

# **EXHIBIT 3-T**

**Docket No. DCA-08-MR009**

**NATIONAL TRANSPORTATION SAFETY BOARD  
WASHINGTON, D.C. 20594**

**Federal Railroad Administration Responses to NTSB  
Safety Recommendation R-03-1**



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

OCT 17 2003

Administrator

1120 Vermont Ave., NW.  
Washington, DC 20590

MC 20305-25  
Not 17558

OCT 3 2003

The Honorable Ellen O. Engleman  
Chairman  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, D.C. 20594

Dear Madam Chairman:

Thank you for your letter concerning the National Transportation Safety Board's (Safety Board) Safety Recommendations R-03-1 and R-03-2, addressed to the Federal Railroad Administration (FRA). Both of these new safety recommendations arose from the Safety Board's investigation of an accident that occurred between two Burlington Northern Santa Fe (BNSF) freight trains, on May 28, 2002, on BNSF trackage near Clarendon, Texas. The accident occurred in track warrant control territory, involving an eastbound BNSF coal train colliding head on with a westbound BNSF intermodal train. The accident resulted in critical injuries to the two crew members of the coal train, minor injuries to the conductor of the intermodal train, and the engineer of the intermodal train was fatally injured.

The Safety Board's investigation determined that the probable cause of this collision was (1) the coal train engineer's use of a cell phone during the time he should have been attending to the requirements of the track warrant his train was operating under and (2) the unexplained failure of the conductor to ensure that the engineer complied with the track warrant restrictions. The Safety Board further determined that contributing to the accident was the absence of a positive train control system that would have automatically stopped the coal train before it exceeded its authorized limits. As a result of this investigation, the Safety Board issued two safety recommendations to FRA.

The first, Safety Recommendation R-03-1, reads as follows:

*"Promulgate new or amended regulations that will control the use of cellular telephones and similar wireless communication devices by railroad operating employees while on duty so that such use does not affect operational safety." (R-03-1)*

FRA currently has limited regulations governing the use of cellular telephones (cell phones) by railroad employees in connection with railroad operations. Furthermore, FRA regulations do not

place, nor have they ever placed any limitations on the purposes for which railroads may use radio communication, whether it is in railroad operations or not, other than prohibiting an employee operating the controls of moving equipment from receiving or copying mandatory directives. In its amendments to Title 49, Code of Federal Regulations (CFR), Part 220, Radio Standards and Procedures, which became effective on January 4, 1999, FRA re-titled this part "Railroad Communications," to reflect its coverage of other means of wireless communications such as cell phones, data radio terminals, and other forms of wireless communications used to convey emergency and need-to-know information. The revisions to Part 220 were the result of a recommendation by the Railroad Safety Advisory Committee (RSAC). A Railroad Communications Working Group was formed consisting of a diverse group of knowledgeable persons representing a wide array of railroad industry stakeholders who are represented on RSAC.

In a series of meetings, the Working Group examined extensive safety data, debated how to improve compliance with existing FRA radio standards and procedures, and considered whether to mandate radios and other forms of wireless communications to convey emergency and need-to-know information. FRA asked for comments on whether non-radio wireless communications procedures paralleling the radio procedures in Part 220 should be adopted for cell phones and other wireless communications devices that would be covered under the revised rule. In particular, FRA wanted to know whether non-radio wireless communications had the same opportunities for misunderstanding as radio transmissions and how such procedures would be enforced. After reviewing the comments, FRA decided not to promulgate non-radio wireless communications procedures, since the Working Group did not consider in depth how to ensure the accuracy and completeness of non-radio wireless communications. Therefore, in the final rule, FRA addressed only the testing and failure of non-radio wireless communications equipment (see §§ 220.37 and 220.38, respectively).

However, FRA emphasized in the preamble to the final rule that the procedures in § 220.61 (Radio transmission of mandatory directives) should be followed even when a cell phone or other form of wireless communication is used to transmit a mandatory directive. FRA continues to closely monitor compliance with § 220.61 and reserves the right to revisit the issue of non-radio wireless communications procedures, if necessary.

FRA acknowledges that there are distractions in the course of normal everyday train operations that could momentarily divert a crewmember's attention. These distractions include responding to locomotive alarms, moving to a place of safety in the locomotive cab when notified of rock throwers in the area, and distractions involving radio communication on a wide variety of both operational and non-operational issues, for which there are no Federal regulations. FRA believes that the operating and safety rules of the railroad adequately address these situations and that responsibility for compliance rests with company managers and supervisors. FRA does not dispute the fact that cell phone use has been shown to interfere with the perception process during the performance of operational tasks. The railroad industry is certainly well aware of these issues and remains committed in its efforts to achieve the highest possible level of crew situational awareness, through recurrent training, job briefings, and more frequent operational monitoring (testing) in this area. Accordingly, by and large, railroads across the country have

promulgated, or are promulgating operating rules that prohibit or severely restrict cell phone use by employees on moving equipment and in other situations, such as during switching activities, or when inspecting passing trains. Since the tragic accident at Clarendon, Texas, railroads have redoubled their efforts to ensure compliance with operating rules that restrict cell phone usage during railroad operations.

Based on the foregoing, FRA has determined that the railroad industry's enforcement of its operating rules governing cell phone use are sufficient to address the issue without the need for the intrusiveness of Federal regulations at this time. FRA will continue to closely monitor railroad compliance with their operating rules restricting cell phone use and will not hesitate to take appropriate enforcement action if it becomes necessary.

Therefore, FRA respectfully requests that the Safety Board give consideration to classifying Safety Recommendations R-03-1 as "Closed-Reconsidered."

The second, Safety Recommendation R-03-2, reads as follows:

*"In territory not equipped with a positive train control system, restrict the issuance of track warrant authority that contains an after-arrival requirement to trains that have stopped at the location at which they will meet the opposing train." (R-03-2)*

As the result of two major train accidents that occurred in June 1997, one on CSX Transportation, Inc., (CSX) in St. Albans, West Virginia, and the other on the Union Pacific Railroad (UP) in Devine, Texas, FRA issued Safety Directive 97-1<sup>1</sup> addressing safety practices to evaluate the integrity of all railroads' programs of operational tests and inspections and to ensure that safety-critical information is accurately conveyed and acknowledged for operations in Direct Train Control territory. Included in this publication was a recommendation that railroads review their operating rules and practices pertaining to operations in non-signalled territory to determine what further enhancements in its rules and practices were warranted, including the possibility of eliminating the use of "after arrival" orders.

The following is a current status of "after arrival" orders on the seven Class I railroads. CSX had previously (December 1996) eliminated "after arrival" orders over their entire system, both in signalled and non-signalled territory. This was as a result of a head-on collision that occurred on August 20, 1996, in Smithfield, West Virginia, which involved a train that held an "after arrival" order but failed to positively identify the train to be met. UP eliminated "after arrival" orders in non-signalled territory, subsequent to the Devine, Texas, collision. In that accident, the train dispatcher failed to give the train being restricted the "after arrival" information on its track warrant. However, the UP has recently reinstated "after arrival" orders in non-signalled territory, but with the provision that the train being restricted must first be stopped at the point of

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<sup>1</sup>Although termed a safety "directive", the document is non-binding and its requirements are purely elective.

restriction. BNSF initially took no action in response to the elimination of "after arrival orders," but subsequent to the tragic accident at Clarendon on May 28, 2002, in non-signalled territory, now requires the train being restricted to be stopped at the point of restriction before the "after arrival" order may be issued. The Canadian National/Illinois Central, Kansas City Southern, Norfolk Southern and Canadian Pacific (SOO District), currently have no restrictions on the use of "after arrival" orders.

Those railroads that currently have no restrictions on the use of "after arrival orders" feel that any limitations placed on the train dispatcher's ability to freely issue movement authorities, such as "after arrival" orders, severely and unnecessarily impacts their operations and is not a judicious use of dispatcher resources. Their reasoning is that operational flexibility is diminished by forcing the train dispatcher to have to rely solely on the pace of the trains, rather than being able to operate at his/her own pace by planning the work and issuing the necessary movement authorities when the need actually arises, when he or she is not occupied doing other things. In fact, to place such a restriction on train dispatchers not only reduces flexibility but violates existing rules for train dispatchers which require them to issue instructions to trains as may be required for their safe and efficient movement, to plan as far in advance as practical, and not to delay trains unnecessarily. To require the dispatcher to wait until a train has actually arrived and is stopped at the point of restriction carries with it the undesirable side effects of blocked crossings, poor fuel conservation, air and noise pollution, excessive brake shoe wear, and crew fatigue, by extending their time on duty.

FRA believes there is merit to this assertion, particularly when one takes into account that both the industry and FRA's expectations are that, like all operating rules of the railroad, those rules governing the issuance of and compliance with mandatory directives, will be strictly adhered to. "After arrival" orders are fundamentally no different from the old train order From S-A, Fixing Meeting Points for Opposing Trains, whereby a train would receive its "meet" order(s) when it left its initial terminal - meets that in most cases would not occur until many miles down the railroad. In today's dispatching environment, with the advances in communications technology, particularly on high density lines, railroad dispatching practices now permit train dispatchers to advance trains more expediently. This means that in the case of meets, these instructions are now typically given when trains are only a relatively short distance from the meeting point, which has greatly decreased the possibility of overlooking the order, since it will be almost immediately acted upon.

