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Title 49 - Transportation

Subtitle B - Other Regulations Relating to Transportation

Chapter II - Federal Railroad Administration, Department of Transportation

Part 220 - Railroad Communications

Authority: 49 U.S.C. 20102-20103, 20103, note, 20107, 21301-21302, 20701-20703, 21304, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

Source: 63 FR 47195, Sept. 4, 1998, unless otherwise noted.

Subpart C Electronic Devices

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Subpart C - Electronic Devices

Source: 75 FR 59602, Sept. 27, 2010, unless otherwise noted.

§ 220.301 Purpose and application.

- (a) The purpose of this subpart is to reduce safety risks resulting from railroad operating employees being distracted by the inappropriate use of electronic devices, such as mobile telephones (cell phones or cellular phones) and laptop computers.
- (b) The applicability of this subpart is governed by § 220.3; this subpart, however, does not affect the use of working wireless communications pursuant to subparts A and B of this part.
- (c) The restrictions of this subpart C do not apply -
 - (1) To the working radio; or
 - (2) When a working radio failure occurs and an electronic device is used in accordance with railroad rules.

§ 220.302 Operating rules implementing the requirements of this subpart.

Each railroad shall adopt operating rules that implement the requirements of this subpart.

§ 220.303 General use of electronic devices.

A railroad operating employee shall not use an electronic device if that use would interfere with the employee's or another railroad operating employee's performance of safety-related duties. No individual in the cab of a controlling locomotive shall use an electronic device if that use would interfere with a railroad operating employee's performance of safety-related duties.

§ 220.305 Use of personal electronic devices.

A railroad operating employee must have each personal electronic device turned off with any earpiece removed from the ear -

- (a) When on a moving train;
- (b) When any member of the crew is -
 - (1) On the ground, or
 - (2) Riding rolling equipment during a switching operation; or
- (c) When any railroad employee is assisting in preparation of the train for movement.

§ 220.307 Use of railroad-supplied electronic devices.

- (a) **General restriction.** A railroad operating employee may use a railroad-supplied electronic device only for an authorized business purpose as specified by the railroad in writing. An authorized business purpose involving the taking of a photograph or video must be approved by FRA. A railroad subject to this subpart must submit to FRA's Associate Administrator for Railroad Safety/Chief Safety Officer a document specifying in writing the authorized business purpose(s) involving the taking of a photograph or video for which a railroad-supplied electronic device may be used by the carrier's railroad operating employees.
- (b) **Use by locomotive engineers operating controls.** A locomotive engineer operating the controls of a train shall not use a railroad-supplied electronic device -
 - (1) When on a moving train;
 - (2) When any member of the crew is -
 - (i) On the ground, or
 - (ii) Riding rolling equipment during a switching operation; or
 - (3) When any railroad employee is assisting in preparation of the train for movement.
- (c) **Use in freight and passenger locomotive cabs generally.** In addition to the restrictions on locomotive engineers described in paragraph (b) of this section, a railroad operating employee who is not in deadhead status shall not use a railroad-supplied electronic device in the cab of a controlling locomotive unless -
 - (1) A safety briefing that includes all crewmembers is held; and
 - (2) All crewmembers agree that it is safe to use the device.
- (d) **Use outside freight locomotive cabs.** A freight train crewmember who is not in deadhead status may use a railroad-supplied electronic device outside the cab of a controlling freight locomotive only if all of the following conditions are met:

- (1) The crewmember is not fouling a track; and
- (2) All crewmembers agree it is safe to use the device.

§ 220.309 Permitted uses; exceptions to other restrictions.

Notwithstanding any other limitations in this subpart, a railroad operating employee may use the following, if that use does not interfere with any employee's performance of safety-related duties -

- (a) The digital storage and display function of an electronic device to refer to a railroad rule, special instruction, timetable, or other directive, if such use is authorized under a railroad operating rule or instruction.
- (b) An electronic device as necessary to respond to an emergency situation involving the operation of the railroad or encountered while performing a duty for the railroad.
- (c) An electronic device to take a photograph of a safety hazard or a violation of a rail safety law, regulation, order, or standard, provided that -
 - (1) A camera that is part of a cell phone or other similar multi-functional electronic device is not included in this exception unless it is a railroad-supplied device and is used for an authorized business purpose;
 - (2) The camera, unless otherwise permitted, is turned off immediately after the documentation has been made; and
 - (3) If the camera is used in the cab of a moving train, the use is only by a crewmember other than the locomotive engineer.
- (d) A stand-alone calculator if used for an authorized business purpose.
- (e) A medical device that is consistent with the railroad's standards for medical fitness for duty.
- (f) A wireless communication device to conduct train or switching operations if the railroad operating employee is part of a crew assigned to a train that is exempt under § 220.9(b) from the requirement of a working radio when the employing railroad has fewer than 400,000 annual employee work hours.

