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—

1. Unless that employee has had at least 8 consecutive hours off duty during the prior 24 hours; or

2. After that employee has been on duty for 12 consecutive hours, until that employee has had at least 10 consecutive hours off duty; or

3. In a series of at most 14 consecutive calendar days, in excess of the following limitations:

   (i) That employee’s first series of at most 14 consecutive calendar days begins on the first calendar day that the employee initiates an on-duty period on or after the compliance date for this paragraph (a)(3), as specified in §228.413. A series of at most 14 consecutive calendar days either ends on the 14th consecutive day or may last for less than 14 days if an employee has accumulated a total of two calendar days on which the employee has not initiated an on-duty period before the beginning of the 14th day of the series. After the employee has accumulated a total of two calendar days on which the employee has not initiated an on-duty period, including at least 24 consecutive hours off duty as required by paragraph (a)(3)(ii) or two consecutive calendar days without initiating an on-duty period as required by paragraph (a)(3)(iii) of this section, during the employee’s current series of at most 14 consecutive calendar days, a new series of at most 14 consecutive calendar days begins on the calendar day in which the employee next initiates an on-duty period. Only calendar days after the starting date of a series are counted toward the accumulation of a total of two calendar days on which the employee did not initiate an on-duty period. A calendar day on which an on-duty period was not initiated that occurred prior to the start of the new series, does not count toward refreshing the new series.

   (ii) If the employee initiates an on-duty period each day on any six or more consecutive calendar days during the series of at most 14 consecutive calendar days, and at least one of the on-duty periods is defined as a Type 2 assignment, that employee must have at least 24 consecutive hours off duty prior to next initiating an on-duty period, except as provided in paragraph (a)(3)(v) of this section.
Federal Railroad Administration, DOT

§ 228.407 Analysis of work schedules; submissions; FRA review and approval of submissions; fatigue mitigation plans.

(a) Analysis of work schedules. Each railroad subject to this subpart must perform an analysis of one cycle of the work schedules (the period within which the work schedule repeats) of its train employees engaged in commuter

489