



What Are “Feb. 7” Protections?

A Resource for BMWED Lodges
and Members



FEB. 7
PROTECTIONS



NOTE!

IF YOU HAVE A CURRENT CLAIM, AN AWARD, OR ANOTHER DISPUTE REGARDING BENEFITS OR RIGHTS RELATED TO FEB. 7 PROTECTIONS, YOUR PRIMARY POINT OF CONTACT IS YOUR GENERAL CHAIRPERSON.

Just as with other aspects of your Agreement, your General Chairperson handles interpretations or questions regarding the administration of your Feb. 7 rights, benefits, or disputes.



WHEN IN DOUBT, CALL YOUR
GENERAL CHAIRPERSON!

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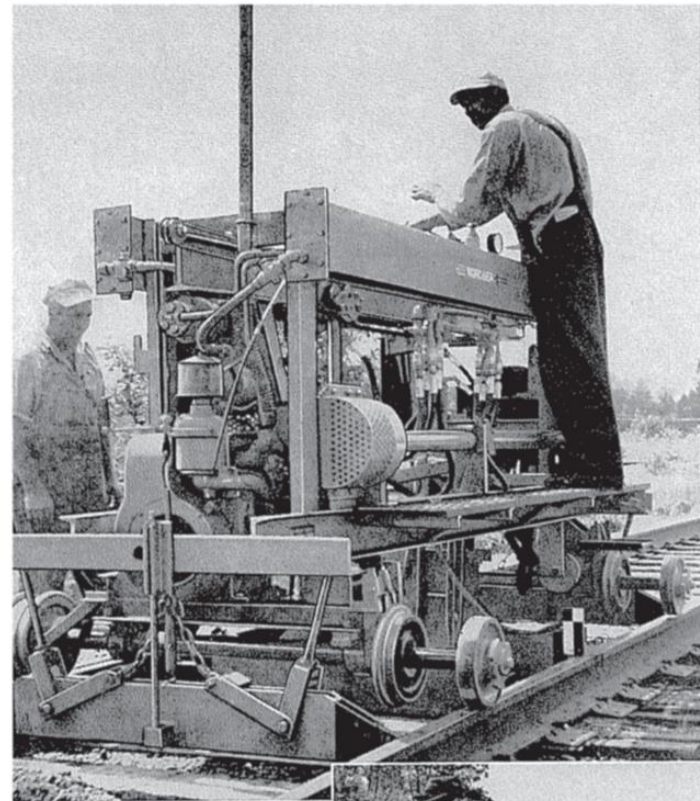


Historical Background

In the middle of the last century, technological change caused massive reductions in railroad workforces.

*Between 1955 and 1962, BMWWE **lost over 50% of our membership due to** workforce reductions brought about by mechanization.*

Rail unions worked hard to find some way to support rail workers & keep work available.



↑ Above: The self-propelled track liner shifts track into place with a sideward thrust, replacing hand labor.



→ Right: Note the number of men needed in the picture to line track by hand.

Excerpt from our 1955 *History of the Brotherhood of Maintenance of Way Employees: Its Birth and Growth*



