



U.S. Department  
of Transportation

**Federal Railroad  
Administration**

1200 New Jersey Avenue, SE  
Washington, DC 20590

June 14, 2023

Ms. Nabanita Nag  
Executive Vice President & Chief Legal Officer  
Norfolk Southern Corporation  
650 West Peachtree Street NW  
Atlanta, GA 30308

**Re: Mandatory Immediate Action: Grave Deficiencies in Norfolk Southern's Conductor Certification Program.**

Dear Ms. Nag:

This correspondence urgently raises substantial issues that require your immediate attention.

The Federal Railroad Administration (FRA) has engaged with Norfolk Southern Railway (NS) for nearly two years to correct shortcomings in NS's conductor certification program, required by 49 C.F.R. part 242. FRA first raised concerns regarding deficiencies in NS's conductor certification training program in October 2021 following several serious accidents and incidents, including five involving conductors/brakemen who suffered amputations and other serious injuries between March and October 2021. Two of those accidents involved conductors who had less than one year of service. Despite these incidents, FRA's assessment is that NS has not developed an adequate conductor certification training program.

FRA's ongoing audit of the NS's conductor certification program, per section 22410 of the Infrastructure Investments and Jobs Act (IIJA) Pub. L. 117-58, 135 Stat. 432, has laid bare grave deficiencies that NS must rectify immediately. The magnitude and significance of these shortcomings, especially in the context of the large number of new hires currently undergoing training, necessitate swift and decisive action on NS's part.

During the audit, FRA has observed new hires grappling to comprehend, internalize, and retain the critical safety information presented in training. New hires without previous railroad experience need adequate time and relevant exposure to the railroad environment to absorb its specialized language, procedures, and safety protocols.

At the early stages of this audit, the FRA has identified three pressing concerns, each mandating immediate and substantial corrective action. As stipulated by section 22410(c) of the IIJA, NS is obliged to address these deficiencies promptly and restructure its program with the utmost urgency. FRA requires that NS respond swiftly to each critical inadequacy and present a detailed action plan addressing each of the elements below to the FRA within seven (7) calendar days of

the date of this letter along with a timeline for completing implementation of the plan that does not exceed ninety (90) calendar days of the date of this letter. The implementation plan must include a schedule for re-training those conductors who were trained under the non-compliant program.

**Finding 1:** The 13-day window for training in NS's conductor training program is grossly inadequate, allowing certification in an unacceptably brief period. This is incompatible with the demands of a Class I freight railroad operation.

Corrective Measure: *Extend the training program duration to provide adequate time to gain adequate knowledge, experience, and skills to trainees:* NS must immediately expand the training program duration to ensure comprehensive knowledge acquisition, skill development, and practical experience. An immediate reevaluation and substantial extension of the current 13-day training cycle are non-negotiable.

**Finding 2:** NS's current conductor On-the-job (OJT) field training lacks consistency, structure, and proper oversight, and therefore fails to ensure new hires are acquiring the necessary skills for performing safety-related duties. For example, when conductor trainees were first brought to an assigned terminal, the local terminal managers were not provided a defined process to follow, and FRA found NS failed to have training coordinators on site to assist with the transition from classroom training to OJT, and OJT evaluation forms were significantly less comprehensive than those used by the training center, i.e., checking approximately 19 elements as opposed to 40. Without a properly implemented OJT field training program, there is a heightened risk that trainees may develop incorrect or unsafe work practices that may compromise safety.

Corrective Measure: *Implement objective standards, track measurable progress, and properly train those managers, coordinators, and mentors who perform any oversight duties in OJT field training:* At a minimum, on a system-wide basis, NS must promote uniform skill acquisition through objectively measured standards, record that progress, and disseminate that information to those employees, training coordinators, mentors, and managers who have active roles in the effectiveness of the training program. Further, the oversight must provide early detection and correction of unsafe work habits among trainees.

**Finding 3:** NS has failed to comply with FRA's training regulations by unilaterally designating "qualified instructors" without obtaining the required concurrences from the designated employee representatives. The attempt to gain concurrence should be memorialized to demonstrate that NS complies with the requirements of 49 CFR 242.7 (defining a "qualified instructor"). The requirement is intended to ensure that experienced instructors are selected, and the relevant employee labor organization is engaged in the selection of these field instructors who are not supervisors. In addition, this systemic violation appears to have contributed to problems with field training described in "Finding 2," by failing to ensure that only appropriately experienced conductors, capable of quality instruction and training, are selected.

Corrective Measure: *Strictly follow the concurrence process set forth at 49 CFR 242.7 in the selection of qualified instructors, ensuring joint selection by a designated railroad officer and a designated employee representative.* In situations where concurrence is not obtained, the selected instructor must demonstrate at least 12 months of service as a train service employee.

Given the gravity of these concerns, NS's responsibility to comply with Federal rail safety requirements and ensure comprehensive training for newly hired individuals cannot be overstated.

NS must take immediate steps to complete the required corrective measures described above.

Additionally, FRA will consider enforcement action based on NS response to and mitigation of these issues. Should NS fail to satisfactorily address these urgent concerns, FRA will not hesitate to enforce its regulations or to invoke the provisions outlined in IJJA Section 22410(d)(3), which requires FRA to notify Congress if a railroad is not cooperating with an audit. FRA will report non-compliance and refusal to cooperate to the relevant Senate and House Committees, indicating that NS's program is deficient and will disapprove NS's proposed training regimen.

Forward any queries to Christian Holt, Staff Director, Operating Practices: christian.holt@dot.gov; (202) 366-0978. FRA will also provide a copy of this letter to the president of each labor organization representing NS's affected employees.

Sincerely,

A handwritten signature in blue ink that reads "Allison D. Fultz". The signature is written in a cursive style.

Allison Ishihara Fultz  
Chief Counsel

cc:

Mr. Jeremy Ferguson, President, SMART-Transportation Division  
Mr. Eddie Hall, President, BLET