



GENERAL COMMITTEE OF ADJUSTMENT

united transportation union

UNION PACIFIC RAILROAD COMPANY
(Former C&NW Railway Co.)

307 W. LAYTON AVE.
MILWAUKEE, WI 53207
414-489-3700
FAX 414-489-3705

CIRCULAR LETTER NO. 5

August 5, 2008

TO ALL LOCAL CHAIRPERSONS:

Dear Sirs and Brothers:

As an ongoing process in the General Chairman's office, we send out Circular Letters as circumstances dictate in regard to issues that are of importance to all of our Membership. We are requesting that you read these documents at your Union Meetings for the Membership's benefit and also place them on bulletin boards for those Members who cannot attend the Union Meeting. Incorporated below are issues of importance for our Membership.

◆ **Nashville, TN Region Meeting:**

In accordance with the vote taken by the Full General Committee, the Committee will be attending the Region Meeting in Nashville, Tennessee, August 18 - 20, 2008. The Bylaws provide for the General Committee to compensate one (1) local chairperson from each local to attend. In order to reserve the meeting room and make social arrangements, please advise this office of the number of members and family from your local who will be attending the meeting. We look forward to seeing the Committee members, and meeting those local members who attend.

◆ **Drug Testing Procedures Amended:**

Attached is a letter from Union Pacific Asst. Vice President Richard Meredith, which advises of changes to the drug testing procedures involved in direct-observation tests. The new procedures were promulgated by the Department of Transportation, and affect employees in all modes of transportation. The new procedures are more invasive than those previously in effect, but are mandatory for the employees. Please review the changes and advise whether the carrier has published these documents for the advisement of the employees.

Trusting this information will aid you in keeping our Membership informed of issues confronting us and with best personal wishes, I remain

Fraternally yours,


Michael J. Reedy
General Chairman, G.C.A.

MJR:jg

cc: M. B. Futhey, President - UTU
A. Martin, III, Assistant President - UTU
K. N. Thompson, General Secretary/Treasurer - UTU



August 4, 2008

190-40
CC: 190-35

Mr L R Bumpurs
General Chairperson UTU
400 Randal Way, Suite 102
Spring TX 77388

Mr Jim Dayton
General Chairman BLET
PO Box 609
Pocatello ID 83204-0609

Mr Gil Gore
General Chairman BLET
1448 Mac Arthur Avenue
Harvey LA 70058

Mr D W Hannah
General Chairman BLET
404 North 7th Street, Suite A
Colton CA 92324-2941

Mr D L Hazlett
General Chairman UTU
5990 SW 28th Street, Suite F
Topeka KS 66614-4181

Mr T L Johnson
General Chairman UTU
4411 Old Bullard Road, Ste 600
Tyler TX 75703

Mr J Kevin Klein
General Chairman UTU
501 Mission Street, Suite A
Santa Cruz CA 95060

Mr W W Lain, Jr
General Chairman UTU GOALS1
12 Chapel Hill Estates
St. Louis, MO 63131-1315

Mr B D MacArthur
General Chairman BLET
501 N Second Street, Suite 2
Clinton IA 52732

Mr Dennis G Martz
General Chairman UTU
13384 E. 10500 N. Rd.
Grant Park IL 60940

Mr C A Nowlin
General Chairman UTU
12200 NW Ambassador Drive, Suite 236
Kansas City MO 64163

Mr M J Reedy
General Chairman UTU
307 W Layton Avenue
Milwaukee WI 53207

Mr C R Rightnowar
General Chairman - BLET
320 Brookes Drive
Suite 115
Hazelwood MO 63042

Mr Bob Wardle
General Chairman UTU
P O Box 382
Salkum WA 98582-0382

Mr M A Young
General Chairman BLET
1620 Central Avenue
Suite 203
Cheyenne WY 82001

August 4, 2008
File: 190-40
Page 2

Gentlemen:

In an effort to educate our agreement employees about federally mandated changes in the procedures for direct observation of urine testing that will become effective on August 25, 2008, Union Pacific intends to publish the attached information to our employees next week. The information includes a UP Online article and a Frequently Asked Questions document. In addition, the UP Online article will link to a complete copy of the new regulations that will be available on the Union Pacific website.

