

1800 Provisions of the Act and the Regulations

1800.01 The Act

Section 1(k) of the Act reads, in part, as follows:

"...Provided, further, That any calendar day on which no remuneration is payable to or accrues to an employee solely because of the application to him of mileage or work restrictions agreed upon in schedule agreements between employers and employees or solely because he is standing by for or laying over between regularly assigned trips or tours of duty shall not be considered either a day of unemployment or a day of sickness...."

1801 Analysis of the Proviso

The proviso in Section 1(k) of the Act limits the payment of unemployment benefits. It does not limit the payment of sickness benefits. The conditions set forth in the proviso restrict it to employees in service on trains.

1801.01 Mileage and other work restrictions

Certain schedule agreements between employers and employees prescribe maximum mileage. When an employee reaches or exceeds the maximum mileage, he or she may be held out of service. Certain other schedule agreements provide for holding employees out of service when they reach or exceed specified maximum earnings or hours of work. These work restriction provisions are to be distinguished from provisions setting overtime or other premium rates of pay.

1801.02 Restrictions agreed upon in schedule agreements

Some schedule agreements spell out the terms of work restrictions. Other agreements authorize work restrictions, but the detailed provisions of the restrictions are not written into the agreements. An agreement may authorize work restrictions which may vary as between terminals or seniority districts. Any restrictions authorized pursuant to an agreement are regarded as within the scope of section 1(k).

1801.03 Regular assignments

Regularly assigned trips or tours of duty constitute regular assignments. A regular assignment is characterized by, (1) a definite starting time, (2) a definite number of trips or tours of duty, either periodically or for the duration of the assignment, and (3) a definite route of each trip or definite duration of each tour of duty. Employees who have regular assignments layover or stand by during the intervals between the trips or tours of duty constituting their assignments.

1801.04 Work other than a regular assignment

It is an established practice for railroads to maintain rotating boards for employees in train and engine service and on-board passenger service. The most common forms are the extra board and pool service. The rules governing extra boards and pools vary. In general, separate boards are set up for each occupation.

a. Extra board

The extra board is used to fill assignments when regularly assigned employees are absent. Employees on the extra board are called in seniority order or on a rotating basis to work assignments. The number of positions on the extra board may be periodically adjusted as the availability of regular assignments increases or decreases.

b. Pool service

Employees in pool service perform train and engine service as regular members of a crew that works as a unit on a first-in, first-out basis. For the purpose of determining whether an employee has the equivalent of full-time work in a registration period, an employee in pool service who marks off or otherwise misses an assignment with his or her regular crew will be credited with the amount of mileage, hours or earnings that would have been earned if the assignment had not been missed. Also, an employee who misses an assignment with his or her regular crew will be considered unavailable for work until the crew completes that assignment.

1801.05 Proviso restricted to certain services

a. Mileage or work restriction

It is considered that conditions under which remuneration with respect to a day may not be payable to or accrue to an employee solely because of the application of a mileage or work restriction exist only in train-and-engine service, yard service, dining-car service, sleeping-car service, and similar service, on trains. Accordingly, the work-restriction part of the proviso in section 1(k) does not affect the payment of benefits to employees in any other classes of service.

b. Standing by or laying over

It is considered that conditions under which remuneration with respect to a day may not be payable to or accrue to an employee solely because he or she is standing by for or laying over between regular assigned trips or tours of duty exist only in train-and-engine service, dining-car service, sleeping-car service, and similar service on trains. Accordingly, the

regular-assignment part of the proviso does not affect the payment of benefits to employees in any other class of service.

1801.06 Eligibility

A day may not be considered a day of unemployment with respect to an employee if no remuneration is payable or accrues to him solely because of any of the conditions stated in the proviso. Such a condition may be the sole cause why remuneration does not accrue to an individual who is able to work and available for work.

It would not be considered that any of the conditions stated in the proviso is the sole cause for the lack of remuneration in the case of an individual who is not able to work. In such a case inability to work is itself a cause why no remuneration is payable or accrues. Accordingly, the proviso does not prevent any day from being considered as a day of sickness.

1802 Occupations Covered by the Proviso

1802.01 List of occupations

The occupations in which it is considered that the conditions described in either or both parts of the proviso exist at this time are listed in Appendix A.

1802.02 Interstate Commerce Commission list of occupations

If an occupation is not listed in Appendix A, the reporting division number is to be ascertained by referring to the Interstate Commerce Commission's classification of railroad occupations. An occupation in reporting division series 100, 200, 300, or 400 should be considered not to be an occupation in which the conditions described in the proviso exist.

1803 Considerations in Applying the Proviso

1803.01 Application of mileage-work restriction

It is to be considered that an employee lacks remuneration because of the application to him or her of mileage or work restrictions only when he or she is actually held out of service on account of a mileage or work restriction. The proviso does not apply to an employee who has reached or exceeded the maximum mileage or hours of work but is not held out of service on that account. (Example: an employee reaches the maximum mileage on January 18, continues to work until January 20 and is thereafter out of work because of a strike.)

1803.02 Failure to work in anticipation of maximum

An employee who marks off or does not work on any day because he or she expects to reach the maximum mileage or earnings or working time permitted under an agreement is considered not available for work.

1803.03 Substituting on a regular assignment

An employee may, without having a regular assignment, work in trips or tours of duty included in the regular assignment of someone else, as for example, when someone is absent on account of sickness. An employee called for such work, would not, on the days when he or she does not work, be considered as laying over or standing by between regularly assigned trips or tours of duty. However, if an employee is called upon to work on more than three consecutive tours of duty included in the same regular assignment, there may be a question whether he or she has a regular assignment.

1803.04 Unemployment during regular assignment

An employee who has a regular assignment may be prevented from working on one or more regularly assigned trips or tours of duty. He or she may not be permitted to work by some emergency, such as flood, fire, wash-out or other condition not stated in the proviso. In any such case, the employee's lack of remuneration during the period including the day or days when he or she was not permitted to work would not be considered as caused solely by laying over or standing by between regularly assigned trips or tours of duty. The employee's days of unemployment might include normal lay-over days before and after the day or days when he or she was not permitted to work by the emergency.

