

**§ 243.201**

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(2) The names of two individuals, including job titles, who will be the person's points of contact and will be the only individuals allowed access to FRA's secure document submission site;

(3) The mailing addresses for the person's points of contact;

(4) The person's system or main headquarters address located in the United States;

(5) The email addresses for the person's points of contact; and

(6) The daytime telephone numbers for the person's points of contact.

(c) A person that electronically submits an initial program, informational filing, or new portions or revisions to an approved program required by this part shall be considered to have provided its consent to receive approval or disapproval notices from FRA by email.

(d) A request for FRA review of written materials shall be addressed to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

(e) FRA may electronically store any materials required by this part regardless of whether the person that submits the materials does so by delivering the written materials to the Associate Administrator and opts not to submit the materials electronically.

(f) A person that opts not to submit the materials required by this part electronically, but provides one or more email addresses in its submission, shall be considered to have provided consent to receive approval or disapproval notices from FRA by email or mail.

**Subpart C—Program Implementation and Oversight Requirements**

**§ 243.201 Employee qualification requirements.**

(a) Designating existing employees:

(1) By no later than September 1, 2020, each Class I railroad, and each intercity or commuter passenger railroad conducting operations subject to this part with 400,000 total employee work hours annually or more in operation as of January 1, 2020, shall de-

clare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

(2) By no later than January 1, 2022, each employer conducting operations subject to this part not covered by paragraph (a)(1) of this section in operation as of January 1, 2021, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

(b) Except for an employer subject to the requirement in paragraph (a)(2) of this section, an employer commencing operations after January 1, 2020, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory before beginning operations, and only permit designated employees to perform safety-related service in that category or subcategory. Any person designated shall have met the requirements for newly hired employees or those assigned new safety-related duties in accordance with paragraph (c) of this section.

(c) Newly hired employees or those assigned new safety-related duty: The following requirements apply to qualifying a safety-related railroad employee who, subsequent to the employer's designation in accordance with paragraphs (a) and (b) of this section, is newly hired or is to engage in a safety-related task not associated with the employee's previous training.

(1) Prior to an employee becoming a qualified member of an occupational category or subcategory, the employer shall require a safety-related railroad employee who is newly hired or is to engage in safety-related duties not associated with the employee's previous training to successfully complete the formal training curriculum for that

category or subcategory of safety-related railroad employee. Successful completion of the formal training curriculum includes passing any required examinations covering the skills and knowledge the employee will need to possess in order to perform the safety-related duties necessary to be a member of the occupational category or subcategory.

(2) If the training curriculum includes OJT, the employee shall demonstrate, to the satisfaction of a designated instructor, OJT proficiency by successfully completing the safety-related tasks necessary to become a qualified member of the occupational category or subcategory. However, as part of the OJT process and prior to completing such training and passing the field evaluation, a person may perform such tasks under the direct onsite observation of any qualified person, provided the qualified person has been advised of the circumstances and is capable of intervening if an unsafe act or non-compliance with Federal railroad safety laws, regulations, or orders is observed. An employee designated to provide formal training to other employees, and who is not a designated instructor, shall be qualified on the safety-related topics or tasks in accordance with the employer's training program and the requirements of this part.

(d) Employees previously qualified or trained, but not by the current employer: If an employee has received relevant qualification or training for a particular occupational category or subcategory through participation in a FRA-approved training program submitted by an entity other than the employee's current employer, that training shall satisfy the requirements of this part:

(1) Provided that:

(i) A current record of training is obtained from that other entity; or

(ii) When a current record of training is unavailable from that other entity, an employer performs testing to ensure the employee has the knowledge necessary to be a member of that category or subcategory of safety-related railroad employee; and

(2) When the employee, in the previous 180 days, has either not per-

formed the safety-related duties or not received initial or periodic training for an occupational category or subcategory, the employer shall perform testing to ensure the employee has retained the knowledge necessary to remain a member of that occupational category or subcategory. In the situation where an employee's records are unavailable and the employee is subject to testing under paragraph (d)(1)(ii) of this section, no additional testing is required.

(e) Refresher training requirements and options:

(1) Beginning January 1, 2022, each Class I railroad, and each intercity or commuter passenger railroad conducting operations subject to this part with 400,000 total employee work hours annually or more, shall deliver refresher training at an interval not to exceed 3 calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in accordance with this chapter. If the last training event occurs before FRA's approval of the employer's training program, the employer shall provide refresher training either within 3 calendar years from that prior training event or no later than December 31, 2024. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

(2) Beginning May 1, 2023, each employer conducting operations subject to this part not covered by paragraph (e)(1) of this section shall deliver refresher training at an interval not to exceed 3 calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in accordance with this chapter. If the last training event occurs before FRA's approval of the employer's training program, the employer shall provide refresher training either within 3 calendar years from that prior training

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event or no later than December 31, 2025. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

[79 FR 66501, Nov. 7, 2014, as amended at 82 FR 20553, May 3, 2017; 83 FR 18459, Apr. 27, 2018; 85 FR 13, Jan. 2, 2020]

### § 243.203 Records.

(a) *General requirements for qualification status records; accessibility.* Each employer shall maintain records to demonstrate the qualification status of each safety-related railroad employee that it employs.

(1) The records for former safety-related railroad employees shall be accessible for 6 years at the employer's system headquarters after the employment relationship ends.

(2) Current employee records shall be accessible at the employer's system headquarters.

(b) *Employee information.* The records shall include the following information concerning each such employee:

(1) The name of the employee;

(2) Occupational category or subcategory designations for which the employee is deemed qualified;

(3) The dates that each formal training course was completed;

(4) The title of each formal training course successfully completed;

(5) If the safety-related railroad employee attended safety-related training offered by a business, a training organization, or a learning institution with an FRA-approved program, a copy of the transcript or appropriate record from that business, training organization, or learning institution;

(6) The employee's OJT performance, which shall include the unique name or identifier of the OJT program component in accordance with § 243.103, the date the OJT program component was successfully completed, and the identification of the person(s) determining that the employee successfully completed all OJT training necessary to be

considered qualified to perform the safety-related tasks identified with the occupational categories or subcategories for which the employee is designated in accordance with the program required by this part;

(7) The date that the employee's status is determined to be qualified and the employee is designated to perform the safety-related duties identified with any particular occupational categories or subcategories, in accordance with the program required by this part;

(8) If an employee's qualification status was transferred from another entity with an approved program, a copy of the training record from that other entity; and

(9) Any additional information required by this part.

(c) *Record accessibility for other than individual employee records.* Except for records demonstrating the qualification status of each safety-related railroad employee as described in paragraph (b) of this section or otherwise specified in this part, each test, inspection, annual review, or other event record required by this part shall be accessible for 3 calendar years after the end of the calendar year to which the event relates. Each employer shall make these records accessible at one headquarters location within the United States, including, but not limited to, a railroad's system headquarters, a holding company's headquarters, a joint venture's headquarters, a contractor's principal place of business or other headquarters located where the contractor is incorporated. This requirement does not prohibit an employer with divisions from also maintaining any of these records at any division headquarters.

(d) *Availability of records.* Each employer, training organization, or learning institution required to maintain records under this part shall:

(1) Make all records available for inspection and copying/photocopying to representatives of FRA, upon request during normal business hours; and

(2) Make an employee's records available for inspection and copying/photocopying to that employee, former employee, or such person's representative upon written authorization by