§ 240.405  
(b) Each petition shall:
(1) Be in writing;
(2) Be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 1200 New Jersey Avenue, SE., 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 petitioner’s e-mail address (if available);
   (v) The name and address of the railroad; and
   (vi) 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 railroad that submits such information shall:
(1) Identify the petitioner by name and the docket number of the review proceeding;
(2) Provide a copy of the information being submitted to FRA to the petitioner.
(3) Submit the information in triplicate to the Docket Clerk, Federal Railroad Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590;
(e) Each petition will then be referred to the Locomotive Engineer Review Board for a decision.
(f) The Board will determine whether the denial or revocation of certification or recertification was improper under this regulation (i.e., based on an incorrect determination that the person failed to meet the qualification requirements of this regulation) and grant or deny the petition accordingly. The Board will not otherwise consider the propriety of a railroad’s decision, i.e., it will not consider whether the railroad properly applied its own more stringent requirements.
§ 240.409 Hearings.

(a) An administrative hearing for a locomotive engineer qualification petition shall be conducted by a presiding officer, who can be any person authorized by the Administrator, including an administrative law judge.

(b) The presiding officer may exercise the powers of the Administrator to regulate the conduct of the hearing for the purpose of achieving a prompt and fair determination of all material issues in controversy.

(c) The presiding officer shall convene and preside over the hearing. The hearing shall be a de novo hearing to find the relevant facts and determine the correct application of this part to those facts. The presiding officer may determine that there is no genuine issue covering some or all material facts and limit evidentiary proceedings to any issues of material fact as to which there is a genuine dispute.

(d) The presiding officer may authorize discovery of the types and quantities which in the presiding officer’s discretion will contribute to a fair hearing without unduly burdening the parties. The presiding officer may impose appropriate non-monetary sanctions, including limitations as to the presentation of evidence and issues, for any party’s willful failure or refusal to comply with approved discovery requests.

(e) Every petition, motion, response, or other authorized or required document shall be signed by the party filing the same, or by a duly authorized officer or representative of record, or by any other person. If signed by such other person, the reason therefor must be stated and the power of attorney or other authority authorizing such other person to subscribe the document must be filed with the document. The signature of the person subscribing any document constitutes a certification that he or she has read the document; that to the best of his or her knowledge, information and belief every statement contained in the document is true and