Additionally, most railroads have an operating rule that requires crews to remind each other when approaching an area where their train is restricted, typically two miles in advance, which includes an "after arrival" order, and some even go beyond that and require crews to broadcast this information over the radio. Also, most railroads have adopted the recommendation in Safety Directive 97-1 concerning track warrants in those instances in which a train meet is included in the movement authority, that the train dispatcher state "this track warrant includes a requirement to meet another train," which must be repeated back to the train dispatcher.

Based on the foregoing, FRA believes that most railroads in the Nation do have sufficient operating rules and instructions already in place to address the Safety Board's concern regarding restrictions placed on the issuance of "after arrival" orders without the intrusiveness of regulatory intervention by FRA. However, we must agree that this coverage is not uniform and complete among the many railroads, especially on those railroads covered by the General Code of Operating Rules (GCOR) that utilize track warrants as a means of main track authority. While we believe that it is essential that those rules governing the issuance of and compliance with mandatory directives must be strictly adhered to by employees, we must agree with the Safety Board that this does not always occur as demonstrated by the accidents that have resulted due to human errors. This speaks of the need for FRA to continue to facilitate actions necessary within the railroad industry for the development and implementation of positive train control as the Safety Board has recommended in Safety Recommendation R-01-06. But until positive train control can be fully achieved, we need to take those steps that will decrease the risk of collisions that may occur as a result of employee error.

FRA also agrees with the Safety Board's issuance of Safety Recommendation R-03-3 to Mr. Rod McCorkle, Chairman of the GCOR Committee, and for that Committee to discuss the contents of that recommendation which reads:

*"Add language to the track warrant rules to ensure that in territory not equipped with a positive train control system, track warrant authority that contains an after-arrival requirement is issued only to trains that have stopped at the location at which they will meet the opposing train."* (R-03-3)

FRA believes that the GCOR Committee should discuss and consider the adoption of this recommendation for trackage that is not equipped with some form of automatic train stop or positive train control. Should that Committee decide to incorporate the intent of Safety Recommendation R-03-3 in their GCOR track warrant rules, this would achieve the results that the Safety Board seeks in establishing a railroad operating rule that would limit the issuance of an after-arrival requirement only to trains that have stopped at the location at which they will meet the opposing train. This would be achieved without the necessity of FRA promulgating a regulation to achieve this same objective as FRA routinely monitors dispatching practices and compliance with railroad operating rules in this area, and reserves the right to take appropriate enforcement action when it is warranted.

To facilitate discussion and consideration of the Board's recommendation of this issue, I have instructed my staff to arrange a meeting with the appropriate railroad industry representatives. Should the rail industry decide not to adopt the language specified in Safety Recommendation R-03-3, FRA would then revisit Safety Recommendation R-03-2 to determine if a rule-making procedure should be initiated. It is FRA's belief that the rail industry should have the first opportunity to consider and act upon this issue before FRA would attempt to enter into rule-making.

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Therefore, based on the above discussion, FRA respectfully requests that the Safety Board give consideration to classifying Safety Recommendation R-03-2 as "Open-Acceptable Response," until such time as it is determined whether or not the rail industry will adopt Safety Recommendation R-03-3.

I appreciate the Safety Board's excellent investigation of the circumstances involved in the collision at Clarendon, and for the careful attention given in your letter providing your rationale for the safety recommendations made to bring about improvement to railroad safety.

Sincerely,

A handwritten signature in black ink, appearing to read "Allan Rutter". The signature is fluid and cursive, with the first name "Allan" being more prominent than the last name "Rutter".

Allan Rutter  
Administrator



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

Administrator

JUN 8 REC'D

1120 Vermont Ave., NW.  
Washington, DC 20590

MC 2040281  
Not 1558

MAY 26 2004

The Honorable Ellen Engleman Connors  
Chairman  
National Transportation Safety Board  
490 L'Enfant Plaza East, SW.  
Washington, DC 20594

Dear Madam Chairman:

This letter is to provide an update to the National Transportation Safety Board's (NTSB) Safety Recommendation R-03-01 addressed to the Federal Railroad Administration (FRA). This safety recommendation was one of two recommendations to FRA issued in the NTSB's letter of June 13, 2003, as a result of the NTSB's investigation of the head-on collision between two Burlington Northern Santa Fe Railway (BNSF) freight trains near Clarendon, Texas, on May 28, 2002.

Safety Recommendation R-03-01 reads as follows:

Promulgate new or amended regulations that will control the use of cellular telephones and similar wireless communication devices by railroad operating employees while on duty so that such use does not affect operational safety.

FRA provided its initial response to the NTSB in a letter dated October 3, 2003, which provided an extensive discussion of the amendments that FRA had made to Title 49, Code of Federal Regulations (CFR), Part 220, Radio Standards and Procedures, which became effective on January 4, 1999. The title of this regulation was changed at that time to "Railroad Communications," to reflect coverage of other means of wireless communications such as cell phones, data radio terminals, and other forms of wireless communications used to convey emergency and need-to-know information. Our initial response also indicated that the revisions to Part 220 were the result of a recommendation by the Railroad Safety Advisory Committee (RSAC).

FRA's initial reply also acknowledged that there are distractions in the course of normal everyday train operations that could momentarily divert a crewmember's attention. These distractions include responding to locomotive alarms, moving to a place of safety in the locomotive cab when notified of rock throwers in the area, and distractions involving radio



communication on a wide variety of both operational and non-operational issues, for which there are no Federal regulations.

FRA informed the NTSB that it believes "that the operating and safety rules of the railroads adequately address these situations and that responsibility for compliance rests with company managers and supervisors." Based on the discussion in our initial reply, FRA concluded "that the railroad industry's enforcement of its operating rules governing cell phone use is sufficient to address the issue without the need for the intrusiveness of Federal regulations at this time."

We indicated that FRA will continue to closely monitor railroad compliance with their operating rules restricting cell phone use and will not hesitate to initiate a rulemaking in this area, if it becomes necessary. Therefore, FRA requested that the NTSB give consideration to classifying Safety Recommendations R-03-01 as "Closed-Reconsidered."

On March 17, 2004, FRA representatives met with NTSB staff representatives in a "Safety With A Team" (SWAT) meeting. The NTSB representatives desired to discuss FRA's initial written reply to Safety Recommendation R-03-01, prior to its formal classification. FRA representatives said that should FRA write a new regulation or amend an existing regulation to prohibit the use of cell phones in the cab of the controlling locomotive of a moving train or engine by crewmembers, such regulation would be almost impossible to enforce. FRA also mentioned that it had canvassed the major railroads and obtained copies of their instructions, policies, and/or rules that place restrictions on the use of cellular telephones. As an example, FRA provided the NTSB staff with a copy of the BNSF's System General Order No. 16, issued October 15, 2003, that modified General Code of Operating Rules (GCOR) Rule 1.10, *Games, Reading, or Electronic Devices*, to add additional prohibitions against cellular telephone usage by crewmembers. FRA also informed the NTSB staff that it would provide copies of the other major railroads' instructions, policies, and/or rules with FRA's written update.

Enclosed are copies of such material that FRA has assembled from seven Class I railroads, the National Railroad Passenger Corporation (Amtrak), Southeastern Pennsylvania Transportation Authority (SEPTA), and New Jersey Transit System (NJT) and well as the two major rule books having numerous railroad subscribers: the Northeast Operating Rules Advisory Committee (NORAC) rules and the General Code of Operating Rules (GCOR). FRA's initial review of this material indicates that, while there is some disparity with respect to the detail of prohibitions concerning cellular telephone use, all railroads canvassed do have a rule that prevents and/or limits cellular telephone use.

In the SWAT meeting of March 17, an FRA representative indicated that FRA would discuss the subject of cellular telephone usage with the members of the RSAC, and determine what actions, if any, FRA should pursue in relation to this safety recommendation. At the full RSAC meeting conducted on April 27, 2004, Mr. Grady Cothen, Acting Associate Administrator for Safety, addressed this subject and asked that the members of all organizations come to the next full RSAC meeting prepared to discuss what their current instructions are for cellular telephone

usage, whether they need to be improved, and whether this is a subject that should be tasked to a new RSAC Working Group. The railroad members of the RSAC were asked to provide Mr. Dermis Yachechak, FRA Operating Practices Rules Project Manager, with copies of their current cellular telephone rules/instructions for employees. Mr. Cothen also explained that this new technology aids in reducing overcrowding of radio frequencies, and that FRA wants to take advantage of the benefits that cellular telephones provide to the railroad industry. He also indicated that the labor unions representing train and engine service employees would be asked to provide their input at the next full RSAC meeting.

