



ALABAMA EXPORT RAILROAD

701 Dekle Street / Mobile, AL 36602 / 251.355.3887 / www.alerr.com

April 23, 2021

Mr. Christian Holt
Operating Practices Staff Director
Federal Railway Administration

Re: Alabama Export Railroad: Action Plan

Dear Mr. Holt,

This letter details the Action Plan you requested in response to your recent audit and we discussed in our meeting on April 21, 2021. As I hope we relayed to you when we met, it cannot be overstated how highly we value our employees, partners, customers, and the communities we operate through. We are committed to improvement of our railroad and operating safely every day.

Since November 2020, and subsequent FRA audit conducted April 2021, we recognize 49 CFR Parts 214, 217, 220, 240 and 242 require immediate attention. Please note by Part changes accomplished and changes in progress:

- 49 CFR Part 214:
 - An updated On-Track Safety Manual was submitted on April 15, 2021 to FRA Specialist Lance Hawks for approval. Once approved, all Roadway Workers will be trained in its use along with a new Job Briefing form/book that is pocketable. Until approval of a new On-Track Safety Manual, we are confirming the current version has been

made readily available to all Roadway workers.

- Routine track maintenance is no longer contracted and now performed in-house. We recognize the value of familiarity with our own employees.
 - Ryan Van Vossen joined our team as Superintendent of Maintenance of Way on April 5, 2021. Beyond his engineering capabilities, Mr. Van Vossen's most recent position was in the field of compliance and training with the South Shore Line / Northern Indiana Commuter Transportation District. Mr. Van Vossen's expertise is being used across all crafts to ensure our plans and training are reviewed and where needed enhanced. He has been designated Plan Manager of our updated 217.9 program.
- 49 CFR Part 217 and 220 (c)
 - 217.9 Program of Operational Testing and Observations has been updated as of April 22, 2021 and will be trained on and implemented within 30 days. The Program was assembled using the ASLRRA Model Plan, Terminal Railway, and NICTD plans by comparison. 218 subpart f, 240 and 242 testing requirements have been properly added to the program. Mr. JR Gelnar of ASLRRA and Mr. James Tally, FRA Operating Practices Specialist, offered review and provided commentary in our effort to create a complete plan.
 - 217.11 Program of Instruction was updated simultaneously. Cliff Melton, VP of Operations, is responsible for the administration of this Program.
 - 220 (c) requirements have been properly added to our updated 217.9 Program. Each employee will be tested in the use of electronic devices no less than once each quarter. Four (4) employees (all currently serving) who were identified as receiving GCOR testing on their first day of employment are scheduled to receive GCOR refresher training by May 15, 2021.
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- Outgoing VP of Operations Mark Miller and Manager of Equipment and Structures Scott Tanner have been removed from 217 testing requirements.
 - Managers Cliff Melton, Matt Fryfogle, Brandon Boyd, and Lonnie Smith will be given 217 training across all crafts by May 15, 2021 and commence testing accordingly.
 - Manager Lee Bradburn will receive 217 training to test the Mechanical Department by May 15, 2021 and commence testing accordingly.
 - Cliff Melton will review 217 testing performance monthly to ensure proper function of the Program and Program Manager. This will occur for no less than 12 months after implementation.
 - Request will be made to local FRA Operating Practices officials to gauge progress within 90 days.
- 49 CFR 240 and 242
 - 240 and 242 programs have been submitted for approval. Both Programs are modeled directly after the January 2021 ASLRRRA Model Program, which has been adopted in substance with minor edits unique to ALE.
 - Transportation Manager Brandon Boyd has been removed as the Program Administrator. Upon FRA approval of this Action Plan, Cliff Melton will function as the Plan Administrator. Per agreement with FRA Certification Specialist Kevin Lewis, upon the successful training of two DSLEs, Mr. Boyd will no longer serve in the capacity of DSLE.
 - Chief Locomotive Mechanic Joey Smith no longer serves in the capacity of DSLE.
 - Managers Cliff Melton, Matt Fryfogle and incoming Transportation Supervisor Lonnie Smith will receive DSLE training and function in that capacity upon completion of training.
 - Two (2) employees with unaccounted throttle time during training have been removed from engine service and have been placed back into
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Locomotive Engineer training. Additionally, the student Engineer evaluation form has been amended to clearly account for actual throttle time performed each shift during training.

