

FAQs for the Policy on the Use of Alcohol and Drugs

Why has the Policy on the Use of Alcohol and Drugs been updated?

The policy, which was last updated in 2009, has been shortened and simplified to focus on core requirements and to make the policy easier to understand and apply. Some definitions have been clarified and other changes reflect new regulatory requirements.

What are the major changes?

The main additions and changes to the policy include the following:

- Simplified format and language
- Clarification on prescription medication use and the definition of “drugs”
- Language that affirms BNSF’s prohibition against marijuana use, consistent with federal DOT regulations that pre-empt recent state legalization efforts (such as in Colorado and Washington)
- Addition of recent regulatory changes regarding certification of conductors

The complete Policy on the Use of Alcohol and Drugs can be located on the intranet on the Policies, Corporate Rules and Procedures webpage. FAQs about the policy have been updated and can be accessed on the Medical homepage under “Drug and Alcohol.”

When is prescription medication use consistent with this Policy?

For prescription medications, employees must have a legal, valid prescription written for that employee by a health care provider, and the prescription order must be less than 12 months old. The medication must be taken only for the condition for which it was prescribed and must be taken as prescribed.

Is it in violation of the BNSF Policy on the Use of Alcohol and Drugs to take prescription medications?

No, if the treating physician has been informed of the employee's work duties and has made the determination that the prescribed dosage is consistent with the employee's safe performance of his or her assigned duties. When receiving prescription medication, employees must notify their treating physician of the safety sensitive duties they perform, as well as all other medications they are using.

What responsibility does an employee have when taking any over-the-counter and/or prescription medication?

All employees are responsible for ensuring their personal medical conditions do not interfere with their ability to safely perform their duties.

An employee also must notify his or her health care provider regarding the full scope of assigned duties and all medication usage, including over-the-counter medications, to ensure that the use of all such medication(s) is consistent with the safe performance of his or her duties. To determine the effects of a medication, an employee should consult his or her health care provider.

What responsibility does an employee have if being treated by more than one provider?

If an employee is being treated by more than one health care provider, the employee must inform at least one health care provider of all medications taken, including all over-the-counter medications. It is the health care provider's responsibility to indicate whether the use of the medication(s) at the prescribed dosage is consistent with the safe performance of the employee's duties. The employee must observe any restrictions imposed by the health care provider.

Is an employee required to contact the Medical Department or a supervisor to approve an over-the-counter or prescription medication?

No. Employees are not required to contact the Medical Department or a supervisor to approve any medication use. But if the employee is taking any medication and is required to take a drug test, the employee must complete the testing as ordered.

How does an employee determine the effects of a prescription medication?

An employee should have a conversation with his or her private health care provider(s).

Does the policy address recent state laws that legalize marijuana for medicinal or recreational use?

Yes, the updated policy prohibits an employee "from reporting for duty or remaining on duty or on BNSF property with any detectable amount of marijuana in his or her body." Department of Transportation (DOT) regulations, which apply to all railroads regulated under the Federal Railroad Administration, restricting drug and alcohol use clearly supersede and pre-empt state laws.

For instance, the DOT stated the following in communication issued in December 2012: "We want to make it perfectly clear that the state initiatives will have no bearing on the DOT's regulated drug testing program. The DOT's Drug and Alcohol Testing Regulation – 49 CFR Part 40 – does not authorize the use of Schedule 1 drugs, including marijuana, for any reason.... It remains unacceptable for any safety-sensitive employee subject to drug testing under the DOT's drug testing regulations to use marijuana."

Do these policy requirements apply only to employees in "safety-sensitive" positions? What about exempt employees who work in an office building?

All BNSF employees must comply with the requirements in this policy restricting use of drugs and alcohol and are subject to pre-employment, return to service, reasonable suspicion or reasonable cause testing, as required. Some employees are also subject to random testing (see next FAQ).

