

"If everyone helps to hold up the sky, then one person does not become tired." –Askhari Jonson Hodari



United as One...

Now and Always

"Unity is a beast in itself. If a wolf sees two little boys playing in the woods on one side, and a big strong man on the other, he will go to the one who stands alone." –Suzy Kassem

This booklet is intended for informational purposes only.

Brothers and sisters,
enclosed you will find
information regarding
several FRA issues that seem
to be an issue for the carrier,
information on what
constitutes a bad order car,
and information on other
issues that we all need to
take a stand on.

Now is the time that we
must take a stand! Please do
not be insubordinate, please
do not be confrontational,
but do let them know when
something is a violation, or if
you believe it to be a
violation. Be sure to turn it in
to the appropriate Union
person to follow up on and
be sure to put in the claim if
one applies.

If you do an air test do a
good and thorough air test, if
you find bad orders set them
out, follow rules work safe.

If you have questions
regarding anything call your
union representative, if we
do not answer please leave a
message, unfortunately we
cannot always answer right

away but rest assured you
are important to us and we
do want to help!

Be sure that you are familiar
with superintendent
bulletins for all service units
you will be on, have good
and thorough job briefings
and rebriefings. Do not print
paperwork or perform any
service until you are on duty.

It is vital that we all show a
united front now and always,
I know that this may mean
longer time on duty, and I
know that no one likes
longer days, believe me I
understand, however if all
we do is say that we want to
stand together and we never
take the actions to do so,
then we have already lost.

When is an air test
required.....

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order.....

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Zone.....

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...

Initial Terminal Airbrake test:

This is taken directly from the FRA, I know that there has been some concern regarding if an air test needs to be performed if they change the symbol of a train, after reading the FRA requirements I am going to say that yes it would as this changes the initial terminal, and as such this is now the terminal where the train was originally assembled as this train did not exist until the new initial terminal and therefore could not have been assembled elsewhere.

If you are challenged on this let them know that you believe this to be an FRA violation get the person's name, title, and time they are instructing you to do this. If possible do this over the radio so that the FRA can review the recorded conversation, I will also need the engine number, the train, location, and any other pertinent information.

§ 232.205 Class I brake test-initial terminal inspection.

(a) Each **train** and each car in the **train** shall receive a Class I brake test as

described in **paragraph (c)** of this section by a **qualified person**, as defined in § 232.5, at the following points:

(1) The location where the **train** is originally assembled ("initial terminal");

(2) A location where the **train** consist is changed other than by:

(i) Adding a single car or a **solid block of cars**, except as provided in **paragraph (b)(2)** of this section;

(ii) Removing a single car or a **solid block of cars**;

(iii) Removing cars determined to be defective under this chapter; or

(iv) A combination of the changes listed in paragraphs (a)(2)(i) through (a)(2)(iii) of this section (See §§ 232.209 and

232.211 for requirements related to the pick-up of cars and solid blocks of cars en route.);

(3) A location where the **train** is **off air** for a period of more than four hours;

(4) A location where a unit or cycle **train** has traveled 3,000 miles since its last Class I brake test; and

(5) A location where the **train** is received in interchange if the **train** consist is changed other than by:

(i) Removing a car or a **solid block of cars** from the **train**;

(ii) Adding a previously tested car or a previously tested **solid block of cars** to the **train**;

(iii) Changing motive power;

(iv) Removing or changing the caboose; or

(v) Any combination of the changes listed in **paragraphs (a)(5)** of this section.

(A) If changes other than those contained in paragraph (a)(5)(i)-(a)(5)(v) of this section are made to the **train** consist when it is received in interchange and the **train** will move 20 miles or less, then the **railroad** may conduct a brake test pursuant to § 232.209 on those cars added to the **train**.

(B) [Reserved]

(b) Except as provided in § 232.209, each car and each **solid block of cars** added to a **train** shall receive a Class I brake test as

described in [paragraph \(c\)](#) of this section at the location where it is added to a [train](#) unless:

(1) The [solid block of cars](#) is comprised of cars from a single previous [train](#), the cars of which have previously received a Class I brake test and have remained continuously and consecutively coupled together with the [train line](#) remaining connected, other than for removing defective equipment, since being removed from its previous [train](#) and have not been [off air](#) for more than four hours; or

(2) The [solid block of cars](#) is comprised of cars from a single previous [train](#), the cars of which were required to be separated into multiple solid blocks of cars due to space or trackage constraints at a particular location when removed from the previous [train](#),

provided the cars have previously received a Class I brake test, have not been [off air](#) more than four hours, and the cars in each of the multiple blocks of cars have remained continuously and consecutively coupled together with the [train line](#) remaining connected, except for the removal of defective equipment. Furthermore, these multiple solid blocks of cars shall be added to a [train](#) in the same relative order (no reclassification) as when removed from the previous [train](#), except for the removal of defective equipment.

