



# Federal Railroad Administration

## 49 CFR Part 228 Passenger Hours of Service

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# **Title 49 CFR 228 SUBPART F**

**COVERED EMPLOYEES**

**PROVISIONS CARRIED OVER FROM THE OLD LAW  
TO THE NEW REGULATIONS**

**NEW REQUIREMENTS**

**TYPE I AND TYPE II ASSIGNMENTS**

**FATIGUE ANALYSIS OF WORK SCHEDULES**

**TIME OFF REQUIREMENTS**

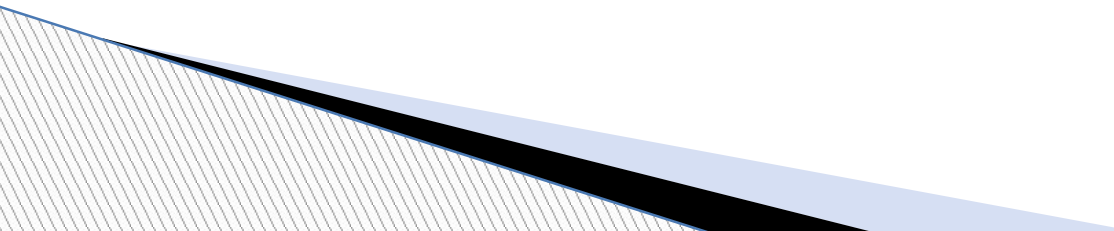
**REPORTING**

**TRAINING**

**OTHER HOS ISSUES**



# COVERED EMPLOYEES



# 228.401 Applicability

- ▶ **Train employees engaged in commuter or intercity rail passenger transportation, including train employees engaged in tourist, scenic, historic, or excursion rail passenger transportation**

**Does not apply to rapid transit** not connected with the general railroad system

## 228.403 Definitions

Train employee engaged in commuter or intercity rail passenger transportation includes

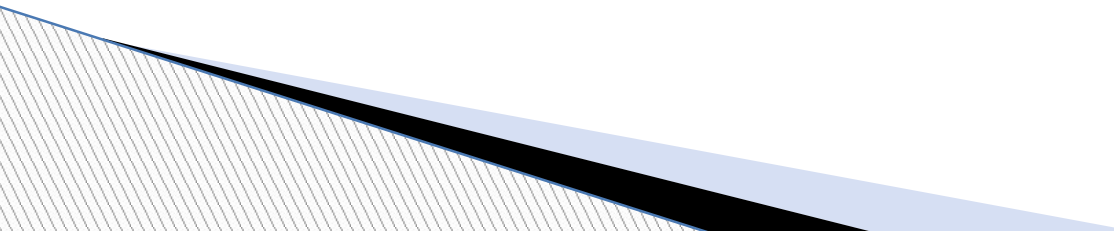
**Train employee engaged in commuter or intercity rail passenger transportation regardless of employer**

**Train employee employed by a commuter or intercity passenger railroad**



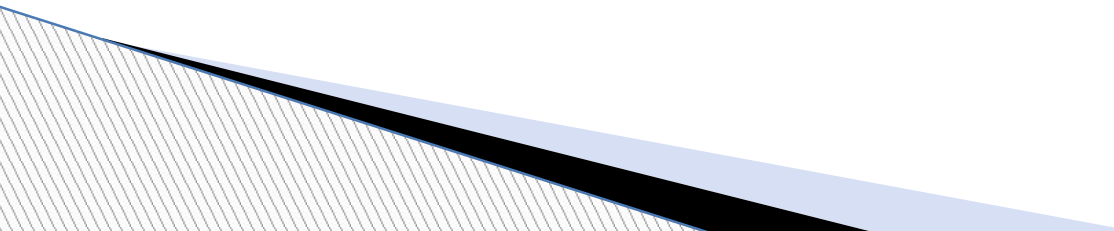
# 228.403 Definitions

## EXCLUDES

- Train employee of another type of railroad (a freight railroad) in work train service related to providing commuter or intercity rail passenger transportation
  - Train employee of another type of railroad (a freight railroad) serving as a pilot for a commuter railroad or intercity passenger railroad
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# PROVISIONS CARRIED OVER FROM THE OLD LAW TO THE NEW REGULATIONS

