

**IMPROVING RAIL SAFETY IN RESPONSE  
TO THE EAST PALESTINE DERAILMENT**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE,  
SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE**

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

—————  
MARCH 22, 2023  
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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

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## **IMPROVING RAIL SAFETY IN RESPONSE TO THE EAST PALESTINE DERAILMENT**

**WEDNESDAY, MARCH 22, 2023**

U.S. SENATE,  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,  
*Washington, DC.*

The Committee met, pursuant to notice, at 10:51 a.m., in room SR-253, Russell Senate Office Building, Hon. Maria Cantwell, Chairwoman of the Committee, presiding.

Present: Senators Cantwell[*presiding*], Klobuchar, Schatz, Markey, Peters, Baldwin, Duckworth, Tester, Sinema, Rosen, Luján, Hickenlooper, Warnock, Welch, Cruz, Thune, Fischer, Moran, Sullivan, Blackburn, Young, Budd, Schmitt, Vance, and Capito.

Also present: Senator Brown.

### **OPENING STATEMENT OF HON. MARIA CANTWELL, U.S. SENATOR FROM WASHINGTON**

Chair CANTWELL. The Science and Transportation committee will come to order for the purposes of a hearing. We are here this morning at the Full Committee for “Improving Rail Safety in Response to the East Palestine Derailment.”

I would ask the witnesses to please join us for the first panel at the witness table. Good morning, everyone. The hearing will come to order. On February 3, the town of East Palestine, Ohio, experienced a hazardous material event that no community should have to suffer from.

A Norfolk Southern train carrying hazardous material crashed just outside the town and 38 cars, more than a quarter of the train, derailed. Plastic pellets from one of the derailed cars caught fire with engulfed—and engulfed other rail cars, including five carrying vinyl chloride. After burning for 2 days, authorities became concerned that the vinyl chloride in one of the tanks was undergoing a chemical reaction that made it bigger and more dangerous.

The authorities then initiated a controlled burn of the remaining vinyl chloride in five tanks to prevent a greater catastrophe. 2,000 residents were forced to evacuate and a community was forever changed. We look forward to hearing the witnesses and especially appreciate the Palestine moms for their leadership, and we look forward to hearing from Ms. Allison this morning.

Let me be clear, this hearing is not only, though, about East Palestine derailment. Less than a week ago, a Burlington Northern Santa Fe train derailed in my state of Washington, the Swinomish reservation in Skagit County, spilling 5,000 gallons of diesel near Padilla Bay waterfront, a very sensitive aquatic ecosystem. These

are important issues for all of America, and we look forward to working in a bipartisan basis on this problem.

Fire Chief Comstock, I know, will be testifying, and he knows better that a fire department needs to deal with the hazardous materials, and we will be asking you what Congress can do to better equip the firefighters who have to respond. These derailments have occurred during a concerning trend.

That is, we can't have railroads adopt operating models focused on just cutting cost to achieve higher profits and then have higher accident rates. We need to invest in the modernization of equipment that will provide the safety we need. From 2017 to 2021, railroads cut their workforce by 22 percent and reduced investment in the network by 24 percent. And at the same time, accident rates increased by 14 percent.

We will dive into these details today to better understand what that is about. Today, we will hear from Senators Brown and Vance about their bipartisan legislation, the Railway Safety Act of 2023, and from Ohio Governor Mike DeWine about his experience in responding to the derailment. We will hear from, as I mentioned earlier, East Palestine resident Misti Allison, who will give a firsthand account of how the derailment impacted her community.

We will also hear from a second panel of witnesses who will speak to rail and hazardous materials safety policy failures that contributed to the derailment and what steps are necessary to protect communities, employees, and the environment. NTSB Chair Homendy will be here, and I look forward to asking her about their agency's recommendations to improve rail safety and about what investments in detection devices are necessary.

Mr. Whitaker, you and your coworkers who have raised questions about safety, we will hear from you about why you believe these concerns have gone unaddressed. And we will hear from Norfolk Southern CEO Alan Shaw about these trends and what he is going to do to ensure that safety is the top priority.

A month ago, I sent letters to seven Class I freight railroads asking for information about their hazardous materials safety practices. Nearly all of them failed to provide the Committee with the specific information that were requested. I have to say BSNF did provide us with information about past inspections, but we need clear information from organizations where we are today with safety inspections.

Let me be clear, we need to know exactly what organizations are doing today to make sure inspections are helping us to detect problems. I introduced legislation in 2015 that has some of the same provisions that we now see in the Brown, Vance Bill.

I wish some of those who had been implemented sooner. Our two colleagues, though, are working very diligently to make this a top priority here in Congress and working hard to represent these communities.

I believe that our committee can work in a bipartisan fashion to improve rail safety, but it shouldn't go unnoticed that the same issues are plaguing us in other areas of transportation. If you want to have the safest system, you have to have the most modernized equipment, the most minimal of workforce standards, and you have to continue to improve safety.

With that, I will turn it over to the Ranking Member, Senator Cruz, for his opening comments.

**STATEMENT OF HON. TED CRUZ,  
U.S. SENATOR FROM TEXAS**

Senator CRUZ. Thank you, Madam Chair. I want to thank the witnesses for being here today. Welcome, Senator Brown. Like so many other Americans, I watched with dismay the horror that unfolded in East Palestine, Ohio.

On television, we saw a fiery train wreck where nearby residents were understandably fearful that their water was poisoned and their air was polluted. The distress of East Palestine's residents was real then and it is real now. And Ms. Allison, thank you for being here and testifying today.

That is why it is important that we are holding this hearing. This hearing will address two critical topics. First, what can be done to prevent derailments like the one that occurred in East Palestine? Second, what can be done more broadly to improve the safety of trains transporting hazardous materials?

While these topics are related, and each topic, I think, merits its own hearing, it appears this morning may be our only opportunity as a full committee to examine the East Palestine derailment and the broader questions about railroad safety policy.

To be clear, I agree with Senators Brown and Vance that railroad safety should be on our agenda, and that it is an opportunity for real and meaningful bipartisan cooperation. My team and I will continue engaging with their staff and with the Chairwoman's staff, and I am optimistic that we can achieve broad agreement on policies that improve safety, that protect our communities, without at the same time damaging our supply chain or imposing unreasonable costs that would ultimately harm American families.

We need to do both. Today, we need to hear what led to the derailment in East Palestine. The NTSB has launched an investigation, and I appreciate Chairwoman Homendy's appearance here today. This committee is also looking very closely at this derailment. For as much as we know about the derailment, key questions remain unanswered.

For example, who specifically made the decision to vent and burn the vinyl chloride from all five derailed tank cars, and why? Were alternatives considered? Were the right people consulted? I also want to know what can be done to prevent or to mitigate similar derailments in the future?

This committee should hear more about wayside detectors and advanced technologies that could use algorithms and trending analysis to identify potential safety issues earlier. We should hear more about the information available to first responders and about the coordination with shippers of hazardous materials.

Understandably, Americans across the country share the concerns of the residents of East Palestine and wonder, are essential hazardous materials being transported safely? Will residents be protected if a spill occurs? Unfortunately, the delayed and disjointed response by the Biden Administration has not allayed these concerns.

Notably, we heard calls from residents of East Palestine in the local school asking, where is Pete Buttigieg? The response from East Palestine's Mayor, Trent Conway, was, "I don't know." It took Secretary Buttigieg 10 days to even acknowledge the derailment. After he was called out, he did a 180 and tried to sell a slew of big Government regulatory proposals desperate to disguise the failure of the Administration to act sooner.

For example, Secretary Buttigieg, as proposed, is reinstating a brake rule that was not supported by cost benefit analysis. Shortly thereafter, the Chairwoman of the NTSB, Chairwoman Homendy, tweeted about this rule.

She said, "some are saying the ECP electronically controlled pneumatic brake rule, if implemented, would have prevented this derailment. False." She proceeded to explain the proposed break rule would not have applied to the East Palestine train and would not have prevented the derailment, even if it had.

Undeterred, Secretary Buttigieg then released a laundry list of regulatory proposals, many of which had little to no connection to the East Palestine derailment. In an effort to further distract from his own failed response, Secretary Buttigieg has suggested that President Trump was responsible for the derailment in East Palestine.

I know that is a frequent playbook of this Administration, blaming every problem on President Trump, but not even *The Washington Post* fact checker, who usually goes out of his way to back Democrat claims, bought this claim.

*The Washington Post* fact checker concluded, and I quote, "from our analysis, none of the regulatory changes made during the Trump Administration at this point can be cited as contributing to the accident." In contrast to Secretary Buttigieg, our colleague on this committee, Senator Vance, has kept his focus where it should be, on the people affected by the derailment.

I applaud him and I applaud Senator Brown for focusing on their constituents, and I look forward to continuing to work closely with both of you and with the Chairwoman on a bipartisan serious rail safety package.

Chair CANTWELL. Thank you, Senator Cruz. The first panel will provide committee testimony about rail safety legislation being supported by Senators Brown and Vance. And we will hear how the Norfolk Southern derailment has impacted the community.

First, we will hear from Senator Brown and then Senator Vance, who is on the Committee, about their legislation. Next, we will hear from Governor Mike DeWine, who will be joining us remotely, who has been Governor of Ohio since 2019, is a former Senate colleague and we welcome him back into the Senate for the purposes of his experience on this derailment. And we look forward to hearing from you, Governor DeWine.

And last, we will hear from Misti Allison, who is a member of the community from East Palestine, Ohio. So, thank you all for being here. And Senator Brown, you lead off.

**STATEMENT OF HON. SHERROD BROWN,  
U.S. SENATOR FROM OHIO**

Senator BROWN. Thank you, Madam Chair. Senator Cruz, thank you, and members of the Committee, especially my colleague from Ohio, Senator Vance.

I want to thank Governor DeWine for the very good work he has done in responding to this. Misti Allison for her activism. She is here today with us, as Chair Cantwell said. This is her second trip to Washington on behalf of the East Palestine community. She is here soon after the loss of her mother.

Misti, thank you for speaking up during this difficult time and for your leadership, and our thoughts and prayers, of course, are with you and your family. I appreciate the work that Senator Vance has done on this legislation. It has been a bipartisan effort from the beginning. I appreciate the comments of Senator Cruz and Chair Cantwell. I was just in East Palestine again yesterday.

I want to thank Ohio witnesses and the second panel, Chief Comstock of the Western Reserve Joint Fire District, and Clyde Whitaker with SMART Transportation Division that represents some 3,000 rail workers in our state. I appreciate their work. Chief Comstock speaks clearly about the challenges first responders in communities the size of East Palestine have faced.

Mr. Whitaker is an unrelenting advocate for safe working conditions for his members and for all people working in Ohio railroads. The nation now knows East Palestine is a tight knit community in Columbiana County, Ohio.

The year I was born, and a couple of decades after that East Palestine—the Columbiana County made 80 percent of the tableware in this country, the dishes and glasses, and because of bad trade policy, those jobs first they moved South, then they moved to Mexico, then they moved to China.

There are no potteries in Columbiana County anymore. This community and neighboring communities just a couple of miles away in Beaver County, Pennsylvania, are the kind of places that are too often forgotten or exploited by corporate America.

Now, these Ohioans are worried about whether their water is safe to drink, whether the air is safe to breathe, whether their kids will get sick, and of interest to the Committee I chair, what happens to the value of their homes.

We have heard Mr. Shaw say that Norfolk Southern is going to “make it right” in East Palestine, and do right, in his words, by the community. Senator Vance and I are going to make sure that East Palestine is not forgotten. He and I both make regular visits there. Not next week, not next month, not next year, not ever.

Doing right by this community must include making sure more accidents don’t happen and that is the reason for our legislative efforts. That will only occur if we take clear, commonsense steps to make our railways safer. Norfolk Southern followed the Wall Street business model, boost profits in its stock price by eliminating over the last decade 38 percent of its workforce.

These profits were spent on stock buybacks that benefit executives instead of investing in workers and investing in safety. Instead, they compromised safety. Cut costs to boost profits, the com-

munities along their route be damned. For decades, the railroads have lobbied to undermine safety rules.

They are still at it even now, after what they have done to this Ohio town, even with the eyes of the country on them, Madam Chair. Today you are going to hear arguments from Norfolk Southern and the rail industry's lobbying arm that they support the intent of the bill, but they don't really need stronger rules. We have heard that before in this committee and elsewhere.

The railroads are committed to safety. They say they are making changes. They claim. Mr. Jefferies's prepared testimony goes to great lengths to hide safety problems in his statistics. Here is a statistic you won't hear, taking out grade crossings.

The accident and incident rate for Class I railroads, not including the short lines, Class I railroads is higher in each of the past 4 years than any year since 2008. A decade of progress has been wiped out. Their trains are growing longer, heavier, and more dangerous.

The train that went off the tracks in East Palestine was 149 cars. The train that went off the tracks in Springfield, Ohio, West of there, 150 miles, only 2 weeks later was over 200 cars. They are longer, they are heavier, they are more dangerous.

So, remember, when you hear about supposed quote, meaning, remember that when you hear about meaningfully improved safety. We have heard over the past month and Mr. Jefferies will repeat today, that 99.9 percent of rail has met shipments, reached their destinations without releasing toxic waste.

I would urge him to talk to Ms. Allison and others whom I have gotten to know in East Palestine about how it feels to be that 0.1 percent. Ask her if she thinks that record is something to brag about. Railroads refuse to support new rules for trains that carry dangerous hazardous material, like the vinyl chloride that burned in Ohio.

They have cut the amount of time their car men are given to inspect each railcar to less than a minute. The railroads have often argued against increasing fines for safety violations. Of course, they have. In most recent Fiscal Year available, Norfolk Southern had 579 violations in the cases that have been closed.

They paid an average fine of less than \$3,300. You heard that right. Not \$30 million, not \$3 million, just over \$3,000. The largest fine Norfolk Southern paid that year was just over \$25,000. The company, keep in mind, planned to spend \$3.4 billion on stock buybacks and they already did that, and even more, right before they were about to do it again when the train derailed. It is not a cost of doing business, the fines. It really is a rounding error.

Finally, the railroads are fighting the most basic of all requirements, having two crew members in a train. If you ask 50 people outside anywhere, how many people you think work on those trains that are 200 cars long or two or three miles long, you would hear people say 5, 10, 20. The railroads want only one person working on a train that is two or three miles long. That is frankly crazy.

Earlier this month, Norfolk Southern issued a six-point plan of modest safety improvements. We don't need a voluntary plan. We need the Brown, Vance bill. We need safety rules. We need the Railway Safety Act. Our bill is a commonsense bipartisan plan.

Senator Vance and I are both here today to urge this committee to embrace the obvious need for safety reform.

It shouldn't, Madam Chair, Senator Cruz, it shouldn't take a train derailment for elected officials to put partisanship aside and work together for the people whom we serve, not corporations like Norfolk Southern.

[The prepared statement of Senator Brown follows:]

PREPARED STATEMENT OF HON. SHERROD BROWN, U.S. SENATOR FROM OHIO

I want to thank Governor DeWine and Misti Allison for joining us today. You both know too well the need for stronger rail safety.

This is Ms. Allison's second trip to Washington, DC on behalf of the East Palestine and she is here soon after the loss of her mother. Misti, thank you for speaking up during this difficult time. Our thoughts and prayers are with you and your family at the loss of your mother.

I also want to thank our Ohio witnesses on the second panel: Chief Chip Comstock of the Western Reserve Joint Fire District and Clyde Whitaker with SMART's Transportation Division that represents 3,000 railroad workers in our state.

Chief Comstock speaks clearly about the challenges our first responders in East Palestine have faced, and Mr. Whitaker is a constant advocate for safe working conditions on Ohio railroads.

As the Nation now knows, East Palestine is a tightknit town in Columbiana County, Ohio, which once made 80 percent of the ceramics in this country, before those jobs—like so many in our state—moved overseas, so companies could pay workers less.

This town—and neighboring communities in Beaver County, Pennsylvania—are the kinds of places that are too often forgotten or exploited by corporate America.

Now, these Ohioans are worried about whether their water is safe to drink, whether the air is safe to breathe, whether their kids will get sick, and—of interest to the Committee I chair—what happens to the value of their homes.

We've heard Mr. Shaw say that Norfolk Southern is going to "make it right" in East Palestine and "do right" by the community. Senator Vance and I are going to make sure that East Palestine is not forgotten—not next week, not in two years, not ever.

Doing right by this community must include making sure more accidents don't happen. And that will only occur if we take clear, commonsense steps to make our railways safer.

Norfolk Southern followed the Wall Street business model: boost profits, and its stock price, by eliminating 38 percent of its workers over 10 years. Those profits were spent on stock buybacks that benefit executives instead of investing in its workers and investing in safety.

Cut costs to boost profits, the communities along their routes be damned. For decades, the railroads have lobbied to undermine safety rules.

And they're still at it, even now even after what they've done to this Ohio town. Even with the eyes of the country on them.

Today you're going to hear arguments from Norfolk Southern and the rail industry's lobbying arm that they support the "intent of the bill" but that we don't need stronger rules.

The railroads are committed to safety, they say. They're making changes, they claim.

Mr. Jefferies' prepared testimony goes to great lengths to hide safety problems in his statistics.

Here's a statistic you won't hear: taking out grade crossings, the accident and incident rate for Class I railroads is higher in each of the past 4 years than in any year since 2008. A decade of progress has been wiped out.

Their trains are growing longer, heavier, and more dangerous.

So remember that when you hear about supposed, quote, "meaningfully improved safety."

We've also heard over the past month—and Mr. Jefferies will repeat today—that 99.9 percent of rail hazmat shipments reach their destination without releasing toxic waste.

I'd urge him to talk to Ohioans in East Palestine, like Ms. Allison, about how it feels to be in that point-one-percent. Ask her if she thinks that record is something to brag about.

Railroads refuse to support new rules for trains that carry dangerous hazardous materials, like the vinyl chloride that burned in Ohio.

They have cut the amount of time their carmen are given to inspect each railcar to less than a minute.

The railroads have also argued against increasing fines for safety violations. Of course.

In the most recent fiscal year available, Norfolk Southern had 579 violations in closed cases. They paid an average fine of less than \$3,300.

You heard that right—not \$30 million. Not \$3 million. Just over \$3,000. The largest fine Norfolk Southern paid that year was just over \$25,000.

This company planned to spend \$3.4 billion on stock buybacks. A \$3,000 or \$25,000 fine is meaningless. It's not even a cost of doing business—it's a rounding error.

Finally, the railroads are fighting the most basic of all requirements: having two crew members in a train.

Trains are miles long. Railroads want just a single human being on these trains. That is, frankly, crazy.

Earlier this month, Norfolk Southern issued a six-point plan of modest safety improvements. We don't need a voluntary plan.

We need real safety rules. We need the Railway Safety Act.

Our bill is a commonsense, bipartisan plan. Senator Vance and I are both here today to urge the Committee to embrace the obvious need for safety reforms.

*It shouldn't take a train derailment for elected officials to put partisanship aside and work together for the people we serve—not corporations like Norfolk Southern.*

Chair CANTWELL. Thank you. Thank you, Senator Brown. And thank you for accentuating this one point, that is a trend change that I don't think people have fully digested is the length of trains has significantly changed.

And so, I think it proposes definitely new challenges. Senator Vance, thank you. I look forward to your comments and appreciate your work on this legislation.

**STATEMENT OF HON. JAMES DAVID VANCE,  
U.S. SENATOR FROM OHIO**

Senator VANCE. So, thank you, Madam Chair. Thank you, Ranking Member Cruz, for both of your engagement with this issue. Thanks to Senator Brown for his partnership on this issue. Appreciate it. Appreciate you being here for the Commerce Committee.

I want to thank all of our guests here, both during this panel and the next panel. But I particularly want to thank Ms. Allison for being here. I read your testimony this morning, and I won't reveal what is in it because I don't want to give anything away but let me just say that I am sorry this happened.

And as the father of three kids under the age of six, I was particularly affected by some of the ways this has affected your children. And the only thing I would ask you, Ms. Allison, because you have already done so much with your activism, I appreciate that, is that, you know, always treat our office as an open door.

If there is more that we could be doing, I would like to be doing it. I am a new Senator. You don't always see everything that is happening. And the thing that I would ask is, if you think we could be doing more, just come and tell us, because we will try to do that. So, look forward to your testimony.

But let me just sort of address a couple of issues related to the Railway Safety Act. I have heard a couple of general complaints and a couple of specific complaints about the legislation from industry groups, from alleged conservative activists, and I would like to address them in broad strokes here and then address one spe-

cific consideration, and then finally suggest a way we might be able to deal with this bill and this legislation in the future.

So, the most outrageous and the most ridiculous thing that I have heard from industry groups and other activists in response to this bill is that it is somehow a kind of Bolshevism to require the railways to engage in proper safety standards, that this bill is a big Government solution to the railway safety problem.

It is funny that that complaint comes from a group that came before this body 3 months ago begging for a bailout from their labor dispute. And while I am on that topic, by the way, thank you, Ranking Member Cruz, for your leadership on that issue in particular. But you cannot, on the one hand, beg the Government to bail you out of a labor dispute 3 months ago and then say that it is big Government to have proper safety standards in the way that you conduct your railroads. It is a ridiculous argument. It doesn't pass the smell test.

And the fact that they advanced that argument in their Op-Eds, in their paid for activism is insulting to the people of East Palestine and it is insulting to the intelligence of the members of this committee. Let me offer a specific pushback to a criticism.

One of the things that I have heard in response to our legislation is that it actually has nothing to do with what happened in East Palestine. Well, that is an interesting observation, and it is something that I would love them to go to East Palestine and say themselves. Say it to the firefighters who went into a chemical fire without proper hazmat protection because they didn't know what was on the train.

This legislation fixes that problem as it should. But you cannot say that this has nothing to do with East Palestine when the very people on the ground are begging for some of these changes and the firefighters, not just in East Palestine, but all across the state of Ohio and all across the country, are saying that they need this stuff.

Now, I have heard from people that the railroads are adopting certain voluntary standards. You heard some of that in Senator Brown's testimony. They allegedly have an app that notifies the firefighters and the first responders what is on the trains. Well, if the app was good enough, then why did it fail in East Palestine?

If the app provided proper notification, then why did firefighters in my state 7 weeks ago go fight a chemical fire without knowing what was on it? It is a ridiculous argument. Now I want to look toward the future here, and I want to offer a suggestion to the rail industry and to anybody else who wants to engage on this legislation.

I had a good meeting with Alan Shaw yesterday, and I am looking forward to Mr. Shaw's testimony. I would love to see a commitment from Mr. Shaw to defend and to support certain components of this bill. I think it would be good.

I think it would be good for the people of East Palestine, and I frankly think it would be good for Norfolk Southern as well. But one of the things that we talked about is the hot box detectors and whether we need them every 10 miles or every 15 miles or every 7.5 miles, and whether they should be enhanced by additional technology.

That is the type of conversation I am willing to have, and I don't want to speak for Senator Brown, but I guess that he would probably be willing to have it, too. Let's have that conversation about what the proper pacing is for the hotbox detectors.

Let's have the conversation about how we can advance this stuff with better technology. I am open to that. But to the rail industry, don't lie about my bill. Don't slander the staff who drafted it. If you would like to have a good faith conversation about rail safety, let's do exactly that.

But we are going to learn a lot during this committee and in the weeks to come, if the rail industry would like to do that. I hope they will, because I am certainly ready to join that conversation. Thank you, Madam Chair.

[The prepared statement of Senator Vance follows:]

PREPARED STATEMENT OF HON. JD VANCE, U.S. SENATOR FROM OHIO

I thank the Chair and the Ranking Member for holding this hearing. I also want to thank Governor DeWine for his statement. Thanks as well to the witnesses, especially Misti Allison, who has joined us from East Palestine.

The citizens of East Palestine have suffered a profound shock. They have felt the mental and physical consequences of an explosion in their community. They have felt the alienation of watching that disaster televised and dissected worldwide. They felt the terrible fear that all parents feel when their children are in danger.

This should not have happened in America. This cannot happen again in America. Today this Committee gets down to the business of ensuring that it does not.

Those are the emotional stakes of this disaster, but we are not charged in the Senate to proceed on feeling alone. This chamber rightly prides itself on being an island of reason in a political culture that has become increasingly frantic. Thinking logically, we might be inclined to suggest that an industrial economy like ours requires the transportation of hazardous materials, and that of course accidents happen. We might reason that industry provides enormous benefit to the American people, and so, while these circumstances are regrettable, they do not merit swift action.

This assessment is logical, but terribly wrong. Both Europe and Japan move more trains over more miles of track than the United States. They have many fewer derailments. They seem to be able to have a freight rail system with much less risk. Their example demonstrates that we can safely remove some of the risk from the rail system through reasonable government action without endangering commerce. Perhaps accidents will happen, but surely they can happen less often.

Senators Brown, Hawley, Rubio, Casey and Fetterman and I have offered a solution, the Railway Safety Act of 2023. Representatives Johnson and Sykes and a coalition of our state's delegation have put forward similar legislation. These measures' provisions are limited, prudent, and urgent.

Presently, there is no Federal regulation requiring the installation of sensors for overheating parts on railway lines. The most common of these sensors detect the difference between the outside temperature and the wheel and axle assembly of a railcar as it passes by. If there is a failure in this equipment, wheels lock up, and friction between the metal wheel and metal track creates heat and sparks. If there is enough heat for long enough the car's wheel and axle assembly will fail, and the train will derail. This is what caused the disaster at East Palestine. These facts are not in dispute.

In fact, on March 6, Norfolk Southern itself announced that it was installing additional sensors on its rails. The Senate should not be satisfied with a voluntary standard outlined with blurry legalisms. Phrases from their announcement, "develop a plan," "anticipates adding," and "where practical" are not enough, not when towns across America are at stake. Hot bearing detectors must be added to the network, and they must be added in sufficient frequency to detect failing equipment. The National Transportation Safety Board preliminary report says that the derailment occurred on a stretch of track where detectors were twenty miles apart. We propose to require detectors every ten miles. Currently, there are about 6,000 hot bearing detectors on the rail network, averaging approximately 20-30 miles apart, depending on the railroad and the traffic on a rail line.

The railroad industry is unmoved by the fact that this requirement would have prevented the disaster at East Palestine. They have said that this requirement does not “provide appropriate flexibility” and that it is a “prescriptive safety mandate.” They say that they are “determining what improvements should be made.” They say, “this section fails to evince any need for prescriptive installation of such detectors . . .” Such resistance to even this common sense, minimal requirement, that railroads have admitted themselves needs to be remedied, should color Senators’ perceptions of the railroads’ other objections to this legislation.

Perhaps just as important as the frequency of detectors is the question of at what temperature reading the trains should stop. Outside of East Palestine, the train registered a reading of 103 degrees Fahrenheit above ambient temperature. This did not lead to the train stopping. We need to figure out at what sensor reading these trains need to stop, and it’s clear that the voluntary guidelines are too lax, especially since Norfolk Southern claimed in the Washington Post that its stopping requirements are “among the lowest in the industry.” Even the most stringent voluntary standard in the industry wasn’t good enough.

As Governor DeWine stated in his press conference on February 14: “the railroad was not required to notify anyone here in Ohio about what was in the rail cars coming through our state.” He called it “absurd.” I agree. It is absurd that there are no notification requirements for trains carrying hundreds of thousands of pounds of flammable gases under pressure. The railroads claim they have an app. There is an app! In their telling, there is no need for a Federal requirement, because the railroads have an app, another voluntary standard.

The railroads claim that the app tells first responders everything they need to know, and that there were check-ins on the app in the area of East Palestine. Ask the firefighters if they knew precisely what was on this train. Ask them, and they will tell you that the placards of the trains were damaged by fire, and that the app was not sufficient. In the crucial early moments firefighters fought an inferno with limited protective equipment, because they didn’t know they were facing dangerous materials.

The terms of service for this app state: “When using the AskRail app at the scene of a rail incident, users should try to secure the most up to date, federally-required shipping papers (consist) directly from the train crew or the railroad.” First responders should not have to come hat-in-hand and beg for these papers in the middle of an emergency. Many of these trains run through rural areas, where Internet connectivity is limited. There needs to be a mandatory requirement for notification. Senators on the Commerce Committee are intimately familiar with the issues attendant with rural broadband access. Emergency response in rural areas cannot be held hostage to the resolution of those issues—it is far too urgent.

Notification is not something new or hasty that was dreamed up in a crisis atmosphere. There was another rail accident, in recent memory, also involving vinyl chloride, in Paulsboro, New Jersey. The NTSB stated, in 2016, that “notification requirements do not include such materials as the Class 2.1 vinyl chloride that was carried by Conrail (not a Class I railroad) and released in the Paulsboro, New Jersey, accident, from which this safety recommendation was derived. We urge PHMSA to require all railroads to provide advanced notification to communities for all hazardous materials transported on a given route.” If the railroads app is as comprehensive as they say, then compliance with a new, mandatory requirement for notification that the NTSB has been requesting for nearly a decade should be quite simple.

The new regulation on flammable gas trains should also have a similar, but not precisely the same requirement as other High Hazard Flammable Trains to ensure that the safety regulations on the transportation of hazardous materials appropriately reflect the danger presented to the community. Before the transportation of millions of pounds of flammable gas, the railroad should have to have a plan in place if there is a release, just like for oil transportation. The government needs to take a look at other standards as well, including routing, consist, and train length and weight. We’re working on scoping this provision, and listening to stakeholders about our approach, but the rulemaking as it stands in the Railway Safety Act accomplishes those objectives.

Some rationalization of the inspection regime for railcars is also a must. Some have claimed there are as many as ninety points of inspection on each side of a railcar. That inspection currently occurs in thirty seconds per side under current railroad practice. The voluntary requirements of the railroad do not provide enough time for a carman to actually review a railcar with sufficient care. Failing journal bearings, such as what happened in East Palestine can show signs of leaking oil or grease. These signs can be missed when the railcar is being inspected too rapidly.

Abbreviated pre-departure inspections have now become a regular occurrence in American railroading, where trains enter yards less frequently. This is a provision in the regulations that allows for a reduced inspection when there is not a qualified mechanical inspector in the facility. This regulation must be changed so that this practice becomes the exception rather than the norm once again, lest an abbreviated pre-departure inspection contribute to the next East Palestine as it has to other, fatal railroad accidents.

The railroads suggest that the time for an inspection has no relationship to its quality. This is nonsensical. Clearly, there is a minimum amount of time required for a human visual inspection to be effective. There is a question as to what the appropriate figure for that minimum might be, and I welcome that discussion, but this committee should not be subjected to the absurdity that reducing inspection time to a hurried glance would have no effect on safety. Airlines welcome a careful pilot-driven inspection regime. If railroads are serious about safety, they will as well, especially for hazardous materials.

The bill increases civil penalties for violations, which is a commonsense provision when the maximum fine for rail safety violations is only \$225,455. This is a multi-billion-dollar industry, and fines must be a sufficient deterrent to lax safety behavior. The bill requires two-man crews, to ensure that there are adequate personnel to manipulate the train in order to take tension out of a consist so that cut levers may be pulled to separate rail cars from the site of a derailment, so that the proper braking of partially derailed trains may be achieved, and so that engineers can manipulate the train while other employees respond to the emergency, which is what happened in East Palestine.

These provisions are reasonable responses to a national disaster, which will cost untold sums to remediate. This is an industry that was created by land grants and subsidies from the Federal government in the first place, and enjoys a host of special privileges currently, not least of which was the recent congressionally-mandated termination of a railroad strike. Enacting modest advances in safety regulation after a disaster of the magnitude of East Palestine will steer Federal policy away from the current status quo, which concentrates reward in the hands of the railroads while socializing the risk of their cargoes and practices onto everyone else.

Chair CANTWELL. Thank you, Senator Vance, for your passionate support on this issue. I know it will make a difference, and I appreciate you pushing back on some of the misinformation that is out there.

We are now going to go to Governor DeWine, who is joining us remotely. Governor DeWine, always good to see you. Not good to see you on these circumstances but we appreciate your leadership in helping to articulate a path forward.

And I would be remiss if I didn't also thank you for your leadership on the CHIPS and Science Act and helping us get that legislation done. So, we look forward to you getting your help and support on moving the Brown, Vance legislation as well.

So, Senator—I mean, our colleague, but now Governor, Governor DeWine.

#### **STATEMENT OF HON. MIKE DEWINE, GOVERNOR FROM OHIO**

Mr. DEWINE. Chairwoman Cantwell, thank you very much, Ranking Member Cruz, members of the Committee. Thank you for the opportunity to testify today. I am actually, as you can see, remote and I am in the East Palestine High School Library. Let me tell you a little bit about this community.

The New Year started off normally in East Palestine. It is a village of about 4,700 people. They just enjoyed Christmas, The annual Snowflake Festival in December. The third quarter of school started in late January. Parts had been cast for the high school musical, The Lion King Junior that, frankly, my wife and I had the opportunity to watch a few days ago.

And the athletic director was preparing to host 25 to 30 teams for the Bulldog Invitational Track Meet in April. The evening of February 3, 2023, started off really not unlike a lot of Friday nights at that time of year in East Palestine.

Parents and members of the community were gathered at the high school cheering on the varsity boys basketball team at the Bulldogs home game against United High School Eagles from nearby Hanoverton. Girls varsity team had played against the Eagles just the night before.

The backdrop, of course, to all things in East Palestine is a near constant rumble of trains running through the village. But the people of East Palestine are certainly used to that and many don't even notice them anymore.

That was until 8:55 that Friday night. At 8:55, life stopped being normal for everyone in this community. It stopped feeling safe, when 38 cars of the Norfolk Southern freight train, carrying hundreds of thousands of pounds of hazardous material, hurtled off the track. Since then, I have visited the community a number of times and have had mothers tell me that they are afraid to let their children go outside in the grass to play.

Some residents have told me about their bloody noses, their rashes, their coughs that they have developed, while others who don't have symptoms now ask, what is going to happen to me in 10 or 15 years? What is going to happen to my children?

Some want to know if it is safe to plant a garden this spring, and if they do, will the vegetables be safe to eat? People wonder about their property values, the values of their homes. If they want to sell, will they ever be able to sell their homes?

Businesses worry about are they going to be able to stay afloat? Many people just wonder, will life ever return to normal? What is clear for all of East Palestine is this, this has been a deeply traumatic experience for this wonderful community. While all the tests of the air and the soil and the water have thus far shown repeatedly that things are safe, fear, fear remains.

The people of East Palestine have told me that they want their community back. They want things to go back to the way they were before the train wreck. Members of the Committee, Norfolk Southern has an obligation to restore this community. It was their train, their tracks, their action that they are responsible for this tragedy.

I want to thank Senator Vance, Senator Brown, the other co-sponsors of their bill, the Rail Safety Act of 2023. I want to also thank Congresswoman Johnson and Congresswoman Sykes for their bill, the Rail Act. I am grateful the drafters of both bills included my request for a provision requiring that the rail carriers in the future be required to provide advance notification to State and local emergency responders about what these trains are in fact carrying.

Let me go further, what—I urge the Senate and House to swiftly act to improve the safety, the safety of our railroads. Norfolk Southern must do everything in its power to put everything back as it was in East Palestine before 8:55 p.m., Friday, February 3. The people of this village have a right, they have a right to get their lives back. They have a right to get their community back, and simply to get their piece of mind.

Let me just add, if I could, one additional thing. Shortly after the derailment, I heard repeatedly from residents they were concerned about their health. So, we worked with the East Palestine community, with the health department, and others to create a clinic for the residents so they could be assessed immediately, so they could walk in and be cared for. We started that clinic shortly after this tragedy occurred.

This morning in this library I met with medical leaders from the East Liverpool City Hospital, and we are announcing today that we will be making this clinic into a permanent clinic for the community. It is going to be a full-service clinic that will provide comprehensive care and treatment.

Anybody can walk in, anyone can be treated. And this is a long-term commitment to the health of the people of East Palestine. They are worried about their future. They are worried about where things are going to be in 5 or 10 or 15 years. It is important that they be able to continue to get assessed.

It is particularly important—I talked to the Fire Chief the other day, very, very concerned about the 300 responders, not just from East Palestine, but from all the areas into Pennsylvania who responded that night, they all need to be assessed. There needs to be established a baseline. And they need to be assured that in 5 years or 10 years, there is still a place where they can go. We look to the railroad.

We look to the railroad to establish that fund. I have talked to the CEO who is testifying in just a moment. We believe that fund needs to be established. It needs to be large enough to give people the confidence they have that they are going to be protected in the future. Thank you so much for inviting me to testify, and I am very, very grateful.

[The prepared statement of Mr. DeWine follows:]

PREPARED STATEMENT OF HON. MIKE DEWINE, GOVERNOR FROM OHIO

Chairwoman Cantwell, Ranking Member Cruz, and Members of the Committee—Thank you for holding this very important hearing this morning and for the opportunity to testify remotely from East Palestine High School.

East Palestine is a village of just over 4,700 people. The New Year started off normally for the people of East Palestine. They had just enjoyed Christmas and the annual Snowflake Festival in December. The 3rd quarter of school started in late January, parts had been cast for the Spring high school musical—The Lion King Jr.—and Assistant Principal and Athletic Director Dwayne Pavkovich, was preparing to host 25 to 30 teams for the Bulldog Invitational Track Meet that occurs every year in April.

The evening of February 3rd, 2023, started off not unlike a lot of Friday nights in East Palestine. Parents and members of the community were gathered at the high school, cheering on the varsity boys basketball team at the Bulldogs home game against the United High School Eagles from nearby Hanoverton.

The girls varsity team had played against the Eagles just the night before.

The backdrop to all things in East Palestine is the near constant rumble of trains running through the village. But, the people of East Palestine are used to this. Many don't even notice them anymore.

That was until 8:55pm that Friday night. Life stopped being normal for everyone in this community—it stopped feeling safe—when 38 cars of that Norfolk Southern freight train, carrying hundreds of thousands of pounds of hazardous materials, hurtled off the track.

In an instant, life turned upside down.

In the six-and-a-half weeks since the derailment, I have visited East Palestine a number of times and have had mothers tell me they are afraid to let their children

play in the grass in their yards. They want to know when it will be safe or if it ever will be safe.

Some have told me about their bloody noses and rashes and coughs they have developed, while others, who don't have symptoms now, ask what is going to happen to them in 10 or 15 years?

A young mother worries about what is going to happen to her 15-month-old baby?

Some want to know if it is safe to plant a garden this Spring. Is it ok to till the soil or will that disturb toxins in the dirt? If they do plant a garden, will the vegetables be safe to eat? Local farmers are wondering about their winter wheat crops and if they will be able to sell to anyone come June when it is harvested.

People in the community worry about the valuation of their properties. Will they ever be able to sell their homes?

Will their small businesses stay afloat?

Many just wonder: How are we going to return to normal?

What is clear for all of East Palestine is that this has been a deeply traumatic experience for the entire community. But, while all the tests of the air and the soil and the water have shown repeatedly that things are safe, fear remains.

What the people of East Palestine have told me is that they want their community back. They want things to be back to the way they were before the train wreck.

Members of the Committee, Norfolk Southern has an obligation to restore this community. I will continue to do everything in my power to hold Norfolk Southern accountable. This was their train, their tracks, and they are responsible for this tragedy.

In addition to the full cleanup and restoration of East Palestine, the railroad must do all it can to prevent similar derailments in the future and invest significantly in improving rail safety around the country.

It is my commitment that the State of Ohio will not abandon East Palestine. Our state agencies arrived at the scene almost immediately—and we remain there today.

Less than an hour after the train derailed, the East Palestine Police Department requested the assistance of our Ohio Highway Patrol. Our troopers in the area responded immediately, followed less than an hour later by Patrol units from a seven-county area. They quickly began going door-to-door with local police and Sheriff Deputies to check on residents and notify them of the one-mile evacuation zone.

By 10:30pm, the Columbiana County Emergency Management Agency (EMA) notified the Ohio EMA, who then began to monitor the situation and dispatched regional coordinators to East Palestine. Throughout the night and all day Saturday and Sunday, the Ohio Highway Patrol had a Sergeant embedded in the local incident command center.

Shortly after midnight at 12:25am on Saturday, February 4th, the Ohio Environmental Protection Agency (EPA) Emergency Response arrived on scene and immediately began containing the chemicals that had already spilled into the nearby creek. The U.S. EPA responded shortly thereafter and began monitoring the air.

Initial reports were that nobody was injured, there was no significant property damage, and that the local first responders had the situation under control. They had decided that they were going to contain the fire, and let it burn itself out.

But by late Sunday afternoon, February 5th, the situation significantly changed as the experts monitoring the train car noticed a sharp rise in the temperature of the chemicals in one of the derailed tankers. By Sunday evening, there was serious concern about the potential explosion of one of the rail cars containing vinyl chloride.

Upon learning this, I immediately sent my Director of the Department of Public Safety, Andy Wilson, to East Palestine to assist with the coordination of state emergency response. I also activated the Ohio National Guard and ordered the Ohio Highway Patrol to help with evacuations and knock on every door in the evacuation zone. By 8:28pm, an evacuation notice went out.

Throughout the night, Troopers went house by house through the evacuation zone alerting every person who remained that the situation had changed, it was extremely dangerous, and that they should leave immediately. Over the course of the emergency, public safety and emergency responders knocked on the doors in the danger zone on four separate occasions in an attempt to ensure the safety of the people residing there.

When the Ohio EPA officials initially arrived at the scene, they quickly determined that the wells supplying the Village's water were upstream of the derailment, and therefore, should be unaffected by the chemicals spilled in the derailment. In the days and weeks following, the Ohio EPA implemented a rigorous plan for testing the creeks. We know the creeks are contaminated, but we are excited to see the return of aquatic life which indicates that the waterways are recovering.

Team members from the Ohio Department of Natural Resources (ODNR) arrived on scene within 24 hours of the derailment to begin surveying the impact on aquatic life and other wildlife in the area. As I indicated, it was clear that chemicals from the derailment had entered nearby waterways, significantly contaminating Sulphur Run and Leslie Run. Our ODNR team immediately began working with independent contractors to set up four separate survey locations where impacted aquatic life were identified, counted, and measured.

Also within those first 24 hours, Ohio Department of Health (ODH) staff engaged with U.S. EPA and Federal partners to review and provide guidance on proposed community air monitoring values for the health and safety of residents. ODH senior leadership contacted the Columbiana County health commissioner to get an on the ground report and to offer any needed assistance.

In the days following the derailment, it also became clear that the people of East Palestine were very concerned about the short-term and long-term effects on their health. I instructed my Department of Health Director, Dr. Bruce Vanderhoff, and his team to work with local health providers, the local health district, faith-based organizations, and community leaders to open a clinic, where members of the East Palestine community could have individualized and comprehensive medical evaluation informed by the best state and national experts. In addition to physicians and nurses, the clinic has also offered behavioral health services on site.

Further, they have coordinated with that patient's own primary care physician, if they have one, and have worked to establish a medical home for them if they did not. The importance of linking each patient back to their medical home or helping them establish a medical home is essential as part of a continuing journey to support each patient's best health over the years to come.

The interest in the clinic has exceeded our expectations. To date, more than 275 patients have been seen, and while many have medical homes or have been established new medical homes, some have expressed interest in continuing with our clinic. To meet those needs, we will be establishing this clinic as a new primary care practice in the East Palestine community to better meet the comprehensive healthcare needs of the community. This is a long-term commitment to the health and vitality of the people in the East Palestine region.

The State of Ohio's response was fast and nimble. But much more remains to be done.

The community of East Palestine is not unique. There are thousands of villages all over America just like it. Much of the Midwest and the West was built around railroads. Communities grew up where the railroads went.

At least 1,000 train derailments happen each year across this country. The next train derailment could be 10 times worse. The next derailment could be in your state.

No other community should ever have to go through this. And so, there must be a great sense of urgency to make our railways safer. As you know, Federal law and regulations have preempted state authority in almost all areas of railroad safety and security. So, I called on Congress to take strong and quick action.

I want to again thank Chairwoman Cantwell and Ranking Member Cruz for holding this hearing today. I also want to thank Chairman Carper and Ranking Member Capito of the Environment and Public Works Committee for the hearing they held two weeks ago. I understand that Congressman Johnson is holding a hearing next week and that Ohio EPA Director Vogel will be testifying before his subcommittee.

I want to thank Senators Vance, Brown, Casey, Fetterman, Hawley, and Rubio for their bill—S. 576—the Rail Safety Act 2023. And, thank you to Congressman Johnson and Congresswoman Sykes for their bill—H.R. 844—the Rail Act, and the nine additional members of the Ohio Congressional Delegation who support this bill.

I agree with the changes in the law proposed in both bills and understand that they are very similar, with only a few differences. What I learned following the derailment in East Palestine is that our state emergency management personnel are not informed when hazardous materials are transported by rail unless a train meets the very specific definition of a "high hazard" train. We don't truly know how much hazardous material is transported on Ohio railways every day, month, or year.

I thank the drafters for responding to my request to include a provision requiring rail carriers to provide advance notification and information to state emergency response officials about what they are transporting and for including new safety requirements and procedures for trains carrying hazardous materials, such as vinyl chloride.

I urge the Senate and the House to swiftly act to effect meaningful change and improve the safety of our railroads.

Chair CANTWELL. Thank you, Governor. Thank you so much for highlighting those two details about the clinic and about the need that the community has to be further protected with resources. We will now turn to Ms. Allison.

Thank you so much for being here. I am sorry to hear about your personal loss. And we very much appreciate you being willing to testify today. Ms. Allison.

**STATEMENT OF MISTI ALLISON,  
RESIDENT OF EAST PALESTINE**

Ms. ALLISON. Thank you for inviting me to testify. I am honored to be here, but I wish it was under better circumstances. I am here to put a face on this disaster. This isn't just a political issue, it is a people issue. Everyone who lives in East Palestine is aware of the trains that pass by, but we have never really thought about them.

Now, we can't think about anything else. We will never forget the night the train derailed. I could see a huge fireball from my driveway. It didn't seem real. Little did we know this was only the beginning.

My family chose to evacuate, but many did not. None of us knew exactly what dangers were on that train. We now know that train carried multiple toxic petrochemicals. When authorities conducted a controlled burn, it was like a bomb went off, a bomb containing vinyl chloride, which releases dangerous chemicals.

When burned, these chemicals never go away. Chemicals such as dioxins, which are not safe at any level and cause damage that may not show up for years. Two days later, our Government told us it was safe to come home. But is it safe? People and animals in my community are sick.

The EPA tells us the data is fine, while independent researchers say that there are high levels of carcinogens all around us. Who do we trust? And then there is our mental health. The anxiety is real. My 7-year-old has asked me if he is going to die from living in his own home. What do I tell him?

This preventable accident has put a scarlet letter on our town. People don't want to come here. Businesses are struggling. Our home values are plummeting. Even if we wanted to leave, we couldn't. Who would buy our homes?

There were over a thousand train derailments last year, and the expansion of the petrochemical industry means that more trains carrying toxic chemicals will put more families at risk. Alan Shaw has repeatedly said that Norfolk Southern will make it right, but who determines what is right here?

East Palestine residents expect meaningful relief, including short-and long-term health care monitoring, home value protection, and an actionable economic development plan, including the Norfolk Southern training facility placed in our town. As though the train derailment wasn't enough, less than 2 weeks ago my mother lost her three-year battle with cancer.

My mother taught me to fight for what is right, and I will always fight to protect the health and safety of my children, of your children, and of every child in America. Remember, this is about people. This is about a community that no one had ever heard of be-

fore becoming ground zero and a small town being destroyed overnight.

We must have strong businesses, but I urge all of you to support commonsense safety regulations so this doesn't happen again. Together, we can make sure that East Palestine and the surrounding areas not only recover, but thrive, and that no other community experiences this tragedy.

My mom always told me, either you find a way or you find an excuse. So, it is time to learn from this and move forward together. Let's find a way, not another excuse. Thank you.

[The prepared statement of Ms. Allison follows:]

PREPARED STATEMENT OF MISTI ALLISON

Thank you for inviting me to testify. I'm honored to be here, but wish it were under better circumstances. I'm here to put a face on this chemical disaster. This isn't a political issue. It is a people issue.

Four years ago, my husband and I moved to his hometown of East Palestine, Ohio. We love raising our two children in Small Town America—where our family all lives down the road.

Everyone who lives here is aware of the long trains that regularly pass by. But we've never really thought much about them. Until the night of February 3rd. Now, we can't think about anything else.

We will never forget the night 38 cars of a Norfolk Southern freight train derailed. It erupted into a fire that released toxic chemicals into our air, water, and land—about a mile from my home.

I could see a huge fireball from my driveway. It didn't seem real. Something was horribly wrong. Little did we know, this was only the beginning.

My family chose to evacuate when a chemical smell persisted after the crash. But many of our neighbors did not. None of us knew exactly what dangers were on that train.

But we now know that train carried multiple petrochemicals, including vinyl chloride, which is linked to cancers and especially harmful to infants and children.

Three days later authorities released toxic chemicals from five tankers—in a so-called "controlled burn." We watched as a huge cloud of black smoke overtook our village. It was like a bomb went off. We were all terrified. And we're even more terrified now that we know burning vinyl chloride can result in the release of toxic chemicals that never go away, including hydrogen chloride and dioxins.

No amount of dioxins is considered safe for humans.

And the damage caused by these chemicals may not show up for many years.

On February 8th, two days later, our government told us it was "safe" to come home. Within minutes, a train went through town—on top of highly contaminated soil that was left behind.

But we don't know if it's really safe. Since returning home, people and animals are sick. The EPA is telling us the data is fine while independent researchers are telling us that there are high levels of acrolein and other cancerous chemicals around us. Who do we trust with these conflicting reports?

Some of the companies testing for toxic chemicals are paid by Norfolk Southern. How could their findings be unbiased? They are not a neutral third party. How can we trust them to act in the interests of public safety?

Mental health is also a huge issue right now. The anxiety is real. My 7-year-old son has asked me if he is going to die from being in his own home.

Kids are not allowed to play on the playground because it hasn't been cleaned. So the kids now play a game they invented called "EVACUATION" during recess. This train derailment has robbed our kids of their childhood, and perhaps more.

The damage caused by Norfolk Southern's gross negligence is immeasurable. This preventable accident has put a scarlet letter on our town. People don't want to come here. Sports teams refuse to play here. Events won't be held here. Businesses are struggling. Our home values are plummeting. Even if we wanted to leave, we couldn't. Who would buy our homes?

There were over a thousand train derailments last year, and the rapid expansion of the petrochemical industry into the Ohio River Valley, Texas, and Louisiana means that more trains carrying toxic chemicals will be traveling through more communities. This puts all our families further at risk.

As Senator Vance said last week, we can—and we must—have strong businesses. But that doesn't mean businesses should be allowed to reject common sense safety regulations. Americans need to be protected. And when these organizations fail to operate safely, they must be held accountable.

Months from now, when Norfolk Southern has removed the debris, patted themselves on the back, and moved on from this horrendous disaster, my family, my friends, and my neighbors will still be living with the aftermath and the uncertainty.

Alan Shaw has repeatedly said that Norfolk Southern will “make it right.” But who determines what is right in a situation like this? East Palestine residents expect real steps with measurable results including: 1. short-and long-term healthcare monitoring and assistance, 2. home value protection, and 3. an actionable economic development plan to ensure our community can recover and thrive.

As though this train derailment wasn't enough, less than two weeks ago, my mother lost her three-year battle with cancer.

My mother taught me to fight for what's right. And I will always fight to protect the health and safety of my children . . . of your children . . . and of every child in America.

That's the decision that you will be making. This is about people. This is about a community no one had ever heard of becoming ground zero and a small town being destroyed overnight.

We ask you to support basic safety regulations so this doesn't happen again.

We can never go back to our life before this disaster, but we can make sure that East Palestine not only recovers but thrives. And that no other community experiences this tragedy.

My mom always told me, “Either you find a way, or you find an excuse.”

It's time to collectively learn from this and move forward with bipartisan support and the support of Norfolk Southern. Let's find a way. Not another excuse.

Thank you.

Chair CANTWELL. Thank you, Ms. Allison. And unfortunately, in these safety accidents, we have often found that it is the voice of the families who come forward and help keep the focus on to safety and security.