Bad Order Cars:

I think that most of us have a clear idea of when a car is bad order, obviously if the brakes will not set, you are allowed to retest one time

and the brake must remain set for a minimum of three minutes, if it does not set after one retest, and remain set for three minutes the car is bad order.

ladder rungs are bent this is bad order.

The FRA also requires retroreflective markings on cars.

Check for proper piston travel truck mounted use the indicator, for body mounted it is 6-9 inches, if this requirement is not met the car is bad order.

49 CFR part 224

The following is the minimum requirement for retroreflective sheeting on freight rolling stock

You must also perform a safety inspection of both sides of the car during an initial terminal air test. The FRA has some requirements that must be met, such as

First I will list the size of the locomotive or car followed by the square footage required if yellow material is used and then if white material is used.

231.1(E) ladders

Less than 50ft. 3.5
4.0

The side ladders must have a minimum of 2 inches of clearance between the rung and the car, and must be uniform, therefore if the

Over 50ft-60ft 4.0
5.0

Over 60ft-70ft 4.5
5.5

Over 70ft-80ft 5.0
6.0

Over 80ft-90ft 5.5
7.0

Over 90ft-100ft
6.0 7.5

Freight cars or locomotives over 100ft in length must be equipped with an additional one-half a square foot of sheeting on each side for every additional 10ft of length.

Hours of Service

I know that there have been questions about when an HOS violation has occurred I will address some of the issues that seem to arise most frequently here.

If you are “dead” and they send you to a terminal that is not the closest tie up terminal to your current location the FRA does not consider this a violation as you are not providing service.

If you are “dead” and there is transportation available and you are required to stay on the train this is a violation of HOS. (keep in mind per UP rules you are responsible for making sure that your train is secure before your hours expire, if you are told to not tie down your train then you

need to let them know that this may be a violation and get times and name of who instructed you to protect the train)

There must be a crew on duty prior to you expiring on your hours or this is a violation.

The following is from the FRA hours of service compliance manual:

TIME LIMITATIONS Time on duty

- After receiving a statutory off-duty period, a train employee is available for a total of 12 hours of time on duty in a 24-hour period.
- A train employee cannot be required or allowed to perform duty after he or she has accumulated a total of 12 hours of time on duty in a duty tour.
- A train employee cannot be required or allowed to perform duty

after the 24-hour point in a duty tour.

- After an employee reaches either 12 hours of time on duty or the 24-hour point in a duty tour, that employee must receive a statutory off-duty period (at least 10 hours off duty) before returning to perform service for the railroad. Activities after 12 hours of time on duty or the 24-hour point in a duty tour

- Waiting for and in deadhead transportation from duty to a point of final release is the only allowable railroad-required activity after an employee has 12 hours of time on duty, or after the 24-hour point in a duty tour. See Chapter 4, Deadhead from duty to a point of final release.

- A train crew is not waiting for deadhead transportation when: o Transportation has not been ordered for the crew, or transportation is available but the crew is required to remain with the train. → In these circumstances, the crew is considered to be monitoring the train (which is commingled

service), not waiting for deadhead transportation, and this time will count as time on duty.

- Alcohol and drug testing o Railroad alcohol and drug testing (not required by Federal regulations) is considered activity at the behest of the railroad and will result in excess service when performed after 12 hours of time on duty in a duty tour. (Alcohol/Drug Manual) o FRA normally recommends a civil penalty when excess service occurs during FRA random drug and alcohol testing. o FRA does not normally recommend a civil penalty when excess service occurs during: → FRA post-accident. → FRA reasonable suspicion. Hours of Service Compliance Manual— Freight Operations 1-7 → FRA reasonable cause or railroad reasonable cause that would have met the criteria for testing under FRA authority. o Railroads must report excess service when it occurs as a result of required alcohol and drug testing, and use due diligence to avoid or minimize the

excess service.
(Alcohol/Drug Manual)

- Incidental service involves a train crew providing limited, but necessary, information to the railroad after the expiration of the 12-hour duty limitation. o FRA recognizes that a certain amount of information must be exchanged for the benefit of both the employee and the railroad. o FRA has traditionally exercised its prosecutorial discretion to allow a limited amount of incidental service such as brief tie-ups, placing paperwork in an inbox, or plugging a laptop computer into a receptacle and hitting a send button. o A quick tie-up may be performed by calling or faxing information to a crew caller, or by completing a quick tie-up on a computer. An employee is limited to providing the following information during a quick tie-up. (49 CFR § 228.5) → Board placement time. → Relieved location, date, and time. → Final release location, date, and time. → Contact information for the employee during the

statutory off-duty period.