1803.05 Separation from a regular assignment

When an employee is separated from a regular assignment, he or she is not standing by for or laying over between regularly assigned trips or tours of duty on any day after the date last worked on the assignment. Examples of how an employee may be relieved of an assignment follow:

a. Assignment abolished

An assignment may be abolished or discontinued, as for example, when the number of scheduled trains is reduced.

b. Bumping

An employee may be "bumped", displaced by a senior employee.

c. Suspension

An employee may be held out of service for investigation or for discipline.

d. Discharge

An employee may be separated from the service of his or her employer by discharge.

1803.06 Other work while out of regular service

An employee who is out of his or her regular service because of the application of mileage or work restrictions or who is standing by for or laying over between regularly assigned trips or tours of duty may perform other work. If the other work is terminated, the employee will be considered to lack remuneration solely because of the application of the mileage or work restrictions or solely because he or she is standing by for or laying over between trips or tours of duty.

1803.07 Employee who does not hold regular assignment

The non-work days of any train-and-engine-service employee who does not hold a regular assignment, but works under an arrangement which provides the equivalent of full-time work, may not be counted as days of unemployment. Under such condition, it is considered that the non-work days are due solely to the arrangements agreed upon in schedule agreements between the employee's employer and his or her labor organization. In general, this will apply to employees on rotating boards, extra boards, chain gangs, and so forth. Determinations as to whether an employee has the equivalent of full-time work will be made only with respect to registration periods. If an employee who gets the equivalent of full-time work for a two-week registration period is on the extra board for all days in the period, all non-work days in the period are due solely to the work restriction. However, if an employee gets the equivalent of full-time work for a two-week registration period but is on the extra board for only part of the period, only his or her non-work days while on the extra board are due solely to the work restriction. See Appendix B.

Part 332.5 of the regulations of the Board provides that an employee is considered to have the equivalent of full-time employment if he or she earned ten times the basic work day (as defined by labor agreement) in a fourteen-day registration period.

Nearly all intercity passenger service is provided by the National Railroad Passenger Service Corporation (Amtrak). A basic day for Amtrak's train and engine service employees is currently 8 hours; the basic day is not measured in mileage. Accordingly, 80 hours in a registration period is the equivalent of full-time employment for such employees. With respect to on-board passenger service (train attendants, food service employees, etc.), the current agreement between Amtrak and the Amtrak Service Workers Council defines a basic day as 6.92 hours; therefore 69.2 hours, or 69 hours and 12 minutes, is the equivalent of full-time work in a 14-day registration period for such employees. With respect to

stewards and train chiefs, 8 hours constitute a basic day, and 80 hours in a registration period is the equivalent of full-time employment.

1803.08 Employee holding regular assignment

When an employee has a regular assignment in train-and-engine service, the days between trips or tours of duty may not ordinarily be days of unemployment because on those days he or she is considered to be "standing by for or laying over between regularly assigned trips or tours of duty." This does not hold true for regularly assigned employees in yard service; yard-service employees are not subject to the standing-by-for-or-laying-over provision. Nor does it hold true for a limited number of train-and-engine service employees whose circumstances are similar to those prevailing in yard service. For instance, some train-and-engine service employees work a regular five-day week in local passenger service and receive pay more or less equivalent to that of yard service employees. They are not considered to be standing by for or laying over between regularly assigned trips or tours of duty on their two rest days a week.

1803.09 Standard daily rate of pay

Some employees work under agreements that provide for a flat daily rate of pay regardless of whether the employee works more or less than the basic work day. For example, a switchman may receive 8 hours pay even if he or she works 6 or 10 hours. In this situation, the number of hours or miles for which the employee receives pay, rather than the number actually worked, would be used to determine if the employee has the equivalent of full-time work. Nevertheless, any day that an employee in this situation is held out of service because of work restrictions is not a day of unemployment.

1804 Determining Whether An Employee Without Regular Assignment Has Full-Time Work

1804.01 Train-and-engine service

If an employee earns the equivalent of 10 times a basic day's pay in a 14-day registration period, no day in the period, while he or she was on the extra board, can be considered a day of unemployment. To determine whether an employee earned the equivalent of 10 times a basic day's pay in a registration period, compute the actual number of miles credited to him or her for employment in the registration period, if this information is given. If this information is not given, it must be obtained from the employee or the employer, unless the employee worked three days or less in the registration period. Mileage not earned because the employee missed a turn in pool service must be added to that for days worked in order to obtain the correct total. Also, consider that for each day of paid vacation the employee earned the equivalent of one day's credit.

1804.02 On-board passenger service

The term "on-board passenger service" refers to that group of occupations characterized by service to passengers in dining cars, sleeping cars, passenger cars and similar service. Such employees working in regular assignments for Amtrak are guaranteed 180 hours per month; those on extra-boards are guaranteed 150 hours per month. If an employee in on-board passenger service earns 69 hours and 12 minutes in a registration period, no day in the registration period may be considered a day of unemployment. For each day of paid vacation, consider that the employee earned one day's credit. If the employee fails to report his or her hours credited, the information must be obtained from the employee or the employer, unless the employee has 4 or fewer days of employment in the registration period.

1804.03 Yard service

Generally, 40 hours constitute a work week for employees in yard service. If such an employee earned credit for 80 hours in a 14-day registration period, consider that he or she earned the equivalent of full-time employment and consider no day in the period, while he or she was on the extra board, as a day of unemployment. In determining whether an employee had the equivalent of full-time work, count overtime hours at their face value. For example, a switchman who works 12 hours - 8 hours at a regular pay and 4 hours overtime - should be considered to have 12 hours' credit. When the number of hours credit earned in a registration period is not given, obtain the information from the employee or the employer.

1804.04 Type of Service

Where information about the type of service in which an employee worked is not furnished with the claim, consider that he or she worked as follows:

a. In yard service

if work is reported in terms of hours and the occupation given is engineer, fireman, conductor, brakeman, trainman, or switchman.

b. In road service

if work is reported in terms of miles.

1804.05 Conversion of Hours or Miles

Where an employee's service during a registration period was mixed (i.e. yard and road), and it appears that he or she may have earned the equivalent of full-time employment, convert the figures for each type of service to a percentage of the amount considered to be the equivalent of full-time work for that service and add the resulting percentages. If the total is less than 100 percent, consider that

the employee earned less than the equivalent of full-time employment during the period.

Example: During a registration period the claimant worked 32 hours in yard service and 600 miles in road freight service. The 32 hours in yard service is 40 percent of 80 hours (the equivalent of full-time work for that service), and the 600 miles in road freight service is 53 percent of 1,140 miles (the common equivalent of full time for that service as of July 29, 1991). Since the total of 93 percent is less than 100 percent, the claimant would be considered to have less than the equivalent of full-time work.

