HOS APP and Complaint Hotline

FOR COMPLAINANTS TO INPUT COMPLAINTS

https://railroads.dot.gov/railroad-safety/federal-railroad-administration-alleged-violation-reporting-form

tell them to use Hours of Service for the type

FOR THE APP

Download the new Hours of Service Mobile application onto your IOS device by clicking the icon or hyperlink below

https://itunes.apple.com/us/app/hos-manual/id1103913070?mt=8

For Android devices click on the icon or hyperlink below

https://play.google.com/store/apps/details?id=gov.dot.fra.hos

HSL violations – What FRA needs to process them

On all complaints:
Train Symbol
On duty date
On duty time
Crew
Relief crew
Relief crew on duty date and time
Limo ordered time and Limo arrival time

If worked over 12 hours –
Who authorized
Radio channel
Lead locomotive number

HSL violations – What FRA does not need to process them

"I was called for the BNSFUP-06 on 02/09/22 on duty at 0716. The train was a Key train and was 15,992 tons. We worked west and arrived West Holt at approximately 1845. We were given a restricting signal at Elm and instructed to take the train to Pine and tie it down. Dispatcher 50 advised us that there was not a relief crew called for us. The CSXNS was the train ahead of us. They had to drop off the conductor at the East end of the siding and then pull in the rest of the way into the siding. At this time we advised the dispatcher that we would not have enough time to tie the train down. We suggested stopping at Cedar to allow us enough time to tie the train down and complete the Key Train Securement with the dispatcher. The dispatcher denied our suggestion and said to continue to Pine. We did so and as we expected did not have time to tie the train down. We were not relieved until 2105 when they finally found a crew to take over our train. The Corridor Manager was Wilson Walker. "

Commingled Service

Once covered service is performed, any other service “at the behest” of the railroad will commingle.

The only way to prevent commingled service is to have the required rest before and after the covered service or the “at the behest” service.

WHY DOESN'T FRA PURSUE A VIOLATION WHEN CREWS SHOW BEING RELIEVED WITHIN 12 HOURS

The Crew has certified their HOS record "All information is correct".

The proper regulatorily recourse would be against the individual not the railroad, because the railroad did not falsify a federal document required under law.

Let's say FRA the pursues a regulatory violation against the railroad, the railroad would simply fire the individual for falsifying a federally mandated document.

Hours of Service Law (HSL) When a crew is required to be off a train

- The Hours of Service Law (HSL) doesn't require a railroad to have or try to have you at your final terminal within 12 hours.
- It doesn't require a railroad to have you off a train in 12 hours.
- It does state at the end of a 12 hour on duty period, you must either be in deadhead transportation or awaiting deadhead transportation.
- Awaiting deadhead transportation means the transportation is on duty, dedicated to your crew and headed to your location upon your crew reaching the 12 hour limit.

Crew (Line of Road) at HOS limit with train secured

Crews that have reached their HOS limit and have already secured their train.

The crew should ask the limo driver when he was ordered and when he started the process of transporting them.

- If he was enroute prior to the crew reaching their HOS-No Violation
- If he was still performing another call after the crew reached their HOS-Violation
- If he was enroute after the crew reached their HOS-Violation

Crews (Line of Road) at HOS limit with train unsecured

Crews that have reached their HOS limit and have not secured their train. They must wait for a relief crew.

The HOS limited crew should ask the relief crew when they were called on duty.

- If the relief crew was on duty prior to the crew reaching their HOS and had a limo/van prior to the crew reaching their HOS limit-No Violation
- If the relief crew was on duty prior to the crew reaching their HOS and did not have a limo/van prior to the crew reaching their HOS limit-Violation
- If a limo/van arrives without a relief crew-Violation
- If a relief crew was call to dog catch multiple trains and is working another train, they are not relieving the HOS limited crew-Violation

Crew (At Terminal) at HOS limit with train Secured or Unsecured

Crews that have reached their HOS limit and are at final terminals/release points.

Final terminal locations afford the railroad multiple assets to assist in relieving a crew that has reached their HOS limit. The FRA realizes there are certain challenges reaching a crew located at terminal; roads blocked by trains arriving or departing terminal, obtaining a yard/local limo, and crew swapping. However, with all these factors, FRA would consider it a violation if the crew is not relieved within 20 - 40 minutes after them reaching their HOS limit (This being based on a case by case scenario).

Babysitting unsecured trains

A U.S Supreme Court ruling stated rail crews that have reached their HOS limit may sit on an unsecured train “while awaiting deadhead transportation”, in mountain grade territory.

However, if the rail equipment begins to move, any action required to stop the movement would either be “covered service” or “service at the behest of the railroad”. This action would result in a HOS violation.