→ Request for rest in addition to the statutory minimum, where applicable. → Basic payroll information, related only to the duty tour being tied up. → Employee certification.

If you are not sure if a violation has occurred treat it as if it has and turn all pertinent information in to the Union.

Red Zones:

FRA 49 CFR part 218

A crew that reports to work as an "integral whole" (i.e. switch crews) must remain so throughout their tour of duty. If a member of that crew is separated to perform as a "utility" employee, he or she must not be allowed to rejoin the original crew. Further reading reveals that an inbound crew member could perform as a utility employee with the outbound crew but would then be unavailable for any further service.

If you are asked to do this do not refuse but let them know that you do believe this to be an FRA violation and document your time attached to another crew, and who instructed you to do so.

The only exception is if you are the

inbound crew you could attach to the outbound to assist but this would have to be your final service of the tour of duty.

FTX tests

If you do not agree with an FTX test the first step is to discuss it with the testing manager, if they refuse to remove it then you need to contact your local chairman and give them all the information so that it can be addressed with the Superintendent.

Federal Railroad Safety Act (FRSA)

49 U.S.C. §20109

(a) In general—A railroad carrier engaged in interstate or foreign commerce, a contractor or subcontractor of such a railroad carrier, or an officer or employee of such a railroad carrier, may not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee if such discrimination is due, in whole or in part, to the employee's lawful, good faith act done, or perceived by the employer to have been done or about to be done—

(1) To provide information, directly cause information to be provided, or otherwise directly assist in any investigation regarding any conduct which the employee reasonably believes constitutes a violation of any Federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or

abuse of Federal grants or other public funds the information or assistance is provided to or an investigation stemming from the provided information is conducted

by—

(a) A Federal, State, or local regulatory or law enforcement agency (including an office of the inspector General under the inspector General act of 1978 (5 U.S.C. App.; Public Law 95-452);

(b) Any member of Congress, any committee of Congress, or the Government Accountability Office; or

(c) A person with supervisory authority over the employee or such other person who has the authority to investigate, discover, or terminate the misconduct'

(2) To refuse to violate or assist in the violation of any Federal law, rule, or regulation relating to railroad safety or security;

(3) To file a complaint, or directly cause to be brought a proceeding related to the enforcement of this part or, as applicable to railroad safety or security, chapter 51 or 57 of this title, or to testify in that proceeding;

(4) To notify, or attempt to notify, the railroad carrier or the Secretary of Transportation of work related personal injury or work related illness of an employee;

(5) To cooperate with a safety or security investigation by the Secretary of Transportation, the Secretary of Homeland Security, or the National Transportation Safety Board;

(6) To furnish information to the Secretary of Transportation, the Secretary of Homeland Security, the National Transportation Safety Board, or any Federal, State, or local regulatory or law enforcement agency as to facts relating to any

accident or incident resulting in injury or death to an individual or damage to property occurring in connection with railroad transportation; or

(7) To accurately report hours on duty pursuant to chapter 211

(b) Hazardous safety or security conditions.-

(1) A railroad carrier engaged in interstate or foreign commerce, of an officer or employee of such railroad carrier, shall not discharge, demote, suspend, reprimand, or in any other way discriminate against an employee for—

(a) Reporting, in good faith, a hazardous safety or security condition;

(b) Refusing to work when confronted by a hazardous safety or security condition related to the performance of the employee's duties, if the conditions described in paragraph (2) exist; or

(c) Refusing to authorize the use of any safety-related equipment, track, or structures, if the employee is responsible for the inspection or repair of the equipment, track, or structures, when the employee believes that the equipment, track, or structures are in hazardous safety or security condition, if the conditions described in paragraph(2) exist.

(2) A refusal under paragraph (1) (b) and(c) if—

(a) The refusal is made in good faith and no reasonable alternative to refusal is available to the employee;

(b) A reasonable individual in the circumstances then confronting the employee would conclude that—

(i) The hazardous condition presents an imminent danger of death or serious injury; and

(ii) The urgency of the situation does not allow

sufficient time to eliminate the danger without refusal; and

(c) the employee, where possible, has notified the railroad carrier of the existence of the hazardous condition and the intention not to perform further work, or not to authorize the use of hazardous equipment, track, or structures, unless the condition is corrected immediately or the equipment, track, or structures are repaired properly or replaced.

(3) In this subsection, only paragraph (1) (a) shall apply to security personnel employed by the railroad carrier to protect individuals and property transported by railroad.