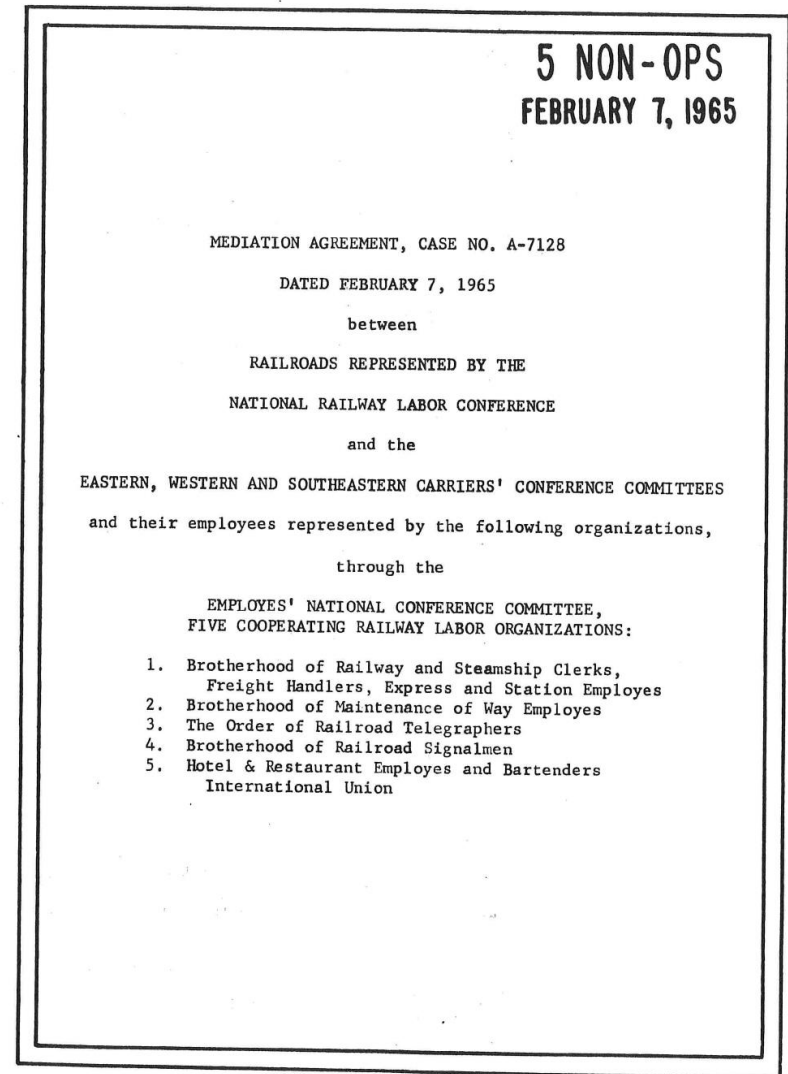
Historical Background

Following the recommendations of PEB 163 in October 1964, negotiations led to the adoption of what we now call the

February 7, 1965

Agreement, or FEB 7.

*This agreement, updated in **September 1996**, provides protections for eligible workers who are unable to obtain work in our craft within their seniority.*





FEB. 7?

Where is that in my Agreement?

The Feb. 7 Agreement shows up in most of our collective bargaining agreements but may have different titles depending on your agreement.

It may sometimes show up as an appendix, a memorandum, or some similar addition to already-bargained work rules in your Agreement.

Ask your System Division or Federation officers where to find the provisions of Feb. 7 in your agreement.

WANTED!

FEB. 7

ALSO KNOWN AS:

- *A-7128 MEDIATED AGREEMENT*
- *APPENDIX M OF THE BN AGREEMENT*
- *RULE 54 OF THE C.M.ST.P&P (MILWAUKEE) AGREEMENT*

AND MANY OTHER ALIASES!

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So, Feb. 7, What Would You Say You **DO** Here?

The provisions of the Feb. 7 Agreement provide:

- ***Compensation for eligible employees involuntarily furloughed, equal to their Protected Rate of pay.***
- ***Compensation for eligible employees unable to exercise their seniority to a position at their Protected Rate of pay, to “make up” their Protected Rate of Pay.***
- ***Continuation of health and welfare benefits for eligible employees involuntarily furloughed for the entire length of their furlough.***



Sounds Great! Am I eligible?

Eligibility for Feb. 7 Protections is determined by your time within our craft.

- ***Under the terms of the September 1996 update to Feb. 7, employees must have 10 years of seniority within their craft to qualify for Protected Status.***
 - ***10 years is calendar years of seniority on a roster, NOT years or months of service (like for RRB benefits).***
 - ***If you change crafts or switch to a new seniority roster, you cannot “carry over” time from a previous craft.***

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YOUR PROTECTED STATUS



**Ask your
System
Division or
Federation
officer to help
you
understand
your status!**

How Do I Gain Protected Status?

After the initial check for 10 years of seniority on a roster, another test is also used to determine qualification.

The 3 calendar years of an employee's work history leading to their 10th year are reviewed, month by month. For each particular month in the 3-year period (i.e. each March), workdays are averaged.

For each averaged month, the employee must work half or more of the available workdays to qualify for **Full Time Regular Protected Status**.

This is complicated, but we're here to help.

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Determining Protected Status

The employee with the service record below has worked a sufficient number of workdays in each averaged month of their 7th, 8th, and 9th years to qualify for Protected Status as a Full Time Regular Employee in their 10th year of seniority on a single roster with their railroad.