§ 220.311 Railroad operating employees in deadhead status.

- (a) Notwithstanding any other restrictions in this subpart, a railroad operating employee who is in deadhead status and not inside the cab of a controlling locomotive may use an electronic device only if the employee is not using the device in such a way that interferes with any railroad operating employee's personal safety or performance of safety-related duties.
- (b) A railroad operating employee who is in deadhead status and located inside the cab of a controlling locomotive must have each electronic device turned off with any earpiece removed from the ear -
 - (1) When on a moving train;
 - (2) When any member of the crew is -
 - (i) On the ground, or
 - (ii) Riding rolling equipment during a switching operation; or
 - (3) When any railroad employee is assisting in preparation of the train for movement.

§ 220.313 Instruction.

- (a) **Program.** Beginning December 27, 2010, each railroad shall maintain a written program of instruction and examination of each railroad operating employee and each supervisor of the railroad operating employee on the meaning and application of the railroad's operating rules implementing the requirements of this subpart if these requirements are pertinent to the employee's duties. If all requirements of this subpart are satisfied, a railroad may consolidate any portion of the instruction or examination required by this subpart with the program of instruction required under § 217.11 of this chapter.
- (1) The written program of instruction and examination shall address the requirements of this subpart, as well as consequences of noncompliance.
 - (2) The written program of instruction and examination shall include, but is not limited to, an explanation of the following:
 - (i) When a railroad operating employee must have personal electronic devices turned off with the earpiece removed from the ear as required by this subpart.
 - (ii) If a railroad supplies an electronic device to its railroad operating employees, when a railroad operating employee may use such a device. The employee must be instructed on what constitutes an authorized business purpose.
 - (iii) The potential penalties and other consequences of committing a violation of this subpart, both those imposed by the Federal Railroad Administration (FRA) and those imposed by the railroad, as well as any distinction between the requirements of this subpart and any more stringent requirements imposed by the railroad and the related distinction between the two sets of potential consequences.
- (b) **Implementation schedule.** Each employee performing duties subject to the requirements in this subpart shall be initially instructed prior to March 28, 2011.
- (1) Beginning March 28, 2011, no employee shall perform work requiring compliance with the operating rules implementing the requirements of this subpart unless the employee has been instructed on requirements of this subpart within the previous three years.
 - (2) The records of successful completion of instruction and examination required by this section shall document the instruction of each employee under this subpart.
- (c) **Records.** Written records documenting successful completion of instruction and examination of each employee and of his or her supervisors shall be made and shall be retained at the railroad's system headquarters and at the division headquarters for each division where the employee is assigned for three calendar years after the end of the calendar year to which they relate and made available to representatives of FRA for inspection and copying during normal business hours. Each railroad to which this part applies is authorized to retain a program, or any records maintained to prove compliance with such a program, by electronic recordkeeping in accordance with §§ 217.9(g) and 217.11(c) of this chapter.
- (d) **Approval process.** Upon review of the program of instruction and examination required by this section, the Associate Administrator for Railroad Safety/Chief Safety Officer may, for cause stated, disapprove the program. Notification of such disapproval shall be made in writing and specify the basis for the disapproval.

- (1) If the Associate Administrator for Railroad Safety/Chief Safety Officer disapproves the program, the railroad has 35 days from the date of the written notification of such disapproval to -
 - (i) Amend its program and submit it to the Associate Administrator for Railroad Safety/Chief Safety Officer for approval; or
 - (ii) Provide a written response in support of the program to the Associate Administrator for Railroad Safety/Chief Safety Officer, who informs the railroad of FRA's final decision in writing.
- (2) A failure to submit the program with the necessary revisions to the Associate Administrator for Railroad Safety/Chief Safety Officer in accordance with this paragraph is considered a failure to implement a program under this subpart.

§ 220.315 Operational tests and inspections; further restrictions on use of electronic devices.

- (a) The railroad's program of operational tests and inspections under part 217 of this chapter shall be revised as necessary to include this subpart and shall specifically include a minimum number of operational tests and inspections, subject to adjustment as appropriate.
- (b) When conducting a test or inspection under part 217 of this chapter, a railroad officer, manager, or supervisor is prohibited from calling the personal electronic device or the railroad-supplied electronic device used by a railroad operating employee while the railroad officer, manager, or supervisor knows or should have known that -
 - (1) The train to which the employee is assigned is moving;
 - (2) The employee is -
 - (i) On the ground;
 - (ii) Riding rolling equipment during switching operations; or
 - (iii) Assisting in preparation of the train to which the employee is assigned for movement.