I understand some of you have been in communication with the FRA about these developments and have already communicated with your members about the changes. I also understand it is possible the FRA may give an extension of time for implementing these regulations. Regardless, I feel it is important to get this information to our employees in advance of August 25, 2008. If you have any questions feel free to contact me or your Labor Relations contact. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Steve Mack".

The Department of Transportation (DOT) and the Federal Railroad Administration recently issued new regulations relating to drug-and-alcohol testing that will include more stringent direct-observation guidelines. The new regulations will become effective Aug. 25, 2008.

The DOT said the more rigorous direct-observation procedures were adopted to reduce incidents of adulterated and substituted test results. Under the new procedures, a detailed description of the observation process will be provided to both the donor and the observer at the time of the test. The Department of Transportation's detailed instructions are available on the Employees site, by going to Safety's "Drug and Alcohol Program" page.

Drug testing requiring direct observation will be conducted in compliance with Federal Regulation 49 CFR part 40.67.

Frequently Asked Questions by Employees regarding New Direct Observation Requirements under Part 40

Question No. 1:

When do the new direct observation requirements become effective?

They are effective August 25, 2008. The railroads have requested an extension of time to manage implementation procedures, and so it is possible that the date may change.

For any federal follow-up tests that are required but have not yet been completed, they must be direct observe tests if performed after August 24, 2008.

Question No. 2:

Which types of tests will require direct observations?

- a. All FRA and FMCSA follow-ups and return to duty tests.
- b. All UP Return to Duty tests as ordered by EAP.
- c. One or more UP follow-ups per year as ordered by DER.
- d. Any collection as deemed by the collector or manager as suspicions in nature could result in a direct observation.

Question No. 3:

What exactly does the new regulation require that the direct observer do?

Part 40.67(i) states:

As the observer, you must request the employee to raise his or her shirt, blouse, or dress/skirt, as appropriate, above the waist; and lower clothing and underpants to show you, by turning around, that they do not have a prosthetic device. After you have determined that the employee does not have such a device, you may permit the employee to return clothing to its proper position for observed urination.

Question No. 4:

Will all direct observations be done in the same way - using the new part 40 regulations?

Yes.

Question No. 5:

Who will perform the direct observation?

In all cases, the person who performs the direct observation must be the same sex as the employee who is providing the specimen.

UP's preference is that direct observation be performed by the collector or collector-appointed "Direct Observer." If the collector is of a different sex than the person giving the specimen, and there is no collector-appointed Direct Observer available, then a UP manager of the same sex as the donor will be required to conduct the direct observation. Reasonable efforts will be made to ensure that the manager who acts as the direct observer will not be in the employee's direct chain of command, though this accommodation may not be possible in every situation.

Question No. 6:

What if the employee refuses to be directly observed as required by the federal regulations?

If the employee has been notified that the test will take place, then the test must be completed. If a direct observation is refused, then it will be considered a refusal to test.

The test will be completed, and the results submitted with documentation stating why a direct observation was not performed.

The following note is included as part of the "Urine Specimen Collection Guidelines," issued by the United States Department of Transportation, through its Office of Drug and Alcohol Policy and Compliance:

Note: With respect to direct observation collections, the following situations are considered refusals to test:

- The employee declines to allow a directly observed collection required or permitted by Part 40 to occur.
- The employee fails to follow the observer's instructions to raise and lower their clothing and to turn around to permit the observer to determine if the employee has a prosthetic or other device that could be used to interfere with the collection process.
- The employee possesses or wears a prosthetic or other device that could be used to interfere with the collection process.

In any of these situations, the collector discards any specimen the employee provided previously and notifies the DER as soon as possible.

Question No. 7:

After the employee is visually inspected and no prosthetic device is found, then what happens?

As was the case under the prior regulations, the direct observer must see the urine leave the body and flow into the collection container. Then the employee and direct observer leave the enclosed toilet stall/restroom. The employee hands the collection container directly to the collector, if that person is different from the direct observer, and the test is complete.