1805 Determinations on Claims

All claimants must answer question 6a on the unemployment claim (Form UI-3). Only those in occupations covered by work restrictions are to answer 6b and 6c. Answers are to be considered as follows:

a. Question 6a

"Do you work in train and engine service or passenger service?"

1. If the claimant answers "yes" to this question, he or she is to complete questions 6b and 6c.
2. If the question is not answered, question 2c of the claim or 7b of the unemployment application ("last railroad occupation") may provide an answer. If those questions are not answered, the claimant or employer must be contacted if there are a sufficient number of days of employment shown that work restrictions may apply, i.e. if there are 4 days of work in road service, 6 days in yard service, or 5 days in on-board passenger service, the information must be obtained.

b. Question 6b

"If yes, give miles or hours during this 14-day claim period. Include miles or hours earned for regular pay, premium pay, overtime and deadheading."

Information given in response to this question or the lack of information is to be considered in accordance with the instructions in AIM-1804. Benefits may be disallowed for a claim because the claimant had the equivalent of full-time work. If the employee had the equivalent of full-time work but was not on the extra board during the entire period, deny benefits on the basis of the work restriction proviso only for that part of the period during which the employee was on the extra board. If the registration periods are out of adjustment, i.e. do not coincide with each claim period, the determination may be based on miles or hours earned in the 14 days covered by the claim rather than in the registration period. In such a case, no action need be taken to determine the number of miles or

hours credit earned in the registration period unless a protest is received from the claimant.

c. Question 6c

"Show dates in this period on which you did not work because of a layover or stand-by rule, mileage restriction, or because you missed a turn in pool service."

1. If the claimant lists any dates in this space and those days are claimed as days of unemployment, the days are to be disallowed under the work restriction proviso or on the grounds that the employee was not available for work, as appropriate.
2. If no dates are listed in item 6c, but the pattern of employment suggests the claimant may have a regular assignment, more information from the claimant or employer may be needed to ensure that the claimant was not off duty on days claimed because of work restrictions, missed turns or layover days.

1806 Notice

Notice of determination of the applicability of section 1(k) is to be sent to the claimant in each case in which benefits are denied on the basis of such determination. In the case where a special letter is appropriate, the claimant must be apprised of his or her right to reconsideration.

1807 Form Letters Prescribed

The following form letters are hereby prescribed:

ID-18e	ID-18k
ID-18f	ID-18a-F
ID-18j-F	ID-18b-F

Appendices

Appendix A - Work Restrictions and Regular Assignments

NOTE: Occupations in yard service are covered only with respect to the work restriction part of the proviso, and not the lay over/stand-by provision.

Title of Occupation	Equivalent of Full-Time Employment in 14-Days
(On-board passenger service)	
Attendants	69.2 hours

- chair car - lead service - pantryman - porter - sleeping car - waiter	
Chef	69.2 hours
Food specialist	69.2 hours
Steward	80 hours
Train chief	80 hours
(Train and engine service)	
Brakeman (yard) (road passenger) (road freight)	80 hours 80 hours 1,140 miles (Effective July 29,1991 - The basic day increases by 4 miles each January 1 through 1995.)
Car retarder operator	80 hours
Car rider (yard) (road passenger)	80 hours 80 hours
Conductor (yard) (road passenger) (road freight)	80 hours 80 miles 1,140 miles (Effective July 29, 1991 - The basic day increases by 4 miles each January 1 through 1995.)
Engineer (yard) (road freight)	80 hours 1,140 miles (Effective July 29,1991 - The basic day increases by 4 miles each January 1 through 1995.)
Fireman (yard) (road freight)	80 hours 1,140 miles (Effective July 29,1991 - The basic day increases by 4 miles each January 1 through 1995.)
Foreman (yard)	80 hours
Hostler	80 hours

Motorman (yard) (road)	80 hours 1,140 miles (Effective July 29,1991 - The basic day increases by 4 miles each January 1 through 1995.)
Switchman	80 hours
Switch tender	80 hours

Appendix B - Application of Third Proviso (Extra Board)

Application of Third Proviso of Section 1(k) of the Act to Employees Without Regular Assignment

It is an established practice for railroads and related employers to maintain rotating boards for employees in train and engine service, dining car service, and similar service. Employees on these boards are called as needed. The rules governing the establishment of extra boards vary with the employer. In general, separate boards are set up for each occupation used in train and engine service.

There are two basic characteristics that apply to all boards. The arrangements governing the operation of any rotating board are agreed to by representatives of management and labor. This arrangement includes some method for increasing and decreasing the number of employees on the board. For the most part, these boards are cut, that is, the number of employees on such board is reduced, when the amount of employment available for the employees falls below certain levels. The board is increased when the amount of work is such that employees would otherwise be required to work beyond certain fixed limits. Under ideal conditions a rotating board would provide full-time work for all employees on the board. Under such conditions, however, the employees would have some non-work days. Clearly, such non-work days would be due to the conditions under which the board is set up. In other words, the non-work days of such employees would be due solely to the work restrictions in the arrangement for setting up the board and agreed to by management and labor. Hence, unemployment benefits for these days must be denied by reason of the third proviso of Section 1(k).

On the other hand, when conditions are such that employees on a rotating board may not get the equivalent of full-time work, the non-work days of the employees would not be due solely to the work restriction in the set up of the board. Accordingly, under such conditions the third proviso of Section 1(k) would not prohibit the payment of benefits for the employees' non-work days.

An employee on a rotating board will have non-work days that may be due either (1) to the restriction on work in excess of full-time or (2) to lack of business if he is not getting the equivalent of full-time employment.

If an employee on an extra board is getting 10 basic work days in a two-week registration period, the employee is, in effect, employed full-time. Under such circumstances any non-work days which he would have, would be due to the arrangements governing the operation of the extra board. Hence, in such case his non-work days would be due solely to the work restriction in the set up of the extra board and his claim for benefits for such days must be denied under the third proviso of Section 1(k).

On the other hand, if the employee gets less than 10 days' work in a two-week registration period, the non-work days may be due at least in part to lack of business. Accordingly, non-work days of an employee on a rotating board may be counted as days of unemployment if the employee had less than the equivalent of 10 basic work days in a registration period.

