

## 25-Mile Zone Penalty Claims

The BLE UP/SP Merger Implementing Agreement provides for penalty payments for those Engineers who are required to either retrieve their train from, or deliver their train into, the 25-mile zone that extends beyond the recognized terminal/switching limits, for the purposes of effecting a crew change.

### **Outbound Trains**

On an outbound train, the penalty is one-half basic day (65 miles) at the rate payable for the train you are on (local or thru-freight). In CMTS, this penalty is included as a claimable option on your service timeslip when you tie-up. If it is not available on the first screen of your payroll reporting, then hit the F12 key to go to the next page, and it should be there. This method is pretty straightforward and should automatically generate pay for the claim when you submit that timeslip into the system.

In the event you forget to make the claim, or prefer to submit it separately from your service timeslip, you may submit a non-service timeslip into CMTS. Simply open a non-service timeslip, and click on the button for 25-mile zone claims. Once you have arrived at the validation screen, enter the following:

Claim one-half basic day (65 miles) at the rate payable for train (train symbol) account I was required to retrieve this train from the 25-mile zone. I was on duty at (on duty station) at (time). I departed (on duty station) at (time xport began) and arrived at (location of train) at (time arrived at train). I departed (location of train) at (time departed location) and arrived back in the terminal limits at Milepost (Subdivision Switching Limit) at (time re-entered terminal). I operated through the terminal and departed the far side of the terminal at (Subdivision Switching Limit) at (time departed terminal).

You can copy and paste this sample claim directly into CMTS from your home computer. Any place you see something underscored and in parentheses, you just need to highlight that and enter the information that applies to your situation. Remember to remove the underscore formatting prior to pasting this into CMTS. Here's how an actual claim might look:

Claim one-half basic day (65 miles) at the rate payable for train MHKFI-10 account I was required to retrieve this train from the 25-mile zone. I was on duty at Albina at 03:00. I departed Albina at 04:00 and arrived at Reynolds at 04:25. I departed Reynolds at 04:50 and arrived back in the terminal limits at Milepost 14.5 at 05:05. I operated through the terminal and departed the far side of the terminal at North Portland Junction at 05:25.

### **Inbound Trains**

When the various Merger Implementing Agreements were negotiated, the parties did not anticipate that inbound crews would operate through the terminal, bypassing traditional crew-change points and into the 25-miles zone on the far side. Thus, no specific agreement language exists to provide for a penalty payment. Your General Committee has determined that the appropriate penalty payable in this scenario is one basic day at the rate payable for the service performed (local or thru-freight). Our position is that this service is simply a violation of our agreements, and is compensable by a basic day penalty. DO NOT seek payment of a 25-mile zone claim as part of your service timeslip in this case, as you will be shorting yourself. You will need to submit a non-service timeslip in this case. Timekeeping is unlikely to pay this claim, or if they do, only one-half a basic day. You will need to have this claim processed through your Local Committee of Adjustment. As above, here is a sample claim that you can copy and paste into CMTS from your home computer. Remember to remove underscore formatting.

Claim one basic day (100 or 130 miles, as applicable) account I was required to operate through the terminal and deliver train (train symbol) beyond the terminal limits on the (subdivision) Subdivision at (station train delivered to). I arrived in the terminal at (entering terminal station or milepost) at (time arrived) and passed out of the terminal at

(departing station or milepost) at (time departed). I was relieved at (station where train was left) at (time relieved) and transported to (off duty station), arriving at (arrival time at off-duty station), and finally released at (final tie-up time).

Here's how an actual claim might look:

Claim one basic day (130 miles) account I was required to operate through the terminal and deliver train MFIHK-13 beyond the terminal limits on the Portland Subdivision at Reynolds. I arrived in the terminal at North Portland Junction at 15:15 and passed out of the terminal at Milepost 14.5 at 15:30. I was relieved at Reynolds at 16:20 and transported to Albina, arriving at 17:00, and finally released at 17:15.

### **Hours-of-Service (HOS) Reporting**

49 CFR 228.11(5) requires us to report: *“Beginning and ending times of periods spent in transportation, other than personal commuting, to or from a duty assignment and mode of transportation (train, track car, carrier motor vehicle, personal automobile, etc.).”*

This means that time spent transporting to/from the 25-mile zone must be reported in the “Activity” section of our federal tie-up reporting screen. Let's face it, most of us don't do it. But here's the thing, not only does the law demand that you report this transport time, it is actually to your benefit to do so!

How so? You delivered your train into the 25-mile zone, submitted the non-service timeslip, had it declined on the premise that you did not do what you say you did, and now it's time for your Local Committee to appeal it to Labor Relations. Your Local Chairman is going to retrieve your timeslip report from CMTS that has your HOS report included. What is he/she going to find?

If you have properly reported your transport time, then your HOS report will reflect this on Line E, F, G (whatever). This is a federal document, and falsifications of federal reporting requirements are illegal, and may result in a fine and/or imprisonment. Not going there, are you? The Carrier hasn't charged you with submitting a false report (an UPGRADE Level 5 offense), and FRA hasn't beat your door down in the middle of the night, dragging you kicking and screaming all the way to the nearest federal penitentiary. “It is therefore reasonable to conclude, Your Honor, that this HOS report as submitted is a true and accurate reflection of the Claimant's time spent in transit to/from the 25-mile zone.” Labor Relations isn't going to think twice about not paying this claim.

If you don't accurately report this time, then how can you expect your Local/General Chairman to successfully appeal this claim? We can't; and when we get to a General Level Claims Conference it will be WITHDRAWN WITHOUT PREJUDICE. Take a hint from Nike and “Just Do It”.

### **Final Note**

Don't worry about citing any agreements. Your Local Committee will handle that during the appellate process. If you need help with your HOS transit reporting, contact the CMTS Help Desk at: 866-623-4267. They are familiar with 25-mile zone HOS transit reporting requirements, and will talk you through it if you don't know how.

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