief, many regulated entities, including small entities, will experience cost savings in terms of reduced burden on C³RS-participating railroads. This final rule will also promote more efficient use of Government resources by reducing the time spent by FRA on reviewing and approving these types of waivers. The impact to small entities is not expected to be significant. Consequently, FRA holds to its previous certification that the 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 it contains no new information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–

3520); therefore, an information collection submission to OMB is not required. The recordkeeping and reporting requirements contained in parts 240 and 242 became effective when they were approved by OMB in 2024. The OMB approval numbers are OMB No. 2130–0533, which expires on July 31, 2027, and OMB No. 2130–0596, which expires on October 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. 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.”¹⁹ 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 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

49 CFR Part 240

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

49 CFR Part 242

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

The Final Rule

For the reasons discussed in the preamble, FRA amends parts 240 and 242 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. Amend § 240.7 by adding definitions in alphabetical order for “C³RS Implementing Memorandum of Understanding (C³RS IMOU)”, “Close

¹⁸ Executive Office of the President, Office of Management and Budget, Guidance Implementing Section 3 of Executive Order 14192, Titled “Unleashing Prosperity Through Deregulation.” Memorandum M–25–20 (Mar. 26, 2025).

¹⁹ 66 FR 28355 (May 22, 2001).

call”, “Confidential Close Call Reporting System (C³RS)”, “Electronic device”, “Hazardous material”, “ID strip”, “Independent third party”, “Peer Review Team (PRT)”, and “Personal electronic device” to read as follows:

§ 240.7 Definitions.

* * * * *

C³RS Implementing Memorandum of Understanding (C³RS IMOU) means a voluntary written agreement that implements C³RS on a participating railroad and is signed by FRA, the participating railroad, and any non-profit employee labor organization(s) representing participating employees for purposes of the C³RS IMOU. If the participating employees are not represented by a non-profit labor organization, or if a non-profit employee labor organization representing employees covered by C³RS is not a signatory party to the C³RS IMOU, a C³RS IMOU may be signed only by FRA and the participating railroad. When contractor employees are participating in C³RS, the C³RS IMOU must also be signed by the contractor for the railroad and can be signed by any non-profit employee labor organization representing the contractor employees for purposes of the C³RS IMOU. FRA will post all C³RS IMOUs to the Federal Docket Management System’s website at <https://www.regulations.gov>.

Close call means an unsafe event or sequence of unsafe events that had a potential for more serious adverse consequences to railroad safety and has been reported to C³RS and accepted by both the independent third party and the Peer Review Team (PRT) as a reportable close call in accordance with all applicable provisions of a C³RS IMOU. For purposes of this definition, a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.

* * * * *

Confidential Close Call Reporting System (C³RS) means an FRA-sponsored voluntary program designed to improve the safety of railroad operations by allowing railroad workers to report currently unreported or underreported unsafe events confidentially without the repercussions of suspension or revocation of certification.

* * * * *

Electronic device has the meaning assigned by § 220.5 of this chapter.

* * * * *

Hazardous material means a commodity designated as a hazardous material by part 172 of this title.

ID strip means the identification strip the independent third party issues to an employee who has reported a close call to C³RS to indicate that the independent third party has accepted the close call.

Independent third party means the non-FRA organization that manages C³RS, accepts close call reports, and protects the confidentiality of both a reporting employee and a participating railroad.

* * * * *

Peer Review Team (PRT) is a problem-solving team consisting of representatives for the signatory parties to a C³RS IMOU, including FRA, the participating railroad, and any participating non-profit employee labor organization(s). A PRT may also include a representative from the independent third party; employees covered by the C³RS IMOU who are not represented by a non-profit employee labor organization that has signed the C³RS IMOU; or other subject matter experts, on an ad hoc basis, when the supplemental expertise would assist the PRT in developing recommendations.

* * * * *

Personal electronic device has the meaning assigned by § 220.5 of this chapter.

* * * * *

■ 3. Amend § 240.117 by revising paragraphs (b) and (c)(1) and adding paragraph (f)(5) to read as follows:

§ 240.117 Criteria for consideration of operating rules compliance data.

* * * * *

(b) Except as provided in paragraph (f)(5) of this section, a person who has demonstrated a failure to comply, as described in paragraph (e) of this section, with railroad rules and practices for the safe operation of trains shall not be currently certified as a locomotive engineer.

(c)(1) Except as provided in paragraph (f)(5) of this section, a certified locomotive engineer who has demonstrated a failure to comply with railroad rules and practices described in paragraph (e) of this section shall have his or her certification revoked.

* * * * *

(f) * * *

(5) In accordance with § 240.307(i)(3), a railroad shall not deny or revoke an employee’s certification based on an alleged violation of the railroad’s operating rules or practices that the employee reported to C³RS as a close call and was accepted as a close call by both the independent third party and

the PRT in accordance with all applicable provisions of a C³RS IMOU.

* * * * *

■ 4. Amend § 240.307 by revising paragraph (i) to read as follows:

§ 240.307 Revocation of certification.