So, thank you for helping to lead this charge on this particular issue. We very much appreciate it. I don't know if anybody has any questions for these panelists here. If not, we will turn to the second panel.

But maybe Ms. Allison, I just wanted to emphasize, maybe for you or the Governor, or actually or any of our colleagues, this issue of making sure that there is proper equipment in the community. Everybody is in agreement that we have to come up with something that gives proper equipment to the community in advance. Is that right? Governor DeWine, is that where you are?

Mr. DEWINE. Well, absolutely. I think, Madam Chair, the other thing that I have talked with the CEO quite extensively about is training. You know, in Ohio, most of our fire departments, particularly in our rural areas, are volunteers.

And so, the railroad really has unique information and it is important that they share that information about how you deal with these train fires, how you deal with the train wrecks. As you pointed out, you know that particular night, they didn't know what they were fighting.

They didn't know what they were dealing with, at least not for sure. So, training is very, very important. And I think, you know, we are making some progress in that regard. And I would, you know, like for all the railroads to really participate in that training.

Senator BROWN. Madam Chair.

Chair CANTWELL. Yes. Senator Brown, then Senator Vance.

Senator BROWN. Thank you. We are working to create a fund, sort of a regional fund, both for training, as Governor DeWine said, and for equipment. So, East Palestine has one paid firefighter, the chief, and about 20 volunteers, 22, I think. And they obviously are not going to be able to train them all to combat hazmat fires.

But we want—we look at it in a regional way all over the State and all over the country with funding from the chemical companies and the railroads so that they can all descend on a place like East Palestine from 15, 20 minutes away with the right equipment and the right training.

Chair CANTWELL. Senator Vance.

Senator BROWN. Yes, I just, I forgot my manners earlier, Madam Chair. So, appreciate—I just wondered why we still hadn't, Governor DeWine, thank him for being here, and thank him for his leadership, and his hard work over the last six, 7 weeks because he has done a great job. Thank you.

Chair CANTWELL. Thank you. Well, the reason I bring this issue up is because we have had the same issue in the Pacific Northwest as it relates to oil train derailments.

And unfortunately, they happen in communities where you might be dealing with a volunteer fire department, and what resources are there going to be in that community. So, I think the Committee here has to really think about how we are going to—what we can do to help communities be prepared in these incidents. Senator—

VOICE. Madam Chair—

Chair CANTWELL. Yes—

VOICE. Madam Chair—

Senator KLOBUCHAR. Yes, I just—

Chair CANTWELL. I just—Senator Klobuchar.

Senator KLOBUCHAR. Yes, Senator—I just wanted to thank Senator Brown and Vance, and the Governor, as well as Ms. Allison for this incredibly constructive testimony. This is—I can't even imagine what you have been through, Ms. Allison, and the fact that you are able to come forward and testify in such a meaningful way. We really appreciate.

And the bill, I am on the bill. I am a strong supporter of it. And I just thank you for working across the aisle because you could actually get things done that way, so thank.

Chair CANTWELL. Senator Cruz.

Senator CRUZ. Thank you, Madam Chair. I want to thank each of the witnesses for your testimony. It has been powerful. Ms. Allison, in particular, I want to thank you for your courage coming and speaking up. I am sorry about the loss of your mom.

That is very difficult. And you are sharing the story of your young children and what they are going through, is really powerful and moving, and so thank you for giving voice to their fears, their concerns.

Thank you also for giving voice—there are other moms from East Palestine who are here with you and standing with you. And thank you for speaking for them as well. I wanted to ask you, we are still relatively early in the aftermath of the derailment, but at least to date, are you satisfied with the response you have seen, number one, from the Federal Government, and number two, from Norfolk Southern?

Do you feel that the families who have been impacted by this have received what you need, have received the compensation you deserve? And if you are not satisfied, what more do you think is needed?

Ms. ALLISON. I would say there is always room for improvement. And this is something that at least in our community, we never expected it to happen here. I would say that there has been some response, but specifically in regards to Norfolk Southern, I do think there are a lot of opportunities for improvement, at least from a lot of the community members.

And, you know, I just shared my experience, but I do have testimonies from about 50 other residents with me today that I can share with you. I was reading those last night in my hotel room and just tears streaming down my face. It is absolutely heart-breaking.

I am a market researcher by trade, and so looking at all of this data in the aggregate, what I saw time and time again was people were saying essentially, they feel like Norfolk Southern is just offering breadcrumbs throughout the community with funding.

And then, so right now, for people that don't feel safe at home, we did receive a flyer that said that you could leave the community for the time being if you wanted to re-evacuate, and some people have chosen to do that.

However, there is not clear guidelines of what is going to be paid for and what is not. And so, when people go to the assistance center, some people are having a good experience and then some people are really being questioned about why do you feel like you should leave? Why do you feel like you need this money from us and really feeling interrogated, and so that is really concerning because I think a lot more data needs to come out.

This testing that the EPA finally said that they are, you know, testing for dioxins, et cetera, that is really good, but there is so much data that needs to come out there. And again, you can—a couple of things, one, you can make the data look however you want, and also two, you can test or not test for whatever you want.

So, I think from a community perspective, we just want to make sure that everything is being tested, that should be tested, and we are not really sure if that is being done or not. So, I would say, we are just really—everybody loves living in East Palestine and we would like to stay there, but only if it is safe.

And so, there is a lot of confusion in the community about whether long term, if it is a good choice to stay or not.

Senator CRUZ. Well, I am certain with you mentioned the 50 statements you had, I am certain that the Chair would love to have you submit those statements for the record for the Committee. And I am sure members on both sides of the aisle would like to see those statements.

One of the things you testified about is the concerns about the drop in home values. And I can understand that being a very real concern. You mentioned you have done work as a market researcher. Are there any data that are actually quantifying what the loss in home values has been?

And if so, at this point, are the residents being offered any compensation? Is Norfolk Southern offering to make residents whole

for the loss in home values? If a resident, if a family decides that they want to move, are families able to sell their homes? Are there any buyers, or I mean—one of the things you said powerfully is, even if we want to leave, we can't leave.

That—is there any relief being offered now to say, if you make the decision to move your home and to move your family somewhere else, there is an avenue for you to sell your home and get a fair market price for it?

Ms. ALLISON. The short answer is, as of today, no, there is not a clear-cut explanation or parameters of how you would do that. We have heard time and time again from Norfolk Southern that they are going to make it right and that they are looking into some long-term health care monitoring and assistance and home value protection. But details of that plan have not been disclosed to residents as of today.

Senator CRUZ. I would encourage that for you to let this committee know as it goes forward, if there are residents who are looking to move and can't sell their homes, this committee is very interested in making sure that the community of East Palestine is treated fairly and that what you are going through—you receive what is just. And so, we—I would invite you to provide this committee with the specifics so that we can expedite and facilitate making it right.

Ms. ALLISON. Thank you.

Chair CANTWELL. We are going to get to the second panel, but Senator Welch, did you have a question?

**STATEMENT OF HON. PETER WELCH,  
U.S. SENATOR FROM VERMONT**

Senator WELCH. Yes, just briefly. This is really very moving. You know, listening to Ms. Allison, small communities have something that is really very, very special. It is trust, you trust one another.

And there has been a breach of trust here. One of the biggest beneficiaries of the trust in a community like yours, and we have many like yours in Vermont, one of the biggest beneficiaries is Norfolk Southern. They can roll their two-to-three-mile trains through there without anybody asking a question because you trust them to do the right thing. And they didn't do the right thing.

And they had the opportunity to do the right thing, but they made other priorities, stock buybacks in the billions, shortening crews, doing the things that a mom would never do to take a shortcut to provide that security like to your 7-year-old.

And the heart of the discussion here is whether, as a result of the breach of trust by a very large and very powerful, very wealthy corporation, your Government, and it is your Government, should step in to restore justice to you and your fellow citizens. And that is what this hearing is about.

Will Government step up to provide physical, emotional, and health security as a result of this, just like it would if there was a military threat to our country where Government is got to be on the side of folks like you and your neighbors. So, I am very grateful to you. Feel very badly at that breach of trust.

Because you know that trust gets you through hard times. You don't even complain because you know your neighbor has got your

back. Well, you have to know the Government has got your back. We admire you.

This is going to go on for some time, as Governor DeWine said. But I think all of us in this legislation are going to do our level best to respond to you and your neighbors and what you are going through. Thank you.

Chair CANTWELL. Thank you, Senator Welch. And again, thank you to our colleagues, to Governor DeWine, to Ms. Allison. Thank you for a very compelling testimony. We will now move to the second panel.

We are going to hear from Jennifer Homendy, the Chair of the National Transportation Safety Board. We will hear from David Comstock, Fire Chief of Ohio's Western Reserve, joined Fire District, whose department responded to East Feldstein's derailment. We will hear from Mr. Clyde Whitaker, the Legislative Director of Ohio State Smart-TD, who is a long-time railroader.

Mr. Alan Shaw, CEO of Norfolk Southern. And last, we will hear from Ian Jefferies, CEO of the Association of American Railroads, who represents the railroad sector. If all of those witnesses would come forward and we will start in a minute with Ms. Homendy from the NTSB. Welcome to all the witnesses.

We appreciate you being here. Look forward to hearing—look forward to hearing your testimony. If the—we will start with you, Ms. Homendy. Thank you so much. Thank you so much for being here. We appreciate all the work that the NTSB does.

I expressed to you earlier in private your leadership in the investigation of the seaplane accident in the Pacific Northwest, and we continue to look forward to your comments on aviation in general.

We appreciated your comments prior to the aviation summit last week about the fact that the FAA needs to implement its open action items that will help us on near-miss incidents at airports.

So, thank you for your continued voice. I think when we envisioned the safety legislation that we passed, we wanted to know trends and we wanted FAA to respond faster to trends. So, thank you for helping to identify these trends in aviation and some of the issues.

So, with that, we will turn to you, Ms. Homendy, for this hearing on rail safety.

**STATEMENT OF HON. JENNIFER L. HOMENDY, CHAIR,  
NATIONAL TRANSPORTATION SAFETY BOARD**

Ms. HOMENDY. Thank you so much, and good morning. I would like to begin with addressing the people who were impacted by the derailment in East Palestine. On behalf of the NTSB, we are so sorry for all that you are going through. Please know that the agency is committed to conducting a thorough, independent, and transparent investigation of this derailment.

We will issue safety recommendations to prevent similar tragedies from reoccurring, including urgent safety recommendations, which we can do at any point if our investigation warrants it. In the next few months, we will hold an investigative hearing in East Palestine, where it will include time for community members to provide comments and ask us questions about our investigation.

My written testimony goes into more detail on the derailment, and by now the preliminary facts have been well covered. The bottom line is this, there are no accidents. This derailment, as all accidents we investigate, was 100 percent preventable. As is the case with all our investigations, we are looking into every factor that could have led to this tragedy.

We are looking into the wheel bearing, the wheels sets, the axle, and the rail car, including their manufacture, maintenance, and inspection, the hot bearing detectors, Norfolk Southern temperature thresholds for alerting train crews of safety concerns, and their use of real time monitoring and data trending, and the company's policies, practices, and overall safety culture.

We are also looking into the design, maintenance, and performance of the tank cars used to transport hazmat, including the pressure relief devices on the five vinyl chloride tank cars, emergency response preparedness and communications, the decisionmaking process that led to the vent and burn, the U.S. Department of Transportation's oversight of rail and hazmat safety, and so much more. I know that there are a lot of questions about our investigation, and I will provide what I can today.

I also know that Congress is eager to improve rail safety more broadly, so I offer the following five issues for your consideration. First, the definition of high hazard flammable terrain should be expanded to a broader array of hazmat.

And the definitions threshold of 20 loaded tank cars in a continuous block or 35 tank cars dispersed throughout a train should be eliminated. Second DOT 111 should be phased out of all hazmat service.

They are not as protected as DOT 117 tank cars. Third, people deserve to know what chemicals are moving through their communities and how to stay safe in an emergency. That includes responders who risk their lives for each of us every single day. They deserve to be prepared.

That means access to real time information, obtaining the right training and gear, and having the right communications and planning tools. Fourth, like cockpit voice recorders in aviation, audio and video recorders in the locomotive cab are essential for helping investigators determine the cause of an accident and make more precise safety recommendations. Recorders also help operators proactively improve their safety policies and practices.

In the East Palestine derailment, the locomotive was equipped with an inward facing camera. However, since the locomotive was put immediately back into service following the accident, the data was overwritten.

That means the recorder only provided about 15 minutes of data before the derailment and 5 minutes after. The FAST Act, following terrible tragedies in Chatsworth and in Philadelphia, required Amtrak and commuter railroads to maintain crash and fire hardened, inward and outward facing image recorders in all controlling locomotives that have a minimum of a 12-hour continuous recording capability.

This was extremely helpful in our DuPont, Washington investigation. Now is the time to expand that requirement to audio and include the class I freight railroads in that mandate. In fact, now

is the time to address all of the NTSB's open rail safety recommendations, many of which are on our most wanted list.

Fifth, and finally, as the Committee works on enhancing rail safety, I trust that you will consider the resources that we desperately need to carry out our critical safety mission. Investments in the NTSB are investments in safety across all modes of transportation.

To that end, we look forward to working with the Committee on this year's reauthorization of NTSB, and hope that you will approve the President's budget request for the NTSB of \$145 million. Thank you.

[The prepared statement of Ms. Homendy follows:]

PREPARED STATEMENT OF HON. JENNIFER L. HOMENDY, CHAIR,  
NATIONAL TRANSPORTATION SAFETY BOARD

Good morning, Chair Cantwell, Ranking Member Cruz, and members of the Committee. Thank you for inviting the National Transportation Safety Board (NTSB) to testify on improving rail safety in the aftermath of the Norfolk Southern Railway (NS) freight train derailment and the subsequent release of hazardous materials in East Palestine, Ohio.

As you know, the NTSB is an independent Federal agency charged by Congress with investigating every civil aviation accident in the United States and significant events in other modes of transportation—railroad, transit, highway, marine, pipeline, and commercial space. We determine the probable cause of the accidents and events we investigate and issue safety recommendations aimed at preventing future accidents and events. In addition, we conduct transportation safety research studies and offer information and other assistance to family members and survivors for any accident investigated by the agency. We also serve as the appellate authority for enforcement actions involving aviation and mariner certificates issued by the Federal Aviation Administration (FAA) and the United States Coast Guard, and adjudicate appeals of civil penalty actions taken by the FAA.

The NTSB does not have authority to promulgate operating standards, nor do we certify organizations, individuals, or equipment. Instead, we advance transportation safety through our recommendations, which are issued to any entity that can improve safety. Our goal is to identify issues and advocate for safety improvements that, if implemented, would prevent tragedies and injuries and save lives.

First and foremost, I want to thank each of you for your partnership with the NTSB to improve safety across all modes of transportation, including rail safety. I commit to you, the people of East Palestine, and all others who were affected in Ohio, Pennsylvania, and West Virginia, that the NTSB will conduct a thorough, independent, and transparent investigation into how this event occurred. We will examine the derailment, fire, hazardous materials release, and the emergency response in the hours and days after the derailment, and we will make recommendations that, if acted on, will prevent other communities from suffering a similar tragedy.

Despite recent accidents, I want to be clear that rail remains one of the safest means of transportation. For transport of some classes and quantities of hazardous materials, there is no safer alternative. Certainly, carrying them over our Nation's roadways where more than 43,000 people die every year in millions of crashes is not a safer alternative. Moreover, such small quantities of hazardous materials shipped by rail may not be economically feasible for pipeline operators to ship.

For communities that are impacted by rail accidents, particularly involving hazardous materials, I know that is little consolation as just one derailment, as we have seen in East Palestine, can be devastating. I also want to be clear that there is work that can be done to further improve rail safety, related to East Palestine and aside from our investigation. The NTSB has over 180 rail safety recommendations that are currently open.<sup>1</sup> These include 5 recommendations to the U.S. Department of Transportation (DOT), 80 recommendations to the Federal Railroad Administration (FRA), and 9 recommendations to the Pipeline and Hazardous Materials

<sup>1</sup>A report of all currently open safety recommendations related to rail is available at <https://data.ntsb.gov/carol-main-public/query-builder/route/?t=published&n=28>.

Safety Administration (PHMSA). The safety issues we see in our investigations are tragic because they are preventable, and therefore should be acted on.

### **The Derailment**

Our preliminary report on the derailment, issued on February 23, 2023, summarizes the factual information that was collected during the on-scene portion of our investigation.<sup>2</sup>

On Friday, February 3, 2023, NS freight train 32N, comprised of two head-end locomotives, 149 railcars, and 1 distributed power locomotive, was traveling east on the Fort Wayne Line of the Keystone Division. The consist included 20 placarded hazardous materials tank cars transporting combustible liquids, flammable liquids, and flammable gas, including vinyl chloride; 17 of these were fully loaded, 3 were residue cars. The train crew consisted of an engineer, conductor, and conductor trainee.

NS had equipped its rail network on that line with hot bearing detectors (HBDs) to assess the temperature conditions of wheel bearings while trains are en route. When the HBD detects overheated bearings, it provides an audible, real-time warning to train crews. According to NS's criteria, a reading above 200°F triggers a critical alert.

Train 32N passed three HBD systems in the last 30 miles before the derailment. About 30 miles before the derailment, a wheel bearing from the 23rd car was recorded at 38°F above ambient temperature (about 10°F at the time). When the train passed the next HBD about 10 miles later, the bearing's recorded temperature was 103°F above ambient temperature. The third HBD, about 20 miles later, recorded the bearing's temperature at 253°F above ambient temperature and sent a critical alert to the crew to stop the train and inspect the axle.

At the time, the engineer was already slowing the train because there was another train ahead. Once the critical alert was received, he increased the brake application to further slow and stop the train. During the deceleration, the wheel bearing on the 23rd car failed and the car derailed, resulting in an emergency brake application stopping the train. After the train stopped, the crew observed fire and smoke, and reported a possible derailment to the NS train dispatcher. Responders arrived at the derailment site and began response efforts.

A total of 38 railcars derailed, 11 of which were carrying hazardous materials. The combination of the plastic pellets in the 23rd car and the hot axle of that car likely started the initial fire. First responders implemented a 1-mile evacuation zone surrounding the derailment site, affecting up to 2,000 residents.

On February 5, responders mitigated the fire, but five derailed tank cars, carrying a total of 115,580 gallons of vinyl chloride, continued to concern authorities. The temperature inside one tank car was still rising, which suggested that the vinyl chloride was undergoing polymerization, a chemical chain reaction that could pose an explosion hazard. Responders scheduled a controlled venting of the five vinyl chloride tank cars to release and burn the vinyl chloride. They expanded the evacuation zone to a 1-mile by 2-mile area and dug ditches to contain released vinyl chloride liquid while it vaporized and burned. The controlled venting began about 4:40 p.m. on February 6 and continued for several hours. The NTSB had no role in the decision to vent and burn the five vinyl chloride tank cars; however, we will evaluate that decision and the process for carrying out the vent and burn in our investigation.

### **NTSB's Response and Investigation**

Each of the NTSB's investigative offices assigns a duty officer who is on call 24/7 to receive notifications of accidents and incidents, gather pertinent information, and make a recommendation as to whether the event meets the criteria for launching an investigation. The duty officer for the NTSB's Office of Railroad, Pipeline, and Hazardous Materials Investigations (RPH) was first contacted about the derailment on February 3 at about 10:00 p.m. and began collecting initial information, including contacting NS. At 10:53 p.m., the National Response Center (NRC) received a report on the derailment.<sup>3</sup> At 11:16 p.m., the NRC formally notified the NTSB's Response Operations Center of the derailment. From the time of notification and throughout the night, NTSB staff worked to collect and assess information from

<sup>2</sup>National Transportation Safety Board. *Norfolk Southern Railway Train Derailment with Subsequent Hazardous Material Release and Fires, East Palestine, Ohio, February 3, 2023* (Preliminary Report: February 23, 2023).

<sup>3</sup>The NRC is staffed by the U.S. Coast Guard and serves as an emergency call center that fields initial reports for pollution and railroad incidents and forwards that information to the appropriate Federal or state agencies for response.

industry, labor, emergency responders, and others on the scene to determine whether to launch an investigation.

At about 12:00 a.m., the RPH duty officer, having obtained sufficient information, informed the director of RPH, who, by regulation, is authorized to initiate an investigation.<sup>4</sup> RPH notified NS, the FRA, and the railroad unions that the NTSB would be investigating. This notification to NS also served as an order to preserve evidence.

Following these calls, the RPH director requested a call with agency leadership to discuss whether a Board member should launch to the accident, as well as to determine any additional resource needs. Board members are typically launched on major investigations and act as the spokesperson on scene. At 7:15 a.m., the determination was made to launch the on-duty Board member, Michael Graham, and a full “go-team” of 14 NTSB staff members. Member Graham and the initial responding staff departed at 11:30 a.m. and began arriving in East Palestine at 1:30 p.m.

While on scene, investigators examined railroad equipment and track conditions; reviewed data from the signal system, wayside defect detectors (including the HBDS), local surveillance cameras, and the lead locomotive’s event recorder and forward-and inward-facing image recorders; and conducted interviews. The wheel bearing and affected wheelset from the 23rd car have been collected as evidence and will be examined in our laboratories in Washington, DC.

Investigators returned to Ohio on February 21 to examine each hazardous material tank car, document damage, and secure evidence for laboratory analysis. The vinyl chloride tank car top fittings, including the pressure relief devices (PRDs), were examined on scene. The top fittings were shipped to Texas for testing under the supervision, direction, and oversight of the NTSB.

Testing of the PRDs and angle valves was carried out the week of March 13. The testing was intended to determine if the valves still function in the as-received condition and to what level; document any foreign matter fouling, and document what fire/heat damage occurred with photographs and test forms on condition. Following testing, the valves and PRDs were disassembled, and the conditions of the parts were documented and photographed. Investigators found that further metallurgical testing of the PRDs and valves, including valve stems, is warranted to evaluate their performance and compatibility with the vinyl chloride lading. This testing will be conducted at the NTSB’s laboratory.

While on scene, Member Graham hosted two press briefings to provide updates regarding the status of our investigation: one on February 4 and another on February 5. The briefings, additional videos of the scene, and all investigative updates are available on our website.<sup>5</sup>

For the on-scene and continued fact-finding phase of this investigation, we have designated regulators, the carrier, shippers, manufacturers, workers, and first responders with relevant information as parties to the investigation. These parties provide the agency with technical expertise. This party system process has been our practice for decades because it is the most effective way to investigate major transportation accidents. The party system also ensures that the appropriate regulatory agencies and the parties whose products or services were involved in the accident or incident will have access to factual information, so they can initiate any necessary safety actions without delay. For this investigation, the parties are the PHMSA; the FRA; the Ohio State Highway Patrol; the Village of East Palestine; NS; Trinity Industries Leasing Company; the GATX Corporation; Midland Manufacturing; Occidental Chemicals, the Brotherhood of Railway Carmen; the International Association of Sheet Metal, Air, Rail and Transportation Workers; the Brotherhood of Locomotive Engineers and Trainmen; and the International Association of Firefighters.

Our investigation is ongoing. Future investigative activity will focus on the wheelset and bearing; tank car design and derailment damage; performance of PRDs and other valves; a review of the accident response, including the venting and burning of the vinyl chloride; railcar design and maintenance procedures and practices; NS’s use of wayside defect detectors; and NS’s railcar inspection practices.

#### *Investigative Hearing*

To support our investigation, we plan to hold an investigative field hearing in East Palestine in June. NTSB’s investigative hearings have four goals: to inform the public, to collect factual information from witnesses, to discuss possible solutions, and to build consensus for change. An investigative hearing will allow us to gather

<sup>4</sup>See Title 49 *Code of Federal Regulations (CFR)* 800.25(a).

<sup>5</sup>NTSB investigative page. Norfolk Southern Railway Train Derailment with Subsequent Hazardous Material Release and Fires.

sworn testimony from witnesses on issues identified by the investigative team for this accident. The hearing will be wholly fact-finding in nature and open to the public; it will be preceded by a town hall for the public to provide comments to the NTSB.

*Special Investigation into Norfolk Southern Railway's Safety Practices and Culture*

On March 7, we announced a special investigation of NS's organization and safety culture. Given the number and significance of recent NS accidents, we also urged the company to take immediate action to review and assess its safety practices, with the input of employees and others, and implement necessary changes to improve safety. We are undertaking this special investigation because, since December 2021, we have launched investigation teams to six significant accidents involving NS. We are concerned that several organizational factors may be involved in the accidents, including safety culture.

The NTSB has long recommended the implementation of safety management systems (SMS) in all modes of transportation. SMS is a systematic approach to managing safety, including the necessary organizational structures, accountabilities, policies, and procedures. An effective SMS program can help companies reduce and prevent accidents and accident-related loss of lives, time, and resources. Currently, there are a number of industry sectors worldwide that have recognized the benefits of effective safety management, including aviation and the maritime and pipeline communities.

The Rail Safety Improvement Act of 2008 (P.L. 110–432) required each Class I railroad to develop and implement a risk reduction program. In 2012, we recommended that FRA require that SMS and the associated key principles (including top-down ownership and policies, analysis of operational incidents and accidents, hazard identification and risk management, prevention and mitigation programs, and continuous evaluation and improvement programs) be incorporated into railroads' risk reduction programs.<sup>6</sup> FRA issued the Risk Reduction Program (RRP) final rule on February 18, 2020, which includes the key principles recommended. We have since recommended that the FRA review all railroads' RRP plans to ensure effectiveness and safety. Safety Recommendation R–12–3 is currently classified as “Open—Acceptable Response.” However, to date, no RRP plans have yet been approved by FRA and implemented by the freight railroads. The NS derailments may provide a good opportunity for FRA to do so, as the recommendation remains open.

**Continued Issues in Rail Safety**

Although this investigation is ongoing, we have identified issues in several areas where the NTSB has previously made recommendations to improve safety.

*Rail Tank Car Safety*

Rail tank cars are built to certain DOT or industry specifications.<sup>7</sup> DOT–111 tank cars are non-pressurized tank cars with a thinner shell (7/16 in.) than is now required for DOT–117 tank cars (9/16 in.). These tank cars can carry both hazardous and non-hazardous liquids. DOT–111s are not required to have head shields to protect the tank car from an adjacent car in an incident. The top fittings and valves are not protected and are vulnerable to being sheared off in an incident, leading to a release of contents. These tank cars also do not have a pressure relief device sized to protect against rupture in the event of a large fire. DOT–111s do have pressure relief valves that offer some protection in some fires.<sup>8</sup>

The Fixing America's Surface Transportation (FAST) Act (P.L. 114–94) phased out legacy DOT–111 specification tank cars for transporting Class 3 flammable liquids, such as crude oil, and the cars continue phasing out service for certain other commodities, such as ethanol. By May 1, 2023, nonjacketed and jacketed DOT–111 tank cars must be phased out; nonjacketed CPC–1232 tank cars must be phased out by July 1, 2023; and jacketed CPC–1232 tank cars must be removed or retrofitted by May 1, 2025. Each of those tank cars must be either removed from flammable liquids service or retrofitted with prescribed protective features, such as a head shield, jacket, and thermal protection. Other flammable liquids may not be transported in such tank cars beginning May 1, 2029.

In the East Palestine derailment, 13 of the 16 DOT–111s transporting hazmat that were damaged are not covered under the current DOT phaseout schedule. One of the three cars that would be covered by the current 2029 deadline breached. The

<sup>6</sup>NTSB Safety Recommendation R–12–3.

<sup>7</sup>Bureau of Transportation Statistics. Tank Car Specifications and Terms. Washington, DC: DOT. Accessed March 13, 2023.

<sup>8</sup>Bureau of Transportation Statistics. Fleet Composition of Rail Tank Cars Carrying Flammable Liquids: 2022 Report. Washington, DC: DOT. Accessed March 20, 2023.

other 13 DOT-111 cars sustained damage we've noted in other accident investigations but would not be covered under the FAST Act or DOT's final rule.<sup>9</sup>

The NTSB has pointed out the inadequacy of DOT-111 tank cars for all hazardous materials, including flammable materials, since 1991, and we recommended they be replaced or retrofit in 2015.<sup>10</sup> The NTSB supports a shorter timeline to transition away from DOT-111s than what is currently in statute and regulation. Additionally, Congress should consider transitioning all other DOT-111s out of hazmat service.

The five derailed railcars carrying vinyl chloride were DOT-105 specification tank cars, which are used to transport liquified compressed gases, poison/toxic inhalation hazard materials, reactive materials, and/or corrosive materials requiring additional protection. None of these cars were breached in the derailment. However, we are currently evaluating the performance of the PRDs and valves.

When a tank car is exposed to fire conditions and its contents are heated, the pressure inside the tank rises. This can lead to loss of tank shell strength and eventually a breach. To protect emergency responders and the public from the possibility of catastrophic tank failure under fire conditions, the pressure inside tank cars must be controlled. PRDs are intended to regulate internal pressure by releasing material and reclosing after normal conditions are restored. This reduces the probability of a breach in the tank shell and limits the amount of energy a breach can release if one occurs. Properly functioning PRDs thus reduce the potential for catastrophic tank failure.

#### *Notification to Emergency Responders*

Emergency responders must have real-time awareness of and information on the hazardous materials being transported by rail through their communities so that they are well prepared should an accident occur. We first made this recommendation 16 years ago.<sup>11</sup> Additionally, 9 years ago we recommended that railroads should help communities develop emergency operations and response plans.<sup>12</sup> The FAST Act also addressed this issue in 2015, but limited emergency responder awareness of and information on hazardous materials being transported by rail to high-hazard flammable trains (HHFTs), defined as a single train transporting 20 or more tank cars loaded with a Class 3 flammable liquid in a continuous block (a unit train) or a single train transporting 35 or more tank cars loaded with a Class 3 flammable liquid throughout the train consist.<sup>13</sup> Although PHMSA and the DOT have taken some actions, we remain concerned that emergency responders are not adequately made aware of hazardous materials traveling through their locations, and that current rules do not include a vast number of hazardous materials beyond combustible liquids.

The train in the East Palestine derailment was not a HHFT because it did not contain a block of 20 or more than 35 total loaded tank cars of a Class 3 flammable liquid.<sup>14</sup> We believe the definition of an HHFT should include a broad range of hazardous materials, including flammable gases and combustible liquids.<sup>15</sup>

We also believe that even one railcar of any hazardous material justifies notifying emergency responders, not 20 or more than 35 loaded tank cars, which could contain 1 million gallons of hazardous materials. Such thresholds present an unreasonable risk to public safety as a catastrophic derailment involving even a single tank car loaded with hazardous material can cause extensive destruction and loss of life. Therefore, we believe that the notification threshold should be significantly lower. In addition, the threshold should be based on the worst-case consequences of a derailment resulting in fire.

#### *Recorders*

Recorders—data, audio/voice, and video—are essential for capturing and storing critical information that can help investigators determine the cause of a transportation accident. Inward-and outward-facing recorders with both image and audio ca-

<sup>9</sup> 81 FR 53935.

<sup>10</sup> Safety Recommendations R-15-16 and -17.

<sup>11</sup> NTSB Safety Recommendation R-07-4.

<sup>12</sup> NTSB Safety Recommendation R-14-14. Additional materials railroads should help responders plan for include highly hazardous gases (flammable, nonflammable, and toxic), other flammable liquids and substances, oxidizing substances, toxic substances, and corrosive materials.

<sup>13</sup> Public Law 114-94, sec. 7302.

<sup>14</sup> 49 CFR § 171.8.

<sup>15</sup> NTSB comments on PHMSA's notice of proposed rulemaking, "Hazardous Materials: Rail Petitions and Recommendations to Improve the Safety of Railroad Tank Car Transportation." (2014)

pabilities can increase the understanding of the circumstances of an accident, and, ultimately, provide greater precision in safety recommendations and subsequent safety improvements.

In the East Palestine accident, the locomotive was equipped with an inward-and forward-facing recorder. However, since NS put the locomotive immediately back in service following the accident, data was overwritten and only provide about 15 minutes of data before and 5 minutes following the derailment.

We use recorder data to determine the probable cause of accidents and to develop recommendations to help prevent future accidents. For example, after the December 18, 2017, derailment of National Railroad Passenger Corporation (Amtrak) train 501 in Dupont, Washington, investigators used event recorder data to derive the engineer's actions prior to the crash.<sup>16</sup> Because of Amtrak 501's inward-facing video and audio, investigators were able to determine that brief conversations between the engineer and the conductor during the trip did not distract them from their operational duties. This accident has demonstrated the value of image and audio data for the accident investigation and development of safety recommendations.

In contrast, during our investigation of the August 12, 2019, collision between two CSX trains in Carey, Ohio, our investigators did not have important information to assist in understanding what happened in this collision due to the lack of inward-facing video and audio recorders.<sup>17</sup> Because the FRA has not required inward-facing cameras for freight locomotives, the NTSB was unable to determine the actions of the westbound train's crewmembers while operating the train from Columbus, Ohio, to Carey, Ohio, the actions of the westbound train engineer while operating alone in the locomotive cab, or the events leading up to the collision.

The FAST Act required railroads providing regularly scheduled intercity rail passenger or commuter rail passenger transportation to the public to install inward-and outward-facing image recording devices in all controlling locomotive cabs and cab car operating compartments in passenger trains. However, the law did not require freight railroads to install such devices. In 2010, we recommended that the FRA require the installation, in all controlling locomotive cabs and cab car operating compartments, of crash-and fire-protected inward-and outward-facing audio and image recorders capable of providing recordings to verify that train crew actions are in accordance with rules and procedures that are essential to safety as well as train conditions. The devices should have a minimum 12-hour continuous recording capability with recordings that are easily accessible for review, with appropriate limitations on public release, for the investigation of accidents or for use by management in carrying out efficiency testing and systemwide performance monitoring programs.<sup>18</sup> The recommendation to FRA is currently classified as "Open—Unacceptable Response."

In the 13 years since this recommendation was issued, we have reiterated it in the six other major railroad investigations:

1. September 30, 2010, collision of two Canadian National Railway freight trains near Two Harbors, Minnesota;
2. April 17, 2011, collision of a BNSF coal train with the rear end of a standing BNSF maintenance-of-way train in Red Oak, Iowa;
3. June 24, 2012, head-on collision of two Union Pacific Railroad freight trains near Goodwell, Oklahoma;
4. May 25, 2013, collision of a Union Pacific Railroad freight train with a BNSF Railway freight train near Chaffee, Missouri;
5. April 28, 2015, collision of two Southwestern Railroad freight trains near Roswell, New Mexico; and
6. May 12, 2015, derailment of a National Railroad Passenger Corporation (Amtrak) passenger train in Philadelphia, Pennsylvania.

#### *Rail Worker Safety*

Improving Rail Worker Safety is one of the issues highlighted in our 2021–2023 Most Wanted List of Transportation Safety Improvements.<sup>19</sup> Improving rail worker safety means making sure that roadway workers have the training, equipment, rest, and layers of protection they need while working on or around tracks. It means

<sup>16</sup>National Transportation Safety Board. *Amtrak Passenger Train 501 Derailment, DuPont, Washington, December 18, 2017*. Rpt. No. RAR 19/01 (Washington, DC: NTSB 2019).

<sup>17</sup>National Transportation Safety Board. *Collision of Two CSX Transportation Freight Trains, Carey, Ohio, August 12, 2019*. Rpt. No. RAR 20/03 (Washington, DC: NTSB 2020).

<sup>18</sup>NTSB Safety Recommendation R-10-1.

<sup>19</sup>National Transportation Safety Board. 2021–2023 Most Wanted List of Transportation Safety Improvements. Washington, DC: NTSB.

making sure that crews operating trains carrying hazardous materials have time to escape in case of an accident. It also means reducing the risks of derailments and collisions as trains become longer and heavier.

In recent years, we have investigated several railroad and transit accidents where workers have been struck and injured or killed while conducting routine maintenance or switching operations. Other workers are vulnerable when cars carrying hazardous materials are too close to those carrying train crew. We have also investigated accidents where crew have been killed riding on the sides of trains, in violation of rules.

On December 8, 2021, an employee for National Salvage and Service Corporation assigned to work with a NS work gang replacing track was killed when the operator of a spike machine reversed direction and struck the employee in Reed, Pennsylvania. The employee was marking rail to be removed and collected by the NS work gang when he was struck.

On December 13, 2022, NS trainee conductor was killed, and another conductor injured, when their locomotive struck a length of steel angle iron protruding from a gondola car on a NS freight train that was stopped on an adjacent main track in Bessemer, Alabama. The angle iron originally welded to the gondola's top-right edge was broken and hanging loose. As the locomotive approached the gondola car, it collided with the angle iron which then pierced the locomotive's left front door window, continued into the operating cab, and struck both conductors.

On March 7, 2023, a NS conductor was killed when the train he was riding collided with a dump truck as they simultaneously entered a private highway-railroad grade crossing in the Cleveland-Cliffs Incorporated steel plant in Cleveland, Ohio. The conductor was riding on the end platform of the lead railcar during a shoving movement when he was pinned between the railcar and the dump truck during the collision.

These three investigations are currently ongoing and will be part of our special investigation of NS' organization and safety culture.

Although rail worker fatalities have declined overall in recent years, we continue to see recurring safety issues in our accident investigations that are 100 percent preventable, highlighting the need to implement our safety recommendations for better worker protections.<sup>20</sup>

#### **NTSB's Mandate and Resources**

The NTSB's authorization expired at the end of last Fiscal Year. As you know, we have sent Congress a reauthorization proposal that requests resources and hiring flexibility to increase the number of investigators in our Rail, Pipeline, and Hazardous Materials Investigations office, as well as in our other modes.<sup>21</sup> These resources will allow us to hire professionals with the needed skills, purchase the equipment necessary for those skilled professionals to do their jobs, and invest in staff training and development. Our workforce is our greatest asset and is essential to our mission.

The NTSB is required to investigate any railroad accident in which there is a fatality or substantial property damage, or that involves a passenger train.<sup>22</sup> We must currently meet this mandate with only 12 railroad investigators, 3 of whom are eligible for retirement, and 3 hazardous materials investigators. Those investigators are currently working on 28 investigations, and we open about 11 new investigations each year. This office is understaffed. In fact, as part of our reauthorization proposal, we identified a need for 21 additional staff over the next 5 years. Our reauthorization request only fills a portion of this need.

#### **Conclusion**

The NTSB was on the ground in East Palestine on the first day following the derailment, and we are committed to finding out what happened, how it happened, and how to make sure that it never happens again.

The NTSB stands ready to work with the Committee to continue improving rail safety. Thank you again for the opportunity to testify today. I am happy to answer your questions.

Chair CANTWELL. Thank you. Ms. Homendy. Thank you so much. Mr. Comstock, welcome. Thank you for being here.

<sup>20</sup> A report of all currently open safety recommendations related to rail worker safety is available at <https://data.nts.gov/carol-main-public/query-builder/route/?t=published&n=18>.

<sup>21</sup> National Transportation Safety Board Draft Reauthorization Act of 2023. Washington, DC: NTSB.

<sup>22</sup> 49 United States Code 1131(a)(1)(C).

**STATEMENT OF DAVID COMSTOCK, CHIEF, OHIO WESTERN  
RESERVE JOINT FIRE DISTRICT**

Mr. COMSTOCK. Good morning, Chair Cantwell, Ranking Member Cruz, distinguished members of the Committee. My name is David Comstock and I am the Fire Chief for the Western Reserve Joint Fire District, located in Poland, Ohio.

I am also a member of a National Volunteer Fire Council, a non-profit membership organization that serves as the national voice of over 670,000 volunteer firefighters, comprising 65 percent of the Nation's fire service.

My department was one of over 50 fire departments that responded to the East Palestine derailment. This incident has emphasized the need to better train and equip firefighters to respond to hazardous material incidents, specifically to derailments in rural areas which are mostly served by volunteer fire departments that often lack sufficient resources, tax base, and manpower.

The National Fire Protection Association defines an operational level of competence for hazmat response as what is needed for a firefighter to implement or support actions to protect the public from the effects of a hazmat release.

Alarmingly, the NFPA's needs assessment of the U.S. Fire Service showed that only 55 percent of firefighters are certified at a hazmat operational level of confidence. For many firefighters, hazmat training is difficult to access, especially from volunteers who may need to take time off from their paying jobs.

Progress has been made in making hazardous material training more available to firefighters through the pipeline and Hazardous Materials Safety Administration's hazardous material grants.

Specifically, firefighters are trained through hazardous materials emergency preparedness, assistance for local emergency response training, hazardous materials structure training, community safety, and supplemental public safety training grant programs.

Through a SPST grant and the NBFC is offering 15 in-person hazmat train the trainer opportunities across the U.S. at no cost to departments. It is important that the NBFC can provide this program at no cost to volunteer departments, which often lack a tax base to support training.

Thanks to the FMCSA agreements I mentioned earlier, the NBFC and other first responder organizations have been able to train tens of thousands of firefighters. The NBFC asked that Congress pass legislation to increase funding to these FMCSA hazardous material training grant.

The NBFC is pleased to see that S. 576, Railways Safety Act of 2023, includes language that increases support to the alert and supplemental training grant programs. The Federal Emergency Management Agency's assistance to firefighter grants and staffing for adequate fire and emergency response grants is also critical to fire departments.

The goal of these grants is to bring all fire departments up to a baseline level of readiness. Many departments struggle to achieve this baseline. In alarming examples, NFPA data showing that 53 percent of fire departments cannot equip every firefighter with self-contained breathing apparatus.

The NBFC request that Congress increase funding to AFG and safer grant programs and pass S. 870, Grants and Safety Act, as soon as possible to ensure the authorization for these critical grants doesn't lapse at the end of this Fiscal Year.

The NBFC also asks Congress to provide additional support to local and regional response coordination initiatives. These include hazardous material regional response teams, which facilitate regional, public safety communications, and coordination on hazmat response, and local emergency planning committees to ensure they fulfill their mission of fostering dialog amongst hazmat stakeholders within a community to prevent and prepare for releases of hazardous chemicals.

The NBFC further encourages Congress to provide additional support to FEMA's local delivery of additional National Incident Management System training courses, which provide a comprehensive national approach to incident management.

The NBFC also requests that we, the NFPA, Congress, the National Transportation Safety Board, and the Federal Rail Administration, work together to enhance the methods for emergency hazmat product identification. Firefighters face a higher risk of developing cancer compared to the general public.

The NBFC supports several initiatives to combat firefighting related cancer exposure, most notably the NBFC and the International Association of Fire Chiefs Volunteer and Combination Officer Section produced a Lavender written report, a Best Practice Guide to reduce toxic exposure, and risk to prevent firefighter cancer.

On behalf of the Nation's volunteer firefighters, I thank you for your opportunity to address the Committee regarding the hazardous material response needs of the volunteer first responders.

The NBFC looks forward to continuing to work with the committee and the stakeholders assembled here today to improve the emergency response to hazmat incidents and ensure that firefighters are properly trained and equipped to carry out this response. Thank you.

[The prepared statement of Mr. Comstock follows:]

PREPARED STATEMENT OF FIRE CHIEF DAVID "CHIP" COMSTOCK, MEMBER,  
NATIONAL VOLUNTEER FIRE COUNCIL

Good morning Chair Cantwell, Ranking Member Cruz, and distinguished members of the Committee. My name is Chip Comstock and I have served as the fire chief of the Western Reserve Joint Fire District (which I'll refer to as the District) for 25 years. My department serves the Township and Village of Poland, Ohio, which are suburban/rural communities located in southeastern Mahoning County. Mahoning County is located approximately 10 miles north of East Palestine.

The District was first established in 1923 as a volunteer department and remains so today with approximately 60 active fire suppression and EMS personnel. We respond to approximately 1,900 incidents each year from three stations and protect over 15,000 people in a 21-square-mile primary response area. The District also provides automatic mutual aid and mutual aid to two cities, two villages, and four townships in Ohio and two townships in Pennsylvania. Both CSX and Norfolk Southern Railways transverse the District. The District assisted with the emergency response to the East Palestine derailment and detonation.

I have also been a member of the National Volunteer Fire Council (NVFC) for over a decade. The NVFC serves as the national voice for over 670,000 volunteer firefighters comprising 65 percent of the Nation's fire service. Since 1976, the NVFC has been the leading nonprofit membership association representing the interests of the volunteer fire, EMS, and rescue services. The NVFC provides critical resources,

programs, education, and advocacy to support the interests of volunteer first responders across the nation, including hazmat and rail safety. I appreciate the opportunity today to discuss the response to the East Palestine incident and what we've learned we need so far to improve hazmat incident response and rail safety.

**The District's Response to East Palestine:**

More than 50 fire departments were called to the scene of the East Palestine derailment. My department responded to East Palestine as part of a countywide response on February 3, 2023. Following the derailment, the East Palestine dispatcher contacted Mahoning County and requested all water tenders/tankers that could be provided as well as additional engines. We were a part of that broader response.

Our assignment was to a burning structure immediately adjacent to a burning rail car. We were called back to the scene on Monday to continue to assist with on scene operations for the detonation. Following the East Palestine incident, it became clear that additional hazmat incident training needs to be available for first responders, along with improved on scene communication and coordination.

Fortunately, firefighters from my department did not experience any apparent immediate health issues, although many other firefighters did. Early post-incident baseline medical examinations were performed for my department, but many other departments were not as fortunate to receive early baseline examinations. The turnout gear and Self Contained Breathing Apparatus (SCBA) firefighters exposed to the rail car contaminants were taken out of service. Temporary rental replacement gear is now being used until the months long process of ordering replacement gear is completed. The engine that was closest to the burning buildings is also in the process of being examined for any signs of deterioration due to the chemical exposure.

**Recommendations in the Aftermath of the East Palestine Response:**

The East Palestine derailment has emphasized the need to better train and equip first responders to respond to hazardous materials incidents, and specifically, to derailments of this nature in rural areas, which are often served by volunteer departments that lack the resources (equipment, training, and support), tax base, and manpower of their suburban and urban counterparts.

Additionally, first responders' exposure to toxic chemicals while responding to East Palestine highlights the need for enhanced methods for emergency hazmat product identification and the need to make the funding for baseline medical testing and follow-up examinations available to all responders to hazmat incidents.

**Increase Support for PHMSA Hazardous Materials Grants:**

As the Federal Rail Administration and this Committee have stated, the number of hazmat cars involved in derailments has been increasing in recent years. In 1986, there were 1,411 hazardous materials cars involved in derailments; by 2021, that number had increased by 339 percent to 6,204. Additionally, according to National Fire Protection Association (NFPA) the annual number of fire department calls involving hazardous incidents has also increased considerably from 171,500 in 1986 to 420,000 in 2020. East Palestine and other incidents in the transport of hazardous materials have demonstrated the need for local fire and emergency services to be prepared for such incidents.

According to the NFPA's 2020 U.S. Fire Service Needs Assessment, 70 percent of fire departments provide hazardous materials response and it is more common for fire departments to provide this service than emergency medical services (EMS). This is even the case in smaller departments.

The NFPA Needs Assessment surveyed departments on four levels of professional competence for responders to hazardous materials incidents. They were: no certification, awareness, operational, and technician. The NFPA defines operational as:

“first responders trained at this level must meet the National Fire Protection Association's awareness level training as well as any additional competency designed to allow the responder to implement or support actions to protect nearby persons, the environment, or property from the effects of the release.”

Of the departments surveyed, only 55 percent of personnel performing hazmat duties were certified at an operational level of competence. According to the 2020 U.S. Census, the population of East Palestine is 4,761. Of departments surveyed that serve populations between 2,500–5,000 people, only 53 percent of personnel performing hazmat duties were certified at an operational level of competence. This level of certification drops to 38 percent in departments that serve populations less than 2,500, with 23 percent of personnel having no certification at all. This data presents a safety and security risk not only to the responders themselves, but also the communities that they protect.

This data is particularly alarming considering that 65 percent of the Nation's fire departments serve a population of less than 5,000 people. The needs of departments serving this population size are of particular importance to the NVFC, because 98 percent of departments serving populations of less than 2,500 are either all volunteer or mostly volunteer and 96 percent of departments serving populations between 2,500 and 4,999 are either all or mostly volunteer.

For many firefighters, hazmat training is difficult to access and/or cost prohibitive. When it is accessible, it is often very difficult for firefighters to attend trainings due to lack of flexibility, time, and funding. These pressures are often exacerbated for volunteer firefighters because they have to take time off from their paying jobs and/or time away from their families to attend training and are often not reimbursed for this time.

In recent years there has been some progress made in making hazardous materials training more readily available to firefighters through the Pipeline and Hazardous Materials Safety Administrations' (PHMSA) hazardous materials grants, specifically, through the Hazardous Materials Emergency Preparedness (HMEP), Assistance for Local Emergency Response Training (ALERT), Hazardous Materials Instructor Training (HMIT), Community Safety (CS), and Supplemental Public Sector Training (SPST) grant programs.

- *HMEP Grants:* For HMEP grants Governors in each State, or their counterparts within Territories or Tribes, designate an agency to receive the HMEP grant funds. Agencies submit grant applications to PHMSA annually requesting funds for proposed activities. PHMSA reviews and evaluates applications to make certain the proposed activities support the program mission to ensure the safe transportation of hazmat. If approved, PHMSA offers the agency a Notice of Grant Award (NGA) for acceptance and signature. Once executed, the agency may distribute grant funds in accordance with the planned activities identified in the grant application within the State, Territory, or Tribe to Local Emergency Planning Committees (LEPCs) and first responder organizations. The HMEP grant program is designed to allow grantees the flexibility to implement training and planning programs that address differing needs for each location based on demographics, emergency response capabilities, commodity flow studies, and hazard analysis. We strongly recommend that there be more of an impetus to see that these funds are directed to training front-line first responders in core Occupational Safety and Health Administration (OSHA) and/or NFPA response competencies such as Awareness, Operations, Technician, Specialist, and Incident Command, including refresher trainings.
- *ALERT Grants:* The ALERT grant is competitively awarded to non-profit organizations capable of delivering an established curriculum to emergency responders. This grant promotes hazmat response training for volunteer or remote emergency responders. Response activities include the transportation of crude oil, ethanol, and other flammable liquids by rail consistent with NFPA standards.
- *HMIT Grants:* The HMIT grant is competitively awarded to non-profit organizations that have expertise in conducting hazmat employee training programs and are capable of reaching a target population of hazmat employees and including them in the training program. Both career and volunteer first responders are "employees". This grant funds train-the-trainer program that facilitates the training of hazmat instructors who then conduct training in Hazardous Materials Regulations (HMR) for hazmat employees.
- *CS Grants:* The CS grant is competitively awarded to non-profit organizations. The CS grant enhances the capability of communities to prepare for and respond to hazmat accidents and incidents and supports the training of state and local enforcement personnel who are responsible for enforcing the safe transportation of hazmat.
- *SPST Grants:* The SPST grant is competitively awarded to national non-profit fire service organizations. This grant is a train-the-trainer program that facilitates the training of instructors who then conduct training in hazmat response for individuals with a statutory responsibility to respond to hazmat accidents and incidents.

Through a SPST grant the NVFC is able offer a hazmat train-the-trainer program: Partners in Training (PIT) Crew. This project will help first responders gain the knowledge and skills they need to train others in their communities on hazmat safety and response. Through this program the NVFC is providing 15 in-person training opportunities across the U.S. at no cost to departments.

Through this program, the NVFC is making hazmat training more accessible to departments around the country. The train-the-trainer aspect magnifies this program's impact by preparing hazmat trainers to go back to their home departments and regions and spread the knowledge they have attained. It is very important that the NVFC has the ability to provide this program at no cost to volunteer departments because many of these departments serve rural areas that lack a tax base to support funding for basic firefighting equipment like turnout gear and SCBAs, let alone hazmat training.