Compliance date  
October 15, 2011



# 228.405 Limitations on duty hours ((§21103(a)))

- ▶ (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



# 228.405 Limitations on duty hours ((§21103(b)))

- ▶ (b) **Determining time on duty.** In determining under paragraph (a) of
- ▶ this section the time that a train employee subject to this subpart is
- ▶ on or off duty, the following rules apply:
  - ▶ (1) Time on duty begins when the employee reports for duty and ends
  - ▶ when the employee is finally released from duty;
  - ▶ (2) Time the employee is engaged in or connected with the movement
  - ▶ of a train is time on duty;
  - ▶ (3) Time spent performing any other service for the railroad during
  - ▶ a 24-hour period in which the employee is engaged in or connected with
  - ▶ the movement of a train is time on duty;
  - ▶ (4) Time spent in deadhead transportation to a duty assignment is
  - ▶ time on duty, but time spent in deadhead transportation from a duty
  - ▶ assignment to the place of final release is neither time on duty nor
  - ▶ time off duty;

# 228.405 Limitations on duty hours ((§21103(b)))

- ▶ (5) An interim period available for rest at a place other than a designated terminal is time on duty;
- ▶ (6) An interim period available for less than four hours rest at a designated terminal is time on duty; and
- ▶ (7) An interim period available for at least four hours rest at a place with suitable facilities for food and lodging is not time on duty when the employee is prevented from getting to the employee's designated terminal by any of the following:
  - ▶ (i) A casualty;
  - ▶ (ii) A track obstruction;
  - ▶ (iii) An act of God; or
  - ▶ (iv) A derailment or major equipment failure resulting from a cause that was unknown and unforeseeable to the railroad or its officer or agent in charge of that employee when that employee left the designated terminal.

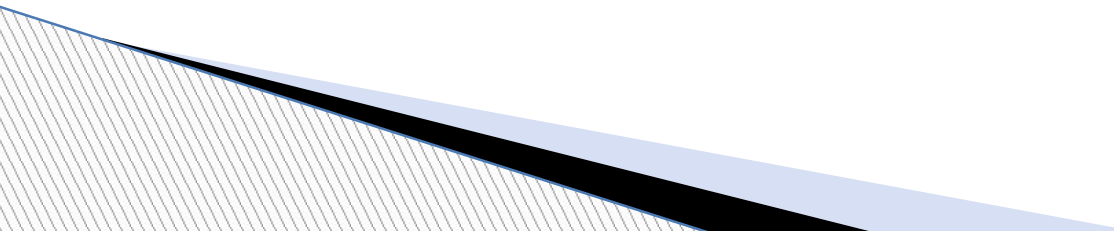
# 228.405 Limitations on duty hours ((§21103(b)))

- **INITIATING AN ON DUTY PERIOD**

- Duty must involve a covered service assignment

- **RULES CLASS/DEADHEAD SEPARATE AND APART**

- These are not covered service assignments and alone, separated from covered service by statutory off duty periods, do not constitute duty nor part of an on duty period.

- As such reporting for a rules class and a deadhead alone does not constitute initiating an on duty period
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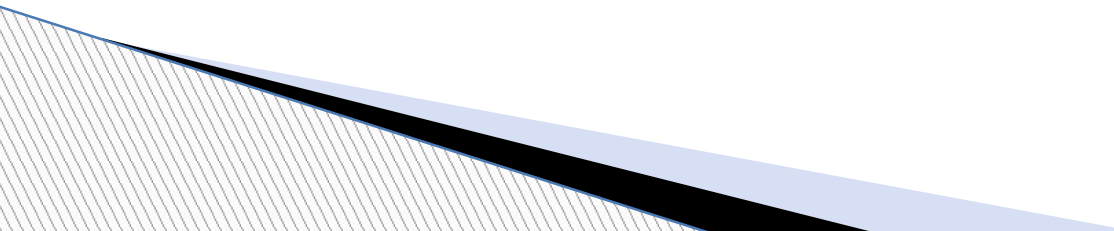
# **NEW PROVISIONS**

**Compliance date  
April 12, 2012**

**(April 12, 2013 for tourist,  
scenic, historic, or excursion  
operations)**

# 228.5 Definitions

## ▶ Type 1 assignment

- On duty no earlier than 4 a.m. and released no later than 8 p.m. on the same calendar day, and otherwise in compliance with §228.405.
  - Acceptable level of risk for fatigue
  - A Type 1 assignment becomes a Type 2 assignment if delayed into the midnight to 4 a.m. time period
- 

# 228.5 Definitions

## ▶ Type 2 assignment

- On duty at any time between 8:01 p.m. and 3:59 a.m.
- Considered a Type 1 assignment if—
  - Doesn't violate the defined fatigue threshold of a scientifically valid biomathematical model
  - Not on duty between midnight and 4 a.m.
- Always a Type 2 assignment when there is any time on duty between midnight and 4 a.m.