Days worked each month												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
7 th Year	20	22	22	22	22	22	22	22	22	22	22	14
8 th Year	6	0	22	22	22	22	22	22	22	22	22	17
9 th Year	20	22	22	22	22	22	22	22	22	22	22	17
AVG	15.33	14.67	22	22	22	22	22	22	22	22	22	16
Half-Time +?	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK

There are normally 20-23 regularly-scheduled working days in each month.

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Determining Protected Status

The employee with the service record below has **NOT** worked a sufficient number of workdays in each averaged month of their 7th, 8th, and 9th years to qualify for Protected Status as a Full Time Regular Employee in their 10th year of seniority on a single roster with their railroad.

Days worked each month												
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
7 th Year	8	22	22	22	22	22	22	22	22	22	22	5
8 th Year	6	22	17	0	16	22	22	22	22	22	22	14
9 th Year	7	22	22	22	22	22	22	22	22	22	22	6
AVG	7	22	20.33	14.67	20	22	22	22	22	22	22	8.33
Half-Time +?	NO	OK	OK	OK	OK	OK	OK	OK	OK	OK	OK	NO

There are normally 20-23 regularly-scheduled working days in each month.



What if I fall short?

*Once you reach your 10-year seniority, it's a **one-time test** to determine your Feb. 7 status.*

If you're on a leave of absence at your 10-year mark, your status will be determined on your return to work.

Military service members on extended active service have special rules that apply.

If you were unable to work an average over half-time for available workdays, month-by-month, in the previous 3 years, you will not qualify for Regular Full Time Protected Status.

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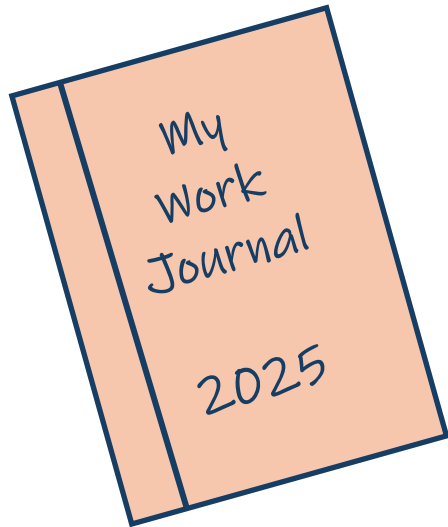


Can I requalify later?

*There is no way within the provisions of the Feb. 7 Agreement, or its September 1996 update, to re-try for qualification as **Full Time Regular Protected Status**.*

*While the Feb. 7 Agreement provides for a **Seasonal Protected Status** for employees who worked less than half of available workdays in their 3-year test period, benefits eligibility for employees with **Seasonal Protected Status** was restricted to those who worked on or before 1995, so no one who started work after 1995 would qualify for benefits at that status.*

IF YOU BELIEVE YOU QUALIFY FOR SEASONAL PROTECTED STATUS, CONTACT YOUR GENERAL CHAIRPERSON



C'mon! This is Absurd!

Feb. 7 is intended to keep employees working.

*Feb. 7 provides a method to compensate employees when work is unavailable for them in their seniority. It's **workforce stabilization**.*

Your railroad is responsible for calculating your 3-year, month-by-month average for days worked.

*You should create a daily record or **Work Journal** to keep track of the days you work.*

That way, if your railroad miscalculates, you can provide your System Division or Federation officer with proof that you are eligible for Feb. 7 protections!

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LOSING Your Protected Status

Once you qualify for Protected Status under Feb. 7, there are a few ways you can lose it:

- *You Retire or Resign*
- *You Pass Away*
- *You are Dismissed for Cause (you can regain status if you're reinstated later)*
- *You furlough yourself, refuse a recall, or otherwise fail to stay working within your seniority and under the rules of your Agreement when work is available to you.*

Once
you're
Protected
DON'T
furlough
yourself!

WHEN IN DOUBT, NEVER GUESS OR ASSUME! CONTACT YOUR GENERAL CHAIRPERSON FOR GUIDANCE!