Appendix C - Answering The Call (Train & Engine Service)

"Answering The Call," Description Of Train And Engine Service, The Type Of Work, How Seniority Works, And What Consists Of A Work Day

The following article is from the publication "Trains", November 1994, and is entitled "Answering The Call". The article describes train and engine service, the type of work done, how seniority works, and what consists of a work day. This article may be helpful in better understanding our "customers".

This article can be used as a reference source, as a training tool for new employees, and as a refresher for current employees who make work restriction determinations on claims for unemployment benefits.

Answering The Call

Today's mainline railroading is an around-the-clock, 7-day-a-week, 365-day-a-year enterprise. This relentless pace requires train and engine crews be available for duty at all times so that carriers can fulfill commitments to shippers and passengers.

How do the people who operate these trains come to be assigned to which train, and when? The procedures behind this process are fascinating, yet nearly invisible. They must accommodate the 24-hour-a-day nature of railroading while honoring union contracts which demand that duties be assigned strictly by seniority.

The basic mechanisms by which Class 1 railroads staff their trains have been developed through collective bargaining. Although separate, highly detailed operating agreements exist at each and every railroad crew terminal in the United States--and for each operating craft (e.g., trainmen, enginemen)--these agreements all provide for the same general framework for assigning crews.

In recent years, agreements or arbitration have enabled railroads to reduce the number of people on a train crew. (We will examine the crew-assignment framework primarily from the standpoint of train-service employees [conductors and brakemen], but basic concepts also apply to enginemen.) From around 1900 until the early 1980's, union agreements required all trains to run with a "full" train crew, consisting of a conductor and two or three brakemen. During much of this period, full crews also were required by many states, but by the 1970's the railroad industry had succeeded in having most of those laws repealed.

Significant changes to the standard train-crew consist began in the early 1980's, and now, in the 1990's, most Class 1 railroads have reached labor agreements permitting almost all through trains to run with only an engineer and a conductor.

Nevertheless, today's crew-assignment procedures really are modifications of long-established practices. So while crew consists have changed substantially, crew-assignment procedures have not changed as much.

Seniority

Length of employment with the company, or seniority, historically has been the means of determining which individual employee is assigned to which specific job, and each class of job has been protected by a particular craft. All employees in a craft within defined seniority district have the right to apply for assignment to the job of their choice through a formal bidding process. The most-senior employee to bid on a particular job wins the assignment (bids must be submitted in writing). In any craft, the most desirable assignments almost always are held by employees with long company service.

An employee whose assignment is terminated for any reason can "bump" any other employee with less seniority--that is, assume the less-senior employee's regular assignment. The displaced employee in turn bumps another even less-senior employee, and the bumping process continues, domino fashion, often until someone is furloughed. (In dual seniority areas, employees who hired out in one craft before a certain date cannot be bumped by employees who hired out in another craft. For example a protected switchman cannot be bumped from a yard engine by a non-protected brakemen even though the brakeman hired out two years before the switchman. "Protected" employees are sometimes referred to as "prior right" employees. The protected/non-protected concept also generally applies on railroads that have established system wide seniority.)

The seniority concept also underlies the assignment of train crews. The around-the-clock character of railroading means that one aspect of road trainmen's and enginemen's assignments is unique; desirability is viewed mostly in terms of the nature of working assignments rather than their on-and off-duty times.

Working cut off

Historically, road-service employment has been characterized by two basic either-or conditions: (1) working or furloughed, and (2) "extra" status or regular assignment.

"Capacity management" is a buzz-term in American business today; it refers to efforts to tailor the size of a company's workforce to its level of customer demand. Railroad car loadings have long been a measure of national economic activity, and the cyclical, feast-or-famine railroad industry has traditionally practiced capacity management by furloughing temporarily unneeded train-service employees according to seniority. Being hired by the company guarantees the right to exercise seniority in pursuit of work but is not a guarantee of year-round work itself. Furloughed railroad employees usually are said to be "cut off" rather than "laid off." Employees who are cut off retain their seniority and are called back to work at some future point--be it in 10 days or 10 years.

At the outset of his railroad career, a trainman establishes his "brakeman's date," representing his relative ability to bid successfully for brakemen's assignments within his seniority district. The date of his promotion to conductor establishes his "conductor's date" (Usually after three to five years of experience as a brakeman). A promoted trainman can bid on both conductors' and brakemen's jobs. In good times, with everybody working, a higher proportion of promoted trainmen work as conductors. When traffic declines, there are fewer assignments for conductors or brakemen, so low-seniority conductors get bumped back to brakemen's jobs and the least-senior brakemen get cut off.

Extra or regular

If a road-service employee has sufficient seniority to be working, the second either-or condition is "extra" status or regular assignment. This is one of the intriguing aspects of the crew assignment process. To be working but unassigned is to be on the "extra board" maintained at the home terminal. Extra-board employees are "called" for (1) "regular jobs" whose normal occupants are temporarily absent (e.g., on vacation) and (2) "extra jobs." The latter include temporary assignments, such as an emergency work train, as well as new regular jobs activated before the bids close. (The term "board" dates from when crew assignments were often written on large, lined chalkboards. Today they commonly are displayed on computer screens or in a computer printout. Most crew calls are made 1 hour, 30 minutes ahead of reporting time; a "long call" of 2 hours is often done during the night hours.)

Customarily, the brakemen's extra board has been the domain of employees with little seniority because, by nature, extra-board people have the least control over assignments. (Similarly, the conductors' extra board usually consists mostly of young conductors.) Extra-board trainmen must protect vacant assignments everywhere within their seniority district. In fact, for years, working the extra

board people have the least control over assignments. (Similarly, the conductors' extra board usually consists mostly of young conductors.) Extra-board trainmen must protect vacant assignments everywhere within their seniority district. In fact, for years, working the extra board also has been described negatively as "bucking the board."

On the other hand, working the board traditionally provides an employee the most possible "pay trips" per pay period, so some high-seniority employees choose to work the brakemen's or conductors' extra board temporarily (by vacating their regular assignments) in order to maximize earnings for a given period.

At any time, the extra board consists of a specified number of employees, as determined by local agreement based upon prevailing traffic. The board "turns" in first-in/first-out rotation; extra-board employees "mark up" on the board in the order they complete previous assignments to await call for the next assignment. A person marking up at the bottom of the board usually has 8 to perhaps 30 hours off, depending on immediate traffic, before he or she works again. The extra-board employee at the top of the board at a given time is the next one called and is referred to as "first out." Those that follow are considered "second out" (or, "two times out"), "third out" ("three times out"), and so forth.

