Hours of Service

Warning
When utilizing this Hours of Service App, please ensure you are in compliance with all federal regulations and railroad operating rules and policies. FRA does not consider agreement issues when interpreting federal laws or regulations.

OK
This APP provides clarification on hours of service requirements found at 49 CFR Part 228, Hours of Service Recordkeeping, and FRA hours of service interpretations and policies. Because of the amount of guidance that exists to address the complexity of hours of service requirements, along with the diversity of railroad operations, it is necessary to provide comprehensive guidance and consolidate the majority of this information into one manual to ensure standardized application and compliance.

This APP is not intended to be the primary reference document for hours of service requirements; 49 USC CHAPTER 211 & HOURS OF SERVICE, 49 CFR Part 228, FRA Operating Practices Technical Bulletins, and official FRA letters addressing hours of service issues will remain the primary reference documents when dealing with Federal hours of service requirements.
### Covered Service

“Train employee” means an individual engaged in or connected with the movement of a train, including a hostler. (49 USC § 21101(5)). “Covered service” for train employees refers to the actual assembling or operation of trains. Employees who perform this type of service commonly include locomotive engineers, firemen, conductors, trainmen, switchmen, switch tenders (unless their duties come under the provisions of the law pertaining to dispatching service employees), and hostlers. (49 CFR Part 228, Appendix A). Both inside and outside hostlers are considered to be connected with the movement of trains. Previously, only outside hostlers were covered. (49 CFR Part 228, Appendix A; FRA Technical Bulletins OP-04-26, OP-04-27). Any other employee who is actually engaged in or connected with the movement of any train is also covered, regardless of his or her job title.
### Definitions

- **Actual Time**
- **At The Behest Of The Railroad**
- **Broken (Aggregate) Service**
- **Call & Release**
- **Commingled Service**
- **Covered Service**
- **Commuting**
- **Deadheading**
- **Incidental Service**
- **Interim Release**
- **Limbo Time**
- **On-Duty Time**
- **Other Than Regular Reporting Point (OTRRP)**
- **Not Commingled Service**
- **Regular Reporting Point (RRP)**

### Commingled Service

Commingled service for a train employee means any non-covered service at the behest of the railroad and performed for the railroad that is not separated from covered service by a qualifying statutory off-duty period. Such commingled service is counted as time on duty. (49 USC § 21103(b)(3) and 49 CFR § 228.5). The presence or absence of monetary compensation does not determine whether an activity can commingle, becoming time on duty. The law does not distinguish treatment of situations in which non-covered service follows, rather than precedes, covered service. The limitations on total time on duty apply in both cases.

Training, for both students and instructors, may be either commingled service or covered service, depending on the nature of training. Training, where the student and instructor are actually engaged in or connected with the movement of a train, including the actual assembling of a train, is covered service. Training, where the student and instructor are not engaged in or connected with the movement of a train, is considered activity at the behest of the railroad and can commingle with covered service.
Not Commingled Service

Not commingled service: Activity at the behest of the employee refers to time spent by an employee in a railroad-related activity that is not required by the railroad as a condition of employment, in which the employee voluntarily participates. Such activities will not commingle and time spent in those activities will count as time off duty. The following activities are considered activities at the behest of the employee (FRA Technical Bulletin OP-04-04):

- Attendance at railroad investigations, if representing, or testifying on behalf of an employee.
- Participation in railroad safety committees, if voluntary.

Note: Jury duty is not a railroad-related activity and cannot commingle with covered service.
## Incidental Service

Incidental service involves a train crew providing limited, but necessary, information to the railroad after the expiration of the 12-hour duty limitation. FRA recognizes that a certain amount of information must be exchanged for the benefit of both the employee and the railroad. 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. Other examples of Incidental service are a crew locking a locomotive door, carrying their luggage to the limo/van, talking on the radio to check on transportation.

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Moving America Forward

"Reports for duty" means that an employee presents himself or herself at the location established by the railroad at the time the railroad established for the employee to be present and ready to perform covered service. "On-duty time" means the actual time that an employee reports for duty to begin a covered service assignment.

