

Rail Safety Improvement Act (RSIA)

Areas of Revisions

Hours of Service Change Affect:

Train employees - a railroad's personnel engaged in, or connected to, the movement of a train or engine.

- Locomotive Movers
- Utility Workers

Signal Employees - a railroad's personnel, or those of a contractor, who are engaged in signal activities.

- Coded Cab Signal

Positive Train Control

Key Components to RSIA and Hours of Service Rules

- Cannot exceed 276 hours per month mandatory duty including transportation to and from duty. This is a calendar month.
- Minimum 10 hours Undisturbed Rest (UDR) for all classes of service
- Mandatory extra rest for shifts that exceed 12 hours
- Passenger Service excluded at this time
- 6/2 or 7/3 Consecutive Starts require additional rest
 - Work 6 days off 2 days / Work 7 days off 3 days
 - Starts counted by Calendar day

Rail Safety Improvement Act of 2008

276 - Hour Monthly Cap Rule

- "A railroad carrier and its officers and agents may not require or allow a train employee to remain on duty, go on duty, wait for deadhead transportation, be in dead transportation from a duty assignment to the place of final release, or be in any other mandatory service for the carrier in an calendar month where the employee has spent a total of 276 hours... (on duty, waiting for deadheading, deadheading, or performing mandatory service for the carrier...)"
- Must not be on duty more than 276 hours in a month
 - RR cannot require employee to exceed cap
 - RR cannot allow employee to exceed cap
 - RR cannot allow employee to go or remain on duty
 - RR cannot allow employee to perform any other mandatory service

10 Consecutive Hours Rest Rule

- "A railroad carrier and its officers and agents may not require a train employee to remain or go on duty unless that employee has had at least 10 consecutive hours off during the prior 24 hours..."
- Duty exceeding 12 hours creates additional Un-disturbed Rest (UDR) over 12 hours on a minute basis.
 - Loco Mover Works 8 hrs.
 - 4 hour break

- Work 6 hours 6 hrs.
 - Total time on duty 14 hrs.
 - Employees Rest Time 12 hrs.
 - 10 hours rest + 2 hrs. for time over 12 hours on duty.
- Does not bar Carriers from aggregating service
 - 4 hour break is UDR
 - Anything less than 4 hours is considered continuous service
 - Application
 - At all on duty points where Hours of Service (HOS) is performed.
 - After completing any Hours of Service shift
 - Mandatory
 - Cannot be waived by employee or superseded by Collective Bargaining Agreement (CBA)
 - Applies to extended portions of rest period
 - Does not bar carriers from aggregating service
 - 4 hour break is undisturbed
 - New minimum amount of rest
 - Reporting and handling of rest
 - Begins at clock-out
 - Automatic via EDCS/DSS

Undisturbed Rest Rule

- "A railroad carrier and its officers and agents shall not communicate with the train employee by telephone, by pager, or any manner that could reasonably be expected to disrupt the employee's rest."
- Application
 - Applies to all Hours of Service (HOS) shift/work
 - Applies to all rest periods
- Mandatory
 - Cannot be waived by employee
 - Cannot be superseded by CBA
- Reporting and handling automated by EDCS

Passenger Service

- There are significant operational differences between Commuter and Freight Operations
- DOT to enact regulations for Commuter operations by October 16, 2011
- No changes to Passenger Service at this time.

Positive Train Control

- Positive Train Control now codified in the regulations

- By April 16, 2010, all Class 1 rail carriers must submit a PTC implementation plan to DOT.

Off-duty HOS Employees

- Time spent communicating with employees that are off duty counts toward the 276 month cap
- Employee rest is reset if contacted for company business while off duty
- Employees observing UDR should not be contacted unless it is an emergency.