A prolonged traffic increase first causes the extra board to turn more rapidly, then expand as cut-off employees are called back. If necessary, the railroad then hires new employees. A traffic decline will cause the board to turn more slowly. If the decline persists, the board is cut, and employees are cut off according to seniority.

Pay by the mile

Road crews are paid per-mile for miles earned, based on actual miles run. The scheme is rather complicated. Unlike yard crews, road crews never receive premium pay for holidays, and they receive overtime pay only if they are on duty longer than a period determined by the length of their run.

For years, a basic day for road-pay purposes was 100 miles, based on an assumed average train speed of 12.5 mph--operating a train 100 miles was regarded as equivalent to 8 hours of work. Within the last decade, the agreed-upon mileage equivalent of a basic day has lengthened. In 1994, a basic day equals 126 miles; effective in 1995 it will equal 130.

The 1994 basic day means that a road crew whose regular run is any distance up to 126 actual miles is paid for a basic day, about \$130 for engineers, \$122 for conductors, and \$114 for brakemen on most railroads, for that run. Crews whose regular runs are longer than 126 miles claim a basic day plus additional pay for the miles run in excess of 126 ("over miles"), about 96 cents, 89 cents, and 83 cents per mile for engineers, conductors, and brakemen, respectively. For

example, crews running 150 miles are paid for a basic day plus 24 "over miles" (or, 150 minus 126).

The 1994 basic day assumes an average train speed of 15.75 mph (126 miles/8 hours) for computing road overtime. For our example 150-mile run, a total of 9 hours, 31 minutes (150 miles/15.75 mph = 9.52 hours) must elapse before overtime is payable. If the completed trip takes longer than 9:31, the crew receives an overtime premium, based on an overtime-hour of 23.625 miles (15.75 x 1.5), for the time on duty in excess of 9:31.

In some instances, road crews receive "arbitraries"--additional payments as required under local contract. A typical arbitrary is "final terminal delay," claimed by inbound crews not released from duty within a specified period after "hitting the switch" (arriving at the main track turnout defining the physical limit of the terminal.)

The pay-by-the-mile concept underlies a direct relationship between length of crew district and number of pool turns working that district. Around the U.S., long-established crew districts range from about 60 miles to upwards of 150. By agreement, the number of pool turns is adjusted for changes in traffic so that the average miles earned by each turn in any 10-day checking period ranges between 1200 and 1400. This means that, for a given traffic level, a longer crew district requires more turns than does a shorter one. More turns means fewer trips per turn during any time period. Put another way, on a comparatively long district, fewer trips are needed for a crew to make its miles than is the case for a crew working a shorter district. In general, the longer the district, the more time each pool crew is home between trips.

On the other hand, assuming constant traffic, lengthening the basic day reduces the number of turns in any pool. Longer basic days reduce the miles earned per trip as illustrated here.

Fewer miles earned per trip require more trips per checking period for a turn to make its miles. More trips per turn, for a given number of trains, means fewer turns.

Also, the increased mileage equivalent of the basic day has effectively cut a road employee's per-trip pay because more miles are included in the basic day rather than being paid for as "over miles." Since the early 80's, the dollar amount of the basic day has increased, but proportionately less than the equivalent mileage. The net result is that road employees now work more trips for about the same, or less, total pay per pay period than they earned a few years back. Understandably, the carriers like this and the employees do not.

Where run-through agreements have been negotiated, crew changes at traditional away-from-home terminals between consecutive crew districts have been eliminated. Crews from each home terminal run over both crew districts to

the other home terminal. An example: On the Santa Fe in Arizona, Seligman used to be the away-from-home terminal for the West Pool out of Winslow and the East Pool out of Needles, California. Beginning in 1984, crew changes at Seligman were eliminated, approximately doubling the per-trip mileage of Winslow pool crews running west and Needles crews running east. The local agreement addresses matters such as distribution of turns to each home terminal and provisions for away-from-home crews to go first-out after so many hours.

Actual miles run (assumed) less basic day in miles = "Over miles" earned

1982	150 - 100 = 50
1994	150 - 126 = 24
1995	150 - 130 = 20

The pool

The alternative to working the extra board is to work or "hold" a regular assignment. Any job expected to last longer than a period specified by local agreement is a "regular job" that must be advertised for bid. In a sense, the term "regular assignment" is self-explanatory, but it means regular hours only in certain instances. Regular assignments include:

- Jobs going on duty at the same time and place each day, with specified days off, such as locals, road-switchers, work trains, and passenger jobs (before Amtrak took responsibility for its own crews).
- The freight pool, which is unique because it is a regular assignment with irregular hours. Employees working the pool (also known as the "chain gang") are called only for through freight trains to and from their home terminal and an away-from-home terminal. For example, for many years Santa Fe's East Pool crews out of the home terminal of Winslow, Arizona worked 130 miles to the away-from-home terminal of Gallup, New Mexico. The West Pool worked 143 miles to Seligman, Arizona, and the Short Pool worked 89 miles to Ash Fork, Arizona, on the "Peavine" line toward Phoenix. (The East Pool now runs through 286 miles to Belen, New Mexico and the West Pool runs through 293 miles to Needles, California.)

The freight pool consists of a specified number of assigned train crews--known as "turns"--which are called, in sequence, to work or to "deadhead" as freight trains are scheduled to depart the terminal. (Deadhead crews are moved to the opposite terminal to begin their work in order to balance the available crews with the traffic. They travel by train, auto, bus, or van, without being considered as working, but with pay and generally subject to the hours of service law.)

The freight pool is an attractive assignment for most road-service employees, so holding it full-time as either a conductor or a brakemen requires considerable seniority. A basic characteristic of the pool is that within it, seniority means

nothing--you take what you get, when you get it, between your assigned terminals. So, although working pool freight is a high-seniority proposition, it will not assure catching a hot train or making a trip in daylight.

As with the extra board, the size of the freight pool varies with traffic. A sustained upswing of traffic requires additional pool turns, enabling some brakemen to bid from the extra board to the new brakemen's turns. (Replacing those who have bid off the extra board is one reason cut-off employees are called back, and perhaps new ones hired, when traffic picks up.) Likewise, some pool brakemen and/or extra-board conductors bid to new conductor's turns. The process reverses with a sustained traffic slump--turns are abolished, requiring the affected employees to bump others. Ultimately, the youngest pool men get bumped back to the two extra boards.

