Training, Qualification, and Oversight for Safety-Related Railroad Employees

49 CFR Part 243
Objectives

• Understand the purpose of the regulation
• Explain who a safety-related employee is
• Review key provisions
• Discuss important dates
• Understand program components and approval process
• Understand program implementation and oversight requirements
Purpose of the Regulation

- Fulfills a statutory requirement in the Rail Safety Improvement Act (RSIA) of 2008
- To ensure that any person employed by a railroad or a contractor of a railroad as a “safety-related” railroad employee is trained and qualified to comply with any relevant Federal railroad safety laws
Safety-Related RR Employee

• Employees covered by the Hours of Service laws
• Employees performing work as an operating employee, even if not covered by the Hours of Service laws
• All engineering (MOW) including bridge workers inspect, install, repair, or maintain track, roadbed, and signal and communication systems
Safety-Related RR Employee cont.

- Mechanical personnel who inspect, install, or repair any locomotive, passenger car, freight car, or MOW vehicle
- Any person who, as a primary duty, directly instructs, mentors, inspects, or tests others engaged in a safety-related task (includes first line supervisors of operating employees)
Key Provisions

• Railroad and contractor employers must submit training programs for FRA approval
• Employees must be trained to measurable standards to prove they are qualified (OJT)
• Large employers must conduct periodic oversight of their employees
• Large employers must conduct annual written reviews of their training programs
Key Provisions cont.

- Learning organizations and training institutions will need FRA approval prior to providing training services to employers of safety-related railroad employees.
- Encourages model training program development by railroad associations that can be used by other small employers.
Subpart B
Program Components and Approval Process
## Implementation Snapshot

<table>
<thead>
<tr>
<th>Topic</th>
<th>≥400k</th>
<th>&lt;400k</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submit Program</td>
<td>01/01/2018</td>
<td>05/01/2019</td>
</tr>
<tr>
<td>Designating Existing Employees (Grandfathering)</td>
<td>09/01/2018</td>
<td>01/01/2020</td>
</tr>
<tr>
<td>Start Refresher</td>
<td>01/01/2020</td>
<td>05/01/2022</td>
</tr>
<tr>
<td>Complete Refresher</td>
<td>12/31/2022</td>
<td>12/31/2023</td>
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</table>
Employer Programs
§ 243.101

• With the previous submission dates in mind, employers do not have to wait on FRA approval before adopting, implementing and complying with program(s)

• Employers commencing operations after January 1, 2018 with $400k employee hours must submit training programs prior to commencing operations, then must adopt, implement, and comply upon commencing ops
Classifying Safety-Related RR Employees

- Simply means identifying Safety-Related RR Employees in categories or subcategories by class, craft, task, or other terminology e.g. Category Matrix.docx

- Classification of employees is not necessarily by job title, rather it is based on performance of safety-related tasks
Key Learning Points
Task and Knowledge-based Training

• The training program must include a description of procedures used by the employer to identify key learning points.

• Key learning points are generally captured in Enabling Objectives:
  - **Terminal Objectives** start with an action verb and are the general objectives that apply to the entire course curriculum. A terminal objective is written to describe each major job performance outcome expected as a result of training.
  - **Enabling Objectives** start with an action verb and define the skills, knowledge, or behaviors the learner must reach in order to successfully complete terminal objectives.
Design, Development and Delivery

• The regulation encourages use of technology for the delivery of training

• Emphasis is on learning transfer to ensure the learner has acquired the skills and qualified to perform the task(s)
OJT

• FRA will generally expect to see OJT associated with tasks that require neuromuscular coordination

• OJT must be structured and consist of the following three elements:
  – Task
  – Condition
  – Standards

What does that mean? Let’s take a look!
Duty: Insert description title here

The “Duty” is the description of a series of related tasks that must be performed to meet the requirements of the job. The description should include an action verb. In this context, duties are all task(s) associated with Federal regulations mechanical employees are expected to perform, or may perform in connection with the discharge of their duties, e.g. air brake tests, locomotive inspection, blue signal display, etc.

Note about Accuracy: A fairness doctrine is generally required. For example, the organization might require 100% accuracy for a simple task of one that is absolutely essential, but 90% accuracy for a more complex task that takes into consideration the fact that anyone can miss a non-complying condition from time-to-time.

