

# **Policy for Employee Performance Accountability**

Effective Date July 1, 2000

# **Policy for Employee Performance Accountability**

## **Statement of Principles**

Our vision is to realize the tremendous potential of BNSF by providing transportation services that consistently meet or exceed our customers' expectations. BNSF is a community of mutually dependent members whose collective efforts will realize our vision. As a member of the BNSF community, each of us also has the right to a safe work environment for the sake of ourselves, our co-workers, our customers and the communities we serve.

This policy is designed to support BNSF's vision of becoming injury-and accident-free. It is designed, first, to encourage all BNSF employees to be actively engaged in safe work behaviors and in ensuring a safe work environment. Second, when a rule violation occurs, this policy provides a process for arriving at an understanding of improvements needed to prevent similar rule violations. Third, for those rare cases where there is a marked disregard for safety and BNSF rules and procedures, it provides a process to enforce BNSF and federal safety requirements.

To ensure a safe environment, the movement of trains and the maintenance of equipment, track and facilities must adhere to carefully designed rules and procedures. Violation of these rules and procedures may result in death, injury and/or substantial financial loss, and, therefore, will be treated in a serious manner. BNSF employees are responsible for safe behaviors that comply with BNSF rules and procedures, and with federal requirements.

This policy is intended to help employees with that compliance so that every member of the BNSF community has an equal opportunity to achieve his or her full potential.

## **General Information**

a. If this policy conflicts with BNSF's alcohol/drug or engineer decertification policies, attendance guidelines, schedule agreements, or applicable FRA, DOT or other federal regulations, they take precedence over this policy. (See Appendix D for information on handling train, yard and engine (TY&E) attendance violations.)

b. Circumstances surrounding a serious incident may reduce an employee's personal culpability. In such cases the employee's supervisor may choose to handle the incident according to the general guidelines. If there is any doubt as to how an incident should be handled, supervisors are instructed to err on the side of leniency.

c. Alternative handling may be offered by an employee's supervisor for a second or subsequent non-serious incident.

d. Employees will not be disciplined for "late reporting" of muscular-skeletal injuries, as long as the injury is reported within 72 hours of the probable triggering event, the employee notifies the supervisor before seeking medical attention, and the medical attention verifies that the injury was most likely linked to the event specified.

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## General Guidelines

### Non-Serious Rule Violations

These guidelines address cumulative behavior. A non-serious rule violation is one that is neither serious (as defined herein) nor dismissable (as defined herein). An employee who demonstrates a pattern of (non-aggravated) misconduct may ultimately be dismissed if performance does not improve. Serious rule violations will be handled according to more stringent principles.

a. An employee involved in a first non-serious incident may choose alternative handling. Examples of alternative handling include coaching and counseling, training, or the Safety Incident Analysis Process (see Appendix A). The employee's record will not be marked, but the alternative handling will be noted in the operations testing database and a letter will be sent to the employee documenting the findings. A copy of this letter will be maintained locally.

b. Subsequent rule violations, provided they are not of a serious or dismissable nature, will result in a record suspension, the length of which will be determined by the number of prior rule violations within a rolling 12-month review period. An employee involved in a second, third or fourth non-serious rule violation within this review period will be given a record suspension of 10, 20 or 30 days respectively. (A record suspension is recorded on an employee's personal record as a record suspension and is not actually served.) Five incidents of any kind within a 12-month period will subject the employee to dismissal. (The employee's supervisor may offer alternative handling instead of imposing a record suspension for a second, third or fourth incident. Note that, in such cases, the incident is recorded in the operations testing database, but is not recorded on the employee's personal record and does not count as a discipline incident.)

### Serious Rule Violations

a. A non-exhaustive list of serious rule violations is provided in Appendix B.

b. An employee involved in a serious incident will be given a 30-day record suspension and may be offered training to help correct the behavior that gave rise to this discipline. If an employee declines training, an actual suspension may be imposed. An actual suspension also may be imposed in cases where, in the opinion of management, employees' behavior threatens their own safety or the safety of their co-workers or the community.

c. A second serious incident within a 36-month review period will subject the employee to dismissal. Exception: The serious-incident review period will be reduced to 12 months for employees who have completed at least five years' service and who have been injury-

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free and discipline-free during the five years of service preceding their first serious incident.

d. In some cases, alternative handling may be offered to employees involved in serious rule violations, in lieu of record suspension.

