

s.19(1)

s.24(1)

Transportation Safety Board
of Canada



Bureau de la sécurité des transports
du Canada

Place du Centre
4th Floor
200 Promenade du Portage
Gatineau, Quebec
K1A 1K8

624-12/16
SR16-052

06 June 2016

Ms. Brigitte Diogo (ASR)
Director General, Rail Safety
Transport Canada
14th Floor, Enterprise Building
427 Laurier Avenue
Ottawa, Ontario
K1A 0N5

Dear Ms. Diogo:

SUBJECT: RAIL SAFETY ADVISORY LETTER 12/16
Inadequate/insufficient rest at the away from home terminal

The TSB Confidential Transportation Reporting Program, Securitas, received a report alleging that operating employees on extended run territory between ██████████ Saskatchewan and ██████████ Alberta are unable to obtain sufficient restorative rest at the away from home terminal ██████████).

The confidential report indicates that the rest accommodations in ██████████ are not conducive to the acquisition of restorative rest due to factors such as light, road noise, and alarms from emergency response vehicles. In addition, the reporter is concerned that a comprehensive risk assessment may not have been conducted to identify hazards and to eliminate potential risks associated with obtaining restorative rest at this rest facility.

This information has been provided to you for whatever follow-up action you deem appropriate.

Yours sincerely,

Rob Johnston
A/Director
Investigation Operations Rail/Pipeline

Canada

624-12/16

BACKGROUND INFORMATION

Occurrence No: SR16-009 Securitas

Contacts: Dan Holbrook
Manager, Head Office and Western Regional Operations
TSB Gatineau, QC
(819) 997-5920

Darlene Roosenboom
Specialist/Senior Investigator, Railway Operations
TSB Richmond Hill, ON
(905) 771-7688

Clay Finch-Field
Senior Investigator/Safety Analyst/Rail-HO Operations
TSB Gatineau, QC
(819) 994-4254

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du Canada

Place du Centre
4th Floor
200 Promenade du Portage
Gatineau, Quebec
K1A 1K8

624-10/16
SR16-062

06 July 2016

Ms. Brigitte Diogo (ASR)
Director General, Rail Safety
Transport Canada
14th Floor, Enterprise Building
427 Laurier Avenue
Ottawa, Ontario
K1A 0N5

Dear Ms. Diogo:

SUBJECT: RAIL SAFETY INFORMATION LETTER – 10/16
Operating Employees Booking Unfit for Duty and Fear of
Discipline at CN's Kamloops Terminal

The TSB Confidential Transportation Reporting Program, Securitas, has received a report alleging that, at the Canadian National (CN) Kamloops Terminal, safety may be compromised due to fear of discipline for booking off when operating employees feel unfit for duty.

The confidential reporter indicated [REDACTED] had been recently disciplined for booking unfit for duty.

[REDACTED]

[REDACTED] the reporter [REDACTED] consulted the line-up to discover that [REDACTED] turn in the pool had been advanced by about 6 hours. With this unexpected change, the reporter had no opportunity to obtain rest. Believing that [REDACTED] would be too fatigued to work this assignment, the reporter booked off unfit for duty.

The confidential reporter expressed concern that other employees, who have become aware that discipline is being issued for booking unfit for duty, may decide to accept an unanticipated call to duty when not adequately rested.

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Canada

The task of being rested and fit for duty, while trying to predict ordering times for anticipated trains in a constantly changing environment, can be difficult to achieve. Despite the best efforts of operating employees and crew dispatchers, circumstances can present themselves in which the next available operating crew is not sufficiently rested at the time of the call for duty.

