



U.S. Department
of Transportation

**Federal Railroad
Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

June 1, 2023

The Honorable Charles E. Schumer
United States Senate
Washington, DC 20510

Dear Majority Leader Schumer:

Thank you for your letter requesting that the Federal Railroad Administration (FRA), in conjunction with the National Transportation Safety Board, audit the safety practices of all Class I railroads. In your letter, you requested that FRA consider several specific questions. I note that FRA is engaging in or planning major efforts that address your listed concerns and will discuss some of these efforts below.

For example, FRA recently completed field work on a broad assessment of Norfolk Southern Railway's safety culture, practices, and compliance. FRA will issue a report summarizing its findings in the near future. As you urged, FRA will conduct similar assessments on each of the Class I railroads over the next year, with the intent of publishing interim reports for each Class I railroad, and an overarching final report assessing issues, trends, and commonalities across all railroads reviewed.

Although FRA does not directly regulate a railroad's safety culture, each assessment report will note the strong aspects of a railroad's safety culture and recommend changes where there are opportunities for improvement. Each Class I railroad will be asked to develop corrective actions in response to FRA's recommendations, and FRA will track those to completion.

You asked FRA to determine how "recent deregulatory pushes" contribute to derailments and loss of life. Proposed regulatory changes including those that could have a deregulatory effect are subject to notice and comment. Through the rulemaking process, FRA analyzes the effects on safety of all proposed regulatory changes and carefully considers public input. Additionally, FRA routinely reviews its existing regulations to determine whether provisions are effective, outdated, or no longer applicable because of operational or technological improvements.

Although FRA has broad discretionary authority to waive the requirement to comply with part of a rule or regulation, it does so only after investigation and analysis demonstrates that granting a waiver is in the public interest and consistent with railroad safety. To ensure that petitioners are not able to use the waiver process for deregulatory purposes, in December, 2022 FRA published

guidance on submitting requests to FRA.¹ FRA welcomes feedback from all industry stakeholders, including railroad carriers, railroad labor organizations, manufacturers, and suppliers, which it seeks to incorporate into its regulations.

In your letter, you asked that FRA analyze the effects of longer train sizes on safety. As noted, in FRA's recently published Safety Advisory 2023-03, research related to the operational aspects of long trains, including brake system performance, is ongoing, but recognizing the potential complexities associated with operating longer trains, FRA issued that Safety Advisory and a separate Safety Advisory (Safety Advisory 2023-02) related to train makeup and operational safety concerns generally.²

In addition, Safety Advisory 2023-02 emphasizes specific concerns related to train makeup (including train length) and recommends that railroads follow certain best practices to ensure proactive measures are taken to address potential safety risks related to operating train builds with varying configurations (e.g., trains of varying lengths, load and empty placement, distributed power arrangements, and other factors). Safety Advisory 2023-03 focuses on longer trains in particular and recommends that railroads review their operating rules and existing locomotive engineer certification programs to address the potential operational complexities of train length, appropriate action is taken to prevent the loss of communications between end-of-train devices, and to mitigate the impacts of long trains on blocked crossings.

Additionally, in response to mandates in the Infrastructure Investment and Jobs Act, FRA is currently studying the air brake system performance and resulting train dynamics of trains up to 200 cars in length and the National Academies of Sciences, Engineering, and Medicine is conducting a study of the impacts of trains longer than 7,500 feet. These studies are expected to be completed in 2024. In addition, on April 21, 2023, FRA published a notice of a special data collection effort in response to the mandate in IJIA Section 22421³. FRA will collect the following information for a projected five-year period: (1) the length of the trains (in feet) involved in any FRA reportable accident, and (2) the number of crew members who were aboard a controlling locomotive involved in an accident at the time of such accident.

With respect to the transportation of hazardous materials (hazmat) by rail, you asked how often such trains experience a derailment or other incident. Between 2013 and 2022, the percentage of derailments involving trains with at least one car of hazmat in the consist ranged from 23 percent to 28 percent; during that same time period, between 0.86 percent and 1.53 percent of reported derailments involved a hazmat release. FRA routinely inspects rail cars transporting hazmat, and when non-compliance is observed, enforces the Hazardous Materials Regulations (HMR)

¹ <https://railroads.dot.gov/elibrary/guidance-submitting-requests-waivers-block-signal-applications-and-other-approval-requests>

² <https://railroads.dot.gov/elibrary/safety-advisory-2023-03-accident-mitigation-and-train-length>;
<https://www.federalregister.gov/documents/2023/04/11/2023-07579/safety-advisory-2023-02-train-makeup-and-operational-safety-concerns>

³ Specifically, IJIA Section 22421(b) requires FRA to update Special Study Block 49 on Form FRA F 6180.54, for a period of five years, to collect information on: (1) the number of cars and length of trains involved in an accident/incident; and (2) the number of crew members who were aboard a controlling locomotive involved in an accident at the time of such accident. Railroads are already required to report the number of cars in the consist of a train involved in an accident on Form FRA F 6180.54, Field 35.

governing the shipment and transportation of hazmat by rail. Moreover, FRA is currently engaged in a nationwide, comprehensive assessment of routes over which high-hazard flammable trains (HHFTs) are operated, as well as other routes over which large volumes of other types of hazmat are transported. This assessment includes all FRA technical safety disciplines, including hazmat, track, signal and train control, mechanical, and operating practices. The assessment is designed to evaluate the overall condition of infrastructure, including equipment used to transport hazmat as well as railroads' compliance with the HMR and FRA's safety regulations.

Further, in April 2023, the Railroad Safety Advisory Committee (RSAC) voted to accept three new tasks designed to address the circumstances of recent derailments, including a task to consider revisions to the HMR to enhance rail safety by expanding the HHFT definition and modifying the operating requirements for HHFTs and other hazmat train configurations that may present elevated transportation risk. An RSAC working group to address these issues is currently being formed. FRA expects that working group to begin meeting this summer.

You also asked about FRA guidance to railroads on Risk Reduction Program (RRP) implementation, as well as when FRA plans to begin auditing railroads' compliance with their RRP plans. FRA's final RRP rule was published in 2020 and FRA subsequently conducted multiple training sessions for railroads and labor organizations representing many directly affected employees. During those training sessions which included sessions in August and November 2020, as well as February, March, and April 2021, FRA explained the requirements of the rule, outlined FRA's expectations on the content of RRP plans, and described the expected approval process. Further, on October 12, 2022, FRA issued guidance on railroad/employee consultation requirements.⁴ As of Spring 2022, FRA has approved all Class I railroads' RRP plans.

FRA is currently working with the American Short Line and Regional Railroad Association to draft an RRP plan template that could be used by Class II and Class III freight railroads found to have inadequate safety performance. Each railroad has three years from the date of FRA's plan approval to fully implement its RRP program, meaning all Class I plans will be fully implemented before May 2025. Approved RRP plans include implementation plans with timelines and milestones. FRA plans to begin auditing RRP implementation plans in the first quarter of fiscal year 2024.

Thank you again for contacting FRA regarding this matter. If you or your staff members have any additional questions, please contact the FRA's Office of Governmental Affairs at fraga@dot.gov.

Sincerely,



Amit Bose
Administrator

⁴ <https://railroads.dot.gov/elibrary/guidance-railroademployee-consultation-requirements-49-cfr-parts-270-and-271>