* * * * *

(i) A railroad:

(1) Shall not revoke the person’s certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that an intervening cause prevented or materially impaired the locomotive engineer’s ability to comply with the railroad operating rule or practice that constitutes a violation under § 240.117(e)(1) through (5).

(2) May decide not to revoke the person’s certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that the violation of § 240.117(e)(1) through (5) was of a minimal nature and had no direct or potential effect on rail safety.

(3)(i) Shall not suspend or revoke the person’s certification as provided for in paragraph (a) of this section if the person reported the alleged violation of the railroad’s operating rule or practice that constitutes a violation under § 240.117(e)(1) through (5) to C³RS as a close call; and if the person’s report was accepted as a close call by both the independent third party and the PRT in accordance with all applicable provisions of a C³RS IMOU.

(ii)(A) If a railroad initiates suspension or revocation of the person’s certification and the person indicates the alleged violation was reported to C³RS as a close call, the time limits prescribed in this section for pursuing certificate suspension or revocation will be put in abeyance, pending provision of an ID strip from the reporting employee, or the employee’s designated representative, to the investigating officer or presiding officer and confirmation from the PRT that the alleged violation was reported and accepted as a close call.

(B) A determination made by the independent third party or the PRT regarding whether a report was accepted as a close call may not be overturned pursuant to the administrative hearing and dispute resolution procedures in subpart E of this part, but may be included as a finding of fact for purposes of determining whether the railroad impermissibly revoked a person’s certification for an alleged violation that was reported and accepted as a close call by both the third party and the PRT.

(C) This paragraph (i)(3) will not apply to any alleged violation of a

railroad's operating rules or practices that constitutes a violation under § 240.117(e)(1) through (5) that involves:

- (1) An event that caused or is alleged to have caused death, injury, illness, or medical treatment of any kind to any person (including a passenger) involved in the event;
- (2) An event that results in damages above the current monetary rail equipment accident/incident reporting threshold described in part 225 of this chapter and published annually by FRA;
- (3) An event that results in a highway-rail grade crossing accident/incident, as described in § 225.19(b) of this chapter;
- (4) A willful violation of a Federal railroad safety law or railroad operating rule or practice, including the prohibited use of alcohol or a controlled substance;
- (5) A substance abuse disorder;
- (6) An event resulting in the identifiable release of a hazardous material;
- (7) An act of sabotage or other criminal offense; or
- (8) An event involving use of a personal electronic device that is prohibited by a Federal railroad safety law or railroad operating rule.

PART 242—QUALIFICATION AND CERTIFICATION OF CONDUCTORS

■ 5. The authority citation for part 242 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20135, 20138, 20162, 20163, 21301, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 6. Amend § 242.7 by adding definitions in alphabetical order for “C³RS Implementing Memorandum of Understanding (C³RS IMOU),” “Close call,” “Confidential Close Call Reporting System (C³RS),” “Electronic device,” “Hazardous material,” “ID strip,” “Independent third party,” “Peer Review Team (PRT),” and “Personal electronic device” to read as follows:

§ 242.7 Definitions.

C³RS Implementing Memorandum of Understanding (C³RS IMOU) means a voluntary written agreement that implements C³RS on a participating railroad and is signed by FRA, the participating railroad, and any non-profit employee labor organization(s) representing participating employees for purposes of the C³RS IMOU. If the participating employees are not represented by a non-profit labor organization, or if a non-profit employee labor organization representing employees covered by C³RS is not a signatory party to the C³RS IMOU, a

C³RS IMOU may be signed only by FRA and the participating railroad. When contractor employees are participating in C³RS, the C³RS IMOU must also be signed by the contractor for the railroad and can be signed by any non-profit employee labor organization representing the contractor employees for purposes of the C³RS IMOU. FRA will post all C³RS IMOUs to the Federal Docket Management System's website at <https://www.regulations.gov>.

Close call means an unsafe event or sequence of unsafe events that had a potential for more serious adverse consequences to railroad safety and has been reported to C³RS and accepted by both the independent third party and the Peer Review Team (PRT) as a reportable close call in accordance with all applicable provisions of a C³RS IMOU. For purposes of this definition, a close call is accepted by a PRT when the PRT determines that the close call is eligible for the protections against suspension or revocation of certification established by the applicable C³RS IMOU.

Confidential Close Call Reporting System (C³RS) means an FRA-sponsored voluntary program designed to improve the safety of railroad operations by allowing railroad workers to report currently unreported or underreported unsafe events confidentially without the repercussions of suspension or revocation of certification.

Electronic device has the meaning assigned by § 220.5 of this chapter.

Hazardous material means a commodity designated as a hazardous material by part 172 of this title.

ID strip means the identification strip the independent third party issues to an employee who has reported a close call to C³RS to indicate that the independent third party has accepted the close call.

Independent third party means the non-FRA organization that manages C³RS, accepts close call reports, and protects the confidentiality of both a reporting employee and a participating railroad.

Peer Review Team (PRT) is a problem-solving team consisting of representatives for the signatory parties to a C³RS IMOU, including FRA, the participating railroad, and any participating non-profit employee labor organization(s). A PRT may also include a representative from the independent third party; employees covered by the C³RS IMOU who are not represented by a non-profit employee labor

organization that has signed the C³RS IMOU; or other subject matter experts, on an ad hoc basis, when the supplemental expertise would assist the PRT in developing recommendations.