In our commitment to continuously improve our safety programs, we have recently joined the ASLRRA's Safety and Training Committee and will be exploring other initiatives with the ASLRRA.

Respectfully,

A black rectangular redaction box covering the signature of Cliff Melton.

Cliff Melton

- Attachment 1: Response to Inspection Report 43 – Inspector Jeremy J. Moats
- Attachment 2: Response to Inspection Report 48 – Inspector Daniel J. Meyers
- Attachment 3: Response to David Evans E-mail of April 15, 2021

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 61475	Report No. 43	Report Date 4/14/2021
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ ***	Activity Code
2	MP0003.70	SG	M	214	0311	A	20	2		N	N	1	RWP

Description
ROADWAY WORKER FAILED TO UNDERSTAND OR COMPLY WITH ITS RULES AND THE REQUIREMENTS OF THIS PART (Roadway worker fatality that occurred on November 17, 2020)

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Optional	Railroad Action Code	Date(mm/dd/yyyy)	Comments on back?
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Railroad Comments

Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ ***	Activity Code
3	MP0003.70	SG	M	214	0315	A5	20	2		N	N	1	RWP

Description
PARTIAL FAILURE OF EMPLOYER TO PROVIDE ON-TRACK SAFETY JOB BRIEFING ON THE ACCESSIBILITY OF THE RWIC AND ALTERNATIVE PROCEDURES IF THE RWIC IS NO LONGER ACCESSIBLE TO THE ROADWAY WORK GROUP. (Roadway worker fatality that occurred on November 17, 2020)

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Optional	Railroad Action Code	Date(mm/dd/yyyy)	Comments on back?
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Railroad Comments

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 61475	Report No. 43	Report Date 4/14/2021
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Item	Initials/Milepost	Equipment Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNR**	RCL**	# of Occ ***	Activity Code
4	MP0003.70	SG	M	214	0315	CI	20	2		N	N	1	RWP

Description
FAILURE TO DESIGNATE ROADWAY WORKER IN CHARGE OF ROADWAY WORK GROUP (Roadway worker fatality that occurred on November 17, 2020)

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Optional	Railroad Action Code	Date(mm/dd/yyyy)	Comments on back?
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Railroad Comments

Item	Initials/Milepost	Equipment Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNR**	RCL**	# of Occ ***	Activity Code
5	MP0003.70	SG	M	214	0315	DII	20	2		N	N	1	RWP

Description
INCORRECT INFORMATION PROVIDED TO ROADWAY WORKERS REGARDING ON-TRACK SAFETY PROCEDURES IN EFFECT (Roadway worker fatality that occurred on November 17, 2020)

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude:	Longitude:
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Written Notification to FRA of Remedial Action is:	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Optional	Railroad Action Code	Date(mm/dd/yyyy)	Comments on back?
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Railroad Comments

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No	Report No	Report Date
61475	43	4/14/2021

Item	Initials/Milepost	Equipment Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ ***	Activity Code
6	MP0003.70	SG	M	214	0327	A	20	2		N	N	1	RWP

Description
IMPROPER CONTROL OF ENTRY TO INACCESSIBLE TRACK (Roadway worker fatality that occurred on November 17, 2020)

Seal Applied	Seal Removed	Hazard Class	UN/NA ID

Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude	Longitude

Written Notification to FRA of Remedial Action is:	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Optional	Railroad Action Code	Date(mm/dd/yyyy)	Comments on back?

Railroad Comments

Item	Initials/Milepost	Equipment Track #	Type/Kind	49 CFR/ USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ ***	Activity Code
7	MP0003.70	SG	M	214	0335	A	20	2		N	N	1	RWP

Description
FAILURE TO PROVIDE ON-TRACK SAFETY FOR A MEMBER OF A ROADWAY WORK GROUP (Roadway worker fatality that occurred on November 17, 2020)

Seal Applied	Seal Removed	Hazard Class	UN/NA ID

Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude	Longitude

Written Notification to FRA of Remedial Action is:	<input checked="" type="checkbox"/> Required <input type="checkbox"/> Optional	Railroad Action Code	Date(mm/dd/yyyy)	Comments on back?

