



U.S. Department
of Transportation

**Federal Railroad
Administration**

Region VI

DOT Building
901 Locust Street, Suite 464
Kansas City, MO 64106

ENC2007-BNSF-6-007488

February 13, 2007

Mr. Randy D. Meek, Chairman
Nebraska State Legislative Board
Brotherhood of Locomotive Engineers and Trainmen
IBT Rail Conference
801 West Helen Circle
Lincoln, Nebraska 68521

Dear Mr. Meek:

This is in response to your letter dated January 25, 2007, concerning Title 49 Code of Federal Regulations (CFR) Part 240 - Qualification and Certification of Locomotive Engineers, by the BNSF Railway Company (BNSF). Your concerns specifically alleged violation of FRA engineer responsibility and certification regulations due to recent issue of BNSF System General Order No. 13, dated November 27, 2006.

The Federal Railroad Administration (FRA) has completed its investigation.

The investigation revealed that the BNSF amended System Special Instructions, Item No. 49, relating to "Engineer Responsibilities and Certification," on November 27, 2006, by issuing General Order No. 13, which added the term "citation" and the clause "refusals to undergo testing" to Subsection 1(d) of the BNSF System Special Instructions, Item No. 49. This exceeds the parameters outlined and allowed in Title 49 CFR Parts 240.111 and 240.115.

FRA contacted BNSF and requested "citation" and "refusals to undergo testing" to Subsection 1(d) of the BNSF System Special Instructions, Item No. 49, be corrected or removed from the current BNSF System Special Instructions. BNSF immediately complied and issued System General Order Nos. 30 and 31, clarifying these issues.

FRA is issuing a BNSF defect on FRA Form 6180.96, Inspection Report, in relation to this action. No further FRA action is required at this time. Due to the BNSF immediate and prompt response to FRA's request to correct this issue, FRA is not recommending any civil penalties for consideration relating to this incident.

I understand you have been contacted and advised of our findings and handling in this matter. Thank you for your interest in railroad safety, and if you have any future concerns, please contact us.

Sincerely,

A handwritten signature in black ink that reads "D. J. Tisor" in a cursive style. The word "For" is written in a smaller, simpler font below the signature on the right side.

D. J. Tisor
Regional Administrator