

§ 228.7

(b) *Criminal penalties.* Any person who knowingly and willfully falsifies a report or record required to be kept under this part or otherwise knowingly and willfully violates any requirement of this part may be liable for criminal penalties of a fine under title 18 of the U.S. Code, imprisonment for up to two years, or both, in accordance with 49 U.S.C. 21311(a).

[76 FR 67087, Oct. 31, 2011, as amended at 77 FR 26704, May 7, 2012]

Subpart B—Records and Reporting

§ 228.7 Hours of duty.

(a) For purposes of this part, time on duty of an employee actually engaged in or connected with the movement of any train, including a hostler, begins when he reports for duty and ends when he is finally released from duty, and includes—

- (1) Time engaged in or connected with the movement of any train;
- (2) Any interim period available for rest at a location that is not a designated terminal;
- (3) Any interim period of less than 4 hours available for rest at a designated terminal;
- (4) Time spent in deadhead transportation en route to a duty assignment; and
- (5) Time engaged in any other service for the carrier.

Time spent in deadhead transportation by an employee returning from duty to his point of final release may not be counted in computing time off duty or time on duty.

(b) For purposes of this part, time on duty of an employee who dispatches, reports, transmits, receives, or delivers orders pertaining to train movements by use of telegraph, telephone, radio, or any other electrical or mechanical device includes all time on duty in other service performed for the common carrier during the 24-hour period involved.

(c) For purposes of this part, time on duty of an employee who is engaged in installing, repairing or maintaining signal systems includes all time on duty in other service performed for a

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common carrier during the 24-hour period involved.

[37 FR 12234, June 21, 1972, as amended at 43 FR 3124, Jan. 23, 1978]

§ 228.9 Records; general.

(a) Each manual record maintained under this part shall be—

- (1) Signed by the employee whose time on duty is being recorded or, in the case of a train and engine crew or a signal employee gang, signed by the ranking crewmember;
- (2) Retained for two years at locations identified by the carrier; and
- (3) Available upon request at the identified location for inspection and copying by the Administrator during regular business hours.

(b) Each electronic record maintained under this part shall be—

- (1) Certified by the employee whose time on duty is being recorded or, in the case of a train and engine crew or a signal employee gang, certified by the reporting employee who is a member of the train crew or signal gang whose time is being recorded;
- (2) Electronically stamped with the certifying employee's name and the date and time of certification;
- (3) Retained for 2 years in a secured file that prevents alteration after certification;
- (4) Accessible by the Administrator through a computer terminal of the railroad, using a railroad-provided identification code and a unique password.
- (5) Reproducible using the printing capability at the location where records are accessed.

[74 FR 25348, May 27, 2009]

§ 228.11 Hours of duty records.

(a) *In general.* Each railroad, or a contractor or a subcontractor of a railroad, shall keep a record, either manually or electronically, concerning the hours of duty of each employee. Each contractor or subcontractor of a railroad shall also record the name of the railroad for whom its employee performed covered service during the duty tour covered by the record. Employees who perform covered service assignments in a single duty tour that are