<table>
<thead>
<tr>
<th>Performance Tasks</th>
<th>Conditions Tools, Equipment, Documents, Practice</th>
<th>Standards Time, Completeness, or Accuracy</th>
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| **Performance** is a basic description of the task or related tasks that the learner is supposed to be able to do. It should be no more than one sentence in length. | **Conditions** are the things the organization, including the trainers teaching the learners, are required to give the learners so that they can prepare themselves to meet the standards that relate to this task. They include:  
  - Gauges, level boards, or other tools and equipment necessary.  
  - Documents, such as the applicable CFR Parts/Section, railroad SOP or safety rule manuals, etc.  
  - Practice is essential for the sake of both fairness, and enhancement of proficiency. It is not reasonable to expect certain things of employees unless they are given sufficient exposure to it. A good rule of thumb is at least two practice sessions for each repetition expected in the Standards column. | **Standards** start with an educational verb. The amount of repetition, the completeness, and the percentage of accuracy are driven by the complexity of the related task, as described in the “Performance” column.  
  - Repetition might be one time for a simple task such as identifying the number of placards required on a car load of one HM product, or it might be 3, 4, or 5 repeats for a complex task such as inspecting a locomotive for compliance with the Locomotive Inspection Standards.  
  - Completeness is the ability to show the person doing the evaluation that the learner is able to go through all of the steps necessary to successfully perform the task. It is a strong indicator of proficiency. |
**OJT Task, Conditions Standards Examples**

**Duty 1: Apply Air Brake Inspection and Testing Requirements – Freight and/or Passenger**

**Note:** At locations where freight and passenger train service is present, the trainee will perform both freight and passenger performance tasks. If passenger operations are not available, then those tasks are optional and must not be used to withhold qualification of the trainee.

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<tr>
<td><strong>Task 1-1:</strong> Demonstrate an understanding of when a Class I (Initial Terminal) freight air brake test must be performed.</td>
<td>Given an opportunity to read §232.205 and to assist in observing at least five Class I freight air brake tests with a trainer, the trainee will:</td>
<td>Find, on three separate inspections, at least 95% of any non-complying conditions noted by the qualified trainer. Non-complying conditions may include, but are not limited to, the following:</td>
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- Improper brake pipe pressure.
- Inoperative brake.
- Excessive brake pipe leakage.
- Excessive air flow (CFM).
- Improper gradient.
- Brake rigging fouling.
- Excessive piston travel.
- Insufficient piston travel.
- Brakes ineffective.
- Brake connection rods/pins worn or missing.
- Brake shoes worn or missing.
- Brake hose worn.
- Brake pipe insecure.
- Slack adjuster inoperative (if equipped).
- Angle or cut-out cock not properly positioned.
- Documentation or record of Class I brake test.
### Duty 1: Apply Air Brake Inspection and Testing Requirements – Freight and/or Passenger

**Note:** At locations where freight and passenger train service is present, the trainee will perform both freight and passenger performance tasks. If passenger operations are not available, then those tasks are optional and must not be used to withhold qualification of the trainee.

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<td><strong>Task 1-2:</strong> Demonstrate an understanding of when a Class III freight air brake test must be performed.</td>
<td>Given an opportunity to read § 232.211 and to assist in observing at least two Class III freight air brake tests with a trainer, the trainee will:</td>
<td>Orally describe how, when and where Class III freight air brake tests are required to be performed.</td>
</tr>
<tr>
<td><strong>Task 1-3:</strong> Demonstrate an understanding of a transfer train freight air brake test.</td>
<td>Using 49 CFR Part 232 as a reference, the trainee will, to the satisfaction of the trainer:</td>
<td>Orally describe by whom, how, when and where transfer train freight air brake tests are required to be performed.</td>
</tr>
<tr>
<td><strong>Task 1-4:</strong> Demonstrate an understanding of freight brake tests using a yard test plant.</td>
<td>Given an opportunity to read 49 CFR Part 232 and to assist in observing at least three freight air brake tests conducted with a yard test plant with a trainer, the trainee will, to the satisfaction of the trainer:</td>
<td>Orally describe the relevancy on each of the following: Test plant performance. Connection of the device to train. Overcharging considerations. Off air considerations. Minimum brake pipe pressure. Gradient requirement. Calibration. Periodic inspection, maintenance and documentation. Cold weather considerations.</td>
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**Contractor/Railroad Relationships**

- If contractor chooses to train its own safety-related employees to perform safety-related duties on railroad, contractor must prove (i.e. approval document from FRA) to railroad that training program was approved by FRA.

