

## **Rail Labor Urges Federal Regulations for Safer Freight Train Mechanical Inspections**

The freight rail industry's safety failures garnered national attention last year after the toxic East Palestine derailment, echoing an alarm that rail workers have sounded for years. Despite the calls for reform, Class I railroads continue right now to cut corners on safety and lay off the skilled workers that perform rail car and locomotive inspections, despite the critical need for such inspections to ensure the safety of our freight rail system. **We call on the Federal Railroad Administration (FRA) to issue new regulations to ensure that rail car, locomotive, and brake inspections are done properly and the Class I railroads maintain the workforce necessary to conduct these inspections.**

Proper inspection of rail cars and locomotives are vital in preventing derailments and accidents. The odds of a train derailment dramatically increase if a rail car or locomotive has a defect that has not been found or fixed. The National Transportation Safety Board's (NTSB) hearing on the East Palestine derailment last June revealed that most of the rail cars in that train did not receive a full mechanical inspection before being added to the train. The wheel bearing in the East Palestine incident rose over 200 degrees Fahrenheit in under 30 miles, increasing by over 150 degrees Fahrenheit in just 20 of those miles.<sup>1</sup> In a post-derailment inspection, the FRA found defects in 25% of the 77 cars it reviewed and it is extremely likely that a full inspection performed by a Qualified Mechanical Inspector would have found those defects, if given the opportunity.<sup>2</sup>

The problems are not limited to the East Palestine derailment. The Class I freight railroads have collectively slashed the number of Mechanical Department employees that perform rail car and locomotive inspections by over 41% since 2015. Simultaneously, overtime has increased 59% among the Mechanical Department workforce on the Class I railroads. Instead of heeding calls to change their business practices to improve rail safety, some Class I railroads like BNSF and Union Pacific have doubled down on their failed "Precision Scheduled Railroading" (PSR) business model and cut their mechanical workforce even more. For example, BNSF, UP and the other Class I railroads have decimated the carmen craft who inspect and fix rail cars. They have systematically eliminated carmen from rail yards, pressured carmen to limit inspections to 1 minute or less per rail car, and increasingly forced train conductors to do abbreviated inspections of rail cars even though they are not trained to do so. Unfortunately, these actions have further jeopardized the safety of rail workers, communities, and the general public, all so the railroads can make more profit. [TTD has previously highlighted](#) the harmful effects of the PSR operating model and the workforce and infrastructure cuts the railroads have made in recent years.

In January 2024, the American Association of Railroads (AAR) petitioned the FRA for a waiver to allow Class I railroads to avoid performing federally-required inspections of their locomotives, with a particular focus on BNSF. BNSF advised that several hundred locomotives would soon be out of compliance with federally-mandated inspections, alleging that it was on account of a routine winter snowstorm.

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<sup>1</sup><https://abc6onyourside.com/news/local/norfolk-southern-wont-say-if-defect-detectors-picked-up-problems-before-crash-east-palestine-ohio-train-derailment-toxic-vinyl-chloride-ntsb-report>

<sup>2</sup><https://www.trains.com/trn/news-reviews/news-wire/ntsb-east-palestine-hearing-focuses-on-role-of-car-inspection-wayside-detectors/>

When the FRA did not grant the waiver, BNSF imposed 6-day workweeks (i.e., mandated overtime) on their Mechanical Department workforce at several locations. Approximately one month later, BNSF furloughed over 362 Mechanical Department positions at numerous locations, with a particular focus on locomotive maintenance facilities and carmen.

BNSF railroad earned \$5 billion in profit last year<sup>3</sup>, all while publicly stating that it lacks the workforce capacity to carry out required inspections. BNSF slashed its workforce numbers in recent years, following adoption of the unsafe and abusive PSR operating model – a model the [previous CEO heavily warned against](#). In December 2022, BNSF had nearly 1,000 locomotives that were far beyond compliance with federally-mandated inspections. With their own workforce depleted, the railroad sought to hire non-union contractors who lack the skills to properly complete repairs. Additionally, the Class I Railroads are mothballing locomotives and cannibalizing those locomotives in an effort to cut costs on maintaining an adequate number of parts and material needed to repair those defective locomotives.

Currently, BNSF railroad managers are instructing workers not to perform federally required locomotive and rail car safety inspections, to ignore the findings and reporting of defects, and to perform inspections in impossibly-short timeframes. Some workers have even been instructed to fabricate federally required inspection reports at shops across BNSF's network. Even worse, BNSF management recognizes and rewards managers that rubber stamp inspection reports which ultimately expedites putting defective locomotives and rail cars back out onto the rail network.