Thanks to ALERT, CS, and SPST grants, the NVFC and other non-profit organizations that serve first responders have been able to provide hazmat incident response training to tens of thousands of firefighters. As seen in the data above we still have a long way to go to ensure that all firefighters who respond to hazardous incidents are properly trained to do so. The NVFC asks that Congress pass legislation that will increase funding to HMEP, ALERT, HMIT, CS, and SPST grants. The NVFC would also urge congress and PHMSA to ensure that HMEP and HMIT grant funds reach their intended recipients—the front line first responders—Fire, EMS, and Law Enforcement. The NVFC is pleased to see that S. 576, *Railway Safety Act of 2023* includes language that increases support to the ALERT and Supplemental Training grant programs and sincerely thanks Senator Brown, Senator Vance, Senator Casey, Senator Rubio, Senator Fetterman, and Senator Hawley for their leadership.

**Provide Funding for Hazardous Materials Regional Response Teams:**

An incident as large as East Palestine requires a regional response. In addition to providing additional funds to existing PHMSA hazardous materials grants, the NVFC requests that Congress support initiatives to fund Hazardous Materials Regional Response Teams to facilitate regional public safety communications and coordination on hazmat response, region focused training, equipment, and sharing of best practices.

**Additional Support for LEPCs:**

Local Emergency Planning Committees (LEPCs) provide a forum for local stakeholders to work together to identify chemical hazards, develop and maintain emergency plans in case of an accidental release, and encourage continuous attention to chemical safety, risk reduction, and accident prevention in their communities. Stakeholders that participate in LEPCs are first responders, state and local elected officials, emergency managers, industry representatives, hospital and public health officials, and the media. Because of their broad-based membership, LEPCs can foster a valuable dialogue within the community to prevent and prepare for accidental and terrorist-related releases of hazardous chemicals.

The role of LEPCs is a critical and foundational element in providing the hazard, risk, and capability assessments needed by the response community. These assessments should be followed by strategic planning at the community level to prioritize and fill capability gaps. Likewise, these LEPC efforts will require sustained support at the national, state, and local levels. The NVFC asks that Congress provide additional funds to LEPCs through PHMSA and the Environmental Protection Agency (EPA) to ensure this sustained support is provided.

**Support More Enhanced Methods for Emergency Hazmat Product Identification:**

A major concern in the immediate response to the East Palestine derailment was the lack of knowledge of what hazardous materials were contained in the derailed train cars. Each car that contained a hazardous materials was placarded, but the heat of the fire melted the placards identifying the contents of the cars. The NVFC requests that we, the NFPA, Congress, Nation Transportation Safety Board, and Federal Rail Administration work together to enhance the methods for emergency hazmat product identification.

**Increase Support for AFG and SAFER Grant Programs:**

The Federal Emergency Management Agency's (FEMA) Assistance to Firefighters Grant (AFG) program and Staffing for Adequate Fire and Emergency Response (SAFER) grants are by far the most significant sources of assistance that the Federal government provides to local fire departments. The goal of the AFG and SAFER programs is to bring all of the Nation's fire departments up to a baseline level of readiness, which includes the purchase of essential equipment to respond to hazmat incidents. This funding is particularly important for all-and mostly-volunteer fire departments, which protect 82 percent of the Nation's communities and 30 percent of the population.

As the NFPA data referenced earlier shows, rural areas are almost exclusively protected by volunteers. Unfortunately, NFPA Needs Assessment studies consistently show that volunteer agencies have difficulty affording up-to-date equipment, training, and SCBAs. This is primarily for economic reasons. Because fire protection services are funded at the local level, the resources available to each department are dependent on the local tax base. For smaller communities that can mean having to engage in private fundraising and rely on older equipment and vehicles in order to maintain operations.

These pressures are exacerbated by the fact that the number of fire department calls increased by 23 percent to more than 36.4 million from 2010 to 2020, while during this same ten-year period the number of volunteer firefighters dropped by 12 percent nationwide. Additionally, data from the Congressional Fires Services Institute show that since 2019, the average cost for turnout gear has increased by approximately 35–40 percent, while the cost of fire SCBAs has increased around 32 percent.

According to the NFPA Need Assessment, more than half of all fire departments cannot equip everyone with SCBAs. Departments protecting less than 9,999 people have the highest rates of unmet need for SCBA equipment.

- *AFG Grants:* AFG grants help meet the firefighting and emergency response needs of fire departments and non-affiliated emergency medical service organizations. AFG funds are used to obtain critically needed equipment, protective gear, emergency vehicles, training, and other resources necessary for protecting the public and emergency personnel from fire and related hazards.
- *SAFER Grants:* SAFER grants directly assist fire departments and volunteer firefighter interest organizations with firefighter retention and recruitment efforts in their communities. SAFER funds provide the resources needed to enhance the local fire departments' abilities to comply with staffing, response, and operational standards.

NVFC requests that Congress enact legislation that will increase funding to AFG and SAFER grant programs. Additionally, the authorization for AFG and SAFER grants expires at the end of this Fiscal Year and these programs are scheduled to sunset at the end of FY 2024. The Senate has introduced S. 870, *Fire Grants and Safety Act*. The NVFC strongly supports this important legislation which will extend the authorization of AFG and SAFER through FY 2030 and urges Congress pass this legislation as soon as possible. The NVFC sincerely thanks Senator Peters, Senator Collins, Senator Murkowski, and Senator Carper for their leadership on this important legislation.

#### **Encourage Broader Implementation of NIMS:**

Large incidents like East Palestine that require a response from multiple jurisdictions and state, local, and Federal agencies emphasize the need for communication and coordination among first responders and the need to adopt protocols like FEMA's National Incident Management System (NIMS). NIMS is a comprehensive, national approach to incident management that is applicable at all jurisdictional levels and across functional disciplines and the full spectrum of potential incidents, hazards, and impacts, regardless of size, location, or complexity.

NIMS provides stakeholders across the whole community with the shared vocabulary, systems, and processes to successfully carry out a multi-agency response to emergencies. NIMS also defines operational systems that guide how personnel work together during incidents. The NVFC encourages Congress to provide additional funding and support to FEMA and the U.S. Fire Administration for the local delivery of additional NIMS training courses. As mentioned earlier, volunteer first responders face unique obstacles when it comes to training due to having to juggle the obligations of their full-time careers along with their obligations to the fire service.

#### **Fund Post Exposure Baseline and Follow-up Medical Testing on First Responders:**

Firefighters face a 9 percent higher risk of developing cancer and a 14 percent higher risk of dying from cancer compared to the general public. The NVFC has supported several initiatives to combat the threat of firefighting related cancer exposure. Most notably the NVFC collaborated with the International Association of Fire Chiefs' Volunteer and Combination Officers Section to produce the *Lavender Ribbon Report*, which is a comprehensive best practice guide to reduce toxic exposure risks and prevent firefighter cancer.

The aftermath of East Palestine has emphasized the need for much more work to be done to improve the prevention of firefighter cancer and other health issues.

Those who responded to the East Palestine incident from the Western Reserve Joint Fire District received post incident baseline health screenings, but many other firefighters who responded did not receive these screenings.

Preventive screenings can identify cancer and other health risks at their earliest stages when positive treatment outcomes are more likely. However, it remains difficult for individual firefighters to receive early screenings as current screening guidance does not account for their occupational exposures. Every firefighter who responds to an incident where they are exposed to hazardous materials, like in East Palestine, should receive baseline and follow-up health screenings.

These screenings will not only protect firefighters and save resources by preempting potential health complications, they will also enable researchers to learn more about the impact of hazardous exposures on firefighters and the potential conditions they may develop as a result of these exposures. We need to take a proactive rather than a reactive approach when it comes to firefighter healthcare. The NVFC ask that Congress pass initiatives that would fund baseline and follow-up health screenings for firefighter who have been exposed to hazardous materials incidents involving hazardous materials like East Palestine.

**Conclusion:**

I thank you for the opportunity to address the Committee regarding the hazardous materials response and rail safety needs of volunteer first responders. As the community of East Palestine recovers, the NVFC looks forward to continuing to work with the Committee and the stakeholders assembled here today to ensure incidents like this don't occur again. We also look forward to working together to improve the emergency response to hazmat incidents and ensure that firefighters are properly trained and equipped to carry out this response.

Chair CANTWELL. Thank you very much for being here. And we are so sorry that you had to deal with this, but your experience is very helpful and us—helping to know how to evaluate this moving forward and the resources that you are asking for.

Mr. Whitaker, welcome. We look forward to your testimony.

**STATEMENT OF CLYDE WHITAKER, OHIO STATE LEGISLATIVE DIRECTOR, SMART—TRANSPORTATION DIVISION**

Mr. WHITAKER. Good morning, Chairwoman Cantwell, and Ranking Member Cruz, and members of the Committee. Thank you for the opportunity to testify. My name is Clyde Whitaker.

I am an Ohio State Legislative Board Director for Smart Transportation, which represents approximately 30,000 railroad workers in the crafts of conductor, locomotive engineer, yardmaster, and trainperson.

One of my primary roles is to protect, improve, and assure the safety of our members. I would like to begin by saying that our hearts, the rail labor break for citizens of East Palestine. This derailment did not have to happen and it makes it so much more frustrating for us to know that it was very predictable.

And yet our warnings and cries for help over the last 7 years have fallen on deaf ears and the outcome was exactly as we feared. Now the result is a town that doesn't feel safe in their own homes, businesses failing to survive, and railroad that prioritized its own movement of trains before the people of the community, as well as its workers. It truly is a shame that operational changes in place prior to that incident are still in place today, and the possibility for a similar disaster is just as possible.

My entire railroad career, I have listened to the railroads portray a message, an image of safety first, but I have never witnessed or experienced that truth one single day on the property. For years, I have handled complaints after complaint regarding unsafe prac-

tices and unsafe environments, and for almost every single one, I have been fought every step of the way.

The truth is, ask any railroad worker and they will tell you that their carriers are masters of checking the boxes for saying the right things without ever doing anything meaningful toward improving safety.

Their only focus is on the operating ratios and bottom lines, which is evidenced by the fact that their business structures are set up to reward timely movements of freight rather than reaching destination safely, as they once were. Actions do speak louder than words, and I assure you that what you have heard and will hear from the railroads today are nothing more than words.

Their actions are what is experienced by men and women I represent, as well as what the people of East Palestine have been through. This is the reality of what happens when railroads are primarily left to govern and regulate themselves.

To that point, on July 11, 2022, I filed a complaint with the FRA regarding an unsafe practice that was occurring on Norfolk Southern. Despite existing operating rules to the contrary, and as I was giving instructions to crews, to disregard wayside detector failures and to keep their trains moving.

This meant the trains were not being inspected as intended and that the crews were not able to ascertain the integrity of such trains. This practice remained in place even after East Palestine, but these types of issues aren't just relegated to wayside detectors. It is a virus that has plagued the industry for some time with the inception of precision scheduled railroading. Across America, inspections and maintenance is being deferred to expedite the movement of trains.

No longer is identifying defects and unsafe conditions the goal of inspections, but rather minimize the time it takes to perform them, or the elimination of them altogether. Compound this with the fact that the railroads on a determined course to grow these trains to astronomical lengths and you have a predictable outcome, and that outcome is the event like we have seen in East Palestine.

We need meaningful change and we desperately need people like yourselves to reverse these dangerous trends in the railroad industry. The Rail Safety Act of 2023 goes a long way toward doing just that.

As we sit here today, the railroads are attempting to eliminate the conductor from the cab of a locomotive. They want you to believe that technology is capable of replacing the role of conductor, but what they won't tell you is technology was present in the cab of the locomotive, and when the train finally came to a stop this day, this job was done. But unlike the technology, the engineer, the conductor, and his trainee sprang into action.

They identified the derailment in the presence of fire. They contacted EMS. They applied brakes on the train cars to prevent further catastrophic damage. They separated the locomotives and got the entire crew to safety, all of which technology sat dormant. We cannot afford to be dormant.

The degradation of safety is very real and the numbers prove it. The frequency of derailments is up. The frequency of injuries is up. And from a railroaders' perspective, the potential for another dis-

aster is as high as it has ever been. We cannot allow the railroads to continue to dodge and sharpshoot regulations.

We cannot allow them to be sole owners and creators of the data and safety statistics, and we cannot allow them to prioritize revenue over profit. Oversight is desperately needed before the next big one happens. I thank you for allowing me to testify here today, and I look forward to any questions you may have.

[The prepared statement of Mr. Whitaker follows:]

PREPARED STATEMENT OF CLYDE WHITAKER, OHIO STATE LEGISLATIVE DIRECTOR,  
SMART—TRANSPORTATION DIVISION

Good morning, Chairwoman Cantwell, Ranking Member Cruz, and Members of the Committee. Thank you for allowing me the opportunity to testify.

My name is Clyde Whitaker, and I am the Ohio State Legislative Director for SMART Transportation Division, which represents approximately 3,000 railroad workers in the crafts of conductor, locomotive engineer, yardmaster, and trainperson. One of my primary roles is to protect, improve, and ensure the safety of our members.

On July 11, 2022, I filed a complaint with the Federal Railroad Administration regarding an unsafe practice that was occurring on Norfolk Southern (NS). Despite existing operating rules to the contrary, NS was giving instructions to crews to disregard wayside detector failures and to keep their trains moving. This meant that the trains were not being inspected as intended, and that the crews were not able to ascertain the integrity of their trains. Unfortunately, my complaint could not be acted upon and within months similar sets of circumstances have led us to the place we are today, where large-scale derailments have endangered multiple communities both in Ohio and nation-wide.

The driving force behind this decision, and many others like it, is a business model otherwise known as Precision Scheduled Railroading (PSR). PSR has caused the greatest degradation of safety in modern day railroading. As we have all seen in East Palestine, this cut-your-way-to-profit model is not sustainable and it is very, very dangerous. And while the NTSB may not be able to identify it by name in their report, I assure you, without hesitation, that it is the greatest contributing factor, not only in this accident, but in all of the others that have occurred before it and since.

In yards all across America, thorough inspections are being sacrificed and needed maintenance is being deferred to expedite the movement of trains. NS is not unique in these practices. No longer is identifying defects the goal of inspections industry-wide, but rather minimizing the time it takes to perform them or the elimination of them altogether. Compound this with the fact that the railroads are on a determined course to grow these trains to astronomical lengths, and you have a predictable outcome. That outcome is East Palestine; or the derailment in Sandusky that occurred in October of last year; or the derailment that just happened in Springfield. But what's even more scary is that the practices, rules, and procedures that were in place when these accidents occurred are still in place today. This tells me that the frequency of derailments that we are experiencing in this country is not going to stop anytime soon, and, in fact, may only end up getting worse.

We need meaningful change, and we desperately need people like yourselves to declare an end to PSR. The Rail Safety Act of 2023 goes a long way toward doing just that. As we sit here today, the railroads are attempting to eliminate the conductor from the cab of the locomotive. They want you to believe that technology is capable of replacing the role of the conductor and that the conductor would be better served in a remote, ground-based role. Nothing can be further from the truth. Yes, there was a conductor in the locomotive in all the accidents I've mentioned here today, but there was also technology. In East Palestine when the train finally came to a stop, the technology stopped with it as its job was done. But when the train came to a stop for the conductor, the conductor and his trainee immediately sprang into action. He urgently began a walking inspection, wherein he was quickly able to identify a major accident had occurred, that fire was present, and that danger was imminent. In doing so, he relayed potential life-saving information to the engineer so that the engineer could notify the dispatcher to get emergency services in motion. Then the conductor, realizing the presence of fire presented the potential for movement of the train—which would have exacerbated the situation immensely—set manual brakes on the cars to prevent any unwanted movement of the train, and then separated the locomotives from the train so that they themselves,

including the engineer could get to safety. None of that could have happened in a timely fashion with a one-person crew.

I imagine the railroads are going to try and tout their safety record in this hearing. They want you to believe that even though they're the ones that created the scenario we're currently facing, that they somehow are the ones best suited to right the ship. Nothing could be further from the truth. According to them, 99% of all hazmat shipments make it safely to their destination. Keep in mind that was true before East Palestine, and yet it still happened. They are most likely going to tell you that injuries are down, but keep in mind that they eliminated roughly 30% of the workforce over the last 5 years. And they're most likely going to tell you that derailments are down but not that they are operating fewer trains.

It is easy to hide in the numbers. Obviously, if you have less people, you're going to have less injuries, and if you have less trains, you should theoretically have less derailments. But when you look at these incidents on a pro rata basis, you see a completely different story.

In December 2022, when the GAO reported on Norfolk Southern's accident rate, it found the Company had hit a 10-year high in 2021 with the Company's accident rate at its highest from 2019–2021. In fact, the Company's Federal Railroad Administration ("FRA") train accident rate has increased for each of the last four years. Similarly, the nation's seven Class 1 freight railroads suffered two derailments for every million miles traveled in 2022, compared to the 1.71 derailments per million miles in 2013, an increase of 17%. These statistics and the business model that is producing them cannot be allowed to continue down its current, reckless path.

The overarching theme of what the AAR and railroad companies are going to tell you is that they are beyond your reach. They will hide behind the interstate commerce clause and tell you that in the name of our nation's economy, they are empowered to run their critical industry unfettered by your authority.

I am here today to tell you that is a bastardization of our United States' Constitution. The Commerce Clause was put in place to protect the people of the United State of America, not the railroads. But the PSR business model they have employed in the last 6 years has not been that. Their 3–4 mile trains, skeleton crews, and slap dash approach to both maintenance and inspections have not enhanced our economic standing in the world. It has led to massive job losses, embargoed shippers cut off from rail service, exports not making it to market, products not making it to store shelves, and raw materials not making it to assembly lines.

Derailments make the headlines almost every single day in this country. It doesn't have to be this way, nor should it. We are the greatest nation in the world and the safety of our railroad system should reflect, but how can it when the carriers themselves oppose every meaningful piece of regulation and/or legislations that comes before it.

What is happening in this nation is not ok, and the Railway Safety Act of 2023 is a great beginning to getting us back on track.

Thank you for allowing me the opportunity to testify here today, and I look forward to your questions.

Chair CANTWELL. Thank you, Mr. Whitaker. Very much appreciate you being here and your statement. We will now hear from Mr. Shaw. Welcome, Mr. Shaw.

**STATEMENT OF ALAN SHAW, PRESIDENT AND CHIEF  
EXECUTIVE OFFICER, NORFOLK SOUTHERN CORPORATION**

Mr. SHAW. Good morning, Chairwoman Cantwell, Ranking Member Cruz, and distinguished members of the Committee. I appreciate the opportunity to testify before you today.

My name is Alan Shaw, and I have been President and CEO of Norfolk Southern since May 2022. I want to open by stating how deeply sorry I am for the impact this derailment has had on the citizens of East Palestine and the surrounding communities. I have been to East Palestine and the surrounding communities many times over the past 6 weeks.

I have spoken with the community leaders, business owners, school officials, clergy, families, and others. They have shared their

stories and their concerns about the health of their families, their businesses, and the future of the community they love.

I am determined to make this right. Norfolk Southern continues to make good on its promise to clean this site safely, thoroughly, and with urgency. You have my personal commitment that we will get the job done and we will help these communities thrive.

At the direction of and in collaboration with the U.S. EPA and State and local agencies, we are developing and implementing near and longer-term cleanup activities. Air and water monitoring have been in place continuously since the accident, and to date it has consistently indicated the air is safe to breathe and the water is safe to drink.

We have already invested more than \$24 million in East Palestine and the surrounding communities. Norfolk Southern opened the Family Assistance Center the day after the incident, and through it we have provided more than \$10 million to more than 6,000 families. We have invested over \$3 million in community relief funds to support the immediate needs of Ohioans and Pennsylvanians in the area.

We have also dedicated over \$9 million in funds to reimburse and support emergency responders, and health and environmental agencies for costs related to the derailment. As I have said before, this is just the start. We know that people are concerned about long term health impacts from the derailment.

When I appeared before the Senate Committee on Environment and Public Works earlier this month, some members of that committee asked me to be more specific about our commitment to do the right thing.

Today, I am able to share more about our plans. We are in the planning stages of developing a long-term medical compensation fund, a property value assurance program, and a longer-term water testing program. We look forward to working toward a final resolution with relevant stakeholders on the details of these plans. If residents have a concern, we want them to come talk to us.

Our website, *nsmakingitright.com*, provides the latest information and details on how to reach us. I thank Chair Homendy for her leadership and the NTSB's investigation into the derailment, and I pledge to continue to cooperate fully. The NTSB's preliminary report found that the Norfolk Southern crew was operating the train below the speed limit and in an approved manner, yet it is clear from this incident that we can always improve.

So as the NTSB continues its work, we are not waiting to act to make the railroads safer. Shortly after the derailment, I instructed my team to look at steps we could take to improve safety beginning immediately, and we have announced a number of initiatives to do just that. These steps are a start, and we look forward to working with policymakers and others in the industry on this.

We support legislative efforts that use science and data to enhance the safety of the freight rail industry, and the Railway Safety Act and the Rail Act both include measures with the potential for meaningful improvement, such as funding additional training, better advanced notifications, accelerating the phaseout of older tank cars, and much more.

We strive to make our safety culture the best in the industry. When I began my tenure as CEO 10 months ago, I spent hours in crew rooms all over our 22-state network thanking our frontline railroaders and asking for their advice.

They are proud of the important work they do for this country, and we take their safety and the safety of the communities we serve seriously. Today, I am proud to represent more than 19,700 Norfolk Southern employees who work every day to offer a safe and effective means of transporting goods to businesses and families across our great country.

We will continue to invest in the future of Ohio and Pennsylvania, and all the States in which we operate, just as we have always done. Norfolk Southern is here for the long haul and we won't be finished until we make this right. Thank you again for the opportunity to appear before you today. I look forward to your questions.

[The prepared statement of Mr. Shaw follows:]

PREPARED STATEMENT OF ALAN SHAW, PRESIDENT AND CHIEF EXECUTIVE OFFICER,  
NORFOLK SOUTHERN CORPORATION

Chairwoman Cantwell, Ranking Member Cruz, and distinguished members of the Committee, thank you for the opportunity to appear today to discuss the train derailment in East Palestine, Ohio.

My name is Alan Shaw, and I have been the President and CEO of Norfolk Southern since May 2022.

I look forward today to sharing information about our progress cleaning the derailment site, assisting families whose lives were disrupted, and investing in the community. I will also discuss how we are making Norfolk Southern and the railroad industry safer through our own initiatives, collaboration with others in the industry, and engagement with lawmakers and other stakeholders.

I am deeply sorry for the impact this derailment has had on the people in the region, and I am determined to make it right.

We are making progress every day as we clean the site safely, thoroughly, and with urgency. Working now under the U.S. Environmental Protection Agency's Unilateral Administrative Order, we have submitted a long-term plan that will guide our comprehensive testing program for the community's water, air, and soil. That testing is informed by science and regulatory standards. And we will continue to transparently share the results of our ongoing testing. Agencies at the state and Federal level—including the U.S. Environmental Protection Agency, the Ohio Environmental Protection Agency, and the Pennsylvania Department of Environmental Protection (DEP)—are continually monitoring the air and water quality in the impacted region. We are encouraged that they have reported to date that both the air and drinking water are safe.

Financial assistance cannot change what happened, but it is an important part of doing the right thing. To date, we have committed to reimbursements and investments of more than \$24 million in total, including by helping more than 5,800 families through our Family Assistance Center. This is just a start. We are currently working with the relevant stakeholders to establish three new funds to address healthcare, property values, and water testing in East Palestine and the surrounding communities. We also have launched a community website, NSMakingItRight.com, to provide the latest information to residents of East Palestine and the surrounding communities.

Making first responders whole has been a particular area of focus, and we have already pledged and paid millions to reimburse local fire departments for costs associated with the emergency response and clean-up. I would like to express my profound admiration for the first responders from Ohio, Pennsylvania, and West Virginia who responded to the derailment.

I want to be clear: this financial assistance is just a down payment. I have visited East Palestine and the surrounding area frequently since the accident. I've met with community leaders, business owners, school officials, clergy, and others to begin to identify ways we can invest in the future prosperity of the residents in the area and

support the long-term needs of its people. We will continue to invest in the affected communities for as long as it takes to help people in the area to recover and thrive.

We are also committed to learning from this accident and to working with public officials and industry to make railroads even safer. In the meantime, we have already launched a series of immediate steps to enhance safety, based on the facts in the National Transportation Safety Board's (NTSB) preliminary report. We look forward to cooperating with the NTSB as it continues its investigation into the root cause of the accident as well as its wider investigation.

### **I. Our Commitment to Remediation and Monitoring**

I've met with residents of the community. I've heard their concerns, and I understand their worry. Their feedback has informed our approach. Norfolk Southern is working around the clock to remediate the remaining issues and monitor for any impact on public health and the environment. We continue to work in close coordination with federal, state, and local regulators and others to conduct environmental monitoring and to develop and carry out near-and longer-term clean-up activities. The remediation plan and each step of our longer-term efforts will be implemented at the direction of the U.S. EPA pursuant to the Agency's Unilateral Administrative Order.

Norfolk Southern personnel arrived on-scene shortly after the accident, and we have been there ever since. We have worked to be transparent and cooperative with the various local, state, and Federal stakeholders involved from the early hours of Unified Command through today. Following the accident, our specialists have remained on-location, assisted by expert derailment and environmental contractors.

We are making significant progress. These teams have contained, diverted, and treated affected portions of nearby waterways, flushed nearly a mile of surface waterways, and are capturing rainwater within the contaminated areas for temporary storage and disposal. To date, we have recovered and transported more than 7.4 million gallons of potentially affected water from the site for disposal at EPA-approved facilities.

We also are working to safely remove affected soil, and our crews have removed more than 6,800 tons from the site. We are actively removing waste to facilities specifically engineered and permitted to safely handle this type of material. Our work will continue until the job is done.

We continue to listen to the experts and cooperate with state, federal, and local government agencies. In particular, Norfolk Southern, the U.S. EPA, Ohio EPA, and Pennsylvania DEP are conducting water, soil, and air monitoring throughout the area surrounding East Palestine. The air monitoring to date has shown the air is safe to breathe. And the monitoring of the area's public drinking water and private water wells by state and local authorities and Norfolk Southern shows that the water is safe to drink and there are no harmful levels of substances related to the derailment. We are committed to continuing this monitoring for as long as necessary.

### **II. Our Commitment to the Community**

I want the people of East Palestine and the surrounding communities to know that Norfolk Southern and I are deeply committed to them. As indicated above, we have already made an initial investment of more than \$24 million. Our financial support so far includes:

- More than \$9.5 million in support to more than 5,800 families through our Family Assistance Center;
- A \$5 million fund to reimburse local Pennsylvania fire departments for costs associated with the emergency response and clean-up;
- More than \$3 million in reimbursements and support to the East Palestine Fire Department and other area first responders for fire equipment used in the derailment response;
- Almost \$1.5 million to Pennsylvania state agencies to cover costs incurred as a result of the derailment;
- A \$1 million fund available immediately to East Palestine community leaders to identify where donations can do the most good;
- Another \$1 million fund to support the immediate needs of the East Palestine community, overseen by a Norfolk Southern craft railroader who lives in East Palestine and has been hired to serve as a community liaison, reporting directly to my office;

- Another \$1 million Community Relief Fund to provide support to Pennsylvania businesses that have experienced losses as a result of the incident, including business expenses Norfolk Southern has reimbursed to date;
- \$300,000 to the East Palestine City School District to support the district's academics, athletics, extracurricular activities, and long-term contingency planning regarding the impacts of the derailment;
- \$250,000 donation to The Way Station, an Ohio-based nonprofit delivering aid to the East Palestine community, to help establish a larger, permanent location in the area and hire additional staff, including a social worker;
- Funding and coordination of cleaning and air monitoring services for the East Palestine Elementary and High Schools; and
- \$65,000 to the East Palestine Youth Sports Association to allow children to play in sports leagues for free for the year.

We are also listening closely to concerns from the community about whether there could be long-term impacts from the derailment. Many residents are worried about what they will do if health impacts related to the derailment are discovered years from now. To date, environmental monitoring continues to show the air and drinking water are safe. To provide an additional level of assurance, we are committed to a solution that addresses long-term health risks through the creation of a long-term medical compensation fund.

We also know residents are worried about their home values. While we are working with local leaders on investments to support the community's long-term prosperity, we understand these concerns. We are committed to working with all relevant stakeholders to provide tailored protection for home sellers if their property loses value due to the impact of the derailment.

Finally, we have heard the community's interest in programs that protect drinking water over the long term. We are prepared to work with stakeholders toward that goal as well. We look forward to working toward a final resolution with all relevant stakeholders to finalize the details of these programs.

Finally, we know it is important to keep the community informed. NSMakingItRight.com is updated regularly with information about remediation, monitoring, financial assistance, and investments in the community. Again, this is all a down payment. We are listening to your concerns, and we are committed to making this right.

### **III. Our Focus on Safety**

Rail is one of the safest modes of transporting hazardous materials. We recognize, however, that we need to continue working to improve railway safety. The morning after the derailment, I spoke to NTSB Chair Jennifer Homendy and pledged the full cooperation of Norfolk Southern in the NTSB's investigation. The NTSB's preliminary report released last month reflected that the Norfolk Southern crew was operating the train within our protocols and below the speed limit established by Federal law. The wayside detectors installed on the track to identify overheated axles operated properly, and the crew took the appropriate action when they received the alert.

We will analyze and address the NTSB's investigation results when they are available, but we are not waiting to act. We are committed to learning from this accident and working with public officials and industry to make railroads even safer. We have already launched a series of immediate steps to enhance safety, based on the facts in the NTSB's preliminary report.

As an initial step—and focusing on what we can do on our own—we are making our network of early-warning sensors stronger. Shortly after the derailment, I instructed my team to immediately look at steps we can take to improve safety further, and we are taking the following actions:

- Enhancing the hot bearing detector network;
- Piloting next-generation hot bearing detectors;
- Deploying more acoustic bearing detectors;
- Accelerating our Digital Train Inspection program; and
- Improving practices, alongside industry partners, for hot bearing detectors.

We currently spend more than \$1 billion a year on technologies, equipment, and infrastructure to support safety, and another \$1 billion per year on ongoing operations in support of safety. But the safety mechanisms in place did not prevent this accident. Every employee at Norfolk Southern is focused on learning from this incident and working with the entire freight rail industry to make changes.

We are committed to helping our first responders prepare for incidents when they do happen. For years prior to the East Palestine derailment, Norfolk Southern funded training for emergency responders. In 2015, Norfolk Southern launched “Operation Awareness & Response” with the goal of strengthening relationships with state and local first responders across our network through new training opportunities, and full-scale exercises.

We recently announced that we are establishing a new regional training facility in Ohio, which will offer free training to first responders in Pennsylvania, Ohio, and West Virginia. The first safety classes at this new center began this week at our rail yard in Bellevue, Ohio, just west of Cleveland. We have more than 400 first responders registered for this and other upcoming trainings, and classes are currently full. We will have numerous future training opportunities across our 22-state network in 2023. We plan to establish a dedicated facility in the future. Every year, Norfolk Southern voluntarily trains between four and five thousand first responders throughout the states we serve.

In addressing issues going forward, Norfolk Southern views an industry-wide comprehensive approach—one that includes railcar owners, car manufacturers, leasing companies, equipment makers, and the railroad companies—as essential in helping to improve safety as the rail industry continues to provide the logistical infrastructure that enables the United States economy to grow. It’s going to take all of us—and we’re eager to help lead that effort.

#### **IV. Enhancing Our Safety Culture**

An essential part of our effort to make Norfolk Southern a safer company is to further strengthen our safety culture. To describe how we are doing that, I would like to provide some important context on the new strategy we announced for Norfolk Southern at the end of last year.

In the weeks since the derailment there have been a number of questions about an industry operating approach called precision scheduled railroading (PSR). There are five principles of PSR: operate safely, develop people, provide service, control costs, and optimize assets. These are sound principles one might find in any industry with an operational focus.

In recent years, however, PSR has become associated with a singular focus on cost-cutting to drive a low operating ratio, which is a common industry measure for efficiency. It is here that Norfolk Southern has approached things differently from others in the industry and charted a new course. In a significant departure from the railroad industry’s recent past, we deliberately moved away from a singular focus on operating ratio. Instead, we are taking a more balanced approach to service, productivity, and growth.

As just one example of what our strategy means in practice, instead of furloughing workers during periodic economic downturns, we intend to use the opportunity to invest in our workforce and provide additional training. When we do that, it makes us a more resilient company that is better able to serve our customers, and it creates more career opportunities for our craft railroaders. We hired craft railroaders aggressively throughout 2022 and continue to do so this year.

Our new strategy goes hand-in-hand with our increased focus on culture and employee engagement, with an emphasis on transparency and collaboration. I know that, when Norfolk Southern is successful, it is because our craft colleagues are getting the job done for our customers and the United States economy. I have spent countless hours in the field in the 10 months I have served as CEO, thanking our front-line railroaders for their service and listening to their ideas on how to make Norfolk Southern better.

We are committed to enhancing quality of life and work predictability for our craft employees, who are the key to our success. When we completed the recent round of national labor negotiations, with a historic and well-deserved 24 percent pay increase, I committed immediately to begin negotiations at the local level on quality-of-life issues like paid sick leave. We did what we said we were going to do and have already reached agreements on paid sick leave with nine of our unions.

#### **V. Our Commitment to Industry & Legislative Action**

We support legislative efforts to enhance the safety of the freight rail industry. We are committed to working with our fellow industry leaders to make the railroad industry a safer place, and we also recognize and appreciate the bicameral, bipartisan leadership by Members of Congress, including by members of this Committee, in proposing new legislation to create a safer rail industry. The Railway Safety Act and the RAIL Act both include measures with the potential to enhance safety and improve outcomes for our industry, our customers, and the communities we serve.

We support the Railway Safety Act's provisions for more industry-funded training for first responders, and we are not waiting for legislation to move this forward. We have already announced the expansion of our existing training programs and the creation of a new regional training center in Ohio, which will serve first responders in Ohio, Pennsylvania and West Virginia. The first class was on March 21.

We support the principle that first responders need accurate real-time information on the contents of trains moving through their communities and instruction on the safe handling of those contents in the event of an accident. We intend to take a leading role getting the AskRail safety application into the hands of every first responder who needs access. In this area specifically, the details of legislation matter as policymakers balance safety enhancements with national security concerns.

We support triennial reviews of regulations for rail car inspections and standards for freight car safety, because regular reviews drive good regulatory policy and outcomes.

We support the Federal Railroad Administration's (FRA) Confidential Close Call Reporting System (C3RS). Norfolk Southern participates in the C3RS Working Group that is part of the Department of Transportation's Railroad Safety Advisory Committee.

We support accelerating the phaseout of older tank car models, research into advanced tank car design, and additional funding for research and development on next-generation early-warning sensor technologies.

There are other aspects of the proposed legislation that we support in principle. Establishing performance standards, maintenance standards, and alert thresholds for safety sensors is one example. We have already committed to work with the industry to develop additional data-based best practices in these areas, and we welcome constructive discussion with stakeholders to craft effective and practical legislation.

There are also areas in which we believe Congress could go further with safety legislation. We encourage even stricter standards for tank car design. There are significant opportunities for advanced technology to enhance rail safety, and we encourage Congress to consider additional research into on-board rail car defect detection technology.

We support increasing fines and penalties for persons found tampering with railroad facilities and safety equipment, such as grade crossing warning devices, wayside detectors, or signal boxes. We support codifying and enhancing the FRA's confidential close car reporting system. And we support new requirements to ensure utility installations in railroads rights-of-way are conducted safely.

## **VI. Conclusion**

Finally, Chairwoman Cantwell, Ranking Member Cruz, and members of the Committee, I want to state again how deeply sorry we are for the impact of this derailment on East Palestine and the surrounding communities. We are making progress in the recovery and know our work is not yet done. On behalf of the more than 19,700 hard-working employees of Norfolk Southern, I pledge that we won't be finished until we make it right. Thank you for the opportunity to testify before you today, and I look forward to your questions.

Chair CANTWELL. Thank you. Mr. Shaw. We will now turn to Mr. Jefferies. And welcome, Mr. Jefferies.

### **STATEMENT OF IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS**

Mr. JEFFERIES. Good morning and thank you for the opportunity to be here today. Let me start by extending my sympathy to the residents of East Palestine and surrounding areas. February's derailment is a stark reminder that as rare as one is, a significant rail incident's impact on the affected community can be extraordinary.

And while nothing I say here today can undo the impacts of any rail incident, it is important that we have a clear-eyed discussion about the state of rail safety and steps that have been taken or could be taken.

As we know, Norfolk Southern is continuing cleanup efforts in East Palestine, while the NTSB's meticulous investigation is ongoing. While those parties will continue to address matters related to that incident, today I will provide a broader perspective.

Let me be clear, railroads work every day to improve safety toward an ultimate goal of zero incidents and zero injuries. That starts with our employees, whose commitment to moving America's freight 24 seven and doing it safely should be commended.

Post-pandemic hiring efforts continue, with our employee base currently the highest it has been in over 3 years. And because a well-maintained railroad is a safe railroad, the over \$20 billion in annual investments back into the physical network have resulted in the Nation's highest rated infrastructure by the American Society of Civil Engineers.

The result? Rail is by far the safest way to move goods on land, especially hazardous materials. Per carload, the hazmat accident rate is down 78 percent since 2000, and 2022 saw the lowest rate of hazmat incidents in the entire industry's history. Additionally, FRA data show class I railroad's mainline accident rate in 2022 was at an all-time low, as was the employee injury rate.

But that does little to comfort a community that experiences a significant derailment, and that is why we must continue to apply lessons learned and take steps to drive the industry's accident rate even lower. Every train trip provides learning tools for the future. To that end, railroads consistently invest in technologies and take action without waiting for Government requirements.

Consider two recent actions. First, following an industry wide analysis, railroads are installing approximately 1,000 additional wayside hotbox detectors on the national network, standardizing critical alert thresholds for these systems, and analyzing and adopting new industry standards for trending analysis protocols to preempt potential problems.

The vast network of these and other wayside detection systems exist today because railroads installed them voluntarily, not because of Government intervention. And just 2 weeks ago, upon learning that a segment of new cars on the network could be prone to derailment causing loose wheels sets, the industry took immediate action to take them out of service until those wheels sets are replaced.

Myriad tools and methods are used every day to prevent incidents. Positive train control is fully implemented in helping prevent catastrophic accidents. Automated track inspection that sees into the track, as well as machine visioning and onboard sensors, all improve safety. Yet prevention is just one part of the three-legged safety stool, along with mitigation and response.

On the former, the industry has a well-documented history of petitioning for stronger tank car standards. We are also committed to working with our partners and Congress to get older tank cars off the network.

On response, first let me recognize Mr. Comstock here today and every first responder who tended to the accident in East Palestine. These individuals, like all firefighters who respond to rail incident, should be commended for their service. To do their jobs, though,

they need proper training and tools, and thus the industry is reinforcing its training programs and expanding access to information.

This year, railroads will train 20,000 first responders in communities across the country, while the industry can provide another 2,000 first responders with free, in-depth training at our world class facility in Colorado.

This week, we launched a pilot program directly targeting emergency communications centers to promote broader access to AskRail, which provides first responders real time information about the contents of every car on a train and the safe handling of those contents in the event of an accident.

Congress can support this effort by helping increase awareness of AskRail in your communities, and we ask for your help in getting the word out. In closing, railroads are fully committed to safety advancement through our own actions and working collaboratively.

We support data driven policies with demonstrable safety benefits, including the goals of legislative provisions before this committee and look forward to working together. Thank you for your time, and I look forward to your questions.

[The prepared statement of Mr. Jefferies follows:]

PREPARED STATEMENT OF IAN JEFFERIES, PRESIDENT AND CHIEF EXECUTIVE OFFICER, ASSOCIATION OF AMERICAN RAILROADS

### **Introduction**

On behalf of the members of the Association of American Railroads, thank you for the opportunity to discuss rail safety and the transportation of hazardous materials by rail. AAR's freight railroad members account for the vast majority of railroad mileage, employees, and freight traffic in Canada, Mexico, and the United States.

Let me make absolutely clear at the outset: for freight railroads, pursuing safe operations is not an option, it's an imperative. Railroads know that families deserve to feel safe within their communities. That's why railroads are steadfastly committed to solutions-oriented steps to prevent accidents from occurring. Data from the Federal Railroad Administration confirm that rail safety has improved substantially over the years.

Unfortunately, the recent train accident in East Palestine, Ohio, has led some to question railroads' commitment to safe operations and their ability to operate safely. Railroads know they have to restore confidence and demonstrate that nothing is more important to them than the safety of their employees, their customers, and the communities in which they operate. Every rail accident is one too many, and railroads' ultimate goal is to eliminate accidents altogether.

Actions speak louder than words, of course, which is why railroads will continue to take meaningful actions, as they've been doing for many years, to enhance safety. These actions will continue to be driven by good-faith, cooperative efforts with policymakers, suppliers, customers, and rail employees; sustained private investment in infrastructure, equipment, and safety technologies; the modernization of operating and maintenance practices; effective employee training; and steadfast adherence to pertinent laws and regulations.

As I will explain below, in the wake of the East Palestine accident, railroads have pledged to take additional measures that will further enhance the safety of rail operations.

### **Rail Safety Data Reflects Safety Gains**

Statistics from the Federal Railroad Administration (FRA) confirm that the past decade has been the safest in rail history. A few examples:

- The overall train accident rate was 28 percent lower in 2022 than in 2000.<sup>1</sup>
- The accident rate for trains traveling on railroad mainlines—that is, outside of rail yards—was 44 percent lower in 2022 than in 2000. For Class I freight railroads, the mainline accident rate was down 49 percent from 2000 and set a new record low in 2022.<sup>2</sup>
- The overall train derailment rate fell 31 percent from 2000 to 2022.
- The rate of train accidents caused by track defects fell 55 percent from 2000 to 2022 and set a new record low in 2022.
- The rate of accidents caused by equipment defects (mainly locomotives and freight cars) fell 21 percent from 2000 to 2022.
- As discussed further below, based on preliminary data, the hazardous materials accident rate in 2022 was 78 percent lower than in 2000 and set at an all-time record low.
- From 2000 through 2022, the employee injury rate was down 49 percent.<sup>3</sup> For Class I railroads, the decline was 63 percent, with 2022 setting a new record low. According to data from the Department of Labor, railroads have lower employee injury rates than most other major industries, including trucking, airlines, agriculture, mining, manufacturing, and construction—even lower than grocery stores.

There is more work to do, but FRA's data make clear that railroads employees' strong safety culture, paired with the sustained, disciplined investments in maintenance and technologies that target the primary causes of accidents, have delivered meaningfully improved safety.

#### **Railroads Safely Move Large Amounts of Hazardous Materials Every Day**

Most commodities carried by rail pose little or no threat to anyone or anything, but some commodities are classified as hazardous. In a typical year, U.S. railroads transport approximately 2.2 million carloads of hazardous materials. Depending on the year, hazardous materials account for 7 percent to 8 percent of rail carloads. Ethanol, crude oil, and propane make up the highest volume of hazardous material carried by rail, but countless other hazmat products that are indispensable to our Nation's economy, health, and standard of living are also moved by rail.

Railroads are the safest mode for transporting hazardous materials. Rail hazmat accident rates—accidents that result in hazmat releases as a percentage of total hazmat carloads—fell 78 percent from 2000 to 2022. In 2022, there were just 11 train accidents that involved the release of hazardous materials, with just 19 hazmat carloads releasing their contents.<sup>4</sup> According to the Bureau of Transportation Statistics, the last fatality caused by hazardous materials transported by rail in the United States occurred more than a decade ago. That safety record compares very favorably to hazardous materials moved on highways.<sup>5</sup>

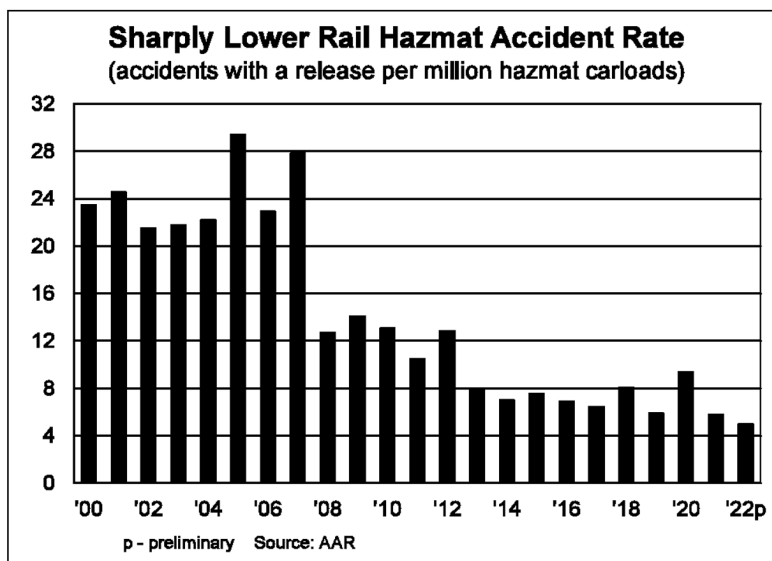
<sup>1</sup>FRA data for 2022 are preliminary. Train accident rates are usually represented in terms of accidents per million train-miles. A million train-miles is roughly equivalent to 300 train-trips across the country.

<sup>2</sup>Class I freight railroads are those with 2021 revenue of at least \$944 million. There are currently seven Class I freight railroads. Collectively, they account for approximately 95 percent of U.S. freight rail revenue.

<sup>3</sup>Rail employee injury rates are usually referred to in terms of 100 full-time employee equivalents.

<sup>4</sup>An accident involving hazmat can lead to the release of product from more than one railcar.

<sup>5</sup><https://www.bts.gov/content/hazardous-materials-fatalities-injuries-accidents-and-property-damage-data>



Today, well over 99.9 percent of rail hazmat shipments reach their destination without a release caused by a train accident. The rail industry will not rest until it can eliminate the accidents that remain. Until that day, the industry will continue to take measures to meaningfully boost safety, prepare communities, and make them whole following any incident.

Railroads want all their shipments to travel safely, but they have consistently taken concrete steps dedicated specifically to making hazmat transportation safer and hazmat accident response and mitigation more effective. Examples include:

- Railroads, several Federal agencies, and outside experts collaborated several years ago to produce the web-based “AskRail” app. *AskRail* allows emergency responders to input the identification number of a particular rail car and immediately determine the commodity contained in that car, its hazard class, emergency response information associated with the commodity, and other information. Emergency responders in East Palestine used AskRail to quickly obtain information on the railcars involved in that accident.
- When an accident involving hazmat occurs, railroads follow strict protocols. They work closely with the Environmental Protection Agency (EPA), the National Transportation Safety Board (NTSB), relevant state and local authorities, and outside experts to contain the situation as quickly as possible; protect the health and safety of nearby residents and the environment; and remediate impacts. A variety of laws and their accompanying regulations give the EPA and other agencies a comprehensive framework to ensure that railroad hazmat spills are properly addressed.
- Railroads provide thorough information to emergency response agencies on hazardous materials moving through their cities and towns.<sup>6</sup> They also equip train dispatchers and crews with information about hazmat on individual trains and contact lists for local emergency responders along a train’s route.
- Railroads and several Federal agencies jointly developed the Rail Corridor Risk Management System (RCRMS), a sophisticated statistical routing model that incorporates 27 risk factors (including hazmat volume, trip length, and population density along the route) to aid railroads in identifying the safest and most secure rail routes for transporting high risk hazardous materials.
- Railroads help communities develop and evaluate emergency response plans. They also provide training for more than 20,000 emergency responders each

<sup>6</sup>Providing open, unfettered access to the precise location and contents of every train could make those carrying hazardous materials a target for terrorist attacks, which is why railroads limit this information sharing to bona-fide emergency response agencies.

year through their own efforts and through the Transportation Community Awareness and Emergency Response Program (TRANSCAER).

- Railroads provide hazmat awareness training to all employees who are involved in hazmat transportation. Rail employees responsible for emergency hazmat response efforts receive far more in-depth training. Railroads also have hazmat response contractors and environmental consultants on call 24/7.
- Around half of all hazardous materials, and nearly all TIH materials<sup>7</sup>, are transported in tank cars. All but a tiny fraction of the approximately 437,000 tank cars in the North American rail car fleet are owned by rail customers and leasing companies, not by railroads. Tank cars built today are vastly improved over earlier generations, with higher grade steel, better thermal protection, improved valves and fittings, often thicker tanks, and other improvements.
- Railroads work closely with chemical manufacturers in the Chemical Transportation Emergency Center (Chemtrec), a 24/7 resource for emergency responders that provides access to chemical product, medical and toxicology experts and assists in the mitigation of hazmat incidents.
- Railroads provide services (*e.g.*, lodging, food) to those displaced by rail hazmat accidents and establish assistance centers and claims teams to assess and meet the needs of displaced community members. Railroads also reimburse local, state, and Federal authorities for the costs associated with their response and cleanup efforts.

#### **Renewed Efforts to Prevent Rail Accidents**

One of the keyways railroads have reduced accidents is through significant and consistent investments back into their networks. From 1980 to 2022, freight railroads spent more than \$780 billion—of their own funds, not government funds—on capital expenditures and maintenance expenses related to locomotives, freight cars, tracks, bridges, tunnels and other infrastructure and equipment. That’s more than 40 cents out of every revenue dollar. The vast majority of these investments have improved rail safety directly or indirectly. In fact, for many of these investments, improving safety is a primary reason the investments were made. Massive rail spending back into their networks will continue.

Railroads have also made huge investments in modern safety-enhancing technology. These include sophisticated detectors along tracks that identify defects on passing rail cars; specialized vehicles that detect defects in tracks and in the ground underneath tracks; and drones that can inspect hard-to-reach areas. Railroads have also fully implemented positive train control (PTC) systems that automatically stop or slow trains before certain accidents occur.

On March 8, U.S. Class I railroads collectively announced a new initiative to expand the use of technology to improve safety. This initiative has five key components.

First, railroads have long recognized the risk posed by overheated wheel bearings. That’s why, beginning many years ago, railroads voluntarily installed thousands of “hot bearing detectors” (HBDs) across their networks. HBDs use infrared temperature sensors to monitor the temperature of bearing housing as railcars pass by. Railroads have also voluntarily installed acoustic bearing detectors along many of their tracks. These detectors can identify potential wheel problems based on the noise created by bearings that may be starting to fail.

For more than 30 years, Class I railroads have voluntarily spaced HBDs no more than 40 miles apart on key routes. In recent years, average HBD spacing has fallen well below 40 miles. On March 8, Class I railroads announced plans to install approximately 1,000 new HBDs so that the HBD spacing on key routes will be reduced to no more than 15 miles on routes that do not have acoustic bearing or similar defect-detection technology.

Moreover, Class I railroads have agreed to a new industry standard that calls for stopping trains and inspecting bearings whenever the temperature reading from an HBD exceeds 170 degrees above ambient temperature. This new “critical temperature threshold” is substantially lower than the previous industry norm.

HBDs have been in use for many years, but only relatively recently have software and data processing capabilities evolved enough to allow “trend analysis” of readings from multiple HBDs over time. Class I railroads have agreed to engage in a collaborative, fast-tracked effort to identify best practices associated with trend

<sup>7</sup>“Toxic inhalation hazard” (TIH) materials—gases or liquids, such as chlorine and anhydrous ammonia, that are especially hazardous if released into the atmosphere—are a subset of hazardous materials. U.S. railroads carry around 65,000 TIH carloads in a typical year.

analysis to make it more effective at proactively detecting potential bearing problems.

Second, all seven Class I railroads have agreed to join the FRA's voluntary "Confidential Close Call Reporting System (C3RS). Class I railroads have long had mechanisms in place for their employees to provide confidential feedback on safety issues, but railroads will use the C3RS program to supplement their existing programs. Railroads will work cooperatively with the FRA and labor representative to improve the effectiveness of C3RS.

Third, in 2023, railroads will train roughly 20,000 first responders in local communities across the country on accident mitigation. In addition, the industry will facilitate the training of 2,000 first responders at the Security and Emergency Response Training Center (SERTC) facility in Colorado. SERTC's world-renowned program offers an immersive experience with full-scale training scenarios that prepare first responders for real-world surface transportation emergencies. SERTC is a member of the National Domestic Preparedness Consortium (NDPC), which fully funds local, state, tribal and territorial first responders to attend any of SERTC's DHS/FEMA-certified courses.