Transport Canada's *Railway Safety Management System Regulations, 2015* states (in part):

A railway company must develop and implement a safety management system that includes, in part;

Process with Respect to Scheduling

28. (1) A railway company must apply the principles of fatigue science when scheduling the work of the employees referred to in subsection (2), including the principles
- (a) that human fatigue is governed by physiology;
 - (b) that human alertness is affected by circadian rhythms;
 - (c) that human performance degrades in relation to hours of wakefulness and accumulated sleep debt; and
 - (d) that humans have baseline minimum physiological sleep needs.
- (2) The railway company must include, in its safety management system, a method for applying the principles of fatigue science when scheduling the work of an employee who is required to work according to a schedule that
- (a) is not communicated to the employee at least 72 hours in advance;
 - (b) requires the employee to work beyond his or her normal work schedule; or
 - (c) requires the employee to work between midnight and 6:00 a.m.
- (3) The railway company must communicate, to any employees who are required by the railway company to work according to a schedule referred to in subsection (2), how the principles of fatigue science have been taken into account when requiring them to work according to that schedule.

The TSB has received and followed up on other similar Securitas reports relating to booking off unfit and the fear of discipline (e.g., Rail Safety Advisory letter (RSA 13/15) which was issued to TC on 09 October 2015). TC responded to RSA 13/15 indicating that it was following-up with CN on the issue. In addition, on 05 April 2016, TC indicated that it would be conducting audits on the railway's "Process with Respect to Scheduling". The TSB is not aware of whether these audits have started.

This information is provided for whatever follow-up action you deem appropriate.

Yours sincerely,

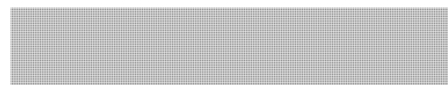


Kirby Jang
Director
Investigations Rail/Pipeline

Cc:



Canadian National



Railway Association of Canada

624-10/16

BACKGROUND INFORMATION

TSB Occurrence: SR16-062

Contacts: Dan Holbrook
Manager, HO and Western Region OPS
TSB Gatineau, QC
(819) 997-5720

Darlene Roosenboom
Specialist/Senior Investigator, Railway OPS
Richmond Hill, ON
((905) 771-7688

Clay Finch-Field
Senior Investigator/Safety Analyst
TSB Gatineau, QC
(819) 994-4254

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du Canada

Place du Centre
4th Floor
200 Promenade du Portage
Gatineau, Quebec
K1A 1K8

624-15/16
SR16-081

06 December 2016

[REDACTED]
Canadian National Railway
MacMillan Yard Administration Building
1 Administration Road
Concord, ON
L4K 1B9

Dear [REDACTED]

SUBJECT: RAIL SAFETY INFORMATION LETTER 15/16
Reduced rest period at the away-from-home terminal

The TSB Confidential Transportation Reporting Program, Securitas, received a report alleging that Canadian National (CN) train crews operating between [REDACTED] Manitoba, may not always be afforded sufficient rest periods at their away-from-home terminal.

It was indicated that train crews arriving at the away-from-home terminal ([REDACTED] have encountered situations where all of the rooms at the rest facility are occupied. In these situations, the train crews are normally transported to an alternate rest facility in [REDACTED] Manitoba some 40 kilometres away. Upon arrival at the alternate rest facility, the train crews are being advised that the original off-duty time ([REDACTED] is to be used to calculate their required/requested rest.

The confidential reporter indicated that the extra on-duty time can be as much as 1 hour and 30 minutes.

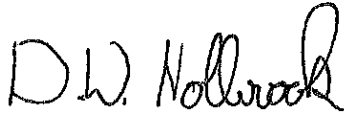
The confidential reporter further indicates that the use of the arrival time at [REDACTED] reduces the amount of rest an employee is able to take and can prevent employees from obtaining the required mandatory rest, as defined in Transport Canada's Work/Rest Rules for Railway Operating Employees.

.../2

Canada

This information has been provided to you for whatever follow-up action you deem appropriate.