Explanation: When a railroad instructs an employee to report for a covered service assignment (train, yard job, hostler job, etc.), the act of reporting for that assignment, at the location and time directed by the railroad, establishes the beginning of covered service, even when no actual covered service is performed. If an employee is required to report for a noncovered service assignment, time on duty will begin to accrue only if the employee reports for a covered service assignment or if the employee actually performs covered service. A common example is when a train employee is called to deadhead to a train (combined service). In this case, the employee initially reports for a deadhead and then reports for duty when he or she arrives at the location of the covered service assignment (train).
### 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.
Employee Time Periods

Time Periods That Count as Duty Periods Under the 276 Hour Rule

Off Duty Periods

Time Limitations

Consecutive Day Limitation Initiating On-Duty Periods

276 Hours Monthly Limitation

Limbo 30-Hour Monthly Limitation

Train Employees Entering Foreign Countries

Duty Tours

Commingled Service

Instructors/Students

Rules Classes

Railroad Investigations

Familiarization Trips

276 Hours Monthly Limitation

If an employee performs covered service as a train employee at any time during a calendar month, then all service performed for the railroad during that month is limited to a total of 276 hours. (49 USC § 21103(a)(1), and 77 FR 12407).

Service for the railroad includes:

- Covered service as a train employee, dispatcher, and signal maintainer.
- Deadhead to duty.
- Deadhead from duty to a point of final release.
- Commingled service.
- Any other activity at the behest of the railroad.

Once an employee is at or over 276 hours for a calendar month, he or she cannot perform any service for the railroad for the remainder of that calendar month.
### Employee Time Periods

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### Duty Tours

- Instructors/Students
- Rules Classes
- Railroad Investigations
- Familiarization Trips

### Limbo 30-Hour Monthly Limitation

When added, if time on duty and limbo time for a single duty tour is over 12 hours, the time over 12 hours that is spent waiting for or in deadhead transportation from duty to a point of final release must be applied to the 30-hour monthly maximum. (49 USC § 21103(c) and 77 FR 12407).

When an employee has reached or exceeded the 30-hour maximum in a calendar month, he or she may continue to perform covered service as a train employee, but any duty tour resulting in additional time added to the 30-hour maximum may result in FRA taking enforcement actions.

This provision will not apply when an employee is directly delayed due to a casualty, an accident, an act of God, a derailment, a major equipment failure that prevents the train from advancing, or a delay resulting from a cause unknown and unforeseeable.
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### Duty Tours

- Instructors/Students
- Rules Classes
- Railroad Investigations
- Familiarization Trips

## Consecutive Day Limitation Initiating On-Duty Periods

The term “start” is commonly used to define a consecutive day, using five starts to mean the initiation of an on-duty period, each day, for 5 consecutive days. As it relates to this provision, an on-duty period is a duty tour, not an individual covered service assignment. **FRA does not encourage the use of the term “start,” as it can lead to confusion.** Some railroads or employees may consider a “start” to include all times the employee reports for duty, even if they do not perform covered service. However, such situations would not be “initiating an on-duty period” for purposes of the consecutive days limitation.

After initiating an on-duty period, each day, for 6 or 7 consecutive days, an employee is prohibited from performing covered service as a train employee (freight operations) until receiving 48 or 72 consecutive hours off duty at his or her home terminal, unavailable for any service for any railroad.
An employee who has initiated an on-duty period on 6 or 7 consecutive days may return to perform non-covered service for the railroad before the completion of the 48 or 72 consecutive hours off duty, but the 48- or 72-hour off-duty period must be restarted after the non-covered service.

If an employee is finally released at an away from home terminal (AFHT) on his or her sixth consecutive day of initiating on-duty periods, he or she may initiate an on-duty period on the seventh consecutive day, but must receive 72 consecutive hours off duty at the home terminal, unavailable for any service for any railroad, before returning to perform covered service as a train employee in freight operations, subject to the following conditions.

In this case, the employee will have to initiate the on-duty period within the 24-hour period following the employee’s final release at the AFHT.

After the 24-hour period, an employee is prohibited from initiating an on-duty period as a train employee in freight operations until he or she has 48 consecutive hours off duty at his or her home terminal unavailable for any service for any railroad.

Note: A “day” for the purpose of determining the initiation of an on-duty period for a consecutive day under 49 USC § 21103(a)(4), is the 24-hour period following a train employee’s final release. (77 FR 12407).

Consecutive day count of initiating on-duty periods

Duty tour Less than 24 hours Duty tour

Days consecutive

Consecutive day count of initiating on-duty periods
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**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.

