

CIRCULAR NO. 14

**RECOMMENDED PROCEDURES AND PRACTICES
FOR APPLICATION OF WORK/REST RULES**

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**THE RAILWAY ASSOCIATION OF CANADA
CIRCULAR NO. 14**

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WORK/REST RULES**

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1. Purpose of the Circular

The purpose of this circular is to provide guidance in the interpretation of the Work/Rest Rules and to provide recommended practices and procedures for implementation of the Rules.

2. Statement of Principles

The Work/Rest Rules are intended to provide for a flexible approach that allows stakeholders to take advantage of new developments in research and technology. They facilitate the implementation of applicable policies and procedures on railways that deal with different operating conditions, infrastructure and labor contracts.

These rules are intended to both protect off-duty time for operating employees and to facilitate the proper scheduling of those employees.

Labour and management have joint responsibilities for establishing, maintaining and monitoring working conditions that allow operating employees adequate rest between tours of duty and to help sustain alertness throughout the on-duty period.

Operating employees have a responsibility to manage their rest within the time frames provided by the Work/Rest Rules and to do so in a way that will enable them to report for duty in a rested condition.

3. Scope

The Work/Rest Rules apply to railways, operating employees and to any other persons performing such duties on federally regulated railways.

The Work/Rest Rules can also apply to operating employees of provincially regulated railways (such as shortlines) if,

- a) the Province has entered into a Memorandum of Understanding (MOU) with the federal Minister of Transport. Under a MOU the Province arranges for Transport Canada to oversee the regulatory affairs of the provincial railways or,
- b) the Province requires a provincial railway to comply with certain federal railway legislation as a condition of its license or authority to operate.

The Work/Rest Rules apply to operating employees of American railroads operating in Canada. For U.S. based crews operating into Canada, all time on-duty in the previous 24-hours, regardless of where that service was performed, will be counted under the Work/Rest rules.

Canadian railway crews operating in the United States of America must comply with the U.S. Hours of Service Law.

4. Definitions

4.1 Operating Employee

The term "operating employee", is defined in the Work/Rest Rules. Employees who commonly fall in this category include Locomotive Engineers, Conductors, Trainmen, Yardmen, Operators of remote control locomotives and light rail passenger equipment. Job descriptions and titles vary from railway to railway and may be changed over time. The Work/Rest Rules are intended to cover those employees physically involved in the operation or switching of trains, engines and equipment. Each railway company will keep a current list of positions that fall within the scope of these rules.

Any person who performs the duties of an operating employee is deemed to be an operating employee while they are performing those duties. For example, officers, supervisors, contractors and third parties must comply with the Work/Rest Rules if they perform the duties of an "operating employee".

The Work/Rest rules apply to operating employees in any class of service. This includes passenger, commuter and freight operations in yard, terminal and road service.

The Work/Rest Rules are not intended to apply to supervisors or employees performing mechanical or engineering functions.

4.2 Emergency

The term "Emergency" means a situation where injury or harm has been sustained, or could reasonably be sustained to employees, passengers, the public or the environment. The term "Emergency" is not intended to cover common operating problems. An "Emergency" is a situation involving a casualty or unavoidable accident, an Act of God or where there has been a delay which is as a result of a cause not known to the railway at the time employees leave a terminal and which could not be foreseen. Common operating problems that are inherent in railway operations that would not normally constitute an "Emergency" include, but are not limited to the following:

- a) crew shortages;

- b) broken draw bars;
- c) locomotive malfunctions;
- d) equipment failure;
- e) broken rails;
- f) hot boxes;
- g) switching;
- h) doubling hills;
- i) meeting trains;
- j) train length.

As an example, the need to clear the main track or separate a train at a highway/rail grade crossing, in itself, does not justify exceeding the prescribed hours. However, this situation could become an emergency if an ambulance was blocked at the crossing. Even where an extraordinary event or combination of events occurs which would be sufficient to permit excess service, the railway must exercise due diligence to avoid or limit such excess service. The burden of proof rests with the railway to establish that excess service could not have been avoided.

Truly unusual circumstances such as severe storms, major earthquakes, washouts, derailments or incidents involving severe injury are conditions where the term "Emergency" as contained in the Rule would apply. This application would then only apply to a train that has already left a terminal.

