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Our file
RDIMS 16987279
TC O 0-255

SENT ELECTRONICALLY

November 25, 2020

Mr. M. Brazeau
President
The Railway Association of Canada
99 Bank Street, Suite 901
Ottawa, Ontario
K1P 6B9

SUBJECT: Duty and Rest Period Rules for Operating Employees

Dear Marc Brazeau,

I am writing to inform you that the industry's revisions to the *Work/Rest Rules for Operating Employees*, now titled the *Duty and Rest Period Rules for Operating Employees* (the Rules) submitted to the Minister of Transport on September 11, 2020 have been approved subject to the conditions outlined in the attached Notice of Approval.

The new Rules will come into effect on November 25, 2020, subject to the phased-in compliance plan described in Section 14.

These rules represent a significant improvement over the existing rules by placing new limits on the length of a duty period, increasing the length of the minimum rest period between shifts and the introduction of a reset break that provides employees with a minimum amount of time away from work.

Transport Canada's *Railway Safety Management System Regulations, 2015*, require railway companies, under certain conditions, to apply the principles of fatigue science when scheduling the work of employees. These regulations and the new Rules provide a framework to mitigate the risks associated with fatigue.

Within 12 months of the implementation of the new Rules, Transport Canada will conduct audits of the Safety Management Systems to ensure that the principles of fatigue science are being applied to the scheduling process for operating employees. Transport Canada will also continue with its development of regulations for a Fatigue Risk Management System to further address risks from fatigue.

I would also request that the Railway Association of Canada provide Transport Canada with quarterly updates on the status of implementation of the new Rules until implementation is complete.

Should you have any questions, please contact Sean Rogers, Director, Regulatory Affairs at 613-298-5597 or sean.rogers@tc.gc.ca. Alternatively, if you would like to discuss technical aspects of this approval, please contact Ms. Stephanie Lines, Director, Operations Management at 613-990-7745 or stephanie.lines@tc.gc.ca.

Thank you for your anticipated cooperation.

Sincerely,



Michael DeJong
Director General
Rail Safety

c.c.:

Mr. D. Ashley, TCRC Mr. B. Snow, UNIFOR

Enclosures

TRANSPORT CANADA
APPROVAL OF RULES - FILED PURSUANT TO SECTION 20 AND APPROVED
PURSUANT TO SECTION 19 OF THE
RAILWAY SAFETY ACT, R.S. 1985, C. 32 (4th SUPP.)

On September 11, 2020, the Railway Association of Canada filed with the Minister of Transport, pursuant to subsection 20(1) of the *Railway Safety Act* (RSA) and on behalf of their member companies listed in Appendix 1, the new rules entitled *Duty and Rest Period Rules for Railway Operating Employees* (the Rules).

Subsection 19(4) of the RSA gives the Minister of Transport the authority to approve or refuse approval of proposed rules or revisions filed under sections 19 or 20.

Having regard to current railway practice, to the views of the filing railway companies, and to other factors that I consider relevant, I, Michael DeJong, Director General, Rail Safety, as authorized by the Minister of Transport under section 45 of the RSA, hereby approve the new Rules as set out in Appendix 2 with the following conditions:

1. The definition **reset break** in section 3.1 of the Rules is replaced by the following:

reset break means:

- a. for freight railways companies, a continuous period free from any duty period, that lasts, at a minimum, 32 hours and includes 2 periods of 8 hours undisturbed by the company that begin and end within the period between 22:00 and 08:00; and,
- b. for passenger railways companies, scheduled days off free from any duties, unless the employees choose or voluntarily accept to work based on their fitness for duty. (*cong *)

2. The definition **unforeseen circumstances (or emergency)** in section 3.1 of the Rules is replaced by the following:

emergency situation means a sudden or unforeseen situation where injury or harm has been sustained, or could reasonably be sustained to employee(s), passenger(s), the public or the environment such as those involving a casualty or unavoidable accident, an Act of God, severe storms, major earthquakes, washouts, derailments or where there has been a delay resulting from a cause not known to the railway company at the time employees leave the terminal and which could not have been foreseen.

Except as outlined above, normal operating problems that are inherent in railway operations that do not constitute an "emergency", include but are not limited to:

- 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. (situation d'urgence)

It is incumbent upon railway companies to establish that excess service could not have been avoided. When an emergency situation does occur, railway companies must exercise due diligence to avoid or limit such excess service.