# 228.407 Fatigue Analysis/Mitigation

- ▶ Railroads must perform an analysis of one cycle (the period within which the work schedule repeats) of type II work schedules

A plan must be developed and adopted by the railroad to mitigate potential fatigue for any work schedule identified as at risk

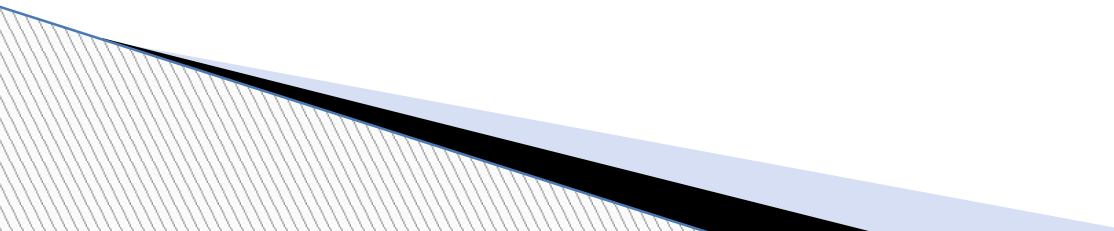
FRA will review submitted work schedules, proposed fatigue mitigation tools, and determinations of operational necessity

# 228.405 Limitations on duty hours

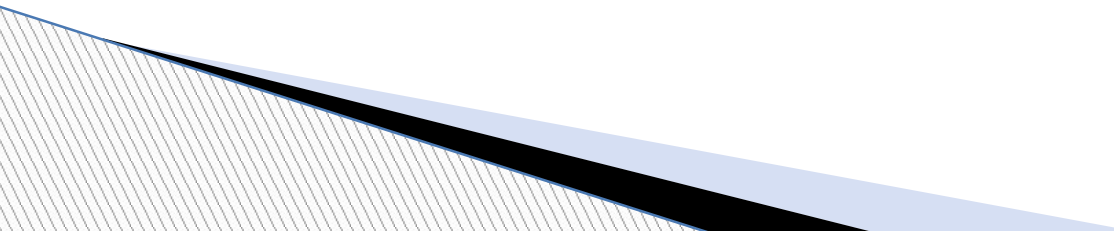
- ▶ (a)(3) In a series of at most 14 consecutive calendar days, in excess of the following limitations:
  - ▶ (i) That employee's first series of at most 14 consecutive calendar days begins on the first calendar day that the employee initiates an on-duty period on or after the compliance date for this paragraph (a)(3), as specified in Sec. 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.
  - ▶ (iii) If the employee has initiated an on-duty period each day on 13 or more calendar days in the series of at most 14 consecutive calendar days, that employee must have at least two consecutive calendar days on which the employee does not initiate an on-duty period prior to next initiating an on-duty period, except as provided in paragraph (a)(3)(v) of this section.
  - ▶ (iv) The minimum time off duty required by paragraph (a)(3)(ii) of this section and the at least two consecutive calendar days in which the employee does not initiate an on-duty period required by paragraph (a)(3)(iii) of this section must be at the employee's home terminal, and during such periods, the employee shall be unavailable for any service for any railroad.
  - ▶ (v) Paragraphs (a)(3)(ii)-(iii) of this section notwithstanding, if the employee is not at the employee's home terminal when time off duty is required by paragraph (a)(3)(ii) of this section or calendar days in which the employee does not initiate an on-duty period are required by paragraph (a)(3)(iii) of this section, the employee may either deadhead to the point of final release at the employee's home terminal or initiate an on-duty period in order to return to the employee's home terminal either on the same calendar day or the next consecutive calendar day after the completion of the duty tour triggering the requirements of paragraph (a)(3)(ii) or paragraph (a)(3)(iii) of this section.
  - ▶ (vi) If the employee is required to have at least 24 consecutive hours off duty under paragraph (a)(3)(ii) of this section and not to initiate an on-duty period for at least two consecutive calendar days under paragraph (a)(3)(iii) of this section, both requirements shall be observed. The required periods run concurrently, to the extent that they overlap.