LOSING Your Protected Status

Your Feb. 7 Protected Status is based on the seniority you hold when you qualify:

- ***You DON'T need to gain new seniority rights to maintain your Protected Status.***
- ***You DON'T have to be a fortune-teller for future bulletined jobs. If your current job is abolished, or you choose to place a bid (within your established seniority), you can bid the available work without trying to figure out if there's a job you need to bid on in some future bulletin.***

KEY TO KEEPING (OR LOSING!) YOUR PROTECTED STATUS IS WHETHER YOU VOLUNTARILY CHOOSE NOT TO WORK, WHEN WORK IN YOUR SENIORITY IS AVAILABLE TO YOU.



LOSING Your Protected Status

Qualifications are TRICKY!

- *If you have Protected Status, the qualifications added to bulletined jobs matter.*
- *For any questions dealing with qualifications, **DON'T GUESS OR ASSUME!** Contact your System Division or Federation officer and get their guidance and support regarding your Protected Status.*



WHEN IN DOUBT, CALL YOUR
GENERAL CHAIRPERSON!

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YOUR PROTECTED RATE



I Have Protected Status. What Now?

Whatever position you worked when you gain Protected Status determines your Protected Rate.

Your Protected Rate will be something like “Foreman,” “Machine Operator,” or “Track Inspector” depending on your railroad’s bulletins.

Think of positions, not dollars per hour.

The rate of pay for that position, subject to any GWI’s, becomes your Protected Rate for Feb. 7.

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What Your Protected Rate Means

*If you have Protected Status and are **involuntarily furloughed** by your railroad, you will receive compensation at your Protected Rate during your furlough.*

If there are no available positions for you in your seniority at your Protected Rate, you will be compensated the difference between the rate of pay in the position you can hold and your Protected Rate.

EXAMPLE

Protected Rate = Foreman

If you can only hold an Asst. Foreman, you're compensated the difference.



KEEPING Your Protected Rate!

Your Protected Status and your Protected Rate are different things!

*While we covered how you might **LOSE** Protected Status, you also have to know how to **MAINTAIN** your Protected Rate.*

Your choices can affect your Protected Rate!

Maintaining your Protected Rate, in a nutshell, requires you always exhaust your available seniority at your Protected Rate before you take a lower-paying position.



Maintaining a Protected Rate

Once established, a Protected Rate must be maintained by actions taken by our members.

- **Must exercise seniority (bid or place) to a position at or above your Protected Rate without requiring a change of residence.**
- **Must “exhaust” your seniority as provided under your Agreement, including bumps to positions that may be far away under large, dispersed seniority districts.**
- **If a position requires a specific qualification to be completed after taking the position (i.e. “must obtain”), you will very likely have to accept that position.**

You **DON'T** have to:

- Change your residence
- Gain new seniority rights
- **BUT!** Qualifications are tricky!



Bidding & Bumping with a Protected Rate

Say my Protected Rate is as a Welder. A lower-paying position as a Grinder opens up on my gang, and I decide to bid it since I don't want the Welder's responsibility. What happens?



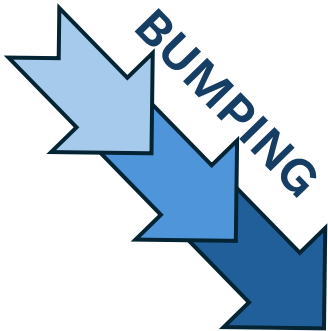
- This is a voluntary move into a lower-paying position, so it **PERMANENTLY LOWERS** your Protected Rate!



Bidding & Bumping with a Protected Rate

Say my Protected Rate is as an Assistant Foreman. My gang is abolished. There's another Assistant Foreman job in my seniority district, but I place my bump for a lower-paying Truck Driver job on a gang closer to home. What happens?

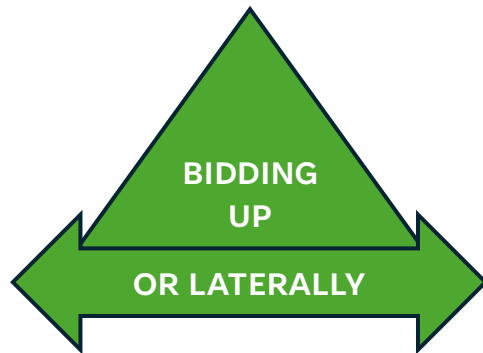
- **Bumping** does not change your Protected Rate. You will be considered as holding your Protected Rate for the purposes of Feb. 7 (so you won't get "make up" compensation).





