

## **Emergency Order No. 26 — BLET Frequently Asked Questions (11/13/2008)**

### **1. What is the best way to avoid violating the Emergency Order?**

Regardless of the circumstances in which the Emergency Order permits the use of cell phones and other personal electronic devices, the surest way to avoid violating the Emergency Order or associated railroad rules is to turn off all such devices when you register for duty, stow them in your grip, and do not retrieve and activate them until you have been relieved from duty.

### **2. Can we use our cell phones (business or personal) while stopped and not operating the controls of the train?**

The Emergency Order does not prohibit the use of cell phones for voice communication, provided that (1) the train is stopped, and (2) an operating employee is not required to ride rolling equipment during switching operations, and (3) no railroad employees are required to be on the ground, including any situation where other are assisting in preparation of the train (e.g., during an air brake test). Such use in this circumstance would be governed by railroad operating rules.

### **3. Can we use our cell phones (business or personal) while being deadheaded in any type of mode of transportation?**

Personal electronic devices must be turned off, with earpiece removed, while on a moving train, or when a duty requires any member of the crew to be on the ground or to ride rolling equipment during a switching operation, or during any period when another employee of the railroad is assisting in preparation of the train (e.g., during an air brake test). A railroad-supplied mobile telephone or remote computing device may be used by a crew deadheading in the cab of a moving locomotive for an authorized business purpose, but only after a safety briefing is conducted and all assigned personnel agree that it is safe to do so. A deadheading crew also may use a railroad-supplied mobile telephone or remote computing device for an authorized business purpose within the body of a passenger train or a railroad business car. When the use of a cell phone is permitted, it may be used for voice communications only. The Emergency Order is silent with respect to the use of electronic devices by crews deadheading in trailing locomotives, and we are preparing a Petition for Review in order to obtain a clarification from FRA concerning this issue. The scope of the Emergency Order does not extend to modes of deadhead transportation other than trains.

### **4. While moving on a train, if there is someone else in the cab of the locomotive with you, can they use their cell phone?**

A railroad operating employee other than a locomotive engineer operating the controls of a moving train may use a railroad-supplied mobile telephone or remote computing device in the cab of a moving locomotive for an authorized business purpose, after a safety briefing, provided that all assigned personnel on the crew agree that it is safe to do so. Any other use — including the use of a personal cell phone — is prohibited in the cab of a moving train.

**5. Does the emergency order prohibit the use of a camera while on duty to document a safety hazard?**

The Emergency Order specifically states that the use of a personal electronic or electrical device to perform any function other than voice communication while on duty is prohibited. This would prohibit the use of cell phones with photographic capabilities for that purpose. However, it is unclear that a disposable camera — which is not an electronic or electrical device — falls within the scope of the Emergency Order, and the prohibition against use of an electronic camera only seems arbitrary, particularly when it would be used to improve safety. We are preparing a Petition for Review in order to obtain a clarification from FRA concerning this issue.

**6. Is it permissible to use your cell phone while the train is not moving and you are on the locomotive clear of all tracks and not performing any safety sensitive duties under this Emergency Order?**

The Emergency Order does not prohibit such use, provided (1) no operating employee is required to ride rolling equipment during switching operations, and (2) no railroad employees are required to be on the ground, including any situation where other are assisting in preparation of the train (e.g., during an air brake test). Such use in this circumstance would be governed by railroad operating rules.

**7. Is the use of calculators for such things as managing correct horsepower per ton, calculating tons per operative brake, dynamic brake and tractive effort compliance, and correcting train length permissible?**

Since the Emergency Order includes “execut[ing] a computational function” in the definition of “use of an electronic or electrical device,” and also specifically states that the use of a personal electronic or electrical device to perform any function other than voice communication while on duty is prohibited, it appears that — at least — the use of a calculator portion of a cell phone is prohibited. Because of the safety implications raised in this question, we are preparing a Petition for Review in order to obtain a clarification from FRA concerning this issue.

**8. Apparently, some of our members are using a GPS device to check their speed. The reason being that the ... speed mile markers, out of some terminals, are located at 10 mph zones. We are working through the BLE&T safety committees to get that changed. In the meantime, is this a violation of the FRA Emergency Order?**

Since the Emergency Order includes “execut[ing] a computational function” in the definition of “use of an electronic or electrical device,” and also specifically states that the use of a personal electronic or electrical device to perform any function other than voice communication while on duty is prohibited, it appears that the use of a personal GPS device is prohibited. Because of the safety implications raised in this question, we are preparing a Petition for Review in order to obtain a clarification from FRA concerning this issue.

**9. Does the Emergency Order prohibit the use of electronic watches? While a common watch that happens to be electrically powered may not seem like much of a distraction, what about more sophisticated watches that have calculators, stopwatch functions, and the like?**

Emergency Order No. 26 does not impose a blanket prohibition on the use of electronic watches. Section (f)(5) states that “[a] railroad employee may refer to a digital timepiece to ascertain the time of day or to verify the accuracy of speed indicators.” Thus, the use of the time and stopwatch functions of an electronic watch is expressly permitted. Since the Emergency Order includes “execut[ing] a computational function” in the definition of “use of an electronic or electrical device,” it appears that the use of the calculator function of an electronic watch is prohibited. Because of the safety implications raised in this question, we are preparing a Petition for Review in order to obtain a clarification from FRA concerning this issue.