## 228.405 Limitations on duty hours

- ▶ New rest day requirements will be defined using an “at most 14 consecutive calendar day series”
  - ▶ The at most 14 consecutive calendar day series begins on the first calendar day the employee initiates an on-duty period on or after April 12, 2012
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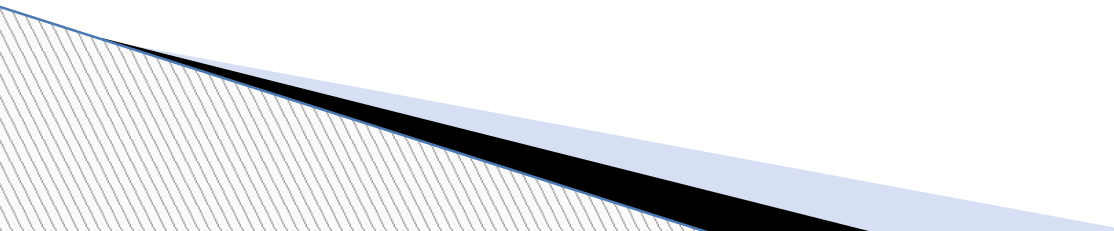
## 228.405 Limitations on duty hours

- ▶ At any time during the at most 14 day series an employee has two days of **NOT** initiating an on duty period, the 14 day series will reset
  - ▶ A new 14 day series will begin when the employee next initiates an on duty period
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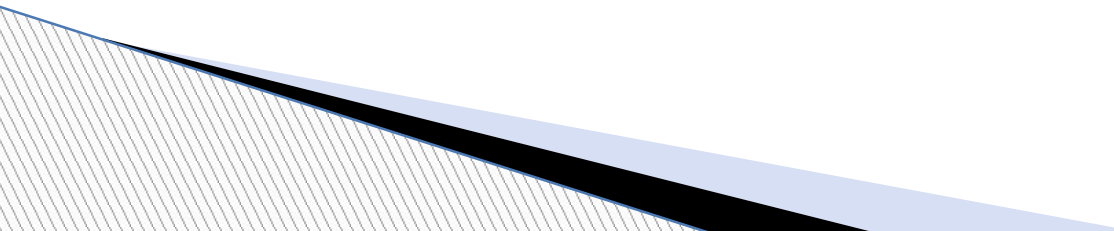
Beginning of at most  
14 day series

<b>1</b> Initiates on duty period	<b>2</b> Initiates on duty period	<b>3</b> Initiates on duty period	<b>4</b> Initiates on duty period	<b>5</b> Doesn't Initiate on duty period	<b>6</b> Initiates on duty period	<b>7</b> Initiates on duty period	
<b>8</b> Initiates on duty period	<b>9</b> Initiates on duty period	<b>10</b> Doesn't Initiate on duty period	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	
			End of at most 14 day series				

# 228.405 Limitations on duty hours

- ▶ Employee has fewer than two days of **NOT** initiating an on duty period in a 14 day series, the employee cannot perform any activity for the railroad for 2 consecutive calendar days at his/her home terminal before next reporting for duty as a passenger train employee.
  - ▶ Employee may deadhead or initiate an on duty period to return to his/her home terminal if at an away from home terminal
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# 228.405 Limitations on duty hours

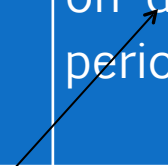
- ▶ Employee initiates on duty periods for 13 consecutive days in a 14 day series, followed by 2 consecutive calendar days of not initiating on duty periods at his/her home terminal unavailable for an service for the railroad.
  - ▶ In these circumstances, the 14 day series is reset and the employee may report for duty as a passenger train employee after completing the second calendar day of not initiating an on duty period.
- 

Beginning of at most  
14 day series

<b>1</b> Initiates on duty period	<b>2</b> Initiates on duty period	<b>3</b> Initiates on duty period	<b>4</b> Initiates on duty period	<b>5</b> Doesn't Initiate on duty period	<b>6</b> Initiates on duty period	<b>7</b> Initiates on duty period
<b>8</b> Initiates on duty period	<b>9</b> Initiates on duty period	<b>10</b> Initiates on duty period	<b>11</b> Initiates on duty period	<b>12</b> Initiates on duty period	<b>13</b> Initiates on duty period	<b>14</b> Initiates on duty period