- Railroads that utilize contractor safety-related employees to perform safety-related duties are required to retain proof of contractor approval document.

- These requirements are necessary to ensure each party understands who is responsible for training.
Training Components in Program
§ 243.103

Sufficient detail is required by this subsection to enable FRA to make assessments during the review about each training program submitted. The submission must include the following components:

1. A unique name and identifier for each formal course of study
2. A course outline
3. A document for each OJT program
4. Employer’s training (primary) POC contact information for each for employee occupational category
5. Additional information if any TO/UL developed and delivered all or part of the training

Let’s take a closer look at the five components above
Option Model Programs

§ 243.105

• This subsection permits organization, business, or associations to develop training programs that could be used by multiple employers.

• FRA encourages a modular approach to model program development to allow for easy customization by employers.

• Program detail requirements are the same as previously discussed.

• Model programs submitted to FRA prior to May 1, 2017 are considered approved and may be implemented 180 days after date of submission, unless the FRA notifies the organization that developed and submitted the program that it (the program), contains deficiencies.

• An employer that uses a model program approved by FRA only needs to submit the unique identifier and any additional information that is specific to that employer or deviated from the model program.
• There are additional training program submission requirements under this subsection

• As an employer, there are five questions that need to be answered with respect training that is administered to safety-related railroad employees (we will review a checklist shortly)

• FRA needs this additional information to have an understanding about an employers approach to training

• TO/LI full name needs to be provided if an employer uses a TO/LI to train all or some of its safety-related railroad employees, to include new hires previously trained by TO/LI
Program Submission Review/Approval
§ 243.109

• Apprenticeships and intern programs that began prior to the employer’s initial program may continue, but must be described in the initial submission

• Employers do not have to wait on FRA approval before adopting and implementing a submitted program

• Programs submitted by employers are considered approved upon submission
Program Submission cont.

§ 243.109

- Informational filings in connection with previously approved programs can be submitted at any time, but no later than 30 days after the calendar year in which the mod occurred.

- All new or refresher courses developed since the previous submission must be submitted using the same criteria previously discussed.

- With respect to model program revisions, developer (biz, org, association, etc.) is required to publicize notice of informational filings concerning model program revisions.
Program Submission cont.

§ 243.109

• New portions or substantial revisions to a previously approved program not described in information filings are considered approved and may be implemented upon submission to FRA.

• If applicable, copies of each program must be provided to the president of each labor organization (NLT 90 days from filing).

• FRA will provide notification of acceptance, as well as disapproval or partial disapproval.

• In the case of disapproval or partial disapproval, the 90 day clock starts for remediation with options for extension on case by case basis.
Training Orgs. and Learning Inst.  
§ 243.111

- Training organizations and learning institutions (TO/LI) that provide training to safety-related employees must receive FRA approval prior to implementation if start-up is after 01/01/2017.
- Otherwise, existing TO/LI need approval no later than 01/01/2018 to continue (extensions may be granted with sufficient facts).
TO/LI cont.

§ 243.111

• TO/LI must submit the same information previously discussed, unless the component can only apply to an employers program.
• TO/LI must also submit the following information:
  1. The full corporate or business name
  2. Primary business and email address
  3. Primary telephone number and point of contact
  4. List of designated instructors (DI)
  5. Resume for each DI showing how SME and training experience was acquired, unless DI is employed by RR
  6. List of references for TO/LI past services
  7. Brief, but detailed summary statement indicating how TO/LI determined the KSA’s necessary to develop training courses for safety-related railroad employees
TO/LI cont.

§ 243.111

• Substantial additions/revisions to programs that are not considered informational filings must receive FRA approval prior to implementation.

• Informational filings for previously approved programs are considered approved upon submission and may be implemented, provided it is submitted to FRA NLT 30 days after the end of the calendar year in which the modifications occurred.