Again, like the extra board, the pool turns on a first-in, first-out basis. Upon return to the home terminal, each pool crew marks up at the bottom of the board and works its way up to first-out position over an 8- to 30-hour period, depending on traffic.

A trainman or engineman working the pool can predict to some extent when he'll go to work, and on which train, by checking the lineup of trans projected to arrive and depart the terminal during a specified period. (The chief train dispatcher issues the lineup, which can be obtained by an employee via computer screen or printout, a recorded telephone message from the crew caller, or a computer-generated telephone voice message.)

Lineups are only estimates, though, and trains often "fall down" from their projected departure times, so that predicting probable on-duty time is inexact. In fact, the unpredictability of on-duty times for both extra-board and pool employees is viewed as a major drawback of railroad employment. Being chained to the telephone disrupts an employee's family life, and the lack of regular rest periods is considered a prime cause of fatigue.

A Few Hours at a Mainline Crew Change (Full-crew era)

Westbound Lineup		Eastbound Lineup	
Symbol	Figured	Symbol	Figured
1-999	06:15	1-MDSE	04:10
1-MUTT	10:40	2-MDSE	09:15
2-999	10:55	1-HEVY	12:30
1-MDSW	13:05	1-VHOT	14:45

West Freight Pool

Conductor	Brakemen	Brakemen's Extra-Board
Jones	Able Baker	Rogers
Smith	Charles	Maxwell
Miller	Martinez Quincy	Agnell
Benson	Endicott Thomas	Sampson

East Freight Pool		
Andrews	Graves	Pearson
Lopez	McDuff	Owens
Kennedy		
Duke	Lanier	Jenkins

Rogers will be the next extra brakeman called.

On the west end, conductor Jones and brakemen Able and Baker will be called for the 1-999, on duty at or about the figured (arrival) time.

Based on the lineup, the first open brakeman's turn is with conductor Smith on the west pool. Smith, Charles and Rogers may be called for the 1-MUTT, a manifest that typically works at one or more stations en route.

However, with the 2-999 hot on 1-MUTT's heels on the lineup, there's a good change that the 2-999 will run around the 1-MUTT before arriving, in which case Smith et al, will work the 2-999, leaving Miller, Martinez and Quincy first out for the 1-MUTT.

Benson, Endicott and Thomas stand for the 1-MDSW.

The inbound crews on the westbound trains will go to the bottom of the East Pool board.

On the east end, Andrews, Graves and Pearson will be called for the 1-MDSE on duty at or about 04:10.

Lopez, McDuff and Owens will catch the 2-MDSE.

Conductor Kennedy stands for the 1-HEVY, along with extra brakemen Maxwell and Agnelli, about lunchtime.

Duke, Lanier and Jenkins can anticipate a fast trip on the 1-VHOT later this afternoon.

The inbound crews on the eastbound trains will go to the bottom of the West Pool board.

Extra-board brakeman Sampson won't work any of the trains shown on the lineups; later, he'll go either west or east, depending on which pool has the first open brakeman's turn.

Pool conductor's vacancies are filled from the conductors' extra board.

Flexibility and variety

Since there are no regular days off, an employee can, within limits choose whether or not to work a particular trip. With the crew dispatcher's permission, both pool-crew and extra-board employees can "mark off" or lay off for a day or two. A pool employee who lays off has an extra-board employee called in his place when his turn "gets out." Of course, the extra man, not the pool regular man, is paid for the trip. When the regular employee wishes to return service, he will mark up on his regular turn to await first-out status and another call; the extra man is in turn released to the extra board.

When an extra person lays off, he is removed from the sequence of extra employees to be called until he marks back up (at the bottom of the board). He forfeits the call(s) which otherwise would have been his own during the period from layoff to markup. Being able to lay off at any time sometimes leads to "sharpshooting"--laying off, then marking up at a strategic time to try to catch (or avoid) a particular assignment based on an assessment of the train lineup and the "spaces" (existing vacancies in the pool(s) and other jobs).

The layoffs and vacations of regularly assigned employees are typically a major cause of extra-board activity. Layoffs have declined considerably where railroads have negotiated run-through agreements. The longer runs pay more, but each pool turn gets called correspondingly less often, so missing a trip causes more damage to an employee's pocketbook than before.

Many regular assignments (including the pool) are considered desirable because they feature high pay, attractive hours, or both, and so are held by the high-seniority "old heads." A local going on duty at the home terminal at, say, 7:30 a.m. with Saturday and/or Sunday off is an example of a very attractive assignment.

By contrast, some regular assignments (e.g., road-switchers or locals) go on duty at locations other than the home terminal. These outside jobs require the assigned crew members either to live at the outside location or to commute from the home terminal. As such, outside jobs, even high-paying daylight ones, sometimes are so unpopular that no one bids on them. In this case, the last-senior employees on the extra board are "force-assigned" to the job.

Employees forced to any job must work that assignment until they can bid to another regular assignment or until the extra board is augmented with even-younger employees. When the extra board is augmented, the regulars on an

undesirable job formally can vacate it. The job must again be advertised for bid, resulting in the forced assignment of newer extra-board employees while allowing the former "victims" to return to the extra board.

A representative career profile

During much of the past 100 years, a typical train-service employee's career would have followed a pattern similar to this: After hiring out, he'd spend his first three or four years on the brakemen's extra board, possibly being cut off much of that time. After five years or so he would have sufficient seniority to work the extra board all year. During this time, usually after at least three years of road experience, he'd be required to take a written rules exam to qualify for promotion to conductor.

At this point, depending on his seniority, he might (1) stay on the brakemen's extra board, (2) be required to work the conductors' extra board and--as a young conductor--face possible force assignment as conductor to the undesirable jobs he tried to avoid as a brakeman, and/or (3) hold a brakeman's pool turn part of the time.

After several more years he'd be able to hold a steady job as head brakeman on a pool turn, then, with 20 or more years of seniority, hold a year-round job as rear brakeman (flagman) on a pool turn. At this stage of his career, his seniority would provide him considerable flexibility. For a change of pace, he might bid from his usual job to a brakeman's or conductor's job on a work train or local (often high-paying, daylight assignments with weekends off) or, during peak traffic periods, to the conductors' freight pool.

