

(5) All parties will be notified in writing of the Director's decision. If the Director determines that a violation has occurred, the offending parties will be denied access to the waybill sample for a period of time commensurate with the nature of the violation.

(6) Appeals to the Director's determination shall be filed in accordance with paragraph (d)(4)(iii) of this section.

(h) *Munitions shipments.* All waybill requests for munition data at the 3-digit Standard Transportation Commodity Code (STCC) level or greater will be forwarded by the STB to the Department of Defense's Military Traffic Management Command (MTMC). The STB will not release this type of information without MTMC's consent.

[52 FR 12416, Apr. 16, 1987. Redesignated at 65 FR 37711, June 16, 2000, as amended at 67 FR 57534, Sept. 11, 2002]

PART 1245—CLASSIFICATION OF RAILROAD EMPLOYEES; REPORTS OF SERVICE AND COMPENSATION

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AUTHORITY: 49 U.S.C. 721, 11145.

SOURCE: 32 FR 20462, Dec. 20, 1967, unless otherwise noted.

NOTE: The report forms prescribed by part 1245 are available upon request from the Office of the Secretary, Surface Transportation Board, Washington, DC 20423.

§ 1245.1 Rules governing classification of employees, service, and compensation.

The rules governing the classification of railroad employees and reports of their service and compensation outlined in §§ 1245.3 and 1245.4 are required, and all Class I railroads within the scope of Section 11145 of the Interstate Commerce Act shall be governed by such rules in the preparation and submission of their annual and other peri-

odic reports to the Surface Transportation Board in accordance with the forms adopted for such returns (§ 1245.2); and also with respect to any other matters covered by these rules.

[47 FR 53867, Nov. 30, 1982]

§ 1245.2 Reports of railroad employees, service and compensation.

Beginning with the reporting period commencing January 1, 1983, and quarterly thereafter until further ordered, each Class I railroad is required to file a Quarterly Report of Railroad Employees, Service, and Compensation, (Form QRSC). In addition, such carriers shall also file an Annual Report of Railroad Employees, Service, and Compensation, (Form ARSC) for each calendar year. Both reports shall be filed with the Bureau of Accounts, Surface Transportation Board, Washington, DC 20423. The quarterly report shall be filed within thirty days after the end of each calendar quarter. The annual report shall be filed within forty five days after the end of the reporting year.

[47 FR 53867, Nov. 30, 1982]

§ 1245.3 Employees; definition, service hours, and compensation.

(a) *Definition of "employees".* The word *employees*, as used in this part, is intended to include every person in the service of the reporting carrier subject to its continuing authority to supervise and direct the manner of rendition of his service. Persons engaged to render only specifically defined service and not subject to the continuing authority of the carrier to supervise and control their acts, such as custom-house brokers, lawyers retained only for specific cases and not under general or continuing retainer, etc., are not employees in the meaning of the term used in this part.

(b) *Counting employees.* Since the number of employees fluctuates, carriers are required to classify and count all of their employees at twelve different times each year.

(c) *Joint employees.* Each person jointly employed shall, if carried on the payrolls of the several joint employers,

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be counted by each employer and represented in its return of number of employees by a fraction based on the number of employers reporting him; if a person, for example, is reportable by three employers, each should include him in its number of employees as one-third of an employee. When the entire compensation of a joint employee is shown on the payroll of a single joint employer and is paid to the employee by that employer such employee should, for the purpose of returns, be treated as if employed solely by such employer.

(d) *Service hours.* (1) The number of hours on duty, or held for duty, and the number of hours paid for are to be ascertained and recorded for every class of employee. For enginemen and trainmen, the actual number of miles run and miles paid for but not run are to be recorded, as well as the number of hours on duty and the number of hours paid for. (The service time of all classes of employees shall be recorded in hours instead of days or hours as heretofore.)

(2) Whenever an employee works at more than one occupation, or in more than one class of service, both the number of hours worked and the compensation paid, should be separated and reported under the proper Reporting Divisions.

(3) If an employee is paid a day's wage for a smaller number of hours than constitutes a day's work, the number of hours paid for as well as the actual number of hours the employee is on duty should be ascertained and recorded. Time allowed for meals, part holidays, holidays, absences on leave, vacations, etc., should be excluded from time actually worked, but if such time is paid for it should be appropriately reported as "Time paid for but not worked" on Form A or as a "constructive allowance" on Form B. These requirements apply to enginemen and trainmen paid on the basis of trips or of miles run, and to employees paid at piece rates, as well as to employees paid on hourly, daily, weekly, monthly, or other time basis. Service hours for officers and employees who do not receive payment for overtime should be reported as the number of hours in

each month at 8 hours per day contemplated for the position.

(e) *Compensation.* The compensation of employees as defined in the rules in this part is to be stated in such manner and detail as the forms adopted for periodical returns require.

§ 1245.4 Forms required to be used.

(a) The report of information to the Surface Transportation Board on railroad employees, service and compensation includes two forms. Form A relates to employees other than train and engine service employees. Form B relates to train and engine service employees.

(b) With general reference to the statement of the compensation of employees in Forms A and B, it should be understood that the total compensation received by the employees in each Reporting Division, as well as the amount of work they perform, should be shown properly distributed under the prescribed column heads as indicated by the forms. It should be noted that if the work of an employee varies during a report period, his time and compensation should be apportioned accordingly. Amounts reported should be gross compensation paid.

Illustrations. (a) In the course of a month, an employee works as a Machinist, and as such earns \$200 and he works also as a Gang Foreman and earns \$130. The pay received by him in the occupation of Machinist with corresponding time should be included in returns for Division 61, "Machinists", and his other pay and time as indicated should be included in returns for Division 53, "Gang Foremen and Gang Leaders". (b) When an employee works at two or more of the occupations of engineer, fireman, conductor, and brakeman, his time and compensation should be assigned in accordance with the facts. For example, in a certain month an employee earns as a Through Freight Engineer \$110, as a Local or Way Freight Engineer \$140, as a Yard Engineer \$100, and as a Local or Way Freight Fireman \$75. The time and the compensation of this employee should be correspondingly distributed among Reporting Divisions 122, 123, 124, and 127 as they are respectively applicable, without regard to the predominance of the time worked or the amount earned by him in one occupation.

(c) As elsewhere indicated, the statement of the number of employees in the service of a company with respect to Reporting Divisions depends upon