

some type of observation or evaluation. For railroads developing any evaluation form, the areas of concern identified earlier will not be relevant in all instances. Railroads that do not have sophisticated operations would only need a short list of subjects. For example, most smaller railroads would not require line items pertaining to compliance with signal rule compliance or the use of dynamic brakes. Conversely, in all instances the observation forms should include the time and location that the observer started and ended the observation. FRA believes that there should be a minimum duration for all performance skills examinations. FRA allows railroads to select a duration appropriate for their individual circumstances, requiring only that the period be "of sufficient length to effectively evaluate the person." In exercising its discretion FRA suggests that the minimums selected by a railroad be stated in terms of a distance since the examination has to be of a sufficient duration to adequately monitor the operator's skills in a variety of situations. FRA also suggests that the format for the observation form include a space for recording the observer's com-

ments. Provision for comments ideally would allow for the inclusion of "constructive criticism" without altering the import of the evaluation and would permit subjective comments where merited.

APPENDIX F TO PART 240—MEDICAL STANDARDS GUIDELINES

(1) The purpose of this appendix is to provide greater guidance on the procedures that should be employed in administering the vision and hearing requirements of §§240.121 and 240.207.

(2) In determining whether a person has the visual acuity that meets or exceeds the requirements of this part, the following testing protocols are deemed acceptable testing methods for determining whether a person has the ability to recognize and distinguish among the colors used as signals in the railroad industry. The acceptable test methods are shown in the left hand column and the criteria that should be employed to determine whether a person has failed the particular testing protocol are shown in the right hand column.

Accepted tests	Failure criteria
<b>PSEUDOISCHROMATIC PLATE TESTS</b>	
American Optical Company 1965 .....	5 or more errors on plates 1–15.
AOC—Hardy-Rand-Ritter plates—second edition .....	Any error on plates 1–6 (plates 1–4 are for demonstration—test plate 1 is actually plate 5 in book)
Dvorine—Second edition .....	3 or more errors on plates 1–15
Ishihara (14 plate) .....	2 or more errors on plates 1–11.
Ishihara (16 plate) .....	2 or more errors on plates 1–8.
Ishihara (24 plate) .....	3 or more errors on plates 1–15.
Ishihara (38 plate) .....	4 or more errors on plates 1–21.
Richmond Plates 1983 .....	5 or more errors on plates 1–15.
<b>MULTIFUNCTION VISION TESTER</b>	
Keystone Orthoscope .....	Any error.
OPTEC 2000 .....	Any error.
Titmus Vision Tester .....	Any error.
Titmus II Vision Tester .....	Any error.

(3) In administering any of these protocols, the person conducting the examination should be aware that railroad signals do not always occur in the same sequence and that "yellow signals" do not always appear to be the same. It is not acceptable to use "yarn" or other materials to conduct a simple test to determine whether the certification candidate has the requisite vision. No person shall be allowed to wear chromatic lenses during an initial test of the person's color vision; the initial test is one conducted in accordance with one of the accepted tests in the chart and §240.121(c)(3).

(4) An examinee who fails to meet the criteria in the chart, may be further evaluated as determined by the railroad's medical examiner. Ophthalmologic referral, field test-

ing, or other practical color testing may be utilized depending on the experience of the examinee. The railroad's medical examiner will review all pertinent information and, under some circumstances, may restrict an examinee who does not meet the criteria from operating the train at night, during adverse weather conditions or under other circumstances. The intent of §240.121(e) is not to provide an examinee with the right to make an infinite number of requests for further evaluation, but to provide an examinee with at least one opportunity to prove that a hearing or vision test failure does not mean the examinee cannot safely operate a locomotive or train. Appropriate further medical evaluation could include providing another approved scientific screening test or

a field test. All railroads should retain the discretion to limit the number of retests that an examinee can request but any cap placed on the number of retests should not limit retesting when changed circumstances would make such retesting appropriate. Changed circumstances would most likely occur if the examinee's medical condition has improved in some way or if technology has advanced to the extent that it arguably could compensate for a hearing or vision deficiency.

(5) Engineers who wear contact lenses should have good tolerance to the lenses and should be instructed to have a pair of corrective glasses available when on duty.

[64 FR 60996, Nov. 8, 1999]

## PART 241—UNITED STATES LOCAL REQUIREMENT FOR DISPATCHING OF UNITED STATES RAIL OPERATIONS

Sec.

241.1 Purpose and scope.

241.3 Application and responsibility for compliance.

241.5 Definitions.

241.7 Waivers.

241.9 Prohibition against extraterritorial dispatching; exceptions.

241.11 Prohibition against conducting a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

241.13 Prohibition against track owner's requiring or permitting use of its line for a railroad operation dispatched by an extraterritorial dispatcher; exceptions.

241.15 Penalties and other consequences for noncompliance.

241.17 Preemptive effect.

241.19 Information collection.

APPENDIX A TO PART 241—LIST OF LINES BEING EXTRATERRITORIALLY DISPATCHED IN ACCORDANCE WITH THE REGULATIONS CONTAINED IN 49 CFR PART 241, REVISED AS OF OCTOBER 1, 2002

APPENDIX B TO PART 241—SCHEDULE OF CIVIL PENALTIES

APPENDIX C TO PART 241—GEOGRAPHICAL BOUNDARIES OF FRA'S REGIONS AND ADDRESSES OF FRA'S REGIONAL HEADQUARTERS

AUTHORITY: 49 U.S.C. 20103, 20107, 21301, 21304, 21311; 28 U.S.C. 2461, note; 49 CFR 1.49.

SOURCE: 67 FR 75960, Dec. 10, 2002, unless otherwise noted.

### § 241.1 Purpose and scope.

(a) The purpose of this part is to prevent railroad accidents and incidents, and consequent injuries, deaths, and property damage, that would result

from improper dispatching of railroad operations in the United States by individuals located outside of the United States.

(b) This part prohibits extraterritorial dispatching of railroad operations, conducting railroad operations that are extraterritorially dispatched, and allowing track to be used for such operations, subject to certain stated exceptions. This part does not restrict a railroad from adopting and enforcing additional or more stringent requirements not inconsistent with this part.

### § 241.3 Application and responsibility for compliance.

(a) Except as provided in paragraph (b) of this section, this part applies to all railroads.

(b) This part does not apply to—

(1) A railroad that operates only on track inside an installation that is not part of the general railroad system of transportation; or

(2) Rapid transit operations in an urban area that are not connected to the general railroad system of transportation.

(c) Although the duties imposed by this part are generally stated in terms of a duty of a railroad, each person, including a contractor for a railroad, who performs a function covered by this part, shall perform that function in accordance with this part.

### § 241.5 Definitions.

As used in this part:

*Administrator* means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

*Dispatch* means—

(1) To perform a function that would be classified as a duty of a “dispatching service employee,” as that term is defined by the hours of service laws at 49 U.S.C. 21101(2), if the function were to be performed in the United States. For example, to *dispatch* means, by the use of an electrical or mechanical device—

(i) To control the movement of a train or other on-track equipment by the issuance of a written or verbal authority or permission affecting a railroad operation, or by establishing a