Railroad Comments

1. Item #1 - On-track safety manual not provided to employees:
 - An updated and revised On-Track Safety Manual (OTSM) was provided to FRA Specialist Lance Hawks on April 15, 2021. The Manual contains a section that requires the OTSM to be readily available with RWIC's and also provides further guidance on what "readily available" means for a Lone Worker.
 - All roadway workers will be trained on the new OTSM, once approved.
 - ALE will require all employees who are given a new Manual to sign for it and the acknowledgement will be placed into their personal files. This will be done with all FRA/GCOR/Company issued Manuals/Programs.

 2. Item #2 - RW failed to understand or comply with rules and requirements:
 - New OTSM says: "The RWIC must conduct a Job Briefing that includes all information related to On-Track Safety. This Job Briefing is given to every roadway worker who will foul the track. A job briefing is complete only when each roadway worker has acknowledged their understanding of the On-Track Safety procedures and instructions by initialing the Job Briefing book. In an emergency, all roadway workers must clear the tracks immediately and not foul the track again until a follow up job briefing is done."
 - A new Job Briefing form will be created and will be implemented by the new OTSM.
 - Employees will be trained on the new OTSM and Job Briefing Form, once approved.

 3. Item #3 - Failure of employer to provide on-track safety job briefing on the accessibility of the RWIC and alternative procedures if the RWIC is no longer accessible to RW group:
 - New OTSM says this "Accessibility of the Roadway Worker in charge and alternative procedures in the event the RWIC is no longer available to members of the roadway work group."
 - Employees will be trained on new OTSM, once approved.
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4. Item #4 - Failure to designate RW in Charge of RW group:
 - New OTSM states "On-Track Safety can be provided for roadway workers by the following methods:
 - Inaccessible Track
 - Train Approach Warning (TAW)
 - Individual Train Detection (ITD)
 - The RWIC of the roadway work group, or the Lone Worker, determines the type of On-Track Safety to be used. The RWIC must notify all employees before the working limits are released for the movement of trains. The RWIC must not release the working limits until all employees have left the track or until all employees have been provided on-track protection according to On-Track Safety Rule 1.5.3. The type of On-Track Safety must comply with these provisions, as well as:
 - Railroad Operating Rules (GCOR)
 - Timetable
 - MOW Rules
 - General Orders
 - Special Instructions
 - Training will be provided for Roadway Workers, once new OTSM is approved.

 5. Item #5 - Incorrect information provided to RW regarding on-track safety procedures in effect:
 - New OTSM states "The RWIC must give a follow-up Job Briefing whenever:
 - Working conditions or procedures change
 - Other workers enter the working limits
 - On-Track Safety is changed or extended, or
 - The main track has been cleared and On-Track Safety or track authority is to be released
 - Training for Roadway Workers once new OTSM is approved."

 6. Item #6 - Improper Control of Entry to Inaccessible Track:
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- Training for Roadway Workers once new OTSM is approved.

7. Item #7 -Failure to provide on-track safety for a member of RW group:

- Training will be provided for Roadway Workers once new OTSM is approved.
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ATTACHMENT 2

FRA Inspection Report dated 04.15.2021, Alabama Export Railroad 217, 220, 240 and 242

Attention: One or more violations have been cited on this report.

Inspector's Name:		Inspector's Signature:		Inspector's ID No.	Region No.	Date							
Meyer, Daniel J.				60543	48	ss 2021	mm 04	dd 15					
Railroad Company Name & Address: ALABAMA EXPORT RAILROAD 4519 Melrose Ave. Moist Point MS 39563				R.R. R ALX	Division SYSTEM SUBSYSTEM SYSTEM	RR Co. Representative (Required Acknowledgment) Name: Cliff Melton Title: VP of Operations Email: cmelton@aprr.com Signature:							
From City: MOIST POINT		Code: 1680		Destination City & County:		From Latitude:							
State: MS		28		City:		From Longitude:							
County: JACKSON		009		County:		To Latitude:							
Mile Post - From:		To:		Inspector Post: MSE-ALX-HQ		To Longitude:							
Account Code	217P	220C	240	242									
Units	1	1	1	1									
Sub-Units	15	1	14	14									
Item	Instch. Mktg. Exp.	Equipment Track 2	Type: Road	49 CFR 157	Defect	Subcode	Speed	Class	Train # Svc.	ANSI*	IRL**	Part Obj.***	Action Code
1										N	N	0	
Description - (** Comment to Railroad Company **) I conducted a recently review of the ALX Railroad as part of the investigation of the November 2020 ALX fatality incident. I reviewed 49 CFR 217.9 records for operational testing program requirements and compliance. Additionally, I reviewed 49 CFR 240 & 242 programs regarding the certification of employees. No primary violations, no defects, and no non-FRA defects noted.													
Seal Applied		Seal Removed		Hazard Class		US N/A ID							
Violation Record number:		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Latitude:		Longitude:							
Written Notification by FRA of Remedial Actions:		<input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional		Railroad Action Code:		Date of delivery:		Comments on track:					

