§ 228.205 Access to electronic records.

(a) FRA inspectors and State inspectors participating under 49 CFR Part 212 must have access to hours of service records created and maintained electronically that is obtained as required by § 228.9(b)(4).

(b) Railroads must establish and comply with procedures for providing an FRA inspector or participating State inspector with an identification number and temporary password for access to the system upon request, which access will be valid for a period not to exceed seven days. Access to the system must be provided as soon as possible and no later than 24 hours after a request for access.

(c) The inspection screen provided to FRA inspectors and participating State inspectors for searching employee hours of duty records must be formatted so that—

(1) Each data field entered by an employee on the input screen is visible to the FRA inspector or participating State inspector; and

(2) The data fields are searchable as described in §228.203(d) and yield access to all records matching criteria specified in a search.

(3) Records are displayed in a manner that is both crew-based and duty tour oriented, so that the data pertaining to all employees who worked together as part of a crew or signal gang will be displayed together, and the record will include all of the assignments and activities of a given duty tour that are required to be recorded by this part.

§ 228.207 Training.

(a) In general. A railroad, or a contractor or subcontractor to a railroad, shall provide its train employees, signal employees, and dispatching service employees and its supervisors of these employees with initial training and refresher training as provided in this section.

(b) Initial training. (1) Initial training shall include the following:

(i) Instructional components presented in a classroom setting or by electronic means; and

(ii) Experiential (“hands-on”) components; and

(iii) Training on—

(A) The aspects of the hours of service laws relevant to the employee’s position that are necessary to understanding the proper completion of the hours of service record required by this part, and

(B) The entry of hours of service data, into the electronic system or on the appropriate paper records used by the railroad or contractor or subcontractor to a railroad for whom the employee performs covered service; and

(iv) Testing to ensure that the objectives of training are met.

(2) Initial training shall be provided—

(i) To each current employee and supervisor of an employee as soon after May 27, 2009 as practicable; and

(ii) To new employees and supervisors prior to the time that they will be required to complete an hours of service record or supervise an employee required to complete an hours of service record.

(c) Refresher training. (1) The content and level of formality of refresher training should be tailored to the needs of the location and employees involved, except that the training shall—

(i) Emphasize any relevant changes to the hours of service laws, the reporting requirements in this part, or the carrier’s electronic or other record-keeping system since the employee last received training; and

(ii) Cover any areas in which supervisors or other railroad managers are...
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finding recurrent errors in the employees’ records through the monitoring indicators.

(2) Refresher training shall be provided to each employee any time that recurrent errors in records prepared by the employee, discovered through the monitoring indicators, suggest, for example, the employee’s lack of understanding of how to complete hours of service records.

Subpart E [Reserved]

Subpart F—Substantive Hours of Service Requirements for Train Employees Engaged in Commuter or Intercity Rail Passenger Transportation

SOURCE: 76 FR 50397, Aug. 12, 2011

EFFECTIVE DATE NOTE: At 76 FR 50397, Aug. 12, 2011, subpart F was added, effective October 15, 2011.

§ 228.401 Applicability.

(a) Except as provided in paragraph (b) of this section, the requirements of this subpart apply to railroads and their officers and agents, with respect to their train employees who are engaged in commuter or intercity rail passenger transportation, including train employees who are engaged in tourist, scenic, historic, or excursion rail passenger transportation.

(b) This subpart does not apply to rapid transit operations in an urban area that are not connected with the general railroad system of transportation.

§ 228.403 Nonapplication, exemption, and definitions.

(a) General. This subpart does not apply to a situation involving any of the following:

1. A casualty;
2. An unavoidable accident;
3. An act of God; or
4. A delay resulting from a cause unknown and unforeseeable to a railroad or its officer or agent in charge of the employee when the employee left a terminal.

(b) Exemption. The Administrator may exempt a railroad having not more than a total of 15 train employees, signal employees, and dispatching service employees from the limitations imposed by this subpart on the railroad’s train employees who are engaged in commuter or intercity rail passenger transportation. The Administrator may allow the exemption from this subpart after a full hearing, for good cause shown, and on deciding that the exemption is in the public interest and will not affect safety adversely. The exemption shall be for a specific period of time and is subject to review at least annually. The exemption may not authorize a railroad to require or allow its train employees to be on duty more than a total of 16 hours in a 24-hour period.

(c) Definitions. In this subpart—

“Commuter or intercity rail passenger transportation” has the meaning assigned by section 24102 of title 49, United States Code, to the terms “commuter rail passenger transportation” or “intercity rail passenger transportation.”

“Train employee who is engaged in commuter or intercity rail passenger transportation” includes a train employee who is engaged in commuter or intercity rail passenger transportation regardless of the nature of the entity by whom the employee is employed and any other train employee who is employed by a commuter railroad or an intercity passenger railroad. The term excludes a train employee of another type of railroad who is engaged in work train service even though that work train service might be related to providing commuter or intercity rail passenger transportation, and a train employee of another type of railroad who serves as a pilot on a train operated by a commuter railroad or intercity passenger railroad.

§ 228.405 Limitations on duty hours of train employees engaged in commuter or intercity rail passenger transportation.

(a) General. Except as provided in paragraph (c) of this section, a railroad and its officers and agents may not require or allow a train employee engaged in commuter or intercity rail passenger transportation to remain or go on duty—