

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL RAILROAD ADMINISTRATION**  
Washington, D.C. 20590

Locomotive Engineer Review Board

Decision Concerning  
CSX Transportation's  
Revocation of Mr. G. Weidman's  
Locomotive Engineer Certification

**FRA Docket Number EQAL-2012-03**

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**Decision**

The Locomotive Engineer Review Board (Board) of the Federal Railroad Administration (FRA) has reviewed the decision of the CSX Transportation's (CSX) to revoke Mr. G. Weidman's (Petitioner) locomotive engineer certification (certification) in accordance with the provisions of Title 49, Part 240 of the Code of Federal Regulations (49 C.F.R. Part 240). The Board hereby determines that CSX's decision to revoke Petitioner's certification was proper for the reasons set forth below.

**Background**

Petitioner began his locomotive engineer training program at CSX on October 23, 2010. He began Phase II, the training portion of the program, on November 25, 2010. On June 13, 2011, Petitioner participated in his first skills performance test. It was determined that he received a failing score on the test. After being allowed additional time to train for the performance test, Petitioner took the test again on July 27, 2011. The test consisted of a 42 mile trip, and Petitioner was accompanied on the trip by a Senior Road Foreman of Engines (SRFE). The SRFE determined that Petitioner failed the second test. By letter dated July 28, 2011, Petitioner was notified that he would be denied certification for failing to pass the skill performance tests that is required by 49 CFR § 240.127. On August 18, 2011 Petitioner's certification was denied.

A petition was timely filed with FRA on December 26, 2011, by Petitioner, requesting that FRA review CSX's decision to deny Petitioner's certification. The petition asserts that the denial was improper because the SRFE, in his determination that Petitioner failed the second test, did not acknowledge relevant operating factors that occurred during the test and affected his performance: (1) a 10 miles per hour (mph) slow order, (2) a required speed order check, (3) a 25 mph slow order, (4) a 15 mph maximum speed due to an EC-1 notifying of a false or partial activation of a grade crossing warning device, (5) signal failures, and (6) several signals displaying an approach indication.

Pursuant to 49 C.F.R. § 240.405(b) and (c), a copy of the petition was sent to CSX, and the railroad was afforded an opportunity to comment. CSX's response was received by FRA on January 12, 2012.

### **CSX's Response**

CSX responded to Petitioner's assertion by arguing that the SRFE thoroughly documented his concerns with Petitioner's ability to work safely as a locomotive engineer on the EER evaluation form (Response Exhibit 1), and the SRFE's annotated event recorder documentation (Response Exhibit 2), shows that his concerns were based on the Petitioner's performance during the qualifying ride. Specifically, Petitioner consistently operated his train well below the timetable speed, demonstrating lack of territorial familiarity, poor train handling techniques, and a failure to plan his moves according to the applicable CSX operating rules. See Response Exhibit 2. As an example, the SRFE's annotated documents refer to Petitioner's operation of the train between mileposts OWA 7.40 and 10.0 where Petitioner operated at an average speed 17.1 mph when the timetable speed is 30-35 mph. Petitioner claims that this was the result of a 10 mph slow order and a measured mile. However, there is no set speed required for that measured mile, and given the relatively light train Petitioner was operating and the number of engines on the train, he did not need to operate at an average speed of 17.1 mph to sufficiently slow the train for the slow order.

### **Board's Determinations**

Based on its review of the record, the Board has determined that:

1. On July 27, 2011, the SRFE accompanied Petitioner on his skills performance test, consisting of a 42 mile trip.
2. The SRFE documented his concerns with Petitioner's performance during the skills performance test and included consideration of the operational constraints applicable to the trip. See Response Exhibit 2.
3. The SRFE determined that Petitioner failed his second skills performance test. See Response at pages 1-2.
4. By letter dated July 28, 2011, Petitioner was notified that he would be denied certification for failing to pass the skill performance tests that is required by 49 CFR § 240.127.
5. On August 18, 2011 Petitioner's certification was denied.