Doesn't Initiate on duty period	Doesn't Initiate on duty period
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End of at  
most  
14 day  
series



Beginning of at most  
14 day series

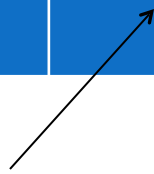
<b>1</b> Initiates on duty period	<b>2</b> Initiates on duty period	<b>3</b> Initiates on duty period	<b>4</b> Initiates on duty period	<b>5</b> Initiates on duty period	<b>6</b> Initiates on duty period	<b>7</b> Initiates on duty period
<b>8</b> Initiates on duty period	<b>9</b> Initiates on duty period	<b>10</b> Initiates on duty period	<b>11</b> Initiates on duty period	<b>12</b> Initiates on duty period	<b>13</b> Initiates on duty period	<b>14</b> Doesn't Initiate on duty period
Doesn't Initiate on duty period	Eligible to initiate on duty period					

End of at  
most  
14 day  
series

Beginning of at most  
14 day series

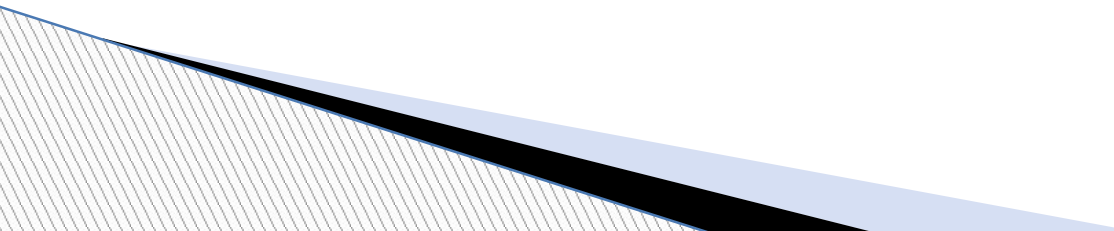
<b>1</b> Initiates on duty period	<b>2</b> Initiates on duty period	<b>3</b> Initiates on duty period	<b>4</b> Initiates on duty period	<b>5</b> Initiates on duty period	<b>6</b> Initiates on duty period	<b>7</b> Initiates on duty period
<b>8</b> Initiates on duty period	<b>9</b> Initiates on duty period	<b>10</b> Initiates on duty period	<b>11</b> Initiates on duty period	<b>12</b> Initiates on duty period	<b>13</b> Initiates on duty period	<b>14</b> Initiates on duty period
Doesn't Initiate on duty period	Doesn't Initiate on duty period					

End of at  
most  
14 day  
series





# 228.405 Limitations on duty hours

- ▶ Employee initiates an on duty period for **6 or more** consecutive days with at least one type II assignment, within the 14 day series, the employee must have 24 hours off at his/her home terminal before next reporting for duty as a passenger train employee.
  - ▶ Employee may deadhead or initiate an on duty period to return to his/her home terminal if at an away from home terminal
- 

Beginning of at most  
14 day series

<b>1</b> Initiates on duty period	<b>2</b> Initiates on duty period	<b>3</b> Initiates on duty period	<b>4</b> Initiates on duty period	<b>5</b> Initiates on duty period	<b>6</b> Initiates on duty period	<b>7</b> Initiates on duty period
<b>8</b> Initiates on duty period  Type II assignment	9	10	11	12	13	14

24 hours off required at  
employee's home terminal  
before next reporting for  
duty (doesn't reset 14 day  
series)

Beginning of at most  
14 day series

<b>1</b> Initiates on duty period	<b>2</b> Doesn't Initiate on duty period	<b>3</b> Initiates on duty period	<b>4</b> Initiates on duty period	<b>5</b> Initiates on duty period	<b>6</b> Initiates on duty period	<b>7</b> Initiates on duty period
<b>8</b> Initiates on duty period  Type II assignment	9	10	11	12	13	14

24 hours off required at  
employee's home terminal  
before next reporting for  
duty (may or may not reset  
14 day series)

Beginning of at most  
14 day series

1 Initiates on duty period	2 Initiates on duty period	3 Initiates on duty period	4 Initiates on duty period	5 Initiates on duty period	6 Initiates on duty period	7 Initiates on duty period
8 Initiates on duty period	9 Initiates on duty period	10 Initiates on duty period	11 Initiates on duty period	12 Initiates on duty period	13 Initiates on duty period	14 Initiates on duty period

