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February 20, 2007

**Via U.S. Mail**

Joseph H. Boardman  
Administrator  
Federal Railroad Administration  
1120 Vermont Ave., NW  
Washington DC 20590

Re: Petition for Waiver of Compliance  
Docket No: FRA-2006-24812 - 9

Dear Administrator Boardman:

BNSF Railway Company (BNSF) submits this response to the comments submitted by the Brotherhood of Railway Carmen (BRC) and the Brotherhood of Locomotive Engineers and Trainmen (BLET).

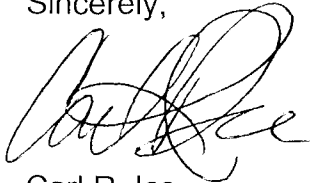
BRC contends that BNSF is performing Part 215 pre-departure inspections as roll by inspections. It appears that BRC is intertwining the meaning of terms roll-by inspections and pre-departure inspections. In this case, a roll-by inspection is performed as the train is rolling into the yard. Inspectors position themselves to observe the train as it rolls into the yard in order to detect audible conditions that may indicate a possible defect. Any condition noted during the roll-by inspection is scrutinized during the pre-departure inspection. A pre-departure inspection is performed when the train has stopped in the yard. The stationary train is inspected either by walking the length of the train or by utilizing a vehicle to transport the inspector(s). BNSF assures the FRA and BRC that BNSF is performing proper pre-departure inspections.

The overall demand for coal has increased in the last three years. BNSF hauled 209 million tons of coal in 2003 and 264 million tons of coal in 2006. Since implementation of the temporary waiver, there has been no increase in derailments or other accidents. The elimination of the inspections at Alliance and Lincoln saves time and would allow BNSF to deliver more coal per month to Alabama Power and Georgia Power. Further, because 60 to 62 train sets would not be stopping at Alliance and Lincoln to be inspected, if the waiver was

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granted, unit coal trains headed for other utilities would be able to deliver coal faster because of less congestion at Alliance and Lincoln. More importantly, the waiver would not compromise safety. Accordingly, BNSF respectfully requests the FRA to grant the waiver.

Sincerely,



Carl R. Ice  
EVP & COO

cc: Jo Strang  
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