Fourth, the rail industry is intensifying its efforts to get the AskRail app into the hands of first responders. Railroads will interface with emergency communication centers to promote broader access to the app, rather than relying solely on individual downloads. Railroads are also targeting all 50 state fire associations. The industry's goal is to double the number of first responders who have access to the tool by the end of 2023.

Fifth, following a recent safety advisory from the NTSB, the AAR's Tank Car Committee is accelerating the work of a dedicated task force that has been investigating the use of heat-resistant gaskets for tanks transporting flammable liquid. The task force, comprised of representative from railroads, equipment owners, and tank car manufacturers, will expand its scope to consider all fire performance improvements to service equipment.

Since the March 8th announcement, the industry, lead by Norfolk Southern, determined that a specific model and series of railcars had loose wheels, which could cause a derailment and that these came from a series of recently acquired cars from a specific manufacturer. Upon inspection of other cars from this series, additional cases of unusual wheel movement were found and the industry took immediate action—not waiting on the DOT or other regulators—and ordered the remove these cars from service until their wheelsets could be replaced. This is a prime example of the industry stepping up and taking action whenever a critical safety issue is discovered.

### **Looking Ahead**

Rail is the safest way to move hazardous materials, but railroads fully appreciate that public trust in railroads' ability to operate safely must be restored through action. Until they achieve their goal of zero accidents, railroads will maintain a fierce commitment to getting there. Railroads wholeheartedly agree that policymakers have a key role to play in this effort, and railroads will continue to work in good faith with policymakers at all levels of government to identify ways to genuinely improve rail safety performance.

That said, it is unfortunate that, in the aftermath of the accident in East Palestine, some policymakers, pundits, and others have asserted that railroads broadly oppose increased safety regulations. This is categorically false. Railroads have consistently advocated, and continue to advocate, for data-driven solutions that would effectively increase the safety of the rail network.

Some rail efforts have been successful, such the push for the Department of Transportation to enhance tank car standards for flammable liquids. Other rail efforts, like expanding the use of automated track inspection technologies that have proven to be far more effective than traditional manual inspections, have been hamstrung by the FRA and are impeding the industry's efforts to improve safety.

Railroads are also disappointed that some are using the East Palestine accident to push for policy changes that have little or nothing to do with rail safety and, if enacted previously, would not have prevented the accident or made railroads safer. Railroads also respectfully urge policymakers to remember that laws and regulations, however well intended, that place excessive and unnecessary operational burdens on railroads would distort competition in the freight transportation marketplace and divert freight from railroads to less safe alternatives. If this happened, overall transportation safety would be reduced, not enhanced.

### **Conclusion**

Our nation's freight railroads share this committee's and the public's urgency in augmenting the safety of all rail transportation. Railroads are committed to continuing our work with local, state, and Federal officials; their employees; their customers; their supplies; and other stakeholders to identify additional safety enhancing steps that will make this happen.

Chair CANTWELL. Thank you. We—I am going to defer my first round of questioning to let Senator Klobuchar, who has been here on the whole morning, and we thank her for her interest in all of this. Senator Klobuchar.

### **STATEMENT OF HON. AMY KLOBUCHAR, U.S. SENATOR FROM MINNESOTA**

Senator KLOBUCHAR. Well, thank you very much. I was, like everyone here, horrified by what happened. And actually, when you look at the numbers, trains derailed 1,164 times last year, up 17 percent in the last decade. 29 of those derailments were actually in my state. And in 2022, 817 people across the country were killed in rail accidents, 266 in railroad crossing collisions. So, clearly, there is reason to go forward immediately with Senator Brown and Senator Vance's legislation, and to help in Ohio.

I guess I would start with you, Mr. Shaw. Norfolk Southern's accident rate jumped 76 percent between 2013 and 2022. And could you just briefly explain why, and if you support the legislation that our colleagues have proposed?

Mr. SHAW. Yes, Senator, thank you for that question. We are a safe railroad. The number of derailments on Norfolk Southern last year was the lowest in the last two decades. We are committed to getting better. And so, yes, there are many provisions within the Vance-Brown bill for which we give our full-throated endorsement.

Senator KLOBUCHAR. And then do you support the bill?

Mr. SHAW. I support a number of provisions within the bill, Senator, which include the—

Senator KLOBUCHAR. Which ones don't you support?

Mr. SHAW. Senator, we support the acceleration of the phasing of the DT117s, funding first responder hazmat training, expanding advanced notification—

Senator KLOBUCHAR. OK, I will—I will just put it in writing. I was just trying to figure out which ones you didn't support and why, because I just think it is very important to move ahead. They have signaled an interest in working with all stakeholders to try to get this done, and I just don't want this to be one of these moments where we wait 2 years to pass a bill.

Chief Comstock, thank you for your work. We have—are greatly, greatly appreciated of the first responders, firefighters, and everything that you did not only in this incident, but across the country.

So, Senator Cramer and I today are introducing a bill, the honoring our Fallen Heroes Act to start looking at making sure that our firefighters who already have a register going on as you know, that a bunch of us worked on, but to making sure that this is included in their benefits, the exposure and the certain cancers.

And we think we are going to get a lot of support for this bill. Actually, it is specifically targeted, written in a way that we think is going to be good. So, could you talk about what some key infor-

mation you wished you had before arriving at the scene of the derailment?

Mr. COMSTOCK. I think in any instance that when responders are proceeding to a scene of an emergency, we want to have as much information as we can.

And whether it is a car accident, whether it is a medical emergency, house fire, or hazardous materials incident. So, the more information and the quicker we can get information, the better. There are apps out there that have been discussed, AskRail being one, that provide that type of information.

But I think we could go further by looking at newer technology that will put that information that is available in AskRail on my phone while I am in route to the emergency. That is one instance. But I understand that there is a lot of other issues that need to be looked at—

Senator KLOBUCHAR. And also, to be alerted of what toxic chemicals are in there, so you know what you need.

Mr. COMSTOCK. Everything.

Senator KLOBUCHAR. OK.

Mr. COMSTOCK. And the more the better. But I think that the fire service needs a seat at that table, with the railroads, in developing the technology that is going to help us out.

Senator KLOBUCHAR. OK, thank you. Railway safety, another part of this, of course. Mr. Jefferies, with railway workers being exposed to a range of serious risks, what is the industry doing to improve worker safety?

Mr. JEFFERIES. Well, there are a myriad of regulatory requirements around worker safety under the railway safety—excuse me, under the Federal Railroad Administration. Certainly, we comply with all of those.

I know, Alan, and my other CEOs have made a very concerted effort to get out in the field. And a lot of that is hearing firsthand, what is working, what is not from the employees in the field, because they are the ones who are seeing what is going on every day.

So that firsthand information that feeds up through management and through the executives can really drive decisionmaking. The important thing is that we do take a holistic approach to safety.

And the evidence we have seen, as I mentioned, 2022 had the lowest employee injury rate in our industry's history, but that is not zero. So, we have got to continue to look for opportunities to further provide safe working conditions.

Senator KLOBUCHAR. Right. Do you want to add anything to that, Ms. Homendy?

Ms. HOMENDY. We do have rail workers safety on our most wanted list of transportation safety improvements. And one of the—actually, we have several recommendations that do not support the use by the railroads of train approach warning.

What that is, is when roadway workers are working on the track, they put a watchman out and a train, as a train comes along, the watchman is supposed to flag it for those who are working on the track and they get off the track.

We have seen several instances where that hasn't happened and they have died, unfortunately. And there are other options. For ex-

ample, using positive train control after establishing an established work zone. So, we have recommendations on that.

Senator KLOBUCHAR. All right. And I am going to follow up in writing. My colleagues, I know, all have questions on the hazmat training, Mr. Comstock, because I understand it is difficult sometimes for firefighters to attend this kind of training, and what we can do, and have many other questions. So, thank you very much, all of you.

Chair CANTWELL. Senator Cruz.

Senator CRUZ. Thank you, Madam Chair. Thank you to each of the witnesses who are here today. Chief Comstock, please—thank you for your service, and please express my gratitude to the men and women who are first responders who were there when this horrific tragedy occurred.

And thank you for their courage and the difference that each of them makes in the community. Chair Homendy, let me thank you also for the professional way in which the NTSB has approached this accident. I think you have been a truth teller. I think you have managed to avoid politics and focus on the substance of what caused this accident and how we can prevent it.

And so, it is not that often that we get to thank a public official for doing a good and effective job. I think you provided also some helpful suggestions in your testimony that I am certain the Committee will look closely at the specific suggestions you put forward. As I look at what caused this derailment, there are a number of factors, but one factor that from the early reports stands out is the hotbox detectors.

We now know that the train derailed past three hotbox detectors prior to the derailment. 30 miles away, the reading was 38 degrees above ambient temperature. Then 20 miles away, it had risen to 103 degrees above ambient temperature. So, it had risen dramatically.

And then just prior to the derailment, it was 253 degrees above ambient temperature, reflecting that the bearing had locked and derailment was imminent. Mr. Shaw, why did this trend in temperature not trigger an alert earlier to stop the train? And in particular, why were you not able to stop the train after the second reading had gone from 38 degrees above ambient temperature to 103 degrees above ambient temperature?

Mr. SHAW. Senator, thank you for that question. I will note that the NTSB report indicated that the crew did nothing wrong, and we certainly thank them for that.

The hot box detectors were working as designed and there were no track defects. Since the derailment and the preliminary results of the NTSB report, we led the rail industry and the rail industry has also implemented—implementation of far more hotbox detectors across our network.

We are adding 200 hot box detectors on our network to reduce the spacing between our hot box detectors. Our hot box detectors are already spaced amongst the lowest in the industry. And I think, Mr. Jefferies had indicated that the entire industry was adding about 1,000 hot box detectors.

Senator CRUZ. Mr. Shaw, perhaps you didn't hear my question, so let me ask it again. The first hot box measured 38 degrees above

ambient temperature. As I understand, the ambient temperature was about 20 degrees, so that was roughly 58 degrees.

Ten miles later, the second hot box measured 103 degrees above ambient temperature. That is an increase of over 60 degrees in ten miles. Why did Norfolk Southern not stop the train then and examine the bearing to make sure that it didn't melt the axle and that you didn't have a derailment? If you would stopped then, it would have prevented the derailment.

So, my question is, why did the second hot box reading not trigger action?

Mr. SHAW. Senator, my understanding is that that second reading was still below our alarm threshold, which is amongst the lowest in the industry. In response to this, the industry has agreed to work together to share best practices with respect to hot box detectors, trending technology, and thresholds.

Senator CRUZ. So, when you and I visited my office yesterday, you said your threshold is now 170 degrees above ambient temperature. As I understand it, at the time of the derailment, your threshold was 200 degrees above ambient temperature. So, you are right, 103 was not 200 degrees.

As you and I discussed, I have spoken with your competitors, other class I railroads who have indicated that trending technology and algorithms can measure significant changes in temperature, and in particular, can flag that when it goes from 38 degrees to 103 degrees, you need to stop and take a look at it.

Mr. Jefferies, let me ask you, in terms of how other railroads handle it. What is the technology that is available to spot this problem before it has gotten so bad that a derailment is imminent?

Mr. JEFFERIES. Well, thank you for that. And that is a spot-on question. And that is one of the three things we are focused on as an industry. So, one is the physical deployment of approximately 1,000 additional detectors. Two is creating the industry standard of 170 degrees as a critical threshold.

And the third one is really looking at industry best practices to examine and potentially adopt new algorithms for trending detection so that if there is a dramatic spike in temperature, even though it may be below that absolute threshold, it is caught.

And so, we brought the entire industry together, and over the next month we will be reporting out, OK, what can we learn from each other, and what are the best practices we can adopt, and what other steps need to be taken based on the information we have and the predictive analytics we can put into place.

Senator CRUZ. And if I could ask one final question—oh, Mr. Whitaker. Sure. I didn't see that, but sure, I would welcome you.

Mr. WHITAKER. Thanks for acknowledging, Senator Cruz. I would like to just make note that trending defect detect technology, from being in the cab of a locomotive, when we pass a defect detector, it trends to an office like Norfolk Southern in Atlanta, Georgia.

It doesn't convey to the railroad crews, which is a problem in this incident, as well as many others, that still continue to this day. What we need as a train crew, which they say they listen—they haven't been listening for quite a while.

We need to be notified whenever these trending detectors are seeing this car trend hotter, that way we can keep a better eye on it or even stop and inspect that railcar.

Senator CRUZ. Sure.

Mr. WHITAKER. But as it stands right now, even after East Palestine, it is all about moving the train. That is all PSR is. That is all they care about. So, right now, they tell the train crew to stop your train, set your brakes in a full-service application, then release. And hopefully that releases whatever the case may be. When the safest cause case should be, we stop and go back and inspect. That is what the conductor is there for. That is why a two-person crew is essential.

Senator CRUZ. So that is very helpful. So, you are saying, if I am hearing you right, that having real time reporting of what the sensors are showing for the conductor, the engineer would be helpful. Mr. Jefferies, are there technological barriers, are there impediments to giving the crew real time reporting of what is happening?

Mr. JEFFERIES. So, I can't get into the technicalities of that, but I will say one thing, we are focused on with any sort of regulatory requirement on wayside detectors themselves is that we do need to be given the opportunity to evolve our technology because continuous onboard detection is the next phase of sensors and detection. And so, certainly that is something we are interested in, and interested in further deploying and further developing.

Senator CRUZ. As we are drafting this legislation, I would ask you to please, if there are technological issues we should know about, please let us know, because I have to say what Mr. Whitaker said there makes a lot of sense to me.

And if there is a reason it is not yet feasible, we need to know about it, because that seems to me a reasonable element for legislation. Mr. Whitaker, yes, my time is gone, but yes, go ahead, Mr. Whitaker.

Senator CRUZ. I apologize, but I do think it is very important to shed some light on this. It is feasible. The technology is there. Several days after East Palestinian, we almost had a similar incident in Cleveland area on Norfolk Southern. The crew, the defect detectors said no defects to the crew.

The train dispatcher came along and said, hey, we have a report of a trending defect detector on the train. We need you to stop and inspect it. Immediately after that, the chief dispatcher, which is the person that controls the whole railroad, told them to keep going.

If it were not for an Eastbound train passing them and instructing them, hey, your train is on fire, stop your train, and we set that car out—they had a walking speed, this car, of five miles. So, the technology is there, they are just raising and lowering their thresholds to move freight.

Senator CRUZ. Thank you.

Chair CANTWELL. Thank you. Senator Markey.

**STATEMENT OF HON. EDWARD MARKEY,  
U.S. SENATOR FROM MASSACHUSETTS**

Senator MARKEY. Thank you, Madam Chair. It is clear that for too long, the rail industry has been raking in profits and putting safety on the sidelines. Mr. Whitaker, do you agree that the East

Palestine derailment would have been far worse if there hadn't been multiple crew members on board?

Mr. WHITAKER. I do you, sir. Thank you for the question. I think if the railroads had it their way, down to one person crew, and they reduced the conductor position to ground based, meaning a person had a pickup truck driving to the site, that puts the engineer in danger. It also puts the response time and the assessment of the issue in danger.

Senator MARKEY. So, if there was only one crew member on that train, do you think it could have been far worse?

Mr. WHITAKER. Oh, absolutely.

Senator MARKEY. Absolutely. And that is why my Safe Freight Act would require trains to have at least two crew members. And I am proud that my legislation has been included in the bipartisan Rail Safety Act. Mr. Shaw, will you commit to supporting legislation requiring at least two person crews on all freight trains?

Mr. SHAW. Senator, we will commit to using research and technology to ensure the railroad operates safely.

Senator MARKEY. Will you commit to a two-person crew on all trains?

Mr. SHAW. Senator, we are a data driven organization, and I am not aware of any data that links crew size with safety.

Senator MARKEY. Do you—do you disagree with Mr. Whitaker when he says that it would have been far worse? His testimony is loud and clear. It would have been worse if only one person as a crew on that train. Do you disagree with him?

Mr. SHAW. Senator, I believe that we have operations infrastructure on the ground to respond to derailments.

Senator MARKEY. I think you are not answering the question. It is almost like the last hearing all over again, because I think the evidence is very clear that these trains can be absolutely safer, but that technology is no replacement for human beings. For example, it can't perform the cognitive functions of a conductor and can't collect visual cues during an emergency.

Two person crews make our trains safer, and I wish that you would commit to that today, because I think it is pretty obvious that that is the correct answer. And I just get sick of industry executives talking about supporting the principles of regulation while they lobby against common sense regulations like this one behind the scenes.

Again, let me move back over to you, Mr. Whitaker. The safety issues that plague our Nation's rail system are not a mysterious and inexplicable phenomenon. They are a direct result of business decisions.

So, Mr. Whitaker, do you agree that the rail industry, including Norfolk Southern, has a business model that prioritizes profit over safety?

Mr. WHITAKER. Thank you for the question. Yes, that business model is precision scheduled railroading.

Senator MARKEY. So those safety issues are not just a threat to the communities where rail companies operate, they are a threat to rail workers. In the wake of the East Palestine disaster, Norfolk Southern failed to provide proper protective equipment to the workers who cleaned up the derailment site. That is appalling.

Mr. Whitaker, do you agree that rail workers should have the ability to collectively stop work when conditions threaten their health and safety consistent with the Federal Railroad Safety Act?

Mr. WHITAKER. Thank you for the question. Yes, I do believe workers should be able to stop any and all work whenever their safety is in danger, except as it stands right now, we would be retaliated against.

Senator MARKEY. And why would you be retaliated against?

Mr. WHITAKER. Because we don't have protections on that level.

Senator MARKEY. So, Mr. Shaw, do you agree that rail workers should be able to collectively stop work in unsafe and unhealthy conditions consistent with the Federal Railroad Safety Act?

Mr. SHAW. Senator, I absolutely would expect our employees to operate in a safe manner. And if they are concerned about the safety of their operations, then I would expect them to address that.

Senator MARKEY. Well, the real workers are saying that your company has failed to ensure their health and safety, and they fear retribution, that is what Mr. Whitaker is saying, for speaking up. Workers must be able to stand in solidarity in order to stay healthy and safe. So, your response is just unacceptable, Mr. Shaw, today. And that is why I am working on legislation to codify this union right, and I urge my colleagues to join with me. Thank you, Madam Chair.

Chair CANTWELL. Thank you. Senator Capito, I think. Oh, wait—Senator Vance.

Senator VANCE. All right. Thank you. Thank you all for being here. Appreciate your time. Let's start with the NTSB Chair Homendy. So, you said in *The Washington Post* that train accidents, "train accidents in general per million train miles are going up." So, it is trending upwards, accidents. Is that true?

Ms. HOMENDY. The yard accidents rates are going up. The main-line track rates are going down.

Senator VANCE. OK. Has a spill of vinyl chloride occurred before due to a freight train derailment?

Ms. HOMENDY. I am sorry?

Senator VANCE. Has a spill of vinyl chloride happened due just to one of these derailments?

Ms. HOMENDY. Yes, sir. Paulsboro.

Senator VANCE. And do you remember the NTSB's recommendations at that time for notification of first responders?

Ms. HOMENDY. Yes, sir.

Senator VANCE. And what was that?

Ms. HOMENDY. We had several recommendations, including providing real time information to emergency responders, making sure that they were adequately trained and provided the appropriate gear, and that they were part of emergency planning with the locals and the railroads.

Senator VANCE. And how long ago did you make that recommendation?

Ms. HOMENDY. 2013 was the accident.

Senator VANCE. OK. So, I will point out that 9 years ago we made a recommendation from the NTSB that they should provide proper notification to first responders. That still hasn't happened. That is one of the reasons, by the way, of why we have advanced

this legislation. I want to go next to—and thank you, Chair Homendy. I want to go next to Mr. Shaw.

Mr. Shaw, I know that you have some disagreements about the precise distances necessary for wayside bearing detectors and so forth. But I wonder, could you commit to supporting a mandatory standard for hot bearing detectors, even if not our specific limits, could you submit two to supporting one in principle, assuming we can get the limits right in your view?

Mr. SHAW. Yes, Senator. I absolutely appreciate your leadership and Senator Brown's leadership for the Railway Safety Act. As we have talked about, there are a number of provisions in your bill with which we support, and it does include the wayside detectors.

As you noted earlier, we are not sure what the correct spacing is. It could be 10 miles, it could be 15, it could be 7, and I would support using science and research, and whatever is the right number, we would space wayside detectors in that manner.

Senator VANCE. Thank you. Would you commit to supporting mandatory first responder notification requirement, as we do in the bill?

Mr. SHAW. Yes, sir, I certainly would. I want to take the opportunity to thank the first responders from Ohio and West Virginia and Pennsylvania who showed the courage and the commitment to the community and rushed to the scene.

And my appreciation for that is we just launched a regional first responder training facility in Ohio this week, and we have over 400 first responders who are signed up for it, including Chief Dresbach and four of his commanders.

Senator VANCE. Great. Thank you, Mr. Shaw. We will go to Mr. Whitaker now. So, the railroad industry claims that visual inspections are nearly useless when it comes to journal bearings. Do you believe this is true?

Mr. WHITAKER. Thank you for the question. And I believe visual inspection is one of the most important aspects of inspecting a rail car. Also smell as well.

Senator VANCE. Thank you, Mr. Whitaker. Is it true that railroads have used human inspectors for the bulk of their history and that a key part for a railcar being inspected is a general bearing?

Mr. WHITAKER. That is correct.

Senator VANCE. Can you inspect a railcar adequately in 30 seconds, Mr. Whitaker, or any of your workers?

Mr. WHITAKER. Absolutely not, sir. I would say a railcar would take at least 3 minutes or longer, all in the name of safety, especially if it is hauling hazardous materials.

Senator VANCE. Yes. I appreciate that, Mr. Whitaker. And I want to pick up there and go to Mr. Jefferies here with the minute that I have remaining. The railroads have stated in regards to their opposition to tougher inspections, "increased time on a task does not necessarily correlate to increased safety."

And to be fair, I think that is a fair argument to make. Mr. Whitaker just said 3 minutes. I don't think we should be mandating 20-minute inspections. If I want to make any requirement, we institute a reasonable one, so businesses can comply. Mr. Jefferies, would you support a 30 second minimum and inspection time?

Mr. JEFFERIES. I can't tell you what the right time is. I can be focused on outcomes and making sure that we are addressing issues. And if there is a systemic or if there is a series of cases where failures or malfunctioning equipment isn't being caught, we need to address that. And whether that is because there is not enough time allowed, because there is not appropriate training, because of some other factor, we absolutely need to address that.

Senator VANCE. I understand that, but I am trying to get a specific commitment here. Do you think, and we just heard from Mr. Whitaker that he doesn't even think 30 seconds is enough time to properly inspect a railway—or excuse me, properly inspect a railcar. Do you think 30 seconds is enough to do an inspection? Would you support that as a mandatory requirement?

Mr. JEFFERIES. Well, certainly not being the technical expert, it seems—30 seconds doesn't seem like a long time to do an in-depth inspection.

Senator VANCE. OK. I appreciate that, Mr. Jefferies. Well, I am out of time, and I guess Acting Chairman Welch, I yield.

Senator WELCH. Thank you, Senator Vance. I think I am next here. Mr. Shaw, Ms. Homendy testified that this was a preventable accident. Do you agree?

Mr. SHAW. Yes, thank you for that question. Yes, I do agree. And in this industry—

Senator WELCH. Stop. What should have been done to prevent it?

Mr. SHAW. Senator, in this industry, we have to look at every accident as if it were preventable. And in this case, we know that the Norfolk Southern crew did everything they were supposed to do, and we thank them for that.

We know that the wayside detectors were operating as designed. And we know that there were no track defects. We know that Chair Homendy's work is focused on a wheel bearing of a privately owned railcar that no railroad owns.

And so, improvements in safety are going to require an industry wide approach, which includes car owners, car builders, customers, and railroads. And Senator, many of those components are included in the Vance bill, the Vance, Brown bill.

Senator WELCH. I am just thinking about how Misti Allison would try to figure out what you just said. I am asking you, Norfolk. You are in charge of that train. Am I right or wrong?

Mr. SHAW. Yes, sir. That is a Norfolk Southern train, and I accept responsibility—

Senator WELCH. And then you said privately built car as though somehow that exempted you from the responsibility for the inspection, the assurance to the community of East Palestine that it was a safe car. You are not saying that, are you?

Mr. SHAW. Sir, that was not my intent. My intent was a holistic approach—

Senator WELCH. Here is the question, it is your car. You are responsible when the train starts to when the train comes into the terminal, correct? You can't point fingers at other people. It is your responsibility to be the assurer to the community of East Palestine that a train that Norfolk Southern owns will pass through its community safely. Is that correct?

Mr. SHAW. Yes, sir, that is my responsibility.

Senator WELCH. OK. So, you said it was preventable. And whose responsibility was it to prevent it?

Mr. SHAW. Senator, in response to this derailment—

Senator WELCH. The rail man, not the company?

Mr. SHAW. Senator, in response to this derailment, Norfolk Southern has added wayside detectors in and around of our—

Senator WELCH. Let's just get real here. Whose responsibility was it to prevent this preventable accident from happening?

Mr. SHAW. Senator, we are responsible for safety on our network and working within the entire industry to enhance safety.

Senator WELCH. OK, let me understand this. You just reluctantly acknowledged, a, it is preventable. And b, it was your responsibility to prevent it. Am I incorrect?

Mr. SHAW. Senator, I am taking responsibility to enhance safety throughout the entire industry.

Senator WELCH. OK. This sounds like a lobbyist response. I am taking responsibility. It is like before executives come in here, they go to charm school, and they are told to take responsibility without taking responsibility. Are you saying that it was the responsibility of Norfolk Southern, the company you lead, to prevent—to have prevented this accident you acknowledged was preventable?

Mr. SHAW. Senator, I think about safety each and every day. And every day since February 3, I have asked my team what we can do—

Senator WELCH. I only have a little more time. Let me ask this last question. And I understand that the business plan of Norfolk Southern includes \$7.5 billion stock buyback that is ongoing.

Do you believe it would be appropriate to suspend the buyback program until all of the assurance that you are making to this committee and also to the people of East Palestine about, “making this right,” that that stock buyback program should be suspended until you have accomplished what you have assured us and what you have assured the people of East Palestine that you would do?

Mr. SHAW. Senator, we think about safety every day. We spend \$1 billion a year in capital on safety, and we have ongoing expenses of about \$1 billion a year in safety. And as a result, over time, derailments are down. Hazardous material releases are down. And injuries are down. We can always get better—

Senator WELCH. So, you won't answer my question about suspending the buyback program?

Mr. SHAW. Senator, stock buybacks never come at the expense of safety.

Senator WELCH. Yes, yes. I take that is that you will continue with your plan on the buyback. My time has expired. The Chair recognizes Senator Thune.

**STATEMENT OF HON. JOHN THUNE,  
U.S. SENATOR FROM SOUTH DAKOTA**

Senator THUNE. Thank you, Mr. Chair. First of all, I want to offer my deepest sympathies to the residents of East Palestine, as well as express my gratitude for the first responders, NTSB investigators, and other officials who arrived and have remained on scene since the derailment. Railroads remain one of the safest ways of transport, all types of freight, including hazardous materials.

However, the derailment in East Palestine serves as a stern reminder of the importance of this committee's vigilance in ensuring that agencies and railroads faithfully implement and enforce requirements set in place by Congress.

The strongly bipartisan FAST Act, which was signed into law in December 2015, included an expansive hazardous materials title, much of it directly responsive to the tragic derailment in Lac-Mégantic and others like it.

This title set forth new stringent requirements for the operation of high hazard flammable trains and a schedule for complete replacement and retrofit of all tank cars carrying class 3 flammable liquids, both meant to reduce the impacts of future derailments.

Unfortunately, other rail safety requirements from the FAST Act are still pending on the regulatory agenda, something that this committee needs to work to correct. I hope the discussion today remains focused on solutions directly responsive to what we know about the underlying causes of this derailment and avoids talk of imposing restrictive requirements that decrease the efficiency of rail operations without proven data driven benefits to safety.

Chair Homendy, first of all, I want to thank you and your team for NTSB's leadership during the response and ongoing investigation of this unfortunate accident.

In response to a requirement from the Rail Safety Improvement Act of 2008, the FRA finalized the risk reduction program rule-making in 2020 and subsequently approved the plan submitted by all class I railroads.

Could you describe why a safety management system like the Risk Reduction Program is so important to managing risk and improving safety?

Ms. HOMENDY. It is critically important and we recommend it in all modes of transportation that operators are proactively identifying risks and addressing them before tragedies occur. And then as well having a just safety culture so that employees are emboldened to speak up when safety concerns arise.

Senator THUNE. Mr. Jefferies, Mr. Shaw, could you describe the implementation of the Risk Reduction Program by railroads, specifically how it complements existing rail safety regulations?

Mr. JEFFERIES. Thank you, Senator. As you mentioned, all seven class I's have RRPs in place that have now been approved by the FRA. And I think the basis of them is that each railroad, because of the unique operating characteristics of that railroad, takes a risk-based approach to addressing potential issues on its railroad.

It allows the opportunity to test out ways to address that, and rinse, repeat, and adjust as time goes by versus a more command and control, one size fits all. So, we are very early in the stage. I think there is an opportunity there to create a flexible system that allows for a much more nimble response to risk.

But that story is yet to be told. But I personally think there is opportunity there, and I look forward to the railroads moving their programs forward.

Senator THUNE. Mr. Comstock, Section 7302 of the FAST Act required the Pipeline and Hazardous Materials Safety Administration, or what we refer to as PHMSA, to finalize a rule requiring

railroads to provide real time emergency response information to first responders on trains carrying hazardous materials.

Unfortunately, that last requirement has languished since PHMSA issued an advance notice of proposed rulemaking in 2017, despite an update a deadline of December 2022 in the Infrastructure Investment and Jobs Act.

So, Chief, it seems to me that this type of information would have been extremely helpful to the first responders in East Palestine. Would you agree?

Mr. COMSTOCK. Yes, absolutely.

Senator THUNE. And Chair, your testimony mentioned that NTSB has several open recommendations to PHMSA related to emergency response notification. It seems to me that the agency has simply failed to prioritize this rule. Have they provided NTSB with a better answer as to why this has been delayed?

Ms. HOMENDY. I don't have their response on why that was delayed, but I am happy to provide it for the record.

Senator THUNE. That would be great if you could. It seems to me at least that is a fundamental—one of the issues, I think, that has come out of this, that would have made Mr. Comstock's and hopefully something that could have been used to avoid and mitigate the damage from this terrible derailment. My time has expired—

Ms. HOMENDY. Can I add one thing?

Senator THUNE. Yes, yes.

Ms. HOMENDY. Just to emphasize what the Chief said, operations level training for firefighters. There are different levels of training. Most firefighters receive awareness level training, which is not appropriate for firefighters. At a minimum, they should have operations level training, which is a standard, and so just for consideration.

Senator THUNE. OK, very good. Thank you. I will take that into consideration.

Chair CANTWELL. Senator Peters.

**STATEMENT OF HON. GARY PETERS,  
U.S. SENATOR FROM MICHIGAN**

Senator PETERS. Thank you, Madam Chair. And I just want to start off by thanking all of our panelists for being here today. I share the Surface Transportation subcommittee of this full committee, and I also want to thank Senator Brown and Senator Vance for their leadership on working to improve safety of our rail systems. My first question, though, is for you, Mr. Shaw.

And Mr. Shaw, by the way, thank you for your willingness to testify here today. Your presence before two different committees in Congress this month should certainly underline how seriously this body takes not only this incident, but also on how important it is for us to enhance rail safety all across the industry.

Over the past few months, Michiganders have seen multiple class I railroad derailments in our State, leading to railcars hanging off the side of a bridge in the City of Detroit, days long passenger rail delays, and near-miss of hazmat incidents. Michiganders are watching what is happening in East Palestine and are rightly demanding that we do everything in our power to prevent it from happening again.

And I am certainly committed to do that, and I appreciate that you have also stated your commitment to safety in your testimony here today and in our conversation that we had earlier as well. Unfortunately, though, I received data yesterday that indicates that Norfolk Southern is not yet living up to that commitment.

A document that I received, which I have right here before me, a document I received shows data from Norfolk Southern's own internal servers that there are dozens of railcars operating on trains, some of which are heading into my state of Michigan, that have gone over 5,000 miles without a class I brake inspection.

That is thousands of miles above what the Federal Railroad Administration regulations require. Moreover, the documents show that over 100 cars have gone over 10,000 miles, and in one case, 90,000 miles without a mechanical inspection. And this is the data just from two trains.

So, I suspect we will have data from other trains that we look at. So, Mr. Shaw, I would like to know, does Norfolk Southern have an internal standard as to how many miles before a train needs a full mechanical inspection, and how can you account for why your company appears to be running trains right now that have not been sufficiently inspected?

Mr. SHAW. Senator, thank you for that question. I am not aware of that data. I can assure you that our policies are there to promote safety of our train operations and we do not allow unsafe railcars to operate.

Senator PETERS. Well, I will be happy to provide what we have here, and we appreciate your comments after the hearing. One of the explanations that I have heard for inspection issues that has been at least raised to me by railroad inspectors is that there have been workforce reductions that have reduced the frequency and the quality of those inspections. So, does Norfolk Southern plan to hire more inspectors to fill this gap and to make sure that trains are traveling safely?

Mr. SHAW. Senator, I have got a deep appreciation and respect for my craft colleagues. And ever since I became CEO in the middle of last year, we have been on a hiring spree. We hired a near record number of employees last year, and our pipeline of conductor trainees is amongst the highest in our history right now. And several weeks ago, I reached out to the heads of our largest unions and asked them for their assistance in helping Norfolk Southern enhance our safety culture.

Senator PETERS. Thank you, Mr. Shaw. Chief Comstock, thank you for your leadership and testimony today. In your testimony, you called out the importance of passing legislation that I have to continue funding for the assistance the Fire Firefighters Grant Program and the staffing for adequate Fire and Emergency Response Grant Program to ensure that our local fire departments have the equipment that they need, the training they need, and the personnel to respond to a major hazmat incident.

As you know, I am—I have authored that legislation. It will hopefully come before the Senate as early as next week, the Fire Grants and Safety Act to increase that funding. Could you please discuss how important it is for this legislation to pass and how these grants, if they were to expire, would be detrimental to small

communities like yours and make it really nearly impossible to respond to disasters like what we saw in East Palestine?

Mr. COMSTOCK. You are absolutely correct. From the fire service perspective, I can't think of any grants that are more important than those. From my own department, it has permitted us to get radios, to get SCBA, to put a generator in the station that we can put the doors up when the electricity goes off. Fire departments, particularly small ones, rely on those grants every year. They are critical. And without those grants, we could not do our jobs.

Senator PETERS. Thank you for your answer. Thank you, Madam Chair.

Chair CANTWELL. Thank you, Senator Peters. Senator Capito.

**STATEMENT OF HON. SHELLEY MOORE CAPITO,  
U.S. SENATOR FROM WEST VIRGINIA**

Senator CAPITO. Thank you, Madam Chair. Thank you all for being here today. Mr. Shaw, thank you for coming to our EPW hearing 2 weeks ago. Appreciate that and appreciate everybody being here today.

Mr. Shaw, a question I have on the ordering of your cars. It is my understanding that this was 149 railcar train, that on the 23rd car was carrying plastic pellets, according to the NTSB report, that lit up like a match. And then—and it had that overbearing, wheel bearing—I mean the overheating wheel bearing.

And then five cars away were four cars of vinyl chloride. I guess, first of all, I would ask if that is correct? And then I know that high hazardous flammable trains have more safety regulations. Why would this not have been characterized as a high hazard flammable train if it had this hazardous materials as part of the 149-car train?

Mr. SHAW. Senator, thank you for your question. I am not familiar with the entire makeup of the train. I know that a highly hazardous train is defined by a certain number of highly hazardous cars in it, or it is a certain number of cars in a block.

Senator CAPITO. Ms. Hamode—Ms. Homendy, sorry. Maybe you can help me with that question.

Ms. HOMENDY. Yes. The definition of a high hazard flammable train involves Class III flammable service, flammable liquids only, and 20 carloads in a continuous block, which would be a unit train, or 35 carloads of Class III flammable liquids in a mixed freight train. That was not what was on this train.

There were some that were flammable liquids of Class III defined flammable liquids, but this train was not a high hazard flammable.

Senator CAPITO. Right, it wasn't a high hazard train, but it had high hazardous materials—obviously very flammable that just lit up the sky. So,—

Ms. HOMENDY. That is right.

Senator CAPITO. Is that something that you would consider that should be looked at as a safety improvement?

Ms. HOMENDY. Yes, Senator. We think that these thresholds of the 20 and 35 should be eliminated. And we think a broader array of hazmat should be in the definition of high hazard flammable train.

Senator CAPITO. Yes. It sounds like that. Let me ask about the tracks. We had a derailment in Cabin Creek a couple years ago where the track, it got cold and I think then it got—and then it melted. And anyway, the track, it derailed there with some hazardous materials.

How are we doing on track safety, and how or what kind of improvements might be in the future, if we look to this bill that Senator Vance and Brown have put together? Is this something we should look at? I know timber ties are what we are most still using. Is that the best materials to use? Are you looking at that at the NTSB or—?

Ms. HOMENDY. Yes. And track defects remain the second biggest cause of train accidents outside of grade crossing accidents. But human factors is number one. Train defects is the number two—

Senator CAPITO. Rail defects—rail defects—

Ms. HOMENDY. I am sorry, track defects.

Senator CAPITO. Track, track—

Ms. HOMENDY. Sorry about that. Track defects. And there is technology, but we also think that personnel are critical as well and that technology should supplement, not supplant.

Senator CAPITO. Mr. Jefferies, did you want to address that question?

Mr. JEFFERIES. Yes, thank you. Track cause being the second leading cause. On main lines, we did have the lowest number of incidents, rate of incidents in 2022, but we are not at zero.

And it is important. Chair Homendy referenced technology that can be deployed. Autonomous track inspection tools can one, provide a significantly more intense and sensitive type of inspection that is really 360 degree around the rail, through the rail to identify anomalies before they become risks.

And that could be attached to the back or the front of a train for continuous inspection. And that is not dehumanizing the network. That is using technology to supplement in a much more effective way the naked eye inspections that occur today.

And so, we believe we should be encouraging and enhancing and allowing additional pilot programs to expand that technology to take on and get the second leading cause of derailments even lower.

Senator CAPITO. Let me ask a question about the communications. I am a bit confused here listening to the testimony. When it showed that things were beginning to overheat, it passed through the 10 miles and 10 miles, does that information come directly to the engineer at the time, Mr. Whitaker—and I think, I believe it is Mr. Whitaker, yes.

And why couldn't we do that? In this day and age, we have instantaneous communications. Why is that not happening? Mr. Whitaker, can you clarify that on this particular accident, and yes, I would like to hear your thoughts on that.

Mr. WHITAKER. Thank you for the question. So, technically, there are two different types of defect detectors. One is a standard that gives an audible to the train crew over a radio. It will tell you the defect or no defects. The—

Senator CAPITO. So, would that be like an automated voice? Stop, stop warning, warning or something—

Mr. WHITAKER. That is correct. It sounds an alarm and it repeats various, depends on the railroad, two to three times.

Senator CAPITO. OK.

Mr. WHITAKER. But the trending defect detector technology is like an add on to that stall detector. We are not notified if a wheel is trending hot on the train. That goes to a location, like a headquarters building, a wayside defect detector helpdesk.

They monitor that car. That is the big issue. They need to convey that information to the train crews because we get a no defect alert, and so we are just going down the track.

Senator CAPITO. Right, right. So, it seems to me that would be some huge—would be a huge improvement if instantaneous communication would go directly to the engineers. And the last question I have is—I have no—they say never ask the question you don't know the answer to, but I have no idea what the answer to this. Would a different braking system on that train have made any difference? Mr. Shaw, I will let you answer that one.

Mr. SHAW. Chair Homendy was very clear that the use of ECP brakes would not have changed the result of this derailment.

Senator CAPITO. Does anybody disagree with that on the panel? Yes, Chair.

Ms. HOMENDY. So, I had said it wouldn't have prevented the derailment, which is true. Car number 23, it still would have derailed, the fire would have ensued, and likely would have still had some action on the vinyl chloride tank cars. In this case, it was event and burn. However, it could keep some of the cars on the train, on the tracks. But FRA is doing modeling on that. It would probably be a couple of cars.

Senator CAPITO. So, we could have some more information on that as the investigation moves forward.

Ms. HOMENDY. Right, right.

Senator CAPITO. Thank you all very much.

Chair CANTWELL. Thank you. Senator Duckworth.

**STATEMENT OF HON. TAMMY DUCKWORTH,  
U.S. SENATOR FROM ILLINOIS**

Senator DUCKWORTH. Thank you, Madam Chair and Ranking Member Cruz for holding today's hearing. Illinois sits at the center of our Nation's freight rail network. All seven class I railroads run through our state, including Norfolk Southern, as they all converge near Chicago.

The Chicago region's freight rail network is enormous. We have 3,865 miles of rail, nearly 1,400 of which is shared by passenger trains. We see 1,300 trains a day moving through the Chicago area, which is one of the most densely populated areas in the country.

To say that rail safety is important to our State would be an understatement. Yet over the past decade, there have been at least 272 hazardous material incidents involving trains in 70 different Illinois communities.

Last year, we were tied for the third highest total of hazardous material incidents in the Nation. The bottom line is that what happened in East Palestine could have just easily happened in Illinois.

And among the causes of rail accidents are blocked rail crossings, especially among trains that are carrying hazardous materials. To

address this issue, our State passed a State law in 1999 to try to limit blocked rail crossings.

However, the law was unfortunately overturned by—in 2008 by a State Supreme Court decision due to a Federal preemption. Ms. Homendy, the bipartisan Railway Safety Act would require the U.S. Department of Transportation to issue new regulations to help prevent trains carrying hazardous materials from blocking crossings due to railroad delays.

Can you explain how that would improve safety in a freight rail hub like Illinois?

Ms. HOMENDY. Senator, the NTSB has not weighed in on the blocked crossing issue. We don't have a recommendation on that. So, it is not something we have looked at.

Senator DUCKWORTH. You don't have an opinion on what a train with hazardous materials in it blocking a rail crossing—

Ms. HOMENDY. I think it can be a safety issue, certainly for first responder access to areas in communities. And having high hazardous materials could be an issue as well.

Senator DUCKWORTH. Thank you. Over my objection, as well as that of Senator Durbin and others among the Illinois Congressional delegation, the Surface Transportation Board recently approved a merger of Canadian Pacific and Kansas City Southern.

This merger will likely result in more and longer freight trains through the Chicago area, particularly the Northwest suburbs.

Ms. Homendy, without asking you to comment on the recently approved CPM, KCS merger, can you explain the safety risks that could arise if a rail company injected more and longer freight trains, some of which may be carrying hazardous materials into an already crowded rail corridor like Chicago, with such a densely populated area?

Ms. HOMENDY. Yes. I will say for the East Palestine train, that one was not a particularly long train, in our opinion at the board. The one in Springfield was a very long train. It was a 2.55-mile train. You have workers who will have to maybe go back and inspect, stop and inspect an axle. And if you are walking back 2.5 miles, that is a lot—

Senator DUCKWORTH. With the equipment—

Ms. HOMENDY.—on the crew with the equipment, and potential safety issues, as well as higher gross tonnage on the train, which is a big safety hazard.

Senator DUCKWORTH. Thank you. In 2021, the Federal Railroad Administration recommended penalties for 7,300 regulatory safety violations it found after inspecting railroads, hazardous materials shippers, and railcar lessors. Of those, 3,400 were assessed civil penalties for a total of \$12.3 million.

This is an average of \$3,600 for each assessed violation. That same year, Norfolk Southern's net income was approximately \$3 billion. Ms. Homendy, do you believe that the current level of civil penalties is an effective deterrent? And do you think Congress should consider raising them?

Ms. HOMENDY. The NTSB doesn't have a position on civil penalties. I will say that most civil penalties, unfortunately, are negotiated pretty, pretty low. They will be assessed to a civil penalty,

and then there is a conference portion where they will settle their penalties on pennies for a dollar.

Senator DUCKWORTH. Do you think pennies for a dollar is effective deterrent for a multibillion-dollar company like Norfolk Southern?

Ms. HOMENDY. I do not.

Senator DUCKWORTH. Thank you. I yield back, Madam Chair.

Chair CANTWELL. Senator Budd—I am sorry, Senator Schmitt.

**STATEMENT OF HON. ERIC SCHMITT,  
U.S. SENATOR FROM MISSOURI**

Senator SCHMITT. Thank you, Madam Chair. You know, East Palestine is a town that outside of East Palestine and folks in Ohio, people across the country probably hadn't heard of before this terrible tragedy. And there are a lot of towns like East Palestine.

I know here in Missouri where I am from, Garden City, Bolton, Sikeston, Bridgeton, Missouri, where I am from, a real blue-collar neighborhood. These are towns that aren't filled with corporate titans or elites.

They are working men and women who go to church on Sunday, try to get home for dinner, take their kids to practice, try to play by the rules, and all of those towns matter. East Palestine matters. And instead of showing up in towns like this, and specifically East Palestine, this Administration demonstrated that they didn't matter. Joe Biden still hasn't showed up to East Palestine.

He has been to Ukraine, but not East Palestine. Pete Buttigieg took 3 weeks for him to show up. And I think so much of this, in addition to the things that can be improved, is a lack of attention from this Administration that the people of this town, for whatever reason to them, weren't worthy of an appearance.

Of letting them know that we are going to support them. And so, I think that one of the reasons, in addition to the obviously, the toxic chemical spill, that this has become such a big issue, is it is demonstrative. It shows that this Administration is completely out of touch with what I will refer to as flyover country, places like Missouri, places like Ohio.

They should matter to the Biden Administration. And what is worse than all of this, I think, is that this accident was foreseeable, avoidable, preventable.

And so, Mr. Shaw, I want to ask you, is it true that Norfolk Southern's accident rate has nearly doubled in the last 10 years, and at least 20 of those derailments since 2015 have involved chemical releases. Is that true?

Mr. SHAW. Senator, thank you for your question. East Palestine does matter. I have been there a number of times and I have visited with the community leaders. I have been in the homes. People have invited me to their business. I have been in the schools. And I have committed the full support of Norfolk Southern.

Senator SCHMITT. I hear you, you have said that, and I have limited time. But my question to you was, has the accident rate doubled in the last decade?

Mr. SHAW. Senator, I am not aware of that. I will be happy to provide you with that info. I know that from 2021 to 2022, many of our FRA, most of our FRA safety stats improved. We will con-

tinue to get better. We are going to learn from this accident. And that is my commitment is, I will lead Norfolk Southern and the industry the better safety practices.

Senator SCHMITT. So, I would hope so. And you know, I think understanding, and we are happy to educate you on those statistics that we have at our ready about how accidents rate, because there are a lot of folks who live close to railroad tracks.

I do, and there is a lot of folks wondering what exactly is going to be done to make sure this doesn't happen again, in addition to the things that need to happen to address the concerns of East Palestine.

And I did want to, with the remaining time that I have—Chair Homendy, as you know, in the aftermath of this incident, many in the media and in this Administration were quick to blame the previous Administration, President Trump, for, you know, not moving forward or rolling back regulations.

However, those arguments have been dismissed by including the *USA Today* and even *The Washington Post*, noting that none of the regulatory changes made during the Trump Administration at this point can be cited as contributing to the incident?

Can you clarify to the Committee today, I know you have made statements about this, just to clarify that, whether the regulatory rollback that took place under the Trump Administration was responsible for this tragic incident.

Ms. HOMENDY. I am not familiar with the—all of the regulations and actions taken on those regulations from that Administration. What I will say is for—my comments were with respect to electronically controlled nomadic braking. And there were a lot of comments about how that would have prevented this derailment. That is not accurate.

Senator SCHMITT. Right. That was specifically cited by Pete Buttigieg, who, by the way, is not here, again, I point out. I have many questions for Pete Buttigieg, and maybe he is taking more personal time.

But this is—now we are a couple few months into this Congress with a lot of serious issues involving the Department of Transportation, including this and he just has refused to appear. And I think that you were very clear publicly saying that that rule would not have impacted this at all. Is that correct?

Ms. HOMENDY. It would not have prevented the derailment—yes.

Senator SCHMITT. And Madam Chair, I will yield back the rest of my time, but I do want to mention the obvious, as I just did, that Secretary Buttigieg is not here. He has yet to appear before this committee.

And I think it is incredibly disrespectful not just to this committee, but the American people that he refuses—continues to hide from these disasters that have happened under his watch.

Chair CANTWELL. Senator Rosen—Senator Rosen.

**STATEMENT OF HON. JACKY ROSEN,  
U.S. SENATOR FROM NEVADA**

Senator ROSEN. [Technical problems]—thank Senators Brown and Vance for working together in a bipartisan way to ensure that a tragedy like East Palestine derailment never happens again. And

also, we have to think about preventing future accidents, how we can be proactive.

So, in addition to transporting hazardous waste, we also transport nuclear waste by rail. And the events in East Palestine should be a wake-up call for all Americans that it is time to address how we transport hazardous materials in this country.

For Nevadans, the transportation of hazardous waste to our State by rail is something we have been fighting since the 1980s. For over 30 years, we have opposed the Yucca Mountain Nuclear Waste Disposal Project, in part because it would require transporting 9,500 rail casks of hazardous radioactive waste in 2,800 trains and over 2,600 trucks from across the country to Nevada.

This is a major transportation safety crisis waiting to happen, putting major metropolitan areas in 44 states, their railways, and millions of Americans at risk. We already have an aging rail system, and consistent shipments of heavy casks of nuclear waste will cause wear and tear in our railroads and could lead to the kind of disaster we saw in Ohio or worse.

And so, Chair Homendy, can you talk about some of the dangers of transporting this kind of waste, nuclear waste could pose to our nation?

And even though I, along with all the Nevada delegation, are committed to ensuring that Yucca Mountain never moves forward to become a reality, I still want to ask you if you are prepared to address nuclear waste spills that could happen as a result of shipping waste on aging rail lines through American cities to places like Yucca Mountain?

Ms. HOMENDY. Well, I will say I do believe that there are some more protective measures for moving spent nuclear fuel. However, there isn't positive train control on, say, that last mile for Nevada. And I will also mention it would be disastrous if something did occur. On our resources, we are pretty strained.

The NTSB has 12 rail investigators and we have 4 pipeline and hazardous materials safety investigators. We need to increase our investigator levels, but that requires additional resources, which we have asked Congress and the President's budget would accomplish our request of \$145 million for 2024.

Senator ROSEN. Well, when it comes to safety, we should be investing in that. And I want to carry this a little bit further, because can you talk to us—you said that the positive rail control systems, they are not in Nevada.

So, we hope that would—tell us if that would be beneficial. And can you also tell us, are the trains carrying nuclear waste, were they currently—do they have their wheel bearings checked regularly and are they—what kind of regular checks are you doing to be proactive, as we may be transporting some of this additional hazardous waste across the country?

Ms. HOMENDY. They would be checked regularly, but I would have to defer to Mr. Jefferies on the exact requirements for those train inspections.

Mr. JEFFERIES. The Federal Government has established strict standards for transport of spent nuclear fuel and has determined that the railroads are the safest mechanism for doing so.

I know my team would be happy to sit down with you and your team to talk about the specifics of the requirements there, but it is something that we would take with the utmost of seriousness, the responsibility that the Government has delegated to our industry to move those cars with the highest level of safety.

Senator ROSEN. Thank you. I look forward to talking about that because I want to be sure that we are being stringent enough. And I want to move to another topic very important to Nevada, is reliable freight rail for our tourism economy.

Because Nevada, we are the Nation's leader in tourism and hospitality service. It is a sector that relies heavily on freight rail to bring in goods from out of State partners to support our industry.

And the Interstate 15 corridor, which runs from California to Nevada, it is crowded. It makes it difficult for trucks to move efficiently and it makes reliable freight rail service along the corridor all that more important. So, Mr. Jefferies, how do you think Congress can support a more reliable freight system that moves goods quickly but still promotes safety as its core priority?