FRA also contacted the GCOR Committee, after receiving Safety Recommendation R-03-01, concerning the enhancement of GCOR Rule 1.10, in their revised GCOR publication that is due to be published on April 3, 2005. The GCOR Committee decided not to amend the rule. Rather, their position was that each individual railroad should address this cellular telephone issue in its individual special instructions.

Therefore, based upon our discussion at the SWAT meeting held on March 17, and the additional information provided in this letter and its enclosures, FRA respectfully requests that Safety Recommendation R-03-01 be classified "Open-Acceptable Action," until such time as FRA determines the proper direction to take at the next full RSAC meeting, which will be scheduled in approximately three months.

Sincerely,



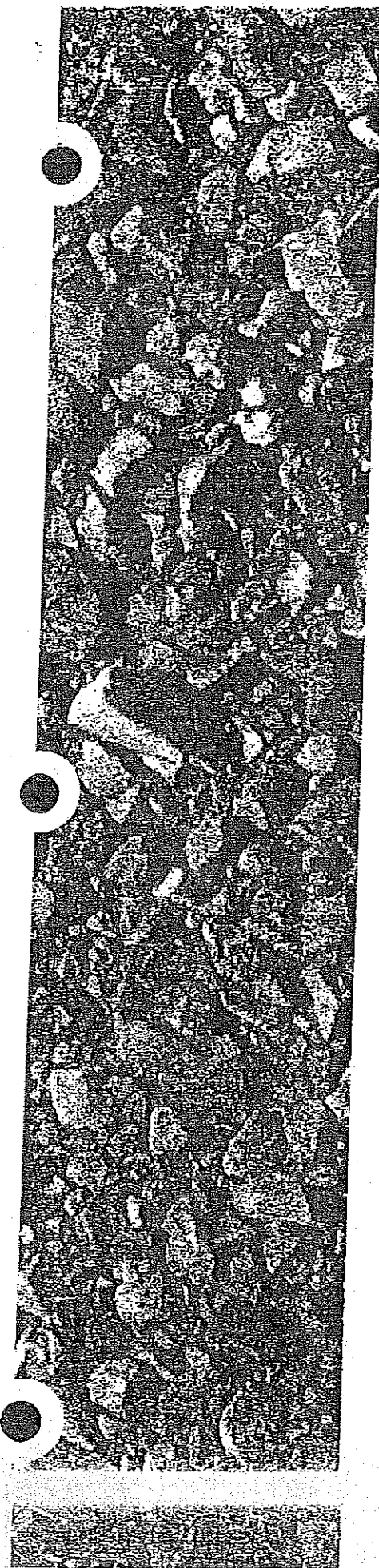
Allan Rutter  
Administrator

Enclosures

1. GCOR, Fourth Edition, effective April 2, 2000, Rule 1.10, *Games, Reading, or Electronic Devices*. (Note: Canadian Pacific (including Soo Line) and Kansas City Southern apply the basic GCOR Rule 1.10 on their properties.)
2. BNSF System General Order No. 16, issued October 15, 2003.
3. Union Pacific Railroad Cell Phone - System Superintendent Bulletin (Example provided is as issued on the Utah Service Unit, effective January 1, 2004.)
4. NORAC Operating Rules, Eighth Edition, effective January 1, 2003, Rule E, *Prohibited Behavior*.
5. NJT System Timetable No. 8, Special Instructions General Order No. 801 (page 113), effective January 10, 2004, Rule E-2, *Cell Phones*.

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6. Amtrak Systemwide Instructions - *Use of Electronic Devices* (Example provided is as issued on the Mid-Atlantic Division-Northeast Corridor, Bulletin Order No. 8-70, effective February 23, 2004, item (f)).
7. SEPTA, Timetable, Special Instructions and Other Operating Publications, effective November 1992, Rule E-S2, *Use of Headphones, Ear Pieces, and Other Electronic Peripherals*.
8. CSX Transportation, Inc., Systemwide Instructions, *Prohibited Behavior-Cellular Telephones* (Example provided is Rule E-1 from the CSX's Northeast Region, Albany Division Timetable No. 3, effective April 1, 2002.)
9. CSX Transportation, Inc., Operating Rules, effective January 1, 1999, latest revision July 1, 2003, Rule 502-A.
10. Norfolk Southern (NS) Operating Rules, effective December 15, 1999, Rule GR-27, Full rule: *Undivided attention to duty is required. While on duty, employees must not engage in any activity that will interfere with or distract their attention from their work.*
11. Canadian National/Illinois Central Railroad, U.S. Operating Rules, effective June 2, 2002, Rule Q, *Sleeping - Playing Games (that part reading in **full**: Employees must not, while on duty, use unauthorized electronic devices).*



# GCOR

## 2000

## General Code of Operating Rules

Fourth Edition

Effective April 2, 2000

These rules herein govern the operation of the railroads listed and must be complied with by all employees regardless of gender whose duties are in any way affected thereby.

They supersede all previous rules and instructions inconsistent therewith.

**1.6.1 Motor Vehicle Driving Records**

Employees certified as locomotive engineers, whatever class of service, must report convictions for:

- Operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance.
- Refusal to undergo such testing when a law enforcement official seeks to find out whether a person is operating under the influence of alcohol or a controlled substance.

State-sponsored diversion programs, guilty pleas, and completed state actions to cancel, revoke, suspend, or deny a driver's license are considered convictions as applied to this rule.

An employee must report any conviction to an employee assistance representative no later than the end of the first business day immediately following the day the employee receives notice of the conviction.

**1.7 Altercations**

Employees must not enter into altercations with each other, play practical jokes, or wrestle while on duty or on railroad property.

**1.8 Appearance**

Employees reporting for duty must be clean and neat. They must wear the prescribed uniform when required.

**1.9 Respect of Railroad Company**

Employees must behave in such a way that the railroad will not be criticized for their actions.

**1.10 Games, Reading, or Electronic Devices**

Unless permitted by the railroad, employees on duty, must not:

- Play games.
- Read magazines, newspapers, or other literature not related to their duties.

or

~~Use electronic devices not related to their duties.~~

**1.11 Sleeping**

Employees must not sleep while on duty, except as outlined under Rule 1.11.1 (Napping). Employees reclined with their eyes closed will be in violation of this rule.

**1.11.1 Napping**

Napping is permitted by train crews, except crews in passenger, commuter or yard service, under the following conditions:

- The crew is waiting for departure of their train.
- or
- The train is stopped enroute waiting to be met or passed by a train, waiting for track work, waiting for helper locomotive, or similar conditions.

Restrictions are as follows:

- A job briefing must be conducted, with agreement reached as to who will nap and who must remain awake. Each crew member has the right and responsibility to refuse to allow another

BNSF

SYSTEM GENERAL ORDER No. 16 / ALL DIVISIONS

Page 1 of 2

DADPPRN1

KANCITY KS

DENNIS YACHECKAK - FRA WASH DC

\*\*\*\*\* Post \*\*\*\*\*

10/15/03

07:31:27CT

October 15, 2003

BNSF Railway Co.  
ALL DIVISIONS

SYSTEM GENERAL ORDER No. 16

TO ALL CONCERNED,

SUBJECT: General Code of Operating Rules Amendments

System General Order No. 8 is cancelled.

\*\*\*\*\*  
Explanation: Rule 6.6 is amended by adding requirements for a job safety briefing before making a back up movement to pick up a crew member.  
\*\*\*\*\*

The following are amendments to the General Code of Operating Rules, Fourth Edition, in effect April 2, 2000:

~~Games, Reading, or Electronic Devices, the following~~  
is added:

~~Electronic devices are covered.~~

- \* All crew members are prohibited from using cell phones/laptop computers when their train or engine is moving. (Electronic work order reporting devices and handheld PDA devices are to be considered as laptop computers in the application of this rule).
- \* Crew members may use a cell phone when their train or engine is stopped provided its use does not interfere with required duties such as train inspections or switching activities.
- \* If necessary for conductor to report work using a cell phone, this must be done while the train or engine is stopped.

Exception: Crew members of passenger trains may use a cell phone or PDA device for business purposes while the train is moving provided they are not in the controlling unit or the cab room of the controlling cab car.

Rule 6.6 Picking Up Crew Member, the following is added after Item 5: Before a crew requests and makes a move under this rule, a job safety briefing between crew members must be conducted that includes:

- 3 Confirmation of authority limits
- 3 Location of nearest affected road crossings in direction of movement
- 3 Distance to be shoved
- 3 Confirmation that train is intact, verified either visually or by determining that brake pipe continuity exists using end-of-train device or distributed power telemetry.

The last paragraph is changed to read:  
When movement is made, restricted speed does not apply.

SYSTEM GENERAL ORDER No. 16 / ALL DIVISIONS

Page 2 of 2

Trains backing up under the provisions of this rule may pass signals indicating Stop and Proceed, without stopping.