Employees in safety-sensitive positions as defined by the Federal Railroad Administration (FRA) are also subject to FRA regulations (Part 219, Control of Alcohol and Drug Use and Part 240, Qualification and Certification of Locomotive Engineers, and Part 242, Qualification and Certification of Conductors), which dictate rules that govern random and post-accident drug testing.

Employees operating Commercial Motor Vehicles (CMVs) that require a Commercial Driver's License (CDL) are also subject to FMCSA regulations (49 CFR Part 40), which dictate rules that govern random and post-accident testing.

Other exempt employees in positions designated by BNSF are also subject to random testing.

Who is subject to random testing?

More than 20,000 covered service employees at BNSF are subject to FRA random testing at a rate of 25 percent, meaning that the number of random drug tests BNSF must initiate should equal 25 percent of that work group. In addition, more than 7,000 employees that currently hold a commercial driver's license (CDL) and are subject to random testing at a rate of 50 percent under the Federal Motor Carrier Safety Administration (FMCSA). Exempt officers who supervise covered service employees are subject to random testing at a 25 percent rate as well as clerk crew haulers and intermodal equipment operators.

What regulatory changes have been incorporated in this policy regarding conductors?

Since 2012, when the FRA implemented certification for conductors, rules have been added regarding certification. Some of these rules address alcohol and drug use, including the following:

- 1) return-to-work is prohibited for a conductor who has an active substance abuse problem,
- 2) return-to-work guidelines after a co-worker report are outlined,
- 3) a 9-month decertification period is required after a failed breath-alcohol test of 0.04% or greater,
- 4) a required decertification period is specified after multiple violations for using controlled substances, and
- 5) employee must receive written notification if certification is suspended after an alcohol violation. The provisions mirror what the FRA has been requiring of locomotive engineers.

What happens if I refuse to submit to a drug or alcohol test?

BNSF employees are required to cooperatively participate in all aspects of the testing program. Failure to do so constitutes refusal and can result in discipline, including immediate dismissal for failure to follow instructions.

When a urine specimen is submitted to the lab, what drugs are they screening for?

DOT controlled substances tested for under DOT agency regulations include marijuana, cocaine, amphetamines, phencyclidine (PCP) and opiates (5 panel). Testing under FRA Sub Part C also includes barbiturates and benzodiazepines.

BNSF tests for the same drugs identified above, but those tests may be expanded to include additional controlled substances at any time and any product not prescribed by a doctor or similar licensed health care professional which causes intoxication or impairment, such as any designer drugs and synthetic marijuana products.

What constitutes a positive alcohol test?

A blood or breath alcohol concentration greater than or equal to 0.02 percent will be considered a positive test and in violation of the BNSF policy. Blood or breath alcohol concentrations greater than or equal to 0.04 percent are also in violation of federal statutes.

Can I request a retest, additional test or alternate test for a positive alcohol test?

No. No retesting, additional testing or alternate testing, such as blood alcohol testing, is offered for breath-alcohol tests. The results of a properly conducted breath-alcohol test are considered final and valid.

Do I get a second chance if I test positive for alcohol or drugs?

Yes. Following an employee's first positive drug or alcohol test, they will be removed from service, pending evaluation by a Substance Abuse Professional (SAP), in accordance with the Policy for Employee Performance Accountability (PEPA).

Employees who test positive for drugs or alcohol more than once in any ten year period will be removed from service and subject to dismissal from employment with BNSF.

If I contact the Employee Assistance Program (EAP) for help, am I subject to discipline?

As always, BNSF strongly encourages employees to seek treatment for alcohol and drug abuse and addiction on their own, before these problems manifest themselves in violations of the policy. Employees may voluntarily enroll in BNSF's EAP program confidentially and without being subject to discipline, as outlined in the corporate rule on EAP and return to service.

What is Operation Stop? How do I find out if my location has an Op Stop program?

BNSF Operation Stop is a grass-roots program that began in 1984 where employees promote an alcohol- and drug-free workplace by offering outreach, educational materials and support to co-workers. The best way to determine if your location has an active Op Stop program is to contact your EAP manager.