Mr. JEFFERIES. Well, thank you for that. We are a service provider at the end of the day, and if we are not providing good, reliable service, then we are not doing our jobs. And I think the pandemic and the associated supply chain challenges really illustrated that. The railroads have been making significant progress on the service front.

And as Mr. Shaw mentioned and I mentioned in my opening, significant hiring efforts continue. We are at our highest level of employees that we have been in over 3 years. And really, it is about taking things to the next step.

We have seen the Amazonification of the world. Folks want to know exactly where their things are, exactly when they are going to get there, exactly when the pepperoni is going on the pizza that they have ordered—when that is going to be delivered.

And so, railroads need to work to provide increased visibility into where their shipments are to their customers, increase predictability, and those efforts are underway, and there is some exciting things on the horizon. Thank you.

Senator ROSEN. Thank you. I yield back, Madam Chair.

Chair CANTWELL. Thank you. Senator Fischer.

**STATEMENT OF HON. DEB FISCHER,  
U.S. SENATOR FROM NEBRASKA**

Senator FISCHER. Thank you, Madam Chairman. The East Palestine train derailment has increased our public awareness of rail safety concerns, especially for trains that are moving through very rural, small communities like those in my home State of Nebraska. This committee takes rail safety very seriously.

Modern technologies can enhance railroad safety, especially in how railcars and tracks are inspected. Mr. Jefferies, can you explain how a two-pronged inspection system using visual and automated track inspections can improve rail safety?

Mr. JEFFERIES. Thank you for that and thank you for your efforts on rail safety. You are exactly right, a two-pronged approach to track inspections is the appropriate path forward. So, as we have discussed, autonomous track inspection tools allow for not only a

continuous inspection of track as a train goes over it, but at a much higher level of sensitivity, at a much higher level of effectiveness.

Has been found to be 90 percent more effective in identifying flaws in the track before they become serious risks. And several pilot programs have been in place with some of our railroads at the FRA.

Unfortunately, literally had to sue the FRA to expand those pilot programs and recently won in court the ability to do that. It is a shame that it took that level of effort for a proven safety technology.

But it is a two-pronged approach. ATI doesn't catch everything and it doesn't do every job that a human inspector does, so we absolutely still need the human inspection capabilities. And hopefully our inspectors are also spending more time addressing found anomalies than using the naked eye walk in the tracks.

And again, there is a place for both and it is a complimentary approach that I think will result in a much higher level of safety, which should be the ultimate goal for everybody.

Senator FISCHER. Yes, you know, that is the ultimate goal. That is what we are trying to get at here. So, what is impeding the use of those automated technologies throughout the whole rail network?

Mr. JEFFERIES. Right. Well, we are going to take things step by step as we deploy this technology for one, but two, we need a— we need a regulatory environment, we need a regulator that promotes innovation, promotes technology, promotes pilot programs, identify new ways of doing things—

Senator FISCHER. So, you don't have to go to court to sue them.

Mr. JEFFERIES.—that allows you to build a data set. So, you don't have to go to court. And let's have the opportunity to experiment with things. Some technologies may not work out. Others may prove to have dramatic safety benefits. Let's build the data sets that then we can objectively analyze, in partnership with the regulator, to advance safety.

Senator FISCHER. OK. Thank you. Mr. Shaw, as you are aware, the current law dictates common carrier obligations that railroads must abide by. Specifically, railroads must transport any freight under reasonable terms, including hazardous materials.

Mr. Shaw, can you explain how the common carrier obligation impacts the way that your railroad transports hazardous material in coordination with shippers?

Mr. SHAW. Yes. Thank you for that question, Senator. You know, rail remains one of the safest forms of handling hazardous materials. We do have a common carrier obligation to handle product.

We work very closely with our customers, with our fellow railroaders, and with elected officials, and with the regulatory body to handle that in the safest manner possible. I will note that in 2022, our derailments were the fewest that they have been in the last two decades.

Senator FISCHER. What obligation do shippers have, if any, on maintaining their railcars that transport these hazardous materials?

Mr. SHAW. Senator, as you know, there are many components of the Vance, Brown bill that we fully support. And the rail industry

has been advocating and pushing for stronger tank car standards for about the last 8 years, is my understanding, and that is included in the bill.

Senator FISCHER. OK. Thank you very much. I just have a couple of short questions here, Mr. Jefferies, for you.

When I talk to my constituents in Nebraska, one of the items I hear about frequently is community notification. Folks just want to know what dangerous things could possibly be moving through their towns and cities while still maintaining the security that is needed, that that information is controlled in a way, because we all know that there are a lot of people out there that would like to cause mischief.

That would be disastrous. In the FAST Act, which I helped to author, it added notice requirements that we did it in a way that provided first responders the information they needed, again, ensuring that the local actors wouldn't have access to that. Those rulemakings haven't been completed, is my understanding.

Do freight railroads agree that appropriate community notification is necessary? And what part do they play in ensuring that communities do have that information?

Mr. JEFFERIES. It is absolutely necessary and we 100 percent agree with that assessment. And you are right, the rule was supposed to be done, I think, a year after the FAST Act, and so it is 7 years overdue. We didn't wait around. We developed our own mechanism to get information into first responders' hands. But we want—we need help building awareness.

We just sent letters out to every firefighter association in each state trying to build awareness. We are shifting toward a—versus a responder by responder sign up process to an emergency communication center model, because to Senator Vance's point earlier, if you are in a rural area, you don't necessarily have cell service.

But there is a requirement that you always have radio service, to my knowledge, with the emergency communication center. So, the emergency communication center has that access. The first responder can quickly get that from there.

But we have got more work to do and look forward to working with Congress for further ways to get that information into those hands who need it.

Senator FISCHER. Thank you. Thank you, Madam Chair.

Chair CANTWELL. Senator Luján.

**STATEMENT OF HON. BEN RAY LUJÁN,  
U.S. SENATOR FROM NEW MEXICO**

Senator LUJÁN. Thank you, Chair Cantwell and Ranking Member Cruz for this important hearing. And I want to begin by recognizing Senator Brown and Senator Vance for coming together and responding so quickly and appreciate their staff and the work that they are doing.

I also want to thank Ms. Allison for being part of that panel today. I think, all too often the impact to a family or to a person are left out. And just want to say thank you for helping the country, those of us here in the Senate better understand what the family has gone through. And it just reminds me that it shouldn't take

a tragedy like this for there to be action. I appreciate everyone coming together now. It is the right thing to do.

But why didn't we do it before? There are incidents all across the country where there are derailments. There have been conversations about reductions in workforce. You have less people looking at something, there is going to be a problem that is not going to be identified until after something horrific happens.

We all know the challenges, and one of my frustrations since I have been here in the Senate and the House is you go through these efforts and we fight for rules, and we thank each other, and we recognize each other for that work, and then it goes to be implemented. And then all the folks who didn't want the legislation, get another crack at this, and then they mess it up over, where there is a rulemaking or an implementation.

And then there is a bunch of filings, which I am one of those folks that reads filings—they create a bunch of loopholes. But then there are some interviews that come after that and, oh, no, we well, we wanted all this stuff done.

I certainly hope there is a lesson here and on this one, that with all these filings, every word is watched, every statement is watched, and that loopholes are not being advocated for by the groups that have been hired to represent companies or represent interests, only to allow for something like this to happen again.

I hope we are mindful to that. Now, a week ago, a train derailed in a small community in Arizona, in Mojave. And just hours before, as you can imagine, that these trains that, you know, go through small town after small town, it was in New Mexico.

And my question here is around first responders as well, because when this happened, the initial reports that went to law enforcement was that there was a concern, a high concern of hazardous materials being carried on that train.

It was corn syrup. So, while I appreciate information was shared, that doesn't sound to me like first responders are being looked after when they are getting to an incident like this. There needs to be a better way of sharing accurate and timely information.

I appreciate the questions of my colleague Ms. Fischer as well in this particular area, but I am hopeful more can be done there. And that is where—Madam Chair, how can the process be improved to ensure that once a derailment happens, the first responders quickly receive the information they need to appropriately respond?

Ms. HOMENDY. They need an advance notification. I do appreciate what the railroads have done with the AskRail app. The problem is when you have a derailment and train cars are bunched up, when you are pulling up a consist from the AskRail app, it goes by car in order.

If you are looking at a derailment with cars all over the place, again, bunched up, you are not going to know what is in what car. So, that is not helpful. But the first responders need—

Senator LUJÁN. Let me pause you there. Can that be fixed?

Ms. HOMENDY. I will have to get back to you on that.

Senator LUJÁN. If that is a problem, before we have an incident—we know it exists today, and if that is broken in the system, let's fix it.

Ms. HOMENDY. Advance notification for the first responder community is key because they need to be prepared. They need to be adequately trained. They need the right gear. And they need to have emergency response planning done in coordination with the railroads so that they can be prepared in case something happens.

Senator LUJÁN. I certainly agree with that. But I want to bring attention to the challenge that you identified, and I appreciate you identifying it. But if that system is in place, but there is no communication because cars are close to one another, but you know what is in there, I just hope that that is something that can be fixed because someone knows what is in there, and I will leave it at that.

Mr. Whitaker, first, thank you for your testimony and your work representing Ohio's rail workforce. You stated in your testimony that since 2015, class I railroads have cut over 30 percent of their workforce, and I mentioned that in my opening. Mr. Whitaker, yes or no, would expanding the workforce have a concrete impact on improving outcomes when it comes to safety?

Mr. WHITAKER. Thank you for the question. Yes, it would. Adding to the workforce would definitely strengthen inspections. We would be able to reduce fatigue on people as well, the train crews.

Senator LUJÁN. Let me center on what you just said on fatigue. Would paid leave help? If people are getting worn out and tired and things of that nature as well, and you want fresh eyes so we don't see mistakes, would that help?

Mr. WHITAKER. Absolutely. Right now, we have people that go to work sick with the flu, COVID, whatever the case may be, and they are afraid to take time off because if they mark off sick, they get reprimanded.

Senator LUJÁN. I appreciate that. My time has expired. I certainly appreciate this hearing. There is so many questions I have. I will submit the rest into the record. But to everyone that is helping the families, thank you for what you are doing. Please, no loopholes. Filings, rulemakings, we can all do better at that, and I certainly hope that is something that we can embrace. Thank you, Madam Chair.

Chair CANTWELL. Thank you. Senator Blackburn.

**STATEMENT OF HON. MARSHA BLACKBURN,  
U.S. SENATOR FROM TENNESSEE**

Senator BLACKBURN. Thank you, Madam Chairman. And I want to thank you all for being here for the hearing today. And I know that everyone is hard at work trying to help the people of East Palestine.

I so appreciated the Governor's remarks at the outset, and I know that my colleague, Senator Vance, has really worked hard to bring some attention to this community. Chief Comstock, I want to come to you.

It is my understanding that the AAR, in partnership with emergency management agencies in Sumner County, Tennessee, piloted the addition of AskRail data to their emergency management dispatching system. And following the derailment there in East Palestine, firefighters were on the ground for 90 minutes but could not access the AskRail app to get information about what substances were on board the train.

Ms. Homendy did an interview in which she said that none of the first responders actually had the app on their devices at all. So, can you give me a little bit more information about how the AskRail app may have been used, and whether first responders are making effective use of the app? And what are the requirements around using that app?

Mr. COMSTOCK. First of all, thank you for the question. With respect to requirements to use the app, I am not aware of any. As to the effective use of the app, I asked my own department members as to how many are using that app presently.

I will tell you I have that on my phone, but I found that 50 percent of the firefighters had that app, much higher percentage with respect to our department's officers. I know one of the complicating factors at East Palestine was the fact that the rail cars were off the track. They were bunched up in a ladder style formation.

Keep in mind, it was night. You had burning cars and smoke, so it was—and some of the placards had burned off. It was—and you have to try to use that at somewhat of a safe distance. So, it can be difficult. I think it is a good app, but it can be used more. We need to have better education that goes hand in hand with the training that we have discussed and advocated for. I also would add this with respect to technology.

There are apps that I have on my phone that when a car flips, the OnStar information or others will be relayed to the app. One example is I am responding, slash RapidSOS that gathers technology, sends it to my dispatcher.

My dispatcher gets it to me on my phone. So, enroute to a motor vehicle accident, I know if the car has flipped three times, the airbag has gone out, and that it has information about that car, whether it is, you know, electric car, things that I have to worry about. So, I should be able to get that information about trains, I think.

Senator BLACKBURN. Well, Mr. Jefferies, let me come to you. What is your understanding for how the app was used or was not accessed during the incident?

Mr. JEFFERIES. So, based on what I have read, I believe it was accessed, but I don't have details by who and how. To be clear, there is absolutely—it is free to all first responders. And to date, we have taken a responder-by-responder approach, which there are a lot of first responders in this country and having 35,000 with the app is absolutely not sufficient, not where we need to be.

That is why we are shifting to an emergency communication center approach. Also, knowing that, as I understand it, first responders will always have access to the emergency communication center, and so that is a central repository that has that information. Responders individually can still download the app, but we are wide open to looking at ways and working with Congress and others in the first responder community to further penetrate that population to have—get it into as many people's hands as possible.

Senator BLACKBURN. So, you would say the app is not working?

Mr. JEFFERIES. I think the app works very well, designed what it is to do. It is making sure that everybody who—we get it in as many people's hands as possible, and going responder by responder, is a slow, meticulous way to achieving that.

Senator BLACKBURN. OK. All right. Thank you very much. Thank you, Madam Chair.

Chair CANTWELL. Yes. Senator Hickenlooper.

**STATEMENT OF HON. JOHN HICKENLOOPER,  
U.S. SENATOR FROM COLORADO**

Senator HICKENLOOPER. Thank you. Let me ask a question, Mr. Jefferies. The rail sector plays a crucial role in transporting goods through our nation—throughout our Nation. I want to talk about a specific rail project in the West.

It is reportedly seeking a \$2 billion private activity bond from DOT, and that would be a taxpayer funded subsidy for a project that has raised a number of concerns among community leaders in Colorado, and its costs have gone up significantly.

This type of DOT bond, has traditionally been an issue for projects with a clear public transportation benefit. Are you aware of any examples of DOT private activity bonds issued primarily for transportation of commodities for private sale?

Mr. JEFFERIES. Senator, I am not aware of any. I would not say that that means there absolutely haven't been any, but I am certainly not aware of any.

Senator HICKENLOOPER. OK. Well, if you could follow up on that, that would be—that would be great. And Chairwoman Homendy, you have gone over in some detail the high hazard flammable train definition, and the train carrying 20 more tank cars of Class III, or 35 tank cars.

I guess one question I would be curious about is, what other risk factors, such as proximity to natural resources, should be considered when providing notice of a high hazard flammable train?

Ms. HOMENDY. Well, I think that should be considered for a high hazard flammable train. Also, just to clarify for the record, and I know this is your time, none of the responders had access to the app and they didn't have the information for quite a long time on what was on the train.

With that said, Senator, for this one, I do believe that environmentally sensitive areas and sensitive waterways should be considered for—especially for routing of trains and for protections.

Senator HICKENLOOPER. Thank you. I appreciate that and agree. Chief Comstock, thank you and all your first responder colleagues for your dedication and public service. The images that we saw from East Palestine were horrific, not just the environmental destruction, but I mean, the homes, community, the lives destructed.

But the statistic I was shown says that hazardous material cars involved in derailments have increased 339 percent from 1986 to 2021. Can you discuss the need for all fire departments serving rural communities to have access to training, to safely respond to hazardous material incidents such as this? Could more resources be provided by the Pipeline and Hazardous Materials Safety Administration to increase safety training and response capacity for fire departments?

Mr. COMSTOCK. Yes, in particularly we have talked about the hands-on training and there are a lot of firefighters who, as I said, can't take time off work. So, we need to not only have the good hands on, which I think that the railway industry is looking at try-

ing to create, but we also need to find ways to deliver that to where the firefighters work every day.

There are a lot of departments, particular in these areas, that don't have those resources. So, we need to be creative and find ways to get to those departments in rural areas, and that is whether it is going to be through the use of technology or through more home delivery programs like the NDFC is operating. That is what we are going to have to do. But we need to devote more resources.

Senator HICKENLOOPER. And what role should rail companies play in ensuring communities have adequate resources to plan for but also to respond to rail disasters?

Mr. COMSTOCK. They are going to have to play a major part, and it is going to have to be a partnership with everybody, you know, who has an interest in this issue. And we need to work with the railways, they need to work with us. And I think that is going to be a continued improved result as a result of this hearing and the derailment.

Senator HICKENLOOPER. Right. Thank you, Chief. And Chairwoman Homendy, do you agree with that response in terms of the participation of the railroads as well?

Ms. HOMENDY. Absolutely. We have had recommendations that are still open on ensuring that the railroads participate in local emergency response planning and helping provide resources, including appropriate training.

Senator HICKENLOOPER. Great. Thank you very much. Thank all of you for your testimony. I yield back to the Chair.

Chair CANTWELL. Thank you. Senator Warnock.

**STATEMENT OF HON. RAPHAEL WARNOCK,  
U.S. SENATOR FROM GEORGIA**

Senator WARNOCK. Thank you, Chair Cantwell. Norfolk Southern is headquartered in Atlanta, and it runs an extensive operation in Georgia that includes 1,700 miles of track, 600 bridges, 2,700 railway highway grade crossings, and a number of rail yards and transfer facilities in cities across the entire state, a multimodal state.

That is a lot of Norfolk Southern rail in Georgia, and I can't help but see the accident in East Palestine and wonder what would have happened had we instead of watching this in Ohio, witnessing this, or experiencing it in Georgia. Mr. Shaw, can you give me and the people of Georgia confidence that we won't see an accident like this in Georgia?

Mr. SHAW. Senator, thank you for the question. I am terribly sorry for the derailment in East Palestine, and we are working every day to make Norfolk Southern and the rail industry safer.

We have seen the preliminary results from the NTSB investigation, and we have made a number of enhancements to our own safety program in response. We have worked with industry to enhance safety and put in more safety features. And there are many aspects of the Vance-Brown bill that we fully support to enhance rail safety.

We are a safe railroad. The number of derailments on Norfolk Southern was the lowest last year that has been in the last two

decades. Senator Warnock, I am fully committed to enhancing safety for Norfolk Southern and for the entire industry.

Senator WARNOCK. And that is good to hear and the work that you want to do. Could you speak more specifically, what more needs to be done, in your view, to protect our citizens and our neighbors from accidents like this?

Mr. SHAW. Thank you, Senator. We have announced that we enhanced—are enhancing our hot bearing detector network. We are adding over we are adding 200 hot bearing detectors to our network. We are piloting next generation hot bearing detectors. We are working with the industry on best practices for safety.

We are deploying more acoustic bearing detectors across our network, and we are installing a digital inspection—a digital inspection portal that we are piloting with Georgia Tech outside of East Palestine to inspect passing trains and catch things that the human eye cannot catch.

We will continue to invest in safety. We spend over \$1 billion a year in capital on safety and over \$1 billion a year in ongoing operating expenses.

Senator WARNOCK. Is there anything that you didn't have in place during this accident, and know, hindsight is 20/20, that you wish you had had in place?

Mr. SHAW. You know, what I can point you to is some of the steps that we are taking now based on the preliminary results of the NTSB investigation, and I certainly look forward to fully cooperating with the NTSB throughout the full investigation and look forward to their results.

Senator WARNOCK. So, I have to tell you that I move across the state and you and I have had a chance to talk, and we will keep that communication line open. But I have to tell you that as I move across the state and I talk to Norfolk Southern workers, I am hearing from rail workers that policies around their working conditions are creating safety issues and may have contributed to this accident. Do you believe your company's worker policies contributed to this in any way?

Mr. SHAW. Senator, our policies are there to promote the safety of train operations. I, too, have been fully engaged with our valuable craft colleagues. My first day as CEO, I went out into the field, I walked into the crew room, and I engaged with our employees and I have thanked them for their service to Norfolk Southern, their service to our customers, and their service to the United States.

And since I became CEO, Senator, we have been on a hiring spree and we now have 1,500 more employees than we did this time last year.

Senator WARNOCK. So how are you working with those employees and labor on any changes that you are considering? And what have you learned from the accident that might result in changes to your worker policies?

Mr. SHAW. Senator, I am committed to improving the safety culture at Norfolk Southern and throughout the industry, and I have reached out to the heads of our two largest labor unions and asked them for their assistance and their input on how we can advance safety at Norfolk Southern.

Senator WARNOCK. Great. Thank you so much and I look forward to working with you, and with labor, and all of your colleagues to do everything we can to make sure everything is being done to ensure the safe operation of our Nation's rail infrastructure.

Chair CANTWELL. Thank you, Senator Warnock. It has been an interesting hearing for sure. A lot of information, but I would like to get some clarity because we do want to move legislation in this area.

I do want to start with some information, though. My state is definitely seen—you know, there is a debate here about are we seeing an increase in derailments. My State definitely in—and it is great that we had a witness who was actually a marketing expert because Ms. Alison said you can always take numbers and make them mean different things.

So, I am just letting you know this is a 10-year window. In my state, we have definitely seen an increase in derailments. And because we carry so much oil, it is always an issue for us in these communities.

It goes through every area. So, I wanted to start with you, Ms. Homendy, as it relates to legislation, I originally introduced in 2015 saying let's get rid of DOT-111s. And now in the infrastructure bill, we got a 2029 date. This legislation says let's do it by 2025. Do you agree that that is the right—

Ms. HOMENDY. Yes. We, the NTSB agrees that we should move up the date and eliminate the DOT-111s from hazmat service, not just from Class III flammable liquid service, but all hazmat service. In this train, we had 16 DOT-111s carrying hazmat. Only three of them, though, would be covered under that final rule in the FAST Act.

Chair CANTWELL. OK. The rest of the witnesses agree.

Mr. JEFFERIES. 100 percent. We filed jointly with shippers in 2011 to upgrade 111s, and following the 2014 rule, came to Congress because there was a 20-car loophole, there wasn't thermal protection, there weren't top fittings protection. So, we are 100 percent on board. It has got to be done in a way that the manufacturers can achieve—

Chair CANTWELL. I am asking you whether you support the legislation to move the date to 2025.

Mr. JEFFERIES. I support moving it forward as feasibly as possible.

Chair CANTWELL. 2025.

Mr. JEFFERIES. Whatever the manufacturers can make happen.

Chair CANTWELL. Mr. Shaw.

Mr. SHAW. Yes, we support the component of the Vance, Brown bill for accelerating safer tanker standards.

Chair CANTWELL. OK. Let's turn to other issues, if we could, on your investments. One of the things I want to ask you about, Mr. Shaw, is you have been talking about how you have had less derailments, but I am pretty sure we have seen an increase in accidents. We think a 14 percent. And so, this issue is about the number of accidents.

Ms. Homendy was talking about this video issue of the DuPont accident. And so, it doesn't matter, you know, issues are issues. And at the same time period as this increase, 14 percent, we also

have—you stated earlier that you invested \$1 billion in safety last year. That was at the EPW hearing.

However, data from your company provided to the Surface Transportation Board says you have cut network investments by 30 percent in just 5 years and at the same time accident rates increase by 60 percent.

Meanwhile, the company made a record \$4.2 billion in profits. So, this is a discussion about, are we putting the right resources into the network? Are we putting the right resources, in your opinion?

Mr. SHAW. Yes, Senator, we are. We are investing over \$1 billion a year in safety improvements. Our capital budget over the last couple of years overall has increased about 30 percent. We are hiring at a record clip.

Chair CANTWELL. But this chart shows that you have had a 40—this is your own information from the Service Transformation Board, a 25 percent decrease in infrastructure investment and a 22 percent decrease in the number of employees.

Mr. SHAW. Senator, when I became CEO of Norfolk Southern in May of last year, we went on an aggressive hiring spree and that continues to this day. And I will note that last year the number of derailments on Norfolk Southern was the lowest in the last two decades.

Chair CANTWELL. I don't—I think that Ms. Allison made it quite clear the damaging impact of these accidents and lasting impacts on our children. No, you can't look at that stat, you are saying, and feel comfort.

She can't put her kids to bed at night and feel comfortable about that. So, what we have to do is figure out, are we shortchanging infrastructure investment? This is an issue across the board, in aviation, in transportation, here at the rail. We are not going to take profits over safety investments.

We are going to require—now, I don't even think that's good business. But here we are going to make sure that those investments are made across the board for safety. So, I want to get to this issue as it relates to the workforce. You know, particularly this issue of what role they play in the inspection process.

Do you think that your—the current system works or do you think we need more enhancements there in workforce? The Brown-Vance bill obviously increases the workforce. Some of the testimony by Mr. Whitaker would say that we need more on the workforce side.

Mr. SHAW. Senator, with respect to the Brown, Vance bill, we certainly support the provision that requires FRA audits of railroad compliance with railcar safety inspection programs. We also fully support the concept of a triennial review of railcar safety standards.

Chair CANTWELL. Triennial review. What does that mean?

Mr. SHAW. Senator, my understanding is there is a provision in the bill that allows for updates every 3 years.

Chair CANTWELL. OK, OK. So, you are saying—OK. If we could look at this chart here that on March 17th, we asked you to send us information about standards here, and you stated that Norfolk Southern does not have policies that mandate a minimum or maximum amount of time needed for the inspection of a railcar.

And yet this information shows that it is part of this document for railcar inspection that you are saying to your employees that the cycle time for a 50-car cut is at point 5 minutes per car with one inspection. So, that is saying you have to inspect one side of that car within 30 seconds. Mr. Whitaker, do you know about this?

Mr. WHITAKER. I am aware of this issue here. I know there is 90 points per side of a rail car that need to be inspected. Conductors, we know how to inspect most of those, but a mechanical force person always attribute—they have the doctorate degree and they need to take their time.

And we should not be putting time—safety on a timeline here when inspecting rail cars. We are going through communities with hazardous materials and very unforgiving equipment.

Chair CANTWELL. I agree safety should not be on a timeline. So, Mr. Shaw, what is going on here? I think you don't support the Brown bill as it relates to a requirement of more people than just the conductor on a railcar.

But this is just an example of how I think the system is being short changed. And while the information age gives us all sorts of ideas about efficiency, we can't take that to the extreme when you end up cutting safety.

And the safety standards, we have to have minimum safety standards, we have to have modernization of safety technology, and we have to have the minimum amount of people to do the job.

So that's what's going to be required across every sector of transportation. And this committee is going to make sure that we get there because we can't—because we are not going to let people just keep, you know, putting money in the bank and thinking that you can shortchange safety.

We can't shortchange Ms. Allison and we can't shortchange East Palestine. So, what are your thoughts about at least getting rid of this, getting rid of this notion that it is 30 seconds?

Mr. SHAW. Senator, I am not familiar with a minimum or a maximum railcar inspection duration. We do support evidence-based approach to enhance safety and improve outcomes for the industry, for our customers, and the communities we serve.

Chair CANTWELL. Well, maybe you can find somebody in your organization to get you this document. But it is clearly your document and it is clearly what is being implemented. And I don't think it is the standard that we want and I don't think it is a safe idea.

Now, I would like to go to this larger issue, which we might be able to get some agreement on. Mr. Comstock, in the underlying bill is requirement for training of local firefighting teams on dealing with this kind of material. Is this enough? Is there enough in there, or do we need to put something in here about equipment? I asked the first panel about this.

Mr. COMSTOCK. I think it goes hand in hand. I mean, I think we have to have training, but I think we have to have specialized equipment, whether it is for monitoring or suits. And I also raised in my initial submittal that we need a second set of turnout gear.

And the best example for everyday firefighting is we have one set of turnout gear. And when I have to wash that, I am out of service. In this railcar instance, I had three firefighters who were exposed,

I had—their gear is contaminated. I can't use it. It takes 6 months to get replacement gear.

That means I have three firefighters who are out of service for 6 months who can't respond to auto accidents or to structure fires. I was able to find one spare set of gear, and on two I had to rent some.

So, we have throughout this country, we are lucky and many departments have good one set of gear. The departments that have money have two sets so you can wash one. And so, that is just an everyday use that we need.

And then when it comes to equipment on a hazmat incident, the specialized suits, which can cost \$15,000 or more, or the specialized monitoring equipment, it is unrealistic for the Federal Government to provide that to every department. But we do need to look at a regional approach so we can call in those teams that can supplement what we are trying to do.

Chair CANTWELL. So, we need to do more than what we have in the bill.

Mr. COMSTOCK. Yes, yes—

Chair CANTWELL. I know this already from my work in 2015. Trust me, I already know this because I have talked to lots of firefighters across the State of Washington. And believe me, rail goes everywhere in our State. So, Mr. Shaw, are you willing to support what is in the underlying bill, or are you willing to do more than in the underlying bill to make sure local firefighting teams have the equipment they need?

Mr. SHAW. Senator, we absolutely support what is in the underlying bill, and we are willing to do more to support firefighters. We just opened up a regional training facility in Ohio for first responders.

Chair CANTWELL. Yes, I am thinking something a little different. I think, you know, this committee has dealt with the oil spill trust fund. Senator Stevens did great work on that. It literally is about having the resources upfront in a timely manner to have in a community. And the challenge here is going to be to figure out how to do that and where to do that.

But I think if we are going to continue to move product like this and have this level of risk, we can't just leave it up to volunteer firefighters to be on the front line. So, I do think we have to think about what is a way to put resources into the local community. So, I appreciate the fact that you are willing to consider that. Mr. Jefferies, you want to comment?

Mr. JEFFERIES. I was going to say, 100 percent agree and would love to work with the Committee on how we best approach that.

Chair CANTWELL. Great. Great. Like that. OK, Ms. Homendy, did you have a comment about that?

Ms. HOMENDY. A great place to look is PHMSA's Hazardous Materials Emergency Preparedness Program, which is about \$28.3 million annually and has been there—like that for years. It needs to increase. It is paid for by fees from the shippers and the transporters of hazmat.

Chair CANTWELL. OK. So, good. We get some consensus there. OK, and what about in general the—what we covered. One thing

I actually, isn't in their bill—I don't think the video that you brought up earlier is in there.

But you are saying, Ms. Homendy, that there should be some video communication. You are saying that there is missing video from this accident. Is that what you are saying? I don't know what—OK, you are just saying you don't have video.

That it wasn't required, but there was video, but we don't have it because the engine moved on and went somewhere else and was videotaped over?

Ms. HOMENDY. Yes.

Chair CANTWELL. OK. And in the DuPont accident, you were mentioning how valuable that was. Why was it valuable in the DuPont accident?

Ms. HOMENDY. Very valuable. First, we—some assumed early on, not us, that there was distraction in the locomotive cab, and we could see in the video that that did not occur. We also could see that there was some hesitation by the engineer around the controls. It was a new locomotive. And we determined, through the investigation, including looking at the video, that they weren't provided adequate training, the train crew.

Chair CANTWELL. OK.

Ms. HOMENDY. So right now, the requirement is on—the requirement and law is on Amtrak and the commuter railroads, not on the class I freight railroads. And we would advocate for that.

Chair CANTWELL. Mr. Whitaker.

Mr. WHITAKER. I would just like to piggyback on what the Chair is saying. In regards to training, these class I railroads have reduced their training programs down to bare minimum. When I heard on the railroad 2,000, I had 26 weeks to train. Nowadays it is 6 weeks or less on these class I railroads.

We are hauling 200 plus car trains and hazardous materials. And that is not right. You are putting too much pressure on employees right now with inadequate training. And I am sure these numbers—I would be curious to see what the retention rate is. I know Mr. Shaw brags about how much they have hired people.

What is the retention rate of people sticking around? I am an advocate for a two-person crew, obviously, but if I am not hearing the CEO of my company tell me I am going to have a job, I am going to be looking somewhere else.

Chair CANTWELL. Mr. Whitaker, what standards should we be looking at given that we have had this transformation into longer trains? I don't think we have we have heard this intermittently through the Committee, but this is a sea change.

Mr. WHITAKER. Right. So, to Ms. Homendy's point about how much technology is on a locomotive. As an engineer by craft, I am looking at four computer screens. I am busy. I don't even have time to look out the window of my locomotive half the time.

I am depending on the conductor over there to be my eyes and ears and keep me in check. Enhanced training for that conductor would greatly assist the locomotive engineer, greatly. And I think in the railroad industry as a whole, we have lost a lot of our expertise over the years because we have people that have zero railroad experience running our railroads.

We could be so much more efficient and do so much better if railroad management would just listen to labor. We could move trains without incident. We can make things more safe. But they just got to listen.

Chair CANTWELL. What would we have done in this instance, do you think, given that we were talking about a wheel bearing?

Mr. WHITAKER. What I feel should have been done with the trending defect is sector technology, and this is something going back to last year that I have sounded the whistle on. We need to eliminate trending defect detector, keeping that information to ourselves in our headquarters. OK, let's just take the chance, let's move this train on down the line. That is what they are doing. What should happen—

Chair CANTWELL. Wait, wait, you are saying that they knew that this train had a weak spot, is that what you are saying?

Mr. WHITAKER. Absolutely.

Chair CANTWELL. You are saying they knew the train had a weak spot?

Mr. WHITAKER. If their trending defect detector, according to the NTSB report that I have read, they have seen this car trend hotter and hotter over the course of three detectors, I believe, that information is going to somebody at Norfolk Southern and they are not conveying that information to the railroad crews.

Chair CANTWELL. Mr. Shaw, did someone at Norfolk Southern have that information?

Mr. SHAW. Senator, my understanding from the NTSB report is once they try and hit the third detector, which showed that we hit the threshold, then the crew acted appropriately. However, they—the part had already failed.

Chair Cantwell: Why did you keep putting the car on is the question? I think Mr. Whitaker is saying you should have had a signal—listen, this is definitely where this—this is where I am going. I don't know, I will have to ask Senator Cruz and my other colleagues where they are going, but I am telling you right now, we are going to use transparency and technology, and make sure that people are getting that information as fast as possible.

We are going to use NTSB to help us hold the FAA accountable, and we are going to help them, as they are today, hold this accountable. We have to look at safety trends. We have to look at what is coming at us because they are telling us in advance.

That is what technology can do, tell us in advance where there is a problem. But we can't ignore that because we want to make some more money. We have to go and say, we are going to make the investment and we are going to make sure everybody has the information. And that is how we keep on top of safety. Ms. Homendy.

Ms. HOMENDY. I would just add, so in Atlanta, Norfolk Southern has an advanced train control desk. And what they saw there at the second wayside defect detector was a noncritical alert. It wasn't a critical alarm because the threshold at the time was 103 plus about 10 degrees from underneath the train above ambient.

And so, they got a critical alarm at the last one, but by that time, the train was in the process of derailing because there is a little bit of a delay. The crew will get information, but in—at the train

control desk, the entire train needs to move past that wayside detector before the train control desk has that information. With that said, they are also at the same time dealing with other trains that may have warm or hot bearings.

Chair Cantwell: So, you are saying, I don't—Mr. Whitaker, what are you saying, that before this, knowing that the information was there, something should have happened on these cars and somebody, if you would have had the information and the workforce would have had the information, they would have asked for some further inspection. Is that what you are saying?

Mr. WHITAKER. That is what I am saying. When you are on a train and you are passing over a road defect detector, if that detector senses a wheel bearing hits a threshold, we hear a beep alarm. That tells me as a locomotive engineer, all right, I am not going to apply the train brakes on the train because I don't know what is wrong with them. I will go—we will go on to what is called dynamic braking, which slows the locomotive down and slows the train down.

So, I am going to come to a safe stop. And once I clear that detector, it is going to tell me what is wrong. But in this case, if I see my tire pressure on my car losing air, I will go pull over and stop and check that out, right. If I own a railroad and I see a wheel heating up, I am going to call—I am going to protect my investment and I am going to call that train crew. Hey, I know you are not meeting the threshold here, but maybe you guys need to stop and go back and check this out. It could be something, a handbrake applied on a car or a stuck brake.

Something that could be addressed right then and there. So, once it starts trending, we need to stop and check it out. No matter if we don't even hit that threshold, let's take the safest course of action.

Chair CANTWELL. Thank you. All right, Senator Cruz, thank you. Do you have a follow up for a second round? Sorry, I kind of took my first and second round together. But I think we are nearing the end. For our witnesses, you have been very patient and thank you for putting—we have been here for much—long time here, so we appreciate it.

Senator CRUZ. Well, thank you, Madam Chair. And thank you to the witnesses. This has been, I think, a productive hearing, a useful hearing. Mr. Jefferies, I want to start with this. Listen, I think everyone here is concerned about enhancing safety standards to minimize the risk of derailments.

And I think there is bipartisan interest in moving rail safety legislation. I think we are going to be successful in doing that. At the same time, we want to enhance safety, we want to protect the interests of consumers.

And I will say there are portions of the Brown bill as currently drafted that concern me, in particular giving significantly more authority to the Department of Transportation. This Department of Transportation, their policies created a supply chain crisis in the last 2 years that drove up costs and increased scarcity for consumers all across the country. And the Biden Administration has also demonstrated a deep animus to energy.

And I would certainly be concerned about giving Secretary Buttigieg the authority to make it significantly more difficult to transport energy in the United States and to drive up costs for consumers.

Now, in your judgment, Mr. Jefferies, what are the provisions in the current draft of the bill that concern you? And in particular, what could be the negative consequences for consumers of Secretary Buttigieg having too much authority to drive up costs?

Mr. JEFFERIES. Well, thank you for that, and I very much appreciate the question. Contrary to statements that have been made, the AAR has not taken a position on this bill.

Frankly, I think there is a feasible path forward on almost every provision in there. Now, your definition of feasible and mine may not be the same, but I think there is an opportunity to work together to try to get the yes. I think, you know, the provision you are asking about is one that would apply, I think, upwards of 12 new rulemakings around any train that is moving at least one car of hazmat.

Over 40 percent of trains move with at least one car of hazmat. Now, that could be a flammable gas. It could also be asphalt. And in my view, I am not sure applying those same levels of restrictions for flammable gases and asphalt makes a lot of sense because of the overarching impacts it can have on the network overall, the impacts it can have on energy shippers, the impacts it can have on Ag shippers, the impacts it can have on intermodal premium shippers, similar to UPS.

Now, does that mean that nothing should be done? Absolutely not. I think there is a logical case to be made for a parallel requirement for trains carrying flammable gases as we currently have for flammable liquids.

But it is about taking a risk-based approach that doesn't treat the entire class of commodities the same, but really focuses on what is truly a higher risk train versus one that perceives little risk. So, there is a path forward there, and I think we just need to target what we are actually focused on here.

Senator CRUZ. Well, thank you. That is helpful. And we will certainly commit to working with you to try to find a solution that enhances safety while at the same time protecting the interests of consumers. Mr. Shaw, you and I talked yesterday, and you described that Norfolk Southern was a proponent of venting and burning the vinyl chloride from all five tanks.

At least one of the tanks was significantly injured. There has been disagreement as to whether the other four tanks were compromised or not. Will you commit to providing this committee with any and all information you have as to the condition of all five of those tank cars?

Mr. SHAW. Yes, we will be transparent with the Committee about our understanding of the conditions on the ground. My goal during the entire process was to provide unified command and the incident commander with the best information that we had.

And at that point, there was concern that these four cars had been in a pool of fire and that the pressure relief valve had failed, and there was concern about the pressure on the cars.

Senator CRUZ. In terms of the decision to vent and burn the vinyl chloride, which is what caused the massive plume of smoke and the rather extraordinary sight of an American city essentially on fire, among the decisionmakers that were engaged in that process, did anyone disagree with the recommendation to vent and burn the vinyl chloride from all five tank cars?

Mr. SHAW. Sir, my understanding is unified command was aligned around that decision, and that decision was based solely on the safety of that community.

Senator CRUZ. Ms. Homendy, what are the alternatives to venting and burning, and what are the risks involved in the venting and burning procedure?

Ms. HOMENDY. Part of FRA guidance is—on venting and burning is to look at the alternatives. One is a controlled venting through the valves. In this case, they were melted. So, that was not an option. You could do hot tapping, which is essentially cutting a hole in the tank car and draining the liquid, essentially trans loading it into another railcar. There are risks to that. And then there is the vent and burn.

Senator CRUZ. Mr. Shaw, Ms. Homendy testified earlier today that the locomotive that was involved in this derailment was immediately or almost immediately put into service on another train, and so the video was not available for examination.

Did that happen and why? I have to admit, hearing that, both Senator Cantwell and I looked at each other and thought that was a really bizarre thing to hear. So, is that true, and if so, why?

Mr. SHAW. Senator, my understanding is that 15 minutes of video are available, time before, during, and immediately after the derailment. My understanding is we followed protocols.

Senator CRUZ. Mr. Shaw, I asked you to answer the question I asked. Is it true the locomotive was very shortly thereafter put into service and the result was significant portions of the video were missing?

Mr. SHAW. Senator, at some point after, and it sounds like it was shortly after was put on, sir. I don't have the details. I am happy to follow up.

Senator CRUZ. All right. Well, let me just say, any time there is a locomotive involved in a serious derailment, it is lunacy that that video is not preserved and that locomotive is put into alternative service.

So that, I feel confident we could get unanimity on this committee on that. Let me ask also, there is a lot of discussion about command central having the wayside detectors and the conductor and the engineer not having information on this particular tank car, has Norfolk Southern examined whether it had triggered previous wayside detectors either on this train or in other circumstances?

Mr. SHAW. Senator, I believe that is part of the NTSB investigation.

Senator CRUZ. Has Norfolk Southern examined that? Did you know if it had triggered previous wayside detectors?

Mr. SHAW. I am not aware that it did.

Senator CRUZ. Ms. Homendy, do you have any information on this, or do we have some confidence that we will be able to get the answer to that at some point?

Ms. HOMENDY. I will provide you that answer. What we do have is that it had not reached the critical threshold that is set by Norfolk Southern until that third one.

Senator CRUZ. Yes, I am certainly interested not just in the critical threshold, but the trending analysis, and the shift that is less than the critical threshold but could well indicate a problem before the derailment.

Ms. HOMENDY. We are also interested in that as well.

Senator CRUZ. OK, final question. Mr. Shaw, I am sure you heard Ms. Allison's testimony, which was powerful. She raised a very simple question about moms that are concerned about their kids.

She described her 7-year-old who was afraid for his own health and safety. What is your answer to her and other moms who are afraid for their health and safety in this community?

And who, as she described, may not be able to move, may not be able to sell their house because their home prices have dropped. What is your answer tonight? What should she tell her child, her 7-year-old child tonight? And what should other moms in that circumstance tell their kids tonight?

Mr. SHAW. Senator, I am terribly sorry for the impact that this has had on my community, and I know that it has been traumatic. I was there during the vinyl burn and I saw this plume and I know what it looked like.

There is ongoing testing by the EPA, the Ohio EPA, and the Pennsylvania Department of Environmental Protection. They all show that the air is safe and the water is safe to breathe. There are millions of data points. There is still enormous concern within the community about three long term issues.

One is long term health care, one is about property valuations, as you noted, and one is ongoing water monitoring. And so, Norfolk Southern is working with relevant stakeholders, which include State and local authorities, on setting up funds to cover all three of those.

Senator CRUZ. How many families were impacted?

Mr. SHAW. Senator, there are 4,700 approximately folks in East Palestine, and there are some who are impacted in western Pennsylvania as well.

Senator CRUZ. So, you had said earlier in your testimony that you have spent to date, if I got the number right, \$24 million. You also noted 6,000 families altogether. Doing a quick math, that is about \$4,000 per family. Do you agree with Ms. Allison's testimony that home prices have dropped significantly? And if there is a mom scared for her kids, that she right now doesn't have any great options?

Mr. SHAW. Senator, I understand your point. Our contributions to date are just the start, and what we are offering through the Family Assistance Center is that for folks who want to relocate, we will pay for the relocation fees. Our family assistance center since the day after the derailment.

Senator CRUZ. So, I want to understand you correctly, you are saying if a family in East Palestine wants to move, that Norfolk Southern will pay the cost of their moving, and will you also make them whole if they try to sell their house and they can get substantially less for it than they could have before this derailment?

Mr. SHAW. Senator, what I am saying is that if they want to leave their house for a while, we will pay for those relocation fees. And we are establishing—working with relevant stakeholders in a long-term fund for the property valuable assurance.

Senator CRUZ. So, you will put them up in a motel or hotel temporarily, but you are not assisting with moving them? I just want to understand what you are doing right now.

Mr. SHAW. Right now, we are putting them up in a hotel and paying for food and clothing if needed. And we are also working with relevant stakeholders on our long-term fund for property valuation.

Senator CRUZ. Well, let me say this, Mr. Shaw, you have said multiple times you want to make it right. Let me encourage you, make it right is a real commitment and this committee expects Norfolk Southern to do exactly that. These people and these families matter.

Chair CANTWELL. Well, thank you, Senator Cruz. That concludes our hearing. I thank all the witnesses for participating today. I ask unanimous consent that these letters from the East Palestine residents regarding the impact of derailment be entered into the record. And without objection, it will be so ordered.

[The information referred to follows:]

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

Thank you for the opportunity to submit testimony on the environmental and public health threats from the Norfolk Southern train derailment and chemical release. My name is Hilary Flint and I am a resident of Enon Valley, Pennsylvania—the tiny town with less than 300 people that borders East Palestine, Ohio.

My great grandparents purchased this land and I am now the fourth generation in my family to call Enon Valley home. My grandparents, Louise Svihra (Benetti) and Robert Svihra, worked hard to achieve the American dream—they started a family, owned a home and land, opened many successful small businesses and became pillars of the community. My father, Jarett Svihra, has continued their legacy by growing those companies and purchasing land to develop throughout Western Pennsylvania. Yet I fear that there will be no legacy left for me, or my siblings, to continue.

Since the “controlled” explosion, we have been told that it is safe to be in our home. To drink our water. To plant in our soil. Yet my lived experience tells a different story. You see, I have a history of autoimmune disease, chronic illness and kidney cancer. This means that I am often more affected by my environment. Stories like mine have been ignored, unheard and undermined throughout this crisis.

You tell me that my water is safe. Yet when I wash my hands, I get red rashes. When I shower, my toes turn purple. When I wash my face, my eyes are itchy. You tell me that my air is safe. Yet I have migraines. I’m congested. I’m tired, dizzy and weak. You tell me that all tests show that I am safe. Yet the smell in my home is so pungent that it travels with me wherever I go—clinging to my skin, my hair and my clothes.

You tell me that since my home is more than 1 mile away, I do not qualify for resources. You tell me that if I want independent testing done on my property, that I will have to pay that expense. You tell me that if I want to get rid of the smell,

that I must clean every surface—inside and out, wash every item of clothing and change every filter in my home. You tell me that if I have medical concerns, that I must go to a clinic that is unable to do tests, give a diagnosis or even write a prescription. You tell me that because Norfolk Southern continued to put corporate greed before public safety, that I am responsible for their actions.

Let me tell YOU something.

We, the people, have had enough. Appalachian communities are tired of being physically, mentally and financially burdened for the benefit of everyone but its residents. This blue collar area will no longer be ignored, silenced or dismissed.

We, the people, expect real change. Suspend all Norfolk Southern operations. Demand their leadership team be fired and held criminally liable for their actions. Make them compensate each and every family within a 30 mile radius of the derailment so that residents can do whatever they need to do to feel safe.

We, the people, are watching. My grandmother. My father. My siblings. Myself. The people that have lived in these communities for generations, the people that fought hard to achieve the American dream, the people that have defended this country with their vote, their word and sometimes their life. We are all waiting to see what you do to end this American nightmare.

HILARY FLINT.

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*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

My house in Darlington Twp. was covered by the black smoke, after they detonated the rail cars.

Now we aren't sure how this will affect our health, our water, and soil. We are afraid to even have a garden!

We want Norfolk Southern to offer buy us out of our houses, so we can move to a safer area.

TIMOTHY MOORE.

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*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I live in [REDACTED] hollow road.

My son Dylan has bronchoo-pulmonary dysplasia do to premature birth. He is now 16 years old. He has had two treatment of steroids since the controlled release and continues to use his inhaler. We moved out of our home for over 2 weeks because of his breathing issues. My biggest concern is his health and safety. Am I risking further lung damage keeping him in our home?? No one can answer these questions. Trust me I've reached out to doctors, state NS. No one can tell me. What would you do if this was your child? I've watched my child struggling to breath more than once. We don't have all the answers now, isn't going to work if the damaged is done to his lungs before we have the answers.

Is my water safe now or in the future? What is coming out of my ground? Is that going to cause issues for him down the road?

At this time he still leaves our home on the weekends just to keep him our of the environment. During the week I no choice because of school.

Home is your safe area. Not for us anymore. Will I ever fill safe in my home again?? I sure hope I can.

I believe someone has these answers. You can not tell me if your having trouble breathing, burning nose and throat, sore in my nose, headaces, rashes on your skin your safe. How could you feel safe? Would you feel safe?

Everything in our world has been turned up side down. My husband passed away suddenly of a heart attack. My son unfortunately was the one to find him. He did everything he could for his dad.

I've worked hard to rebuild a life for us in our home. Our family home. Were we can find some peace and happiness. Maybe some can understand what a struggle this can be with loosing a husband, father. That is gone now because I don't know if I am safe in my home.

No we are not in the one mile circle but our lives have been deeply effected.  
 MARIAN MATTERN.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
 Chairperson, Commerce Committee,  
 United States Senate,  
 Washington, DC.

Dear Chair Cantwell:

I live in Western Pennsylvania and the East Palestine Derailment has directly affected us in ways more indirect, but just as detrimental to our communities. The possible environmental fallout of contamination like dioxins have us on edge. The blatant conflicts of interests in regards to who is responsible for the testing, and who is hired to do the testing, to who takes responsibility for the testing.

We would like to know how we can have comprehensive unbiased testing done to ensure we are safe just the same as East Palestine does as well.

Water contamination from this incident was detected in the Gulf of Mexico. If another disaster spill occurs dams must be immediately be put in place across the affected streams to keep contamination from spreading like this one did. The thought of another disaster still hangs like an albatross on our necks. This albatross hangs while the legislatures mull changes, to an industry and its lobbyists long opposed to change.

These are a few of our concerns. The possible fallout of contamination from the controlled burn and the other materials involved has me physically sick. The worst of which are Dioxins. Dioxins are well known in the annals of environmental contamination leading to the creation of many "superfund sites" as well as the complete dissolution of a Missouri town called Times Beach. The dissolution of a neighborhood in Suburban Buffalo New York. Perhaps you may have heard of it. It was called "Love Canal", and Vietnam veterans seek settlements from Veterans Affairs because of dioxin exposure in Vietnam stemming from Agent Orange.

Anytime a chlorinated substance is burned it creates Dioxins. Dioxins have the capability to be the worst toxic contaminant. Even worse than nuclear fallout from a reactor meltdown such as Chernobyl or Fukushima. Dioxins are toxic at one part per billion. Dioxins can take 100s of years to break down in the environment when not exposed to sunlight. They do not dissolve in water, but attach to particulates which float in water spreading misery and death. Dioxins cause cancers diabetes, heart disease and many other life threatening, life altering diseases. The controlled burn of vinyl chloride created a toxic plume of dioxin laden smoke.

The plume was modeled by NOAA at Pittsburgh International Airport showing coverage of parts of Eastern Ohio, Pennsylvania, almost all of New York, all of Vermont, part of New Hampshire. It also showed coverage of portions of Ontario, Quebec, and New Newfoundland Canada. Possibly creating an international incident. The water contamination reaching the Gulf of Mexico is another facet of this disaster. The scope of this disaster will take generations and many lives to see the effects.

We need testing of our soil, but testing is a costly endeavor. We want it paid for by Norfolk Southern to make sure our soil is safe. Our farmers are starting to plant, and we want to start preparing our gardens. We do not know if our soil is safe to plant in. Please send us aid to ensure of our safety.

Personally, I would like to see it be made illegal to intentionally burn any chlorinated compound. Firefighters often get dioxin exposure from burning houses as many modern homes use Polyvinyl chloride (PVC) exclusively for their plumbing. Unless it is in an incinerator of 2,000 degrees Fahrenheit. Only by incinerating Dioxins and chlorinated compounds can they be totally destroyed. I would also like to see any chlorinated compounds that can burn to be phased out in favor of more environmentally friendly alternatives.