### **Dismissable Violations**

The ultimate sanction of dismissal may be imposed in response to a single aggravated offense, as listed in Appendix C. Dismissal also may be imposed in response to a series of rule violations, coupled with no sign of significant improvement in the employee's behavior. There are essentially four events or combinations of events that may result in dismissal:

- A single aggravated offense considered dismissable (see Appendix C),
- Two serious rule violations (see Appendix B) within 36 months (or within 12 months, if the employee's record review period was reduced to recognize five years of injury- and discipline-free service),
- Five violations of any kind in a 12-month period (which may include a combination of non-serious, serious and attendance violations),
- Four active train, yard and engine (TY&E) attendance violations, or a combination of three active TY&E attendance violations and a serious violation in the last 36 months (or within 12 months, if the employee's record review period was reduced to recognize five years of injury- and discipline-free service).

### **Attendance Violations**

Violations of BNSF's train, yard and engine (TY&E) Attendance Guidelines may subject an employee to discipline as described in this policy and in Appendix D to this policy. The discipline matrix in Appendix D also applies to violations of the clerical Attendance Guidelines. Attendance guidelines for other non-TY&E employees will also remain in effect.

### **Discipline Review**

All dismissals and actual suspensions of 30 days or greater must be reviewed by the director-employee performance.

All dismissals will be reviewed by participants in the Senior Vice President Operations' safety meeting.

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### **Safety Incident Analysis Process**

Employees involved in rule violations that would have resulted in a formal investigation may be allowed to handle their case through alternative handling. One type of alternative handling is the Safety Incident Analysis Process (SIAP).

The objective of SIAP is to identify and eliminate work practice risks that lead directly to an accident experience. This process is divided into three key areas:

1. Analyzing all rule violations using a multiple cause approach that identifies all root causes.
2. Developing and implementing a safety activity plan that will eliminate and/or reduce the occurrence of future similar rule violations.
3. Providing scheduled follow-up to ensure safety activity plan is working as expected.

The process works like this:

- When an incident occurs a labor/management team is assembled. The employee or employees are represented by an employee(s) of their choice. Labor and management must have a trained member participating in each Safety Incident Analysis Process. This is not intended to keep an untrained employee or manager from participating in the process.

If the labor organization involved decides not to participate, the formal investigation process will be used.

- The team meets, including the involved employee(s), and gathers all the facts concerning the incident. Interviewing employee(s) involved will be necessary to determine all the facts. Facts surrounding the case will remain confidential and not used in future formal hearings.
- An analysis is conducted using a multi-cause accident analysis approach.

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### Appendix A

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- A safety activity plan is developed using recommendations from the multi-cause incident analysis. Team members will use consensus to determine the most appropriate and effective plan to eliminate the risk of future rule violations. The plan will be targeted at removing obstacles that may prevent an employee(s) from performing their work according to “best practices.” Best practices are defined as our established rules, policies, procedures and instructions that we use to safely and efficiently conduct operations on BNSF.

Changes to the work process can include skills training, rule or policy development or modification, hazard correction, supervisor responsibility changes, enhancements to inspections, audits, etc.

- Each member of the labor/management team agrees upon measurement of the safety activity plan. The employee’s immediate supervisor and organization representative conduct scheduled follow-up over a time period agreed upon by the group.

A copy of the multi-cause incident analysis worksheet and safety activity plan will be kept on file by the immediate supervisor. If involved employee(s) continue to perform their work according to “best practices” during the timeframe agreed upon by the group, the safety activity plan will be closed, and the worksheet, plan and supporting documentation should be maintained in a file separate from the employee’s personal file.

Measurement of safety activities will be conducted through the following methods:

- Operations Testing and auditing will be conducted by management.
- Personal Safety Contacts will be conducted separately by both management and labor representatives.

If work practice behavior has not changed positively as a result of the follow-up measurement, actions will be initiated through conventional policies and procedures for corrective action.

Safety activities that are the responsibility of management for correction or completion will be placed on an activity timetable and monitored by the labor/management team.

This process is designed to identify and eliminate/reduce both physical and human factor risks that are associated with potential future accidents and injuries. If this process is executed and maintained in the positive manner it is intended, many of the risks that are driving our present accident experience can be eliminated.

