

areas, without regard to whether those systems use new technologies not associated with traditional railroads; but does not include rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

Railroad officer means any supervisory employee of a railroad.

Roadway worker in charge (RWIC) means a roadway worker who is qualified under § 214.353 of this chapter to establish on-track safety for roadway work groups, and lone workers qualified under § 214.347 of this chapter to establish on-track safety for themselves.

Serve or service, in the context of serving documents, has the meaning given in Rule 5 of the Federal Rules of Civil Procedure as amended. Similarly, the computation of time provisions in Rule 6 of the Federal Rules of Civil Procedure as amended are also applicable in this part. *See also* the definition of “filing” in this section.

Substance abuse disorder refers to a psychological or physical dependence on alcohol or a drug, or another identifiable and treatable mental or physical disorder involving the abuse of alcohol or drugs as a primary manifestation. A substance abuse disorder is “active” within the meaning of this part if the person is currently using alcohol or other drugs, except under medical supervision consistent with the restrictions described in § 219.103 of this chapter or has failed to successfully complete primary treatment or successfully participate in aftercare as directed by a DAC or SAP.

Substance Abuse Professional (SAP) means a person who meets the qualifications of a substance abuse professional, as provided in 49 CFR part 40.

Territorial qualifications means possessing the necessary knowledge concerning a railroad’s operating rules and timetable special instructions including familiarity with applicable *main track* and other than *main track physical characteristics* of the territory over which the locomotive or train movement will occur as well as the characteristics of the position to include, and not limited to, the operation and capabilities of dispatch control systems.

Tourist, scenic, historic, or excursion operations that are not part of the general

railroad system of transportation means a tourist, scenic, historic, or excursion operation conducted only on track used exclusively for that purpose (*i.e.*, there is no freight, intercity passenger, or commuter passenger railroad operation on the track).

§ 245.9 Waivers.

(a) A person subject to a requirement of this part may petition FRA for a waiver of compliance with such requirement. The filing of such a petition does not affect that person’s responsibility for compliance with that requirement while the petition is being considered.

(b) Each petition for a waiver under this section must be filed in the manner and contain the information required by part 211 of this chapter.

(c) If FRA finds that a waiver of compliance is in the public interest and is consistent with railroad safety, FRA may grant the waiver subject to any conditions FRA deems necessary.

§ 245.11 Penalties and consequences for noncompliance.

(a) Any person (including a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any employee of such owner, manufacturer, lessor, or lessee; or any independent contractor or subcontractor of a railroad) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least the minimum civil monetary penalty and not more than the ordinary maximum civil monetary penalty per violation. However, penalties may be assessed against individuals only for willful violations, and a penalty not to exceed the aggravated maximum civil monetary penalty per violation may be assessed, where:

(1) A grossly negligent violation, or a pattern of repeated violations, has created an imminent hazard of death or injury to persons; or

(2) A death or injury has occurred. *See* 49 CFR part 209, appendix A.

(b) Each day a violation continues constitutes a separate offense.

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(c) A person who violates any requirement of this part or causes the violation of any such requirement may be subject to disqualification from all safety-sensitive service in accordance with part 209 of this chapter.

(d) A person who knowingly and willfully falsifies a record or report required by this part may be subject to criminal penalties under 49 U.S.C. 21311.

(e) In addition to the enforcement methods referred to in paragraphs (a) through (d) of this section, FRA may address violations of this part by use of the emergency order, compliance order, and/or injunctive provisions of the Federal rail safety laws.

(f) FRA's website at <https://railroads.dot.gov/> contains a schedule of civil penalty amounts used in connection with this part.

Subpart B—Program and Eligibility Requirements

§ 245.101 Certification program required.

(a) Each railroad subject to this part shall have a written dispatcher certification program.

(b) Each certification program shall include all of the following:

(1) A procedure for evaluating prior safety conduct as a motor vehicle operator that complies with the criteria established in § 245.111.

(2) A procedure for evaluating prior safety conduct as an employee or certified dispatcher with other railroads that complies with the criteria established in § 245.113.

(3) A procedure for evaluating potential substance abuse disorders and compliance with railroad alcohol and drug rules that complies with the criteria established in § 245.115.

(4) A procedure for evaluating visual and hearing acuity that complies with the criteria established in §§ 245.117 and 245.118.

(5) A procedure for training that complies with the criteria established in § 245.119.

(6) A procedure for knowledge testing that complies with the criteria established in § 245.121.

(7) A procedure for monitoring operational performance that complies

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with the criteria established in § 245.123.

§ 245.103 FRA review of certification programs.

(a) *Certification program submission schedule for railroads with current dispatching operations.* Each railroad with current dispatching operations, as of July 22, 2024, shall submit its dispatcher certification program to FRA, in accordance with the procedures and requirements contained in § 245.107, according to the following schedule:

(1) All Class I railroads (including the National Railroad Passenger Corporation) and railroads providing commuter service shall submit their programs to FRA no later than March 17, 2025.

(2) All Class II railroads and Class III railroads (including a switching and terminal or other railroad not otherwise classified) shall submit their programs to FRA no later than November 12, 2025.

(b) *Certification program submission for new dispatching railroads.* For each railroad that commences dispatching operations after July 22, 2024, the railroad shall submit its written dispatcher certification program to, and obtain approval from, FRA in accordance with the procedures and requirements contained in § 245.107, prior to commencing dispatching operations.

(c) *Method for submitting certification programs to FRA.* Railroads must submit their written certification programs and their requests for approval (described in § 245.107(a)) by emailing the documents to FRADISPATHCERTPROG@dot.gov.

(d) *Notification requirements.* Each railroad that submits a program to FRA must:

(1) Simultaneously with its submission, provide a copy of the program and the request for approval (as described in § 245.107(a)) to the president of each labor organization that represents the railroad's dispatchers and to all of the railroad's dispatchers that are subject to this part; and

(2) Include in its submission to FRA, a statement affirming that the railroad has provided a copy of the program and the request for approval to the president of each labor organization that represents the railroad's dispatchers