(c) Prompt Medical attention—

(1) Prohibition—A railroad carrier or person covered by this section may not deny, delay, or interfere with medical or first aid treatment of an employee who is injured during the course of employment.

If transportation to a hospital is requested by an employee who is injured during the course of employment, the railroad shall promptly arrange to have the injured employee transported to the nearest hospital where the employee can receive safe and appropriate medical care.

(2) Discipline.—A railroad carrier or person covered under this section may not discipline, or threaten discipline to, an employee for requesting medical or first aid treatment, or for following orders or a treatment plan of a treating physician, except that a railroad carrier's refusal to permit an employee to return to work following medical treatment shall not be considered a violation of this section if the refusal is pursuant to Federal Railroad Administration medical standards for fitness for duty. For purposes of this paragraph, the term "discipline" means to bring charges

against a person in a disciplinary proceeding, suspend, terminate, place on probation, or make note or reprimand on an employee's record.

(d) Enforcement action—

(1) In general—An employee who alleges discharge, discipline, or other discrimination in violation of subsection (a),(b) of (c) of this section, may seek relief in accordance with the provisions of this section, with any petition or other request for relief under this section to be initiated by filing a complaint with the secretary of labor.

(2) Procedure—

(A) In general—any action under paragraph (1) shall be governed under the rules and procedure set forth in section 42121 (b), including:

(i) Burden of proof—any action brought under (d)

(1) Shall be governed by the legal burdens of

proof set forth in section 42121(b).

(ii) Civil actions to enforce—If a person fails to comply with an order issued by the Secretary of Labor pursuant to the procedures in section 42121(b), the Secretary of Labor may bring civil action to enforce the order in the district court of the United States for the judicial district in which the violation occurred, as set forth in 42121.

(b)Exception—Notification made under section 42121(b) (1) shall be made to the person named in the complaint and the person's employer.

(3) De novo review—With respect to a complaint under paragraph (1), if the Secretary of Labor has not issued a final decision within 210 days after the filing of the complaint and if the delay is not due to the bad faith of the employee, the employee may bring an original action at law or equity for de novo

review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount of controversy, and which action shall, at the request of either party to such action, be tried by the court with a jury.

(4)Appeals—any person adversely affected or aggrieved by an order issued pursuant to the procedures in section 4212(b), may obtain review of the order in the united States court of appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred of the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. The review shall conform to chapter 7 title 5. The commencement of proceedings under this

paragraph shall not, unless ordered by the court, operate as a stay of the order.

(e) Remedies—

(1) In general—an employee prevailing in any action under subsection (d) shall be entitled to all relief necessary to make the employee whole.

(2) Damages—Relief in an action under subsection (d) (including an action described in subsection (d) (3)) shall include—

(a) Reinstatement with the same seniority status that the employee would have had, but for the discrimination;

(b) Any back pay, with interest; and

(c) Compensatory damages, including compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

(3) Possible relief—Relief in any action under subsection (d) may include punitive damages in an amount not to exceed \$250,000

(f) Election of remedies—an employee may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the railroad carrier.

(g) No preemption—nothing in this section preempts or diminishes any other safeguards against discrimination, demotion, discharge, suspension, threats, harassment, reprimand, retaliation, or any other manner of discrimination provided by Federal or State law.

(h) Rights retained by employee—nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law or under any collective bargaining agreement. The rights and

remedies in this section may not be waived by any agreement, policy, form, or condition of employment.

(I) Disclosure of identity—

(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation to the Secretary of Homeland Security may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this part, or as applicable to railroad safety or security, chapter 51 or 57 of this title, or a regulation prescribed or order issued under any of those provisions.

(2) The Secretary of Transportation or the Secretary of Homeland Security shall disclose to the Attorney General the name of the employee described in paragraph (1) if the matter is referred to the Attorney General

for enforcement. The Secretary making such disclosures shall provide reasonable advance notice to the affected employee if disclosure of that person's identity or identifying information is to occur.

(j) Process for reporting security problems to the Department of Homeland Security—

(1) Establishment of process—The Secretary of Homeland Security shall establish through regulations, after an opportunity for notice and comment, a process by which any person may report to the Secretary of Homeland Security regarding railroad security problems, deficiencies, or vulnerabilities.

(2) Acknowledgement of receipt—if a report submitted under paragraph (1) identifies the person making the report, the Secretary of Homeland Security shall respond promptly to such person and acknowledge receipt of the report.

(3)Steps to address the problem—The Secretary of Homeland Security shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps to address any problems or deficiencies identified

Utility Employee

§ 218.22 Utility employee.

(a) A utility employee shall be subject to the Hours of Service Act, and the requirements for training and testing, control of [alcohol and drug](#) use, and hours of service record keeping provided for in parts 217, 219, and 228 of this chapter.