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No: 2130-0509

Inspector's ID No. 60543	Report No. 48	Report Date 4/15/2021
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR USC	Defect	Subrule	Speed	Class	Train # Site	SNFR*	RCL**	# of Def. ***	Activity Code
2				217	0011	A				N	N	5	217P
Description Since beginning operation on Oct. 1, 2019, as a separate company, ALE hired five (5) employees. The employee training records for all 5 employees (Brown, Fagan, Johns, White, Filder) document that they received a General Code of Operating Rules (GCOR) exam on the first day of employment. This evidences that the employing railroad failed to adequately instruct the new employees on the operating rules that were applicable on their property. The employees named were formerly employed by either CSX or NS, both of which operate on different operating rules.													
Seal Applied			Seal Removed			Hazard Class			UN/NA ID				
Violation Recommended: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Latitude: Longitude:													
Written Notification to FRA of Remedial Action is: <input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional Railroad Action Code: Date (mm dd/yyyy): Comments on back?													
3				217	0011	B				N	N	1	217P
Description ALE began operation on Oct. 1, 2019 and the operations are conducted under the General Code of Operating Rules (GCOR). ALE does not have a program for the periodic instruction of its employees as required by §217.11 (b).													
Seal Applied			Seal Removed			Hazard Class			UN/NA ID				
Violation Recommended: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Latitude: Longitude:													
Written Notification to FRA of Remedial Action is: <input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional Railroad Action Code: Date (mm dd/yyyy): Comments on back?													
4				217	0009	C				N	N	1	217P
Description ALE started operation as a class 3 on October 1, 2019 and failed to adopt a compliant program or develop, implement, and maintain a Program of operational tests and inspections as required by §217.9 (c).													
Seal Applied			Seal Removed			Hazard Class			UN/NA ID				
Violation Recommended: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Latitude: Longitude:													
Written Notification to FRA of Remedial Action is: <input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional Railroad Action Code: Date (mm dd/yyyy): Comments on back?													

DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No. 2130-0509

Inspector ID No. 60543	Report No. 48	Report Date 4/15/2021
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR USC	Defect	Subrule	Speed	Class	Train # Site	SNR**	RCL**	# of Occ.***	Activity Code
5				217	0009	C2				N	N	1	217P

Description
ALE started operation as a class 3 on October 1, 2019 and failed to adopt a compliant program of operational testing and observations that require a minimum number of test and inspections per year covering the requirements Part 217 sub part F.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude	Longitude
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Written Notification to FRA of Remedial Action is:	<input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional	Railroad Action Code	Date (mm/dd/yyyy)	Comments on back*
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR USC	Defect	Subrule	Speed	Class	Train # Site	SNR**	RCL**	# of Occ.***	Activity Code
6				220	0315	A				N	N	1	220C

Description
ALE started operation as a class 3 on October 1, 2019 and failed to adopt a compliant program of operational testing and observations that had updated their efficiency testing program under part 217 to include a minimum number of operational tests and inspections of 220 sub part C.

For calendar years 2019 and 2020 (prior to 11/17/2020) there were no tests found to have been performed for 220 sub part C (electronic devices). Following 11/17/2020 (late December) there were ten tests performed for 220 sub part C (electronic devices). This does not satisfy the requirement for testing of Part 220 sub part C.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude	Longitude
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Written Notification to FRA of Remedial Action is:	<input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional	Railroad Action Code	Date (mm/dd/yyyy)	Comments on back*
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR USC	Defect	Subrule	Speed	Class	Train # Site	SNR**	RCL**	# of Occ.***	Activity Code
7				240	0303	A				N	N	7	240

Description
ALE was unable to provide FRA with a written program to monitor the conduct of its certified locomotive engineers by performing both operational monitoring observations and by conducting unannounced operating rules compliance tests.

Seven employees (Elder, Fagan, Keimert, Johns, White, Brown, Ankersen) were showing a total of 7 unannounced tests listed for calendar years 2019 & 2020. None of the 7 tests are showing on the 217-9 testing records.