Finally, after 30 or more years, his seniority would be sufficient to allow him to work exclusively as a conductor on the job of his choice. This might be on a freight pool, a passenger job, or whatever other assignment he considered desirable.

Changes in crew consists

The railroad industry through the years has reacted cautiously to change. But over the last 10 years, it has acted on the crew-consist question with rather uncharacteristic swiftness.

In fact, the railroad companies have been fighting for crew-reduction agreements for almost half a century. One of the first--and most publicized--battles was waged in California in the late 1940's. Back then, California had a full-crew law which required additional brakemen--besides the three then standard on mountain-district pool crews--placed literally on top of trains to relay hand signals on locations with a certain amount of track curvature. The railroads put this law before the voters of California and funded a massive advertising campaign in

which the term "featherbedding" was coined to describe being paid for doing little or no work. The campaign was very effective; the full-crew law was voted out.

The turning point for train-crew reductions came in the 1960's when the Florida East Coast decided to run its trains with reduced crews. The railroad labor unions struck, the battle was joined, and, after a long and bitter struggle, the railroad won.

Once FEC made its point that trains could be operated safely with reduced crews, it was only a matter of time until all railroads would operate in the same manner. In fact, for years many shortline and regional railroads--many of them with union contracts--have operated with crews comprised of either a conductor and one brakeman or a conductor only. Diesel freight railroads with an electric traction history were among them.

In the early 1980's, the United Transportation Union realized that concessions had to be made in the face of deregulation of the entire transportation industry and the intensified truck-rail competition which followed. With this understanding, almost all Class 1 railroads were able to negotiate reduced-crew (conductor and one brakeman) agreements with the UTU. (Engine-service employees earlier faced a similar situation as the carriers succeeded in largely eliminating the fireman's job.)

The first step: smaller crews

Reductions in train-crew size were phased in. Initial agreements provided for establishing reduced or "short" pool crews simply by leaving a brakeman's vacancy unfilled temporarily when a regular man marked off or took vacation, and permanently if he quit or retired. Short crews only could be assigned to trains under a certain length and/or tonnage. On some railroads, the members of a short crew received a "productivity payment" (or "lonesome pay") in addition to their regular pay for the trip. On other roads, the productivity pay went into a common pot and was divided among all train-service employees at the end of the year based on the number of trips each had made that year.

If a reduced crew was used on a train whose characteristics required a full crew, an extra brakeman (at home terminals) or a pool brakeman from the next-out turn (at away-from-home terminals) filled the vacancy. In this case, there was no productivity payment. The productivity payment concept proved unwieldy to administer and account for, so most carriers bought out this contract provision with lump-sum payments to affected train-service employees. Nevertheless, coinciding with the phase-out of cabooses on through trains, more and more trains ran with reduced crews.

These agreements set other precedents. They introduced personal leave days for road employees. Now, employees requiring time off for personal business can claim up to 12 personal leave days per year and receive pay for 100 miles

for each, instead of having to lay off. These agreements also conferred protected status on then-existing employees but provided that train-service employees hired after a certain date in 1982 would be non-protected. Non-protected employees receive 70 percent of protected employees' pay for the same job and reduced fringe benefits.

The landmark labor agreements of the 1980's and early 1990's made some notable changes to long-established practices in the railroad industry...but the carriers wanted more.

Conductor-only crews of today

Since 1991, many Class 1 railroads have negotiated new agreements or won arbitration awards allowing them to reduce crew size on through trains to conductor-only in most cases. The resulting settlements provide significant current-earnings protection and certain lump-sum cash payments to train-service employees as compensation for future financial losses. Also negotiated were the amount and kind of work a conductor-only crew is required to do. As one would expect, an on-duty conductor is now much busier than before.

The objectives of these agreements are to reduce the costs of operating through freight trains while minimizing the job losses and earnings reductions of union members. Obviously, since most trains now run conductor-only but required at least one brakeman until recently, a large number of train-service employees are currently surplus. In return for accepting the conductor-only crew as the new standard, trainmen received employment and earnings protection unprecedented in the history of the railroad labor movement. Few, if any, train-service employees will have their railroad employment involuntarily terminated. The intent is that, barring severe traffic declines, relatively few employees will be cut off for extended periods. Train-service ranks will be thinned through normal attrition and in cases where employees accept severance-pay offers.

In the midst of the changes brought about by the conductor-only trend, the traditional assignment mechanisms continue, in updated form, to provide the backbone of contemporary crew assignment procedures. Employees still bid for jobs, get bumped, lay off, and favor some assignments over others.

Conductor-only: Please, don't give me a brakeman!

The dream of every new-hire extra brakeman who has suffered the verbal abuse of a grouchy, sarcastic, old-head conductor is that one day he, too, will be a grouchy, sarcastic, old-head conductor. He longs for the day when he will be able to sit, in cushioned and regal ease, back on the "hack" and strain his index finger as he points toward the work that has to be done. No more rain and snow down the back of his neck while he hangs on the side of a boxcar, no more hot sun on the top of his head while he struggles to align a switch. And never again

to sit on an engine and have to listen to some pompous ass of an engineer brag about his female conquests. Oh, happy day!

Well, it's 30 years later and his dream is fulfilled; now he is the conductor. But, alas, he finds that he is also a permanently assigned head brakeman, having to ride the locomotive cab, and who is sitting across from him but that same obnoxious engineer--much older now, but still inclined to "jaw."

He also finds that, besides being the head brakeman, he also is doing the work of a rear brakeman, fireman, switchman, locomotive electrician and machinist, carman, train-order operator, waybill clerk, supply man and janitor. All these other employees are now gone--either cut off or working at a computer terminal in an office several hundred or thousand miles distant. What's going on here?

What's going on is something called "downsizing," capacity management, maximized personnel utilization," or, in railroad language, the "reduced crew." To the conductor it's a new definition of business as usual. Depending on the train, he might have to put the engines on, walk a mile-long train checking the air hoses and hand brakes, get an air test, then walk a mile back to the engines, all before they leave town and he starts his paperwork.

Out on the road, he watches the train to the rear and the track ahead. When a locomotive unit goes down and the defect bells start ringing, he goes back to try to find out what's wrong and get it running again.

