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Re: *FMLA changes for variable-schedule employees*

I am writing to tell you about changes regarding how BNSF will calculate FMLA leave entitlement for train-service employees who work a variable schedule. Although these changes will not take effect until January 1, 2010, we wanted to give you plenty of advance notice of the changes.

Currently, all train-service employees working variable schedules receive a fixed number of FMLA days (between 60 and 84) regardless of the number of hours they spend working. Under the revised formula, each employee's annual FMLA entitlement will be driven by the number of hours an employee actually works. This change is consistent with the goal of generally having train-service compensation linked to the number of trips an employee makes, and is consistent with how most of our industry awards FMLA leave.

#### **How much FMLA leave will I get?**

The FMLA provides that eligible employees may take up to 12 "workweeks" of leave during any 12-month period for certain family and/or medical reasons. For employees working variable schedules, the "workweek" can be determined by looking at the employee's weekly average hours worked over the year prior to the first use of FMLA leave. And once that "weekly average" number is determined, that number times 12 is the employee's total number of FMLA hours for the next twelve months.

#### **Here's an example.**

A train-service employee uses their first FMLA leave for calendar year 2010 on March 1. During the preceding 12 months (March 1, 2009 – February 28, 2010) the employee has averaged 44 hours of service per workweek. The employee is thus entitled to 528 hours of FMLA leave (12 times 44) for the 12-month period starting March 1, 2010 and ending February 28, 2011.

#### **Use of your FMLA entitlement for intermittent FMLA leave.**

When you use intermittent FMLA leave, BNSF will count only the number of hours of work actually missed. Where it is physically impossible for you to start or end work mid-way through a shift (for example, the train you are scheduled to take departs during your FMLA leave), the entire period that you missed work will count toward the FMLA entitlement. So, for example, a

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TY&E employee who requests an hour of intermittent FMLA leave and, as a result, misses a shift or a trip will be charged for the entire period of missed work. Likewise, a TY&E employee who requests an hour of intermittent FMLA leave but does not miss any work will not be charged for any use of FMLA leave.

**Use of your FMLA entitlement for block FMLA leave.**

When you use full-week blocks of FMLA leave (for example, for the birth of a child or to recover from surgery), your FMLA account will be reduced by 1/12 of your hourly entitlement for each full week you are on such leave. For example, if your annual hourly entitlement is 480 hours you would be charged 40 hours per week; but if your annual entitlement was 240 hours, you would be charged 20 hours per week of FMLA leave.

If you have any questions regarding these changes, please contact your local management or call the Employee Benefits Helpline at 817-593-6400.

Very truly yours,

A handwritten signature in black ink, appearing to read "Linda Longo-Kazanova". The signature is fluid and cursive, with a large initial "L" and "K".

Linda Longo-Kazanova