



NATIONAL TRANSPORTATION SAFETY BOARD
Investigative Hearing

Norfolk Southern Railway general merchandise freight train 32N
derailment with subsequent hazardous material release and fires,
in East Palestine, Ohio, on February 3, 2023

GROUP	E
EXHIBIT	
21	

Agency / Organization

FRA

Title

FRA Administrator Bose Letter to Norfolk Southern CEO Shaw



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

September 26, 2022

Mr. Alan Shaw
President & Chief Executive Officer
Norfolk Southern Railway
Three Commercial Place
Norfolk, VA 23510

Dear Mr. Shaw:

The Federal Railroad Administration (FRA) sees evidence that railroads are curtailing mechanical and brake safety inspections by maintenance-of-equipment personnel, specifically carmen, while increasing reliance on inspections by railroad workers from other crafts (e.g., train and yard crews). Although, under certain circumstances, FRA's regulations allow for train and yard crews to be assigned to complete tasks customarily handled by maintenance-of-equipment personnel,¹ a central premise of the inspection requirements in FRA's Motive Power & Equipment regulations is to ensure rail equipment periodically undergoes comprehensive inspection by individuals specially trained in the maintenance and repair of the equipment (i.e., maintenance-of-equipment personnel), who can properly determine whether the equipment is safe to operate.

In particular, FRA is concerned that railroads have instituted certain practices that are inconsistent with the intent of FRA's freight car and brake system safety standards (49 CFR Parts 215 and 232). For example, FRA is aware that railroads may be intentionally holding trains outside of yards to have operating crews perform required mechanical inspections when maintenance-of-equipment employees are otherwise assigned to do so at yard locations. FRA is also aware of trains being held in "lost" or "ghost" tracks, where trains are physically on tracks within a yard, but not recorded in terminal data systems. Trains held on these "lost" or "ghost" tracks are treated essentially the same as trains held outside of a yard, because they are inspected by other than maintenance-of-equipment personnel stationed within the yard. In the event maintenance-of-equipment employees do inspect the equipment, as the equipment is not properly recorded as being in the yard, they may not have access to relevant electronic safety data and tracking information, which can result in non-compliant equipment continuing beyond the location designated for mechanical inspection or repair. Moreover, the use of train crews to conduct inspections even when qualified maintenance-of-equipment personnel are available in a yard may violate FRA rules concerning the qualifications for performing required mechanical tests and

¹ FRA's Technical Bulletin MP&E 21-02, dated August 20, 2021, identified several concerns about using workers from other crafts, who generally perform work not subject to blue signal protection (BSP), to complete tasks customarily handled by maintenance-of-equipment employees, specifically carmen, who perform work subject to BSP. Technical Bulletin MP&E 21-02 is available at <https://railroads.dot.gov/elibrary/technical-bulletin-mpe-21-02-failure-comply-blue-signal-protections-title-49-code-federal>.

inspections, notably the Class I brake test and inspection requirements (see 49 CFR 232.205(d)), and may add to the fatigue experienced by the train crews, by adding the burden of completing the trains' mechanical inspections, given crew shortages and longer hours, subject to the hours-of-service limits.

Further, yarding trains allow mechanical teams, when given appropriate time to inspect trains, to identify alerts and warnings, and shop cars for inspection or repair due to previous identification by UMLER data, wayside detector input, or other means.

FRA understands that the size of receiving yards can constrain the ability to yard trains for required inspections, but it should not be used to minimize proper train maintenance and inspection or manage terminal dwell data.

The repeated performance of inspections, by employees or contractors who do not possess the same specialized training and experience as maintenance-of-equipment employees, raises concerns about the adequacy of the inspections and the potential impact on the safety of the equipment across the national rail network. FRA Motive Power & Equipment Inspectors will, therefore, redouble their focus on compliance with mechanical safety requirements, review mechanical inspection records, and pursue enforcement action as necessary.

Accordingly, I ask for your cooperation in ensuring that rail equipment receives proper attention from maintenance-of-equipment employees to perform mechanical inspections. This will not only help promote the safety of the equipment, but also the safety of those employees who maintain and operate it—for the benefit of all who depend on the safety and reliability of the national rail network. An identical letter has been sent to each of the Class I Railroads.

Sincerely,

A black rectangular redaction box covers the signature area. There are some faint blue ink marks around the box, possibly from a pen or marker.

Amit Bose
Administrator