Yours sincerely,



Dan Holbrook on behalf of
Kirby Jang
Director
Investigation Operations, Rail/Pipeline

cc: Brigitte Diogo
Director General, Rail Safety
Transport Canada



Railway Association of Canada

624-15/16

BACKGROUND INFORMATION

Occurrence No: SR16-081 Securitas

Contacts: Dan Holbrook
Manager, Head Office and Western Regional Operations
TSB Gatineau, QC
(819) 997-5920

Clay Finch-Field
Senior Investigator/Safety Analyst/Rail-HO Operations
TSB Gatineau, QC
(819) 994-4254

Darlene Roosenboom
Specialist/Senior Investigator, Railway Operations
TSB Richmond Hill, On
(905) 771-7688

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200 Promenade du Portage
4th Floor
Gatineau, Quebec
K1A 1K8

624-23/17
SR17-030

10 November 2017

Ms. Brigitte Diogo (ASR)
Director General, Rail Safety
Transport Canada
14th Floor, Enterprise Building
427 Laurier Avenue
Ottawa, Ontario
K1A 0N5

Dear Ms. Diogo:

SUBJECT: RAIL SAFETY INFORMATION LETTER – 23/17
Operating employees reporting to work without having obtained sufficient rest

The TSB Confidential Transportation Reporting Program, Securitas, has received a report alleging that, at the Canadian National (CN) Winnipeg Terminal, safety is being compromised due to operating employees reporting to work without having obtained sufficient rest.

The confidential reporter indicated that an operating employee was scheduled to work an [REDACTED] shift in [REDACTED] 2017. Prior to reporting for work, the employee had not obtained sufficient rest. However, being fearful of the consequences of booking off unfit for duty, the employee accepted the call and reported to work.

During the shift, while [REDACTED] CN officials discovered the employee asleep and woke up the employee. The employee was allowed to complete the shift and there were no further sleep events for the employee during that shift.

The confidential reporter indicated that, between June 2015 to October 2017, 19 operating employees (in the Winnipeg Terminal) received formal discipline as a result of booking off unfit. During this period, 36 operating employees were investigated after booking off unfit.

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Canada

In a previous Rail Safety Information letter (RSI 10/16) issued to Transport Canada (TC) in July 2016 after a similar Securitas report, it was indicated that:

The reporter expressed concern that other employees, who are aware of discipline having been issued to fellow employees, may accept an unanticipated call to duty when not adequately rested.

The task of being rested and fit for duty, in a constantly changing environment, is difficult to achieve. Despite the best efforts of operating employees and crew dispatchers, circumstances can present themselves in which the operating employee is not sufficiently rested when they are expected to report for duty.

This information has been provided to you for whatever follow-up action you deem appropriate.

Yours sincerely,




Director
Investigation Operations, Rail/Pipeline

Cc:



Canadian National



Railway Association of Canada

624-23/17

BACKGROUND INFORMATION

TSB Occurrence: Securitas SR17-030

Contacts: Dan Holbrook
Manager, Head Office and Western Regional Operations
TSB Gatineau, Quebec
(819) 997-5720

Darlene Roosenboom
Specialist/Senior Investigator, Railway Operations
Richmond Hill, Ontario
(905) 771-7688

Clay Finch-Field
Senior Investigator/Safety Analyst
TSB Gatineau, Quebec
(819) 994-4254

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du Canada

Place du Centre
200 Promenade du Portage
4th Floor
Gatineau, Quebec
K1A 1K8

624-24/17
SR17-031
SR17-039

04 December 2017

Ms. Brigitte Diogo (ASR)
Director General, Rail Safety
Transport Canada
Enterprise Building
427 Laurier Avenue, 14th Floor
Ottawa, Ontario
K1A 0N5

Dear Ms. Diogo:

SUBJECT: RAIL SAFETY INFORMATION LETTER 24/17
Adequate and restful sleep for train crews at the away from home terminal

The TSB Confidential Transportation Reporting Program, Securitas, has received 2 reports alleging that at Canadian National Railway (CN), operating employees arriving at the away from home terminal rest facility in ██████████ Manitoba are being instructed to book-off duty and commence their rest period, even when the bunkhouse is full and no rooms are available.