Like BNSF, Union Pacific has taken actions in the year since East Palestine that have harmed rail safety. In July and August 2023, the FRA performed “focused inspections” at Union Pacific’s yard in North Platte, Nebraska that uncovered defects in outbound freight cars and locomotives at rates twice the national average.<sup>4</sup> The FRA identified defects on almost 73% of the outbound locomotives and 20% of freight cars inspected.<sup>5</sup> Following the inspection, FRA Administrator Amit Bose wrote to Union Pacific executives in September 2023 to inquire whether the failure was “a result of not having the personnel to make the necessary repairs because of the recent furloughs?”<sup>6</sup> In response, Union Pacific’s Director of Locomotive Maintenance stated, “We haven’t been able to get to them yet.”<sup>7</sup> Union Pacific is unable to fix these defects even though it made \$6.4 billion in profit in 2023.<sup>8</sup>

Over the last year, Union Pacific has announced furloughs across multiple different crafts. In August 2023, Union Pacific announced plans to furlough at least 94 mechanical shop employees

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<sup>3</sup> <https://www.railwayage.com/freight/class-i/bnsf-closes-2023-with-net-earnings-volumes-down/>

<sup>4</sup> Administrator Amit Bose to CEO Jim Vena, Eric Gehringer, and Elizabeth Whited, September 8, 2023, <https://www.railwayage.com/wp-content/uploads/2023/09/FRA-Letter-to-UP.pdf>

<sup>5</sup> Ibid 4

<sup>6</sup> Ibid 4

<sup>7</sup> Ibid 4

<sup>8</sup> [https://www.up.com/media/releases/4q23-earnings-release-nr-240125.htm#:~:text=Union%20Pacific%20Corporation%20\(NYSE%3A%20UNP,or%20%2410.45%20per%20diluted%20share.](https://www.up.com/media/releases/4q23-earnings-release-nr-240125.htm#:~:text=Union%20Pacific%20Corporation%20(NYSE%3A%20UNP,or%20%2410.45%20per%20diluted%20share.)

responsible for locomotive and rail car inspections, maintenance, and repairs.<sup>9</sup> In October 2023, Union Pacific informed the Brotherhood of Maintenance of Way Employees Division (BMWED) of their plans to furlough at least 1,350 maintenance of way employees responsible for the maintenance of Union Pacific’s track, right of way, and structures.<sup>10</sup> In 2016, Union Pacific had a ratio of 6.45 miles of track per employee. With these latest furloughs, that ratio has nearly doubled to 11 miles of track per employee. All told, Union Pacific’s staffing level has declined from 51,537 employees in February 2015 to 32,972 employees in February 2024, a 36% decline.<sup>11</sup>

BNSF and Union Pacific carried out these schemes that cut corners on safety because of the constant demand to reduce costs and turn higher profits for shareholders, regardless of the impact on safety. Simply put, BNSF and Union Pacific purposely do not currently have enough Mechanical Department workers to perform this critical work – what better way to speed up operations than to avoid inspections, services, maintenance, and repair of locomotives and rail cars altogether and service.

While the proposed Railway Safety Act takes common sense steps to tighten the requirements around rail car and locomotive inspections, the FRA must take additional actions to require that rail car and locomotive inspections are completed properly and ensure the overall safety of our freight rail system.

Therefore, we call on the FRA to take the following regulatory actions:

- **Rail Car Inspections**

- Require that a Qualified Mechanical Inspector (QMI) conduct rail car inspections under Part §215 of Title 49, Code of Federal Regulation
- Prohibit railroads from setting maximum times to perform rail car inspections
- Eliminate the Part §215 Appendix D inspection loophole that allows a railroad to do an abbreviated inspection for a freight car when carmen are not present
- Require that rail cars that have “bad orders” under Part §215.9 be immediately fixed by a Qualified Mechanical Inspector.
- Require the Class I railroads to designate inspection points where they must have carmen present to do rail car inspections and repairs
- Create a national training standard for rail car inspections that is craft specific to meet the QMI standard

- **Locomotive Inspections**

- Prohibit railroads from setting maximum times to perform locomotive inspections
- Require that the daily locomotive inspection under §229.21 be done by a Qualified Mechanical Inspector more frequently than the current requirement of once every 33 days

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<sup>9</sup> Bill Stephens, “Union Pacific furloughs some shop and intermodal terminal workers as volume declines,” *Trains*, August 24, 2023, <https://www.trains.com/trn/news-reviews/news-wire/union-pacific-furloughs-some-shop-and-intermodal-terminal-workers-as-volume-declines>.

<sup>10</sup> Brotherhood of Maintenance of Way Employees Division Letter to Surface Transportation Board Chairman Marty Oberman, November 22nd, 2023, [https://www.bmwe.org/cms/file/11282023\\_124546\\_UPFURLOUGHSLETTERTOSTB.PDF](https://www.bmwe.org/cms/file/11282023_124546_UPFURLOUGHSLETTERTOSTB.PDF)

<sup>11</sup> Surface Transportation Board Employment Data, <https://www.stb.gov/reports-data/economic-data/employment-data/>. Accessed April 8, 2024.

- Tighten the interval for a periodic locomotive inspection under §229.23 to be more frequent than the current requirement of 92 days for any locomotive, including ones with advanced microprocessor-based on-board electronic condition monitoring controls
- Create a national training standard for locomotive inspections
- Create system wide requirements for Class I railroads
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- **Brake Inspections**
  - Require that a Qualified Mechanical Inspector (QMI) conduct the Class I brake test required under Part 232 of Title 49, Code of Federal Regulations
  - Prohibit railroads from setting maximum times to perform Class I brake tests
  - Create a national training standard for Class I brake tests that is craft specific

It is clear that the Class I railroads will not take steps to fix this issue themselves. Absent federal action, rail corporations will keep choosing Wall Street over Main Street and rail safety will further deteriorate. If Congress and the Federal Railroad Administration allow the current course to continue, there will only be more derailments like East Palestine and more traumatized communities across the country. We cannot afford to wait any longer.

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~~\*\*Draft\*\*~~