



FREQUENTLY ASKED QUESTIONS

NOTE: Questions or answers added or revised since the last posted revision are indicated in **BOLD** type face. **Revised: March 24, 2010**

QUESTION: Has the FRA now approved the template documents you sent to them for review?

ANSWER: Yes. The only change FRA suggested was to address them directly to the FRA Docket No. 2009-0078 and not to Deputy Associate Administrator Grady Cothen as we originally suggested in the template documents. We have revised the template documents on the Members Only Website to reflect the preferred address.

QUESTION: Should railroads independently submit additional schedules and work history information to the FRA for consideration to get additional relief for the period between midnight and 6 a.m.? My railroad works 24/7 around clock. There are many union employees that work between the hours of midnight to 6:00AM as their regular schedule. These employees adapt to the routine and should not be excluded from the waiver.

ANSWER: No, we believe it is not necessary for each railroad to submit its data independently in light of the actions ASLRRRA is taking to encourage the FRA to extend the Initial Waiver to all hours for all participating railroads. The FRA has indicated that it is still studying the question of whether to grant the waiver for the midnight to 6 a.m. time period. In the Initial Waiver FRA indicated that it needs more data to make its decision. As a result a subcommittee of the ASLRRRA Safety and Training Committee has volunteered to collect as many available work schedules from the membership involving that time period to submit to the FRA fatigue model (FAST) for analysis. The Committee intends to collect this data as soon as possible for submission to FRA. Although there are certainly no guarantees, we hope the submission of this additional data will convince the FRA that there are no serious fatigue issues in short line railroad

train service between the hours of midnight and 6 a.m. and that it will extend the Initial Waiver to 24 hours per day.

QUESTION: We understood that there would be an exception from the hours of service limitations for railroads with fewer than 16 train service employees, but it isn't mentioned in the waiver. Does the waiver exempt railroads with fewer than 16 employees or not?

ANSWER: The waiver does NOT make any exceptions or exemptions for railroads with fewer than 16 train service employees. All "participating" railroads must take the steps outlined in the waiver to qualify for relief from the requirement of 48 hours' rest after six days of covered service work. ASLRRRA has filed a separate Petition for Exemption on behalf of those "participating" carriers with fewer than 16 train service employees, but we have no information on when FRA will make a decision to approve or deny that Petition.

QUESTION: We have sent a memorandum to our non-union employees explaining the waiver and seeking their input and support. The vast majority of our covered service employees have signed the memorandum indicating their full support of the waiver application. How do we communicate to the FRA as required that our non-union employees support the application of the waiver to our operations?

ANSWER: We recommend either of two methods depending on how many employees are involved. If you have only a few covered employees, you may want to file electronically in the FRA docket a copy of each document signed by your employees that demonstrates their support. We have prepared a template memorandum you can modify to send to your employees that should meet the obligation to seek the input of your employees. If you have too many hours of service employees to make impractical filing each employee's written response in support, you may draft a letter to the FRA attaching a copy of the communication you sent to the employees, including a copy of the Waiver Petition and the Waiver Letter issued by FRA, and indicating the number of responses you received from your employees in favor of the waiver and the number who indicated they are opposed. You should also indicate in that letter that the original responses from your employees are on permanent file at the railroad and are available for inspection and audit by the FRA.

QUESTION: An employee begins a six day work schedule. On the third day he works past midnight. At the end of the six days work, does the waiver apply so that the employee need only take 24 hours rest before beginning the next work schedule?

ANSWER: The waiver does not apply because one shift intruded into the midnight to 6 a.m. period during the just completed six day work cycle. The employee must take 48 hours rest before returning to train service. This is ASLRRRA's interpretation of the terms of the waiver. We have submitted this question to FRA for its guidance, and we will advise you in FAQ if FRA offers another answer.

QUESTION: Will the waiver cover the people who populate an extra board or rotate on non- regular assignments?

ANSWER: Extra board employees who work a regular assignment can be covered by the waiver. However, unscheduled assignments worked by any employee are not covered by the waiver. So if an employee works four days on a regular assignment, then works the fifth day on an unscheduled assignment, at the end of the sixth day of work he must be given 48 hour rest because the waiver does not apply.

QUESTION: If you have a regular crew that goes past midnight once or twice a week just a few minutes does that disqualify the work period for the waiver?

ANSWER: Yes, because the midnight to six a.m. period was breached during the work period, so the employees must receive 48 hours rest at the end of the six day work period.

QUESTION: Do managers who work in train service have to sign letters indicating their support of the waiver?

ANSWER: Yes. They are hours of service employees.

QUESTION: Can a railroad which did not sign off on the original Petition for Waiver now implement schedules under the terms of the waiver? If not, what must it do to access the HOS Initial Waiver?

ANSWER: No, only railroads that are listed on the Amended Exhibit A to the Petition for Waiver now on file with the FRA can access the waiver at this time. We will consult with FRA to determine procedures to add additional railroads.

QUESTION: May railroads have a generic annotation affixed to ALL schedules saying the waiver may apply to this schedule to comply with the FRA annotation requirement?

ANSWER: It does not apply to schedules; it applies to the employee's hours of service work record, and each such record must have a notation affixed to it if the waiver applies to that record. Thus, each record must be individually annotated, and a generic annotation will not suffice. However, a generic 'checkbox' may be used which says "Check here if this assignment is covered by the HOS Initial Waiver."

QUESTION: Under the terms of the Initial Waiver does a crew that completes six days consecutive work and otherwise complies with the limitations of the waiver require 10 hours of rest or 24 hours of rest following the six consecutive days of on duty time initiated?

ANSWER: The waiver requires 24 hours rest before resuming work. Absent the application of the waiver 48 hours rest is required before resuming work.

QUESTION: What if my UTU General Chairman opposes the waiver?

ANSWER: Contact Tom Streicher or Keith Borman at ASLRRA for assistance.

QUESTION: What if some employees won't sign off support of the petition?

ANSWER: We believe that if the majority of employees approve the waiver it may be used on your railroad for all train service employees. However, we are consulting with the FRA for its guidance on this issue. If the FRA has a different answer, we will post it immediately here.

QUESTION: May we simply post the waiver and the Petition for Waiver and the Initial Waiver on the yard bulletin board or must it be provided individually to each covered service employee?

ANSWER: You must provide each train service employee with an individual copy of the Petition for Waiver and a copy of the Initial Waiver. The ASLRRA template railroad memo to employees indicates that the Initial Waiver and the Petition for Waiver is attached.

QUESTION: Are locomotive servicing engineers who are mechanical department employees covered by the provisions of the Hours of Service laws, and can the Initial Waiver cover them to work 6 days followed by 24 hours rest?

ANSWER: Yes, the waiver can be applied to them.

QUESTION: If all our train service employees are represented by BLET or USW may we implement the Initial Waiver on our railroad immediately?

ANSWER: Yes, so long as their schedules are subject to the waiver, i.e. they do not intrude into the hours between midnight and 6 a.m. You must still comply with the requirement to annotate their work record with a notation whenever the waiver applies.