3. For every time the term **unforeseen circumstances (or emergency)** is used in the Rules, it is replaced by the new defined term **emergency situation**.

4. The definition of **duty period** in section 3.1 of the Rules is replaced by the following:

duty period means a period of time beginning when the employee reports for duty at the location and time designated by the railway company and ending when the employee is released by the railway company from all activity including operating, administrative duties, deadheading, time over 30 minutes spent commuting from the away from home terminal to the reporting location, waiting for re-crews or transportation, training, and meetings. (*période de service*)

5. Section 5.6 of the Rules is replaced by the following:

5.6 Every employee shall be permitted to report in accordance with sections 5.2, 5.4 and 5.5 without fear of reprisal.

6. Section 9.3 of the Rules is replaced by the following:

9.3 Notwithstanding sections 9.1 and 9.2, a railway company may:

- a. assign a duty period that would result in an employee exceeding the maximum cumulative duty periods established in sections 9.1 and 9.2 if it will result in the employee returning to their home terminal for the purposes of a reset break, and must file with the Minister of Transport quarterly a report on the frequency with which assigned duty periods result in the maximum cumulative duty periods exceeding the limits in 9.1 and 9.2 for the purposes of having an employee return to the home terminal for the purposes of a reset break.
- b. allow an employee to continue to work a duty period where, due to emergency situations, the employee's cumulative duty period will exceed the maximum cumulative duty period time of 60 hours in 7 consecutive days, 112 hours in 14 consecutive days or 192 hours in 28 consecutive days;

7. Section 10.1 of the Rules is replaced by the following:

10.1 Freight railway companies shall provide a reset break that begins within any consecutive 7 days.

8. The Rules are amended by adding the following after section 10.1:

10.2 For passenger railway companies, a railway company shall provide a reset break that consists of a minimum of 4 scheduled days per 2-week period.

9. Section 11.2 of the Rules is replaced by the following:

11.2 For passenger railway companies, where a duty period is scheduled as a short split duty, the maximum duty period for the combined two duty periods making up the split duty is 12 hours and, where the break between the duty periods is more than 3 hours, an accommodation shall be made available to the employees by the railway company.

10. Section 11.3 of the Rules is replaced by the following:

11.3 For passenger railway companies, a duty period that is scheduled as a long-split duty, the maximum combined time on duty cannot exceed 16 hours. Fatigue management plans shall address the circumstances under which operating employees will be provided the option to take a break between consecutive duty periods. Employees shall be given as much advance notice as possible regarding a long split duty period in order for them to prepare in advance.

11. Section 14.1 of the Rules is replaced by the following:

14.1 Part D of these Rules comes into effect 12 months after the date on which they are approved by the Minister. However, any railway company may voluntarily comply with Part D of these Rules at an earlier date upon notice to the Minister.

12. Section 14.2 of the Rules is replaced by the following:

14.2 Parts A, B and C, with the exception of section 5, come into effect 30 months for freight railway companies and 48 months for passenger railway companies after the date on which they are approved by the Minister. Section 5 of these Rules comes into effect 24 months after the date on which they are approved by the Minister. Any railway company may voluntarily comply with Parts A, B and C of these Rules, in respect of certain employees, at an earlier date upon notice to the Minister, in which case the railway company is relieved of the obligation to comply with the *Work/Rest Rules for Railway Operating Employees* dated February 2011 for those same employees.

13. The French version of the Rules is modified as set out in Appendix 2.

The Rules are applicable to the companies listed in Appendix 1, and shall take effect on November 25, 2020.



Director General, Rail Safety

APPENDIX 1

RAILWAY COMPANIES PARTY TO THE *DUTY AND REST PERIOD RULES FOR RAILWAY OPERATING EMPLOYEES*

BNSF Railway Company
Canadian Pacific Railway Company
Canadian National Railway Company
Chemin de fer Québec North Shore & Labrador
CSX Transportation, Inc.
Eastern Maine Railway Company
Goderich-Exeter Railway Company Limited
Great Canadian Railtour Company Ltd.
Hudson Bay Railway Company
Knob Lake and Timmins Railway Company Inc.
National Railroad Passenger Corporation (Amtrak)
Nipissing Central Railway
Norfolk Southern Railway Company
Pacific & Arctic Railway Navigation, British Columbia & Yukon Railway, British Yukon
Railway dba White Pass & Yukon Route Railroad (WP&YR)
RaiLink Canada Ltd.*(Ottawa Valley Railway and Southern Ontario Railway)
St. Lawrence & Atlantic Railroad (Québec) Inc.
The Essex Terminal Railway Company
The Toronto Terminals Railway Company Limited
Transport Ferroviaire Tshiuetin Inc. (Tshiuetin Rail Transportation Inc.)
Union Pacific Railroad Company
VIA Rail Canada Inc.

