**RULE 38-**

**AVAILABILITY ‑‑ HELD FOR REST**

Except as otherwise provided, a trainman holding an assignment in pool, assigned or unassigned freight service or on a road extra board who stands first‑out and is not fully rested under the Hours of Service Act may be held for full rest and will continue to stand first‑out; if, however, the trainman used for the trip completes the trip within the time held trainman had to work under the Hours of Service Act, the trainman so held will be paid fifty miles as a penalty and continue to stand first‑out.

**NOTE 1:** Time eligible to work as used in this rule shall be understood to mean the time consumed by the trainman used for the trip calculated from the time such trainman is required to report for duty until the arrival of the train for which called at the objective terminal.

**NOTE 2:** Where there are sufficient extra trainmen available with full rest, regularly assigned trainmen will not be called for service or deadheaded out of their home terminal under this rule until such regularly assigned trainmen become rested and available for service.

 **NOTE 3:** The term "rested and available for service'' as used in Note 2 shall be understood to mean that a trainman shall be deemed as "rested and available" for service after eight hours from the time tied up where his tour of duty was less than twelve continuous hours and ten hours where his tour of duty was twelve continuous hours.

**NOTE 4:** When there are no available and rested extra trainmen on the protecting extra board at the home terminal, such extra trainmen may, nonetheless, be called for service or deadheaded out of the home terminal under this rule if acceptable to the Chief Train Dispatcher. Under this note, if the first‑out trainman on the protecting extra board is not so called or deadheaded and the trainman so used completes the trip within the time the held trainman had to work under the Hours of Service Act, the provisions of this rule shall be applicable and the penalty provided therein shall apply.