Seal Applied	Seal Removed	Hazard Class	UN/NA ID
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Violation Recommended	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Latitude	Longitude
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Written Notification to FRA of Remedial Action is:	<input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional	Railroad Action Code	Date (mm/dd/yyyy)	Comments on back*
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DEPARTMENT OF TRANSPORTATION
FEDERAL RAILROAD ADMINISTRATION (FRA)

INSPECTION REPORT
(Continuation)

OMB Approval No.: 2130-0509

Inspector's ID No. 60543	Report No. 48	Report Date 4/15/2021
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Item	Initials/Milepost	Equipment/Track #	Type/Kind	49 CFR USC	Defect	Subrule	Speed	Class	Train #/Site	SNFR*	RCL**	# of Occ.***	Activity Code
8				242	0123	B				N	N	10	242
<p>Description</p> <p>AIT was unable to provide FRA with a written program to monitor the conduct of its certified conductors by performing unannounced operating rules compliance tests. The program shall include procedures to address the testing of certified conductors who are not given an unannounced compliance test in a calendar year pursuant to paragraph (f) of this section.</p> <p>Six employees (Fagan, Bennett, Johns, White, Brown, Ankersen) were allowing a total of 10 unannounced tests listed for calendar years 2019, 2020. None are showing on the 217.9 testing records.</p>													
Seal Applied		Seal Removed		Hazard Class				UN-NA ID					
Violation Recommended				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Latitude		Longitude					
Written Notification to FRA of Remedial Action is:				<input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional		Railroad Action Code		Date (mm dd yyyy)		Comments on back?			
9				217	0009	B11V				N	N	30	217P
<p>Description</p> <p>An audit of MSE's Operational Testing Program determined that all testing managers were required to do one test per week or 5 tests per month in 2020. During the review of the data that MSE provided it was determined that three (3) managers failed to make the required weekly/monthly tests in 2020. Boyd missed the testing requirements in (Feb, Mar, Apr, Jul, Aug, Sep, Nov). Fryfogle missed the testing requirement for months (Jan, Feb, Mar, Apr, May, Jun, Jul, Aug, Sep, Oct, Dec) in 2020. Tanner missed the testing requirement for all months in 2020.</p>													
Seal Applied		Seal Removed		Hazard Class				UN-NA ID					
Violation Recommended				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Latitude		Longitude					
Written Notification to FRA of Remedial Action is:				<input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional		Railroad Action Code		Date (mm dd yyyy)		Comments on back?			
10				217	0009	B11				N	N	3	217P
<p>Description</p> <p>ALE's VP Operations (Miller) has no records indicating that he is a qualified testing manager, yet has 3 tests entered for December 2020. ALE could not provide records that indicated Mr. Miller completed appropriate field training or a qualified testing manager.</p>													
Seal Applied		Seal Removed		Hazard Class				UN-NA ID					
Violation Recommended				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		Latitude		Longitude					
Written Notification to FRA of Remedial Action is:				<input type="checkbox"/> Required <input checked="" type="checkbox"/> Optional		Railroad Action Code		Date (mm dd yyyy)		Comments on back?			

1. Item #2 (Item #1 absent, no defect) – Five (5) employees received CGOR exam on 1st day of employment but not the operating rules applicable specifically to ALE:
 - 217.11 Program of Instruction has been developed.
 - Refresher GCOR training will be provided for employees listed by May 7, 2021.

 2. Item #3 - Operations conducted under GCOR, no program for periodic instruction for employees:
 - 217.11 Program of Instruction has been developed.

 3. Item #4 - Failure to adopt a Program of operational tests and inspections:
 - Updated 217.9 Program has been updated and implemented; that Program identifies Ryan Van Vossen, Superintendent of Maintenance of Way as Program Manager, who will assure that operational tests and inspections are conducted.

 4. Item #5 - Failed to adopt program for operational testing and observations that require a minimum number of tests and inspections per year as required by Part 218, subpart F:
 - 217.9 Program updated with proper requirements.
 - Updated Program clearly defines the minimum number of tests and inspections per year pertaining to CFR 218 subpart F as required by 217.9(c)(2).