The reporters indicate that this situation has affected operating crews based out of Winnipeg, Manitoba and ██████████ Saskatchewan. While waiting for rooms, these employees remain in the common areas of the facility. The reporters believe that this situation decreases the actual hours of rest for the employees and negatively affects the quality of their rest. In one situation, the wait time (before a room became available) was 4 hours.

Transport Canada's Fatigue Management Plans - Guidelines and Assessment Criteria, states (in part):

Appropriate conditions are needed so that a person is able to obtain adequate and restful sleep. For example, darkened rooms and reduced noise will contribute to more restful and recuperative sleep.

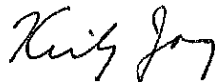
The effectiveness of rest periods for train crews can be negatively impacted when train crews must take portions of their rest period at locations where restorative rest may not always be possible.

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Canada

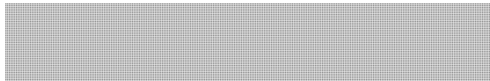
This information has been provided to you for whatever follow-up action you deem appropriate.

Yours sincerely,



Kirby Jang
Director
Investigation Operations, Rail/Pipeline

Cc:



Canadian National Railway



Railway Association of Canada

624-24/17

BACKGROUND INFORMATION

Occurrence No.: Securitas SR17-031 and SR17-039

Contacts: Dan Holbrook
Manager, Head Office and Western Region Operations
TSB Gatineau, QC
(819) 997-5920

Clay Finch-Field
Senior Investigator/Safety Analyst
TSB Gatineau, QC
(819) 994-4254

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Safety Board
of CanadaBureau de la sécurité
des transports
du Canada

Place du Centre
200 Promenade du Portage
4th Floor
Gatineau, Quebec
K1A 1K8

624-13/18
SR18-020

27 July 2018

Ms. Brigitte Diogo (ASR)
Director General, Rail Safety
Transport Canada
14th Floor, Enterprise Building
427 Laurier Avenue
Ottawa, Ontario
K1A 0N5

Dear Ms. Diogo:

SUBJECT: RAIL SAFETY INFORMATION LETTER 13/18
Reduced rest at the away-from-home terminal while working in the United States

The TSB Confidential Transportation Reporting Program, Securitas, has received a report alleging that some Canadian National (CN) train crews, operating from Winnipeg, Manitoba, into the United States [REDACTED] Minnesota, are not being provided the opportunity to obtain the required 10 hours of rest as per the Hours of Service Laws that apply in the United States.

Specifically, 49 U.S. Code § 21103 (Limitations on duty hours of train employees) states (in part):

(a) IN GENERAL. – Except as provided in subsection (d) of this section, a railroad carrier and its officers and agents may not require or allow a train employee to –

(3) remain or go on duty unless that employee has had at least 10 consecutive hours off duty during the prior 24 hours; [...]

The confidential reporter indicates that, historically, the train crews at this location had been provided with the required 10 hours of uninterrupted rest. However, recently, upon arrival at their rest facility in [REDACTED] Minnesota, the train crews were expected to be able to return to duty after only 8 hours of uninterrupted rest (excluding call time). Upon return to duty, these train crews were then operating trains from the United States back into Canada.

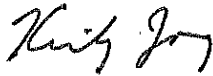
.../2

The confidential reporter provided an example of a train crew arriving in the United States that had been on duty for more than 15 hours [REDACTED]. After 8 hours of rest at the designated rest facility (excluding call time of one hour), the train crew was requested to be back on duty in order to operate a train back into Canada.

The confidential reporter is concerned that reducing the available rest period to less than 10 hours at the away-from-home terminal will increase the risk of fatigue for these train crews.

This information has been provided to you for whatever follow-up action you deem appropriate.