APPROVED:

C R ICE

EXEC VICE PRESIDENT L COO

SYSTEM GENERAL ORDER(S) FOR THE SYSTEM DIVISION IN EFFECT

9,12-16



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**From:** GAFOWLER@up.com  
**Sent:** Thursday, February 26, 2004 10:58 AM  
**To:** Yachechak, Dennis  
**Subject:** ~~CONFIDENTIAL~~

FYI

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Union Pacific Railroad  
UTAH Superintendent Bulletin No. - 28

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**Purpose:**  
Cellular Phone Use Policy

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**Effective Date:** 0001, January 01, 2004  
**Cancellation Date:** 2359, December 31, 2004

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**Cancellations :**

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UPRR employees are required to follow all applicable state and local laws regarding cellular phone usage while operating motor vehicles. Some states and municipalities prohibit or limit cellular phone usage while driving vehicles. However, at a minimum, employees *must* follow this Policy regarding cellular phone usage while driving Company vehicles, Company-reimbursed vehicles, or other equipment.

**When Operating a motor vehicle:**

When initiating or receiving cellular phone calls, the driver must utilize hands-free equipment. If hands-free equipment is not available, bring the vehicle safely to a stop until the call is completed. Speed dialing should be used whenever possible.

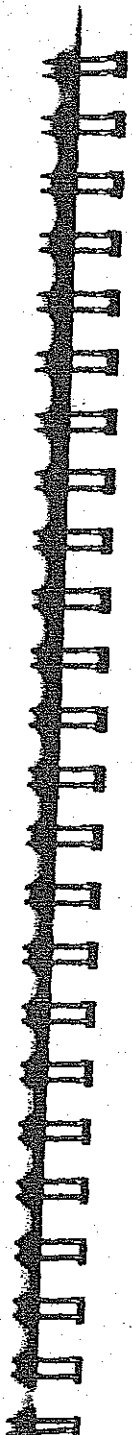
**Other safety guideline:**

- Unless authorized, use of a cell phone while operating a train or locomotive is prohibited except in an emergency or when the train or locomotive is stationary.
- Taking notes while driving is prohibited.
- Cellular phones must be turned off while refueling a vehicle or in blast zones.
- Keep phone conversation in the vehicle short. If an extended conversation is necessary, advise the other party that you will call them back after you have safely stopped the vehicle.
- Do not use cellular phones when in Red Zones or other areas where inattention could result in being struck by tools or equipment.

---

Cameron A. Scott  
Superintendent





# NORAC OPERATING RULES

**EIGHTH EDITION**

Effective January 1, 2003



## NORAC MEMBER RAILROADS

### Full Members

Amtrak  
Bay Colony Railroad (BCLR)  
Canadian Pacific Railway (CP)  
Conrail Shared Assets (CR)  
CSX Transportation (CSXT)  
Genesee & Wyoming - NY/PA Region (G&W)  
New Jersey Transit Rail Operations (NJT)  
New York, Susquehanna & Western Rwy. Corp. (NYSSW)  
Norfolk Southern Corporation (NS)  
Providence and Worcester Railroad Company (P&W)  
Reading Blue Mountain & Northern Railroad (RBM&N)  
Southeastern Pennsylvania Transp. Authority (SEPTA)

(Rule D Continued)

To remain in service, employees must refrain from conduct that adversely affects the performance of their duties, other employees, or the public. Employees must also refrain from conduct that discredits the Company.

Acts of insubordination, hostility or willful disregard of the Company's interest are prohibited.

The following behaviors are prohibited:

1. While on duty or on company property: Gambling, fighting or participating in any illegal, immoral or unauthorized activity.
2. When required to perform service: Sleeping or assuming the attitude of sleep. ~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~ Card playing or reading other than Company instructions.
3. Solicitation of gratuities from patrons.

F. Reporting Unusual Occurrences

Derailments, collisions, storms, washouts, high water, fires, obstructions to tracks, and any other condition which could result in death or injury, damage to property or disruption of railroad operations must be reported to the Dispatcher by the quickest available means of communication.

G. Drugs and Alcohol

Employees are prohibited from engaging in the following activities while on duty or reporting for duty:

1. Using alcoholic beverages or intoxicants, having them in their possession, or being under their influence.
2. Using or being under the influence of any drug, medication, or other controlled substance - including prescribed medication - that will in any way adversely affect their alertness, coordination, reaction, response or safety. Employees having questions about possible adverse effects of prescribed medication must consult a Company medical officer before reporting for duty.
3. Illegally possessing or selling a drug, narcotic or other controlled substance.

An employee may be required to take a breath test and/or provide a urine sample if the Company reasonably suspects violation of this rule. Refusal to comply with this requirement will be considered a violation of this rule and the employee will be promptly removed from service.

**N TRANSIT**



**SYSTEM  
TIMETABLE NO.**

**8**

**SPECIAL INSTRUCTIONS  
GO 801**

Effective 12:01 A.M.  
Saturday, January 10, 2004

**FOR THE GOVERNMENT  
OF EMPLOYEES ONLY**

E-2

~~CELL PHONE~~  
Company issued cell phones are to be used for company business only, while on duty. The use of personal cell phones to make or receive personal phone calls is prohibited when required to perform service. Personal cell phones may only be used in case of an emergency, or when necessary in conjunction with the safe operation of the train or a track car.

G-1. DRUG AND ALCOHOL TESTING

Any employee who performs covered service for a railroad on or after February 10, 1966 shall be deemed to have consented to testing as required in the Code of Federal Regulations, 49 CFR part 219 Subpart C; and consent is implied by performance of such service. Under Federal Railroad Administration (FRA) safety regulations, an employee may be required to provide a blood and urine sample after certain accidents and/or incidents. A complete copy of the Federal regulation is available for review at the office of the Manager of Operating Rules, in Kearny.

G-2. APPLICATION OF RULE G

In the application of Rule G compliance, where the current NJ TRANSIT Drug and Alcohol Policy is more restrictive, the company policy will apply.

G-3. DRUG AND ALCOHOL POLICY

Employees must obtain and be governed by NJ Transit's policy "Drug and Alcohol Free Workplace". Employee's must read and understand its requirements and if necessary refer any questions to the Medical Services Department for an explanation. A copy of the policy is included in Section 6 of the TRO-12.

H-1. SMOKING

The use of tobacco by employees in the operating control compartments of cab cars and MU cars is prohibited. Smoking is only permitted within the operating compartment of a locomotive.

L-1. RIDING HEAD END

Under no circumstances are employees permitted to occupy the head end of a train unless authorized. No more than four persons, including the assigned Conductor in the performance of his duties, is to be allowed to ride in the engine control compartment of a passenger train.

Conductors and Assistant Conductors must not occupy the head end of the train unless necessary in the performance of their duties.

L-2. HEAD END AUTHORIZATION

In the application of Rule L, the following will govern:

- A. The **TRO-1000A** (HEAD END/TRAIN RIDING AUTHORIZATION) has red and black print. It allows the bearer to access both the engine control compartment and the body of the train. The TRO-1000B (TRAIN RIDING AUTHORIZATION) has black print only. It allows the bearer access to the body of the train only. Both should be considered valid transportation on any train.
- B. Dispatchers and NJ TRANSIT police officers presenting identification will be authorized to ride the engine control compartment. All other employees must present a "TEMPORARY TRO-1000" form for authority to ride the engine control compartment.



**Effective 12:01 A.M., Monciav. February 23, 2004**

This BO supersedes BO No. 8-69 and contains all current information. BO 8-33a remains in effect. On the date this BO was printed, the following were in effect:

GO	804
DN	8-29
NEC General Road Foreman Notice	111
NEC Customer Service Notice	2002-27
Division General Order	2004-S01

**(a) TIMETABLE AUTHORITY**

02/23/04

**1. SCHEDULE CHANGES**

- Trains 98, 183 and 2109 schedules revised. Train 51 Sunday schedule added. See attached chart on last page of this BO for revised schedule. Train 648 arrives Philadelphia 5:12.50 PM. Pages 41,43, 64 and 71 revised.
- The following Harrisburg Line schedules modified due to on going track work. Pages 85, 86 and 87 revised:
  - Train 647: Lancaster L6.05, Mount Joy L6.16, Elizabethtown L6.25, Middletown L6.33 and Harrisburg S6.50.
  - Train 642: Harrisburg S6.10, Middletown S6.20, Elizabethtown S6.30, Mount Joy S6.37. Other times are not changed.
  - Train 618: all station times 15" later.

**(b) SUPPLEMENTAL BULLETIN ORDER 8-33a**

06/23/03

Crews who operate over both the Mid-Atlantic and New York Divisions need only retain their home Division's copy of Supplemental Bulletin Order No. 8-33a (dated June 14, 2003), since both Supplemental Bulletin Orders are identical. This instruction applies only to the Mid-Atlantic and New York Division Supplemental Bulletin Orders No. 8-33a. Special instruction 1-S3, page 259, revised.

**(c) "CAB SPEED" SIGNAL INDICATION**

10127103

Special Instruction 281 a-S1, page 319, is deleted in its entirety. The Cab Speed signal indication contained in NORAC Rule 281a governs.