- A train crew is not waiting for deadhead transportation when:

  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.
### FREIGHT Time Limitations

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### Incidental Service

Incidental service involves a train crew providing limited, but necessary, information to the railroad after the expiration of the 12-hour duty limitation. FRA recognizes that a certain amount of information must be exchanged for the benefit of both the employee and the railroad. 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. Other examples of Incidental service are a crew locking a locomotive door, carrying their luggage to the limo/van, or talking on the radio to check on transportation.

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. A quick tie-up is limited to providing the following information:
Time Limitations

- 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.

12 hours on duty

Employee cannot remain on duty or return to perform duty until he or she receives a statutory off-duty period.

Covered service | Deadhead from duty

Time on duty: 12 hours

Quick tie-up (incidental service)
### Instructors/Students

Training, for both students and instructors, may be either commingled service or covered service, depending on the nature of training. Training, where the student and instructor are actually engaged in or connected with the movement of a train, including the actual assembling of a train, is covered service. Training, where the student and instructor are not engaged in or connected with the movement of a train, is considered activity at the behest of the railroad and can commingle with covered service.
Physical Examinations

If an employee is required to report for a physical examination as a condition of continued employment, he would be subject to the commingled service provisions of the law. The issue of payment for services rendered or contract requirements is not recognized or covered by the law.
Before Departing The Place Of Rest

If a train employee receives a call and release before departing his or her place of rest, and after the completion of a statutory off-duty period, FRA will generally view this call as incidental and not a material disruption of the employee's off-duty period.

Note: Any call initiated by a railroad to an employee before the completion of a statutory off-duty period, or a 4-hour interim period of release, may be considered an interruption of an employee’s statutory off-duty period or interim period of release. After the completion of a statutory off-duty period or an interim period of release of at least 4 hours, a brief call to release will not interrupt the off-duty period, if it comes before the employee departing his or her place of rest. (49 USC § 21103(e)).
## Non-Application (Emergency) Provision

- From 49 USC § 21102, when any of the following occur, the HSL do not apply.
  - A casualty.
  - An unavoidable accident.
  - An act of God.
  - A delay resulting from a cause unknown and unforeseeable to a railroad carrier or its officer or agent in charge of the employee when the employee left a terminal.

- This provision is commonly referred to as the "emergency provision" and FRA policy concerning the emergency provision is found at Title 49 Code of Federal Regulations (CFR) Part 228, Appendix A.

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- General Requirements
- Train Employee Hours of Service Record
- Train Employee Tie-Ups After Maximum St...
- Examples Of Duty Tours With Hours Of Serv...

*NOTE: This is different from the requirements for emergencies involving wreck or relief trains.*
Electronic Records

- Certified by the individual employee or by the reporting employee for the crew whose time is being recorded.
- Electronically stamped with the certifying employee's name and the date and time of the certification.
- Retained for 2 years in a secured file that prevents alteration after certification.
- Accessible by FRA through a railroad-provided computer, using a railroad-provided login name and password.
- Reproducible using a printer at the location where records are accessed.
FREIGHT

Yardmasters

FRA’s approach to yardmaster hours of service is functional. When a yardmaster is engaged in or connected with the movement of trains, he or she is performing covered service as a train employee and is subject to 49 USC § 21103.

Yardmasters performing covered service as train employees include those who perform the following activities:

- Lining switches either remotely or manually to accommodate the movement of trains or switching moves.

Note: Usually, the repositioning of main track switches or yard track switches, remotely or manually, brings the yardmaster under the train employee provisions of the law as either a trainman or switch-tender. However, if a main track switch is lined remotely as a result of a yardmaster granting a train main track authority by a signal indication at a manual interlocking, the dispatching service employee requirements at 49 USC § 21105 apply.

- A yardmaster functionally becomes a member of a train or yard crew on a temporary basis by relaying signals, making couplings or cuts, lining switches ahead or behind, or protecting a shoving movement. (FRA Technical Bulletin OP-04-27)

- Persons operating a remotely-controlled switching machine in a hump yard are covered under the train employees section of the HSL.