(b) A utility employee shall perform service as a member of only one [train or yard crew](#) at any given time. Service with more than one crew may be sequential, but not concurrent.

(c) A utility employee may be assigned to and serve as a member of a [train or yard crew](#) without the protection otherwise required by subpart D of [part 218](#) of this chapter only under the following conditions:

(1) The [train or yard crew](#) is assigned a [controlling locomotive](#) that is

under the actual control of the assigned [locomotive engineer](#) of that crew;

(2) The [locomotive engineer](#) is in the cab of the [controlling locomotive](#), or, while the [locomotive](#) is stationary be replaced in the cab by another member of the same crew;

(3) The [utility employee](#) established communication with the crew by contacting the [designated crew member](#) on arriving at the train (as defined for the purpose of this section as one or more [locomotives](#) coupled, with or without cars) and before commencing any duties with the crew.

(4) Before each [utility employee](#) commences duties, the [designated crew member](#) shall provide notice to each crew member of the presence and

identity of the **utility employee**. Once all crew members have acknowledged this notice, the **designated crew member** shall advise the **utility employee** that he or she is authorized to work as part of the crew. Thereafter, communication shall be maintained in such a manner that each member of the **train or yard crew** understands the duties to be performed and whether those duties will cause any crew member to go on, under, or between the **rolling equipment**; and

(5) The **utility employee** is performing one or more of the following functions: set or release hand brakes; couple or uncouple air hoses and other electrical or mechanical connections; prepare **rail cars** for coupling; set wheel blocks or wheel chains; conduct air brake tests to

include cutting air brake components in or out and position retaining valves; **inspect**, test, **install**, remove or replace a rear end marking device or end of train device.

Under all other circumstances a utility employee working on, under, or between railroad rolling equipment must be provided with blue signal protection in accordance with §§ 218.23 through 218.30 of this part.

(d) When the **utility employee** has ceased all work in connection with that train and is no longer on, under, or between the equipment, the **utility employee** shall notify the **designated crew member**.

The **designated crew member** shall then provide notice to each crew member that the **utility employee** is being released from the crew. Once each crew member has acknowledged the notice, the **designated**

crew member shall then notify the utility employee that he is released from the train or yard crew.

(e) Communications required by § 218.22(c)(4) and (d) shall be conducted between the utility employee and the designated crew member. This communications shall be conducted either through direct verbal contact, by radio in compliance with part 220 of this chapter, or by oral telecommunication of equivalent integrity.

(f) No more than three utility employees may be attached to one train or yard crew at any given time.

(g) Any railroad employee who is not assigned to a train or yard crew, or authorized to work with a crew under the conditions set forth by paragraph (b) of this section, is a worker required to be provided blue signal protection in

accordance with §§ 218.23 through 218.30 of this part.

(h) Nothing in this section shall affect the alternative form of protection specified in § 221.16 of this chapter with respect to inspection of rear end marking devices.

[58 FR 43293, Aug. 16, 1993, as amended at 60 FR 11050, Mar. 1, 1995]

Sanitation

Unsanitary means having any condition in which any significant amount of filth, trash, or human waste is present in such a manner that a reasonable person would believe that the condition might constitute a health hazard; or strong, persistent, chemical or human waste odors sufficient to deter use of the facility, or give rise to reasonable concern with respect to exposure to hazardous fumes. Such conditions include, but are not limited to, a toilet bowl filled with human waste, soiled toilet paper, or other products used in the toilet compartment, that are present due to a defective toilet facility that will not flush or otherwise remove waste; visible human waste residues on the floor or toilet seat that is present due to a toilet that overflowed; an accumulation of visible dirt or human waste on the floor, toilet facility, or sink; and strong

persistent chemical or human waste odors in the compartment.

§ 229.137

Sanitation, general requirements.

(a) Sanitation compartment. Except as provided in paragraph (b) of this section, all lead locomotives in use shall be equipped with a sanitation compartment. Each sanitation compartment shall be:

(1) Adequately ventilated;

(2) Equipped with a door that:

(i) Closes, and

(ii) Possesses a modesty lock by [18 months after publication of the final rule];

(3) Equipped with a toilet facility, as defined in this part;

(4) Equipped with a washing system, as defined in this part, unless the railroad otherwise provides

the [washing system](#) to employees upon reporting for duty or occupying the [cab](#) for duty, or where the [locomotive](#) is equipped with a stationary sink that is located outside of the [sanitation compartment](#);

(5) Equipped with toilet paper in sufficient quantity to meet employee needs, unless the [railroad](#) otherwise provides toilet paper to employees upon reporting for duty or occupying the [cab](#) for duty; and

(6) Equipped with a trash [receptacle](#), unless the [railroad](#) otherwise provides portable trash receptacles to employees upon reporting for duty or occupying the [cab](#) for duty.

