

(1) The person is a certified dispatcher; and

(2) The person either:

(i) Possesses the necessary territorial qualifications for the applicable territory pursuant to §245.119; or

(ii) Is assisted by a Dispatcher Pilot who is qualified on the territory.

(b) If a person is called to serve on a territory that they are not qualified on, the person must immediately notify the railroad that they are not qualified on the assigned territory.

(c) A person shall no longer be considered qualified on a territory if they have not worked on that territory as a dispatcher in the previous 12 months.

(d) Each railroad shall adopt and comply with a program meeting the requirements of this section. When any person (including, but not limited to, each railroad, railroad officer, supervisor, and employee) violates any requirement of a program which complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

§ 245.121 Knowledge testing.

(a) After FRA has approved a railroad's dispatcher certification program, the railroad shall determine, prior to issuing any person a dispatcher certificate and in accordance with the requirements of this section, that the person has demonstrated sufficient knowledge of the railroad's rules and practices for the safe movement of trains.

(b) In order to make the knowledge determination required by paragraph (a) of this section, a railroad shall have procedures for testing a person being evaluated for certification as a dispatcher that are:

(1) Designed to examine a person's knowledge of the railroad's operating rules and practices for the safe movement of trains;

(2) Objective in nature;

(3) In written or electronic form;

(4) Covering the following subjects:

(i) Safety and operating rules;

(ii) Timetable instructions;

(iii) Compliance with all applicable Federal regulations;

(iv) Physical characteristics of the territory or territories on which a per-

son is currently working or training to qualify as a dispatcher; and

(v) Dispatching systems and technology.

(5) Sufficient to accurately measure the person's knowledge of the covered subjects; and

(6) Conducted without open reference books or other materials except to the degree the person is being tested on their ability to use such reference books or materials.

(c) The railroad shall provide the certification candidate with an opportunity to consult with a supervisory employee who possesses territorial qualifications for the territory to explain a test question.

(d) If a person fails the test, no railroad shall permit or require that person to work as a dispatcher prior to that person's achieving a passing score during a reexamination of the test.

(e) Each railroad shall adopt and comply with a program meeting the requirements of this section. When any person (including, but not limited to, each railroad, railroad officer, supervisor, and employee) violates any requirement of a program which complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

§ 245.123 Monitoring operational performance.

(a) Each railroad's certification program shall describe how it will monitor the operational performance of its certified dispatchers by including procedures for:

(1) Giving each certified dispatcher at least one unannounced railroad and Federal rules, territorial and dispatch systems compliance test each calendar year, except as provided for in paragraph (c) of this section;

(2) Giving unannounced compliance tests to certified dispatchers who return to dispatcher service after performing service that does not require certification pursuant to this part, as described in paragraph (c) of this section; and

(3) What actions the railroad will take if it finds deficiencies in a dispatcher's performance during an unannounced compliance test.

§ 245.125

(b) An unannounced compliance test shall:

(1) Test certified dispatchers for compliance with one or more operational tests in accordance with the provisions of § 217.9 of this chapter;

(2) Be performed by a railroad officer who meets the requirements of § 217.9(b)(1) of this chapter; and

(3) Be given to each certified dispatcher at least once each calendar year, except as provided for in paragraph (c) of this section.

(c) A certified dispatcher who is not performing service that requires certification pursuant to this part does not need to be given an unannounced compliance test. However, when the certified dispatcher returns to service that requires certification pursuant to this part after not being given an unannounced compliance test in a calendar year, the railroad shall:

(1) Give the certified dispatcher an unannounced compliance test within 30 days of their return to dispatcher service; and

(2) Retain a written record that includes the following information:

(i) The date the dispatcher stopped performing service that required certification pursuant to this part;

(ii) The date the dispatcher returned to service that required certification pursuant to this part; and

(iii) The date and the result of the unannounced compliance test that was performed following the dispatcher's return to service requiring certification.

(d) Each railroad shall adopt and comply with a program meeting the requirements of this section. When any person (including, but not limited to, each railroad, railroad officer, supervisor, and employee) violates any requirement of a program which complies with the requirements of this section, that person shall be considered to have violated the requirements of this section.

§ 245.125 Certification determinations made by other railroads.

(a) A railroad that is considering certification of a person as a dispatcher may rely on certain determinations made by another railroad concerning that person's certification.

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(b) A railroad relying on certification determinations made by another railroad shall still be responsible for determining that:

(1) The prior certification is still valid in accordance with the provisions of §§ 245.201 and 245.307;

(2) The person has received training on the physical characteristics of the new territory in accordance with § 245.119; and

(3) The person has demonstrated the necessary knowledge concerning the railroad's operating rules, territory, dispatch systems and technology in accordance with § 245.121.

Subpart C—Administration of the Certification Program

§ 245.201 Time limitations for certification.

(a) After FRA approves a railroad's dispatcher certification program, that railroad shall not certify or recertify a person as a dispatcher if the railroad is making:

(1) A determination concerning eligibility under §§ 245.111, 245.113, 245.115, and 245.303 and the eligibility data being relied on was furnished more than one year before the date of the railroad's certification decision;

(2) A determination concerning visual or hearing acuity and the medical examination being relied on was conducted more than 450 days before the date of the railroad's certification decision; or

(3) A determination concerning demonstrated knowledge and the knowledge examination being relied on was conducted more than one year before the date of the railroad's certification decision, or more than two years before the date of the railroad's certification decision if the railroad administers a knowledge testing program pursuant to § 245.121 at intervals that do not exceed two years.

(b) The time limitations of paragraph (a) of this section do not apply to a railroad that is making a certification decision in reliance on determinations made by another railroad in accordance with § 245.125.

(c) Except if a person is designated as a certified dispatcher under § 245.105(c) or (d), no railroad shall certify a person