§ 228.13 Preemptive effect.

Under 49 U.S.C. 20106, issuance of the regulations in this part preempts any State law, regulation, or order covering the same subject matter, except for a provision necessary to eliminate or reduce an essentially local safety hazard if that provision is not incompatible with a law, regulation, or order of the United States government and does not unreasonably burden interstate commerce. Nothing in this paragraph shall be construed to preempt an action under State law seeking damages for personal injury, death, or property damage alleging that a party has failed to comply with the Federal standard of care established by this part, has failed to comply with its own plan, rule, or standard that it created pursuant to this part, or has failed to comply with a State law, regulation, or order that is not incompatible with the first sentence of this paragraph.

[74 FR 25349, May 27, 2009]

§ 228.19 Monthly reports of excess service.

(a) In general. Except as provided in paragraph (h) of this section, each railroad, or a contractor or a subcontractor of a railroad, shall report to the Associate Administrator for Railroad Safety/Chief Safety Officer, Federal Railroad Administration, Washington, DC 20590, each instance of excess service listed in paragraphs (b) through (e) of this section, in the manner provided by paragraph (f) of this section, within 30 days after the calendar month in which the instance occurs.

(b) For train employees. Except as provided in paragraph (c) of this section, the following instances of excess service by train employees must be reported to FRA as required by this section:

(1) A train employee is on duty for more than 12 consecutive hours.

(2) A train employee continues on duty without at least 10 consecutive hours off duty during the preceding 24 hours. Instances involving duty tours that are broken by less than 10 consecutive hours off duty which duty tours constitute more than a total of 12 hours time on duty must be reported.

(3) A train employee returns to duty without at least 10 consecutive hours off duty during the preceding 24 hours. Instances involving duty tours that are broken by less than 10 consecutive hours off duty during the preceding 24 hours.