Yours sincerely,



Kirby Jang
Director
Investigations, Rail/Pipeline

cc:

[REDACTED]

Canadian National Railway

[REDACTED]

Canadian National Railway

[REDACTED]

Railway Association of Canada

[REDACTED]

Federal Railroad Administration

BACKGROUND INFORMATION

Occurrence No: Securitas - SR18-020

Contacts: Dan Holbrook
Manager, Head Office and Western Regional Operations
TSB Gatineau, Quebec
(819) 997-5920

Clay Finch-Field
Senior Investigator/Safety Analyst/Rail-HO Operations
TSB Gatineau, Quebec
(819) 994-4254

Darlene Roosenboom
Specialist/Senior Investigator, Railway Operations
TSB Richmond Hill, Ontario
(905) 771-7688

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Place du Centre
4th Floor
200 Promenade du Portage
Gatineau, Quebec
K1A 1K8

624-08/17
SR17-003

07 April 2017

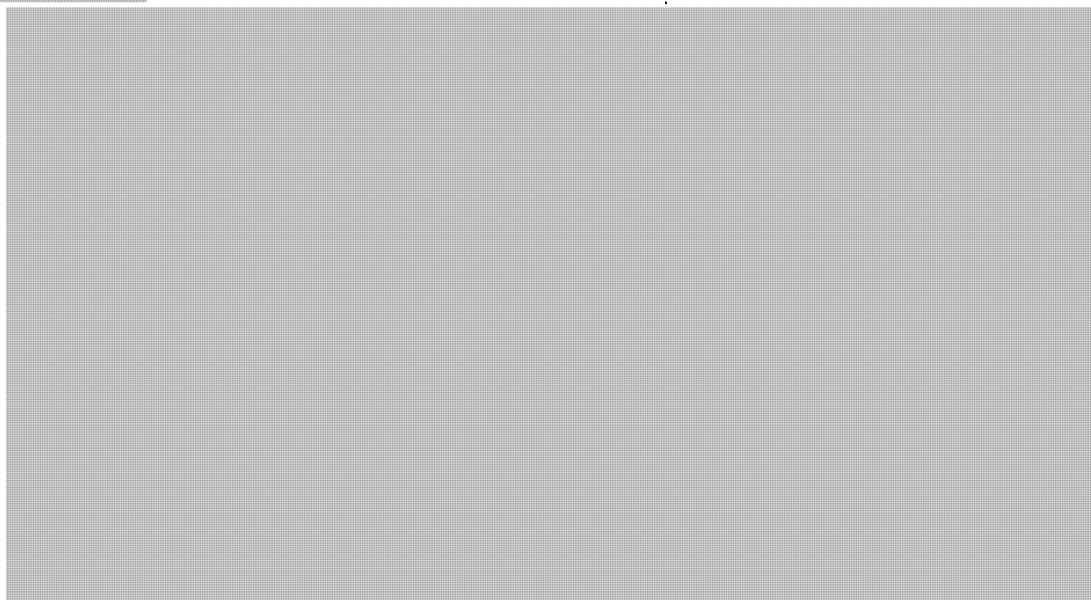
Ms. Brigitte Diogo (ASR)
Director General, Rail Safety
Transport Canada
14th Floor, Enterprise Building
427 Laurier Avenue
Ottawa, Ontario
K1A 0N5

Dear Ms. Diogo:

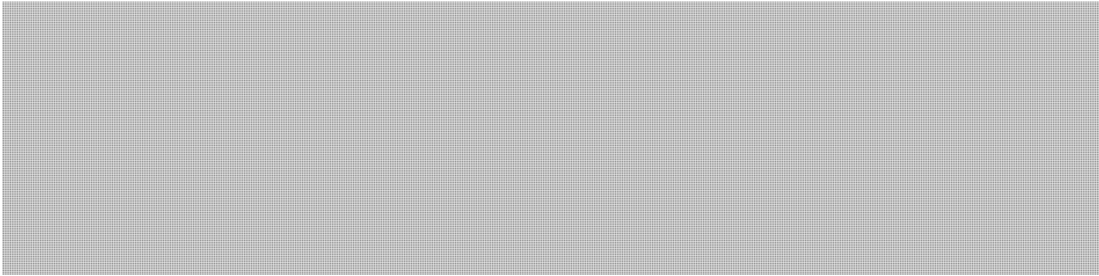
SUBJECT: RAIL SAFETY INFORMATION LETTER - 08/17
Operating Employees Booking Unfit for Duty