CERCLA itself needs amended as well. The fact that the E.P.A. allowed a laboratory called Tetra to conduct air sampling when Tetra is currently under investigation by the Department of Justice for using biased under-reporting for the Department of the Navy. This is indicative of more grey areas that must be immediately addressed.

The fact that the investment firm "Blackrock" who is the second highest share holder in Norfolk Southern is a large shareholder in Tetra is another problem. This is called a conflict of interest. CERCLA must be reworked to say, "no investigative laboratory or firm can be used that is currently under investigation, or which has any connection to the company against whom CERCLA is being invoked as the responsible party due to any incident where CERCLA is invoked".

Neutral Third Party testing must become law, immediately. Purdue University, Big Pine Consultants of Pittsburgh, Carnegie Mellon, and other smaller laboratories are conducting their own tests, and they are conflicting with the official government test results. These private institutions are using more sensitive equipment that are able to find much smaller amounts of contamination. Contamination that still pose health risks at the levels they are finding, but that the government's own tests cannot detect. This proves why neutral third parties should always do the testing from now on in any incident per CERCLA.

The derailment is a symptom of a system long overdue for stricter laws. While I support the railroad industry. Safety should always be the top priority. The 4 R's Act of 1970 and the Staggers Railroad act of 1977 allowed for large scale deregulation of the U.S. Railroad Industry. In many ways they helped to save railroading in the U.S. by this deregulating, but in so doing laid the ground work for the willful negligence that precipitated this disaster.

Many older Americans remember the "caboose" on all freight trains, but after the passage of the two aforementioned pieces of deregulation legislation the caboose was relegated to only certain hazardous freight trains. Due to how the laws were written the Hazardous materials that were released from the derailment did not constitute a hazardous train requiring the use of a caboose. Why were cabooses used? They were used originally to help with braking the train as well as for the railroad crews to watch for "hot boxes" also known as overheating wheels which led to many derailments in the past, and which caused this disaster. The Caboose necessitated trains not be longer than the line of sight for train crews. Had cabooses not been allowed to be relegated to extreme circumstances this disaster could likely have been avoided. I would like to see the caboose return as a "Safetyboose". I would like to see the modern caboose fitted with state of the art equipment used to detect problems and qualified train crews to man them. We cannot allow the railroads to use remote personnel. I would like these modern cabooses to include a "kill switch" that will immediately start braking the train, to stop it if the crew detect any sort of problem without requiring the consultation of remote dispatchers, or the engineer in the lead locomotive. I would like to see implemented an immediate introduction of dynamic braking to coincide with the re-introduction of the "safetyboose".

Dynamic Braking is one piece of safety that I realize is in the news. It was on the table. Unfortunately, our infamous lobbyists had congress stop pursuing its implementation citing costs. I am sad to report the environmental and human suffering this incident has created and will do so for generations costs far more than a dying fiat currency could ever hope to save.

Any lobbyist who lobbied Congress to not implement any safety mechanism should immediately be fired and not be allowed to work in Washington D.C. again. P.S.R. or Precision Scheduled Railroading is another co-conspirator in this disaster that must be immediately end. This little acronym, while not known prior to this disaster, is now under scrutiny. While PSR allowed NS to increase profits from \$2 to \$3 billion, this co-conspirator allowed NS to cut safety checks, cut workers, and lengthen trains to a point never before seen in American History, and look at what it created.

Congress needs to pass a law that a train cannot be so long as to be out of the line of sight of a train crew. Now of-course on the great plains where tracks are straight and flat. Regions where trains can most certainly be longer exist. However, in the mountains, valleys, and hills of Appalachia and the Rockies this is not the case. Now if the "safetyboose" is implemented, and there can be more than one used in a lengthy train, I do not see where this could not be done.

This derailment maybe the worst environmental disaster not just in the United States but the world. We must do everything we can to ensure it never happens again.

SPENCER GALLAGHER.

Mar 21, 2023

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I live less than 1 mile from the derailment site. This train derailment should have NEVER happened. Norfolk Southern has put a lot of stress on families and the community. We need continued testing for soil, water, and especially medical for years to come. Norfolk Southern should pay for this, they are the ones that cut cost on safety. Now I have to worry about the safety of my kids and grandkids. I have lived in Unity and East Palestine my whole life. East Palestine is a nice community Norfolk Southern should not take that away from us

JOYCE HENDERSON.

Mar 21, 2023

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

Hi My Name is Austin Druckenbrod I was involved in the East Palestine train derailment crisis not from living their but because my employer NVR located at ██████████ Which is a Fortune 500 company put all of their Employees into danger when they had us working before the Evacuation zone was lifted for the 1-2 mile radius Governor DeWine issued.

Employees were asking to call off and with the housing market crisis being as bad as it is and all the employees they were laying off at the time they told us if we called off over the train derailment we would be pointed and out of a job because the state of Pennsylvania according to them never issued a mandatory evac and the Ohio evac didn't apply to the grounds of Pennsylvania when nvr is 1.1 miles from ground zero in east Palestine maybe even closer we can see the remediation site from the tracks from the company so it's close enough and when I called osha and the cops they told us Ohio had no jurisdiction over pa when NVR was located within the evacuation zone from Governor DeWines statement of 1-2 miles but somehow that doesn't apply to Pennsylvania I don't understand how a state can get out of being within the evac zone.

I called off work on Monday for my own safety I had a personal day thank god so I wouldn't get pointed and than Tuesday February 7th we got a text message stating they were shut down I had to return to work on weds the 8th prior to going to work on Wednesday Tuesday night I drove out to nvr to figure out how I would get to work as the national guard had all roadways closed to get to nvr so I had to drive through road closures to get to my job that night Tuesday the 7th when I got out of my car to examine the environment I could smell the worst of smells I could still see smoke from wherever they were still burning stuff on Tuesday February 7th their was a haze fog like substance hovering over the ground from the rain or whatever it was drove home instantly had symptoms of many types which are documented at Saint Elizabeth hospital in boardman Ohio.

I was wrote off from work for symptom management that Norfolk southern never paid me for because they said I wasn't within the evac zone but then cut me a check for the days the roads were closed and said this is the best we can do and didn't even offer to pay my medical bills as they said we do not have any information on how to handle medical and to top it all off I'm 24 years old I've worked hard my whole life to get where I'm at and now I don't even feel safe at my job or work because of the catastrophe that has happened and I'm in fear of my life as I already have medical problems and with my job being so close to ground zero I have a fear of getting cancer and it's not fair.

I may have to change my whole life job career housing situation because of a train accident that could have been prevented if safety was the priority I wanted to retire at that company that was my new dream and now it's gone because of Norfolk southern.

AUSTIN DRUCKENBROD.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
 Chairperson, Commerce Committee,  
 United States Senate,  
 Washington, DC

Dear Chair Cantwell:

I live in East Palestine, 3/4 mile from the derailment. I have existing chronic health issues and extreme difficulty in detoxifying. As a result, I have what are known as "paradoxical" reactions even to vitamins and supplements. This is due to a metabolic disorder and to advance heart failure. So no, I'm not a hysterically-inclined person that reacts to about everything. However, I do have extreme reactions to many things, particularly chemicals.

So yes, I have had a number of aggravated symptoms since the derailment and toxic fires. Among them have been throat & lung irritation and occasional burning sensations . . . an extreme production of mucous . . . and exhaustion. Prior to the event, I would have to make a few rest stops when walking to town. After the event, I know have to stop several times.

My concerns are the common concerns of my entire community . . . a thorough clean-up, ongoing testing of air-water & soil . . . paid-for medical testing . . . proper compensation for losses incurred and for potential medical treatment.

However, according to my own calls, contacts and research.. we already have some definite problems in most of these areas. Dr. Beier from Pittsburgh is an authority on vinyl chloride. Her lab studies have shown liver cancers, etc. at levels lower than now considered "safe." Meanwhile, she has needed further funding to do testing here.

And, speaking of vinyl chloride a virologist contracted by Norfolk Southern informed me that vinyl chloride "metabolizes" quickly . . . so, blood detection can pose problems. Well, many of us couldn't afford proper testing there . . . and, NS is yet to step up to bat with that one. So, over a month and a half post derail . . . we'll not likely have helpful readings there.

I expand on that subject because we have definite serious issues with both medical and environmental testing. All of this testing needs to be done "independently" and not via a NS or EPA contractor. And, beyond the testing . . . any and all lab work also needs to be independent and not set at higher "safe" levels. Today, many EPA and other testing is still not done at the levels recommended by the CDC, etc. And again, NS needs to pay for proper medical testing "NOW". otherwise, the blood-urine and tissue samples of certain toxic chemicals won't accurately reflect toxic impact and potential harm.

More recently, the citizens here have shown even more concern about Dioxins. The rail clean-up and it's delays. as well as the upcoming growing season for farmers and gardeners further emphasizes that concern. Any animal testing to date has been reported as "safe" Well, that's good to hear and is likely true. for it takes time for dioxins to "bio-accumulate" in living tissues. Therefore, and given the extreme toxicity of dioxines even in minute amounts. proper ongoing testing of soils and animals will be absolutely essential.

7Robert Two Hawks.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
 Chairperson, Commerce Committee,  
 United States Senate,  
 Washington, DC.

Dear Chair Cantwell:

I'm writing on Concerning the Toxic Train Derailment that shattered life as we know it in East Palestine, Ohio on February 3, 2023.

We were relaxing after a long day, when we heard constant sirens going by our house. We looked outside to see if we could tell where they are going. From our front porch on [REDACTED], you could see giant flames and so much smoke. We could tell something major was happening so my son and I got into the car to go drive by and have a look. We could not get across town to see where the fire was coming from because a train was blocking every railroad crossing and town and stopped there. We drove to the overhead bridge at the other end of town to get across. When we got to the other side of town. It was like an Apocalyptic event.

Smoke was everywhere. Police were already going door to doors evacuating the residents that lived closest to the fire. It was enormous. A train had derailed and caught fire.

It was pure Chaos. As my son and I dove by, we heard something exploding and could feel the heat of the fire on our faces. We drove to my parents home 3 blocks South of the train tracks. From there you could really see how big the fire was. The flames were hundreds of feet high. The people in town were all coming out to watch and see what was going on. Soon the police started setting up roadblocks. I received a call from my neighbor saying we were being evacuated on our street. So my son and I made out back across town to our house and sure enough the police were going door to door telling us to leave. It was very scary and we did not realize how dangerous it was. We packed our animals and all we could grab in 10 minutes and took off not knowing where to go.

I called my Ex Mother In law and she took us in at 11:45 pm.

It has been 45 days now, and we have not returned home.

Release of the Chemicals that were still burning on the train a few days later. This resulted in thousands of gallons of highly hazardous chemicals being burned off into the air less than one half mile from My home and my parents home where I was born and raised my whole life. The evacuation this time was mandatory if you were in a one mile radius of the derailment. So everyone left.

The days after the release were full of anxiety, fear, uncertainty, anger.

How could this Happen? How could this happen to us? Our little town.

Know one knew what was going on. What was safe. What was even on the train. When we would be allowed back to our homes. If our homes would be safe to live in. The National Guard was called in to help. Media started covering the story.

After 1 day the evacuation order was lifted and people returned to town only to discover the terrible chemical stench that now lingers permanently. People started to notice chemicals in the water. Other people started noticing symptoms.

Headaches, sore throat, eyes, cough, dizziness, bloody noses, rashes. Animals were reportedly dying.

We were told it was safe to return. But it obviously was not safe.

We were given No Instructions whatsoever on what to do to clean our homes. If they even could be cleaned. Whether or not to throw away Plastics or Food. Or clean our walls and floors. Did all of the smoke and chemicals get in? No answers..

Was our air even safe to be breathing? Or our water safe to use? Are there harmful dioxins on our lawns now? Are our children safe? Will we all need constant medical testing now? Why did the have to happen? Still No Answers. . .

The town has suffered enough. Please help.

We don't want anything special. We just want our lives back. We want our kids to be safe walking to school. We want our homes to be safe. We want our water tested and our soil and air. We want our health screened. Our home values guaranteed. Or relocation for families that no longer want to live there.

This has taken a Major Psychological toll on the residents of East Palestine, myself included. Norfolk Southern needs to be held accountable.

MARCIA GRIFFITH.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

We moved to East Palestine in August. We moved into my fiancé's home that he has lived his whole life. His grandfather passed away so his parents moved in with his grandma who needs full time care because of dementia. They have slowly been moving their belongings that have been there for 40+ years into his grandmothers. My fiancé moved out a little over 5 years ago for the first time ever because we met and were having a baby.

Fast forward we (fiancé, 4yr old daughter, 13m daughter, and I) moved into his home that still had majority of stuff there. We have been working very hard to organize and make this our forever home. We were doing to rent 2 own. He was so excited to have his children grow up in the exact house that he had; show them his toys as a kid, etc. We have put a lot of work into the home because I wanted to live in a more modern home. There was an issue every time it would rain, the basement would flood. Now that I've seen all the dead fish/animals dying i'm worried the chemicals have entered through the basement.

The night of the derailment I heard a noise and yelled down and asked them what that was, I had the music on and couldn't tell where it was coming from and then he ran up to get me and told me what happened. He ran outside and called his family and we could see tons of cars trying to escape town. We got an alert on our phone saying to leave if you're in one mile of a location (which we were) we grabbed a couple items and went to new Waterford to his parents house.

We wrapped the girls faces up with masks and scarves as much as we could. We grabbed very little compared to what we have here now. I work from home and grabbed all the paperwork incase I couldn't go back.

On Saturday the 4th I went home and cleaned and all that until Sunday afternoon. When I arrived Saturday night the smell was very strong. I couldn't smell anything the next day but everyone who came into town said they could. So I think I became used to the smell and didn't notice as much. They closed school for a week and then claimed it was cleaned top to bottom and school would be open. I was terrified on what to do, but my fiancé said she was going.

It seemed like everyday there was news that it was worse than what they were making it out to be. Both girls had rashes, violently puking, i had a migraine, one of my girls ended up having periorbital cellulitis in her eyes and we have all been sick since with a common cold i'm guessing but for me it has lasted this whole time.

We just grocery shopped on the 1st and spent almost 300, so all of that was then thrown out. We have been back for a few minutes grabbing items and went to abundant life to collect our "inconvenience check" and the man told me that we were not home by "choice" and since we haven't had our air tested they could no longer help us.

I haven't worked at all since we left and my fiancé worked maybe 2-3 times. He can't leave the sight of our girls or they get scared and scream and cry. We already tried calling to get our air tested. The people had no clue where the mile was and no one said they would come test.

After abundant life we called the number to get our air tested, left voice-mails, received one phone call back to get info (same info we left on a voice-mail) and never received a call back. We tried calling again and couldn't get through. There was a new number so we called it and told them we've been trying and the lady said the number was down and to keep trying, which we have. 43 days later. . .still not a phone call back.

We have changed our furnace filter a few times(keeping the old ones) got an air purifier and a dehumidifier. So that's been plugged in over a week now.

We're just at a loss.

I have seen people on Facebook say they're still getting help from abundant life but we haven't went back because we can't get anyone to check on our air. His grandma is so confused as to who we are, she doesn't think this is her house, and it's very sad and uncomfortable and not something my kids should be dealing with.

Everyday we keep saying we're going back but we never do-i would never forgive myself if something happened to my children because we brought them home. If they would've been straightforward and honest with us from the beginning than i wouldn't be as scared. But I feel like they minimized the situation and said there's nothing to worry about once they lifted the evacuation and everyone's air is fine.

Until a different company does testing and says that they lied. I'm at a loss on what to do and i'm terrified.

Not only my little family, but i feel bad for his parents taking over paying their money on the their own bills, while the value of their house had decreased significantly and i don't want to bail on them and back out of our word. I wish they would just demolish the houses within a certain area and rebuild everything brand new. They're worth so much, I'm sure a new park and all they've done to "help" will be nice for someone, but my family isn't benefiting from it. We've been stuck in a basement with two kids that want to go home. My 4 yr old has turned 5 and we couldn't have a party. I have a video of her crying because she wants to go home. It's not fair to anyone. We just want life back. We are running out of funds, thank God it was tax season, but that money is gone now too..

CHELSEA FALOBA.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

My name is Diana Holzer and have lived in East Palestine, Ohio my entire life. My husband Anthony and I have been married for 52 years.

We have two grown children who are begging us to leave East Palestine. . . ever since the train derailed and contaminated our village.

I am also a Registered Nurse and very concerned about the lack of cooperation among the NS Railroad, the state and Federal governments, the politicians and health and environmental organizations.

I cannot believe there is no one who has the power to have the contaminated soil removed immediately.

I would love to offer a serious invitation to all of you, in power, to pack a bag and come and stay in our village until this mess is cleaned up.

Norfolk Southern is first to blame but it appears that GOVERNMENT has NO power to force a business to clean up our disaster that is destroying a town. How about shutting the railroad down?

I would like to suggest a PERFECT PLACE TO STORE THE CONTAMINATED SOIL . . . THAT PLACE WOULD BE ALL ALONG THE OPPOSITE SIDE OF THE RAILROAD TRACKS THAT RUN THRU EAST PALESTINE. BLOCKING THE TRACKS, LEGALLY, RIGHT, WOULD CERTAINLY GET BOTH GOVERNMENT AND RAILROAD OFFICIALS ABLE TO FIND A PLAN TO HELP US. YOUR CONCERN IS LOSS OF MONEY . . . SAME CONCERN FOR EAST PALESTINE, IN ADDITION TO DESTROYING OUR FUTURES BY FORCING U.S. TO LIVE IN A NOW CONTAMINATED TOWN.

Why does it take a Senate hearing to do the right thing?

What would you all want done if this were your town . . . or YOUR CHILDREN . . . OR GRANDCHILDREN.

I know you have the power.

Moving the contaminated soil is just one issue . . .

Restoring our town, restoring our property values . . . praying to our God that no one . . . not one person, suffers any health effects from the negligence of the Railroad.

Please . . . please do the right thing. DO NOT MAKE THIS A POLITICAL GAME. . . YOU WERE ELECTED TO PROTECT THE PEOPLE IN THE UNITED STATES.

DIANA HOLZER.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I am so disappointed in our representatives. I would have never believed the damage one person can do Allen Shaw and the overall protection he has been given by our government. We have been lied to poisoned by chemicals they won't even admit was aboard these trains.

First I believe Allen Shaw should be arrested. Second I think the hauling of any chemical should be on board is chemical engineers not just folks picking up and dropping off isn't OSHA in this anywhere or are they being paid off like EPA is. We deserve to know what exactly was in these cars so we know what our life expectancy is and health concerns.

I lived in Aliquippa PA was driving for Lyft and Uber. Burning in my throat my lungs and migraines as well as other symptoms. I packed what I could get in my car and fled the area to Texas. Because of this tragedy I am homeless and trying to get energy enough to work. I am devastated and not the only one.

How dare our representatives have so little care for human life that they would not protect us in any way or even come to our aid once it happened or now.

I have covered this situation doing everything I can to inform others since this has a major cover up involved. I share on my Tictoc Cynthia.Burton. I am an advocate for others and will stand for others and myself till my last breath.

How dare you think for one second you have the right to do this to us our environment and generations to come, shame on all of our representatives and Allen Shaw. Thank you.

*Cynthia Burton*

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*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I was ready to go to bed about 9:00 on Friday night when I looked out my dining room window and saw a huge fire. It looked so close because of the size of it but I didn't know what could cause such a tremendous amount of flames. I went out on my porch thinking if I could smell the fumes then it was very close. But I didn't smell any odors. I went inside and video taped long enough to send the video to my sons in Columbus.

I don't do social media so I contacted a friend that told me what had happened. I stayed in my house watching the fire and turned on the 10:00 news. Once I heard what happened, I quickly called my other son closer to the fire than myself. I pleaded with them to evacuate, which they did do once they were told by responders.

We all left town until we were told to come back.

I have had a tremendous amount of anxiety over all of this. I have suffered PTSD. I am on a Beta Blocker for anxiety and have been seeking mental health services. I have left town every weekend so far, but 2. I was afraid to leave those two weeks because I was getting dizzy spells and suffered a fainting spell.

I am hopeful to sell my house in the spring to summer, but would feel more secure and safe to go outside in a different place than East Palestine. I can't get past my insecurities and don't feel safe in my house. I am within the mile radius of this wreck.

MARY A FALCONE.

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*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I live 4 miles from the train derailment. I own 80 acres of farm land that has been in my family for 4 generations and my wish is to pass it on to my sons and my grandchildren. I don't know now if the soil is safe for farming, will the crops grow and be safe to use. I wish I could get on going soil testing but haven't had a single test yet. Is the water safe to use, we are on a well.

I took care of my Dad for 4 years, When he died I was hoping to built a house on the property, right now we live in a 50 year old mobile home. I'm wondering if I should build somewhere else now but if I do what would I do with my farm. I just want to know we are healthy and our home is safe.

APRIL RUMMEL.

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*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

Feb. 3rd, 2023 . . . It was just another Friday night . . . or so I thought . . . I was sitting on the couch with my cat on my lap, watching tv, when the local news came on with the headline story, which was a train derailment in East Palestine,

OH. There wasn't a lot of information about it that night, but on Saturday more information came in and it wasn't good. I felt really sorry for the townspeople and the emergency responders but I didn't realize just how much it was going to affect me because I was 6.4 miles away in South Beaver Twp., Darlington, PA.

On Sunday morning (Feb. 5th) I woke up and instantly knew something was wrong. There was a STRONG smell of chlorine in my bedroom. I have a bucket of chlorine pool tablets stored in my garage at the other end of my house but they are securely stored in a bucket with a tightly closed lid. My eyes were sore and stuck shut, my nose and throat were sore. As the day passed I developed a headache and a dry cough.

On Monday morning Feb. 6th there were constant phone calls from my adult children and my friends warning me of the impending detonation of one of the toxic cars. They were begging me to leave my home and take my cat with me because they feared for our safety. I left home at 3:45pm with my cat. When I reached my friend's house in Freedom, PA I found out that the plan was to detonate all 5 cars, not just the one. On television I saw radar tracking the giant black cloud and it looked like it was spreading toward my home.

I returned home the next morning at 10:30am to discover a strange chemical odor in my garage and my house. My headaches returned and so did my dry cough. I also developed a patch of red itchy dry skin on my left forearm. The headaches are on and off to this day as well as hoarseness.

I changed my hvac filter on Dec. 30th, 2022 and it is only supposed to be changed every 3 months. I was told to change my hvac filter on Feb. 19th by my son. He told me to change it once a week I change it every 2 weeks and that is Very expensive to do! On Feb. 23rd my son installed a Pur water filter on my kitchen sink. He started coughing and choking when he entered my garage. He said that my house still smelled like chemicals.

On Feb. 24th I called my pcp for a checkup. On Saturday Feb. 25th my next door neighbor had to evacuate because she was diagnosed with chemical exposure. I went to my pcp on March 1st for my checkup. He ordered a chest xray and blood tests for toxins. I now have to pay \$20 for the xray.

On March 5th I noticed a rusty residue on my pool cover. I have owned a pool since 1996 and NEVER have seen anything like that on my pool before! I Wish I could send pictures of it with this testimony.

On March 6th I changed my hvac filter once again and went for my xray, blood and urine test. One test result was positive for a UTI and I have Never had one of those before. I am awaiting final results of the other tests.

I sent pictures of my pool cover to the PA AG's office, to the EPA, the DEP, and to the Dept. of Agriculture. They are Very interested and are in contact with me. They are only starting to test wells and soil in the 2 mile range for now. But the DEP rep has told me to call him back in 2 weeks if he doesn't contact me by then.

On March 14th the section director of the Environmental Crimes unit of the PA AG's office came to my house to personally discuss how the derailment has affected me. I now have to pay for a well test and a pool cover water test. I also purchased 2 ice/water filters for my refridgerator and 4 More hvac filters on March 17th. A \$150 expense I didn't really need..

My daughter visited me today (March 18th) and she developed a runny nose, a cough and tightness in her chest. She has asthma and said that it was like a small asthma attack. My late husband and I built this house in 1989 and we raised our children here with good well water that was drinkable and clean fresh air. I honestly don't know if I will be able to even have a Normal summer with friends and family gatherings around my pool, and it makes me so sad.

ROSEMARIE LESLIE.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I live in Austintown and am not directly affected by the disaster, but would like to be an advocate for those who need help now and in the future. We have seen too many incidents where innocent people are hurt by corporations and businesses who ignore safety regulations and make ignorant, reckless decisions regarding our environment.

ANNE DAVIES.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
 Chairperson, Commerce Committee,  
 United States Senate,  
 Washington, DC.

Dear Chair Cantwell:

We need medical testing now. If everything is all good why are we still experiencing, headaches, sore throats, sinus problems? I don't and won't drink the water! We have not seen honesty from day one. Supporting the school and throwing money around to the village officials is not helping the citizens. From the politicians to the EPA, I feel we get nothing but lies. Thats not helping!!!Soil testing is only being done in common areas. I don't live at the park or near the school. We are strictly in residential area.

GERALYN COBLENTZ.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
 Chairperson, Commerce Committee,  
 United States Senate,  
 Washington, DC.

Dear Chair Cantwell:

Until the derailment in east Palestine on February 3, I was running a very successful Airbnb business on my 8 acre mini horse farm for the past 6 years.

I offered several options to experience farm life, such as a little cabin, a room in my barn, a camp spot or the entire lower half of my home.

People came from all over to my place to experience the country lifestyle, fresh air, organic gardening, and my breakfast with farm fresh eggs.

I offered Horseback Riding, treats for people to feed and interact with horses and sessions in an infrared, sauna.

I partnered with Snail Club to offer guests a free picture of themselves at the farm sent to their home to remember their trip.

I took pride in the details of building my business to share my lifestyle with others and earn a living at the same time.

It was also an asset to the community, as I would direct people into town to the local shops and restaurants.

Very few people have booked my place since the accident. Everyone who booked into the summer have canceled.

Everyone in the community has been affected differently but in some devastating way. The long-term effects of our soil and water that's a whole other issues of concern. It'll be a long time before our little community rebounds from such a disaster.

MICHELLE GRAEF.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
 Chairperson, Commerce Committee,  
 United States Senate,  
 Washington, DC.

Dear Chair Cantwell:

1. Independent scientist to do proper testing
2. Immediate relocation for people within 5 miles
3. Long term and short term medical monitoring
4. Proper disposal of soil

JAMI COZZA.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I feel very fortunate, other than the immediate displacement during the derailment I have experienced no health issues. My concern is for longer term monitoring and maybe an established baseline for all residents in the immediate area. What recourse would we have in ten years if we sustain injury then stemming from this incident, a long term health monitoring system I believe will help.

DWAYNE STUCKEY.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I am very concerned for the safety of my family and our health. I have a child afraid to be at home, "I catch everything (they said) . . . I am going to get cancer and die from this."

My husband and I work in education. We have four kids. I love our little home and this town. I do see the good things being done, however, right now we have urgent things we should have access too.

We need free blood test immediately, that test for specifics to this derailment, not just basic blood work. We need more and different ways to test the air, water and soil, that are cohesive to what the universities (and others) are using to get the real picture.

I feel people should be allowed to relocate for a year (not just lodging) with all expenses paid until we can get a real picture.

More needs to be done for the home owners, we cannot afford to pay three to four times our mortgage elsewhere. It's not just property value, it's the cost associated with having to live elsewhere. We are making health decisions based on our own personal finances.

Our monthly expenses have gone up, and personal cost to homeowners, renters and business owners. It's more than just being reimbursed. Let's put people first and do the right thing now.

REBECCA MCELROY.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

The train derailment has upended our lives, dealing with constant headaches, sinus issues, nose bleeds, and an all around general feeling of "not feeling well".

We live outside the town of East Palestine, with in 3 miles of the wreck site. It's crazy to think the "experts" say the only area that this wreck has effected is 1 mile. We have been asked to get blood samples and urine, but no one in our medical community knows what tests to order nor what to look for. (even though we have provided the chemical list to them).

We have a well and some ground on our property that we don't know if they are safe for our animals or children. Even the local well companies have not been able to confirm what tests to complete.

I also am a small business owner. I have seen my local/daily work slow to a crawl since all the activity in East Palestine. Its extremely difficult to reassure my family that its going to be ok, simply because I don't know that answer.

Every step we have taken to ensure we are safe and healthy has led us to a dead end.

I have watched the hearings with the Alan Shaw and he has done nothing to reassure our whole community will be made "right". I feel we have been left in the dark to fend for ourselves.

As a business owner, property owner, father, and head of my household. . . . It would be nice to have reassurances that Norfolk will actually do what is right for all our communities. This accident would of never happened if the company operating the train would of done the maintenance and inspections necessary for a safe operating transportation vehicle.

I am an United States Airmen by trade. I have seen what can happen to an airline who disregards safety. There have been cases where a mechanic has been put in jail for not doing their job correctly. Railroads haul millions of pounds of cargo and subject millions of citizens to that cargo. There should be no difference in the safety protocols. Period!

DAVE PRIESTLEY.  
*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

Since the derailment, I have been having a great deal of difficulty sleeping and am very jumpy when I hear sounds. I live 18 miles from the derailment. Having seen the video from both the Freshmark and Butch Bliss security cameras, I am constantly afraid when I hear a train whistle thinking that this time it will be us. I am also concerned that I should not buy any produce or meat from local growers.

I am closely following Salem's water readings. I attended the first presentation by Erin Brokovich where I had to stand outside for two hours before being allowed into the auditorium. I have had a sore throat and feel quite tired ever since that.

Something must be done to be certain this does not happen again. Sebring, Salem, Leetonia and Columbiana could easily have been ground zero for this derailment. Are we next? Will we still be affected????

MICHELE WEAVER.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

My name is Brandi Foster, my family and I are lifelong residents of East Palestine. We are located 3 miles north of the derailment site. At 3 miles we absolutely have felt the effects of the derailment and toxic chemicals.

Upon returning home after the burn we had soot and ash over our home, vehicles and ponds. Our furnace filters were covered with black soot. We have experienced headaches more often than we ever have, I myself had chemical pink eye within days of returning home. My son has daily headaches and eye watering, this has never been an issue prior to the derailment.

We absolutely need increased rail safety. It is heartbreaking that our little village was the site of this catastrophe but truth is this could have and can happen anywhere. We must improve safety requirements. We must put people over profit.

As I said we are at 3 miles which means Norfolk Southern has deemed us ineligible for relocation reimbursements. Only allowing inside city limits to temporarily relocate. We are East Palestine residents. This is our community. This has turned all of our lives upside down.

We all know the toxic chemicals did not know to stop at 1 mile or to stay inside city limits. When the odor is bad in town we know. We can smell it at 3 miles away.

We need to know that we all matter! Every. Single. One. Of. Us. Not only to Norfolk Southern but to our Federal government!

As property owners we need options to leave if that's what we choose to do. As of now we are forced to choose between the safety of our families and financial ruin. Money. . . if we walk away from our homes we loose all we have worked for. To find homes in other areas the cost is more than most of us can afford. If we stay we are putting our families at risk of this prolonged exposure.

We need to feel we are getting true answers. Due to the delayed response from our government and not the whole story from Norfolk Southern we do not have faith that we are safe. We don't know who to believe, only our gut instincts to go on and mine says if it doesn't smell right it isn't safe.

We are all East Palestine residents no matter where we are from the site and the fact that Norfolk Southern was allowed to deem who and what zone could relocate is keeping most of us feeling like hostages.

BRANDI FOSTER.

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*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I am a concerned parent and resident of East Palestine. My son and I chose this town as our forever home about 5 years ago. We have loved every minute of living here until February 3rd 2023. Then our lives were flipped upside down. My stress and anxiety levels have skyrocketed, my son is afraid to play outside at times, and I worry about our health every time my son and I walk into the schools each day. My friends and family from Michigan pressure me often to pack up and move out of East Palestine.

Before the derailment I couldn't imagine raising my son somewhere else. It completely breaks my heart that our small community has been impacted like this, due to something that could have been prevented. It now crosses my mind more than ever that we may eventually have to leave this village.

I had so many future plans for us that required us to live, work and go to school here in EP. Those futures plans are now in jeopardy of being cancelled. We made our lives here, planted our roots here, established my family here (friends that are our family), and am an active member of our community.

I want our lives back, I want to know for certain that living here in East Palestine is safe for us, I don't want to leave.

DANIELLE BUBLITZ.

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*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

My family and I live on East Martin Street, less than 2 blocks from where the derailment happened. I witnessed the actual explosion when the derailment happened. It was unlike anything that I have ever seen. We also watched from our front porch the train cars catching fire, one by one. I've never seen flames move that quickly.

The derailment happened at 9:30 pm, by 11:30 pm we were being told by law enforcement in cruisers using their loud speakers and then law enforcement walking on foot, that we had to evacuate. We were fortunate enough to be able to stay with family until the evacuation was lifted.

On Tuesday, February 15th we went back home. Our neighborhood smelled terrible. My husbands place of employment is also right beside the tracks. He is having some health problems from being in the area all day. He now has chemical bronchitis which he has to use an inhaler for.

Changes need to be made on how this chemical is transported. It should not be allowed to travel through places where people live. The speed at which the railroad had those tracks replaced and the train running was just a slap in the face to everyone that lives in East Palestine.

Profit over safety—they should be ashamed.

TABITHA COOK.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

I don't think the railways should be hauling hazardous waste through towns in the first place. Then to find out they had plenty of desolate areas where they could have stopped, knowing there was a problem, is a problem with me. I have a compromised immune system and we've been told they found benzene in our outdoor spigot. We have to shower elsewhere. This is a big inconvenience. I have a deep chesty cough that will not go away and have had many headaches. I think that instead of sending \$331M to Ethiopia, the funds should have been spent in our own country not just on the oil spill but what about our veterans. This government sucks.

LORI DAUGHERTY.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

My name is Jenna Harris. My family and I live approximately 4.5 miles away from ground zero. We had our well water tested on February 23rd, 2023. On March 14, 2023 the Columbiana County Health District called to let me know that they had detected a chemical in our well called bis-2 ethylhexyl phthalate. They also said that it was within levels that they felt it was safe. Upon receiving the results, levels of benzene were also found.

I personally went to the Norfolk Southern Family Assistance Center on March 16, 2023 to show them the results and to ask how they would be helping my family. They told me not to drink our water and they had bottled water for me to take home. Also, they said if someone from Stantech did not call to discuss the results by Sunday to call back. I called Monday because nobody called me to discuss results. I got hung up on twice by the Norfolk Southern phone representative.

Stantech then called me that afternoon and said our well was clean and results were good. I explained I had results from the county health district and the results were not good. Stantech representative was shocked. He said he would call back to schedule another round of well test samples. I called and spoke with another Norfolk Southern representative this morning March 21, 2023, explained the situation to him. I am still waiting to hear back from him.

I am deeply concerned for my family and our health, both acute and long term due to the chemical exposure in our water and air. We need help. Thank you.

JENNA HARRIS.

*Mar 21, 2023*

Hon. MARIA CANTWELL,  
Chairperson, Commerce Committee,  
United States Senate,  
Washington, DC.

Dear Chair Cantwell:

My name is Ashley Murphy and I am a lifelong resident of East Palestine. I grew up in East Palestine going to preschool at the Methodist Church, going through school in the East Palestine school district and graduating in the class of 2006. When I was picking what college I wanted to go to, I picked on that was close enough for me to be able to still live in East Palestine and commute. Many 18 year olds are waiting for the day they get the opportunity to leave their hometown and adventure somewhere new, but not me. I have always wanted to stay and live in my hometown and eventually raise a family here. East Palestine is a place with amazing people who really care about the town and have been working hard to build it up to its glory again. There is so much history that this town holds and will continue to make.

Not only am I a lifetime resident of East Palestine, I am also a teacher at East Palestine Elementary School and the East Palestine High School girls and boy's tennis coach. Ever Since I went to college to become a teacher, I have always wanted to work at the school that I went to. It was my time at East Palestine Elementary School that made me what to become a teacher. When I had to opportunity to become the high school tennis coach I was happy to be part of my school again. At the time, I was not teaching in the school district but by goal was to one day have to opportunity to become a teacher in the district.

This school year, I was able to earn a position in the school district as an intervention specialist working in the elementary school. So this year is my first year teaching and my third year as girls and boy's tennis coach in the district. I have been working hard to grow the tennis program here and I went from having 8 players to 13 this season!

For years, I have been working hard to finally reach my goals of owning my own house, my professional goals and in coaching to have it possibly taking away because a train company wanted to save money and not do proper safety checks or because the government of the country I live in don't want to have stricter railroad guidelines?

The night of February 3rd, 2023 is a night that changed many lives forever. The feelings that I felt that night and the days after are ones that no one should ever feel in their lifetime. Going from having dinner with friends talking about our week to the next second running out of the restaurant to wondering if you were going to be able to get home and what was going to happen to your town. I will never forget seeing the fire from state route 14 and thinking that this could not be real. Then driving down marking into town and when I hit the first red light at North West Ave which is near my house, the feeling of your heart falling into your stomach because all you see is a tanker car siting stopped at the main railroad crossing and just realizing how bad this could be.

Thankfully, I had a place to go to be safe while the firefighters were doing their job but I don't think anyone from town could sleep that night. Hearing sirens all night, jumping at every little sound you heard or waking up suddenly wondering if our town and houses would be there in the morning.

No one should have to feel scared or worry about the town that they live in, the house that you own and live in or that your possessions that you cherish will be there when you wake up. To make things worse, we wake up and our town and houses are still there but then we find out that toxic chemicals and oil were dumped into our ground. Then to top it all off, we were evacuated for the chemical release to happen to put chemicals and dioxins into the air and soil.

I understand that accidents and natural disasters happen, but when something like this happens because things were over looked by a company that obviously cares about money in their own pockets rather than the people of the towns that their trains are going through. If a company does not even care about its own workers that help make their company successful, why would they care about anyone else?

Norfolk Southern has made a HUGE mistake and we were the unlucky town who got caught in this mistake but we WILL NOT and CAN NOT let them get away with this. All we can do at this point is fight for what needs to be done with our town to make sure that it is safe for us and our families for years and years to come.

East Palestine deserves to thrive and grow as it was before the derailment happened, it does not deserve to disappear. It makes me angry that Norfolk Southern CEO would not show his face to the people of this town until weeks later and only on TV. Every single person that has been affected deserves an apology face to face from him!

We all know that Norfolk Southern are going to do everything in their power to save as much money as they can and in the end the people of East Palestine are going to be the ones hung out to dry.

Norfolk Southern CEO and the other high ranked people don't care about what we have to deal with daily now.

They get to go home every night and not have to worry about if their family is safe or if they will be safe five or ten years down the road.

They don't have to worry about losing property value on a house that you worked hard to get, put money into to fix it the way you wanted and to look nice and put your hard working money each month into.

They don't have to worry about those toxic chemicals and oil getting into your wells and contaminating your water.

They don't have to worry about if it will be safe to take a bath or brush your teeth with the water one day.

They don't have to watch an air purifier throughout the day to see if the air is clean.

They don't have to worry about getting medical tests done years to come to see if this accident has affected your future.

Nothing will be able to take that fear of the unknown away and living daily with worry is tiring. Norfolk Southern CEO gets to go home with no worry about safety of his life or his future. Instead, he approves plans of just coving up contaminated dirt so he can get his trains running like we wouldn't notice. This just proves that he never really cared about East Palestine or the People in the town.

In the CNN town hall meeting when he was asked about the plan to cover up the dirt to put the track down, he stated that it was the company's environmental person who came up with it and approved it. . . . . I never went to college for science but isn't it common sense that if chemicals and oil get dumped all of the contaminated soil would have to be removed or it would still be there?

They keep stating that they are helping . . . . . are they passing out money and making it look like they care? Yes. But, not once have I heard how they are going to be helping me get my property loss back to a house that I now and will ALWAYS own!

On top of the fear of safety and my health, I have to worry about keeping my job as a teacher in the school district. Norfolk Southern needs to take all of the necessary and extra measures to make the people of East Palestine feel safe to stay and live her to make sure that the school can survive. This is my 9th year teaching and I finally got a teaching position in a school district that I want to retire from. I absolutely love my job, co-workers and all of the students. I love the facts that I can teach and coach all for the same school that I graduated from. My dream has come true!

Then the derailment happened.

Many people with and without kids are still questioning the safety of the town still to this day. If they do not take ALL necessary steps to make it safe, how are we supposed to keep this town alive along with our schools? No teacher in the district should have to worry about losing their job as a result of this derailment and Norfolk Southern greed for money over safety. Once you find your dream school district to work in, you shouldn't have to worry about losing it over something that wasn't in your control. This school district should not have to worry about losing students or sports games being forfeiting because of Norfolk Southern mistake. We have already suffered enough, the students and teaches should not have to suffer more!

Norfolk Southern needs to be held 100 percent responsible and to be held accountable to make the necessary changes and testing for years and years to come. They need to pay for medical testing now and in the future. I think that it is ridiculous that were told that we needed to get testing done but it would be going to cost thousands of dollars that we did not know if we would be reimbursed for. Then, to find out that if you did want to spend the money to get done, you were told that they are not allowed to conduct those tests anymore. I think that it is very fishy that Quest Diagnostic did that testing prior to all of this and when the testing results would hurt Norfolk Southern, all of a sudden they don't do it. Then when you look at who has stock in Quest Diagnostic you see that it is the same people who have stock in Norfolk Southern. . . . . NOT A SURPRISE!!!!

The United States government needs to stand up for THE PEOPLE of the United States and NOT big money companies. People should be more important than money and companies.

Norfolk Southern should have to continue to test the air and soil quality for years to come. They should have been doing soil testing way before March. They should have to put in underground filtration systems to make sure that the toxic chemicals and oils stay out of our water supply in the City of East Palestine and the wells in Unity and Negley. They need to continue this for 5-15 years down the road. Norfolk Southern make the mistake and now they need to make sure it right even if it takes 20 years.

The government also needs to look at improving rail safety. The people of East Palestine are stuck in this situation and have to fight everyday but we can also fight to make sure that this does not happen again! The people of East Palestine are grateful that this did not happen seconds before because this whole situation would have been so much worse!

Trains go though and past so many towns in America, the restrictions and safety measures need to be stricter. Trains should be a fun and enjoyable things for adults and children. First of all, Trains go way to fast through towns like East Palestine. There are multiple times that I have sat at the railroad crossing and with the train speeding by and seeing the carrier boxes shacking. There were many times I

thought about what would happen if the carrier boxes did tip over but never really figured it would really happen. To drive a car in downtown East Palestine, the speed limit is 25 mph. If cars can only go 25mph, why do trains carrying toxic chemicals and other materials get to go any faster?

Secondly, the train company to have some kind of system to communicate what are on the trains that go through the towns so first responders know what they are fighting if this happens again. The East Palestine and all of the other fire departments risked their lives not knowing what was in the train cars.

Third, safety checks and maintenance checks needs to be sticker. This should never have happened if good maintenance was done. Trains should be checked multiple times to make sure it is safe. Norfolk Southern needs to put safety as number one priority or shut the company down. If restaurants do not keep their kitchen up to code, they get shut down but the train companies can do what they want and break all the rules but nothing gets changed? Why is it that everyone in America has to follow laws and rules but Norfolk Southern doesn't?

To the United States Government, please stand up for the people of East Palestine and the people of the United States! Do not allow big money companies like Norfolk Southern put our lives in jeopardy in order to put money in their pockets!

Make them do what is right for the people of East Palestine.

Make them put in underground water filters to make sure our water is safe.

Make them pay for medical testing and medical bill if our health is affected.

Make them listen and follow stricter safety rules and maintenance.

Make new train regulations and lower speed for trains through towns.

Please make something good come from this horrible mess that has already affected so many lives and will continue to affect for year to come.

ASHLEY MURPHY.

Chair CANTWELL. The hearing will be open for two weeks. The Committee will be accepting comments on the Brown-Vance legislation and other proposals to advance rail safety.

The Senators will have until Wednesday, the 5th of April at noon to submit questions for the record to the Committee. The witnesses will have two weeks to respond to those questions. OK, we are standing with those dates. We are—the Committee is adjourned.

[Whereupon, at 2:19 p.m., the hearing was adjourned.]



## A P P E N D I X

AMERICAN CHEMISTRY COUNCIL  
*March 21, 2023*

Hon. MARIA CANTWELL,  
Chair,  
Committee on Commerce, Science, and  
Transportation,  
United States Senate,  
Washington, DC.

Hon. TED CRUZ,  
Ranking Member,  
Committee on Commerce, Science, and  
Transportation,  
United States Senate,  
Washington, DC.

RE: Hearing on Improving Rail Safety in Response to the East Palestine Derailment

Dear Chairwoman Cantwell and Ranking Member Cruz:

On behalf of the American Chemistry Council, I would like to thank the Senate Committee on Commerce, Science and Transportation for holding this hearing on Improving Rail Safety in Response to the East Palestine Derailment. The tragic events related to the derailment and the impacts on the community of East Palestine, Ohio have understandably raised questions and concerns that this hearing can help to address.

ACC shares the Committee's goal to advance transportation safety and protect public health and the environment. We also share the Committee's gratitude to the emergency responders, government officials, and rail workers for their tireless efforts responding to this incident.

ACC represents the leading companies in the business of chemistry. Our members apply the science of chemistry to provide innovative products and services that make people's lives better, healthier, and safer. As a \$517 billion enterprise, the business of chemistry is a key element in the Nation's economy and a major user of the U.S. freight transportation system. ACC and its members are committed to the safe transportation of hazardous materials throughout the supply chain. As part of Responsible Care®, the chemical industry's world-class environmental, health, safety and security performance initiative, our members have invested billions of dollars in training, technology, and packaging safety.

Chemicals are essential for growing food, protecting the safety of our water and food supply, producing energy, and making life-saving medicines and equipment. From farms to factories, more than 25 percent of the U.S. economy and 4.2 million jobs depend on chemistry. The nature and properties of chemicals, including hazardous materials, are typically the very thing that makes them useful. For many critical uses, there are no suitable substitutes that can provide the same measure of performance. We ship chemicals because the country needs chemicals to support virtually every aspect of daily life.

Railroads are vital to the safe transportation of our products. As stated by the Federal Railroad Administration (FRA), rail is recognized as the safest land-based mode to move large quantities of chemicals over long distances. Mainline rail accidents are down 44 percent since 2000, and rail accident rates involving hazardous materials have declined by 78 percent over the same period. But the East Palestine incident is a strong reminder that more work is needed to improve safety. We should carefully examine the factors that contributed to this derailment and other rail incidents and review the emergency response procedures so we can learn from them.

Safety is a shared responsibility between railroads, shippers, and equipment suppliers, along with the Federal government. ACC supports a multi-layered approach to hazardous material transportation safety. This includes a range of measures: first, to further reduce derailments and other accidents; second, to minimize the risk of a rail accident resulting in the release of hazardous material; and third, to strengthen emergency response and mitigate the impacts of any hazardous material incident that does occur.

ACC supports the legislative intent of the Railway Safety Act of 2023 (S. 576) and other proposals to further improve the safety of the Nation's rail network, reduce hazardous material risks, and enhance emergency response capabilities. ACC welcomes the opportunity to work with the Committee as it further develops and refines rail safety legislation.

The following sections highlight specific priorities that ACC supports so that chemicals and other hazardous materials can be transported from where they are produced to where they are needed—safely and without incident.

#### **Establishing Federal Standards for Railcar Defect Detectors**

The rail industry and Federal regulators have long recognized the risks posed by defective wheel bearings. Railroads have voluntarily installed wayside defect detectors and have committed to do more. Following the East Palestine derailment, increasing and improving the use of these technologies should be a top priority.

ACC supports the development of Federal regulations for railcar defect detectors. Such regulations should address the frequency and placement of detectors, standardized criteria for triggering an alert of a potential failure, and appropriate actions to be taken by the rail crew upon receiving an alert. Requirements should be developed through a Federal rulemaking process, be risk- and performance-based, and allow for continued technological progress and advancement.

#### **Improving Tank Car Performance**

Chemical shippers own or lease the rail cars used to ship their products, including tank cars equipped with special safety features to help prevent the release of hazardous materials in the event of a rail accident. Tank car performance is critical to the safe transportation of these materials. Shippers have made significant investments in recent years to upgrade their fleets and will continue to do so.

Shippers and tank car owners are in the process of upgrading tank cars used to transport Class 3 flammable liquids, replacing cars built to earlier DOT standards (DOT-111 cars) with cars built to newer standards (DOT-117 cars). Current law mandates a commodity-specific phaseout schedule based on risk-based priorities and railcar production capacity. For Packing Group II and III flammable liquids other than unrefined petroleum products and ethanol, the current phase out deadline is May 1, 2029.

ACC supports an earlier phaseout deadline. However, we believe that a proposed 2025 deadline is simply not feasible based on the rail equipment industry's capacity to manufacture new cars and retrofit existing cars to meet DOT-117 standards. This could undermine the ability to supply critical materials used to produce food, fuels, pharmaceuticals, and construction materials.

Congress established the current 2029 deadline after extensive collaboration with industry partners and a review of all relevant data. ACC supports a similar process to establish a new deadline based on current data.

#### **Supporting Emergency Responders**

It is critical that emergency responders have the information, training, and resources they need to respond to a rail incident, particularly one involving hazardous materials.

Chemical shippers comply with a multitude of Federal regulations, including Pipeline and Hazardous Materials Safety Administration (PHMSA) rules for shipping and communicating about hazardous materials. In addition, ACC members support communities and local emergency responders through the CHEMTREC® and TRANSCAER® programs that provide resources and training to respond to hazardous material transportation incidents. This includes immediate critical response information about chemicals and hazardous materials.

Following the East Palestine derailment, Ohio Governor Mike DeWine raised concerns that state officials were not provided specific information about the hazardous materials transported by rail through the state. In fact, most trains carrying hazardous materials do not meet the statutory definition of a high-hazard flammable train (49 CFR 171.8) and, therefore, do not trigger Federal requirements for railroads to report specified information about these shipments to State agencies (49 CFR 174.312).

ACC supports expanding information sharing requirements to a broader range of hazardous material rail shipments. DOT should develop risk-based criteria for additional hazardous material shipments that would be subject to the information reporting requirements currently applicable only to high-hazard flammable trains.

In addition, ACC supports fully funding PHMSA's Hazardous Materials Grants Program. The grant program is funded by hazardous material registration fees paid by both shippers and transportation carriers and supports emergency response planning and training activities. However, the current fee structure currently raises only

approximately \$23.6 million while the Infrastructure Investment and Jobs Act (IIJA) increased the authorized level of the program to \$46.8 million.

ACC supports Congressional action to replace the current \$3,000 statutory fee limit with a two-tiered limit of \$500 for small businesses and \$5,000 for large businesses. This approach would provide flexibility to nearly double the funding emergency response training programs while preventing a disproportionate impact on small businesses.

**Conclusion**

ACC supports a comprehensive and data-driven approach to advance the safe transportation of hazardous materials by rail. Safety is a shared responsibility, and shippers, rail carriers, equipment suppliers, and the Federal government have made progress by working together.

But we can, and must, do more. ACC welcomes the opportunity to collaborate with policymakers and our transportation partners to apply the lessons learned from the East Palestine derailment so the products of our industry can be delivered safely and without incident.

Sincerely,

CHRIS JAHN,  
*President and CEO.*

cc: Senate Commerce Committee Members



March 21, 2023

Members of the U.S. Senate and House of Representatives:

Railroads are part of America's communities, and that is why my city and the National League of Cities support action by Congress to improve rail safety in the U.S.

The unfortunate derailment and environmental contamination in East Palestine, Ohio is not unprecedented. There are more than 1,000 trains derailing each year in multiple states. With 140,000 miles of track in the U.S. crossing directly through thousands of cities, towns and villages, the severity of this derailment requires proactive reflection on rail safety actions that Congress can take now. [Here are NLC's detailed rail safety recommendations to Congress.](#)

We are encouraged by the introduction of the bipartisan [Railway Safety Act of 2023](#) in the Senate which would improve rail safety, and House members have provided additional proposals to expand the list of chemicals reported so that when – not if - a derailment happens first responders know what they are dealing with.

We ask for Congress to act now on rail safety on behalf of thousands of cities, towns and villages who want to see rail safely moving through their communities.