4.3 Tour of Duty

The term "Tour of Duty" means a single continuous period in road, yard or passenger service. In special circumstances split tour shifts, where a single tour of duty can be split into two or more working periods, are still considered to be one tour of duty. An example of this would be commuter service.

5. Minimum Requirements

Operating employees in road, yard or passenger service are permitted to work for a maximum of 12 continuous hours during a single tour of duty.

A specific fatigue management plan must be in place for employee working more than 12 continuous hours. This includes employees working in yard, work train service or in emergency situations.

Operating employees in work train service are permitted to work for a maximum of 16 continuous hours during a single tour of duty, provided there is a fatigue management plan to cover the extended hours.

Where an operating employee works more than one tour of duty, the maximum number of on-duty hours in a 24-hour period is regulated, depending on the class of service performed.

Operating employees working more than one tour of duty in road, passenger or work train service may work up to 18 hours in a 24-hour period. It is not intended that going off and on-duty en route (ticket splitting), or any similar practice, be used to create two separate tours of duty in order to circumvent the maximum duty hours of the Rule.

In yard service, operating employees are permitted to work up to 16 hours in any 24-hour period. The shorter maximum hours for yard service ensures sufficient time for operating employees to take rest before they are required to report for their next regularly scheduled yard shift. The intent of the rule for yard service is to provide the flexibility to meet occasional operational demands of a yard while still protecting sufficient time to rest. It was not intended to create regular 16-hour yard shifts, nor was it intended to change current practices, which allow an operating employee from time to time to "double" in yard service.

Any person who performs the duties of an operating employee is deemed to be an operating employee while they are performing those duties. All on-duty time performed in the 24 hours immediately preceding a person performing the duties of an operating employee will be included in the calculation of on-duty time for the purpose of the Work/Rest rules. For example if an operating officer performs office duties for 4 hours and then proceeds to operate a locomotive for 2 hours, the total on-duty time under these rules will be 6 hours.

5 (a) Question:

I am a yard-person and I just finished an 8-hour yard shift. Can I work a road shift?

Answer:

Yes, you would be able to work the road shift. The Work/Rest Rules provide for a maximum of 18 hours in a 24-hour period for road service. In this case the yard shift would account for 8 hours leaving a maximum of 10 more hours on your 24-hour clock.

5 (b) Question:

I just finished a road shift after working 7 hours. Can I accept a call for a yard shift?

Answer:

You could accept the call for a yard shift. The Work/Rest Rules provide for a maximum of 16 hours in a 24-hour period for yard service. The road service would account for 7 hours leaving 9 more available hours. The Work/Rest Rules provide that the class of service for which the employee is being called (yard in this case) governs the maximum hours available to the operating employee.

5 (c) Question:

I worked a day yard shift from 0800-1600 (8 hours) and was then called to go on-duty in road service (e.g. a through freight) for 1800. Can I accept the road shift?

Answer:

The Work/Rest Rules would permit you to accept the road shift. The day yard shift would account for 8 hours leaving a maximum of 10 hours remaining on your 24-hour clock. The two hours between the end of your day yard shift (1600) and the commencement of the road tour of duty (at 1800) would not be included. However because the time between the two tours of duty is less than 3 hours as per 5.2.2 of the Rule, the two tours would be combined and mandatory off-duty time would apply when you finish the second tour.

5 (d) Question:

I worked in road service to an away from home terminal where I went off-duty for 6 hours. I then worked in road service back to my home terminal for a total of 9 hours. Can I work another road or yard shift?

Answer:

The Work/Rest Rules would permit you to work another road or yard shift. Because you were off-duty for 6 hours your 24-hour clock has been reset to zero. You are permitted to work a maximum of 18 hours in a 24-hour period in road service and 16 hours in a 24-hour period in yard service. This would mean you could work another 9 hours in road service or you could take a yard shift and work 7 hours.

5 (e) Question:

If I work 9 hours to the away from home terminal can I show off and on-duty and return home?

Answer:

The Work/Rest Rules would not prevent you from doing this and you could work a maximum of 9 hours under this scenario. However, you should consider your state of fatigue and the

conditions associated with the return trip before deciding to go directly off and on-duty. For example if the return trip was during day light and you felt rested going "on and off-duty" may not be an issue. You should consider whether taking 30 to 45 minutes free from the controls of the train and having a meal, snack or coffee would help on-duty alertness for the return trip.

