



U.S. Department
of Transportation

**Federal Railroad
Administration**

Memorandum

Date: February 3, 2004

Reply to Attn of: OP-04-28

Subject: FRA's Application of the Interim Release Provisions of the Federal Hours of Service Laws

Original Signed By:

From: Edward W. Pritchard
Director, Office of Safety Assurance and Compliance

To: Regional Administrators

The following is a clarification of FRA's application of the Federal hours of service laws (HSL) with respect to interim releases. (Note: this Technical Bulletin is also OPSA 96-06).

**Operating Practices Technical Bulletin (OP-04-28)
Operating Practices Safety Advisory (OPSA 96-06)
Revised February 3, 2004**

In the event a railroad either schedules an interim release for regularly assigned crews, or elects to employ an interim release on an occasional basis when service warrants, the following FRA application of the HSL will apply.

1. Interim releases are valid at **designated terminals** only. The term "designated terminal" is defined in 49 CFR Part 228, Appendix A, as:

"a terminal that is (1) designated in or under a collective bargaining agreement as the "home" or "away-from-home" terminal for a particular crew assignment; and (2) which has suitable facilities for food and lodging. Carrier and union representatives may agree to establish additional designated terminals having such facilities as points of effective release under the [HSL] Act." [Emphasis added]

2. FRA has determined through its review of Congressional testimony and the legislative history that when food and/or lodging are not within a reasonable walking distance at the designated terminal, railroad-provided or arranged transportation must be available to transport the crewmember(s) to the location of the suitable food and lodging. It is important to note that the HSL does not stipulate which party, either the railroad carrier or the employee, will pay for the food or lodging. The payment issue is best handled through the collective

bargaining process.

3. In order to address the cumulative fatigue factor involved in an aggregated tour of duty, FRA reaffirms its position regarding how to classify travel time incurred when food and/or lodging is not within a reasonable walking distance. When transportation is required, all time spent waiting for transportation and the travel time itself from the duty point to the location of the food and lodging is considered as “limbo” time, neither on- nor off-duty time. Conversely, the return travel to the duty point is considered deadheading to duty, and therefore is treated as on-duty time for hours of service purposes. Any time between the return arrival time at the duty point and the start of covered service is also time on duty. As always, the **actual time** involved in these activities determine the amount of time charged to “limbo” or on-duty time. Arbitrary or average times charged to these periods should not be used in the calculation.

4. When transportation is required, all interim releases will **begin** when the employee(s) arrive at the location of food and/or lodging and **end** when transportation is available to begin the return trip to the duty point. The time between these two events must be a **minimum of 4 hours** and cannot be eroded by travel. Periods of less than four hours between travel **will not break the accumulation of on-duty time**, and FRA will consider the crewmember(s) in continuous service from the start of his/her duty tour.

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