(b) Exceptions.

(1) Paragraph (a) of this section shall not apply to:

(i) Locomotives engaged in [commuter service](#) or other [short-haul passenger service](#) and [commuter work trains](#) on which employees have ready access to [railroad-provided sanitation facilities](#) outside of the [locomotive](#) or elsewhere on the train, that meet otherwise applicable sanitation standards, at frequent intervals during the course of their [work shift](#);

(ii) Locomotives engaged in [switching service](#) on which employees have ready access to [railroad-provided sanitation facilities](#) outside of the [locomotive](#), that meet otherwise applicable sanitation

standards, at frequent intervals during the course of their work shift;

(iii) Locomotives engaged in **transfer service** on which employees have ready access to **railroad-**provided sanitation facilities outside of the **locomotive**, that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift;

(iv) Locomotives of **Class III railroads** engaged in operations other than **switching service** or **transfer service**, that are not equipped with a **sanitation compartment** as of June 3, 2002. Where an unequipped **locomotive** of a **Class III railroad** is

engaged in operations other than switching or **transfer service**, employees shall have ready access to **railroad-**provided sanitation facilities outside of the **locomotive** that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift, or the **railroad** shall arrange for enroute access to such facilities;

(v) Locomotives of tourist, scenic, historic, or excursion **railroad** operations, which are otherwise covered by this part because they are not propelled by steam power and operate on the general **railroad** system of transportation, but on which employees have

ready access to [railroad-](#)provided sanitation facilities outside of the [locomotive](#), that meet otherwise applicable sanitation standards, at frequent intervals during the course of their work shift; and

(vi) Except as provided in [§ 229.14](#) of this part, DMU, MU, and [control cab locomotives](#) designed for passenger occupancy and used in intercity push-pull service that are not equipped with sanitation facilities, where employees have ready access to [railroad-](#)provided sanitation in other passenger cars on the train at frequent intervals during the course of their work shift.

(2) Paragraph (a)(3) of this section shall not apply to:

(i) Locomotives of a Class I [railroad](#) which, prior to [the effective date of this section], were equipped with a [toilet facility](#) in which human waste falls via gravity to a holding tank where it is stored and periodically emptied, which does not conform to the [definition](#) of [toilet facility](#) set forth in this section. For these locomotives, the requirements of this section pertaining to the type of toilet facilities required shall be effective as these toilets become [defective](#) or are replaced with conforming units, whichever occurs first. All other requirements set forth in this section shall apply to

these locomotives as of June 3, 2002; and

(ii) With respect to the locomotives of a Class I railroad which, prior to June 3, 2002, were equipped with a sanitation system other than the units addressed by paragraph (b)(2)(i) of this section, that contains and removes human waste by a method that does not conform with the definition of toilet facility as set forth in this section, the requirements of this section pertaining to the type of toilet facilities shall apply on locomotives in use on July 1, 2003. However, the Class I railroad subject to this exception shall not deliver locomotives with such sanitation

systems to other railroads for use, in the lead position, during the time between June 3, 2002, and July 1, 2003. All other requirements set forth in this section shall apply to the locomotives of this Class I railroad as of June 3, 2002.

(c) Defective, unsanitary toilet facility; prohibition in lead position. Except as provided in paragraphs (c)(1) through (5) of this section, if the railroad determines during the daily inspection required by § 229.21 that a locomotive toilet facility is defective or is unsanitary, or both, the railroad shall not use the locomotive in the lead position. The railroad may continue to use a lead locomotive with a toilet facility that is defective or unsanitary as of the daily inspection only where

all of the following conditions are met:

(1) The unsanitary or defective condition is discovered at a location where there are no other suitable locomotives available for use, i.e., where it is not possible to switch another locomotive into the lead position, or the location is not equipped to clean the sanitation compartment if unsanitary or repair the toilet facility if defective;

(2) The locomotive, while noncompliant, did not pass through a location where it could have been cleaned if unsanitary, repaired if defective, or switched with another compliant locomotive, since its last daily inspection required by this part;

(3) Upon reasonable request of a locomotive crew member operating a locomotive with

a defective or unsanitary toilet facility, the railroad arranges for access to a toilet facility outside the locomotive that meets otherwise applicable sanitation standards;

(4) If the sanitation compartment is unsanitary, the sanitation compartment door shall be closed and adequate ventilation shall be provided in the cab so that it is habitable; and

(5) The locomotive shall not continue in service in the lead position beyond a location where the defective or unsanitary condition can be corrected or replaced with another compliant locomotive, or the next daily inspection required by this part, whichever occurs first.