5 (f) Question:

Can I show off and on-duty en route and work for 18 hours?

Answer:

No. This constitutes "Ticket Splitting".

"Ticket Splitting" occurs when employees place themselves off-duty and immediately back on-duty, while enroute, expressly for the purpose of circumventing the maximum on-duty time provisions contained in sections 5.1.1 (a), (b), (c),(d) of the rule. Such a practice is not allowed.

5 (g) Question:

I worked a 9 hour and 45 minute tour of duty in road service to an away from home terminal. Am I on mandatory off-duty time? What if I had worked 10 hours and 5 minutes to the away from home terminal?

Answer:

Any time you work a single tour of duty over 10 hours you would be required to take mandatory rest. In the first example of a 9 hour and 45 minute tour of duty you be would not be on mandatory off-duty time as you were on-duty less than 10 hours. In the second case you would be on mandatory off-duty time because you were on-duty for more than 10 hours. At the away from home terminal your mandatory off-duty time would be 6 hours exclusive of call time. Your mandatory off-duty time would be calculated from the "arrival time at the rest facility."

5 (h) Question:

If I get called to deadhead in the middle of my mandatory off-duty time at the away from home terminal can I be put on-duty on a train en route?

Answer:

No, you are on mandatory off-duty time.

5 (i) Question:

Can my mandatory off-duty rest be interrupted to deadhead home and who makes the determination?

Answer:

Yes rest can be interrupted to deadhead home. Normally the choice is made by the employee, but a reasonable interruption by the company would be situations such as a derailment, major snow storm that the employee was not aware of when required to make the choice.

5 (j) Question:

I started mandatory rest at 1300 at my home terminal. What is the earliest time that I may be called?

Answer:

The Work/Rest Rules provide 8 hours off-duty exclusive of call time, which means 8 hours undisturbed rest. Your call time could not be before 2100.

5 (k) Question:

I worked a 0700 yard shift, which included 2 hours of overtime, completing work at 1700, then was called to work a 2300 yard shift. Can I accept this call?

Answer:

The Work/Rest Rules would permit you to accept the 2300 yard shift. The Work/Rest Rules provide that 6 hours continuous off-duty time is required to reset the clock to zero for purposes of calculating maximum available hours remaining in a 24-hour period. As you have had 6 hours off-duty between 1700 and 2300, you would have satisfied this requirement.

5 (l) Question:

I worked a 0700 yard shift, which included 3 hours of overtime, completing work at 1800, then was called to work a 2400 yard shift. Can I accept this call?

Answer:

The Work/Rest Rules would not permit you to accept the 2400 yard shift. The Work/Rest Rules provide that employees who go off-duty at their home terminal after being on-duty in excess of 10 hours will be subject to at least 8 hours off-duty exclusive of call time. As you have had 6 hours off-duty between 1800 and 2400, you would have not have satisfied this requirement.

5 (m) Question:

In the aforementioned example my regular job is to work the 0700 and 2400 yard shifts. Can I work the 2400 shift?

Answer:

The Work/Rest Rules would permit you to accept the 2400 yard shift. The Work/Rest Rules provide that yard service employees returning to their regular shift who go off-duty after being on-duty in excess of 10 hours will be subject to at least 6 hours off-duty, exclusive of call time, where applicable. As you have had 6 hours off-duty between 1800 and 2400, and are returning to your regular shift, you would have satisfied this requirement.

5 (n) Question:

I've just worked 10 hours 15 minutes as a supervisor. I am required to accept a call as an operating employee. How should I be governed?

Answer:

As you have not yet worked as an operating employee the provisions of 5.2.1 do not apply and you may accept the call. However, once you commence duty as an operating employee all the provisions of section 5 apply. Supervisors are responsible to demonstrate they are in compliance with these rules.

5. (o) Question:

I am a short line employee who performs various duties such as track work and mechanical repairs. I am also qualified to operate the company's locomotives. After 6 hours on-duty repairing track I am required to accept a call as an operating employee. How should I be governed?

Answer:

As you have not yet worked as an operating employee the provisions of 5.2.1 do not apply and you may accept the call. However, once you commence duty as an operating employee all the provisions of section 5 apply. You are responsible to demonstrate that you are in compliance with these rules.

