

United States Senate
WASHINGTON, DC 20510-3203

March 15, 2023

The Honorable Jennifer Homendy
Chair
National Transportation Safety Board
490 L'Enfant Plaza, SW
Washington, DC 20594

Dear Chair Homendy:

On the heels of the horrific Norfolk Southern freight derailment in East Palestine, Ohio, I applaud the National Transportation Safety Board's (NTSB) investigation into the derailment and the subsequent investigation concerning safety culture at Norfolk Southern. However, due to a troubling and fatal combination of: dangerous deregulations implemented; over 26,500 accidents and incidents in the rail industry in the past 5 years; and the over 30,000 employees cut—roughly 20% of its workforce—in the past five years, it is jarringly evident that the freight rail industry is in desperate need of a full and comprehensive investigation. I strongly urge you to expand your investigation into the safety practices of all Class I freight railroads operating throughout the country, including BNSF Railway, CSX, Union Pacific, Canadian National, Canadian Pacific, and Kansas City Southern; and issue findings, recommendations, and regulations to improve rail safety across the country.

For any investigation into the seven Class I railroads operating in America, I ask that you consider the following questions:

1. What specific regulations and standards do you recommend to provide the utmost safety and oversight and directly impact severity of derailments, accidents, or incidents in the rail industry?
2. How have recent deregulatory pushes contributed to these derailments and increase in deaths?
3. What general commonalities can you find among the accidents? How can those be addressed?
4. How often do freight trains carrying hazardous material suffer a derailment or have other incidents occur? Can you assess the efficacy of the rule requiring freight rail notifications to local communities about High Hazard Flammable Trains *only* if there are a certain number of cars and *only* if containing said flammable liquid material? If they had been notified, would it have helped first responders in East Palestine and should we reconsider what is considered a high-hazardous material train?
5. Does the railroad have a culture of ignoring their own safety standards? In October, just a few months before the East Palestine derailment, a Norfolk Southern supervisor directed crews to continue operating a train that had jumped the tracks rather than setting

aside the train car for further inspection.¹ Is there a pattern of disregard for safety protocols?

6. Similarly, to what degree are companies protecting or ignoring safety protocols for the workers they employ?

As we have seen firsthand, the freight rail industry has time and time again dangerously played fast and loose with the regulations while endangering millions of Americans throughout the country. Over just the past five years there have been almost 13,000 injuries and worse, we have seen an increase in fatalities, resulting in roughly 2,768 deaths attributed to freight rail accidents and incidents. Though freight rail is a vital lifeline for our local economic ecosystems, railroads carry hazardous, and in some cases toxic, materials every day and have a tremendous responsibility to operate safely. However, the public, particularly first responders, have few means of understanding what these multi-billion-dollar companies are doing to operate safely—or if they are cutting corners, thus, making it incumbent on the NTSB to assure all Americans that the companies are operating safely, ethically, and efficiently.

The statistics and data on accidents and incidents for Class I railroads can only tell part of the story. They tell us how many accidents or incidents have occurred in the past five years—26,563—but they don't tell if those accidents occurred in populated areas or how many gallons of oil were spilled or toxic chemicals released. They tell us how many grade-crossing accidents there were but not if any occurred because the tracks are severely degraded or poorly designed. They can tell us how many fatalities there were—2,768—but not why or if company policies could have prevented them. Congress—and the American People—desperately need greater insight into an industry that lacks transparency and clear safety standards all while transporting hazardous and toxic materials through American communities each day.

As we have seen, the East Palestine derailment was not the first dangerous incident for Norfolk Southern, and there have been multiple dangerous accidents since, including two more in Ohio alone. However, I am hopeful that if the NTSB executes a comprehensive and rigorous investigation into the safety practices and culture at all Class I railroads, you can assure Americans that freight rail safety will dramatically improve.

Thank you for your time and consideration of this deeply important matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,



Charles E. Schumer
United States Senate Majority Leader

¹ <https://www.propublica.org/article/norfolk-southern-policy-safety-alerts-east-palestine-derailment>