Thank you,

Darrell O'Quinn  
Councilor  
Birmingham, AL

Laney Harris  
City Director Ward 2  
Texarkana, AR

Laura Pastor  
Vice Mayor  
Phoenix, AZ

Crystal Smitherman  
City Council President  
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Birmingham, AL

Ron Corbin  
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Milwaukee, WI

Dan Devine  
Mayor  
West Allis, WI

Steve Williams  
Mayor  
Huntington, WV

Jennifer Selin  
Mayor  
Morgantown, WV

Alexandria Hunt  
Mayor  
New Martinsville, WV

Sandy Hunt  
Mayor  
New Martinsville, WV

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 147006	0	46423	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148046	0	44007	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 147283	2642	2642	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 149160	0	19590	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 147176	0	2995	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 145334	2647	2647	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 147536	0	2647	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 147263	0	30758	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 301169	0	17116	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 145621	0	30666	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 146286	0	8573	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 301141	0	41692	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 301339	0	36529	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 147748	0	18110	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 146174	0	45848	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 146373	0	5653	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 147905	5807	5807	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 148360	0	3509	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 302064	0	3504	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
NS 146006	0	3547	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
CR 495312	0	2455	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
NS 148690	0	2956	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
NS 146397	0	2948	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
NS 147540	0	6011	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
NS 148790	1736	2448	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
NS 147398	1736	2448	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>
NS 147243	0	4619	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust <input type="text"/>	<input type="text"/>

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
AEX 024227	0	0	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 145091	1720	6601	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148872	0	52890	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 146444	0	5977	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148064	0	34812	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148255	0	41945	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148865	0	72422	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148981	1738	28362	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 145483	0	4829	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 148082	0	45105	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 149250	0	52568	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 145627	0	31302	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 145848	0	5109	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 147046	0	2388	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 147990	0	2952	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 145203	0	2633	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 147119	0	2448	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	
NS 145567	0	2453	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust' ▼	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 148301	0	39812	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 147292	3353	52920	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 147348	0	3618	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 145310	0	4562	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 146448	0	34637	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 148855	3099	23622	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 144948	1205	28057	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 147684	0	10369	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	
NS 147195	0	9304	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 146742	0	45169	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 146329	0	2982	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 146540	0	6466	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 147198	0	8842	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 149017	0	13412	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 148662	0	5807	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 147521	0	74306	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 147653	0	44628	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>
NS 147231	5848	24774	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: <input type="text"/>	<input type="text"/>

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 148216	5854	21290	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 148559	5854	32369	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 147228	0	5324	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 146677	5635	41130	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 146983	0	2959	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
WCCX 010036	0	58529	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 146404	0	56235	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 147342	0	76745	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 145313	0	3293	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 148647	2194	45479	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 145863	0	34051	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 145417	1203	16984	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 149212	0	28815	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 145578	1203	49895	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 145256	0	58964	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 147442	0	35835	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
CR 495288	0	3263	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 148363	0	90996	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 147878	0	19723	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
NS 147358	1752	2815	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
NS 147797	0	57416	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
NS 145462	0	56337	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
NS 148845	0	8581	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
NS 146692	0	3564	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
NS 148077	2246	2246	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
CR 495382	0	48882	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	
NS 302002	0	2638	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cus' <input type="text"/>	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 147016	0	2638	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148602	0	25239	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 145358	0	15418	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148873	0	35869	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148019	0	28001	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148989	1205	42304	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 147703	0	4417	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 148445	0	2938	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	
NS 145735	0	35499	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 148324	1203	54192	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 148172	0	41719	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 147310	0	36964	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cusi	
NS 146320	0	57914	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>			

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 046909	4701	30879	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 048278	12180	34892	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 050154	2942	13762	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 049923	1730	52420	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 052503	2942	20755	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 048027	4696	8991	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 052370	10772	28085	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 049205	10861	14077	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	
NS 148727	9713	27268	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2023	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 145309	16204	31685	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 052880	16827	60359	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 047352	2285	3662	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 047198	2942	61558	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
CR 507761	4722	26527	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 146753	2285	8726	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 049519	4451	8971	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
CR 507991	9713	36371	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 050114	2285	5033	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 146785	11332	14355	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
NS 048146	1730	53705	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
NS 047567	2285	4233	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
NS 049906	1730	26947	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
NS 052548	2645	22029	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
NS 052685	10112	11182	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
CR 507973	2285	5086	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
NS 050833	2645	23732	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	
NS 051409	11736	12878	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: <input type="text"/>	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 046659	2801	5114	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 051761	2761	12951	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 052540	12747	70331	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 050523	1817	56790	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 051785	1791	46474	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 050308	1791	12616	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 050059	7750	62898	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 048894	14248	37168	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	
NS 148834	4608	37940	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust' ▼	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 047763	5154	12620	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
NS 051695	7787	9432	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
NS 048126	5488	6925	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
NS 146696	10729	12486	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
NS 052656	15185	19124	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
CR 507599	5368	5368	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
NS 047253	3245	37871	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
NS 047968	14711	36383	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	
CR 507710	6097	33712	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: <input type="text"/>	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 148836	5145	31036	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 147320	3809	16589	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 052737	3245	20519	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 147423	15732	17153	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 051660	5764	55230	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 049533	3809	19361	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 149248	27528	29151	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 146637	3245	43119	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	
NS 039121	10762	13340	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cus: ▾	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
CR 507767	4750	61152	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 046876	5718	65634	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 148205	4343	4593	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 051676	2804	9197	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 046421	2829	9222	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 051752	2829	12025	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 145165	4343	4593	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 051855	7014	22857	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>
NS 049201	2804	9197	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust: <input type="text"/>	<input type="text"/>

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 146859	4343	4593	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
NS 145052	2829	25424	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
NS 047473	2804	20453	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
NS 047779	2514	6331	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
NS 149227	5917	64394	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
NS 149066	14621	40792	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
NS 049152	3809	12909	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
NS 146686	7686	19151	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	
CR 507968	3448	16115	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cus: ▼	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 047482	2604	19835	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 050009	4733	26710	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 145883	7679	9324	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 048457	5632	9857	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 147758	3809	20230	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 046716	21050	56049	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 147545	3809	18544	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 049173	3809	22381	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 046850	3809	22377	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 049918	3809	22379	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
NS 050842	3809	22377	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
NS 053357	10604	11745	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
CR 507643	3822	28381	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
CR 507778	4009	11861	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
NS 052977	9547	58812	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
NS 047145	8374	11947	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
NS 049950	8374	11872	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	
NS 046597	4777	7087	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-23	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 047713	2914	19844	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 046780	4266	64176	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 050738	3682	16548	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 053263	5818	18515	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 046969	3541	18126	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 146928	13290	14494	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 053435	4566	4816	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 048463	3682	38593	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	
NS 051304	2780	24835	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-2021	Cust	

Car ID	Mileage Since Brake Insp.	Mileage Since Mech Insp.	Type:	Date	Location Type	Location
NS 049512	21000	26427	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: ▼	
NS 047233	2801	5118	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: ▼	
NS 049606	2780	14952	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: ▼	
NS 146721	13081	63607	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: ▼	
NS 147401	2285	6253	Brake: <input type="checkbox"/> Mech: <input type="checkbox"/>	03-21-20	Cust: ▼	
NS 052186	11558	14139				



March 22, 2023

The Honorable Maria Cantwell  
Chair  
Committee on Commerce, Science &  
Transportation  
254 Russell Senate Building  
Washington, D.C. 20510

The Honorable Ted Cruz  
Ranking Member  
Committee on Commerce, Science &  
Transportation  
254 Russell Senate Building  
Washington, D.C. 20510

Dear Chair Cantwell and Ranking Member Cruz:

As the President and CEO of the Hip Hop Caucus, I thank you for hosting this hearing to shine a light on the role of corporate greed and government inaction that led to the toxic petrochemical disaster in East Palestine, Ohio. This hearing is important to continue needed conversations and hopefully force necessary action. Extensive news coverage has laid the foundation for questioning Norfolk Southern's lack of safety controls while carrying deadly petrochemicals including vinyl chloride directly through residential neighborhoods. Media have also taken on government inaction and corporate capture by both Democrat and Republican Administrations, and particularly zeroed in on the relaxing of rail safety rules by the prior Administration. We look forward to the committee raising questions on these aspects of the crisis to the panelists, which includes the U.S. Senators from Ohio as well as the CEO of Norfolk Southern and some of the U.S. agencies responding to this disaster.

As part of our effort to uplift the voices of those most impacted by this disaster, the Caucus has been on the ground in East Palestine and the surrounding communities, meeting with local advocates and observing the adverse impacts of this crisis and ongoing legacy pollution. We also launched a [petition](#) to stop the expansion of the petrochemical industry and highlight environmental justice issues in East Palestine that has over 50K signatures. From this perspective, we would urge the committee to hold additional hearings to allow environmental justice organizations to bear their first hand perspective and to question officials about the adverse health impacts of petrochemicals and whether they should be manufactured or transported at all.

**Petrochemicals are being used as Big Oil's last lifeline and are on track to replace coal in terms of emissions that contribute to climate change.** Petrochemicals, like the vinyl chloride in transit during the Norfolk Southern train derailment in East Palestine, Ohio, contribute to serious health and environmental risks for all communities but especially impact Black, Brown and low-income communities. Petrochemicals contribute to liver, brain and lung cancers, as well



as increased likelihood of leukemia, chronic respiratory conditions, nose bleeds in animals and children. Chemicals from the derailment have spilled into the Ohio River, affecting the water supply for 25 million people in the region.

In East Palestine, residents and organizers going door-to-door to provide relief services are still feeling the impacts weeks later. Independent analysts have debunked some of the monitoring that had led people to believe the air, soil, and water were safe by CTEH, a toxicology company hired by Norfolk Southern, as well as sampling done by government agencies. Despite a mountain of evidence to the health impacts of exposure to these chemicals, the petrochemical industry continues to flourish in Texas, Louisiana, and the Ohio River Valley where many of these facilities are located. This disaster has exposed how petrochemical expansion brings those concerns to the backyards of millions of Americans.

While on the ground, Hip Hop Caucus met with frontline groups currently impacted by Petrochemicals and threatened by future build out. In Beaver County, Pennsylvania, just 30 minutes from East Palestine, flaring from the Shell Monaca Plant creates fireballs visible for miles turning the sky brown and orange. The plant is situated directly on the river and residents living in brand new houses within a stone's throw now have to sell their homes. At the far end of Columbiana County, Ohio, – the same county as East Palestine – residents of East Liverpool are being forced to breathe the remnants from the derailment as it is being transported to their local incinerator which already contributes to numerous long term health hazards. These stories of people being exposed to petrochemicals for the profit of others unfortunately are not unique. Across south Louisiana and southeast Texas, communities are dealing with similar environmental injustices yet they continue to be overlooked as sacrifice zones. The Hip Hop Caucus is determined to bring these and other untold stories to the foreground in order to highlight the gravity of our reality and how communities are suffering because of this nation's dependence on Petrochemicals.

We know communities do not want these cancer causing chemicals in their backyard. During a [national press conference](#) hosted by the Hip Hop Caucus, Shamyra Lavigne from Rise St. James, a Louisiana advocacy group based in so-called cancer alley, said as much. Jennifer Hadayia from Air Alliance Houston noted how people there know what it is like to live in the shadow of petrochemicals and yet the state government does nothing about it.

**Therefore, we challenge this committee to hold additional meetings to highlight the first hand accounts of these advocates and community groups.** We also challenge the committee to question the government and corporate interests at this hearing about the impacts of petrochemicals writ large on frontline communities, whether petrochemicals should be produced



at all, and what can be done to protect frontline communities from the adverse health and environmental impacts of these man-made carcinogens in Ohio and across the country.

Thank you,

A handwritten signature in black ink, appearing to read "Rev. Lennox Yearwood".

Rev. Lennox Yearwood  
President and CEO  
Hip Hop Caucus

*The Hip Hop Caucus (the Caucus) is a 21st Century social justice and civil rights organization that utilizes culture to help educate and engage BIPOC communities and ultimately work toward our own liberation. We span Gen Z, Millennials and Gen X communities and networks across the United States and globally. The Caucus works with our members through multifaceted efforts to organize grassroots communities and mobilize the Hip Hop generation on issues of environmental justice, voting rights, criminal justice, policing reform, economic justice, education and more.*

AMERICAN FUEL & PETROCHEMICAL MANUFACTURERS  
Washington, DC, March 29, 2023

Hon. MARIA CANTWELL,  
Chair, Senate Committee on Commerce, Science, & Transportation,  
United States Senate,  
Washington, DC.

Hon. TED CRUZ,  
Ranking Member, Senate Committee on Commerce, Science, & Transportation,  
United States Senate,  
Washington, DC.

RE: Improving Rail Safety in Response to the East Palestine Derailment

Dear Chair Cantwell and Ranking Member Cruz:

The derailment of a Norfolk Southern freight rail train on February 3rd, 2023, was and continues to be, devastating to the community of East Palestine, Ohio. This derailment has understandably raised questions and concerns about rail safety. This tragic derailment has rightly led to bi-partisan calls to address the root causes and contributing factors that led to this accident to ensure no community faces such a preventable disaster again.

American Fuel & Petrochemical Manufacturers (AFPM) is a trade association representing the United States refining, petrochemical and midstream energy infrastructure industries. AFPM members make the fuels and petrochemicals that make modern life possible and keep America moving. To produce these essential goods and bring them to market, AFPM members depend on safe and efficient rail transportation to move their feedstocks and products to and from refineries and petrochemical facilities. More than two and half million carloads of fuel and petrochemical feedstocks and products—including crude oil, natural gas liquids, refined products, petrochemicals and plastics—move by rail every year. AFPM members prioritize the safety of our people, communities and products above everything else, and that includes the safety of our products in transit. As freight rail shippers, we have made significant investments to support and improve the safety and efficiency of the rail transportation system.<sup>1</sup>

Rail safety is a shared responsibility that includes railroads, rail shippers, emergency responders and the regulatory agencies responsible for oversight. The primary goal of rail safety policy is to reduce or eliminate the risk of a derailment from occurring in the first place. In the absence of preventing a derailment, effective rail safety policies should also aim to mitigate the consequences of a derailment and aid in the emergency response for a derailment.

AFPM appreciates the time and attention your Committee is devoting to the issue of rail safety in the wake of the East Palestine derailment. We share the Committee's goals of advancing transportation safety and protecting human health and the environment. While AFPM supports the legislative intent of the *Railway Safety Act of 2023* and other similar proposals that seek to improve rail safety, it is critical that Congress be guided by facts and data when developing legislation that can impact a wide range of stakeholders and consumers alike. The best, most effective rail safety policy to protect families, communities and the environment will require a solid grounding in facts and data. Thus, in advancing additional rail safety policies, Congress should focus on the specific causes and contributing factors of the East Palestine, Ohio, derailment and other rail safety events rather than advancing unrelated measures that could end up stifling rail transportation and leaving root causes unaddressed.

AFPM believes it is important to let the National Transportation Safety Board (NTSB) complete its investigation before rushing to judgement and implementing policies that may not effectively address the causes and contributing factors for this derailment and that could hamper the rail network. While NTSB is not expected to release its' final report on the incident for many months, NTSB's preliminary reporting should be viewed as an initial policy roadmap to improve rail safety.<sup>2</sup>

AFPM believes the following policies and principles, would most effectively improve rail safety and begin to address the specific failure points that led to the catastrophic derailment in East Palestine.

<sup>1</sup> Read more about AFPM's commitment to rail safety *HERE*. [<https://www.afpm.org/newsroom/blog/transporting-fuels-and-chemicals-rail-what-afpm-members-do-keep-rail-shipments-safe>]

<sup>2</sup> See "Norfolk Southern Railway Train Derailment with Subsequent Hazardous Material Release and Fires" Preliminary Report RRD23MR005, issued February 23, 2023.

### **Increasing and Improving the Use of Wayside Detection to Prevent Derailments**

Wayside detectors are a valuable diagnostic tool for the rail industry. These detectors collect real-time information on the health of passing rail cars and transmit the data back to railroad personnel who can use this information to identify potential rail safety issues and intervene to mitigate them before they escalate to the point where derailment or other incidents could occur.

Currently, the frequency and placements of wayside detectors is not regulated by the United States Department of Transportation (DOT). In addition, there are no official protocols governing when certain wayside detector readings should require specific action from a train crew—such as additional inspections, reductions in train speed or even full emergency stops to visually inspect cars. The requirements and thresholds for when a railroad dispatch center would notify the rail crew operating a train of a safety alert, are set by the individual railroads and vary across the industry. In the absence of any uniform DOT standards, this is left to the discretion of each railroad's internal policies.

The NTSB has already indicated that wayside detectors are a primary focus of their preliminary derailment investigation. Installing more wayside detectors across freight rail routes that frequently transport hazardous materials would improve the quality and frequency of real-time data transmissions and could also enhance safety warning systems by helping to identify potential problems earlier and at more regular intervals, enabling more immediate response measures, and hopefully the prevention of rail incidents.

AFPM believes more wayside detectors, and clear protocols for how wayside readings ought to be responded to, would enhance safety warning systems, and help prevent incidents from occurring. AFPM supports establishing requirements for the installation, maintenance, and placement of wayside defect detectors and guidance from DOT over how railroads must respond to specific wayside detector readings and communicate that information to railroad operators.

### **Providing Emergency Responders with Resources to Effectively Respond to Derailments**

It is critical that emergency responders have the training, resources, and information, they need to respond to train derailments, particularly those involving hazardous materials. DOT's Pipeline and Hazardous Materials Safety Administration (PHMSA) implements a Hazardous Materials Grant Program that offers six funding streams aimed at improving emergency response to hazardous materials incidents. These grant programs are funded by hazardous material registration fees paid by both rail shippers and railroads. Although the Infrastructure Investment and Jobs Act (P.L. 117-58) increased the authorized level of the program to \$46.8 million, the current fee structure raises only approximately \$23.6 million. AFPM supports efforts to fully fund these programs, including provisions to increase railroads' commitments to this program as detailed in S.576—the *Railway Safety Act of 2023*.

First responders should have the real-time emergency response information they need to respond to any rail incident both quickly and safely. Congress and NTSB agree on this point. The *Fixing America's Surface Transportation Act of 2015* (FAST Act (P.L. 114-94)) contained a provision that required DOT to issue a rulemaking to ensure the availability of robust real-time emergency response information.<sup>3</sup> NTSB has issued DOT a safety recommendation for DOT to require "that railroads immediately provide to emergency responders accurate, real-time information regarding the identity and location of all hazardous materials on a train."<sup>4</sup> DOT started this regulatory process in 2017 with an advanced notice of proposed rulemaking, but there has been no follow through in the form of an actual proposal despite the congressional mandate.<sup>5</sup>

AFPM supports the completion of this DOT rulemaking process but urges careful consideration of changes that would vastly and indiscriminately expand the scope of information reporting. Vastly increasing proactive notifications for all hazardous material shipments by rail could only serve to overload and burden emergency re-

<sup>3</sup>The FAST Act includes the *Hazardous Materials Transportation Safety Improvement Act of 2015* (sections 7001-7311), which instructs the U.S. DOT to issue regulations that would require Class I railroads to generate accurate, real-time, and electronic train consist information and provide that information to first responders, emergency response officials, and law enforcement personnel that are involved in the response of an accident involving the rail transportation of hazardous materials. (See *Pub. L. 114-94*.)

<sup>4</sup>See *NTSB Safety Recommendation R-07-004 and -005*.

<sup>5</sup>See 82 Fed. Reg. 6451, Advanced Notice of Proposed Rulemaking, "Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information by Rail" published January 19, 2017.

sponders rather than support emergency response. In addition, unfiltered broadcasting of train manifest information could compromise the security of hazardous materials rail shipments.

### **Improving Pressure Reliefs Valves to Mitigate the Impacts of Derailments**

Expediting the current phase out of the tank car fleet, as the *Railway Safety Act of 2023* proposes, would not have prevented the East Palestine derailment. This policy change would pose significant burdens on shippers and consumers and threaten refiners, petrochemical manufacturers and ultimately consumers. While railroads are quick to point to tank car specifications as their preferred risk reduction method, it is clear derailment prevention would have a greater impact on improving rail safety and should be the priority.

AFPM members prioritize the safety of our people, communities, and products above everything else, and that includes the safety of our products in transit. As rail shippers, we control the tank cars we own and lease up to the point when we offer the railcars into transportation and the railroad assumes control. AFPM members' tank cars are highly regulated and subject to extensive inspection requirements. We depend on the railroads to operate trains safely, maintain tracks and conduct pre-trip inspections of their trains and rail cars loaded onto the tracks.

AFPM members and other shippers voluntarily began the transition to new state of the art "DOT-117" tank cars well before it was required and will continue to transition our tank car fleets in accordance with DOT's tiered schedule. The DOT schedule is risk-based, and safety driven and was informed by extensive analyses, including consideration of tank car shop capacity. In the FAST Act, Congress considered all stakeholder input and data analysis and updated and confirmed the categories and schedule for DOT's risk-based phase out of rail cars. Further, the Bureau of Transportation Statistics annually reports on the progress of the fleet upgrade and tank car shop capacity.<sup>6</sup> To date, shippers have replaced nearly 100,000 tank cars with new or retrofitted cars.<sup>7</sup>

Proposals that expedite the DOT schedule do not adequately consider market realities of tank car shop capacity and supply chain constraints and do not address the root causes associated with the East Palestine derailment. AFPM members are reporting more than a one-year wait for new car orders and retrofits due to constraints in rail shop capacity. Expediting the timeline without assurance of shop capacity could result in a deficit of tank cars for Class 3 Packaging Groups II and III materials moved by rail such as gasoline, diesel, jet fuel, naphtha, methanol, petroleum lubes, heating oil, xylene, styrene, petroleum distillates, octanes, etc. A rail car shortage brought about by accelerated, unachievable tank car phase out schedules could severely impact the operations of refiners and petrochemical manufacturers and potentially contribute to an increase in the price of fuels and other related goods that consumers and our economy need. A premature phase out could also shift shipments of these materials from rail to highway transportation, further straining a market already short on truck drivers and move hazardous materials to a transportation mode with a higher statistical probability of incidents resulting in release.

Alternatively, a more targeted and risk-based approach to improve tank car safety would address the valve housings that both PHMSA, through a safety advisory, and NTSB, in their March 2, 2023, Investigative Update, identified.<sup>8</sup> While it is important for NTSB to conclude their investigation into the East Palestine derailment prior to jumping to any conclusions about what caused the incident, the NTSB's March 2, 2023, Investigative Update indicated that the aluminum covers over tank car pressure valves melted or were consumed during the fire after the East Palestine derailment and that melted aluminum was observed around the valves inside the protective housing. Following the NTSB's Investigative Update, PHMSA safety advisory encouraged all hazardous materials tank car owners and offerors to survey their fleets for any tank cars currently equipped with aluminum protective housings and to consider replacing this equipment with carbon steel housings. AFPM supports making this effort mandatory.

<sup>6</sup> See US DOT, Bureau of Transportation Statistics, *Fleet Composition of Rail Tank Cars Carrying Class 3 Flammable Liquids: 2022 Report* published September 29, 2022.

<sup>7</sup> These investments by rail shippers have resulted in significant rail safety improvements. Since 2013 the U.S. flammable liquid fleet has realized a 74 percent reduction in Conditional Probability of Release, a common measure of tank car puncture resistance, for crude oil, and a 60 percent reduction for ethanol. *Tank Car Resource Center—Progress*

<sup>8</sup> See US DOT, PHMSA "Safety Advisory Notice for Tank Cars Equipped with Aluminum Manway Protective Housing Covers" published March 2, 2023 and NTSB Investigative Update published March 2, 2023.

### **Increasing Competition to Enhance Overall Rail Safety**

It remains clear that more rail competition would enhance safety, as shippers would be empowered with options to switch freight rail carriers if they face persistent safety and service concerns from their current freight rail providers. Rail shippers count on the railroads to operate trains, maintain safe tracks, conduct pre-shipment inspections, and deliver essential materials on time and safely. AFPM members continue to be extremely vocal and critical of the precision scheduled rail-roading (PSR) operating model that is widely used by railroads. PSR cost-cutting and Class 1 consolidation have compromised rail service, led to significant reductions in the rail workforce, drops in the frequency of service, systemic delays, condensed training schedules, and the deployment of much longer trains. When developing future rail safety initiatives, we urge policymakers must review and determine if PSR-related cuts to employment levels, operational overhead and operational practices could potentially have safety impacts.

Almost 80 percent of the Nation's shippers, including most AFPM members, are captive to just one railroad. They essentially have no ability to shop for better service. Captive shippers cannot choose another railroad if they do not like the railroad's operating practices. Reciprocal switching would bolster competition and allow shippers to negotiate fair terms in indemnity, liability, and insurance; including terms associated with safely shipping cargos. When there is no choice in rail carrier it becomes a "take it or leave it" proposition with no room for shippers to push for better safety practices in relation to shipping cargos. AFPM supports consideration and review of how PSR has impacted rail safety.

### **Conclusion**

AFPM thanks the Committee for its time and consideration of all stakeholder viewpoints on this important effort to improve rail safety. AFPM emphasizes the need for maintaining a safe and efficient rail network for the energy and petrochemical industries and the U.S. economy. AFPM shares Congress's desire to prevent an event like what happened in East Palestine from ever happening again. We urge Congress, and this Committee to be guided by the facts and data and pursue policies that prioritize eliminating derailments. In the absence of preventing a derailment altogether, effective rail safety policies should also aim to mitigate the consequences of a derailment and aid in the emergency response.

AFPM and our members appreciate your consideration of our perspective and priorities to bolster rail safety.

Sincerely,

ROBERT BENEDICT,  
Vice President, Petrochemicals & Midstream,  
American Fuel & Petrochemical Manufacturers.

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### PREPARED STATEMENT OF AMERICAN ASSOCIATION FOR LABORATORY ACCREDITATION (A2LA)

The American Association for Laboratory Accreditation (A2LA) is deeply saddened by the rail tragedy that occurred in Palestine, OH on February 2, 2023. We hope that conditions continue to improve for the citizens of Palestine and the surrounding communities and environment.

We are concerned with the magnitude of this specific incident and the trend of train derailments occurring across the Nation.

The proposed Railway Safety Act of 2023 would rely on inspections as a tool to identify equipment and infrastructure failures. We are concerned that the proposed act focuses on *time* as an essential component but not on the *quality* of the inspection. By requiring high quality, objective inspections conducted by accredited, independent, third-party inspectors, the Railway Safety Act may be strengthened. This arrangement will facilitate inspections that are objective and technically robust. Current practice is to rely on railway owner inspectors which may not provide the objectiveness necessary to assure an effective inspection.

ISO/IEC 17020 provides the standards for the operation of inspections. The requirements define and document the performance and the competencies needed for all personnel involved in inspection activities. They also address equipment needs, recordkeeping, inspection procedures, audits and management reviews, impartiality, and corrective and preventive actions.

Accreditation is an objective process that determines the technical competence and impartiality of organizations conducting testing and inspections. When an organization is accredited, it has demonstrated that a prescribed level of technical competence has been achieved. Accreditation of inspectors means increasing the con-

confidence in data produced, eliminating redundant reviews, providing a means of qualifying contractors, building greater public trust, and redirecting government resources to enforcement and oversight. We recommend that the legislation mandate that inspection bodies be ISO/IEC 17020 accredited by an International Laboratory Accreditation Cooperation (ILAC)-recognized accreditation body.

Established in 1978, A2LA provides independent, world-class accreditation programs that inspire confidence in the quality and security of services and acceptance of results from our accredited organizations. A2LA, a nonprofit accreditation body with over 4000 actively accredited organizations, supports a broad array of industries including food and agricultural testing, environmental, pharmaceutical, aerospace, mining, telecommunications, defense, clinical, consumer products, construction, electrical and automotive.

A2LA appreciates the opportunity to provide a statement to the U.S. Senate Committee on Commerce, Science, and Transportation for this hearing and for the consideration of these remarks. We welcome the opportunity to work with you to establish legislation that can help assure the safety of all Americans and protection of the environment, all while providing the safe delivery of passengers and goods.

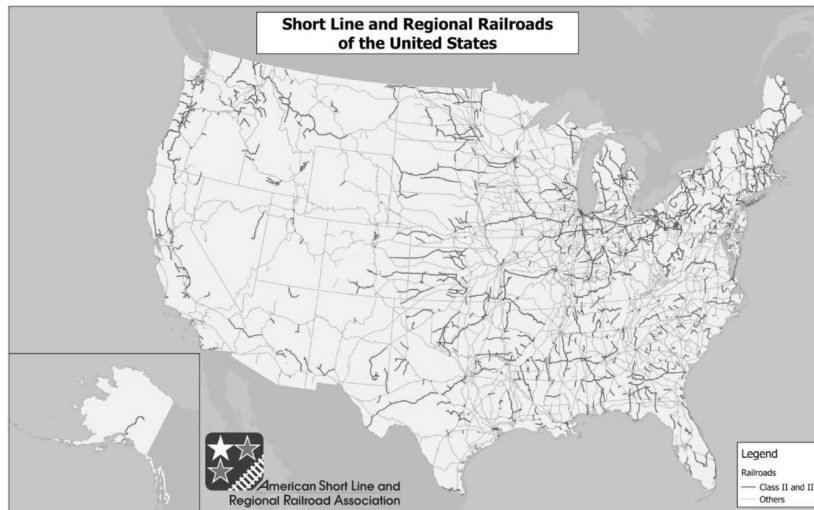
PREPARED STATEMENT OF CHUCK BAKER, PRESIDENT, AMERICAN SHORT LINE AND REGIONAL RAILROAD ASSOCIATION (ASLRRRA)

### Introduction

As president of the American Short Line and Regional Railroad Association (ASLRRRA), the trade association representing the Nation's 600 small business Class II and III freight railroads, commonly known as short line railroads or short lines, I submit this testimony for inclusion in the record of this committee's hearing.

### The short line freight rail industry

*We are America's first and last mile freight rail service.* Short line railroads are neither household names nor mentioned frequently in major media outlets, but they are critical movers in the Nation's economy, and they have an outsized impact on the communities they serve. These small business entities in total operate nearly 47,500 route miles, or about a third of the total freight rail network system. Short line railroads can be found in 48 states; some are just a few miles long, while some run for hundreds of miles.



Short line railroads handle one in five rail cars moving annually, mostly at origin or destination, providing service to over 10,000 customers everywhere from rural America to dense urban centers. These railroads are a critical link in the country's supply chain. Our members serve and support nearly every industry, and they are particularly vital for the energy, agriculture, minerals, chemical, and manufacturing sectors. Short lines are also well-known for their ability to provide custom, tailored,

friendly white-glove service to a variety of shippers. Short lines make the extra effort to ensure that rail service for any shipment size is an efficient, reasonably priced option for shippers along their route.

*We are small businesses with a big impact.* ASLRRRA’s freight railroad members are tied to 478,000 jobs nationwide, \$26.1 billion in labor income and \$56.2 billion in economic value-add—providing a service that 10,000 businesses nationwide rely upon to get goods and products to market daily.<sup>1</sup> Short lines are nearly all small, entrepreneurial businesses, with most employing fewer than 30 people, running an average of 79 total route miles, and earning an average of \$7.7 million or less in revenue per year. At the local level, the availability of rail service provided by short lines is sometimes the tipping point for manufacturers and shippers deciding to locate in the area, driving new, well-paying jobs particularly in rural and small-town America.

*We live and work in the communities we serve.* Short lines are owned, managed and staffed by individuals who are integral to the fabric of their local communities. When they’re not moving goods and freight, short line personnel are at the local grocery store, at the PTA meeting, on the ballfield, and in their houses of worship. Because short lines are small business owners, and they live and work in the communities they serve, safety is more than a good business decision—it is a steadfast personal obligation.

*We have an impressive safety story to tell.* According to Federal Railroad Administration (FRA) data, train accident and hazardous material accident rates are down 42 percent and 71 percent, respectively, since 2000. One indication of short lines’ performance is ASLRRRA’s annual Jake Safety Award program honoring railroads that have had better than industry-average injury frequency rates for person-hours worked. Since 2000, an increasing number of short lines have received the “Jake with Distinction” designation, indicating *zero* reportable injuries for the calendar year—that was 344 short lines in 2021. In addition to our awards program, ASLRRRA provides an exhaustive offering of programs and training for short line railroad members.

*And our environmental record is strong.* The rail industry is a sustainable, environmentally friendly mode of transportation. U.S. Environmental Protection Agency data show freight railroads account for only 0.6 percent of total U.S. greenhouse gas emissions and only 2.1 percent of transportation-related sources (*e.g.*, trucking, air, etc.). Moving freight by rail reduces highway congestion and lowers idling emissions and fossil fuel consumption by 75 percent versus trucks. Short lines are committed to doing their part, seeking ways to reduce their environmental impact with the implementation of technology and operating practices that reduce emissions. By contrast, regulatory proposals that overshoot the mark would shift freight from rail to truck and harm the environment.

### **What Rail Safety Discussions Must Recognize in the Wake of the East Palestine Incident**

Since the February 3, 2023 derailment of a Norfolk Southern train in East Palestine, Ohio, a vigorous national discussion has begun about railway safety. ASLRRRA and its members are eager to participate in this dialogue. Many policy ideas have been suggested, and small business short line freight railroads do not oppose proposals that make what is already an extraordinarily safe mode of freight transportation even safer in a realistically implementable manner.

Against this national conversation, however, there have been discussions of Precision Scheduled Railroading (PSR), accusations that railroads put “profits over people,” assertions about reductions in the workforce, paid sick leave for employees, blocked crossings and long trains. While the relevance of those issues to rail safety is questionable, it is unquestionable that those discussions have essentially nothing to do with short lines—they concern business decisions and practices that have no relevance to short line railroads’ economic or operating model and culture. Accordingly, as rail safety is discussed in Congress and amongst other policy makers, it is important to remember the following with relation to short lines:

*Hazmat safety incidents are incredibly rare on short line railroads.* Efforts to address concerns over the movement of hazardous materials on freight rail miss the mark if they include short line railroads without taking into account short lines’ unique operations. Short lines, as one could expect, move relatively short lengths: the average length of haul for Class II and III railroads (together) is 38.5 miles—not hundreds or thousands of miles. Along these routes, short lines typically operate trains at speeds slow enough that in the event of an already rare derailment, a tank

<sup>1</sup>The Section 45G Tax Credit and the Economic Contribution of the Short Line Railroad Industry, prepared by PWC for ASLRRRA (2018).

car is extraordinarily unlikely to be punctured and cause the release of hazardous materials.

- According to FRA data, from 2019 to 2022, the freight rail industry experienced 51 derailments with a hazardous material release, and only four of those occurred on a short line railroad. Of the 86 cars carrying hazardous materials that were in the consist of derailed trains and experienced a release, *only four cars were on a short line*.
- From 2019 to 2022, short line railroads have run an average of approximately 122 million train miles per year. Over that four-year period, derailments have declined from 298 to 254, derailments involving hazardous material cars have declined from 64 to 43, and as noted above, only four derailed cars released hazardous materials in those four years.

We are committed to getting these numbers—derailments and derailments with releases of hazardous materials—to zero and to keep it there, but this overall safety context is important to understand before enacting potentially counterproductive regulations.

*Short lines are small businesses with limited resources.* Short line railroads are small enterprises, and efforts to regulate problems in the rail space can impose oversized new burdens and demands on these railroads. It is crucial that any new safety requirements be directly relevant to their operations and realistic for a small business to implement. Policymakers should be precise in crafting measures so as to avoid instituting unnecessary, disproportionately burdensome demands on small business enterprises. A longstanding body of law, including the Regulatory Flexibility Act (RFA) and the Small Business Regulatory Enforcement and Fairness Act (SBREFA), requires that agencies exercise utmost care and discretion in evaluating how regulations they promulgate affect small businesses. Congress should heed the wisdom of these measures in crafting updates to the current regulatory framework. Many small business railroads are not able to comply with costly “one size fits all” requirements that may make sense for other, larger entities, and Congress’ ignoring this fact could inflict extreme duress and economic harm on a critical sector of the freight rail industry—without providing any safety benefit.

*The rail industry is already highly regulated.* It is a false choice to suggest that the rail industry must now face regulations or continue to operate outside any safety regimen. The rail industry is already highly regulated and was one of the first industries to experience Federal oversight nearly 150 years ago. The true choice is whether Congress will advance smart, sensible policies that make the network safer or impose stark new measures unsupported by science that actually introduce new risks onto the freight network. The current regulatory framework consists of the following:

Federal Railroad Administration Regulations at 49 C.F.R.

- Part 213 Track Safety Standards
- Part 214 Railroad Workplace Safety
- Part 215 Railroad Freight Car Safety Standards
- Part 216 Special Notice and Emergency Order Procedures: Railroad Track, Locomotive and Equipment
- Part 217 Railroad Operating Rules
- Part 218 Railroad Operating Practices
- Part 219 Control of Alcohol and Drug Use
- Part 220 Railroad Communications
- Part 221 Rear End Marking Device—Passenger, Commuter and Freight Trains
- Part 222 Use of Locomotive Horns at Public Highway-Rail Grade Crossings
- Part 223 Safety Glazing Standards—Locomotives, Passenger Cars and Caboose
- Part 224 Reflectorization of Rail Freight Rolling Stock
- Part 225 Railroad Accidents/Incidents: Reports Classification, and Investigations
- Part 227 Occupational Noise Exposure
- Part 228 Passenger Train Employee Hours of Service; Recordkeeping and Reporting; Sleeping Quarters
- Part 229 Railroad Locomotive Safety Standards
- Part 231 Railroad Safety Appliance Standards

Part 232 Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices

Part 233 Signal Systems Reporting Requirements

Part 234 Grade Crossing Safety

Part 235 Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief from the Requirements of Part 236

Part 236 Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances

Part 237 Bridge Safety Standards

Part 240 Qualification and Certification of Locomotive Engineers

Part 241 United States Locational Requirement for Dispatching of United States Rail Operations

Part 242 Qualification and Certification of Conductors

Part 243 Training, Qualification, and Oversight for Safety-Related Railroad Employees

Pipeline and Hazardous Materials Safety Administration Regulations at 49 C.F.R.

Part 105 Hazardous Materials Program Definitions and General Procedures

Part 106 Rulemaking Procedures

Part 107 Hazardous Materials Program Procedures

Part 109 Department of Transportation Hazardous Material Procedural Regulations

Part 110 Hazardous Materials Public Sector Training and Planning Grants

Part 130 Oil Spill Prevention and Response Plans

Part 171 General Information, Regulations, and Definitions

Part 172 Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

Part 173 Shippers—General Requirements for Shipments and Packagings

Part 174 Carriage by Rail

Part 178 Specifications for Packagings

Part 179 Specifications for Tank Cars

Part 180 Continuing Qualification and Maintenance of Packagings

Transportation Security Administration Regulations at 49 C.F.R.

Part 1520 Protection of Sensitive Security Information

Part 1570 General Rules

Part 1572 Credentialing and Security Threat Assessments

Part 1580 Freight Rail Transportation Security

*The Federal Railroad Administration, the Pipelines and Hazardous Materials Safety Administration and the Transportation Security Administration are also already taking action on a host of new regulatory measures. The chief rail safety oversight agency, the FRA, is in the midst of a broad campaign of regulatory activity. These efforts include the following:*

- Emergency Escape Breathing Apparatus (Supplementary NPRM announced by FRA on March 8, 2023);
- Amendments to Locomotive and Passenger Equipment Safety Standards (NPRM scheduled for 2023);
- Railroad Noise Emission Compliance (NPRM scheduled for August 2023);
- Train Crew Staffing (NPRM issued July 2022; Final rule scheduled for 2024);
- Dispatcher Certification (NPRM scheduled for 2023);
- Signal Employee Certification (NPRM scheduled for 2023);
- Miscellaneous Amendments to Federal Glazing Standards (NPRM published April 2022);
- Amendments to the Freight Car Safety and Reflectorization Standards (NPRM published July 2022); and

- Training, Qualification, and Oversight for Safety-Related Railroad Employees (NPRM published October 2022).

FRA is also engaged in extensive activity through its Rail Safety Advisory Committee (RSAC) to explore future regulations, which includes efforts on track safety standards, roadway worker protection, use of electronic devices, Confidential Close Call Reporting (C3RS), practices to maximize alertness and reduce fatigue, critical incident stress plans/Part 272 amendments, and wayside detectors (which is expected to be announced at an upcoming March 27, 2023 RSAC meeting).

FRA's sister agency in the hazardous materials space, the Pipelines and Hazardous Materials Safety Administration (PHMSA), is also busy and engaged in the following rulemakings:

- FAST Act Requirements for Real-Time Train Consist Information by Rail (ANPRM issued January 2017, NPRM scheduled for 2023);
- Hazardous Materials: Advancing Safety of Highway, Rail, and Vessel Transportation (NPRM scheduled for 2023); and
- Hazardous Materials: Improving the Safety of Transporting Liquefied Natural Gas (NPRM scheduled for 2023).

Meanwhile, the Transportation Security Administration, which has jurisdiction over railroads on security matters, is currently working on rulemakings covering short lines related to the Vetting of Certain Surface Transportation Employees (NPRM scheduled for 2023) and Cyber Risk Management (ANPRM issued in 2022 and NPRM scheduled for 2023).

From within this list of existing regulatory activity, several items have nonetheless been re-proposed as legislative initiatives in recent weeks, including proposals on mandatory crew size and C3RS. We urge policymakers to avoid adding a layer of redundancy with proposals that are already underway and are being reviewed and considered through the administrative process.

*New policies should advance only if they focus on safety problems that truly warrant further action.* ASLRRRA supports efforts to address recognized safety hazards presented by the incident in East Palestine. But many ideas that have been brought forward or recycled in recent weeks have no relationship to the February 3 derailment, like requiring railroads to hire additional personnel when no hazard has been identified that would be mitigated through the hiring of those personnel. Support for mandating crew size for the first time in the 195-year history of railroading is untethered to any actual safety data or solid scientific statistics that show how hiring requirements improve safety, and it is out of step with domestic short line experience, passenger and commuter rail experience, and international experience.

*Finally, new policies should do no harm.* ASLRRRA urges policymakers to avoid exacerbating problems in the wake of East Palestine. Hiring mandates that force small business railroads to put scant funds toward adding unnecessary personnel means they must divert resources from actual safety upgrades, such as track upgrades. Exorbitant fines detached from reasonable deterrence needs can put small business railroads into bankruptcy. Many ill-advised proposals like these are now on the table, and their implementation will mean more heavy freight and hazardous materials will end up moving on the highway, which is more detrimental to our environment, more dangerous to motorists, more likely to gum up the supply chain, and undeniably proven to inflict more damage America's already worn-out roads.

#### **Sensible Policy Proposals Responsive to Actual Safety Concerns**

*Ensure the NTSB's findings inform any policymaking.* As part of this hearing, this panel is taking testimony from the National Transportation Safety Board (NTSB), which is uniquely tasked with leading investigative activities and will present in the months to come what we expect will be a thorough assessment of its findings, likely including what could have caused and prevented the February 3 derailment. Advancing major policies without having a robust discussion on that report would be premature.

*Include Class 2 flammable gases within the definition of High-Hazard Flammable Trains (HHFTs).* It would be reasonable to include within the definition of HHFTs certain trains carrying a combination of loaded Class 3 flammable liquids and Class 2 flammable gases. It would be problematic, however, to include within the definition of HHFTs any train carrying even a single car of any type of hazardous material—this would encompass a huge percentage of all trains moving, stretch the definition of “high hazard” beyond reason, and set the stage for overly burdensome restrictions for no safety benefit.

*Require hot box detectors for certain trains.* It may be reasonable to create a requirement for hot box detectors or other wayside detectors or on-board sensors with-

in the current HHFT regulatory framework (*e.g.*, requiring detectors on routes routinely hosting trains that are also traveling in excess of 30 mph) or on certain key routes carrying substantial amounts of hazardous materials over certain speeds. It would be problematic, however, to require new wayside fault detectors like hotbox detectors on any route carrying any train carrying any hazardous materials at even low speeds, as hundreds of short line railroads would be required to install the expensive devices but would achieve no new safety benefit and mitigate no meaningful risk. This would be existentially threatening for some short lines, for no safety benefit.

*Phase out older tank cars.* It may be reasonable and responsive to East Palestine to expedite the FAST Act-mandated phasing out of certain older tank cars.

*Support the Confidential Close Call Reporting System (C3RS).* It may be reasonable to require some sort of rulemaking on the C3RS framework, and indeed, as noted above, there is already an RSAC effort underway on the topic. A C3RS mandate is unnecessary, however, as all of the largest railroads are now already in the program. The program should remain voluntary. A rulemaking to develop the program could still be beneficial, for example, so that proper parameters could be instituted to preclude employees from using the program to evade proper discipline.

*Avoid punitive fine increases for short lines.* While it may be politically attractive to update maximum fine levels, we can state that as far as short lines are concerned, they have established a long record of being good corporate citizens who are more than willing to cooperate with regulators and focus on safety and community relations—there is no call to threaten them with dramatically increased fines. Updates to fines should only reflect inflation and must account for the significantly negative effect a large fine could have on a small railroad.

*Increase funding for research and development at FRA and PHMSA and increase funding for certain inspection activities at FRA.* It may be reasonable to increase resources for FRA for certain safety-advancing activities. For short lines, the most significant source of derailments is simply problematic track infrastructure, so inspection activities such as track geometry cars are at least responsive to a realistic safety risk.

*Direct USDOT and FRA to target CRISI funds for freight rail safety.* The Consolidated Rail Infrastructure and Safety Improvements Program (CRISI) has been instrumental in repairing, updating and rebuilding aging and outdated rail facilities—especially for short line freight railroads. The Infrastructure Investment and Jobs Act (IIJA) significantly increased the funds available for CRISI. As Congress begins to consider priorities for Fiscal Year 2024 spending measures, Congress should fully fund this program with annual appropriations at the full authorized level of \$1,000,000,000 per year, and resources should be targeted toward freight rail safety needs—not toward passenger rail expansion efforts, which are largely unrelated to freight rail safety and are better addressed through other well-funded programs in IIJA. Again, for short lines, track, roadbed and structures challenges (rail, joint bars, track geometry, switches, roadbed, etc.) are the most common cause of derailments, so investments to help short lines rehabilitate that track are the most effective safety actions available.

*Provide resources for short lines to join the AskRail program.* AskRail is a safety app made available by the Class I railroads through the Association of American Railroad's technology subsidiary, Railinc. The undertaking provides real-time information to first responders regarding the contents of railcars. Some short line railroads lack the resources and technical systems to join the program but would welcome resources to participate, recognizing, of course, that short line railroads present little hazardous material safety threat as is.

*Provide resources for efforts like RailPulse.* RailPulse is an undertaking designed primarily to give freight railroads and rail shippers visibility into the real-time location of railcars, which would help improve supply chain visibility and performance. The RailPulse roadmap also involves installing a variety of other asset health sensors onto railcars beyond GPS, such as accelerometers and door status monitoring. This program could be expanded to include thermal, acoustic, visual and vibration sensors to monitor car components, such as for integrity of wheels and axles, possibly providing a dramatically improved method of constant monitoring of the safety of railcars. A policy statement and support for a significant funding infusion could provide key momentum to expand RailPulse.

*Provide increased resources for the Short Line Safety Institute (SLSI).* FRA has been funding this effort annually at \$2,500,000 per year for several years now through its research and development budget. Congress recommends to FRA that it do so through appropriations report language each year. The core service SLSI delivers is safety culture assessments. SLSI has now completed 121 safety culture assessments and touched over 12,000 railroaders. SLSI conducts leadership develop-

ment training as well. SLSI has also successfully applied for PHMSA grants to expand its offerings to include Hazardous Materials Instructor Training (HMIT) and Assistance to Local Emergency Response Training (ALERT). SLSI is also the entity that facilitates short line participation in C3RS. With increased funding, SLSI could expand its offerings and capabilities in various ways:

- *New safety trains.* SLSI has rented an older “safety train” to conduct some hands-on field training. The train consists of three or four rail cars, but SLSI does not own the cars. With additional resources, SLSI could acquire its own trains and expand its service to railroaders and emergency responders.
- *New mobile training facilities.* SLSI is leasing a mobile trailer specifically designed for hazardous materials training—both classroom and hands-on. Additional funding would allow for more facilities to be available to reach more railroads and first responders across the country.
- *Support C3RS.* With more resources, SLSI could provide more analysis and reporting for those railroads participating in the C3RS effort, especially as that number increases.
- *Launch a community standard of care training program.* SLSI could begin what would be considered a “community standard of care” training program that would instruct short lines on how to interact and care for a community should a safety incident occur.

### Conclusion

ASLRRA appreciates the committee’s close attention to the items we have noted in our statement, and we welcome future opportunities to work together on these matters.

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#### PREPARED STATEMENT OF TONY CARDWELL, PRESIDENT, BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION/IBT

1. I am the President of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters (BMWED/IBT).

2. BMWED represents Employees working in the craft or class of Maintenance of Way Employee, employed by most of the freight railroads in the United States, including Norfolk Southern Railway (NSR) and the other Class I railroads, Amtrak, and major commuter railroads as well as some regional and short line railroads.

3. BMWED represents the NSR Maintenance of Way Employees that performed derailment clean-up and the related track reconstruction/restoration work at the East Palestine derailment site to restore NSR’s rail services.

4. Within days of the February 3, 2023 derailment at East Palestine, I received numerous phone calls from the NSR Maintenance of Way Employees who reported concerns about their health and safety due to the potential exposure to toxic chemicals, including vinyl chloride, while working at the East Palestine derailment site performing clean-up or track reconstruction/restoration work. I committed to contacting NSR officials about the safety of the working conditions at the derailment site.

5. When I contacted NSR officials and expressed the NSR Maintenance of Way Employees concerns about their potential exposure to hazardous chemicals while working at the derailment site the NSR officials stated that none of the BMWED-represented Maintenance of Way Employees were assigned to work at the East Palestine derailment site. NSR also stated that the Employees did not assist in the clean up and performance of track reconstruction/restoration work following the derailment. NSR’s statement was perplexing given the numerous calls I had received from the Members stating they had worked at the derailment site or that they would be working at the derailment site. I made several different phone calls with various BMWED representatives to determine if NSR did not actually assign any of its Maintenance of Way Employees to perform work at the East Palestine derailment site.

Ultimately, BMWED conducted a Zoom conference on February 22, 2023<sup>1</sup> with several NSR Employees. Contrary to what NSR officials told me, these NSR Maintenance of Way Employees stated they worked at the East Palestine derailment site.

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<sup>1</sup>There was also a Zoom conference with the Members on March 2, 2023 and the NSR Employees continued to confirm that they were indeed working at the derailment site, performing the work of cleaning up and track restoration and reconstruction work. Some Members noted that they were required to work in location(s) in immediate proximity and even past the “blue building”, which was later determined to be the area where the chemicals had been spilled and where there was a controlled burn of the vinyl chloride.

These Employees also described the types of work that they performed, that there was indeed strong chemical smells and fumes at the worksite, that there was black smoke at the worksite that often came into the areas where they were working, that there were chemical residues (iridescent sludge) on different surfaces and track materials where they were working, and that they were not offered personal protective equipment (PPE) that are designed for more safely performing work in and around hazardous chemicals, such as full-face hazardous chemical respirators, hazardous material suits, rubber overboots and rubber gloves, but that outside contractor workers and emergency medical services workers were wearing such PPE while working at the derailment site.

Additionally, several of these Members reported experiencing multiple health symptoms since working at the East Palestine Derailment site, including nausea, diarrhea, migraines, shortness of breath, skin irritation and irritation of the eyes. In fact, I recently received a report that a NSR Maintenance of Way Worker that worked at the derailment site and who reported experiencing numerous symptoms while working at the derailment site, and continues to experience shortness of breath, sought medical care to “establish a baseline” of their health for the purpose of monitoring any potential long-term impacts on their health from potential exposure to hazardous chemicals at the derailment site. This Employee stated that he worked at the East Palestine derailment site for nearly four (4) days without being advised of any dangers of being exposed to hazardous chemicals or the necessity for wearing personal protective equipment. It came as no surprise that this Employee was unfortunately diagnosed with chemical exposure and dyspnea (shortness of breath, inability to fully fill one’s lungs). This Employee is scheduled to have an additional examination performed by a pulmonary doctor that specializes in chemical exposures. My hope is that this Employee was misdiagnosed and that he does not have any long-term impacts on his health. However, given that over one million gallons of hazardous materials and substances were released because of the East Palestine derailment, and given that the NS Maintenance of Way Employees did indeed work at the East Palestine derailment site where these chemicals were released, I anticipate additional concerning diagnoses for this Employee and others.

