

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

OQ CHEMICALS CORPORATION
Employer

and

Case 16-RC-354942

INTERNATIONAL UNION OF OPERATING
ENGINEERS (IUOE), LOCAL 564
Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election is granted solely with respect to whether the Employer's Work Group Leads are statutory supervisors on the basis of responsible direction.¹ Pursuant to Section 102.67(h) of the Board's Rules and Regulations, the parties may file briefs addressing this issue with the Board within 10 business days after issuance of this order.² The request for review is denied in all other respects.³

¹ Member Prouty would deny review in all respects. He agrees with the Regional Director that the inconclusive evidence presented by the Employer regarding whether the Work Group Leads are statutory supervisors on the basis of responsible direction is insufficient to meet its burden.

² The parties are also requested to address in their briefs on review whether the Work Group Leads possess secondary indicia of supervisory status.

³ In denying review in all other respects, we find—to the extent that the Employer properly raised the issue to the Regional Director—that the Employer has not met its evidentiary burden to prove that the Work Group Leads promote employees to “Step-Up” positions. Although Maintenance Supervisor Tipps testified that Work Group Leads usually identify candidates for Step-Up positions, and that Tipps does not second-guess their recommendations, the qualification process for a Step-Up position—as set forth in Employer policy GOP-317— involves an extensive evaluation and training checklist that must be approved by the Employer's Area Trainer, the Area Team Leader, and the Operations Manager. Absent more detailed evidence about how this process works, the Employer has not met its burden to demonstrate that the Work Group Leads effectively recommend promotions into Step-Up positions without independent investigation from higher-level managers or other individuals. See *Children's Farm Home*, 324 NLRB 61, 61 (1997) (“The Board has consistently applied the principle that authority [to effectively recommend] means that the recommended action is taken without independent investigation by superiors, not simply that the recommendation is ultimately followed.”).

We do not rely on the Regional Director's citation to *Family Healthcare, Inc.*, 354 NLRB 254 (2009), a two-Member Board decision that was invalidated by the Supreme Court's decision in *New Process Steel, L.P. v. NLRB*, 560 U.S. 674 (2010).

JAMES R. MURPHY,	CHAIRMAN
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DAVID M. PROUTY,	MEMBER
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SCOTT A. MAYER,	MEMBER
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Dated, Washington, D.C., April 27, 2026.