Note: FRA does not consider the duties of inputting switching data into a computer that lines switches automatically as covered service.
Restrictions Not Applicable To Passenger Train Employees

- 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
- (Prohibition on communication does not apply to passenger train employees AND off-duty period for passenger train employees is by regulation at 49 CFR § 228.405(a)(1) and (2), but we continue to use the familiar term “statutory minimum off-duty period.”)
- Time on duty and limbo time over 12 hours added to statutory off duty period
At The Behest Of The Railroad

At the behest of the railroad refers to time spent by an employee in a railroad-required activity that compels an employee to perform service for the railroad as a condition of employment.
## Definitions

- Not Commingled Service
- Regular Reporting Point (RRP)
- Reporting For Duty
- Time On Duty (TOD)

## Employee Time Periods

- Time Periods That Count As Duty Periods Under Carmen
- Off Duty Periods
- Time Limitations
- Consecutive Day Limitation Initiating On-Duty Period
- Work Schedules
- Train Employees Entering Foreign Countries

## Duty Tours

## Commingled Service

### Statutory Minimum Off-Duty Period

- Minimum of 8 hours following a duty tour with a total time on duty of less than 12 hours, and 10 hours for a duty tour with a total time on duty of 12 or more hours.

**NOTE:** off-duty period for passenger train employees is by regulation at 49 CFR § 228.405(a)(1) and (2), but we continue to use the familiar term “statutory minimum off-duty period.”

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FRA - Office of Communications & Legislative Affairs

7/9/2018
### Commingled Service
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- Rules Classes
- Railroad Investigations
- Familiarization Trips
- Physical Examinations
- Providing Information Concerning Railroad...
- Railroad Officials Onboard Observations
- P0V Deadheading From A Duty Assignment
- Safety Committees

### Communication During Off Duty Periods

### Call And Release
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- Allowing The Employee To Report For Duty

### Call And Release
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## PASSENGER

### Nonapplication (Emergency) Provision

### Wreck-Train Relief

### Yardmasters, Hostlers, & Other Crafts
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- Examples Of Duty Tours With Hours Of Serv...
Shift

- The term "shift" is not defined by the HSL, but the legislative history of the 1969 amendments indicates that it means a tour of duty constituting a day's work for one or more employees performing the same class of work at the same station who are scheduled to begin and end work at the same time.

- Per the preamble to the Statement of Agency Policy and Interpretation on the Hours of Service Act, as Amended (1977), "To recognize staggered starting times as a feature of a single 'shift' would be to invite confusion and result in the HSL being unevenly applied." (42 FR 27594, 27596).

  Shift clarification

  7 a.m. to 3 p.m. ............................................................... 1 shift

  7 a.m. to 12:30 p.m., 1:30 p.m. to 8 p.m.
  (Schedule for one employee including 1-hour lunch period)
## Covered Service

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A duty tour is the total of all periods of covered and/or commingled service occurring within any 24-hour period.

**Explanation:** The HSL do not mandate a statutory minimum off-duty period for dispatching service employees as they do for train employees and signal employees. Rather, maximum covered service limitations are imposed for the total time of all activities—covered and commingled service—within any 24-hour period. The 24-hour period is a "sliding window" that moves with actual time covering the previous 24 hours. At any given time, a dispatching service employee may accumulate up to the maximum allowable statutory on-duty time of 9 or 12 hours in this window. The window may include multiple on-duty periods of covered and commingled service, the sum of which must not exceed the statutory limit. Release periods less than 1 hour within the 24-hour period are considered time on duty when calculating total time on duty for the 24-hour period. Thus, for time to be considered time off duty, the employee must have at least 1 consecutive hour off duty.
Time On Duty

Time on duty is the point in time when an employee moves from off-duty status to either covered service or service that will commingle.

Explanation: For a dispatching service employee, time on duty begins when the employee begins his or her mandatory “turnover” process or begins performing any other non-covered service in a 24-hour period that includes covered service.
**Dispatchers In Foreign Countries**

- Train dispatchers located in a foreign country are not subject to the HSL, even though they are dispatching trains in the United States.
- In all but a few limited cases, foreign train dispatchers are prohibited from dispatching trains in the United States. (49 CFR Part 241).
- Currently, there are a few railroads that have waivers allowing dispatchers in Canada to dispatch trains on a limited amount of main track territory in the United States close to the Canadian border.
Restrictions Not Applicable To Passenger Train Employees

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Deadheading

Commingled Service

POV Deadheading from a Duty Assignment

Travel Time

Deadheading

Deadhead To Duty

Deadhead From Duty To A Point Of Final Re?
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Moving America Forward
Download the new Hours of Service Mobile application onto your IOS device by clicking the icon or hyperlink below


For Android devices click on the icon or hyperlink below

Hours of Service Questions?

Please contact your local OP Inspector or Regional office if you have questions related to HOS.