



United Passenger Rail Federation
BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION
International Brotherhood of Teamsters

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January 2, 2024

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Gerhard Williams, *Executive Vice President*
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Mr. Gardner and Mr. Williams,

I am writing to you to follow up on our letter dated November 21, 2023, addressed to Mr. Kessler and Mr. Bernaski, regarding critical safety issues at Amtrak. As of today, we have not received any response or acknowledgment of our concerns.

The letter detailed inadequate safety protocols currently in place within the workplace, particularly in high-speed rail environments. We highlighted several close call incidents that could have led to severe injuries or fatalities, demonstrating a dire need for immediate action and review of safety practices.

Given the seriousness of these issues and their potential implications for employee safety, it is disconcerting that our concerns have not been addressed. We strongly believe that proactive engagement in these matters is necessary to ensure the safety of Amtrak workers.

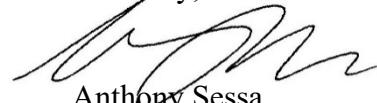
We urge you to personally review the contents of our initial letter and provide a prompt response. We are prepared to engage in a constructive dialogue to find solutions to these pressing safety concerns. We remain committed to the safety of our members, and we hope to see an equivalent level of seriousness and urgency from your office.

We look forward to your prompt attention to this matter and are ready to assist in any way to ensure a safer working environment at Amtrak.

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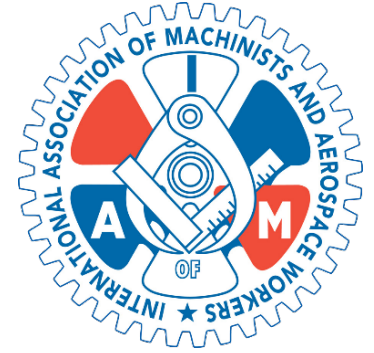
Sincerely,



Anthony Sessa
General Chairperson
UPRF BMWED

Enc: November 21, 2023, Safety Letter

Cc: S. Predmore
A. Gansen
A. Buck
K. Johnson, *BRS General Chairman*
A. Davidson, *IBEW General Chairman*
James Sheltman, *ARASA General Chairman*
UPRF Joint Protective Board



Anthony Sessa, *General Chairman, UPRF BMWED-IBT*
Dave Ingersoll, *General Chairman, BRS*
Arthur J. Davidson, *General Chairman, IBEW System Council No. 7*
Sean Diamonte, *General Chairman, ARASA*

November 21, 2023

Joshua Kessler, *Assistant Vice President*
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Via email KessleJ@amtrak.com

Ryan Bernaski, *Assistant Vice President*
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Dear Mr. Kessler and Mr. Bernaski,

The correspondence concerns two issues: 1) Amtrak's directive dated November 9, 2023, requiring stretching prior to engaging in work. 2) Inadequate safety protocols that are occurring within the workplace.

INADEQUATE SAFETY PROTOCOLS THAT EXIST IN THE WORKPLACE

Current protocols require many of Amtrak's production groups to work without train approach warning (TAW). Many Amtrak managers have spent the majority of their careers working for freight railroads. In this regard we are aware that freight railroads often operate over single-track territory with low speeds. By contrast, on the Amtrak Northeast Corridor, trains travel up to 165 MPH and with anywhere from two (2) to six (6) track territory. Amtrak has always prided itself on doing things far superior to the minimum regulation because of the number of tracks, speeds, and the fact that it is hauling humans rather than commodities.

The following are two recent close call events that we are aware of which presented potential tragic consequences.

- On October 10, 2023, an Undercutter gang was inspecting the track between MP 34 and 36 on the PW line. Management planned to do this inspection without TAW and work

under Foreman Sites Form D only. Thankfully, Foreman Mitchell of the Undercutter Gang refused this ridiculous directive and demanded TAW in addition to the Form D protection. We are grateful that the Foreman was not intimidated by senior management and stood his ground to ensure the necessary safety protocols were in place. In this instance the Foreman Mitchell and his managers were walking in the gauge of No. 1 TRK and were on Foreman Sites Form O between Ragan and Ruthby. It could have led to a tragic incident when Foreman Sites canceled the Form D for No. 1 Track between Ragan and Davis which was unknown to Foreman Mitchell at the time. With the Form D canceled a train could have traveled down NO. 1 TRK at 110 MPH and could have injured or even killed many. Luckily, for the manager's sake, Foreman Mitchell had enough sense to have TAW as a secondary form of protection. Foreman Mitchell did not hear Foreman Sites cancel the Form D from his portable Kenwood radio. Amtrak has been aware for a very long time of the poor radio reception with portable radios.

