

Summary of new hours of service regulations

Following is what the Rail Safety Improvement Act of 2008 requires with regard to new hours of service regulations:

I. HOURS OF SERVICE:

The hours of service changes became effective July 16, 2009, nine months following enactment of the law.

TIME ON DUTY:

• A railroad may NOT require or allow a train & engine service (T&ES) employee to remain or go on duty in any month where the employee had spent a total of 276 hours in any one or a combination of the following activities: on duty, waiting for transportation, in deadhead transportation to a place of final release, or in any other mandatory service for the carrier.

This means the combination of on-duty time, limbo time, waiting for deadhead transportation, deadhead time, and any other time spent in mandatory service (which may include rules training time, medical examinations).

Once you serve 276 hours in any month, the carrier may not require or allow you to go on duty, remain on duty, wait for deadhead transportation, be in deadhead transportation or in any other mandatory service for the remainder of the month.

If the carrier does not take you out of service prior to exceeding the 276 hour monthly cap, or if the carrier attempts to put you in service where you would violate the 276 hour cap, you must take yourself out of service under the law.

Once the 276 hour cap is met in any month, you may not report for duty again prior to 12:01 a.m. of the first day of the next calendar month.

A call to report for duty, followed by a release, whereby the employee does not go on duty, is not counted against hours of service. However, the time spent travelling to a point of duty assignment other than a regular reporting point constitutes deadheading to duty and counts as time on duty.

The FRA is required to revise its rules in advance of July 2009 to require the carrier to keep paper or electronic records detailing each T&ES employee's hours per month.

• A T&ES employee may NOT remain or go on duty for a period in excess of 12 consecutive hours.

If a combination of on-duty time and limbo time exceeds 12 hours, the employee must receive 10 hours of undisturbed rest, PLUS the number of hours of limbo time that exceeded the 12 hours on duty. Thus, a 12 hour shift and two hours of limbo time would require 12 hours of undisturbed rest before again reporting for duty.

• A T&ES employee may NOT remain or go on duty UNLESS the employee has had at least 10 consecutive hours undisturbed rest off duty during the prior 24 hours.

Undisturbed rest means just what it says. The carrier may not telephone the employee, page the employee, knock on the door of the employee, or otherwise disturb the employee for 10 hours.

The carrier may, however, send an e-mail message to the employee during this time period. But the carrier may not disturb the employee with a return-to-duty call until after the 10 hour period.

As noted above, if the on-duty time plus limbo time exceeded 12 hours, the 10-hour undisturbed rest time is increased by the number of hours of limbo time.

There is an exception during emergencies, and, also, the U.S. Secretary of Transportation may waive this section for intercity and commuter service if it is consistent with safety.

If the collective bargaining agreement requires the employee have 90 minutes to report for duty following the call, then the employee would have at least 11 ½ hours off duty, as the call could not be made before the 10 hours of undisturbed rest has expired.

• A T&ES employee may NOT remain on duty or go on duty AFTER that employee has initiated an on-duty period each day for six consecutive days, unless that employee has had at least 48 consecutive hours off duty at the employee's home terminal, during which time the employee is unavailable for any service.

This means when you complete the sixth consecutive start day, you must be given at least 48 consecutive hours (not calendar days, but 48 consecutive hours) off duty at your home terminal before you are again required to report for work. This includes yard assignments.

However, if you are released from duty at the away from home terminal at the end of the sixth consecutive start day, you may work a seventh consecutive start day to return to your home terminal. Then, however, you must be given at least 72 consecutive hours (not three calendar days, but 72 consecutive hours) off duty at your home terminal before you are again required to report for work.

If the 276 hour cap occurs on the last day of the month, and you have not completed your mandatory 48 (or 72) consecutive hours off duty at your home terminal, you MUST complete that mandatory time off before again reporting for duty.

If the 276 hour cap occurs at an away from home terminal, the railroad may NOT deadhead you back to your home terminal, as that would violate the law. The FRA must yet determine the manner in which you are returned to your home terminal.

The trigger is initiating an on-duty start for six consecutive days. Even if you work just one hour, the fact that you have initiated an on-duty start that day counts toward the six consecutive days.

However, the count begins anew on any calendar day in which you do NOT initiate an on-duty period. Thus, if you are called for duty Monday-Friday (five start days), and do not work on Saturday, but are called back to work on Sunday, then the six-day clock begins anew on Sunday.

The clock covers all T&ES jobs, meaning it does not matter if you ebb and flow between engineer and conductor jobs, or between extra board and pool jobs. The only trigger is initiating an on-duty period as a T&ES employee.

Note that the six- and seven-day clocks are not applicable to intercity passenger carriers, short haul passenger carriers, and commuter operators at this time.

General chairpersons may negotiate local collective bargaining agreements providing a better balance between time off and earnings, while preserving guaranteed time off.

The U.S. Secretary of Transportation may also waive the "6&2" and "7&3" requirements if the collective bargaining agreement provides for a different arrangement AND the secretary deems it consistent with safety. In no case may a local agreement exceed the 276 hours monthly cap.

The UTU International will provide assistance in these negotiations at the request of general chairpersons. The FRA has indicated that it, also, will provide assistance to general chairpersons for the purpose of assisting in interpreting the law and new regulations pursuant to the law.

LIMBO TIME:

- **A railroad may not require an employee to spend more than 40 hours per month in limbo time.**

This 40-hour rule begins July 17, 2009, and continues through July 16, 2010. Beginning after July 16, 2010, the carrier may not require an employee to spend more than 30 hours per month in limbo time. The U.S. Secretary of Transportation may adjust that time period beginning July 17, 2011.