Undisturbed Rest Rule

- Employee can initiate calls to supervisor or manager
 - Permissible for supervisor to hold conversation with employee at time of employee's call
 - If supervisor is not available at the time of call, it is permissible for supervisor to return call later (during rest period)

UDR Compliance Guidelines

- Keep off-duty contacts to a minimum. Only contact employees when safety or operational needs require it.
 - Critical incident or safety concern
 - Information is required from employee to maintain operations
- Off-duty contacts will affect employee rest and availability
- If the employee initiates the contact, you can return an employee call, it does not count toward the 276 cap or affect their rest.
 - **When "OK" to Call and it is not required to log an Hours of Service Contact**
- Employee submits a Value Lines or Safety Concern (employee is expecting a return response)
- Employee is being contacted by the MRO as a follow-up
- Manager contacts employee concerning a personal matter - taking kids to the soccer game.

Company Mandated Service

- All company mandated service is an on-duty event if HOS work is performed during shift.
 - Loco Mover Training/Rules Classes

6/48 and 7/72 Rule

- "A railroad carrier and its officers and agents may not require train employee to remain 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 hours off at the employee's home terminal and an employee may work a seventh consecutive day if that employee completed his or her final period of on-duty time on his or her sixth consecutive day at a terminal other than his or her home terminal."

- Application
 - A "day" defined as a calendar day
 - Time off is considered as "unavailable for service"
 - 48 or 72 hours must be at assigned home location
 - Multiple starts on same calendar day count as one shift
 - A shift of training with no covered service will break the count as a start
 - Employee called and released before on-duty time does not count as a start.
- Mandatory
 - Cannot be waived by the employee
 - Cannot be superseded by Collective Bargaining Agreement (CBA)
 - Applies to all Hours of Service work

Summary of Changes

- Maximum of 276 total hours of duty per month
- Mandatory extra rest for shifts with on-duty time > 12 hrs.
- Signal type of employees are required to have 10 consecutive hours of rest in previous 24 hours.
- Train type of employee (i.e. Loco Mover/Utility Worker) and Signal type of employee are required to have 10 consecutive hours off duty during preceding 24 hours before reporting to duty.
- A train type employee can work 6 or 7 consecutive days subject to additional rest requirements and exceptions to CBAs (but only if traveling home from away terminal).
- Train and Signal employees cannot be disturbed by their employer during their rest.

Employee, Manager, Fireman and EDCS Supervisor Requirements

- Employee must flag in EDCS HOS Work Code
- Employee must sign Hours of Service Log
- Employee must ensure daily correct clock-in and out of EDCS
- Manager, Foreman and EDCS final approver must approve Employee EDCS time on a daily basis to have correct information for HOS, UDR, Starts and Hours (276)

Employee Training

- LORISA - Training code for Hours of Service Training
- Course to be enter into Plateau
- Credit - 1 hour

Questions and Answers

- Q1: The new regulations refer to train employees and signal employees. If an employee was covered before but is not a train or signal employee, is that employee still covered?
- A1: Yes. Train and signal do not refer to job titles but to service performed. For example, an electrician who works on coded cab signals and a mechanical mover who moves locomotives who were previously covered are still covered. The electrician performs signal work so is covered under the signal provisions and the mover performs train work so is covered under the train provisions.
- Q2: What is the interpretation of an "on duty period each day"? Is it based off an 8 hour day, 4 hours day, or just any amount of time clocked in and worked in a day?
- A2: An on duty period is work period in which some covered service is performed for any part of the period. The period does not need to include 8 hours, just if covered service is performed during the shift.
- Q3: If an employee works 5 consecutive "days" under covered service, is the employee allowed to accept an overtime call on his or her 6th day if the job is non-covered service? (i.e. fueling, sanding, supplying,