### **Analysis of the Petition**

Petitioner's assertion is that the SRFE determination that Petitioner failed his skills performance test was improper, because the SRFE failed to properly document his decision. According to Petitioner, the SRFE failed to acknowledge relevant operating factors that occurred during his skills performance test and affected his performance. See Petition at 1. The assertion raises a factual issue. Accordingly, "[w]hen considering factual issues, the Board will determine whether

there is substantial evidence to support the railroad's decision, and a negative finding is grounds for dismissal." 58 Fed. Reg. 18982, 19001 (April 9, 1993).

The Board finds that Petitioner's assertion is without merit. 49 CFR § 240.127 requires that skills performance test evaluations be documented and include consideration of the operational constraints applicable to the trip. The SRFE documented his observations during the performance test, and in that documentation, he expressed concerns with Petitioner's ability to work safely as a locomotive engineer. See Response Exhibits 1 and 2. The SRFE's concerns included consideration of applicable operational constraints. Id. As an example, the SRFE's documentation refers to Petitioner's operation of the train between mileposts OWA 7.40 and 10.0 where Petitioner operated at an average speed 17.1 mph when the timetable speed is 30-35 mph. Petitioner claims that this was the result of a 10 mph slow order and a measured mile. However, there is no set speed required for that measured mile, and given the relatively light train Petitioner was operating and the number of locomotives hauling the train, he still operated at an average speed of 17.1 mph. Based on his documented evaluation, the SRFE determined that Petitioner failed his skills performance test. See Response at pages 1-2. Substantial evidence shows that the SRFE's determination was documented, and included consideration of the operational constraints applicable to the trip, as required by 49 CFR § 240.127.

### Conclusion

Based on the above findings and conclusions, the Board hereby DENIES the petition in accordance with the provisions of Title 49, Part 240 of the Code of Federal Regulations.

Issued in Chicago, IL on JUN 07 2012.



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Richard M. McCord  
Chairman,  
Locomotive Engineer Review Board

**SERVICE LIST EQAL 2012-03**

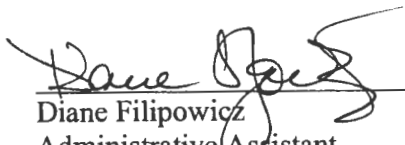
A copy of the Locomotive Engineer Review Board decision in this matter has been sent by certified mail to each person shown below.

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. G. Weidman III  
259 Elizabeth Street NE3938 Hwy. 99  
Atlanta, GA 30307

Mr. Dean R. Menefee  
System Road Foreman  
CSX Transportation  
500 Water Street, J260  
10<sup>th</sup> Floor  
Jacksonville, FL 32202

Ms. Dana L. McWhite  
Manager Training Programs II  
CSX Transportation  
1460 Marietta Blvd. NW  
Atlanta, GA 30318

  
\_\_\_\_\_  
Diane Filipowicz  
Administrative Assistant

**JUN 07 2012**  
\_\_\_\_\_  
Date

enc: Post LERB Memo

cc: FRA Docket EQAL 2012-03

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. G. Weidman III  
 259 Elizabeth Street NE3938 Hwy. 99  
 Atlanta, GA 30307

EQAL 2012-03

2. Article Number  
(Transfer from service label)

7011 0470 0002 1248 1499

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

- Agent  
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)

Yes

**SENDER: COMPLETE THIS SECTION**

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Dean R. Menefee  
 System Road Foreman, CSX Transportation  
 500 Water Street, J260  
 10th Floor  
 Jacksonville, FL 32202

EQAL 2012-03

2. Article Number  
(Transfer from service label)

7011 0470 0002 1248 1482

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

A. Signature

X

- Agent  
 Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
 If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail  
 Registered  Return Receipt for Merchandise  
 Insured Mail  C.O.D.

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- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Ms. Dana L. McWhite  
 Manager Training Programs II  
 CSX Transportation  
 1460 Marietta Blvd. NW  
 Atlanta, GA 30318

EQAL 2012-03

2. Article Number  
(Transfer from service label)

7011 0470 0002 1248 1475

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

**COMPLETE THIS SECTION ON DELIVERY**

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- Agent  
 Addressee

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C. Date of Delivery

D. Is delivery address different from item 1?  Yes  
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Yes