Bidding & Bumping with a Protected Rate

Say my Protected Rate is as a Machine Operator. I see another Machine Operator job open in the same classification. I'm qualified, and I decide to bid it. My rate of pay doesn't change. What happens?



- You have MAINTAINED your Protected Rate!



Bidding & Bumping with a Protected Rate

Say my Protected Rate is as a Machine Operator. My job is abolished, and the only other position at that rate is for a machine that requires a special qualification I don't currently possess. What happens?



- **Qualification issues can be tricky!**
Contact your BMWED Representative for guidance!



CLAIMS & DISPUTES UNDER FEB. 7



Claims & Disputes Under Feb. 7
Your rights and responsibilities under Feb. 7 operate under unique provisions for interpretation and handling disputes or issues.

IF YOU HAVE ANY QUESTIONS, CONCERNS, OR PROBLEMS REGARDING YOUR STATUS, RATE, RESPONSIBILITIES, OR BENEFITS UNDER FEB. 7, CONTACT YOUR SYSTEM DIVISION OR FEDERATION OFFICERS!





Claims & Disputes Under Feb. 7

Don't listen to:

- “Section house lawyers”
- Your railroad officials or payroll department

Don't try to apply terms or provisions in the Feb. 7 Agreement or the Sep. 1996 Agreement yourself!



WHEN IN DOUBT, CALL YOUR

GENERAL CHAIRPERSON!



Claims & Disputes Under Feb. 7

Unlike other claims or disputes your General Chairperson helps you handle, Feb. 7 claims have a special handling process that leads to a *Special Board of Adjustment*, SBA 1087.

The Awards of SBA 1087 work alongside official Interpretations to the Feb. 7 Agreement, other WFS agreements and work rules, old agreements like WJPA, and other provisions to determine your rights, determine your responsibilities, and resolve problems.

BOTTOM LINE, IT'S COMPLICATED!

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OTHER NOTES & THOUGHTS

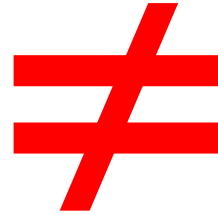
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Feb. 7 and other Workforce Stabilization Agreements

FEB 7 PROTECTIONS ARE NOT NEW YORK DOCK PROTECTIONS!

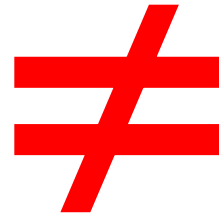
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NY DOCK

FEB 7 PROTECTIONS ARE NOT PRODUCTION GANG WFS BONUSES (1994 Agreement)!

FEB. 7



GANG
WFS

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Feb. 7
Protections are
intended to
keep you
working and
protect your
ability to work
as the railroad
changes.

MY FEB 7 TO DO LIST!

Keep a Work Journal!!!

*When I get 10 years of
Seniority, check my
railroad's Protected List!*

*If I gain Protected Status,
NEVER SELF FURLOUGH!*

*When in doubt, Call my
General Chairperson!*



These were the thoughts of the Presidential Emergency Board whose recommendations led to the negotiation of our Feb. 7 Protections

Final Thoughts

*“The principle has been stated so often recently it needs no special emphasis here that restrictions on management to modernize equipment, facilities and techniques must be lifted if our economy is to move forward at a desirable pace. At the same time, **it is now accepted in American industry that the price for such progress should not be paid completely, or even principally, by the employees who by virtue of long service in the industry have acquired equitable rights in their jobs.**” [emphasis added]*

- Excerpt from the Recommendations of PEB 163, October 1964. Reprinted in Don Griffin’s *The Small Book of Railroad Employee Protections*, BMWED, 2017.



This resource has been created to assist Lodge officers and members understand the key terms, concepts, and context of our protections under the Feb. 7, 1965 Mediated Agreement, as updated by the September 1996 Agreement.

QUESTIONS?



**CONTACT YOUR
SYSTEM DIVISION
OR FEDERATION
OFFICERS!**

This resource is no replacement for the guidance and counsel of your elected BMWED representatives, your General Chairperson and other System Division or Federation officers who directly support your exercise of your Feb. 7 protections and who will handle any disputes that arise from these provisions of your Agreement.