5. (p) Question:

Will time paid as arbitrary and allowance payments prior to the starting time of a shift or tour of duty, or upon completion of a shift or tour of duty, be used in the calculation of on-duty time for the purposes of the Work/Rest Rules?

Answer:

The Work/Rest Rules were established in consideration of an industry standard for work start and completion times, that is when actual work commences and ends, to allow for continuity of

interpretation throughout the industry and therefore do not take into account any specific arbitrary and allowance payments that may pertain to individual railways.

6. Maximum On-duty Time in a 24-Hour Period

The maximum on-duty time for operating employees is eighteen hours (16 hours in Yard Service) in any 24-hour period. This rule should not be confused with the "continuous" service rule outlined, which limits the maximum continuous on-duty time for operating employees working a single tour of duty. The 18-hour rule applies when more than one tour of duty is worked in a 24-hour period.

In order to avoid "off and on" situations, which for all practical purposes would have operating employees working 18 continuous hours time in road service, operating employees shall have the opportunity to take a break between service. It is recommended that a minimum break of 30 to 45 minutes be taken. The break should be such that the operating employees are completely relieved of responsibility and off the train at a location, which allows for a meal or coffee. In passenger service, this could include taking a break on the train in a service car.

7. Resetting the 24-Hour Clock

Six consecutive hours off-duty is required to reset the 24-hour clock under the Work/Rest rules.

8. Emergencies

The definition of emergency is contained in the Work/Rest rules. The common thread in all definitions of emergency is that they are:

- a) Sudden; and
- b) Unforeseen.

Management's first responsibility in an emergency is the safety and security of employees and the public. Operating employees involved in an emergency situation contemplated by the Work/Rest rules must be informed of the nature of the emergency situation and the plan to manage through that situation. The fatigue condition of operating employees must be considered in the plan. Management must take all reasonable steps to minimize the time involved in the emergency.

The railway must establish that excess emergency service could not have been avoided. The railways have a duty to report such emergency situations to Transport Canada as soon as possible but not later than 48 hours. Copies of the report shall also be provided to the national offices of the relevant union organizations.

9. Mandatory Off-Duty Times

For mandatory rest to apply, on-duty time must be in excess of 10 hours. When operating employees go off-duty after being on-duty in excess of 10 hours they become subject to at least 8 hours mandatory rest (exclusive of call time) at their home terminal and at least 6 hours mandatory rest (exclusive of call time) at the away-from-home terminal.

At the away-from-home terminal rest shall be calculated from the "arrival" at a railway provided rest facility. In smaller centers where the rest facilities are near the railway station the "arrival" time will be much sooner than in a large center where the rest facilities involve lengthy trips from the train location to the rest facility. The intent of the Work/Rest rules is to allow operating Employees undisturbed time off-duty. Such time off is intended to be used for personal needs such as sleep and meals. At the away from home terminal it is recommended that at least 4.5 - 5 hours be used for sleep. Transportation to the rest facility should be expedited and time waiting for accommodations should be minimized.

At the home terminal rest shall be calculated from the point where the operating employee goes off-duty.

10. Deadheading

Deadheading is the authorized transportation of operating employees from one location to another. Deadheading at the commencement of a tour of duty or from an intermediate point is to be included in the total on-duty time for the purpose of the Work/Rest rules unless governed by circumstances outlined in Section 6.2.2 of the rules.

Mandatory off-duty time may be interrupted at the away-from-home terminal for the purpose of deadheading to a home terminal. In such circumstances, upon arrival at the home terminal the employee will be considered to require mandatory rest and the mandatory off-duty times in section 5.2.1 of the Work/Rest rules apply.

10 (a) Question:

What circumstances that might cause the Company to interrupt my mandatory rest?

Answer:

For example, in situations where road or line closures have or are likely to occur the Company may deadhead me home to avoid extended stays at the away from home terminal. This would be a legitimate reason to interrupt mandatory rest

11. Fatigue Management Plans

Fatigue management is more than rules and regulations. Fatigue management plans outline the strategies, tactics and actions that will be used by a railway to reduce operating employee fatigue. Plans may vary by railway, but they will share similar components, which include, education and training, employee and train scheduling practices, emergency response requirements, alertness strategies, rest environment and work environment. Fatigue management plans are not necessarily lengthy or complicated documents. One would not expect a small railway operation (in terms of track, employees, traffic etc.) to have the same type of plan as a larger railway.