Personal electronic device has the meaning assigned by § 220.5 of this chapter.

■ 7. Amend § 242.403 by revising paragraphs (b) and (c)(1) and adding paragraph (f)(5) to read as follows:

§ 242.403 Criteria for revoking certification.

(b) Except as provided in paragraph (f)(5) of this section, it shall be unlawful to fail to comply with any of the railroad rules and practices described in paragraph (e) of this section.

(c)(1) Except as provided in paragraph (f)(5) of this section, a certified conductor who has demonstrated a failure to comply with railroad rules and practices described in paragraph (e) of this section shall have his or her certification revoked.

(5) In accordance with § 242.407(i)(3), a railroad shall not deny or revoke an employee's certification based on an alleged violation of the railroad's operating rules or practices that the employee reported to C³RS as a close call and was accepted as a close call by both the independent third party and the PRT in accordance with all applicable provisions of a C³RS IMOU.

■ 8. Amend § 242.407 by revising paragraph (i) to read as follows:

§ 242.407 Process for revoking certification.

(i) A railroad:
 (1) Shall not revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that an intervening cause prevented or materially impaired the conductor's ability to comply with the railroad operating rule or practice which constitutes a violation under § 242.403(e)(1) through (11).
 (2) May decide not to revoke the person's certification as provided for in paragraph (a) of this section if sufficient evidence exists to establish that the violation of § 242.403(e)(1) through (11) was of a minimal nature and had no direct or potential effect on rail safety.
 (3)(i) Shall not suspend or revoke the person's certification as provided for in

paragraph (a) of this section if the person reported the alleged violation of the railroad's operating rule or practice that constitutes a violation under § 242.403(e)(1) through (11) to C³RS as a close call; and if the person's report was accepted as a close call by both the independent third party and the PRT in accordance with all applicable provisions of a C³RS IMOU.

(ii)(A) If a railroad initiates suspension or revocation of the person's certification and the person indicates the alleged violation was reported to C³RS as a close call, the time limits prescribed in this section for pursuing certificate suspension or revocation will be put in abeyance, pending provision of an ID strip from the reporting employee, or the employee's designated representative, to the investigating officer or presiding officer and confirmation from the PRT that the alleged violation was reported and accepted as a close call.

(B) A determination made by the independent third party or the PRT regarding whether a report was accepted as a close call may not be overturned pursuant to the administrative hearing and dispute resolution procedures in subpart F of this part, but may be included as a finding of fact for purposes of determining whether the railroad impermissibly revoked a person's certification for an alleged violation that was reported and accepted as a close call by both the third party and the PRT.

(C) This paragraph (i)(3) will not apply to any alleged violation of a railroad's operating rules or practices that constitutes a violation under § 242.403(e)(1) through (11) that involves:

(1) An event that caused or is alleged to have caused death, injury, illness, or medical treatment of any kind to any person (including a passenger) involved in the event;

(2) An event that results in damages above the current monetary rail equipment accident/incident reporting threshold described in part 225 of this chapter and published annually by FRA;

(3) An event that results in a highway-rail grade crossing accident/incident, as described in § 225.19(b) of this chapter;

(4) A willful violation of a Federal railroad safety law or railroad operating rule or practice, including the prohibited use of alcohol or a controlled substance;

(5) A substance abuse disorder;

(6) An event resulting in the identifiable release of a hazardous material;

(7) An act of sabotage or other criminal offense; or

(8) An event involving use of a personal electronic device that is prohibited by a Federal railroad safety law or railroad operating rule.

* * * * *

Issued in Washington, DC, under authority delegated in 49 CFR 1.89.

David A. Fink,

Administrator.

[FR Doc. 2026-08253 Filed 4-27-26; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 242

[Docket No. FRA-2025-0133; Notice No. 2]

RIN 2130-AD61

Miscellaneous Revisions to the Qualification and Certification of Conductors

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

ACTION: Final rule.

SUMMARY: This rule updates FRA's conductor certification requirements to reduce the information required on a conductor'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 May 28, 2026.

FOR FURTHER INFORMATION CONTACT: Christian Holt, Staff Director-Operating Practices Division, FRA, telephone: 202-366-0978, email: christian.holt@dot.gov; or Michael C. Spinnicchia, Attorney Adviser, FRA, telephone: 202-713-7671, email: michael.spinnicchia@dot.gov.

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 49 CFR parts 200 through 299 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 242 (part 242).¹ Specifically, the NPRM proposed: (1) reducing the information required on a conductor'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 242. FRA also requested comments on whether to remove the requirement that FRA is a mandatory party in the administrative hearing process.

FRA received two comments. 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.

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 242.509(p) and (r) to remove FRA as a mandatory party in the administrative hearing process described in section 242.509, 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 242.11 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. FRA is amending section 242.11, as proposed, with some minor formatting edits.

¹ 90 FR 28684 (July 1, 2025).