- etc.). If the employee is eligible to work a non-covered service job on the 6th day, then would he or she be able to accept an overtime call on his or her 7th day for another non-covered service job?
- A3: Since the employee has not worked 6 consecutive covered shifts they may work non-covered shifts on days 6 and 7. (Item #4 of the FRA guidelines under 48/72 hours issues)
 - Q4: If an employee worked a relief job and was assigned to non-covered service on one day during the 5 day work week, would the employee be able to accept overtime on his or her 6th and 7th day?
 - A4: Yes, see A3 above.
 - Q5a: An employee who is normally scheduled to work their five day schedule on a covered service job does not work a full shift on one day of the week. Can that employee accept an overtime call on his or her 6th day since I have not work a "full 5 consecutive days"?
 - Q5b: Or is a "day" just considered any time the employee is clocked in, no matter the amount of work time?
 - A5a: HOS does not prohibit covered work on the 6th day, it just outlines the rest requirements if covered service is performed for six consecutive days.
 - A5b: Yes, if covered service is performed at any time worked that day.
 - Q6: An employee's work schedule is Monday thru Friday, 8 a.m. to 4 p.m. on a covered service job, is he or she eligible to accept an overtime call to double back at midnight on Friday for a job that is non-covered service?
 - A6: All covered service starts require 10 hours UDR and each start, so in this example the employee is not eligible to double back.
 - Q7: Due to a job bid, an employee would be scheduled for their regular assignment to work 10 consecutive days on a covered service job. Does this new regulation prevent the employee from working his or her first 2 days of his or her newly assigned job and, if so, would he or she be paid for missing the straight-time shifts?
 - A7: An employee is not eligible under HOS to work for 48 hours after the 6th day of covered work. The employee would not be paid as the law requires his or her inability to work.
 - Q8: An employee who works a covered service job is forced to cover a two-day holiday (performing covered service) that falls on his or her 6th and 7th days. How will this be applied given the new regulations?
 - A8: The regulation does not prevent an employee from working the 6th day, but would require 48 hours rest and that employee would not be eligible or able to work the 7th day.
 - Q9: Is performing a daily inspection covered service?
 - A9: No - while covered service employees may perform this work, in and of itself, daily inspections are not covered service.
 - Q10: In mechanical, there are several jobs that are bulletined as covered service - for example, Utility Carman and Locomotive Movers. Even though their jobs are bulletined as HOS, on some days they might not perform covered service. Would those days of not performing covered service break up the consecutive days of performing covered service for the application of the 48 hour rest provisions?
 - A10: Yes. Even on an assigned HOS position, if an employee does not perform covered service, the consecutive days will be broken. For example, a Locomotive Mover scheduled Monday through Friday could not perform any covered service on Thursday and work overtime on Saturday without requiring a 47 hour rest.
 - Q11: Would Locomotive Mover Class for Mover Certification/License be considered mandatory and covered service?
 - A11: Yes
 - Q12: Is a four hour break in service still applicable to put the clock on hold?
 - A12: Yes, a mechanical employee performing covered service may work part of his shift, have at least four hours of break and return to work, taking his 10 hours of undisturbed rest at the end of the work day.

- Q13: How will an employee know how many hours he/she has accumulated toward the 276 hour limit or how many consecutive day/starts the have?
- A13: The data will display in EDCS and employee must be keep track.
- Q14: What if a shift exceeds into the following month?
- A14: The 276 hour cap resets at midnight each month. For example: An employee starts his shift at 11:00 PM on October 31, and clock-out at 7 AM on November 1, 2009. He/she would have one (1) hour toward the October cap and seven (7) hours toward November's cap.
- Q15: How are 6/7 consecutive days measures?
- A15: Each calendar day initiates an on-duty day.
- Q16: May an employee request single day vacation or personal leave, if applicable during unavailable time (48/72 or 276 hour cap)? (TE&Y example)
- A16 Yes. Consistent with current agreements and assuming the employee has single vacation/personal days.
- Q17: Are messages, emails or other electronic correspondence permitted during the rest period?
- A17: Yes. Employees have the ability to control when they are view those messages and can turn off their devices.

Conclusion

- The answers given above are only in reference to the application of the RSIA language and may have a different result under Collective Bargaining Agreement language, for example, in an agreement where the employee is not permitted to work overtime if a results in them being unable to cover their regular assigned shift.
- If you have any questions that your manager cannot answer, please contact Andrea Gansen at (403) 544-3073.