APPENDIX 2

DUTY AND REST PERIOD RULES FOR RAILWAY OPERATING EMPLOYEES

PART A: General Provisions

1. Short Title

1.1 These Rules may be referred to as the “Duty and Rest Period Rules”.

2. Scope

2.1 These Rules apply to railway companies and the employees of those companies.

2.2 These Rules define the requirements related to the hours of work and rest periods for employees who are in positions designated critical to safe railway operations and are defined as employees in this rule.

3. Definitions

3.1 The following definitions apply in these Rules:

administrative duties means paperwork, filing, job briefings, reporting and work related to human resources obligations; (*tâches administratives*)

accommodation means a single-occupancy room with a bed that has a lockable door and other features as determined by the railway company’s process on accommodation under its fatigue management plan; (*hébergement*)

bargaining agent means a person designated to represent unionized employees to whom these Rules apply, or, if there is no bargaining agent, the employees to whom these Rules apply or a representative selected by employees to whom these Rules apply; (*agent négociateur*)

break means a period between duty-periods where the employee is not performing activity at the direction of the railway company, but does not mean a rest period; (*pause*)

commuting means an employee’s travel to the location where they report for duty when at the home terminal, or to and from the rest facility when not at the home terminal; (*navettage*)

day means a period of 24 hours beginning at the start time of the first duty period assigned to an employee as part of the employee’s cumulative duty period; (*jour*)

deadheading means the authorized transportation of an employee from one location to another at the direction of the railway company, without the employee operating railway equipment and does not include commuting; (*déplacement haut le pied*)

duty period means a period of time beginning when the employee reports for duty at the location and time designated by the railway company and ending when the employee is

released by the railway company from all activity including operating, administrative duties, deadheading, time over 30 minutes spent commuting from the away from home terminal to the reporting location, waiting for re-crews or transportation, training, and meetings; (*période de service*)

employee means a locomotive engineer, conductor, trainman, yardman, pilot, operator of remote control locomotives and operator of light rail passenger equipment or any person whose preponderance of time is spent in such classifications, who is physically involved in the operation or switching of trains, engines and equipment, as well as any other person who performs such duties; (*employé*)

fatigue means a physiological state of reduced mental or physical performance capability resulting from sleep-related factors, which may impair a person's ability to safely operate railway equipment or perform safety-related duties; it is acknowledged that a similar state may result from factors not related to sleep and that these causal factors are outside the scope of the Rules; (*fatigue*)

fit for duty means, for the purpose of these Rules and with respect to an employee, that their ability to operate safely is not impaired by fatigue or any fatigue-related condition and is not likely to become so impaired during the duty period; (*apte au travail*)

operating means being in control of or engaged in the operation of railway equipment or switching of trains, transfers, engines, or equipment and does not include time spent on railway equipment where the employee is not required to attend the equipment in accordance with the Canadian Railway Operating Rules; (*exploitation*)

remote worksite means a work location that requires an employee to travel to and remain at the location to work multiple duty periods due to the location's distance from an established community; limitations on the availability of transportation; and the time required to travel that distance; (*lieu de travail éloigné*)

reset break means:

- a. for freight railways companies, a continuous period free from any duty period, that lasts, at a minimum, 32 hours and includes 2 periods of 8 hours undisturbed by the company that begin and end within the period between 22:00 and 08:00; and,
- b. for passenger railways companies, scheduled days off free from any duties, unless the employees choose/voluntarily accept to work based on their fitness for duty. (*congé*)

rest period means a continuous period free from any duty period that begins:

- a. if at the home terminal, when the employee is released by the railway company from all activity at the end of a duty period; or
- b. if not at the home terminal, when the employee arrives at the rest facility; and ends when the employee reports for duty at the location and time designated by the railway company; (*période de repos*)

split duty means a scheduled sequence of duty periods with a break in between, where a break of a minimum of 15 minutes away from the operating environment, not intended as a nutrition or hygiene break is afforded to the employee; (*service fractionné*)

emergency situation means sudden or unforeseen situation where injury or harm has been sustained, or could reasonably be sustained to employee(s), passenger(s), the public or the environment such as those involving a casualty or unavoidable accident, an Act of God, severe storms, major earthquakes, washouts, derailments or where there has been a delay resulting from a cause not known to the railway company at the time employees leave the terminal and which could not have been foreseen.

Except as outlined above, normal operating problems that are inherent in railway operations that do not constitute an "emergency", include but are not limited to:

- 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.

It is incumbent upon railway companies to establish that excess service could not have been avoided. When an emergency situation does occur, railway companies must exercise due diligence to avoid or limit such excess service. (*situations d'urgence*)

PART B: Key Principles

4. Shared Responsibility

4.1 Managing fatigue is a shared responsibility between a railway company and its employees.

4.2 Railway companies are responsible for:

- a. managing employees in a manner that provides them with adequate sleep opportunity in order to return to work fit for duty;
- b. developing and implementing a fatigue management plan consistent with fatigue science and the requirements of this Rule;
- c. providing scheduled employees with their schedule in accordance with this Rule;
- d. providing employees with the training required under this Rule;
- e. providing accommodations in accordance with this Rule;
- f. recording duty period time data; and
- g. verifying the company's compliance with these Rules.

4.3 Employees are responsible for:

- a. being fit for duty;
- b. making effective use of rest periods and breaks in order to obtain adequate rest;
- c. in accordance with the railway company's fatigue management plan, reporting:
 - (i) before or during a duty period, when they believe they are fatigued or not fit for duty; and
 - (ii) any situation that may present a fatigue-related risk that may affect safe railway operations;
- d. reporting all duty period time;
- e. completing all training provided by the railway company under this Rule and applying the principles of the training;
- f. complying with the railway company's fatigue management plan; and
- g. complying with these Rules.

5. Fitness for Duty and Operating While Fatigued

5.1 An employee shall not commence a duty period unless the employee believes themselves to be fit for duty in accordance with the fatigue self-assessment method found in the railway company's fatigue management plan and has:

- a. obtained at least 5 hours of sleep in the 24 hours prior to commencing the duty period;
- b. obtained at least 12h of sleep in the 48 hours prior to commencing the duty period; and
- c. assessed themselves as scoring a 7 or lower on the Karolinska Sleepiness Scale.

5.2 Where an employee cannot commence a duty period in accordance with section 5.1, the employee shall report to the railway company that they are not fit for duty before the beginning of the duty period in accordance with the railway company's fatigue management plan.

5.3 The railway company shall not require any employee to operate railway equipment, and an employee shall not operate railway equipment, if the employee advises the railway company that they are not fit for duty before the beginning of the duty period in accordance with the railway company's fatigue management plan.

5.4 In accordance with the railway company's fatigue management plan, after beginning a duty period, if an employee believes they are fatigued in a manner that may affect safe railway operations, the employee shall immediately report to the railway company personnel designated for this purpose in the railway company's fatigue management plan

and the railway company shall follow the process found in its fatigue management plan to respond to the report.

5.5 In accordance with the railway company's fatigue management plan, after beginning a duty period, if an employee believes they are not fit for duty, the employee shall immediately report to the railway company personnel designated for this purpose in the railway company's fatigue management plan and the railway company shall follow the process found in the fatigue management plan to respond to the report.

5.6 Every employee shall be permitted to report in accordance with sections 5.2, 5.4 and 5.5 without fear of reprisal.

6. General

6.1 If an employee who is assigned a duty period by a railway company becomes aware that the assigned duty period would result in the maximum duty period or maximum cumulative duty period time being exceeded, the employee shall notify the railway company immediately.

6.2 Where a railway company receives and substantiates a notification under 6.1, it shall ensure that the provisions of this Rule are not violated.

6.3 Each employee shall have a designated home terminal.

6.4 A railway company shall describe its approach to scheduling in the FMP. The approach could include one or more of the following:

- a. Fixed: Employees will be required to work scheduled days and scheduled hours.
- b. Spareboard or Pool: Employees will be required to work subject to a call for duty at different times. May be subject to calling windows or not.

