

company prior to the acquiring railroad commencing operation.

(i) A railroad shall provide for the continuing education of its certified signal employees to ensure that each certified signal employee maintains the necessary knowledge concerning:

(1) Railroad safety and operating rules;

(2) Compliance with all applicable Federal railroad safety laws, regulations, and orders; and

(3) Compliance with all applicable standards, procedures, and instructions for the installation, operation, testing, maintenance, troubleshooting, and repair of new and existing signal systems and new and existing signal-related technology deployed on the railroad.

(j) Each railroad shall adopt and comply with a program meeting the requirements of this section. When any person (including but not limited to a railroad; any manager, supervisor, official, or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any employee of such owner, manufacturer, lessor, lessee, or independent contractor or subcontractor) 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.

#### § 246.120 Requirements for qualification.

(a) After FRA has approved a railroad's certification program, a railroad shall not permit or require a person to serve as a signal employee, as defined in § 246.7, unless that railroad determines that:

(1) The person is a certified signal employee; and

(2) The person either:

(i) Is qualified, as defined in § 246.7, on the signal system equipment and signal-related technology (whether existing or new) and therefore may reasonably be expected to be proficient on all safety related tasks the person is assigned to perform; or

(ii) Is working under the direct and immediate supervision of a mentor or qualified instructor.

(b) If a person is called to perform work on signal system equipment or

signal-related technology that they are not qualified on, the person must immediately notify the railroad that they are not qualified on the signal system equipment or signal-related technology.

(c) A person shall no longer be considered qualified on signal system equipment or signal-related technology if they have not performed work that requires certification pursuant to this part on signal system equipment or signal-related technology 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 a railroad; any manager, supervisor, official, or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any employee of such owner, manufacturer, lessor, lessee, or independent contractor or subcontractor) 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.

#### § 246.121 Knowledge testing.

(a) After FRA has approved a railroad's signal employee certification program, the railroad shall determine, prior to issuing any person a signal employee certificate and in accordance with the requirements of this section, that the person has demonstrated sufficient knowledge of the railroad's signal standards, test procedures, and instructions for the installation, operation, testing, maintenance, troubleshooting, and repair of the railroad's signal system equipment and signal-related technology.

(b) 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 signal employee that:

(1) Are designed to examine a person's knowledge of:

(i) All applicable Federal railroad safety laws, regulations, and orders governing signal systems and signal-related technology;

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(ii) All applicable railroad safety and operating rules; and

(iii) All applicable railroad standards, procedures, and instructions for the installation, operation, testing, maintenance, troubleshooting, and repair of the railroad's signal systems and signal-related technology, including:

(A) The railroad's rules and standards for disabling and removing signal systems from service; and

(B) The railroad's rules and standards for placing signal systems back in service;

(2) Are objective in nature;

(3) Include a practical demonstration component;

(4) Are in written or electronic form;

(5) Are sufficient to accurately measure the person's knowledge of the subjects listed in paragraph (b)(1) of this section; and

(6) Allow for testing conducted with reference to books and other written materials, as addressed in the railroad's certification program.

(c) The railroad shall provide the certification candidate with an opportunity to consult with a mentor, signal instructor or qualified instructor to explain one or more test questions.

(d) If a person fails the test, no railroad shall permit or require that person to work as a certified signal employee 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 a railroad; any manager, supervisor, official, or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any employee of such owner, manufacturer, lessor, lessee, or independent contractor or subcontractor) 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.

**§ 246.123 Monitoring operational performance.**

(a) Each railroad's certification program shall describe how it will monitor

the operational performance of its certified signal employees by including procedures for:

(1) Giving each certified signal employee at least one unannounced compliance test each calendar year in one of the following areas: the railroad's signal system standards and test procedures, or Federal regulations concerning signal systems, except as provided for in paragraph (d) of this section;

(2) Giving unannounced compliance tests to certified signal employees who return to signal work that requires certification pursuant to this part, as described in paragraph (d) of this section;

(3) What actions the railroad will take if it finds deficiencies in a certified signal employee's performance during an unannounced compliance test; and

(4) Monitoring the performance of signal-related tasks.

(b) An unannounced compliance test shall:

(1) Be performed by a certified signal employee; and

(2) Be given to each certified signal employee at least once each calendar year, except as provided for in paragraph (d) of this section.

(c) If the railroad's certification program classifies signal employees pursuant to § 246.107, the unannounced compliance test shall be within scope of the certified signal employee's classification.

(d) A certified signal employee who is not performing signal work that requires certification pursuant to this part does not need to be given an unannounced compliance test. However, when the certified signal employee returns to signal work that requires certification pursuant to this part, the railroad shall:

(1) Give the certified signal employee an unannounced compliance test within 30 days of their return to signal work that requires certification; and

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

(i) The date the certified signal employee stopped performing work that required certification pursuant to this part;