

# BROTHERHOOD OF LOCOMOTIVE ENGINEERS AND TRAINMEN

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## VIA ELECTRONIC AND FIRST-CLASS MAIL

January 4, 2013

BLET Advisory Board  
All General Chairmen  
All State Legislative Board Chairmen

Re: Circular Letters No. AB-2013-02; GC 2013-02; SLBC-2013-02

Dear Sirs and Brothers:

As we begin the New Year, it is appropriate for me to bring everyone up to speed regarding developments concerning the subject of fatigue. It is a subject that has captured our attention for many years. Moreover, this year should bring publication of a new Federal Railroad Administration ("FRA") regulation establishing the parameters for Risk Reduction Programs ("RRPs") that will cover most BLET members, which will include a requirement to develop Fatigue Management Plans. Related to this subject are the issues of fitness for duty and sleep disorders.

Despite the investment of substantial resources by the BLET, the fact of the matter is that the FRA and the carriers have failed to address fatigue in any meaningful manner for years, which has created a frustration we all share. Indeed, other than a few scientific studies over the years, the only effort undertaken thus far was in the context of the Medical Standards Working Group of FRA's Railroad Safety Advisory Committee.

In that forum, the BLET has had to strike a balancing act between making sure our members have the regulatory tools they need to be rested when they go to work and preventing the rail carriers from going on fishing expeditions to discover every private medical detail about our members. As you know from our activities last year, we remain committed to preventing invasions of our member's medical privacy by the carriers to obtain information that serves no purpose for railroad safety.

One example of being excessively invasive occurred during the discussions in the Medical Standards Working Group. The carriers and some in the FRA wanted to simply use a body mass index ("BMI") threshold as a way to hold our members from service because their BMI or even their neck size increases the possibility of obstructive sleep apnea ("OSA"). The railroads proposed that this arbitrary measure would prevent our member from working until he or she had a full medical exam — done in the carrier's own good time — that the carrier would be privy to, including information not related to BMI.

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Our members are indeed susceptible to chronic illnesses because of policies and working conditions ignored by the railroads and tacitly approved by FRA for years. We are all aware that sleep deprivation, lack of sleep quality and poor access to healthy food are the norm. After years of enduring the eroding effects these conditions have on their health our members are then commanded to be well by the industry and FRA despite the daily obstacles to getting proper sleep and a healthy diet. Although we want our members who have OSA to be able to seek and get the treatment they need, we believe that regulatory requirements should be designed to prevent the conditions that contribute to developing OSA. Once it's identified, OSA should be treated like any other ailment, as a confidential matter between our members and their doctor, not a reason to be withheld from service.

A goal of zero fatalities is paramount, yet elusive, in our industry. Every one of us is saddened and angered by news of a fellow Brother's or Sister's loss of life on the job. Our members face these dangers every day and night they go on duty. We reiterate this in every RSAC Working Group we are a part of and in all the comments we write and will write with regard to federal regulations. For example, I have personally had conversations with senior FRA Officials asking them to amend the definition of restricted speed in 49 C.F.R. Section 214.7 to reduce the maximum authorized speed for heavy tonnage trains from 20 mph to 10 mph on main tracks and sidings. We have also advocated for trains to stop and wait for five minutes before entering a restricted speed block between the hours of 8:00 a.m. and 8 p.m., and/or that trains should not enter a restricted speed block between 8:00 p.m. and 8:00 a.m. Further, a locomotive engineer should be empowered with the discretion to decline to enter a restricted speed block anytime that weather materially restricts vision. This was not recommended as a total answer to the problem, but rather something that could be done without delay. Although this would not prevent fatigue-related accidents, it might give crews a chance at survival if a collision takes place at a lower speed.

The BLET is playing a leading role in the RSAC process with a team that I believe will represent our members safety interests in trying to craft the best regulatory outcome possible. The Fatigue Management Working Group is currently working to ensure that the full range of issues is addressed in the upcoming RRP regulation. Our team on that Working Group consists of one Vice President, two General Chairmen, two State Legislative Board Chairmen and our Director of Regulatory Affairs. Together, they represent a broad spectrum of experience from within our Organization.

That being said, and as you know, we cannot force FRA to write the regulation we want any more than we can get the carriers to agree to our demands at the bargaining table. As BLET President I cannot and will not defend the lack of action by FRA or the carriers to implement prior and current National Transportation Safety Board ("NTSB") recommendations regarding fatigue.

As you may recall, the NTSB issued Safety Recommendation No. R-11-10 to the BLET on January 12, 2012, in the aftermath of the following five (5) serious accidents in a 4-month span in

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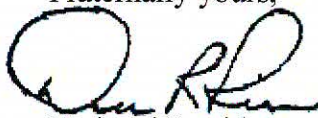
2011 in which fatigue was a causal factor: (1) Red Oak, Iowa, on April 17, 2011, (2) Low Moor, Virginia, on May 21, 2011, (3) Mineral Springs, North Carolina, on May 24, 2011, (4) DeWitt, New York, on July 6, 2011, and (5) DeKalb, Indiana, on August 19, 2011. In compliance with that Recommendation, we did the following:

1. We provided all General Chairmen and State Legislative Board Chairmen with details of the accidents and a copy of the Recommendation and the related NTSB recommendations, and requested that they distribute the materials to the members of their committee or board and post it on their websites to help get out the message.
2. We posted a *News Flash* on the BLET website that included all the provided information to our Officers.
3. In addition, prominent coverage of the NTSB Recommendation — and the accidents leading up to it — was provided in the *Locomotive Engineers and Trainmen News*.
4. I requested that all subordinate BLET bodies provide my office with information regarding (1) practices that encourage crews to push the restricted speed envelope, and (2) carrier harassment of our members when they elect to operate conservatively while traveling at restricted speed.

In addition to the above, we continue to consider filing a Petition for Rulemaking with the FRA seeking the aforementioned changes to the definition of restricted speed contained in 49 C.F.R. Section 214.7. We also are working diligently in the Fatigue Management Working Group for the development of a regulation that saves lives. While I don't want to make unrealistic promises I can guarantee this process will produce a regulation that ensures a level of safety that eliminates the future loss of life, I believe the BLET is doing and saying the right things when it comes to fatigue. Sadly, until the carriers and the FRA do the same, we will continue to see needless deaths and injuries related to fatigue.

Trusting you will find this information helpful, and with warmest personal regards, I remain

Fraternally yours,



National President

cc: E. L. Pruitt, First Vice President  
W. C. Walpert, National Secretary-Treasurer  
V. G. Verna, Director of Regulatory Affairs