6.5 For scheduling approaches that have scheduled working days and hours, in accordance with its fatigue management plan, a railway company shall provide as much advance notice as is reasonably practicable.

6.6 For scheduling approaches that do not have scheduled working days and / or hours:

- a. a railway company shall make real-time information on current train line-ups and crew line-ups available to employees, as applicable;
- b. a railway company shall make the information required under a) available in a manner that permits an employee, to obtain it remotely and on-demand;
- c. an employee shall use the information provided under a) to view forecasted schedules, including changes; and
- d. a railway company shall contact the employee to confirm the duty period start time in accordance with company procedures.

PART C: Duty Periods and Rest Periods

7. Maximum Duty Period, Emergency Situations, Deadheading and Re-crews

7.1 An employee's maximum duty period is 12 hours.

7.2 Where an employee's duty period is scheduled to last more than 10 hours and to end between 00:01 and 06:00, an employee shall report to the railway company, in accordance with the company's fatigue management plan, that they believe themselves to be fit for duty in accordance with the fatigue self-assessment training provided by the railway company and that they have:

- a. obtained at least 5 hours of sleep in the 24 hours prior to commencing the duty period;
- b. obtained at least 12h of sleep in the 48 hours prior to commencing the duty period; and
- c. assessed themselves as scoring a 7 or lower on the Karolinska Sleepiness Scale.

7.3 Where an employee's duty period is scheduled to last more than 10 hours and to end between 00:01 and 06:00, at least one of the following fatigue mitigation measures shall be implemented for all such employees between 00:01 and 06:00, and at least two of the following fatigue mitigation measures for an employee with a Karolinska Sleepiness Scale score of 7 or higher during that same period:

- a. increased communication and in-cab crew resource management between employees of safety critical behavior and decisions as specified in the railway company's fatigue management plan;
- b. increased communication between rail traffic control personnel and the employee with respect to oversight of safety critical behavior and decisions;
- c. where the employee consents, strategic use of caffeine or other energy enhancing consumables as set out in the railway company's fatigue management plan;
- d. use of controlled napping protocols, where appropriate;
- e. increased task rotation with other qualified employees, where possible;
- f. prioritize work activities to manage duty period duration, where possible; and
- g. use of approved fatigue-proofing strategies.

7.4 The calculation of an employee's maximum duty period includes all duty periods regardless of whether or not the duty period occurred in Canada or the United States.

7.5 A person whose preponderance of time is not spent operating shall include any duty period, whether operating or non-operating, at the service of the railway company over the last 24 hours when calculating maximum duty period under section 7.1 or 11 or the maximum cumulative duty period time under section 9 of these Rules.

7.6 An employee's duty period may exceed the maximum duty period by up to 45 minutes to complete administrative duties and provide information to subsequent crews to maintain safe railway operations.

7.7 An employee's duty period may exceed the maximum duty period for the purpose of deadheading at the end of a duty period or waiting for re-crews or transportation at the end of a duty period, provided that where the maximum duty period is exceeded by more than 4 hours, the subsequent minimum rest period is extended by the amount of time by which the duty period exceeds 12 hours, or until 08:00, whichever extension is the shortest.

7.8 An employee's duty period may exceed the maximum duty period in the case of emergency situation by up to 4 hours provided that the subsequent minimum rest period is extended by the amount of time by which the duty period exceeds 12 hours or until 08:00, whichever extension is the shortest.

7.9 Notwithstanding section 7.8, an employee's duty period may be further extended where there is a risk to safe railway operations, the safety of the employees, passengers or the public, if the subsequent minimum rest set out in section 7.8 is provided and additional mitigation measures are implemented in accordance with the railway company's fatigue management plan.

7.10 Any extension to an employee's maximum duty period due to emergency situation shall be documented and reported to Transport Canada within 3 business days after the end of the emergency situation and the report shall include:

- a. a description of the emergency situation and the manner in which it was resolved; and
- b. the duty period duration worked by each employee whose maximum duty period was exceeded.

7.11 An employee's time is based on the applicable time zone at the location where the employee begins their duty period and time in effect as defined in the Canadian Railway Operating Rules.

