

HIGHLIGHTS OF NEW CONDUCTOR CERTIFICATION REGULATION

In general, the conductor certification rule follows many of the provisions of the locomotive engineer certification requirements. There are a number of improvements that UTU was able to obtain in the new rule.

1. It does not limit any rights the employee may have under a collective bargaining agreement. Still, the railroad and employees must comply with the requirements of this regulation.
2. One currently employed as a conductor will be grandfathered for up to a period of 3 years. A railroad may test 1/3 of the employees during the first year, another 1/3 during each of the successive 2 years.
3. A railroad is required to submit its proposed certification program for approval to the FRA. However, simultaneously with such filing, the railroad must serve the president of UTU and BLET, and each union has 45 days to comment on the proposal.
4. A conductor who loses his/her certification may work as an assistant conductor, brakeman, yard helper, yardman, hostler, etc., but cannot work as a locomotive engineer. If the person has both a conductor and engineer certification, and the engineer certification is revoked, he/she cannot work as a conductor. If the conductor certificate is revoked because of failing to control a train, violation of train speed, violation of brake test requirement, occupying main track without proper authority, tampering with safety devices, or an alcohol or drug violation, he may not work as a locomotive engineer. However, if he/she violates one of the rules covering shoving or pushing movements, equipment left out to foul track, switches and derails, he/she may work as a locomotive engineer.
5. The conductor must be trained by a qualified person on the territory over which he/she will operate. If the employee lacks territorial qualification and

has never been qualified on main track physical characteristics, he/she shall be assisted by a person who is a certified conductor or a certified locomotive engineer. If he/she has been previously qualified over the main track territory, he/she may be assisted by any knowledgeable person, so long as it is not an engineer, and wouldn't conflict with other safety sensitive duties. Furthermore, no assistance is required on main track if the grade is less than 1% over 3 miles, maximum speed is less than 20 mph, or the operating rule requires stopping distance within ½ of sight.

If he/she lacks territorial qualification on other than main track, where practical, he/she shall be assisted by a certified conductor who meets the territorial qualifications, or where not practical, he/she should be provided an appropriate job aid. A job aid may consist of maps, charts or other visual aids of the territory.

6. Regarding procedures a railroad must follow before revoking a certification:
 - The railroad shall provide notice of the reason for suspension, and an opportunity for a hearing before a person other than the investigating officer. Written confirmation of the notification shall be in accordance with the collective bargaining agreement. Also, the hearing shall be in accordance with the collective bargaining agreement, but shall be convened within 10 days after the certificate is suspended, unless the conductor asks for a delay.
 - No later than convening the hearing and notwithstanding any collective bargaining agreement, the railroad shall provide a copy of the written information and a list of the witnesses the railroad present at the hearing. The railroad shall grant a recess if the information is provided just before the hearing. Also, if the information is provided through written statements of an employee, the railroad shall make that employee available for examination during the hearing.

-If there is sufficient evidence exists that an intervening cause prevented or materially impaired the conductor's ability to comply with requirements, the certification or recertification shall not be revoked.

7. The appeal procedures are basically the same as under the engineer certification regulations.