- On November 1, 2023, a Gang was working on the No..1 Trk in the Mid Atlantic Division. The gang was not using TAW and was working with foul time on the adjacent No. 2 Trk. An Equipment Operator needed fuel in his machine, the fuel truck driver was parked on the access road on the field side of No.2 Trk. The Equipment Operator called the 1st EIC Foreman on the radio and asked if there was a foul on No. 2 Trk. The 1st EIC Foreman advised that *yes* there was a foul on No. 2 Trk. The fuel truck driver laid the fuel hose across No. 2 Trk and started the process of fueling the Equipment. About 30 sec. after the 1st EIC Foreman advised that there was a foul on No. 2 Trk, a 2nd EIC Foreman came across the radio and advised that there was *no* foul on No. 2 Trk. Thankfully, the 2nd EIC Foreman was in his truck and heard this transmission over his truck radio and was able to take immediate action. Had the 2nd EIC Foreman not heard the radio transmission, the results could have been catastrophic.

In addition to the two (2) close calls discussed above, there have been another two (2) additional recent close calls on the Harrisburg Line that result from Amtrak forcing RWIC foreman to act the role of dispatcher, on top of all their other duties.

The key takeaway from these close calls should be TAW should always be used at a minimum as a secondary form of protection. Amtrak has always used watchman even when the track is out of service or foul time is used. Also, we again point out that the radio reception is subpar and needs to be addressed. Currently, the safety department at Amtrak is advising on the minimum from CFR part 214. As you know, Amtrak and freight railroads are not the same and have never been treated the same for obvious reasons. In our experience, if you're okay with the bare minimum protection, you are part of the problem. If immediate corrective action is not taken, there will be serious injuries or a fatality, and the blood will be on your hands. It must be remembered that CFR part 214 does not prevent a railroad from going above the bare minimum requirements.

Unfortunately, the Amtrak (IMCS) Engineering Safety Department, has changed leadership so many times over the last few years that it has just become a steppingstone to other management positions. Not one of the people put in charge of the IMCS safety department in the last few years has any credentials related to safety. Further, Amtrak has violated the BMWED Safety Agreement in so many ways that it has led to an unsafe workplace at Amtrak. Here are just a few examples:

- Safety liaisons lack training.
- Not including Safety liaisons in investigations.
- No foreman mentorship program.
- Safety department with very little experience.
- Training department with very little experience.
- Management rewrites rules to suit production needs.
- Inadequate SSSWP.
- RWIC's forced to do too much work while responsible for protection.
- Not using watchman.
- Inexperienced managers.
- NORAC classes are too large because of the lack of Trainers.
- No NORAC trainers from the engineering department.
- Managers who were renounced from freight railroads now have leadership positions on Amtrak.
- Inadequate Safety Advisory Committee meetings.

Another area of concern is the current safety training regiment being enacted within the Electric Traction (ET) Department. Currently, the training department is moving forward with an unapproved ET Department Substation training program. In an attempt to implement this program, they are dismantling the Joint Advisory Board. The new program is being implemented by many individuals who have never even worked in the craft but think they are qualified to determine the best approach for training. The current training courses have increased class sizes that far exceeded what the training locations can accommodate. In particular, these locations cannot facilitate a large number of trainees, and it also has an adverse impact on the trainers who are not able to allocate sufficient time to properly train on an individual basis. Trainees and their Trainers have come to the BMWED for assistance in rectifying this situation, but Amtrak's leadership continues to ignore these warnings. Many of the current safety violations within ET Department can be directly attributed to inadequate training. Ultimately, when a potential safety violation is observed Amtrak is quick to assess discipline rather than affording ET Department employees remedial training to ensure these issues don't happen again. Evidently, management's way of handling safety concerns is to double down on the rules. Knowing that the E.T. Department is in such a fragile state Amtrak decided it would be best to now qualify contractors as Class C employees, this not only puts the lives of the inexperienced contractors at risk, it also is creating unsafe practices at these work locations. Letting inexperienced individuals work two (2) to three (3) feet from a live electrical circuit is a recipe with the potential of disastrous consequences. With the influx of potential safety violations and the lack of quality training, it almost seems inevitable that the worst-case situation is on the horizon.

Since new leadership has taken responsibility for overseeing the Amtrak (IMCS) Engineering Safety Department, the only firm directive to come out is the rewriting of an RWP rule to include stretching. If you are not aware, RWP is reserved for Roadway Worker Protection. These rules were literally written in blood and were meant to address Roadway Worker Protection only. In this connection, we are curious if the revised RWP rule was submitted to the FRA for approval as required by 49CFR 214.307(b)? Just two (2) years ago the BMWED had to request the help of the FRA to stop Amtrak's practice of revamping RWP rules without submitting them to the FRA for approval. In the event Amtrak has not received FRA approval prior to implementing this change, we will revisit this with the FRA once again. Amtrak and the craft unions used to work together to solve these problems but that is no longer the case in Amtrak's new managerial environment.