8. Minimum Rest Period

8.1 An employee's minimum rest period is 12 hours at the home terminal.

8.2 An employee's minimum rest period is 10 hours, in an accommodation, at a home terminal that is located at a remote worksite.

8.3 An employee's minimum rest period is 10 hours, in an accommodation, when not at the home terminal.

8.4 Within each rest period, 8 hours will be undisturbed by the railway company.

9. Maximum Cumulative Duty Period Time

9.1 A railway company shall not assign a duty period to an employee, if the duty period would result in the employee's cumulative duty period exceeding 60 hours in any consecutive 7 days.

9.2 A railway company shall not assign a duty period to an employee, if the employee's cumulative duty period would, as a result, exceed 192 hours in any consecutive 28 days.

9.3 Notwithstanding sections 9.1 and 9.2, a railway company may:

- a. assign a duty period that would result in an employee exceeding the maximum cumulative duty periods established in sections 9.1 and 9.2 if it will result in the employee returning to their home terminal for the purposes of a reset break, and must file with the Minister of Transport quarterly a report on the frequency with which assigned duty periods result in the maximum cumulative duty periods exceeding the limits in 9.1 and 9.2 for the purposes of having an employee return to the home terminal for the purposes of a rest break.
- b. allow an employee to continue to work a duty period where, due to emergency situations, the employee's cumulative duty period will exceed the maximum cumulative duty period time of 60 hours in 7 consecutive days, 112 hours in 14 consecutive days or 192 hours in 28 consecutive days;

9.4 An employee shall not accept an assigned duty period that does not comply with the requirements of these Rules.

10. Minimum Time Free from Work

10.1 Freight railway companies shall provide a reset break that begins within any consecutive 7 days.

10.2 Passenger railway companies shall provide a reset break that consists of a minimum of 4 scheduled days per 2-week period.

11. Split Duty

11.1 Where an employee is working a split duty, the maximum duty period in section 7.1 does not apply.

11.2 For passenger railway companies, where a duty period is scheduled as a short split duty, the maximum duty period for the combined two duty periods making up the split duty is 12 hours and, where the break between the duty periods is more than 3 hours, an accommodation shall be made available to the employees by the railway company.

11.3 For passenger railway companies, a duty period that is scheduled as a long-split duty, the maximum combined time on duty cannot exceed 16 hours. Fatigue management

plans shall address the circumstances under which operating employees will be provided the option to take a break between consecutive duty periods. Employees shall be given as much advance notice as possible regarding a long split duty period in order for them to prepare in advance.

PART D: Fatigue Management Plan (FMP)

12. Fatigue Management Plans – Core Elements

12.1 A railway company shall develop and implement a Fatigue Management Plan (FMP) that includes or references, at a minimum:

- a. a description of:
 - (i) the type of operations conducted by the railway company, including size, complexity, traffic density, traffic patterns; and
 - (ii) the characteristics of the territory on which the company operates, including geographic considerations.
- b. the position of the person who has overall responsibility for its development and modification, as well as the positions of persons who will be involved in the development and updating of the FMP, including at a minimum, representatives from management, employees, and bargaining agents, if applicable.
- c. a description of the duties and responsibilities of employees who have a role in managing fatigue, including but not limited to duties relating to operations, supervision, safety management, training, risk evaluations, scheduling and call-out processes, and accident and incident investigation.
- d. a process for setting specific objectives that demonstrate how FMP policies, procedures or processes enhance fatigue management.
- e. a process for setting specific targets for objectives identified in (d), along with details on how those targets will be measured and evaluated.
- f. a process for reviewing and updating the objectives and targets required by paragraph (d) and (e) on an annual basis.
- g. a process to monitor, evaluate and address the effectiveness of the FMP, including:
 - (i) a method for reviewing the FMP, including the frequency of the review and the evaluation tools that will be used;
 - (ii) the roles and responsibilities of position of persons involved in performing the evaluation;
 - (iii) the process for recording and addressing issues of significance identified as part of the evaluation; and
 - (iv) ongoing monitoring considerations.

h. a process that:

- (i) defines how the FMP is reviewed and, if necessary, updated, both periodically and for cause;
- (ii) identifies the positions of persons responsible for reviewing and, if necessary, updating the FMP; and
- (iii) makes the FMP available to employees.

