

# United States Senate

WASHINGTON, DC 20510-3203

April 6, 2023

The Honorable Amit Bose  
Administrator  
Federal Railroad Administration (FRA)  
U.S. Department of Transportation  
1200 New Jersey Ave, SE  
Washington, D.C. 20590

Dear Administrator Bose:

In light of the disastrous Norfolk Southern freight derailment in East Palestine, Ohio, and subsequent derailments in recent months from all other Class I freight railroads—CSX, Union Pacific, BNSF, Canadian National, and Canadian Pacific/Kansas City Southern—I am concerned about the state of rail safety in America. For example, the derailment in East Palestine saw the burning of vinyl chloride. In recent weeks, a CSX train derailment spilled diesel into a river. A Canadian Pacific derailment spilled liquid asphalt and ethylene glycol and released propylene vapor. A Union Pacific train and separately a Canadian Pacific train carrying iron ore derailed. And, a BNSF train that derailed spilled ethanol and corn syrup, catching fire and forcing residents to evacuate.

Freight railroads have long been lobbying for looser regulations, and we have seen the real-world dangers of these companies putting profits above safety by downsizing their workforce, adopting automation, and prioritizing stock buybacks over reinvesting in safety improvements. In the past five years we have seen over 26,500 accidents and incidents, almost 13,000 injuries, and worse, an increase in fatalities, resulting in roughly 2,768 deaths attributed to freight rail accidents and incidents. The industry has, at the same time, cut over 30,000 employees—roughly 20%—from its workforce. The alarming combination of these forces clearly demonstrates the need for a full audit of industry practices. I strongly urge you to work in conjunction with the NTSB to audit all Class I freight railroads for safety practices, including BNSF Railway, CSX, Union Pacific, Canadian National, and the soon to be Canadian Pacific Kansas City after the merger between Canadian Pacific and Kansas City Southern, and to take appropriate corrective and enforcement action where needed.

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

1. What commonalities or trends can you find in safety practices or lack thereof between railroads? How can any shortcomings be addressed?
2. What violations of safety culture or practices have you found and how is your agency addressing these?
3. How have recent deregulatory pushes contributed to derailments and loss of life?
4. Are longer train sizes a contributing factor in the number of derailments that have occurred in recent years? I urge you to analyze this issue as quickly as possible.
5. How often do freight trains carrying hazardous material suffer a derailment or have other incidents occur? In 2015, the FRA in conjunction with PHMSA, issued the High Hazard Flammable Train rule which greatly limited the scope of the affected trains to a small number of chemicals and a high threshold for number of train cars. The NTSB back then and now recommends broadening the classes of chemicals and including any train with one car of hazardous materials as part of the rule. Communities have a right to know about dangerous chemicals in their backyards. Will you consider broadening the scope of the rule to include NTSB's recommendations?
6. Your agency finalized the Risk Reduction Program rule in 2020 to require railroads to create a Risk Reduction Program. To date, FRA has not finalized guidance for railroads to implement a plan and has not audited the plans. When will you commit to finalizing guidance this year and formalizing plans to audit railroads? FRA's oversight to ensure railroads are identifying and mitigating known risks is critical to ensuring railroad safety.

The American public deserves to be assured that freight rail moving through their communities is as safe and transparent as possible. The current rules for hazardous trains are so limited they often don't provide local officials and first responders the information they need to safely prepare their communities or respond to all hazardous materials incidents. The FRA has a regulatory responsibility to ensure these companies are operating safely and responding to the communities they serve. This is why I am strongly urging you to audit the class I railroads and examine what FRA can be doing better to strengthen safety across the industry through requirements and enforcement.

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 Senator