Type II  
assignment

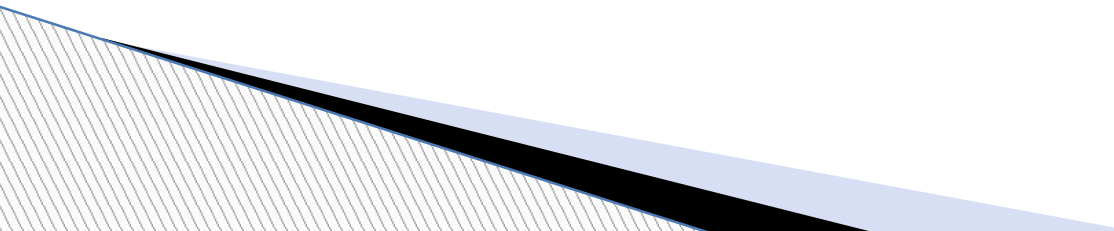


Doesn't Initiate on duty period	Doesn't Initiate on duty period
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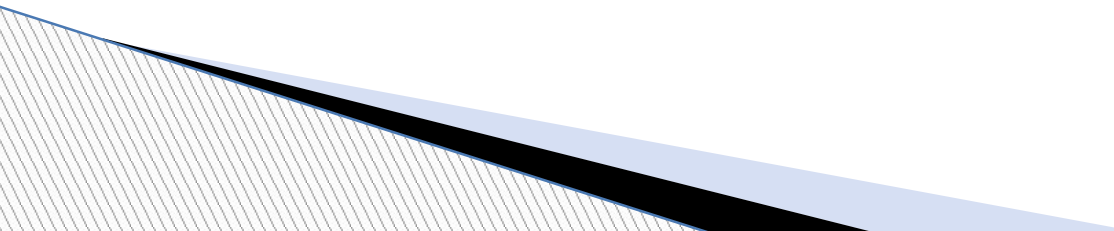
Note: At the end of the duty tour on the 14<sup>th</sup> day, the employee is required to have 24 hours off and two calendar days of not initiating an on duty period at his/her home terminal. In this case, the 24 hours off and the 2 calendar days run concurrently

End of at most  
14 day series  
and 24 hours  
off required at  
employee's  
home terminal

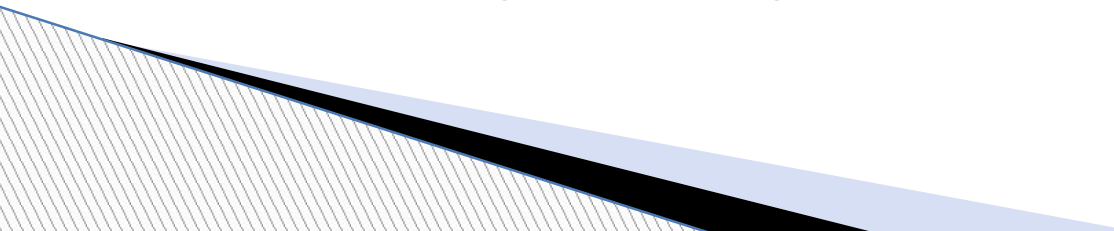
# 228.11 Hours of duty records

- ▶ Requirements for all train employees apply except those specific to freight operations
  - ▶ Records must also include
    - The date on which the 14 day series began, and
    - Date prior to the duty tour within the 14 day series when the employee did not initiate an on-duty period
- 

# 228.411 Training

- ▶ Initial training shall be provided to current employees not later than December 31, 2012, and for new employees before the employee first works or not later than December 31, 2012, whichever occurs later
  - ▶ refresher training shall be provided every three calendar years.
  - ▶ Additional refresher training shall also be provided when significant changes are made to the railroad's fatigue mitigation plan
  - ▶ A record of training shall be retained for three years
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# FREIGHT NOT PASSENGER RESTRICTIONS

- ▶ 276 hour monthly maximum performing any activity for the railroad
  - ▶ 30 hour monthly maximum for limbo time over 12 hours
  - ▶ 6/7 consecutive days initiating an on duty period followed by 48/72 hours off duty
  - ▶ Minimum 10 hour undisturbed statutory off duty period
  - ▶ Time on duty and limbo time over 12 hours added to statutory off duty period
- 

**THE END**