12.2 The railway company shall notify the Minister of any material revision to its FMP, no later than 30 days following the revision.

13. Fatigue Management Plans - Elements in Support of the Duty and Rest Period Rules

13.1 Taking into consideration the requirements prescribed in Part B & C of these Rules, the FMP shall include or reference a process to:

- a. track and record all employee duty period hours, including their total time:
 - (i) spent on activities included in the definition of “duty period”; and
 - (ii) spent in accordance with any period or activity under section 7.
- b. manage emergency situations that require an employee to exceed their maximum duty period, including details regarding:
 - (i) the methods by which an employee’s duty period time during the event will be recorded and managed;
 - (ii) the methods by which the subsequent rest period will be adjusted for any employee who is affected by emergency situations;
 - (iii) the mitigation measures that will be put in place to manage fatigue-related risk in the case that the duty period needs to be extended under section 7.9; and
 - (iv) the recording and retention requirements regarding the event.
- c. manage deadheading at the end of a shift, including a description of:
 - (i) the method by which an employee’s time spent deadheading will be recorded and managed in order to respect 7-day, 14 day and 28 day maximum cumulative duty period time limits;
 - (ii) the methods by which an employee’s subsequent rest period is adjusted or not, based on the total time spent deadheading at the end of a duty period; and

- (iii) the positions of persons responsible for the deadheading process, including the limits and mitigations described in (i) and (ii).
- d. report by employees that they are not fit for duty prior to a duty period that takes into account attendance management and contains:
 - (i) measures to ensure that employees are protected from adverse actions that would discourage reporting, consistent with the railway company's safety management system Process for Reporting Contraventions and Safety Hazards;
 - (ii) measures to support reporting by employees who believe they are not fit for duty prior to a duty period;
 - (iii) a method for an employee to perform fitness for duty self-assessments;
 - (iv) procedures describing how employees report they are not fit for duty;
 - (v) the positions of persons involved in the process and the role and responsibility of each such person;
 - (vi) the subsequent actions that are triggered as a result of such a report; and
 - (vii) recording requirements with regards to a fitness for duty report.
- e. report by employees that they are fatigued in a manner that may affect safe railway operations during a duty period that takes into account attendance management and contains:
 - (i) measures to ensure that employees are protected from adverse actions that would discourage reporting, consistent with the railway company's safety management system Process for Reporting Contraventions and Safety Hazards
 - (ii) a method for an employee to perform fitness for duty self-assessments;
 - (iii) the procedure by which an employee reports being fatigued in a manner that may affect safe railway operations;
 - (iv) the positions of persons involved in the process and the role and responsibility of each such person;
 - (v) the subsequent actions that are triggered as a result of such a report;
 - (vi) description of measures to allow the employee to continue to operate safely;
and
 - (vii) recording requirements with regards to a fitness for duty report.
- f. report by employees that they are not fit for duty during a duty period, that takes into account attendance management and contains:

- (i) measures to ensure that employees are protected from adverse actions that would discourage reporting, consistent with the railway company's safety management system Process for Reporting Contraventions and Safety Hazards;
 - (ii) a method for an employee to perform fitness for duty self-assessments;
 - (iii) the procedure by which an employee reports that they are not fit for duty during a duty period;
 - (iv) the position of persons involved in the process and the role and responsibility of each such person;
 - (v) the procedure used to guide the railway company management with respect to subsequent actions to be taken, including whether to remove the employee from duty and substitute a replacement employee;
 - (vi) the procedure used to communicate the actions to be taken to the employee, and to get the employee's confirmation that they have received the instructions;
 - (vii) the positions of persons involved in the process and roles and responsibilities of each such person involved in implementing the actions, including in the case of employee replacement;
 - (viii) the alternate actions that are available when employee replacement is not available due to a remote location or other reason;
 - (ix) the timeframes within which actions must take place; and
 - (x) recording procedures relating to the decisions taken and subsequent actions.
- g. ensure a minimum of 8 hours of the employees assigned rest period will be undisturbed by the company, including details regarding:
- (i) company call out procedures during employee rest periods, both at the home terminal and at the away from home terminal;
 - (ii) how changes to call out times or methods are initiated, both by the employee and the railway company; and
 - (iii) any specific circumstances when employee rest period could be disturbed and the subsequent mitigations that will be considered in order to help employees remain fit for duty during their subsequent duty period.
- h. schedule employees, including details on how a railway company will:
- (i) provide advance notice of a schedule to scheduled employees;