He copies track warrants when the dispatcher calls on the radio to arrange meets with other trains. If they "head in" a siding to meet an opposing train in on-CTC territory, he lines the train into and out of the siding. He walks the train, if an on-road inspection is needed and "rolls-by" (inspects) trains they meet or that run around them. He sets out or picks up cars en route, lining switches, coupling cars and air hoses, and knocking off or tying hand brakes as required--keeping a list of what cars are picked up or set out, the time and location, and where in the train they are or were in relation to the power. Every once in a while, the "Big E" has to go to the "necessary," so the conductor will blow the whistle and ring the bell for a few minutes. If required at the completion of the trip, he yards the train, cutting off the units and taking them to the engine track.

Back in the yard office, he telephones the train dispatcher and the communications coordinator with the trip information. He then completes his time slip and other paperwork, calls the crew caller to "tie up" the crew for rest, checks the computer's crew and train display boards to try to figure when he'll be called again, and, finally, goes home or to the hotel.

Still, a conductor faces one thing worse than working a conductor-only crew and that is to walk into the yard office to find he's been favored with an extra-board brakeman. A den full of surly rattlesnakes would be only slightly less welcome.

Having a brakeman means the company has a dog train (politely called a "low priority manifest") waiting out in the yard, and it probably will have to be switched from front to FRED before leaving town. More work looms en route--on a probable "hog-law" trip during which they'll get "run around" by other crews. With luck, they may deadhead or catch a hot train home...but he doesn't count on it, and please, no more favors!--*L.E.J. and W.H.*

Hog law

All trainmen and enginemen are subject to the federal Hours of Service Law, which sets (1) the maximum time employees may be on duty without relief, and (2) the minimum time employees must be off duty between assignments.

Originally, the law provided that trainmen and enginemen could not be on duty in excess of 16 consecutive hours. After 16 hours on duty, a road crew was legally obligated to cease working (and was referred to as "dead on the law"). A crew on "short time" would put their train in a siding and call for a relief, or "dog catch," crew to continue the trip. At 16 hours it was illegal for the first crew to "turn a wheel" any longer.

During the 1970's, the law was amended to shorten the maximum time from 16 to 12 hours (with a transitional 14-hour maximum). The 12-hour limit remains in effect today. Crews still routinely go dead and are relieved by dog-catch crews. You'll often hear the law referred to as the "hog law," a name derived from "hogger," an old slang term for engineer.

An employee's 12-hour sequence commences with the on-duty time. This is not the time that the employee receives a call to report for duty, but the time specified by the crew caller. For example, assume the phone rings at 0430 hours to advise a conductor that he is on duty on 0600--he is *called for* 6 a.m. He can't work *continuously* past 1800 (6 p.m.), then, without violating the law.

The law provides for extending mandatory off-duty time if the employee receives a 4-hour minimum rest break sometime during the 12 hours following the on-duty time. At either terminal, once a road crew is off duty 8 hours or longer, the crew is "fully rested" and can again work 12 consecutive hours. To be "called on his rest" means that a person goes on duty exactly 8 hours after "tying up" (formally going off duty). This puts the squeeze on his sleep since he'll normally spend the first part of his 8-hour "rest" period showering and eating, and the last part of this time is devoted to getting ready to report back to work. (Getting called on one's rest happens frequently during periods of high traffic). The 8-hour minimum required for full rest is raised to 10 hours for a crew that has died on the law. -- *L.E.J. and W.H.*

The essence of the new train-crew scheme is that a through train now carries only an engineer and a conductor unless it is scheduled to perform a certain number of "events" en route, specified by local agreements. Such tasks include

picking up or setting out cars or "blocking" (rearranging) the train. If the specified number (say, three) or more events are scheduled, the train crew includes an extra-board brakeman. On the other hand, if unforeseen circumstances require a conductor-only crew to perform more than the specified number of events (four or more), the conductor receives significant pay--a "penalty brakeman's day"--in addition to regular conductor's pay for the trip. (The standard train crew on locals, road-switchers, and work trains is now a conductor and one brakeman).

At home terminals, conductors are assigned to through trains from a conductors' freight pool operating essentially as it always has. Conductor-qualified employees bid for assignment to pool turns which are called on a first-in/first-out basis.

At least one extra board also is maintained at the home terminal. In most cases it has been several years since the railroads hired new train-service employees, meaning that even the "youngest" employee today usually is a promoted man or woman. So, in place of separate brakemen's and conductors' extra boards, there may be a consolidated "guaranteed extra board" from which employees are called, first-in/first-out, to fill both conductors' and brakemen's vacancies. Employees working this board are paid for the higher of a certain number of miles for each pay period at conductor's rate or actual miles earned at brakeman's or conductor's rate. The number of employees on the guaranteed extra board is closely regulated for traffic changes so those on the board stay fairly busy.

The reserve board

Those employees not holding working assignments are either cut off or assigned to the "reserve board" established by the recent agreements. The reserve-board concept is intended to avoid the dysfunctional effects of mass unemployment of train-service employees today, followed by the inevitable need for future new hires resulting from retirements and/or traffic growth tomorrow. When business is slow, fewer employees are needed for active assignments, so, within limits, the reserve board grows. As traffic picks up, employees from the reserve board return to active status and any employees who are cut off are called back.

Being on the reserve board is like being cut off, in the sense that a reserve-board employee is not currently working. However, there are three major differences:

- Being cut off means drawing unemployment benefits while waiting to be called back to work; reserve-board status entitles an employee to regular paychecks based on a significant percentage (as specified by local agreement) of recent annual wages.
- Cut-off workers always are the youngest in seniority; assignment to the reserve board requires exercise of seniority.

- As traffic increases, cut-off employees are called back in seniority order; reserve-board employees are reassigned to active status in reverse seniority order (i.e., youngest to oldest).

A trainman can almost always earn more pay on active status than by holding the reserve board. However, paychecks based on, say, 70 percent of a recent annual wage are often regarded as very satisfactory in return for tending the home fires and sleeping every night. In many cases, then, high-seniority employees--whose recent earnings invariably are high dollar--are delighted to hold the reserve board, requiring less-senior employees to work the trains.

As mentioned, changes in crew agreements since the early 1980's virtually eliminated the hiring of new train-service employees, although with traffic booming now in a lot of places, many carriers in recent months have begun hiring again. In the meantime, the railroads operate, day and night, with a train-service workforce having an ever-increasing level of experience. For those railroad employees, the phone keeps ringing.

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