**(d) PHYSICAL CHARACTERISTICS QUALIFICATION -CONDUCTORS AND ENGINEERS**

02/02/04

The following sentence is added to the end of the first paragraph of Special Instruction C-S5. Employees promoted to Engineer must qualify on physical characteristics specific to Engineers, for the territory over which they will operate. Special Instruction C-S5, page 249 revised.

**(e) FORM D'S AND PLATE ORDERS**

02116104

Special Instructions 902-S1 and 902-S2, page 340, deleted. information contained in these instructions is transferred to the New York and New England Division sections of the Train Dispatcher's Manual.

**(f) USE OF ELECTRONIC DEVICES**

12122103

While on duty, employees are prohibited from using cellular phones, pagers and personal digital assistants (PDA's) to conduct personal business.

Employees who use cellular phones to conduct railroad business are required to follow all applicable state and local laws regarding cellular phone usage while operating mobile equipment.

- 1. The following applies regarding cellular phone usage while on locomotives, trains, cranes, or other motorized railroad equipment:

- a. Unless authorized by Special Instruction, use of a cellular phone while operating a locomotive, crane, or other motorized railroad equipment is prohibited except in an emergency or when the equipment is stationary.
  - b. Employees using cellular phones to conduct railroad business must not use the phone while riding in the controlling cab of a moving train, unless the business is associated with the movement of the train.
  - c. Passenger train Conductors may use a cellular phone or PDA device to conduct railroad business while the train is moving provided they are not in the controlling cab, or controlling the movement from the leading end.
2. **The following applies regarding cellular phone usage while operating a Company highway vehicle:**
- a. When initiating or receiving cellular phone calls, the driver must utilize hands-free equipment, if available. When hands-free equipment is not available, if practicable, bring the vehicle safely to a stop until the call is completed.
  - b. Speed dialing should be used whenever possible.
  - c. Conversations should be as brief as possible.
  - d. Cellular phones must be turned off while refueling a vehicle.
3. **Other safety guidelines:**
- a. Do not use cellular phones when in areas where inattention could result in being struck by tools or equipment.
  - b. Unless track or roadway is out of service, employees must not use a cellular phone in the foul of the track or roadway.
  - c. Remain stationary (preferably seated) if possible, when using a cellular phone whether in an inside or outside environment

SI E-S2 added. Page 251 revised.

**(g) ENGINES & EQUIPMENT**

**1, PASSENGER TRAIN OPERATION**  
**34-S1 1 COUPLER LOCKING PINS**

01/12/04

To preclude the unintentional uncoupling of automatic couplers of Amtrak locomotives and cars during winter conditions, certain Amtrak trains are equipped with locking pins (see list, below). These pins are located in the "rotary lock lift" mechanism underneath the coupler and are secured with a "hair pin" which is placed through a hole drilled in the end of the bolt. This "hair pin" should be visible from the operating side of the cut lever.

These locking pins are normally inserted and removed by mechanical department employees at initial and final terminals of these trains. Requirements for HEP shutdown and blue signal protection are in effect during this procedure.

**If it becomes necessary to uncouple any cars from these trains en route, employees must:**

- Visually check for locking pins before attempting to operate the cut lever. If none are visible, carefully operate cut lever to avoid injury if lever does not fully rotate.
- If locking pin is visible, ensure that protection against equipment moving is provided, then remove "hair pin" from end of locking pin. Locking pin may be removed by pulling it out from opposite side of coupler. **DO NOT USE FINGER TO PUSH PIN OUT OF THE ROTARY LOCK LIFT.**

To notify train crews, mechanical department employees will write, "coupler pinned" on the bottom of the 1 OC Summary. However, employees must expect the following trains to be pinned and take precautions to avoid injury when uncoupling locomotives and cars.

All cars on trains operating into Canada are pinned throughout the entire year (the *Maple Leaf*, New York – Toronto, trains 63/64; the *Adirondack*, New York – Montreal, trains 68/69/70/71). In addition, the following trains have been approved for coupler pinning during winter operation from December through the end of April:



Southeastern Pennsylvania Transportation Authority

Railroad Division

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**Timetable  
Special Instructions  
and Other  
Operating  
Publications**

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**SYSTEM SPECIAL INSTRUCTIONS**

**C-S8. LOCOMOTIVE ENGINEER TRAINEES: PRIOR SAFETY CONDUCT REVIEW**

In accordance with 49 CFR Part 240, employees in training to become a Locomotive Engineer are required to furnish data on prior safety conduct as an employee of another railroad. If employed by any railroad other than SEPTA within three years of becoming certified, individuals must obtain those safety records from the previous employer. A form letter is available from the Engineer Certification Program Administrator to obtain these records.

Prior safety conduct records may not be older than 366 days prior to your date of certification. To allow sufficient time to review your records, the Authority requires that your record(s) be submitted to the Engineer Certification Program Administrator within 60 days of entering SEPTA's Engineer Training Program.

**C-S9. STATE OF NEW JERSEY: QUALIFICATIONS**

An engineer must work a trip in road service at least once in a twelve month period in order to maintain physical characteristic qualifications. Engineers who have not worked over a specific territory within a twelve month period must not accept an assignment that requires working over that territory.

An engine service employee not working as an Engineer must not operate an engine in the State of New Jersey unless qualified on the physical characteristics of the portion of the road to be used in the same manner prescribed for an Engineer.

If absent from all railroad duty for 30 days or more qualified employees must fulfill the requirements of Special Instruction C-S1.

**D-S1. EMPLOYEE CONDUCT: PREPAREDNESS FOR DUTY**

Employee must be fully prepared for their assignments when reporting for duty. Employees who have been issued equipment or materials must have all such items with them and available while on duty. Lost, stolen, or damaged equipment must be reported immediately to the proper authority.

**E-S1. POSSESSION OF FIREARMS AND OTHER WEAPONS**

Employees are prohibited from having firearms or other weapons in their possession while on duty or while on Authority property, unless authorized by SEPTA.

~~SEE SECTION 101.01 WEAPONS AND OTHER  
...  
... use of  
...ed.~~

**F-S1. UNUSUAL OPERATING CONDITIONS**

**A Excessive Heat Operations**

Excessive heat operations are in effect when the temperature is in excess of 90° Fahrenheit. When excessive heat operations are in effect, train crews will be notified verbally via system-wide radio broadcast messages from the RROC. When so notified, trains must not exceed 50 MPH, unless otherwise restricted.

**SYSTEM SPECIAL INSTRUCTIONS**

**9. Severe Weather Warning**

When a severe weather advisory is in effect, train crews will be notified verbally via system-wide radio broadcast messages from the RROC.

- 1. Non-tinted Severe Weather Warnings include conditions such as high winds, heavy rains, high water, flash floods, tornado and/or hurricane conditions.
- 2. Severe Winter Weather Warnings include conditions such as sleet, freezing rain, significant snow accumulation and/or blizzard conditions.

When advised of any severe weather condition, crews must take appropriate actions to report specific hazardous conditions affecting the movement of the train at Normal Speed and ensure safety.

When relieved, all unusual operating condition information must be communicated to the relieving crew.

**F-S2. SERIOUS SERVICE INTERRUPTIONS**

When a serious service interruption occurs, train crews will be notified verbally via system-wide radio broadcast messages from the RROC. Any crew member receiving such a broadcast must inform the Conductor, who must ensure that all other crew members are informed.

When a serious service interruption occurs, all train and engine service personnel who report to, are relieved at, or terminate at any of the locations indicated below must immediately report to the supervisor at the crew quarters for that location. Upon reporting, all personnel shall provide:

- 1. Name,
- 2. Run number,
- 3. Last train worked,
- 4. Next scheduled train, and
- 5. Time scheduled.

Personnel will then be governed by the supervisor's instructions.

The following are reporting locations:

- Wayne Jct. and Roberts Yard - Roberts Yard Crew Quarters
- Market East and Suburban Station - Suburban Station Crew Quarters
- 30th St. and Powelton Yard - Powelton Yard Crew Quarters





**NORTHEAST REGION  
ALBANY DIVISION  
TIMETABLE NO. 3**

**EFFECTIVE  
MONDAY, APRIL 1, 2002  
AT 0001 HOURS  
CSX STANDARD TIME**

J.C. Decker  
General Manager

## SPECIAL INSTRUCTIONS

### INSTRUCTIONS RELATING TO NORAC OPERATING RULES

#### C-1 QUALIFICATIONS - BUFFALO TERMINAL

Buffalo Terminal is a consolidated terminal that includes all yards and associated trackage within the following limits:

- A. Buffalo Terminal Subdivision.
- B. Lake Shore Subdivision between CP-2 and MP QD 6.0.
- C. Belt Line Subdivision.
- D. Niagara Subdivision between CP-437 and MP QDN 9.3.

Train and engine road crews qualifying into Buffalo are required to qualify in the Buffalo consolidated terminal.

\*Exception, Selkirk long pool, home terminal Selkirk, will only be required to qualify on the Buffalo Terminal Subdivision between CP-429 and CP-437.