Fatigue management plans, and changes to such plans, will be developed and implemented in cooperation with the National Legislative Director of each Union or their delegate.

"Specific" fatigue management plans are those plans developed pursuant to Rule 6.2.4 and are required to be filed with the department. It is not intended by the word "specific" that a multitude of plans will be filed. For example, it would be permissible to file one plan dealing with Work Trains that would address fatigue management in that class of service. It would not be necessary to file a separate plan for each individual work train unless the fatigue related conditions associated with the individual work train were not addressed in the filed plan. "Specific work trains would then be bulletined or called in accordance with the terms of the filed plan."

11 (a) Question:

Since the rule allows operating employees on work trains to operate up to 16 hours and since work train service regularly requires work cycles (5/2 or 10/4) which exceed the 64 hours on-duty in 7 day period, is a specific fatigue management plan still required for work train service?

Answer:

Yes a plan is still required. The plan should set out the unique conditions of work train shifts that help mitigate fatigue issues associated the different work cycles and extended hours on-duty. However it should be noted that, once developed, this generic fatigue management plan would cover any work train shift with similar working conditions and a separate plan would not be required for every work train shift.

Education and Training

Awareness, through education and training, is the foundation of an effective and successful fatigue management program. Operating employees, their families, unions and management need to understand and adopt strategies to manage fatigue in the railway.

11 (b) Question:

Whose responsibility is it to develop and deliver the training contemplated by this rule?

Answer:

Training will be jointly developed and delivered by the management and the unions.

Employee and Train Scheduling Practices

Scheduling practices must support the following objectives:

- a) Operating employees commencing duty have had the opportunity to be rested and alert;
- b) Alertness can be sustained throughout the duty period.

Schedules should balance, to the extent possible, employee personal needs and railway operating requirements. Railways should explore and implement scheduling practices that consider circadian rhythms and manage those points in time when circadian rhythms are most likely to cause an employee to be sleepy. Scheduling consideration should be given to accommodating those times when an operating employee can obtain the maximum recuperative sleep opportunity.

Unusual Operating Conditions

An example of such a condition is an emergency situation. Because emergencies are not predicable and circumstances may vary, a fatigue management plan should outline the importance of managing fatigue during emergencies and service interruptions. The Work/Rest Rules require a supporting fatigue management plan to be in place for any time when an operating employee works more than 12 continuous hours. The plan should establish criteria and provide implementation procedures for managing rest during short and long-term emergencies. It should outline systematic processes to shut down and start up work schedules interrupted by the emergency.

11 (c) Question:

Who will develop such a plan?

Answer:

The Company and the Unions.

Alertness Strategies - Napping

In formulating a fatigue management plan consideration should be given to napping policies and guidelines as well as to terminal napping facilities. Opportunities on the road to provide napping

in sidings, is an effective fatigue counter measure. Napping facilities (such as comfortable chairs in terminal) allow operating employees to rest as they wait for trains or prior to driving home at the end of a trip.

11 (d) Question:

Who will develop the 'napping policies' if indeed they are to be developed?

Answer:

The Company and the Unions.

Rest Environment

The key to restorative sleep is the quality of the rest environment. The fatigue management plan should develop criterion and tools for evaluating and upgrading facilities to provide the best possible opportunities for rest. This criterion should consider the use of soundproofing, blackout curtains, white noise generators, etc.

Work Environment

A fatigue management plan should outline methods of minimizing the adverse impact of work environment factors on employee fatigue. The effects of lighting, temperature, vibrations, noise etc., should be reviewed and addressed. The use of locomotive cab audio systems is one example of possible fatigue countermeasures.

Unique Deadheading Circumstances

It is recognized that passenger operations may be equipped to provide on-board facilities to accommodate deadhead operating crews. In applying this provision, other rest/alertness factors must be considered such as circadian rhythms, territory, and time of day.

Employee Involvement – Subsequent Tour(s) Of Duty

As outlined in section 2.3 of the rule, employees have a responsibility to report for work rested and fit for duty. Many railways have processes in place that already provide rest provisions that allow employees to elect to take rest prior to a subsequent tour(s) of duty. This satisfies the requirements of section 6.2.3 of the rule. Those railways that do not have such processes must address this issue in their general fatigue management plans.