Following the February 22, 2023, Zoom conference with the NSR Maintenance of Way Employees, I contacted NSR about the safety of the Employees’ working conditions. During my conversation with NSR at this time, I demanded an in-person meeting in the immediate future to discuss the safety of the Employees at the derailment site. NSR initially stated that they would not have time to meet for at least one (1) week to discuss this issue. It took me telling NSR that the Employees have serious concerns for their health and safety, that working at the derailment site posed a serious, imminent danger to these

Employees and that we would withdraw services (*i.e.*, engage in a safety strike) if NS did not address these issues. NS answered several questions and concerns at that moment, guaranteed the Employees’ safety to work at the jobsite and ultimately agreed to meet in person on Monday, February 27, 2023, at their corporate headquarters in Atlanta.

When we met in person on February 27, 2023, I and American Rail System Federation General Chairman Jonathan Long, raised several questions and concerns of the Members about their potential exposure to chemicals at the derailment site. NSR officials insisted that the Employees were safe. NSR also stated that CTEH (the outside environmental contractor NSR used at the derailment site) had authority and was responsible for making determination about safety of the work location and any PPE the Employees may have needed to work safely at the derailment site. We asked NSR if they had any formal procedures or protocols for “checking into and out” of the derailment site given the hazardous chemicals and NSR again stated that CTEH was authorized and responsible for such. We also asked if NSR if they had any sort of “markers” or “barriers”, such as caution tape or fencing, for identifying any hazardous areas that were/may be unsafe for the Employees to work due to the spilled chemicals. NSR stated that the “barrier” was a blue building but that no Employees were ever required to work near or past such “barrier”. NSR’s response was essentially that the Workers were never near hazardous chemicals and that there was no PPE for such because CTEH made such determination. This is rather nonsensical, especially given the reports from the Employees that there were near hazardous chemicals, the volume of chemicals that were spilled and burned at that location, and the evidence that shows CTEH employees had specialized PPE on the jobsite. The Union believes that given the chaos at the time of the derailment, the dearth of information about the situation, the frantic efforts to control the spill, and the drive to restore service quickly, NSR should have erred on the side of safety for its workers. A responsible company that cared about its employees would have provided them with the most protective PPE possible, looking out for

the possibility that a worst-case scenario might come to pass. Instead, as with so many other things, NSR just assumed that the best case scenario would ensue, and it sent our Members into work at the site in their regular work clothes as if this was an ordinary derailment with no toxic chemicals released.

6. Railroad Workers are a rare group of people. They take pride in the work they perform, and many especially pride themselves on their “grit” and “toughness” to endure the extreme challenges that railroading imposes upon them. But these NS Employees, took exception to the safety of their working conditions at East Palestine, and they now have concerns for their long-term health and fear of losing their employment for coming forward. These Employees must have their long-term health protected by NSR, NSR CEO Alan Shaw must publicly make such commitment and be held to such. NSR must also be held responsible for ensuring the immediate and long-term health and well-being of these Employees and their families. Additionally, these employees must be protected from retaliation by NSR in response to their reporting their safety and health concerns, and in response to the Union reporting their safety and health concerns. Mr. Shaw must also make a public commitment not to retaliate against these employees because of their actions and the actions of their Union.

7. NSR must commit to improving the safety of its workplace, through serious investment in adequate staffing, serious investment in its track structure and rolling stock/operating equipment in an amount that exceeds their investments in their shareholders and executives’ stock-buy backs and dividends. NSR, as well as all other Class I railroads, must abandon its reckless cost-cutting business model that has resulted in obscene profits for Wall Street Hedge Fund activist “value extraction” investors, rail executives and shareholders, in the face of numerous senseless accidents and seriously diminished rail services and at the expense of the railroads’ customers, the American public, the Workers and their families.

Respectfully,

TONY D. CARDWELL,  
*President.*  
BMWED.

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PREPARED STATEMENT OF JONATHAN LONG, GENERAL CHAIRMAN, AMERICAN RAIL SYSTEM FEDERATION OF THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES DIVISION/IBT

1. I am the General Chairman of the American Rail System Federation of the Brotherhood of Maintenance of Way Employees Division of the International Brotherhood of Teamsters (BMWED/IBT).

2. BMWED represents employees working in the craft or class of Maintenance of Way Employee employed by most of the freight railroads in the United States, including Norfolk Southern Railway (NSR) and the other Class I railroads, Amtrak, and major commuter railroads, and some regional and short line railroads.

3. As General Chairman of the ARSF, I represent the NSR Maintenance of Way Employees that performed derailment clean-up and the related track reconstruction/restoration work at the East Palestine derailment site to restore NSR’s rail services.

4. Following the derailment, I received multiple phone calls from the NSR Maintenance of Way Employees that were working and that had worked at the East Palestine derailment site performing clean-up or track reconstruction/restoration work. These Employees reported concerns about the safety of their working conditions at the derailment site due to the hazardous chemicals, including vinyl chloride, that were being burned or that had spilled onto the ground. I committed to contacting NSR officials about the safety of the working conditions at the derailment site. When I contact NSR about the Maintenance of Way Employees’ safety while working at the derailment site, the NSR official stated that I had his word that no Employees would be put in harm’s way. Despite this commitment, I continued to receive inquiries from Members that were working at the derailment site and who were very seriously concerned about their safety. After several internal discussions with multiple BMWED-representatives, it was determined that a Zoom conference call with the NSR Maintenance of Way Employees was necessary to ascertain precisely what had transpired and what was taking place at East Palestine.

5. BMWED conducted two (2) Zoom conferences with several of the BMWED-represented NSR Employees that worked at the East Palestine derailment site. The first Zoom conference was held on February 22, 2023, and the second Zoom conference was held on March 2, 2023. The NSR Employees confirmed during these Zoom conferences that they were assigned to work at the derailment, and they described their experiences working at the derailment, all of which indicated that their

conditions were unsafe. Their experiences of working at the derailment site are shocking to say the least. Several of the Employees stated that they were involved in the performance of removing damaged track, performing grading work, installing new track panels, surfacing and regulating ballast for the purpose of providing a safe roadbed and track surface for the trains to travel safely on once the tracks were temporarily rebuilt, fueling equipment that was used to perform such work, etc. Multiple Employees reported they were near the area of the “controlled burn” of the vinyl chloride, and that there was obnoxious smelling black smoke at the work site. All the NSR Employees reported that they were not offered any personal protective equipment, such as full face hazardous chemical respirators (*i.e.*, respirators that cover the eyes, mouth and nose with canisters that are rated for toxic fumes),, hazmat suits, rubber overboots, rubber gloves, etc. designed for working more safely around hazardous materials while working at the derailment site. Several of the NSR Employees reported the outside contractor employees, and emergency medical service (EMS) workers wore such PPE, including full-face hazardous chemical respirators, hazmat suits, rubber overboots and rubber gloves while working at the derailment site. Many of the NSR Employees, did report that NSR displayed a small supply of N95 particulate respirators and some half-mask particulate respirators and told the Employees that they could wear them if they wanted to. But these respirators are not made for protecting the Workers from exposure to toxic fumes but are instead meant to prevent particles such as dust from being inhaled. Workers also reported not being provided a means for washing their hands so that they could eat with clean hands during quick meal breaks at or near the derailment site. Multiple NSR Employees reported working in or very close to an “iridescent sludge” that had a very strong, obnoxious gaseous odor. These Employees also reported that the iridescent sludge saturated their work boots, clothing, and gloves, and that they had to dispose of such items because they were ruined by such saturation and exposure.

After not being provided hazmat personal protective equipment or a means for washing their hands, many of the Workers reported experiencing multiple health symptoms since working at the derailment. These symptoms included migraines, shortness of breath, skin irritation, irritation of the eyes, nausea, and diarrhea. Several of the Workers reported that they continued to experience these symptoms for multiple weeks following the derailment; several are still receiving breathing therapy. Additionally, all the Workers reported their concerns about how the exposure to the chemicals at the derailment would impact their long-term health.

6. BMWED solicited a list of questions to NSR officials regarding the Members’ exposure to these chemicals and had follow-up conversations with NS officials. I submitted those questions on February 24, 2023. NSR did not answer the questions submitted to it as of March 21, 2023, and the information NSR officials provided conflicted with the reports received from the Workers. BMWED eventually received information from the Membership that high-ranking NSR officials would be conducting a meeting with those Maintenance of Way Employees that worked at the East Palestine Derailment as well as their hazardous material contractor, CTEH. I as well as BMWED representatives Heath Vezza and Reese Saulter attended this meeting and during such, NSR officials and CTEH representatives stated that the Employees were not exposed to any hazardous chemicals while working at the derailment site. These officials and representatives went on to state that the vinyl chloride evaporated and was not in the ground where they worked, or that the air quality was safe where the Employees were when the vinyl chloride was burned.

Ultimately, these representatives stated that the Employees were exposed to no dangers or hazards from the vinyl chloride that was spilled from the tank cars into the ground where the Employees worked or in the air during the “controlled burn”. Some of the Employees asked why the residents of East Palestine were evacuated from the town during the controlled burn if they were not in danger.

7. Although NSR and CTEH claimed the Employees were not exposed to toxic gasses, our Members reported smelling gasses at the site. We also don’t know how NSR and CTEH can be so certain that there was no exposure when numerous toxic chemicals were spilled at the site and mixed together. Also, while vinyl chloride may evaporate when exposed to the air, our Members were disturbing the ground where they worked, some were assigned to remove inches of chemical drenched roadbed/soil and after they did, liquid at the site pooled up in puddles or “sludge” on the ground after the ballast (rocks) and soil above was removed. We also received reports that CTEH employees were holding some sort of air sampling device supposedly to protect our Members when they were working, but the CTEH employee(s) was apparently not paying attention and it was noticed that the device was registering in the “red” where our Members were working, and they were then told to leave where they were working immediately. So if there was no danger to our Members, why were residents told to evacuate? Residents may have been exposed to

fumes in the ambient air, but our members were working at the site, walking through puddles and mud contaminated with chemicals. If it was hazardous for residents to be in the general area of the spill, wasn't it dangerous for NSR employees to be working at the spill site? And if there was no danger to the Maintenance of Way Employees, why were other workers at the site given substantial PPE, industrial respirators and hazmat gear? But here is the ultimate question—given the chaos at the time, the short time frame and frantic efforts to control the spill, shouldn't NSR have erred on the side of safety for its Workers? Perhaps the vinyl chloride evaporated by the time our members arrived on the scene, but perhaps not. Perhaps the chemicals mixing together in unpredictable ways and amounts did not cause greater danger than if it was a single chemical or the chemicals were kept apart. Perhaps having the ground so soaked with chemicals that more liquid pooled up when a top layer of roadbed/soil was removed did not create new exposure after the chemicals initially evaporated. But wouldn't a responsible company that cared about its Employees have provided them with the best PPE in case all those perhaps' did not turn out to be so? Instead NSR cavalierly sent our members into work at the site in their regular work clothes as if this was an ordinary derailment with no toxic chemicals. Even if NSR is ultimately shown to be correct in what it assumed, it could not have known for sure; instead, it played toxic gas Russian Roulette with its Maintenance of Way Workers.

8. BMWED has received statements from its Members who were present and worked at the East Palestine derailment site. The intention was for these Employee statements to be shared with the Committee, but the Employees have since requested that their statements not be shared, even with their identities and certain details redacted, due to grave fears of retaliation by NSR, which I will address such in further detail below.

9. Given what happened, I wrote to the Mayor of the City of East Palestine, Mr. Trent Conaway, Governor of the State of Ohio, Mr. Mike DeWine, U.S. Secretary of Transportation, Mr. Pete Buttigieg and Administrator to the Federal Railroad Administration, Mr. Amit Bose, to describe the misfeasance of NSR with respect to its Employees. Copies of those letters are attached to this statement. The Members' concern for fear of retaliation were validated, because shortly following the General Chairman's letter to NSR, the General Chairman received reports from Members that a high-ranking official from NSR had told all NSR Division Engineers and Track Supervisors that if "the Union wanted a war, we will give them a war", and further told these management personnel to "treat the East Palestine Workers like gold" when it came to their concerns about the safety of their working conditions but to perform audits on the NSR Maintenance of Way Employees and "handle it accordingly". The implication was that managers were to go hunting through records and closely reviewing employee actions to look for potential violations that would not ordinarily be sought out in order to effect retribution on them because of the efforts of their union to protect their welfare. I was also advised that this same high-ranking NSR official told these management personnel that they are not to speak to any of the BMWED's ARSF Union representatives as they have historically done for resolving disputes on the property and that only NSR Labor Relations personnel could have such discussions. Additionally, during this NSR call, the names of the ARSF Union representatives were announced so that every manager knew their names and to avoid engaging with them accordingly. These instructions were allegedly given to the NSR management personnel via a conference call on March 3, 2023.

10. There is no question that NSR Maintenance of Way Employees worked at or near the East Palestine derailment site. There is also no question that these Employees were not provided PPE equivalent to the PPE worn by the outside contractor workers and EMS workers that were at the derailment site. There is no doubt that there were toxic chemicals present in the environment when these Employees worked tirelessly to help clean up the derailment site and restore the track structure at East Palestine—NSR's derailment resulted in ". . . over one million gallons of hazardous materials, hazardous substances, hazardous wastes, and/or other harmful pollutants into Ohio's air, streams, rivers, soil, and groundwater. . ." right where these NSR Employees worked. These Employees now fear for their long-term health after working at the derailment site and they fear for their livelihood for raising concerns about the safety of their working conditions. All NSR Maintenance of Way Employees that performed work at the East Palestine derailment site must be protected from retaliation. NSR CEO Alan Shaw must publicly make such commitment and be held to such. NSR must also be held responsible for ensuring the immediate and long-term health and well-being of these Employees and their families. NSR must commit to improving the safety of its workplace, through serious investment in adequate staffing, serious investment in its track structure and rolling

stock/operating equipment in an amount that exceeds their investments in their shareholders and executives' stock-buy backs and dividends. Therefore, NSR must abandon its reckless cost-cutting business model that has resulted in obscene profits for Wall Street Hedge Fund activist "value extraction" investors, rail executives and shareholders, in the face of numerous senseless accidents and seriously diminished rail services and at the expense of the railroads' customers, the American public, the Workers and their families.

Respectfully,

J. B. LONG,  
General Chairman,  
ARSF.

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PREPARED STATEMENT OF NATIONAL SAFETY COUNCIL

Chair Cantwell, Ranking Member Cruz and members of the Committee, the National Safety Council (NSC) appreciates the opportunity to submit these comments to improve railroad workplace safety. NSC was founded by the business community to improve workplace safety over 100 years ago. We continue to support safe and healthy workplaces, consulting with hundreds of workplaces each year—including high hazard workplaces—and we are honored to share our learnings with the Committee here today.

NSC is America's leading nonprofit safety advocate and has been for more than 100 years. As a mission-based organization, we work to eliminate the leading causes of preventable death and injury, focusing our efforts on the workplace and roadway. We create a culture of safety to keep people safer at work and beyond so they can live their fullest lives. Our more than 13,000 member companies represent employees at nearly 41,000 U.S. worksites.

Despite differences among business operations, there are key factors that are common among safety programs. NSC believes that optimum safety performance requires strong Safety Management Systems (SMS) and an organizational culture that prioritizes high safety standards, incident prevention and preparedness. Of course, continual improvement and learning must be fully integrated into any safety program.

America's rail operators, like other industries with similar risk profiles, need to have strong safety and health programs that address:

- Personal safety—employees and teams
- Contractor safety—critical partners in safe operations and maintenance
- System safety—assets, infrastructure, operating systems, maintenance
- Public safety—customers, communities and the general public

Key factors of successful programs include the following concepts:

1. Management commitment
2. Employee involvement
3. Training
4. Hazard/risk identification
5. Hazard control

There are learnings to be gained from organizations that implement safety and health systems well. NSC believes that the U.S. Nuclear Regulatory Commission Normative Framework, 10 Traits for a Healthy Safety Culture, is time-proven methodology for evaluating culture and has wide applicability to a number of industries.<sup>1</sup> The components of this framework include:

1. *Leadership Safety Values and Actions*—Leaders demonstrate a commitment to safety in their decisions and behavior.
2. *Personal Accountability*—All individuals take personal responsibility for safety.
3. *Decision-Making*—Decisions that support or affect safety are systematic, rigorous and thorough.
4. *Questioning Attitude*—Individuals avoid complacency and continuously challenge existing conditions and activities to identify discrepancies that might result in error or inappropriate actions.

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<sup>1</sup><https://www.nrc.gov/about-nrc/safety-culture.html>

5. *Environment for Raising Concerns*—A safety conscious work environment (SCWE) is maintained where personnel feel free to raise safety concerns without fear of retaliation, intimidation, harassment or discrimination.
6. *Respectful Work Environment*—Trust and respect permeate the organization.
7. *Work Processes*—The process of planning and controlling work activities is implemented so that safety is maintained.
8. *Effective Safety Communication*—Communications maintain a focus on safety.
9. *Organizational Learning*—Opportunities to learn about ways to ensure safety are sought out and implemented.
10. *Problem Identification and Resolution*—Issues potentially impacting safety are promptly identified, fully evaluated, and promptly addressed and corrected commensurate with their significance.

There is always an opportunity to improve safety to protect all stakeholders. Every worker deserves to return home in the same way he or she went to work. NSC welcomes an opportunity to work with the Committee on these issues and build upon efforts started in the Rail Safety Improvement Act.<sup>2</sup>

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<sup>2</sup>Public Law 110-432



## Transport Workers Union of America, AFL-CIO

**John Samuelsen**  
International President

**Alex Garcia**  
International Executive  
Vice President

**Jerome Lafragola**  
International  
Secretary-Treasurer

**Curtis Tate**  
International Administrative  
Vice President

**Mike Mayes**  
International Administrative  
Vice President

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**"AMERICA'S FIGHTING DEMOCRATIC UNION"**

March 20, 2023

"The Railway Safety Act of 2023 directly addresses the issues freight rail Carmen have been citing for years. The bill would give these workers the time they need to properly assess the safety of train cars and ensure that safety is the primary driver of these checks, not corporate profits. The TWU is proud to endorse this bill and we appreciate Senators Brown and Vance's leadership on these issues," TWU International President John Samuelsen.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARIA CANTWELL TO  
HON. JENNIFER L. HOMENDY

**NTSB Resources.** In 2016, a Union Pacific train derailed just 600 feet from the Columbia River in Mosier, Oregon, which borders Washington state. A total of sixteen cars derailed, spilling 47,000 gallons of crude oil. It subsequently caught fire, forced roughly 100 people to evacuate, and required over 500 response personnel. However, the NTSB chose not to investigate the Mosier train derailment “due to limited resources.”

**Question.** Does the NTSB have the resources it needs to carry out its critical safety mission?

**Answer.** To continue as the world’s preeminent safety agency and to keep pace with the technological advancements seen in all modes of transportation, the NTSB needs additional resources.

As you know, we are a small agency relative to our Federal partners, in terms of the size of our budget and our workforce, but our impact is profound. Our small, mission-driven staff are currently working on an outsized number of investigations. We need more staff to conduct more safety investigations and complete them more quickly. At the moment, our staffing levels, workload, and needs are as follows:

- Office of Aviation Safety: 113 staff working on 1,194 domestic and 132 foreign investigations; 150 staff are needed
- Office of Railroad, Pipeline, and Hazardous Materials Investigations: 34 staff working on 30 investigations; 56 staff are needed
- Office of Highway Safety: 32 staff working on 21 investigations; 53 staff are needed
- Office of Marine Safety: 18 staff working on 49 investigations; 38 staff are needed
- Office of Research and Engineering: 53 staff supporting 340 investigations and working on 6 safety research reports; 63 staff are needed

The objective of each investigation is to uncover safety challenges and identify trends to prevent a future tragedy from occurring. Between January 1, 2020, and April 11, 2023, we have issued 371 new recommendations and closed 473. Of those closed, 355 (75 percent) were closed acceptably, meaning that the recipient took action to implement the safety recommendation.

Despite the tremendous growth in transportation over the last two decades, the size of our agency has stayed virtually the same—approximately 400 staff members. Our workforce is our greatest asset and is essential to our mission. We need additional resources to hire the skilled professionals noted above, hire operational staff to support them, purchase the equipment necessary for staff to do their jobs, and invest in crucial staff training and development. When I became Chair in August 2021, we had 399 staff members. This year, we have undertaken 62 hiring actions and aim to end the year with 435 people on board. This is being accomplished with the \$129.3 million provided by Congress for Fiscal Year (FY) 2023. We need at least \$145 million in FY 2024, with incremental increases to \$185 million in FY 2028, to reach full staffing of 515 by 2028. We need Congress’s continued support for the NTSB’s mission and resources.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GARY PETERS TO  
HON. JENNIFER L. HOMENDY

**Question 1.** Chair Homendy in your testimony you mentioned the need to reauthorize the NTSB and for sending the details of your request to my subcommittee. In your reauthorization request, you asked for additional staffing capacity over the next 5 years. Can you describe how additional staffing capacity would improve NTSB’s ability to investigate safety incidents, including whether it could shorten timelines for investigation completion or improve investigative techniques?

**Answer.** The NTSB’s workforce is our greatest asset. We need robust, diverse, and well-trained staff to keep pace with the technological advancements seen in all modes of transportation. For this, the NTSB needs additional resources. There is no question that additional staff would improve the NTSB’s ability to investigate safety incidents and shorten the time it takes to complete our investigations.

The integrity of our investigations is vital to maintaining public confidence. The NTSB has recently faced several issues, however, that affect the timeliness of our reports, including government shutdowns, a global pandemic, and parallel criminal investigations. We are actively pursuing ways to expedite our processes while keeping in mind the time required to complete thorough and accurate investigations.

Our Office of Aviation Safety is leading the agency effort and has several initiatives underway. Our focus has been on process improvements, eliminating the investigation backlog, and adding resources where most needed. For example, at its peak in January 2022, our aviation backlog included 442 open cases over 2 years old. Today, we have fewer than 40. We are using a data-driven approach to evaluate each step of an investigation to identify efficiencies and process improvements, and we have already improved the timeliness and consistency of our investigation reports as a result of this new approach. We are also using this approach to better monitor, track, and measure progress, holding employees accountable for their performance, and to identify the need for adjustments if projects are delayed.

Additionally, we have identified staffing shortages as a reason that some reports take longer to produce than we would like. The reduction in workforce due to retirements and budget constraints means that there are simply fewer people to accomplish increasing workloads. This retirement trend is only projected to increase over the next several years; therefore, as an interim measure to meet the immediate need, we have hired retired investigators as reemployed annuitants to provide writing and final report processing support for certain investigations. We have also streamlined our hiring process to expedite filling vacancies, to the extent we are able under current budgetary constraints. For example, in the Office of Aviation Safety, these efforts have led to the onboarding of six staff this year, and we have ten positions in the interview and selection phase.

Support of our reauthorization proposal would allow the NTSB to hire more staff to meet the expanded need for transportation investigations, including those related to emerging issue areas. Funds will also allow us to focus investigations on our aging infrastructure and to reinforce our current recommendations.

*Question 2.* Chair Homendy, your testimony mentions open NTSB recommendations regarding notification of first responders when hazardous materials travel through a community like East Palestine—or Michigan towns that have seen near-misses in recent months. A few questions related to this recommendation:

A. Can you expand on what NTSB sees as the threshold for sufficient notification that would allow swift response and risk mitigation?

Answer. The NTSB believes that just one railcar of any hazardous material justifies notifying emergency responders of hazardous materials transiting their communities. A single tank car loaded with hazardous material can cause extensive destruction and loss of life. If a derailment does occur, emergency responders are the next line of defense to minimize loss of life, injury, and damage to the environment and to property. It is critical that emergency responders receive critical hazardous materials information. In fact, the NTSB recommended in 2014 that the Department of Transportation require railroads transporting hazardous materials through communities provide emergency responders and local and state emergency planning committees with real-time or advanced notification in order to facilitate a quick response (R-14-14). Having awareness and timely access to information will prepare emergency responders to protect themselves and their communities.

Communities are granted commodity flow information by completing a request found in the Association of American Railroad's (AAR's) Circular OT-55.<sup>1</sup> However, this is not real-time, but annualized information, and many communities are unaware of its availability. Further, most emergency responders have awareness-level training, which is sufficient for railroad operating personnel; however, emergency responders need operations-level training, such as that outlined in the Occupational Safety and Health Administration's Standard 1910.120.<sup>2</sup>

B. What types of mechanisms could be employed for this type of notification and how could we ensure security of these transmissions to ensure this information does not fall into the wrong hands?

Answer. As you know, the Fixing America's Surface Transportation (FAST) Act directed the Department of Transportation (DOT) to require Class I railroads transporting any hazardous materials to generate real-time electronic train consist and emergency response information and provide it to state and local first responders in the event of an incident.<sup>3</sup> This rulemaking has languished since January 2017.<sup>4</sup>

The FAST Act also directed that each state emergency response commission be given advance notification regarding high-hazard flammable trains (HHFTs) passing

<sup>1</sup>AAR Circular No. OT-55-N

<sup>2</sup>OSHA 1910.120—Hazardous waste operations and emergency response

<sup>3</sup>P.L. 114-94, Sec. 7302

<sup>4</sup>Federal Register: Hazardous Materials: FAST Act Requirements for Real-Time Train Consist Information by Rail

through their communities.<sup>5</sup> The DOT completed this rule in February 2019.<sup>6</sup> As you know, the train in East Palestine was not an HHFT, however, and the first responders had no awareness it was traveling through their community.

As a voluntary measure, the railroad industry in 2014 launched the AskRail app through which railroads can provide electronic notification of the contents of train consist to authorized qualified users who have completed industry-sponsored training for emergency responders. However, it is not clear that all emergency responders have the AskRail app available and are trained on how to use it. In East Palestine, none of the East Palestine Fire Department personnel had the app on their devices.

The AskRail user guide states that the app displays the last known information about railroad equipment contents. This information is expected to be current and correct; however, it may not be due to various data quality impediments or delays in data transmission. The AAR recommends that emergency responders use AskRail temporarily for safety isolation, evacuation, and assessment from a distance while securing the proper shipping paper from the railroad or train crew. According to the guide, the sequencing of the cars in the application may not match the sequencing of the cars on the paper consist, which is the compliance document and takes precedence in any discrepancy. Further, after a derailment, the sequence of cars in the consist and in the app does not match due to the railcars bunching up. Therefore, the AskRail app is not an absolute replacement for accurate hazardous materials shipping papers carried on-board the locomotive.

The AAR United States Hazardous Materials Instructions for Rail instructs train crews to immediately share any requested information from the shipping documents with emergency response personnel, provide an extra copy of the train consist when available, and immediately share a copy of the emergency response information provided with the shipment.<sup>7</sup> These current instructions and Federal regulations fall short of requiring rail carriers to seek out emergency responders to provide them timely information about a train consist following a hazardous materials release incident.

We acknowledge the security issues associated with these notifications to ensure this information does not fall into the wrong hands. The NTSB is focused on safety and accident investigation and does not have the expertise to comment on how to best ensure the security of these notifications. We would look to other Federal agencies with the required expertise, such as in the Department of Homeland Security (DHS) and the Cybersecurity and Infrastructure Security Agency (CISA), to develop and issue appropriate standards and procedures. For security reasons, only emergency communication centers, emergency first responders, and other authorized persons, as determined by the North American Class 1 Railroads, can download and use the restricted features of the AskRail app.

C. Has NTSB considered partnering with DHS or CISA on making specific recommendations to address these parts of the recommendation?

Answer. No. However, if we determine in an investigation that DHS or the CISA could take an action to prevent a noncriminal act/accident, we will not hesitate to make a recommendation to either agency. Further, we may also add DHS or the CISA as parties to an investigation where there were cybersecurity issues.

However, the NTSB does not investigate criminal activity. If our investigation reveals that a transportation event was caused by criminal activity, we are obligated to turn the investigation over to the Federal Bureau of Investigation or other appropriate law enforcement organization. We believe it is likely that any investigation involving DHS or the CISA would likely be a criminal investigation.

*Question 3.* Chair Homendy, in your testimony you discussed NTSB's recommendation that the Federal Railroad Administration review railroads' Risk Reduction Programs to ensure that they include sufficient planning for prevention and mitigation and that they reflect companies' commitment to continuous evaluation and improvement. Has the Federal Railroad Administration given NTSB a reason for not following through with this recommendation? Do you believe it could be related to a lack of capacity?

Answer. Our last update from the Federal Railroad Administration (FRA) was in September 2021 when the FRA said it had drafted the recommended guidance on risk reduction programs and was reviewing and clearing it for public release. We

<sup>5</sup> P.L. 114-94, Sec. 7302(a)(3)

<sup>6</sup> Federal Register: Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains (FAST Act)

<sup>7</sup> AAR: United States Hazardous Materials Instructions for Rail, Section VIII. Emergency Response (Jan. 20, 2022), paragraph 4(a)

have not received any further information, and we are currently awaiting a copy of their guidance for our review.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO  
DAVID COMSTOCK

**Emergency Response.** Over 75 percent of fire departments in the State of Washington are volunteer or mostly volunteer-run. Only 14 percent of fire departments in the state have a specialized hazardous materials team that could best respond to hazmat spills. There are currently six Federal hazardous materials safety grants at DOT, but none that fund equipment. To properly prepare for and respond to hazardous materials incidents, communities need access to the right training and equipment.

*Question 1.* Mr. Comstock, did your department have the resources it needed to respond to the East Palestine derailment?

Answer. My department did not possess the necessary specialized equipment to deal with a hazardous materials incident like East Palestine. Though hazardous materials rail incidents can occur near any jurisdiction that is located near a rail line where these materials are transported, many departments in these jurisdictions do not possess specialized hazmat equipment. This is often due to fire departments within these jurisdictions having very limited funding that in many cases don't even cover enough funding to provide basic firefighting equipment to all personnel.

Additionally due to the intensity of the East Palestine incident, turnout gear and self-contained breathing apparatus (SCBA) used at the incident were destroyed. I must now rent replacement turnout gear because I don't have enough back-up gear for my firefighters during the months long process of ordering new gear.

My department also relies on a county level hazmat response team for technical support. Our county's team did not have all of the monitoring meters it needed at the East Palestine incident. These meters cost \$60,000 each.

*Question 2.* Are current Federal grant programs adequate for providing communities like yours with hazardous materials response equipment?

Answer. The DoT's grant programs are excellent at providing hazmat response training and the National Volunteer Fire Council strongly recommends additional funding for these programs. The Federal Emergency Management Agency's (FEMA) Assistance to Firefighting Grant (AFG) program is the best existing grant program for firefighting equipment, but this program receives many more requests than it can fulfill.

The fire service would benefit from a new grant program to provide hazardous materials response equipment. Additional funding for regional hazmat teams consistent with NFPA standards would also be helpful. This is provided neither of these additional funding sources take away from the funds available for hazmat training, AFG, or Staffing for Adequate Fire and Emergency Response (SAFER) grants.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARSHA BLACKBURN TO  
DAVID COMSTOCK

To Chief Comstock: I know product identification on train cars is paramount to first responders' safety. In situations like we saw in Ohio, fast and accurate identification of hazardous materials is necessary to make sure we don't put first responders at risk.

*Question.* How can Congress work with industry and first responders to enhance methods for emergency hazmat product identification?

Answer. The most effective way to improve emergency hazmat rail product identification is to ensure that all firefighters that provide hazmat incident response are trained at an operational level of competence. A big step toward accomplishing this goal would be to provide additional funding to Pipeline and Hazardous Materials Safety Administrations' (PHMSA) hazardous materials training grants. Specifically to Hazardous Materials Emergency Preparedness (HMEP), Assistance for Local Emergency Response Training (ALERT), Hazardous Materials Instructor Training (HMIT), Community Safety (CS) program, and Supplemental Public Sector Training (SPST).

Additionally, Congress can take steps to foster dialog between industry and first responders to ensure perspectives are exchanged to identify the best ways to distribute needed hazardous materials transportation information to first responders. I also believe that Congress should support the recommendations made by the Na-

tional Transportation Safety Board regarding the notification of first responders. See page 8 of Chair Homendy's testimony for this hearing.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. MARIA CANTWELL TO  
CLYDE WHITAKER

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. MARIA CANTWELL TO  
ALAN SHAW

Safety Investments. According to data Norfolk Southern provided to the Surface Transportation Board, investments the company have made in its network decreased by about 30 percent from 2017 to 2021. During that same time accident rates increased by 60 percent.

*Question.* How much does Norfolk Southern plan on investing in its network this year?

Answer. At Norfolk Southern, safety is our top priority, and we have long been committed to operating a safe railroad. We have a multipronged approach to safety that includes capital investments to reduce the number and severity of accidents. We invest over \$1 billion every year in technologies, equipment, and infrastructure to enhance the safety of our rail operations. These include safety-focused items, such as rails, ties, ballasts, bridges, culverts, vehicles, and maintenance of way equipment. We spend an additional \$1 billion every year on ongoing operations in support of safety.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. AMY KLOBUCHAR TO  
ALAN SHAW

The Bipartisan Railway Safety Act of 2023: This bill takes a number of key steps to improve rail safety protocols, such as enhancing safety procedures for trains carrying hazardous materials, establishing requirements for wayside defect detectors, creating a permanent requirement for railroads to operate with at least two-person crews, increasing fines for wrongdoing committed by rail carriers, and more.

*Question 1.* Please identify the provisions in Senator Brown and Vance’s Railway Safety Act of 2023 which you do not support, and clarify the reasons why.

Answer. We support legislative efforts to enhance the safety of the freight rail industry. We are committed to working with our fellow industry leaders, and we also recognize and appreciate the bicameral, bipartisan leadership by Members of Congress in proposing new legislation to create a safer rail industry. The Railway Safety Act includes measures with the potential to enhance safety and improve outcomes for our industry, our customers, and the communities we serve.

We support the Railway Safety Act’s provisions for more industry-funded training for first responders, and we are not waiting for legislation to move this forward. We have already announced the expansion of our existing training programs and the creation of a new regional training center in Ohio, to serve first responders in Ohio, Pennsylvania, and West Virginia.

We support the principle that first responders need accurate real-time information on the contents of trains moving through their communities and instruction on the safe handling of those contents in the event of an accident. We intend to take a leading role in getting the AskRail safety application into the hands of every first responder who needs access. In this area specifically, the details of legislation matter as policymakers balance safety and national security concerns.

We support triennial reviews of regulations for rail car inspections and standards for freight car safety because regular reviews drive good regulatory policy and outcomes.

We support the Federal Railroad Administration’s (“FRA”) Confidential Close Call Reporting System (“C3RS”). Norfolk Southern participates in the C3RS Working Group, which is part of the Department of Transportation’s Railroad Safety Advisory Committee.

We support accelerating the phaseout of older tank car models, research into advanced tank car design, and additional funding for research and development of next-generation, early-warning sensor technologies.

There are also areas in which we believe Congress could go further with safety legislation. We encourage even stricter standards for tank car design. There are significant opportunities for advanced technology to enhance rail safety, and we encourage Congress to consider additional research into on-board rail car defect detection technology.

We support increasing fines and penalties for persons found tampering with railroad facilities and safety equipment, such as grade crossing warning devices, wayside detectors, or signal boxes. We support codifying and enhancing the FRA’s C3RS. And we support new requirements to ensure utility installations in railroads’ rights-of-way are conducted safely.

We also look forward to constructive discussions with stakeholders regarding other provisions of the proposed legislation, as our goal is to help craft effective, data-driven, practical legislation that improves the Nation’s rail system and rail safety.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. GARY PETERS TO  
ALAN SHAW

*Question 1.* Mr. Shaw, my office has subsequently shared the document with you that I referenced in the hearing on March 22, 2023 that appeared to show Norfolk Southern trains running rail cars past the FRA-imposed limit for a brake inspection. Can you provide an explanation for these apparent violations? Has Norfolk Southern investigated this issue and what steps have you taken to ensure there is not habitual overrun of FRA brake inspection standards?

Answer. The document in question is a report from an internal commercial-facing tool called the Commodity Train Management System (“CTMS”). This system provides some information about equipment that serves coal, grain, and other commodity customers. CTMS is not the system of record for brake tests or mechanical inspections, and it no longer displays interval mileage and brake mechanical inspection data. We have consulted the relevant system of record and confirmed that the

train in question received a brake test in compliance with applicable Federal regulations.

*Question 2.* The document I entered into the hearing record appeared to show NS cars traveling tens of thousands of miles without a full mechanical inspection. Does Norfolk Southern have an internal standard for how many miles a car should travel before receiving a full mechanical inspection?

Answer. We do not allow unsafe trains to operate. Norfolk Southern requires rail-car inspections in compliance with applicable Federal regulations. As relevant to this question, Norfolk Southern requires that cycle unit trains receive a mechanical inspection by qualified personnel at appropriate intervals.

*Question 3.* Your testimony mentioned that Norfolk Southern “aggressively hired” in 2022. According to the GAO and witness testimonies, Class I rail companies have cut their workforces by as much as 30 percent over the past decade. Is there an internal hiring goal that Norfolk Southern is committed to meeting with new hiring? Can you share with the committee how many new roles are inspection-related positions that will increase the company’s self-inspection capacity?

Answer. We know that our employees in the field are key to our success. To that end, we hired craft railroaders throughout 2022 and continue to do so this year. We’ve invested in our Train and Engine workforce and maintained a robust pipeline of trainees, including more than 930 conductor trainees in the first quarter of 2023. And in December 2022, Norfolk Southern was the first in the industry to announce a move away from a focus on reducing operating ratio—a common industry measure of efficiency. As part of our December announcement, we made clear that we are going to make reliable and resilient service our goal. That means investing more in services, running a safe railroad, and moving away from the practice of furloughing workers during a downturn. Instead, we’ll use the opportunity to invest in additional training for our people. That makes us a better railroad, improves service for our customers, and improves the quality of life for our frontline railroaders.

Hiring target goals are affected by a number of factors throughout the year and are therefore fluid and dynamic. Norfolk Southern recently provided the Surface Transportation Board with revised labor force targets for May 2023. These revised targets projected a companywide total of 18,624 employees by May 2023, including 7,613 Full-time Employees (“FTEs”) in Train and Engine, 4,166 FTEs in Maintenance of Way, and 2,472 FTEs in Maintenance of Equipment and Stores.

When Norfolk Southern is successful, it is because our frontline railroaders are getting the job done. For context, optimized train routes and newly adopted technologies that assist inspectors have increased the efficiency of on-arrival and pre-departure inspections. We agree on the importance of ensuring thorough inspections, and we understand the most successful inspections are carried out through a process that utilizes both technology and human resources. We note that inspection frequency has generally remained consistent, and Norfolk Southern has remained committed to complying with federally mandated mechanical inspection obligations.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TAMMY BALDWIN TO  
ALAN SHAW

Mr. Shaw, I have serious concerns about the safety record of Norfolk Southern, particularly as the number of safety incidents at the company has risen 76 percent in the last decade and the National Transportation Safety Board felt it necessary to open a special investigation into the company’s safety culture.

I have long believed that a fully staffed, highly qualified, and well-trained workforce is vital to the safety and success of rail carriers throughout the country.

*Question 1.* To that end, how many carmen are currently working for Norfolk Southern? And how does that level compare with a decade ago in 2013, prior to the company implementing precision scheduled railroading? Finally, what steps are you taking to properly invest in your workforce?

Answer. Safety is our top priority at Norfolk Southern. We are committed to ensuring the safety of communities that live by our railroads and the safety of our employees. We invest over \$1 billion every year on technologies, equipment, and infrastructure to support safety, and another \$1 billion per year in ongoing operations in support of safety. We have a multipronged approach to safety that includes capital investments to reduce the number and severity of accidents.

Norfolk Southern publicly reports the number of “Maintenance of Equipment and Stores” employees, which includes carmen and a wide range of other roles. In 2022, there were approximately 2,420 Maintenance of Equipment and Stores employees

at Norfolk Southern. We know that our employees in the field are key to our success. In December 2022, Norfolk Southern was the first in the industry to announce a move away from a focus on reducing operating ratio—a common industry measure of efficiency. As part of our December announcement, we made clear that we are going to make reliable and resilient service our goal. That means investing more in services, running a safe railroad, and moving away from the practice of furloughing workers during a downturn. Instead, we'll use the opportunity to improve training for our people. That makes us a better railroad, improves service for our customers, and improves the quality of life for our frontline railroaders.

Mr. Shaw, I have received reports from BMWED, the Union that represents Norfolk Southern Maintenance of Way workers, that its members were sent out to clear muck and debris from the tracks in East Palestine and to restore the tracks so Norfolk Southern could resume operations.

While many of them have since asked that their statements not be shared for fear of retaliation, the reports suggested that there were dozens of employees on and around the tracks, including when residents were told to evacuate and the controlled burn was conducted. Concerningly, the reports also said Norfolk Southern did not provide those employees with full face chemical respirators, other industrial grade respirators that protect workers from chemical gasses, eye protections, rubber gloves, rubber boots, or hazmat overalls. The track workers have since reported experiencing headaches, nose bleeds, skin irritations, and difficulty breathing.

In light of these reports:

*Question 2.* Were the maintenance of way employees assigned to help clear the track and right of way given full face chemical respirators, or other industrial grade respirators that protect workers from chemical gasses, eye protection, rubber gloves, rubber boots or hazmat overalls?

Answer. We are fully committed to keeping our employees safe as they work to clean up and restore the community of East Palestine, just like we're fully committed to keeping the community safe. Immediately following the incident, we worked closely with contractors who specialize in this type of clean-up. The first Norfolk Southern employees on the scene were supervisors, not unionized workers. Only after the contractors cleared the site for work did we call in our craft colleagues to assist with the clean-up. Our contractors advised us on conditions, including what sort of protective equipment we needed and constantly monitored the air to make sure it was safe to work.

We provided our workers with personal protective equipment ("PPE"), including safety glasses, hardhats, reflective vests, and hearing protection, as well as N95 respirators. Air monitoring conducted immediately after the derailment by Norfolk Southern and our expert consultants—which was shared with first responders—indicated that the chemical levels in areas delineated for Norfolk Southern activities were below what would have required chemical protective PPE or respirators. Our expert contractors who responded to the derailment provided PPE to their own personnel.

*Question 3.* Are you aware that a high-level Norfolk Southern manager, in conversation with other managers, suggested that letters sent by BMWED to Secretary Buttigieg and Governor DeWine raising safety concerns were "BMWED going to war" with Norfolk Southern, while also suggesting that individual employees' records should be scrutinized for potential opportunities for retaliation?

Answer. We have robust, ongoing dialogues with our unions, and we value the relationships we have with them. We are not aware of such a comment. Norfolk Southern prohibits retaliation against whistleblowers.

*Question 4.* Will you commit that Norfolk Southern will not retaliate against individual workers because their union raised safety concerns with Federal and state officials?

Answer. We do not penalize or retaliate against our employees when their unions raise safety concerns, whether that is within the company or to Federal and state officials.

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RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. TAMMY DUCKWORTH TO  
ALAN SHAW

On March 8, 2023, the FRA announced that it will be conducting a 60-day assessment of Norfolk Southern (NS), related to the derailments and other NS safety-related incidents. The FRA noted that it would specifically assess various operational elements, including dispatcher training and the training and qualification programs

available to all railroad employees, including engineer and conductor training and certification.

*Question 1.* Taking into account that the FRA recently investigated NS's Conductor Certification Program in 2021 and found it to be non-compliant, what steps has NS taken to improve its training and qualification programs to ensure that staff are all properly trained to avoid further derailments and rail accidents and what new steps will it take given the recent East Palestine derailment?

Answer. We are working with the FRA to ensure our program continues to comply with applicable regulations. With regard to the East Palestine incident, the NTSB preliminary report indicated the rail crew operated the train below the track speed limit and handled the train in an approved manner. Once the rail crew was alerted by the wayside detector, they immediately began to stop the train. During the NTSB press conference held on February 23, 2023, Chair Homendy said, "[w]e have no evidence that the crew did anything wrong."

As a general matter, and consistent with Federal regulations, conductors must complete Norfolk Southern's conductor training program, which includes approximately four months of classroom and on-the-job training. The FRA audits compliance with these regulations. In performing these audits, FRA representatives spend time at our training center in McDonough, Georgia, and in the field with our Conductor Trainees, supervisors, and craft employees.

Norfolk Southern is committed to investing in our people, our infrastructure, and in new technology and systems to make our operations safe for our employees and the communities we serve. We are also committed to doing our part to help maintain the freight railroad network as one of the safest and environmentally sustainable modes of surface transportation in the nation. We are collaborating with our employees and their labor representatives to request input in continuing to improve safety. We have held safety stand-down briefings across our network and throughout the organization to emphasize our commitment to safety. We are continually looking for ways to improve our strong safety culture and welcome feedback from the FRA. We intend to implement measures that are proven to increase operational safety, including enhancements to the safety and response training provided to Norfolk Southern employees.

In the course of their regular oversight duties, the FRA is currently reviewing the conductor training programs for Class I Railroads, including Norfolk Southern's. We are also cooperating with the FRA as it conducts a full safety culture audit. As part of the audit, the FRA has attended Norfolk Southern training across all crafts to observe the company's messaging around safety, which will allow Norfolk Southern and the FRA to openly exchange ideas to continue to improve our programs. We also agreed to join the FRA's C3RS. Norfolk Southern is cooperating with the NTSB's special investigation of its organization and safety culture. We are resolved to work with lawmakers, the NTSB, the FRA, and other stakeholders to improve railway safety and learn from this derailment.

All Norfolk Southern field supervisors and craft employees receive hazardous materials training, including training on the procedures in Norfolk Southern's emergency response plan, which is loaded on all company-provided devices. All field supervisors and craft employees also receive safety sensitive training, which includes topics such as railroad security, improvised explosive devices, and threats to the railroad.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TED CRUZ TO  
ALAN SHAW

*Question 1.* During the hearing, you indicated that Norfolk Southern was working on a fund to compensate homeowners in the surrounding area of East Palestine whose property values had been affected by the February 3 derailment.

a. Has such a fund been established yet?

Answer. We are listening closely to concerns from the community about whether there could be long-term impacts from the derailment. We know residents are worried about their home values. We are working with local leaders on investments to support the community's long-term prosperity. We are currently working towards a final resolution with Attorney General Yost and relevant stakeholders to establish three new funds to address healthcare, property values, and water protection in East Palestine and the surrounding communities. However, these are complicated issues that will likely take time to resolve in a comprehensive fashion. The details of these programs are being developed, and we look forward to sharing additional information about them in the future.

b. If such a fund has already been established, please provide details regarding the claim process and the compensation available. If not, please explain the remaining tasks and the expected date that claims can be made.

Answer. Although the fund is not yet in place, Norfolk Southern is covering costs for any resident who has chosen to relocate, either temporarily or permanently. As of May 1, 2023, Norfolk Southern has paid nearly \$4 million providing relocation assistance.

*Question 2.* Responding to a major hazardous materials incident can impose substantial costs on first responders, and the delay in repaying those expenses can lower the readiness of those organizations in the aftermath of such an incident.

a. Has Norfolk Southern or its insurer reimbursed the expenses of all first responders to the East Palestine derailment?

Answer. Norfolk Southern has profound admiration for first responders, and we are committed to making first responders whole for costs associated with the emergency response in East Palestine. We have paid over \$5.3 million in reimbursements and support to first-responder organizations in East Palestine and the surrounding communities to replace equipment used in the derailment response.

Additionally, we have pledged additional funds for first responders and taken a number of steps to ensure that local communities are equipped to respond to train-related incidents. Norfolk Southern maintains a robust network of emergency response contractors who can respond to an incident in any of the twenty-two states where we operate. Our emergency response contractors include hazmat specialists who are licensed and qualified to respond to incidents involving the release or potential release of hazardous materials. Further, these contractors are geographically situated such that they can be on-site, often with their own emergency response equipment, shortly after an accident.

b. If not, please indicate what payments have been made to date and explain the reasons for the ongoing delays regarding any remaining reimbursements.

Answer. As of May 3, 2023, only two of the sixty-seven first-responder organizations that have submitted claims for reimbursement have yet to receive payment because their claims are still being processed or require additional information. Certain claims from three other organizations have been paid in part, pending calculation of the total expense or delivery of back-ordered equipment. All other claims have been paid in full.

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RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN THUNE TO  
IAN JEFFERIES

*Question.* Mr. Jefferies, your testimony and a recent announcement from the Association of American Railroads describe an effort to install new wayside hot bearing detectors to reduce spacing on major routes to 15 miles. Your testimony also mentioned that the previous average had been every 40 miles, but had fallen below that number in recent years. Do you have an estimate for what the average spacing is nationwide currently? What sort of considerations are made in determining a spacing threshold for these wayside detectors? In your testimony, you describe the use of data analytics to improve early detection of faulty bearing and other rail equipment. Where and how is this analysis being deployed, and how does it improve the use of these detectors?

Answer. Freight railroads have long recognized the risk posed by hot bearings and have voluntarily installed thousands of hot bearing detectors (HBDs) throughout their networks. To drive toward a future with zero incidents and injuries and ensure what happened in East Palestine never happens again, all Class I railroads have agreed to go even further and are immediately installing additional HBDs across their key routes, with the goal of achieving an average spacing of 15 miles, except if the route is equipped with acoustic bearing detectors or other similar technology which can ascertain potential problems from the noise created by bearings that are starting to fail. In that case, HBD spacing will not exceed 20 miles. As a result of this commitment, railroads will deploy approximately 1,000 new HBDs.

The appropriate spacing between HBDs is not a one-sized-fits-all approach. Generally speaking, the spacing threshold is designed to ensure that coverage is sufficient to provide the necessary level of protection. Numerous variables regarding the route are considered, including whether the routes is near sensitive waterways or other ecological sites or includes timber or other bridges identified by the railroad, areas where residential neighborhoods are close to mainline track, and other heavy industrial areas or interchange locations that generate large carload traffic. Additionally, numerous operational factors are taken into account, including the nature and density of the traffic, speed restrictions, and utility or maintenance access.

The Class I railroads have also established a new industry standard and other policies related to HBDs. This includes stopping trains and inspecting bearings whenever the temperature reading from a HBD exceeds 170° above ambient temperature. Inoperative HBDs on key routes will also generate critical incident tickets and be prioritized for dispatch and repair without undue delay.

Furthermore, while HBDs have been in use for a long time, relatively recent software and data processing advances now allow railroads to employ detectors that communicate their readings back to their internal networks and to engage in “trend analysis” of readings from multiple HBDs over time. Analysis of trending data has led to the ability to proactively identify bearings that have not yet exceeded absolute temperature thresholds but, based on findings of HBD-trending data, may become problematic and need to be addressed. Class I railroads employ a variety of approaches when analyzing this data and are now working collaboratively to identify best practices associated with trend analysis to make their programs even more effective at proactively detecting potential bearing problems.

These efforts are reflective of an industry-wide commitment to develop complex technologies to ensure safer, more reliable operations in the field. For example, freight railroads, in conjunction with AAR and its wholly-owned technology subsidiary, Railinc, have established the Asset Health Strategic Initiative which includes technology products that monitor the entire railcar life cycle and allow railroads and car owners to share information about potential defects found by detectors.

Future railroad efforts to harness technology to improve operations and drive safety innovation will be most effective if safety policy is well grounded in evidence-based, scientific understanding. Railroads respectfully urge policymakers to not “lock in” existing technologies and processes so that new innovations and technologies that could improve safety and efficiency are not stifled. Achieving maximum safety benefits requires regulatory flexibility that does not hinder innovation, allows railroads to find what works best, and encourages railroads to keep investing in those technologies.