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## Appendix B

### Serious Rule Violations

- 1) Violation of work procedures that are designed to protect employees and others from potentially serious injury(ies) and fatality(ies). Such work procedures may be related but not limited to:
  - a) Confined space entry
  - b) Trenching and shoring
  - c) Lockout/tagout and energized equipment
  - d) Fall protection
  - e) Crane operation, i.e. power lines, load chart, outriggers, working under suspended load
  - f) Blue flag violations – men and equipment
  - g) Riding on end of rail cars
- 2) Violation of work procedures governing the operation of, and working around, machinery and equipment. Such work procedures may be related but not limited to:
  - a) Getting on and off moving equipment
  - b) Eye protection in specialized application such as grinding, cutting and welding operations
  - c) Going in between equipment
- 3) Operating rule violation for which FRA engineer decertification is also mandated (also considered a serious rule violation for ground crew, if applicable)
- 4) Failure to comply with rules or procedures that protect employees or machinery where such protection is defined by dispatcher, prescribed flags, other signal device, track bulletins, or in writing.
- 5) First violation of Rule 1.5 (former Rule G) [subject to conditional suspension, pending EAP evaluation, as described in BNSF's drug and alcohol policy].
- 6) Extended unauthorized absence (as may be defined by labor agreements and applicable law).
- 7) Any other serious violation of General Code of Operating Rules, Maintenance of Way Rules, Safety Rules or General Instructions issued to employees.
- 8) Tampering with safety devices.
- 9) EEO policy infractions.

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## Appendix C

### Dismissable Rule Violations

- 1) Theft or other act with intent to defraud the carrier of monies or property not due, to include falsification or misrepresentation of an on-duty injury.
- 2) Gross dishonesty in communicating with officials of the company about any job related subject.
- 3) Conduct leading to a felony conviction.
- 4) Refusal to submit (at any time) to required testing for drug or alcohol use, adulteration of sample, second violation of Rule 1.5 (former Rule G), second positive test within 10 years, or failure to comply with instructions of the Medical Director.
- 5) Causing serious altercation.
- 6) Gross negligence, indifference to duty, intentional destruction of company property, malicious rule violation, insubordination.
- 7) Rule violation that results in serious collision and / or derailment, serious injury, fatality or extensive damage to company or public property.
- 8) Knowingly placing the safety of themselves or others in immediate danger.
- 9) Violence in workplace including possession of weapons.
- 10) Extended unauthorized absence; unauthorized absence beyond the period specified in *self-terminating clause of applicable schedule agreement*.
- 11) Aggravated EEO Policy infractions.

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## Appendix D

### Handling Attendance Violations (per TY&E Attendance Guidelines)

BNSF established Attendance Guidelines in March 2000 that describe certain minimum attendance standards for train, yard and engine employees in full time service. These Attendance Guidelines refer to a discipline sequence that will remain intact and will supercede the revised PEPA for handling attendance violations. If the employee's only violations are attendance violations as defined by the Attendance Guidelines, the following matrix applies:

<b>Current record</b>	<b>Result</b>
<b>First attendance violation*</b>	<b>Formal Reprimand</b>
<b>Second attendance violation</b>	<b>10 day record suspension</b>
<b>Third attendance violation</b>	<b>20 day record suspension</b>
<b>Fourth attendance violation</b>	<b>Employee may be dismissed</b>

\* Assumes employee has not been disciplined for attendance in the last 12 months. (Note that the review period established for attendance violations in the Attendance Guidelines requires that an employee work 12 months without an attendance discipline incident before an attendance violation is considered inactive.)

If an employee's violations are a combination of PEPA rule violations and attendance violations, the following points apply, as established in the Attendance Guidelines:

- The first attendance violation is NOT subject to alternative handling. It must be handled with a formal reprimand. Subsequent attendance violations are handled at the level reflecting the total number of active attendance violations.
- The pattern of behavior is considered dismissable if the employee has a total of four active attendance violations or three active attendance violations and a serious rule violation within the past 36 months (or the past 12 months, if the employee's record review period was reduced to recognize five years of injury- and discipline-free service).
- The pattern of behavior is also considered dismissable if the employee has a total of five rule violations of any kind in a 12-month period (which may include a combination of non-serious, serious and attendance violations).

Note that the review period established for attendance violations in the TY&E Attendance Guidelines requires that an employee work 12 months without an attendance discipline incident before an attendance violation is considered inactive.