Employees that need to qualify on the above territory can contact the road foreman at Buffalo to make an appointment to take the characteristics exam.

#### C-2 MAINTAINING QUALIFICATIONS

Unless authorized by the Transportation Superintendent, an engineer or track car driver not making a trip within 12 months over the railroad to review the physical characteristics of the territory on which they are required to perform service must not be assigned as engineer or track car driver until examined by the proper division officer.

Employees ordered to perform service as conductor, engineer or track car driver over any portion of the railroad for which they are not qualified must immediately inform the train dispatcher.

#### ~~5-1 PROHIBITED BEHAVIOR - CELLULAR TELEPHONES~~

The use of cellular telephones, on a moving train, by train and engine service employees located on the lead engine or controlling end is prohibited.

#### 3-1 SAFETY - ATTIRE

During accumulations of ice and snow, you must be suitably dressed to perform your duties safely and in a manner that will not interfere with the free use of your feet. Therefore, to provide a safe environment, the use of anti-slip grid footwear is mandatory while performing your duties.

#### 1-1 REPORTING FOR DUTY - AWAY-FROM-HOME LODGING

Employees using any lodging facility are required to properly register with the facility at the time of arrival and at the time of departure.

#### 1-1 GENERAL BULLETIN REFERENCES

The following references will be used in General Bulletins and will indicate as shown below:

- FLAGMAN - Refer to NORAC Rule 131 and Division Special Instruction 131-I.
- SPEED RESTR - Temporary Speed Restriction.
- MAX SPEED. - Timetable maximum speed change.
- PHYS CHAR - Physical characteristics change.
- GRADE XING - Highway crossing at grade instruction or information,
- WORK AREA - Approach location looking out for work activity and stop unless work area is observed to be clear.

#### 72-1 DEFECT DETECTORS - RADIO TRANSMISSION

Transmissions from Radio Alarm defect detectors must be promptly acknowledged on the locomotive radio.

Example: "Company name, Train, Engine 6234, location, track no., No defects, out.

When the speed is included in the detector transmission it does not need to be repeated.

#### 72-2 DEFECT DETECTORS - RADIO TRANSMISSION

It is the responsibility of the conductor to respond to the transmission from radio alarm defect detectors when located on the lead unit. The engineer will respond if the conductor's actions will interfere with the safe operation of the locomotive controls or in the absence of the conductor.

#### 80-1 RESTRICTED SPEED

In the application of NORAC Rule 80 (Restricted Speed) trains other than passenger trains and track cars must not exceed 15 MPH.

#### 96-1 SIDINGS - SPEED

Unless otherwise restricted, Maximum Speed on non-controlled (non-signalized) sidings is Restricted Speed not exceeding 10 MPH.

#### 97-1 RUNNING TRACKS - SPEED

Unless otherwise restricted, Maximum Speed on Running Tracks is Restricted Speed not exceeding 10 MPH.

#### 98-1 YARD & INDUSTRIAL TRACKS - SPEED

Unless otherwise restricted, Maximum Speed on Yard and Industrial Tracks is Restricted Speed not exceeding 10 MPH.

#### 98-2 ENGINE SERVICE & CAR SHOP REPAIR TRACKS - SPEED

Maximum Speed on all engine servicing tracks and car shop repair tracks is Restricted Speed not exceeding 5 MPH.

# CSX

## Operating Rules

*Effective January 1, 1999  
Latest Revision July 1, 2003*

Employees subject to call for duty must be at their usual calling place or furnish information as to where they must be located. When they wish to be absent or if they are unable to perform service, employees must notify the proper authority. They must not wait until a call for duty is received to request permission to be marked off.

Employees must give immediate written notice to their supervising officer of a change in their address or their telephone number. Employees must call for their mail regularly and must answer correspondence promptly.

**All telephonic messaging systems must be checked upon completion of required rest periods mandated by the Hours of Service Law and FRA interpretations. Telephonic messaging includes but is not limited to:**

1. Voice mail,
2. Cell phone Audex and
3. Pager/beeper messaging or forwarding.

Employees must not engage in any other type of work or business:

1. That interferes with their proper rest or performance of their railroad duties,
2. That is detrimental to or in competition with the Company, or
3. During their tour of duty or on Company property without permission from proper authority.

501. All employees must behave in a civil and courteous manner when dealing with customers, fellow employees and the public. Employees must not:

- Use boisterous, profane, or vulgar language,
- Enter into altercations while on duty or on company property,
- Play practical jokes or engage in horseplay while on duty or while on company property,
- Be disloyal, dishonest, insubordinate, immoral, quarrelsome, vicious, careless, or incompetent,
- Willfully neglect their duty,
- Endanger life or property,
- Make any false statements, or
- Conceal facts concerning matters under investigation.

501-A. Criminal conduct which may damage the Company's reputation is prohibited. Criminal conduct which indicates a potential danger to the Company, its employees, its customer or the public is prohibited.

502. Employees must:

- Devote themselves exclusively to the Company's service while on duty,
- Render every assistance in their power in carrying out the rules and special instructions, and
- Cooperate with other employees for proper functioning under the rules and instructions.

- Read literature unrelated to their work;
- Use unauthorized radios or television sets;
- Participate in any unauthorized activity while on duty or while on Company property that may interfere with the performance of the work of any employee; or
- Have in their possession any firearms or other weapons while on duty, while on Company property, or while occupying facilities paid for or furnished by the Company, unless authorized by the Company.

503. Employees must keep radios and switch keys that are issued to them in their possession while on duty. When not on duty, employees must keep radios and switch keys in a secure place to prevent their unauthorized use.

504. Employees must exercise care and economy in the use of railroad property. Employees must return in good order all property assigned to them or entrusted to their care when:

- Leaving the service, or
- Upon demand by proper authority.

505. Employees are required to keep the railroad premises under their jurisdiction in a clean, orderly and safe condition. Employees must not:

- Mar, deface or destroy any railroad property; or
- Litter railroad property or right of way.

Only properly authorized information or information that is required by law may be posted in or upon railroad property.

Engine windows and cab entrance doors must be kept closed on all unoccupied engines. Engine room doors must be kept closed while the engine is in service.

506. The doors of loaded oars must be closed and secured, unless left open for ventilation. To the extent feasible, doors of empty box cars must be kept closed.

OPERATING RULES

THIS BOOK IS THE PROPERTY OF

**NORFOLK SOUTHERN**

AND ITS RAILROAD SUBSIDIARIES

ISSUED TO

NAME	EMPLOYED AS

who must return it to the proper officer when called for, or when leaving the service.

Revised pages must be inserted in the book in place of older pages of the same number.

or engineer will provide additional information, such as, "Train (identification) is at (location) and will not depart here before (time)." The train must not depart that location before the time given. /Vote Rule 807.

GR-26. Sleeping on duty is prohibited. An employee lying down or in a slouched position with eyes closed or with eyes covered or concealed will be considered sleeping.

~~GR-27. Undivided attention to duty is required. While on duty, employees must not engage in any activity that will or distract their attention from their work.~~

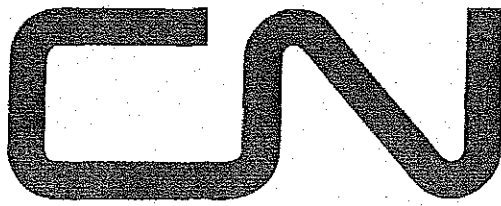
GR-28. Telephone booths and outside telephone boxes that have locks must be kept locked when not in use.

GR-29. Employees must wear suitable clothing and footwear to perform their duties safely. Hair must be worn so as not to present a safety hazard. When engaged in railroad activities, employees must not wear articles of adornment that would cause a safety hazard.

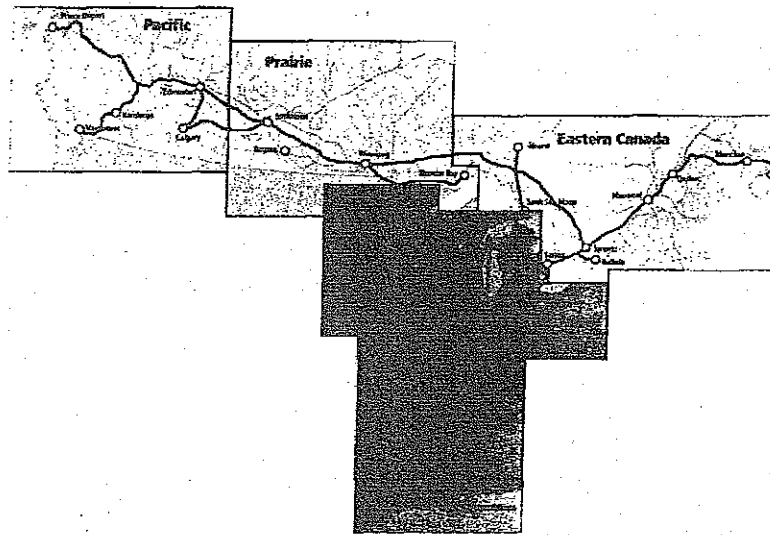
GR-30. Unless properly authorized, employees are prohibited from restricting or interfering with the normal intended function of any device or equipment on locomotives, cars, or other railroad property except in case of emergency, in which case report must be made to the proper authority.