(d) Defective, unsanitary toilet facility; use in trailing position. If the railroad determines during the daily

inspection required by § 229.21 that a locomotive toilet facility is defective or is unsanitary, or both, the railroad may use the locomotive in trailing position. If the railroad places the locomotive in trailing position, they shall not haul employees in the unit unless the sanitation compartment is made sanitary prior to occupancy. If the toilet facility is defective and the unit becomes occupied, the railroad shall clearly mark the defective toilet facility as unavailable for use.

(e) Defective, sanitary toilet facility; use in switching, transfer service. If the railroad determines during the daily inspection required by § 229.21 that a locomotive toilet facility is defective, but sanitary, the railroad may use the locomotive in switching service, as set forth in paragraph (b)(1)(ii) of this section, or in transfer

service, as set forth in paragraph (b)(1)(iii) of this section for a period not to exceed 10 days. In this instance, the railroad shall clearly mark the defective toilet facility as unavailable for use. After expiration of the 10-day period, the locomotive shall be repaired or used in the trailing position.

(f) Lack of toilet paper, washing system, trash receptacle. If the railroad determines during the daily inspection required by § 229.21 that the lead locomotive is not equipped with toilet paper in sufficient quantity to meet employee needs, or a washing system as required by paragraph (a)(4) of this section, or a trash receptacle as required by paragraph (a)(6) of this section, the locomotive shall be equipped with these items prior to departure.

(g) Inadequate ventilation. If

the railroad determines during the daily inspection required by § 229.21 that the sanitation compartment of the lead locomotive in use is not adequately ventilated as required by paragraph (a)(1) of this section, the railroad shall repair the ventilation prior to departure, or place the locomotive in trailing position, in switching service as set forth in paragraph (b)(1)(ii) of this section, or in transfer service as set forth in paragraph (b)(1)(iii) of this section.

(h) Door closure and modesty lock. If the railroad determines during the daily inspection required by § 229.21 that the sanitation compartment on the lead locomotive is not equipped with a door that closes, as required by paragraph (a)(2)(i) of this section, the railroad shall repair the door prior to departure, or place the locomotive in trailing position,

in switching service as set forth in paragraph (b)(1)(ii) of this section, or in transfer service as set forth in paragraph (b)(1)(iii) of this section. If the railroad determines during the daily inspection required by § 229.21 that the modesty lock required by paragraph (a)(2)(ii) of this section is defective, the modesty lock shall be repaired pursuant to the requirements of § 229.139(e).

(i) Equipped units; retention and maintenance. Except where a railroad downgrades a locomotive to service in which it will never be occupied, where a locomotive is equipped with a toilet facility as of [the effective date of the final rule], the railroad shall retain and maintain the toilet facility in the locomotive consistent with the requirements of this part, including locomotives u

sed in switching service pursuant to paragraph (b)(1)(ii) of this section, and in transfer service pursuant to paragraph (b)(1)(iii) of this section.

(j) Newly manufactured units; in-cab facilities. All locomotives manufactured after June 3, 2002, except switching units built exclusively for switching service and locomotives built exclusively for commuter service, shall be equipped with a sanitation compartment accessible to cab employees without exiting to the out-of-doors for use. No railroad may use a locomotive built after June 3, 2002, that does not comply with this subsection.

(k) Potable water. The railroad shall utilize potable water where the washing system includes the use of water.

[67 FR 16050, Apr. 4, 2002, as amended at 71 FR 61857, Oct. 19, 2006]

§ 229.139
Sanitation, servicing requirements.

(a) The sanitation compartment of each lead locomotive in use shall be sanitary.

(b) All components required by § 229.137(a) for the lead locomotive in use shall be present consistent with the requirements of this part, and shall operate as intended such that:

(1) All mechanical systems shall function;

(2) Water shall be present in sufficient quantity to permit flushing;

(3) For those systems that utilize chemicals for treatment, the chemical (chlorine or other comparable oxidizing agent) used to treat waste must be present; and

(4) No blockage is present that prevents waste from evacuating the bowl.

(c) The sanitation compartment of each occupied locomotive used in switching service pursuant to § 229.137(b)(1)(ii), in transfer service pursuant to § 229.137(b)(1)(iii), or in a trailing position when the locomotive is occupied, shall be sanitary.

(d) Where the railroad uses a locomotive pursuant to § 229.137(e) in switching or transfer service with a defective toilet facility, such use shall not exceed 10 calendar days from the date on which the defective toilet facility became defective. The date on which the toilet facility becomes defective shall be entered on the daily inspection report.