 5. Item #6 - Failed to adopt efficiency testing program to include part 220 subpart C (electronic devices):
 - 217.9 Program has been updated to include observational testing criteria for CFR 220 Subpart C, and specifically includes the minimum number of operational tests required.
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6. Item #7 - Unable to provide FRA with written program to monitor the conduct of engineers by performing operational monitoring observations and unannounced operating rules test, documentation:
 - 217.9 Program has been updated.
 - Program includes testing criteria for monitoring of skills for locomotive engineers (CFR 240.211, 240.127, 240.129).
 - Program includes testing criteria for unannounced operational rules.
 - These observations and tests are to be documented not only as 240 and 242 records, but also as 217.9 records.

 7. Item #8 - Unable to provide FRA with written program to monitor the conduct of conductors by performing unannounced compliance tests:
 - 217.9 Program has been updated and includes testing criteria for unannounced operational rules compliance testing for Certified Conductors (CFR 242.123).

 8. Item #9 - MSE's Operational Testing Program states that all testing managers were required to do one (1) test per week or five (5) per month. Three (3) managers failed to make the required testing number for 2020:
 - Updated 217.9 Program adds a Program Manager who is responsible for overseeing testing requirements are met.

 9. Item #10 - VP Operations, Miller, has no records indicating he is a qualified testing manager; no records indicating Miller completed field training or qualified testing manager:
 - Initial training for 217.9 operational testing will be verified for Managers listed as testing officers.
 - It is anticipated that additional trained Managers will be added to the list of designated testers as needed.
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- Mr. Miller has been removed from testing requirements.
 - Additional managers who are trained should be added to the list of designated testers as needed.
 - Nearing retirement, Mr. Miller has been removed from testing requirements.
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ATTACHMENT 3

FRA review of defects noted 240 and 242, recommendations and defects. (Inspector David Evans, email OF 4/15/21).

The following recommendations and defects were taken:

1. 240.127 (ii) (d). No designation of certification ride for 240.127
2. 240.223 (a) (4). No corrective lenses noted on the notice of restrictions on certificate.
3. 240.123 (c). No training records for employees noting actual throttle time accrued during Locomotive Engineer training. As required in the current approved ALM MSE Locomotive Engineer training program.
4. 240.303 (c). No stop test 366 days prior to certification date.
5. During the review, it was discovered that there were no Student Engineer evaluation forms developed that would accurately document throttle time to monitor the required time as outlined in the Engineer training program. FRA recommends that such a form be developed to ensure compliance with said plan.
6. FRA also requires that employees that are identified as DSLE's be qualified IAW 49 217.9 (b) (2) to conduct the operational testing that is required to uphold the certification of Locomotive Engineers. This exception is noted in the findings of the 49 CFR 217.9 program review and a civil penalty is recommended.

1. 240.127 (ii) (d) No designation of certification ride for 240.127:
 - DSLE counseled to correctly identify and designated certification rides in documentation.
2. 240.223 (a) (4) No corrective lenses noted on the notice of restrictions on certificate:
 - Proper documentation has been added, correcting this employee's file to reflect no corrective lenses necessary.
3. 240.123 (c) No training records for employees noting actual throttle time accrued during Locomotive Engineer training as required in the current ALE/MSE Locomotive Engineer training program:
 - Employees noted were immediately removed from engine service and are being utilized as Conductors only. The same employees are being placed in Locomotive Engineer Training with documentation of throttle time as mentioned in item 5.

4. 240.303 (c) No stop test 366 days prior to certification date:
 - DSLE counseled on the requirements of part 240.303.
 - Verification that subject employee received stop test (although late) demonstrated performance of associated skills.
 - Internal review procedures being established to ensure dates are not missed.

5. During the review, it was discovered that there were no Student Engineer evaluation forms developed that would accurately document throttle time to monitor the required time as outlined in the Engineer Training program. FRA recommends that such a form be developed to ensure compliance with said plan:
 - Student Engineer evaluation forms have been amended to include actual throttle time performed each shift trained.

6. FRA also requires that employees that are identified as DSLE's be qualified in accordance with 49 217.9 (b) (2) to conduct the operational testing that is required to uphold the certification of Locomotive Engineers. This exception is noted in the findings of the 49 CFR 219.9 program review and civil penalty is recommended:
 - Employee Joey Smith removed from DSLE responsibilities.
 - Employee Matt Fryfogle holds a Locomotive Engineer certification and is qualified to operational rules test. Mr. Fryfogle is currently receiving DSLE training; he will be qualified by April 27, 2021.