The use of unauthorized devices is prohibited.

GR-31. Cars or other equipment that would restrict the movement must not be placed in a train except as authorized by the Division Superintendent. Conductor and engineer of the train must be informed of restricted equipment.



**CANADIAN NATIONAL/  
ILLINOIS CENTRAL  
RAILROAD**



**U.S. OPERATING RULES  
SECOND EDITION**

**EFFECTIVE 1200  
SUNDAY, JUNE 2, 2002**

that arrived soon after. The employee in charge must secure the names regardless of whether these persons admit knowing anything about the accident.

The employee in charge must also obtain the license numbers of nearby automobiles. When necessary, other employees can assist in obtaining this information, which must be included in reports covering the incident.

Where signaling devices are provided, it must be determined who among the witnesses, can testify whether the signaling devices were functioning properly. When possible, obtain the names of witnesses who can testify about bell and whistle signals.

**L. EQUIPMENT INSPECTION.** When persons are injured as a result of an accident that may have been caused by engines, cars, tools, appliances, or machinery, the employee in charge must immediately inspect the equipment and make a report of the inspection. The inspection must be made at the first opportunity, before engines or cars leave the location where the accident occurred. Further inspection must be made by a qualified mechanical department representative.

**M. APPEARANCE.** Employees on duty must be neat in appearance, and shall keep the premises in their charge in a neat and orderly manner.

**N. RAILROAD PROPERTY.** In case of danger to the railroad's property, employees must protect the property.

Employees are responsible for proper use and care of railroad property. When leaving the service or when requested by the proper authority, they must return all company property. Employees must not use railroad property for their personal use.

Employees who operate company vehicles must take precautions to prevent accidents or damage to the vehicles and must obey state and local traffic laws.

Switch keys issued to employees must be kept in their possession or control and must not be used by unauthorized persons.

Employees must not remove any material from railroad property or from property served by the railroad, unless authorized to do so. Articles of value found on railroad property must be reported or turned in to the proper authority.

**O. CREDIT.** Unless specifically authorized, employees must not use the railroad's credit and must not receive or pay out money on the railroad's account.

**P. EMPLOYEE JURISDICTION.** Employees are under the jurisdiction of the supervisors of the railroad they are operating on. When operating on another railroad, unless otherwise instructed, employees will be governed by:

- Safety rules and the air brake and train handling rules of their employer
- The operating rules and timetable/special instructions of the railroad upon which they are operating.

Employees must not, while on duty,

- play games
- be involved in horseplay
- read magazines, newspapers, or other literature not concerned with their duties or

Employees must not sleep while on duty. Employees slouched or reclined with their eyes closed or concealed will be in violation of this rule.

**R. TOBACCO USE.** Smoking is prohibited in any indoor or other enclosed company work space. This includes:

- Office facilities
- Shop facilities
- Leased buildings

REV. 5/4

August 19, 2004

Ms. Betty Monro  
Acting Administrator  
Federal Railroad Administration  
Washington, D.C. 20590

Dear Ms. Monro:

Thank you for the Federal Railroad Administration's (FRA's) October 3, 2003, and May 26, 2004, responses to the National Transportation Safety Board regarding Safety Recommendations R-03-1 and -2, stated below, and your May 26, 2004, update regarding R-03-1. These recommendations were issued to the FRA as a result of the Safety Board's investigation of a head-on collision that occurred between two Burlington Northern Santa Fe Freight trains near Clarendon, Texas, on May 28, 2002, in which one crewmember was fatally injured, two crewmembers were critically injured, and another crewmember received minor injuries. Safety Recommendations R-03-1 and -2 were discussed in a Safety With A Team (SWAT) meeting the Safety Board held with the FRA on March 17, 2004. This letter addresses only Safety Recommendation R-03-1. Safety Recommendation R-03-2 will be addressed in another letter.

R-03-1

Promulgate new or amended regulations that will control the use of cellular telephones and similar wireless communication devices by railroad operating employees while on duty so that such use does not affect operational safety.

The Safety Board notes the FRA's request on October 3, 2003, that Safety Recommendation R-03-1 be classified "Closed—Reconsidered" in consideration of the FRA's determination that the railroad industry's enforcement of its current operating rules governing cell phone use are sufficient. All four crewmembers involved in the Clarendon accident were carrying personal cell phones on the train, and the Board determined that the probable cause of this accident was, in part, the coal train engineer's use of a cell phone when he should have been fully attending to the track warrant under which he was operating the train.

As we discussed at the SWAT meeting on March 17, 2004, the Safety Board does not share the FRA's confidence that the railroad industry has taken sufficient steps to prevent the use of cell phones for personal matters when crewmembers should be attending to the operation of the train. The circumstances of the Clarendon accident certainly suggest that current industry enforcement is insufficient. The Board is concerned that the risks of complacency and attention deficiencies associated with cell phone use are not sufficiently understood or recognized. Unlike



some other distractions to operating crewmembers, such as rocks thrown at the train or radio communications, cell phone use has the potential to distract crewmembers for a considerable length of time, and is avoidable.

The FRA acknowledged concern and issued instructions to its own staff to watch for unauthorized use of cell phones. However, the FRA also indicated that it believes a regulation would be almost impossible to enforce. In the FRA's May 26 letter, you provided the Safety Board with additional information requested during the March SWAT meeting regarding this issue. The Board is aware that the two major rule books, reviewed by seven Class I railroads and three other railroads, both had prohibitions or limitations concerning cellular telephone use.

At the FRA's April 2004 railroad safety advisory committee (RSAC) meeting, the agency requested its railroad members to be prepared to discuss their instructions for the use of cellular telephones at the next full RSAC meeting. The FRA would then determine what actions, if any, the agency should pursue to control the use of cellular telephones. Pending the FRA's assessment of additional information to determine the proper direction the FRA should take, Safety Recommendation R-03-1 is classified "Open—Acceptable Response."

Thank you for your efforts to respond to our recommendations. We look forward to receiving further updates related to Safety Recommendation R-03-1.

Sincerely,

/s/

Ellen Engleman Connors  
Chairman

cc: Ms. Linda Lawson, Director  
Office of Safety, Energy, and Environment  
Office of Transportation Policy



U.S. Department  
of Transportation

Federal Railroad  
Administration

AUG 18 2006

Administrator

REC'D AUG 28 2006  
MC 2060430  
NOT 7508, 7558  
1120 Vermont Ave., NW.  
Washington, DC 20590

The Honorable Mark V. Rosenker  
Acting Chairman  
National Transportation Safety Board  
490 L'Enfant Plaza East, S.W.  
Washington, DC 20594

Dear Mr. Rosenker: *MARK*

This letter is to provide you with an update for Safety recommendations R-02-24, R-02-25, R-02-26, and R-03-01.

Thank you for your e-mail request to the Federal Railroad Administration (FRA) concerning the issuance of National Transportation Safety Board (NTSB) Safety Recommendations R-02-24, R-02-25, R-02-26 and R-03-01. Recommendations R-02-24 through R-02-26 arose from the NTSB's investigation of the collision between two Canadian National/Illinois Central (CNIC) freight trains near Clarkston, Michigan, on November 15, 2001. Recommendation R-03-01 arose from the NTSB's investigation of the collision between two BNSF Railway Company freight trains, near Clarendon, Texas, on May 28, 2002. NTSB's investigation of the collision between two BNSF Railway Company freight trains near Gunter, Texas, on May 19, 2004 has renewed NTSB's discussions of and interest in these recommendations.

The FRA has reviewed these recommendations, and offers the following updated responses to each of these recommendations:

Safety Recommendation R-02-24:

*"Develop a standard medical examination form that includes questions regarding sleep problems and require that the form be used, pursuant to 49 Code of Federal Regulations part 240, to determine the medical fitness of locomotive engineers; the form should also be available for use to determine the medical fitness of other employees in safety-sensitive positions."*

Safety Recommendation R-02-25:

*"Require that any medical condition that could incapacitate, or seriously impair the performance of, an employee in a safety-sensitive position be reported to the railroad in a timely manner."*

## Safety Recommendation R-02-26:

*"Require that, when a railroad becomes aware that an employee in a safety-sensitive position has a potentially incapacitating or performance-impairing medical condition, the railroad prohibit that employee from performing any safety-sensitive duties until the railroad's designated physician determines that the employee can continue to work safely in a safety-sensitive position."*

**FRA Response to R-02-24, R-02-25 and R-02-26:** In a previous response to NTSB, FRA notified the board of the publishing of FRA Notice of Safety Advisory 2004-04, "Effect of Sleep Disorders on Safety of Railroad Operations," in the Federal Register, Vol. 69, No. 190, Friday, October 1, 2004.