We would implore you to review the recent accident and injuries. Doing so may give you an indication to how close we are to having another death on Amtrak in the IMCS department. As you are aware, recently a BMWED B&B Mechanic fell from a bridge and suffered serious injuries. Prior to this incident a B&B Mechanic fell from the same viaduct and broke his hip. Unfortunately, nothing changed and now we have had to experience another serious injury at the same location that almost certainly could have been avoided if only Amtrak chose to properly rectify these dangerous conditions and follow the terms of the BMWED Safety Agreement. We have had numerous close calls, yet nothing has changed. Safety alerts are not sent out in a timely manner to warn other workers of the possible dangers and prevent a repeat injury. Stand-downs, if they happen at all after a major incident, are not done with the integrity they deserve. The only thing our members hear is the threat of being fired or some other retaliation in the form of discipline. The non-punitive Close-Call Policy was replaced with 'Just Culture'; a policy that was promoted as non-punitive cooperation but has proven to be just the opposite. Root cause non-punitive investigations have been replaced with termination charges. This only allows the initial safety issues to fester.

The BMWED, BRS, IBEW and ARASA will work with Amtrak in good faith to resolve these issues. We can no longer allow ignorance and/or negligence to adversely affect our members. Amtrak is in a safety crisis. Unfortunately, we have seen this negligence play out before over the years. With a workforce that consists of nearly ninety percent (90%) of BMWED represented employees having less than five (5) years of seniority, it is critical to implement proper safety protocols. Once again, if Amtrak is serious in rectifying these serious safety concerns, we remain ready and willing to provide assistance in rectifying these alarming protocols. In the event Amtrak takes no action, we will be forced to address these issues by other means, as we cannot allow our members to be killed due to Amtrak's inability to act responsibly.

THE STRETCHING PROGRAM

We disagree with the assertion that the stretching program will cultivate a positive workplace culture, and help employees feel more energized and less fatigued throughout the day to drive more productivity and mental well-being. Perhaps considering "quiet time" throughout an employee's tour of duty will achieve better productivity and a legitimate purpose in the revision of Rule 315. This would clearly induce energized employees, create less fatigue, increase productivity, and improve an employee's mental well-being, and in turn, help in deterring injury.

Further, the idea that incorporating stretching can also have a positive impact on team dynamics providing an opportunity for employees to come together, promote camaraderie, and build stronger relationships fostering a sense of unity and belonging among co-workers is without merit. These inappropriate statements provide a false impression indicating that employees do not currently possess the qualities what you reference above. Clearly, the Carrier is demonstrating that it is unfamiliar and out-of-touch with its workforce and tasks associated with maintaining Amtrak's daily operations or when an emergency condition exists.

Most importantly, there is no conclusive evidence that stretching will prevent workplace injury. In fact, other studies have found there to be no reduction in injuries, and even some negative effects of stretching. Another potential downside to stretching is that it can give workers a false sense of security. They may feel that they can work longer and harder, possibly increasing their risk of injury. The Washington State Department of Labor and Industries (A Division of Occupational Safety and health) stated that stretching can cause or aggravate sprain and strain injuries rather than prevent them. Where workers who hold a stretch for 15 to 30 seconds, can temporarily:

- Reduce muscle strength
- Affect balance and coordination
- Slow reaction times

Therefore, as the memo correctly states, there is a concern among employees that stretching can be hazardous.

It is also important that the Carrier be aware that employees stretching in front of a group of others can possibly lead to body shaming, therefore creating discriminatory behavior in the workplace. In addition, a concern of the inability to complete stretches may be construed as a refusal of work duties, so employees may feel pressured to complete the exercises and risk injury. Lastly, we question the Carrier as to why this Rule is only being applied to employees in the IMCS department and not the mechanical employees which perform similar types of work and are subject to the same types of incidents.

On behalf of our members and their personal safety, we oppose mandatory stretching and would prefer that employees engage in this activity at their option rather than making it a condition of their employment. Please provide us with a prompt response regarding your position concerning these issues.

Sincerely yours,

/s/ Anthony Sessa, *General Chairman*, UPRF BMWED-IBT

/s/ Dave Ingersoll, *General Chairman*, BRS

/s/ Arthur J. Davidson, *General Chairman*, IBEW, System Council No. 7

/s/ Sean Diamonte, *General Chairman, ARASA*

Cc: D. Ingersoll, *General Chairman, BRS*
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