• In addition, the informational filing shall contain the same information as required in the initial filing e.g. description of new or refresher courses, OJT or practice sessions added, changes to delivery of training, or qualifying employees.

• A student’s training transcript or training record shall be provided to any employer upon request by the student.
Electronic Program Submission
§ 243.113

• Employers ≥ 400k employee work hours and LI/TO must submit training programs (including model programs) electronically to FRA

• Prior to electronic submission, the employer, LI/TO, or association must provide the following to FRA:
  1. Name of employer, LI/TO, or association
  2. POC to include job titles *(minimum of two)*
  3. POC mailing addresses
  4. POC system or main HQ address located in the USA
  5. POC Email address
  6. POC daytime telephone number

• Notice of approval, partial approval, and disapproval will be provided via email
Written Program Submission
§ 243.113

• Written material programs submitted for review shall be addressed to FRA, 1200 New Jersey Ave. SE, Washington, DC 20590

• Notice of approval, partial approval, and disapproval will be provided via email
Subpart C
Program Implementation and Oversight
Employee Qualifications

§ 243.201

• NLT January 1, 2018, employers with ≥ 400k employee hours must declare the designations of its existing safety-related employees.

• NLT January 1, 2020, employers with < 400k employee hours must declare the designations of its existing safety-related employees.

• FRA may grant extensions on case by case basis.
Employee Qualifications - cont.

§ 243.201

- Excluding employers with <400k employee hours, employers that commence operations after January 1, 2018, shall declare the designation of its safety-related employees.

- Designated safety-related employees falling under the above scenario must meet the training requirements of a newly hired employee including OJT when required.
Employee Qualifications - New Hires

§ 243.201

• In order for an employee to become a member of an occupational category, the employee must successfully complete all formal training curriculum, including OJT when required.

• When OJT is required, the employee must demonstrate proficiency of all safety-related tasks, to the satisfaction of the designated instructor.

• OJT practice is permitted by an employee prior to formal completion of training under the watchful eye of a qualified person, provided that person can intervene if an unsafe act is observed – Note: The qualified person must be qualified in the safety related tasks being observed.
Employee Qualifications - New Hires

§ 243.201

• Safety-related employees qualified or trained by other than the current employer may be deemed qualified provided:
  1. A record of training from the previous entity is obtained, or
  2. In the event no record exists, the current employer must perform testing to assess the KSA’s of the employee to be a member of the occupational category
  3. When an employee has not performed the safety-related duties, or has not received any training associated with the occupational category in the previous 180 days, testing as described above (Item 2) applies
## Employee Qualifications - Refresher

### § 243.201

<table>
<thead>
<tr>
<th>Employers ≥ 400k employee work hours</th>
<th>Begin Implementation 01/01/2020</th>
<th>Complete First 3-year cycle 12/31/2022</th>
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<tbody>
<tr>
<td><strong>Part 243 three year refresher training cycle begins. However, if the last training event occurs prior to FRA’s approval of the employer’s program, the employer shall provide refresher training either 3 calendar years from that prior training event, or no later than December 31, 2022.</strong></td>
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*Note: Some FRA regulations require refresher training at more frequent intervals. Part 243 does not supersede those requirements.*

<table>
<thead>
<tr>
<th>Employers &lt; 400k employee work hours</th>
<th>Begin Implementation 05/01/2021</th>
<th>Complete First 3-year cycle 12/31/2023</th>
</tr>
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*Note: Some FRA regulations require refresher training at more frequent intervals. Part 243 does not supersede those requirements.*
Records
§ 243.203

• Employers shall maintain records to prove qualification status of each safety-related employee it employs.
• Records of former safety-related employees must be retained for at least 6 years after employment relationship ends.
• Current employee records shall be accessible at the employer’s system HQ.
Records - Details Formal Courses
§ 243.203

• Employee record details as follows with respect to formal courses successfully completed:
  – Name and occupational category or subcategory deemed qualified
  – Dates and title of each formal training course successfully completed
  – If course provided by TO/LI approved by FRA, attach copy of transcript
Records – Details OJT
§ 243.203

- Employee record details as follows with respect to OJT successfully completed:
  - OJT Program Unique Name or Identifier
  - Date OJT successfully completed
  - Name of person(s) that determined employee is qualified to perform safety-related tasks in occupational category
  - Date Employee Qualified in Occupational Category
Records - Accessibility
§ 243.203

- Excluding employee qualification records, efficiency/operational tests, periodic observations, etc., shall be accessible for 3 calendar years to which the event relates.
- Records shall be accessible at HQ location within the USA.
- All entities shall make records available to FRA upon request during normal business hours.
- Entities shall also make records available to individual employees, former employees, or their representative upon written authorization by employee during normal biz hours.
Records - eRecords Management
§ 243.203

• Employers, TO/LI, must use reasonable security methods to prevent unauthorized access and ensure data integrity.