The purpose of this Safety Advisory was to focus the industry's attention on the threat sleep disorders imposed on the performance and quality of life of employees and the need for action. In March 2005, six months after the issuance of the Safety Advisory, the Association of American Railroads (AAR), on behalf of the labor-management Work-Rest Task Force, issued the following statement:

"Sleep disorders, like any other medical condition potentially affecting the safe performance of essential job functions or the safety of co-workers or the general public, require an individual assessment of the diagnosed with the condition to determine medical fitness for service and the necessity of any appropriate reasonable accommodations. The carriers' medical policy for assessment of sleep disorders is intended to neither diminish in any way the employee's responsibility for failure to comply with operating and safety rules, nor infringe upon an employee's right under an existing collective bargaining provision."

On October 28, 2005 the Union Pacific Railroad presented a proposal, for FRA's consideration, to develop "a process that ensures accurate screening of employees at risk for sleep disorders, thus reducing the safety risk of sleep disorders among train service employees." Upon request by the FRA the Union Pacific revised its proposal to meet milestones and deliverables. Specific dates for delivery of status reports and the final report are now cited in the proposal; therefore FRA has agreed to partner with the Union Pacific Railroad and to provide support funding for a pilot project, entitled "Sleep Disorder Assessment Research Project." The contract was awarded on February 14, 2006. FRA received the first status report as agreed, on May 17, 2006. The final report is due mid-summer 2007.

FRA has maintained active liaison, through the North American Rail Alertness Partnership and other means, with other major railroads, each of which is taking some form of action to increase awareness regarding this issue. However, FRA is not fully satisfied with the response and is exploring other actions that might be taken to prompt industry responses.

As FRA has previously noted to the Board and in the Safety Advisory, effectively addressing the issue of sleep disorders and other potentially incapacitating or performance-impairing medical conditions can only be accomplished within the framework of established medical standards programs. In January of 2005, FRA published the report entitled "Medical Standards for Railroad Workers," documenting the results of a study initiated in response to the Board's recommendations. This study has been briefed and distributed to FRA's Railroad Safety Advisory Committee (RSAC) to promote discussion with the industry and the labor organizations. The study's editor/author has continued to monitor and report on developments in the areas of medical standards for safety critical occupations in railroad and other environments. Some of those include the proposed revisions to the Federal Motor Carrier Safety Administration (FMCSA) Medical Program and the results of an annual review of Australia's national "Health Assessment for Rail Safety Workers" administered by Australia's National Transport Commission (NTC).

The subject study and report have clarified the current state of railroad medical programs. Although major railroads continue to maintain medical programs, there has been no industry-wide coordinating effort for some years, and periodic medical examinations have been largely discontinued. Based on an expression of readiness from the major railroads, FRA has recently begun exploratory discussions with the industry parties to determine the best course of action to revitalize medical standards programs in the industry and to ensure appropriate focus on sleep-related disorders and other conditions of concern.

As these initiatives progress, FRA will provide the Board with further updates.

Therefore, FRA respectfully requests that the NTSB consider retaining Safety Recommendations R-02-24 through R-02-26-06 in their present classification of "Open-Acceptable Response."

Safety Recommendation R-03-01:

*"Promulgate new or amended regulations that will control the use of cellular telephones and similar wireless communication devices by railroad operating employees while on duty so that such use does not affect operational safety."*

**FRA Response:** In a letter to the NTSB, dated May 26, 2004, FRA stated that it had canvassed the major railroads and obtained copies of their instructions, policies, and/or rules that place restrictions on the use of cellular telephones (cell phones). FRA's review of this material indicated that despite some disparity with respect to the detail of prohibitions, all railroads canvassed did have a rule or instruction that prevents and/or limits cell phone use. FRA also stated that it believed that the railroad industry's enforcement of its operating and safety rules governing cell phone use is sufficient to address the issue without the need for the intrusiveness of Federal regulations at this time.

At a full RSAC meeting held in Washington, DC, on September 22, 2004, members came

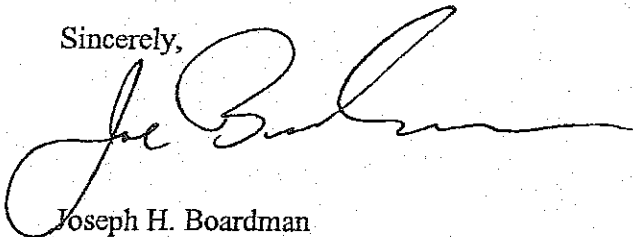
prepared to discuss the issue of cell phone use, whether their current instructions were for cell phone use, whether they needed to be improved, and whether this was a subject that should be tasked to a new RSAC Working Group. As the Board is well aware, this is an issue that appears in all forms of transportation. FRA pointed out that the proliferation of cell phone technology has now made the device(s) a necessity, but also noted that there are many examples of how the use of these devices by railroad employees in locomotive cabs of moving trains can be distracting. It was also noted that distraction by use of mobile phones is by no means the only potential source of diversion from attention to duty.

The RSAC members present at the meeting unanimously restated that virtually all of them restrict cell phone use in one form or another, but also acknowledge that the use of this device allows more effective communication amongst employees, and that some railroads even provide cell phones to their employees. It was also pointed out that redundant communication devices are now required by Federal regulation (49 CFR Part 220), and cell phones are one acceptable example. The consensus of those members present at the meeting was that this is a complex issue and that they were not yet prepared to consider a Federal rule in this area.

Notwithstanding, while FRA has not yet decided what final course of action we will follow, FRA will reexamine existing railroad rules and instructions on cell phone use and develop from that review a "best practices" document for discussion with the RSAC. FRA will compare best practices with railroad rules, determine an indicated course of action, and report our conclusions to the Board.

Therefore, based on the foregoing, FRA respectfully requests that Safety Recommendation R-03-01 remain classified as "Open - Acceptable Action," until such time as FRA determines the proper direction to take.

Sincerely,



Joseph H. Boardman  
Administrator

March 8, 2007

Mr. Joseph H. Boardman  
Administrator  
Federal Railroad Administration  
Washington, D.C. 20590

Dear Mr. Boardman:

Thank you for your August 18, 2006, response to the National Transportation Safety Board regarding Safety Recommendations R-02-24 through -26, and R-03-1, stated below. Safety Recommendations R-02-24 through -26 were issued to the Federal Railroad Administration (FRA) on November 27, 2002, as a result of the head-on collision of two Canadian National/Illinois Central Railway trains near Clarkston, Michigan, on November 15, 2001; Safety Recommendation R-03-1 was issued on June 13, 2003, as a result of the collision of two Burlington Northern Santa Fe freight trains near Clarendon, Texas, on May 28, 2002.

R-02-24

Develop a standard medical examination form that includes questions regarding sleep problems and require that the form be used, pursuant to 49 *Code of Federal Regulations* [CFR] Part 240, to determine the medical fitness of locomotive engineers; the form should also be available for use to determine the medical fitness of other employees in safety-sensitive positions.

R-02-25

Require that any medical condition that could incapacitate, or seriously impair the performance of, an employee in a safety-sensitive position be reported to the railroad in a timely manner.

R-02-26

Require that, when a railroad becomes aware that an employee in a safety-sensitive position has a potentially incapacitating or performance-impairing medical condition, the railroad prohibit that employee from performing any safety-sensitive duties until the railroad's designated physician determines that the employee can continue to work safely in a safety-sensitive position.

On October 4, 2006, Safety Board staff met with representatives of the FRA to discuss 16 safety recommendations classified as "open." Regarding Safety Recommendations R-02-24 through -26, the FRA stated that the Railroad Safety Advisory Committee (RSAC) had been tasked on September 21, 2006, with establishing standards and procedures for determining the medical fitness for duty of personnel engaged in safety-critical functions. The first meeting of the working group that will address these issues was held on December 12-13, 2006. Dr. Mitch Garber, the Board's Medical Officer, was in attendance.

The Safety Board notes that the FRA has recently begun exploratory discussions with the industry and labor organizations to determine the best course of action to revitalize medical standards programs in the industry and to ensure appropriate focus on sleep-related disorders and other medical conditions of concern. Accordingly, Safety Recommendations R-02-24 through -26 are classified "Open—Acceptable Response."

R-03-1

Promulgate new or amended regulations that will control the use of cellular telephones and similar wireless communication devices by railroad operating employees while on duty so that such use does not affect operational safety.

The Safety Board notes that the FRA has not decided what final course of action to follow regarding this recommendation. While the Board appreciates that this is a difficult issue to address, there has been little progress made in the 3 1/2 years since this recommendation was issued. Consequently, Safety Recommendation R-03-1 is classified "Open—Unacceptable Response" until the FRA initiates action to regulate cellular telephone use by railroad operating employees on duty.

Thank you for your cooperation. We look forward to receiving further updates as progress continues to address these recommendations.

Sincerely,

/s/

Mark V. Rosenker  
Chairman

cc: Ms. Linda Lawson, Director  
Office of Safety, Energy, and Environment  
Office of Transportation Policy