- (ii) access and use real-time information regarding employees' hours of duty periods and rest periods;
 - (iii) manage the assignment of a duty period to an employee in order to remain compliant with these Rules;
 - (iv) manage significant change to the schedule, including how employees will be notified, the positions of persons involved in the process and how any necessary mitigating actions will be managed prior to, and following, the revised duty period.
- i. manage employees for scheduling approaches that do not have scheduled working days and/or hours, including how railway companies provide tools to provide real-time information to employees on when they will be called for a duty period.
 - j. determining the requirements for selecting and managing accommodations, including:
 - (i) considerations and standard attributes for selection of facilities with best efforts to ensure that the room is:
 - (A) a single-occupancy room with a bed and a lockable door;
 - (B) subject to a minimal level of external noise; and
 - (C) has facilities to control the levels of temperature and light;
 - (ii) measures to mitigate rest disruptions; and
 - (iii) a process for reporting and handling of urgent and emergent information on how reports should be made.
 - k. conduct incident and accident investigation where fatigue may be a contributing factor, including procedures for:
 - (i) collecting, recording and storing information about the incident or accident, including:
 - (A) the time of day of the incident or accident;
 - (B) when the duty period started;
 - (C) hours into duty period when accident occurred;
 - (D) how many hours employees had been awake;
 - (E) hours of duty periods and rest periods the employees had in the past 24 hours and past 7 days;
 - (ii) analyzing results of the investigation;
 - (iii) developing corrective measures, where appropriate, and for measuring their effectiveness;
 - (iv) communicating the results of the investigation with railway company management and other relevant stakeholders.

1. train employees on these Rules and on fatigue in the rail industry, including a description of:
 - (i) initial and refresher training, and their frequency;
 - (ii) the methods for delivering the training;
 - (iii) the content of the training, that cover at a minimum:
 - (A) causes and risks related to fatigue;
 - (B) symptoms of fatigue;
 - (C) fatigue in operational circumstances, including the consequences of fatigue;
 - (D) fatigue management and alertness strategies;
 - (E) fitness for duty self-assessments using a recognized method, including the Karolinska Sleepiness Scale and the employee's prior work/sleep information; and
 - (F) mitigation of fatigue.
- m. designate home terminals, including outposts and remote worksites

PART E: Phased in Compliance

14. Compliance

14.1 Part D of these Rules comes into effect 12 months after the date on which they are approved by the Minister. However, any railway company may voluntarily comply with Part D of these Rules at an earlier date upon notice to the Minister.

14.2 Parts A, B and C, with the exception of section 5, come into effect 30 months for freight railway companies and 48 months for passenger railway companies after the date on which they are approved by the Minister. Section 5 of these Rules comes into effect 24 months after the date on which they are approved by the Minister. Any railway company may voluntarily comply with Parts A, B and C of these Rules, in respect of certain employees, at an earlier date upon notice to the Minister, in which case the railway company is relieved of the obligation to comply with the *Work/Rest Rules for Railway Operating Employees* dated February 2011 for those same employees.



TEAMSTERS CANADA RAIL CONFERENCE

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November 26, 2020

All TCRC Members

Dear Sisters and Brothers,

As I'm sure most of you are now aware, Transport Canada released the Duty and Rest Period Rules late yesterday. After an initial review we were extremely disappointed and concerned with some of the content contained and issues that were completely overlooked or not addressed.

Together with our Lobbyist from Teamsters Canada, Miriam Abou-Dib, Brother Ashley and I had a conference call this morning with the Director General of Transport Canada and his team to express our frustration and concerns. We received a commitment from Transport Canada that a letter of clarification will be created to address perceived ambiguity and some other issues. In regards to the points in Minister Garneau's Ministerial Order of December 20, 2018 that were not addressed in the Duty and Rest Period Rules, Transport Canada assured us that these points will be covered off in the development of regulations for a fatigue risk management system, which will also further address risks from fatigue.

The timeline for implementation of the revised Duty and Rest Period rules is 30 months. I ask for your patience as we wait on clarification and further information from Transport Canada.

In solidarity,

Lyndon Isaak
President – TCRC