• The program must utilize an employee ID and password or comparable protocol for program access to include the following standards:
  – No two persons may have the same eID.
  – A record cannot be deleted or altered by anyone after the record is certified by the author.
Records - eRecords Management
§ 243.203

• Amending records must either:
  – Electronically stored apart from the record it amends, or
  – Electronically attached as information w/o changing the original record
• Amended records must uniquely ID the person making the amendment
• Employer, TO/LJ must provide FRA access to eRecords
• eRecords must be in usable format and furnished to FRA upon request
• eRecords furnished to FRA must be authenticated by a railroad representative if requested to do so by FRA
Records - Transfer of Records

§ 243.203

Employers ceasing to do business and taken over by another employer must transfer records to the new employer
Periodic Oversight
§ 243.205

• Periodic Oversight is to assess the effectiveness of training programs and make curriculum adjustments to initial or refresher training programs as needed.

• The scope of Periodic Oversight only applies to FRA regulations pertaining to personal and work group safety, specifically:
  ➢ Part 214 Railroad Workplace Safety
  ➢ Part 218 Railroad Operating Practices
  ➢ Part 220 Railroad Communications

• Periodic Oversight is not required for employees covered by Engineer and Conductor Certification.

• Railroads are required to identify supervisory personnel in each category or subcategory responsible for Periodic Oversight.
Periodic Oversight - RR Exceptions
§ 243.205

Railroads not required to conduct Periodic Oversight of contactor safety-related railroad employees because the contractor:

- Employs more than 15 safety-related railroad employees
- Relies on its own training it directly provides to qualify its own employees for safety-related duties
- Employs supervisory safety-related personnel capable of Periodic Oversight

Additional railroad exceptions include:

- Railroad does employ qualified personnel to conduct oversight of contractor safety-related railroad employees
- Supervisors that conduct oversight
Periodic Oversight - Railroad Discretion
§ 243.205

• Railroads are not required to conduct operations tests on contactor safety-related railroad employees working on their property, but nothing prevents it.
• Railroads have sole discretion to test or not to test.
• However, if the railroad observes non-compliance, it must notify the employee and employer and provide details.
• Railroads may train contractors to provide Periodic Oversight, but it must be specified in the program.
Annual Review
§ 243.207

- Not required for railroad with <400k employee work hours
- Purpose of review is to assess if any training opportunities exist by reviewing sources of data that indicate systemic gaps in processes or procedures
- Sources of information include:
  - Periodic oversight data as required by §243.205
  - Accident/Incident data
  - FRA Inspection report data
  - Employee post-course training evaluation feedback (if available)
  - Feedback from labor organizations (if available)
Annual Review - Results
§ 243.207

• Railroads are required to:
  – Designate person to conduct annual review and coordinate any necessary adjustments to course curriculum (initial or refresher)
  – Notify contractor of any training program changes as a result of the annual review (Note: Only when railroad utilizes contractors that train their own employees)

• Contactors shall use any information provided by a railroad to adjust its training specific to Federal regulations, laws, and orders
List Contactors Utilized

§ 243.209

- Railroads that utilize contractors for safety-related duties are required to provide:
  - The full corporate or business name of the contactor
  - Contractor’s primary business address, email address, and primary telephone number

- The above information not required if:
  - The railroad qualifies the safety-related employees utilized
  - Maintains records for each safety-related employee
Part 243 Review

“Important Dates to Remember”

“Course Description/Outline Definitions Checklist”

“Additional Training Program Information Submission Checklist”

“Employee Training Record Checklist”

“Occupational Categories/Subcategories Matrix”
Discussion and Q&A