The TSB Confidential Transportation Reporting Program, Securitas, received a report alleging that, at Canadian Pacific Railway (CP), safety is being compromised due to the fear of discipline by operating employees for booking unfit for duty.

The confidential reporter advised that on [REDACTED] 2017, CP issued Bulletin Number [REDACTED] which states (in part):



.../2



The confidential reporter believes that many legitimate absences will be handled by CP as serious "offences" and employees will therefore be subject to discipline up to and including dismissal.

The reporter believes that this bulletin is in contravention of the Canada Labour Code which states (in part):

Subject to subsection (1.1), no employer shall dismiss, suspend, lay off, demote or discipline an employee because of absence due to illness or injury if

- a) the employee has completed three consecutive months of continuous employment by the employer prior to the absence;
- b) the period of absence does not exceed 17 weeks; and
- c) the employee, if requested in writing by the employer within fifteen days after his return to work, provides the employer with a certificate of a qualified medical practitioner certifying that the employee was incapable of working due to illness or injury for a specified period of time, and that period of time coincides with the absence of the employee from work.

The TSB had previously issued a number of safety communication letters to Transport Canada regarding this issue:

1. In June 2012, Rail Safety Information letter (RSI 01/12) was issued regarding booking unfit and safety culture. An operating employee had been disciplined for booking unfit for duty after consuming alcohol. He had been unexpectedly requested to report for work that day, after being displaced from his position on his assignment. The letter indicated that:

Penalizing an employee for taking the safe course of action may send the wrong safety message to other employees who may find themselves in similar situations. Fear of reprisal can create pressure to accept a call when not fit for duty (i.e. after consuming alcohol or without sufficient rest).

2. In October 2015, Rail Safety Advisory letter (RSA 13/15) was issued regarding booking off unfit and fear of discipline. A number of operating employees had consulted the advertised train line-up on a number of occasions prior to their shift so they could plan adequate rest. However, the final check of the advertised train line-up and the actual call for work varied to such an extent that the operating employees felt the need to book off unfit for duty, as they were not properly rested. The operating employees were disciplined for booking unfit for duty.

In April 2016, TC had advised that it was in the planning stages of conducting a number of audits relating to the "Process with Respect to Scheduling".

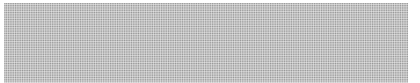
This information is provided for whatever follow-up action you deem necessary.

Yours sincerely,

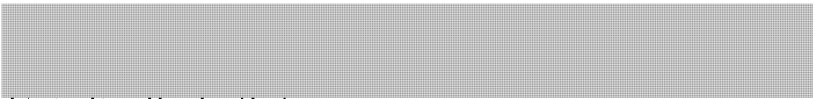


Kirby Jang
Director
Investigations Rail/Pipeline

Cc:



Railway Association of Canada



Canadian Pacific Railway

624-08/17

BACKGROUND INFORMATION

TSB Occurrence: Securitas SR17-003

Contacts: Dan Holbrook
Manager, HO and Western Region OPS
TSB Gatineau, Quebec
(819) 997-5720

Clay Finch-Field
Senior Investigator/Safety Analyst
TSB Gatineau, QC
(819) 994-4254

Darlene Roosenboom
Specialist/Senior Investigator, Railway OPS
Richmond Hill, Ontario
(905) 771-7688