Key Trains – positive hand overs

Since EO28 is now a regulation under Part 232.103, direct positive handoffs are only required in “high urban threat areas”.

PHMSA, FRA and TSA allow a railroad to leave a key train in areas that are not designated “high urban threat areas” for 24 hours without a monitor.

Wreck Relief Trains (Section 21103(d) of the HSL)

- The wreck-relief provision provides that the crew of a wreck or relief train may be allowed to remain or go on duty for not more than 4 additional hours in any period of 24 consecutive hours when an emergency exists and the work of the crew is related to the emergency.

- Crews must be notified when called, they are assigned as wreck relief and may be required to work up to 16 hours.

- An emergency ends when the track is cleared, and the railroad line is open to traffic. The HSL specifies that an emergency ceases to exist for purposes of this provision when the track is cleared, and the line is open for traffic.

- Crews can not be utilized in a curfew manner, and they are not being utilized to repair a main track outage.

Exceeding 276 Hours

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. (HSL § 21103(a)(1)

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.

Circuitous Travel

This issue pertains to deadhead transportation from duty to the point of final release via a circuitous route, or with a lengthy *delay* during the deadhead. Train crews have been required to enter deadhead transportation by riding with maintenance department employees that may stop to perform work while the crew waits. Occasionally, crews have been required to deadhead on trains going the opposite direction from the point of final release to a meeting point with a train going in the desired direction. The crew then changes trains and continues deadheading to the point of final release. These delays in deadhead transportation frequently consume several hours. FRA determined that compliance with the laws requires that railroads must exercise "due diligence" when providing employees the most suitable means of passenger transportation available to the point of final release.

Failure to relieve at final terminal

Final terminal locations afford the railroad multiple assets to assist in relieving a crew that has reached their HOS limit. The FRA realizes there are certain challenges reaching a crew located at terminal; roads blocked by trains arriving or departing terminal, obtaining a yard/local limo, and crew swapping. However, with all these factors, FRA would consider it a violation if the crew is not relieved within 20 - 40 minutes after them reaching their HOS limit (This being based on a case by case scenario).

Consecutive on duty periods without federal rest

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.

It is after a sixth start to the AFHT, the railroad has 24 hours to work the employee back on a 7th start. If not utilized in the 24 hour window after the tie up from the sixth consecutive on duty period, they need to be deadheaded home for 48 hours rest. Working a 7th consecutive on duty period gets them 72 hours off.

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.

Act of God/Emergency Scenario

- Judicial construction of this provision has limited the relief that it grants to situations that are truly unusual and exceptional.

- Even where an extraordinary event or combination of events occurs that, by itself, would be sufficient to permit excess service, the railroad must still employ due diligence to avoid or limit such excess service.

- The burden of proof rests with the railroad to establish both that an emergency existed and that excess service could not have been avoided.

Managers performing covered service tasks

This is not the “smoking gun” many in labor believe it to be.

When challenged by a FRA inspector a manager has several hours to generate a HOS record. He or she will most likely generate a record that is missing many entrees, but it is still a HOS record.

A better course for reporting managers conducting covered service, is reporting a manager when you know they have performed service at the behest of the railroad prior to performing the covered service task. (Testing, Working an Accident, or at the end of their shift) The covered service task will commingle and have higher percentage of generating a HSL violation. And always wait till the next month to report it.

Covered Service tasks performed by managers & yardmasters

- Lining switches either remotely or manually to accommodate the movement of trains or switching moves.
- A manager or 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.
- Persons operating a remotely-controlled switching machine in a hump yard are covered under the train employee 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.

Additionally, managers may perform certain covered service tasks while conducting operational testing

Act of God/Emergency Scenario

CIRCUMSTANCES THAT DO NOT WARRANT THE USE OF THE EMERGENCY PROVISION

The courts have recognized that delays and operational difficulties are common in the industry and must be regarded as entirely foreseeable; otherwise, the HSL will provide no protection whatsoever.

Common operational difficulties that the emergency provision does not provide relief from include, but are not limited to:

- Broken drawbars.
- Locomotive malfunctions.
- Equipment failures.
- Brake system failures.
- Hot boxes.
- Unexpected switching.
- Doubling hills.
- Meeting trains.

The need to clear a main track or cut a crossing also does not justify disregard of the limitations of the HSL. Such contingencies must normally be anticipated and met within the 12 hours.

Crew at AFHT can’t get lodging

When a crew at AFHT lodging cannot get a room. The railroad CAN NOT adjust the employee’s rest. The employee’s release time must be amended. This allows for correct monthly totals and in some cases corrects limbo times. The railroad may either amend the record or place a notification in the system for the employee to amend the previous tour duty HOS record.

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