(e) Where it is determined that the modesty

lock required by § 229.137(a)(2) is defective, the railroad shall repair the modesty lock on or before the next 92-day inspection required by this part.

[67 FR 16050, Apr. 4, 2002].

**§ 242.301
Requirements for
territorial
qualification.**

(a) Except as provided in [paragraph](#) (c), (d), or (e) of this section, a [railroad](#), including a [railroad](#) that employs [conductors](#) working in [joint operations](#) territory, shall not permit or require a [person](#) to serve as a [conductor](#) unless that [railroad](#) determines that the [person](#) is certified as a [conductor](#) and possesses the necessary [territorial qualifications](#) for the [applicable territory](#) pursuant to [§ 242.119](#).

(b) Each [person](#) who is called to serve as a [conductor](#) shall:

(1) Meet the [territorial qualification requirements](#) on the [segment of track](#) upon which he or she will serve as a [conductor](#); and

(2) Immediately [notify](#) the [railroad](#) upon which he or she is

[employed](#) if he or she does not meet the [required territorial qualifications](#).

(c) Except as provided in [paragraph](#) (e) of this section, if a [conductor](#) lacks territorial qualification on [main track physical characteristics](#) required by [paragraph](#) (a) of this section, he or she shall be assisted by a [person](#) who meets the territorial qualification requirements for [main track physical characteristics](#).

(1) For a [conductor](#) who has never been [qualified](#) on [main track physical characteristics](#) of the territory over which he or she is to serve as a [conductor](#), the assistant shall be a [person](#) who is certified as a [conductor](#), meets the territorial qualification requirements for [main track physical characteristics](#), and

is not an assigned crew member.

(2) For a conductor who was previously qualified on main track physical characteristics of the territory over which he or she is to serve as a conductor, but whose qualification has been expired for one year or less and who regularly traversed the territory prior to the expiration of the qualification, the assistant may be any person, including an assigned crewmember, who meets the territorial qualification requirements for main track physical characteristics.

(3) For a conductor who was previously qualified on main track physical characteristics of the territory over which he or she is to serve as a conductor, and whose qualification has been expired for

one year or less but who has not regularly traversed the territory prior to the expiration of the qualification, or a conductor whose territorial qualification on main track has been expired for more than a year, the assistant may be any person, including an assigned crewmember other than the locomotive engineer so long as serving as the assistant would not conflict with that crewmember's other safety sensitive duties, who meets the territorial qualification requirements for main track physical characteristics.

(d) If a conductor lacks territorial qualification on other than main track physical characteristics required by paragraph (a) of this section, where practicable, he or she shall be assisted by a person who is a

certified conductor and meets the territorial qualification requirements for other than main track physical characteristics. Where not practicable, the conductor shall be provided an appropriate up-to-date job aid.

(e) An assistant is not required if the movement is on a section of main track with an average grade of less than 1% over 3 continuous miles, and

(1) The maximum distance the locomotive or train will be operated does not exceed one mile; or

(2) The maximum authorized speed for any operation on the track does not exceed 20 miles per hour; or

(3) Operations are conducted under operating rules that require every locomotive and train to proceed at a speed that permits stopping within one

half the range of vision of the locomotive engineer.

[76 FR 69841, Nov. 9, 2011, as amended at 77 FR 6491, Feb. 8, 2012]

§ 240.231
Requirements for locomotive engineers unfamiliar with physical characteristics in other than joint operations.

(a) Except as provided in paragraph (b) of this section, no locomotive engineer shall operate a locomotive over a territory unless he or she is qualified on the physical characteristics of the territory pursuant to the railroad's certification program.

(b) Except as provided in paragraph (c) of this section, if a locomotive engineer lacks qualification on the physical characteristics required by paragraph (a) of this section, he or she shall be assisted by a pilot qualified over the

territory pursuant to the railroad's certification program.

(1) For a locomotive engineer who has never been qualified on the physical characteristics of the territory over which he or she is to operate a locomotive or train, the pilot shall be a person qualified and certified as a locomotive engineer who is not an assigned crew member.

(2) For a locomotive engineer who was previously qualified on the physical characteristics of the territory over which he or she is to operate a locomotive or train, but whose qualification has expired, the pilot may be any person, who is not an assigned crew member, qualified on the physical characteristics of the territory.

(c) Pilots are not required if the movement is on a section of track with an average grade of less than 1% over 3 continuous miles, and

(1) The track is other than a main track; or

(2) The maximum distance the locomotive or train will be operated does not exceed one mile; or

(3) The maximum authorized speed for any operation on the track does not exceed 20 miles per hour; or

(4) Operations are conducted under operating rules that require every locomotive and train to proceed at a speed that permits stopping within one half the range of vision of the locomotive engineer.

