

June 5, 2023

Mr. Karl Alexy  
Associate Administrator for Railroad Safety & Chief Safety Officer  
Federal Railroad Administration  
1200 New Jersey Avenue SE  
Washington DC, 20590

**RE: BNSF Waiver of Compliance, Simulator Training  
Docket No. Docket Number FRA-2011-0074**

Dear Mr. Alexy,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to respond to the Federal Railroad Administration's (FRA) request for comment on a petition from BNSF Railway Company (BNSF) for a waiver of compliance from the "hands-on" component of periodic refresher training required by 49 CFR 232.203(b)(8). TTD consists of 37 affiliate unions representing many kinds of transportation workers, including BNSF employees. We therefore have a vested interest in this petition. Because virtual training is not a sufficient substitute for hands-on training, we ask that the FRA deny the petition.

Current regulation requires refresher training every three years for railroad employees that perform brake system inspections, tests, or maintenance. BNSF's request for relief would allow it to continue to use its Air Brake System Virtual Training Environment (ABSVTE) simulation training for brake inspections instead of hands-on refresher training on mandatory brake inspection and equipment. TTD opposes this waiver extension, which is consistent with TTD's previous opposition to replacing hands-on training requirements with virtual training.<sup>1</sup>

Hands-on training provides an unparalleled level of instruction and safety that virtual training cannot provide. A simulator is inherently incapable of fully replicating a real life scenario, including factors like weather conditions or physical and olfactory sensory inputs. BNSF's proposal to continue to substitute virtual training for hands-on training neither serves the public interest nor is consistent with railroad safety, as is required by statute 49 U.S.C. 20103(d). In this instance, the simulator training BNSF has proposed to continue will not provide the same level of practical familiarity with brake equipment as hands-on training. The regulations addressed in BNSF's waiver request require hands-on instruction on the operation and inspection of safety-

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<sup>1</sup> For example, see TTD's comments to Docket Numbers FRA-2020-0045, FRA-2020-0001, and FRA-2018-0075



critical brake equipment precisely because the benefits of hands-on-instruction cannot be replaced by virtual training.<sup>2</sup>

Rail unions opposed BNSF's initial request in 2011 for similar reasons. As the Brotherhood of Locomotive Engineers and Trainmen (BLET) explained in their comments, "Because of this mandate to demonstrate 'hands-on' knowledge, there should be no substitute for 'hands-on' training. At most, web-based training should be limited to a complement or additional component of an overall training module where 'hands-on' in the field training occurs as well."<sup>3</sup>

Three of the four justifications that BNSF cites for extension of this waiver request are not only satisfied by hands-on training, but are better served by hands-on training. Hands-on training can provide training on every railcar type, should the railroads bring those railcars in, and also provide a physical way to experience these railcars, unlike virtual training. Railroads can bring in or physically simulate mechanical defects on railcars in-person that allow an employee to physically figure out how to fix the defects, something that's not possible on a virtual computer. In-person instructors can also observe employees as they are training and provide real-time feedback, including providing an in-person demonstration when corrections are necessary. That is not possible with virtual training.

BNSF's fourth reason for virtual training helping employees avoid hazards or other injury exposures completely misses the point of training. Training is designed to provide employees the necessary skills to safely navigate their actual working environment. Training employees in a virtual environment that deliberately fails to teach them how to safely avoid the hazards on the job is actually more dangerous because employees cannot develop the skills and experience necessary to remain safe on the job.

BNSF's petition comes at a time of widespread safety concerns in the Class I freight rail industry, as highlighted by the East Palestine train derailment. These concerns include insufficient training of employees by railroads. BNSF's safety record over the last 10 years has gotten worse with the rate of total accidents/incidents per million train miles going from 7.314 in 2013 to 8.064 in 2022 per the FRA's own data. So far in 2023, BNSF's rate of total accidents/incidents has further worsened.<sup>4</sup> Additionally, the FRA earlier this year sent a letter to all the Class I's, including BNSF, saying that improvements are needed to engineer and conductor training and certification programs. Another Class I railroad dramatically cut training for conductors, leading to an uptick of deaths and serious injuries to conductors, especially new hires.<sup>5</sup> Given these pressing safety concerns, now is precisely not the time to continue to grant exemptions to hands-on training requirements that are needed to ensure the safety of rail workers and our rail system.

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<sup>2</sup> 49 CFR 232.203(b)(8)

<sup>3</sup> See <https://www.regulations.gov/comment/FRA-2011-0074-0009>

<sup>4</sup> <https://safetydata.fra.dot.gov/officeofsafety/publicsite/query/TenYearAccidentIncidentOverview.aspx>

<sup>5</sup> <https://www.trains.com/trn/news-reviews/news-wire/fra-letter-warns-norfolk-southern-about-conductor-training-safety-deficiencies/>

Lastly, TTD notes its concern with the FRA unilaterally extending BNSF's relief because BNSF did not file this petition in time for the FRA to consider the petition before BNSF's waiver expired.<sup>6</sup> It does not serve the FRA's mission as the federal rail safety regulator to cover for the railroads when they don't file waiver requests on time. This extension is also not the first time that the FRA has unilaterally extended waivers because a railroad failed to file a petition in time for the FRA to consider it before the waiver expired.<sup>7</sup>

For the reasons described above, we therefore urge the FRA to reject the petition which would unnecessarily compromise the safety of rail employees and passengers. Any continued permissiveness of the replacement of hands-on brake test experience for virtual training creates a dangerous precedent encouraging further elimination of hands-on training for other safety-critical skills across the industry. Hands-on training is paramount to understanding the intricacies of maintaining and inspecting all critical safety equipment and cannot be accomplished in any virtual setting. The FRA should reject this petition for these reasons.

We thank FRA for the opportunity to comment on this petition and look forward to working with the administration on rail safety issues going forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Regan', written over a circular stamp or seal.

Greg Regan  
President

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<sup>6</sup> <https://www.regulations.gov/document/FRA-2011-0074-0021>

<sup>7</sup> <https://www.regulations.gov/document/FRA-2001-8697-0019>