



*Testimony of*

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*Before the*

Railroads, Pipelines, and Hazardous Materials Subcommittee  
Committee on Transportation and Infrastructure  
United States House of Representatives

*– On –*

Oversight and Examination of Railroad Grade Crossing Elimination and Safety

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Washington, DC • January 18, 2024



*An Independent Federal Agency*

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Good morning, Chairman Nehls, Ranking Member Payne, and members of the subcommittee. Thank you for inviting the National Transportation Safety Board (NTSB) to testify before you today regarding railroad grade crossing elimination and safety. 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 causes of the accidents and events we investigate and issue safety recommendations aimed at preventing future occurrences. In addition, we conduct transportation safety research studies and offer information and other assistance to family members and survivors for each accident or event we investigate. We also serve as the appellate authority for enforcement actions involving aviation and mariner certificates issued by the Federal Aviation Administration (FAA) and the US Coast Guard, and we adjudicate appeals of civil penalty actions taken by the FAA.

The NTSB does not have authority to promulgate operating standards, nor do we certificate organizations, individuals, or equipment. Instead, we advance safety through our investigations and 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 injuries and save lives.

In my testimony today, I want to detail just a few of the NTSB's grade crossing investigations, outline the broader lessons we have learned from those investigations, and reiterate how critical it is for our federal, state, industry, and labor partners to heed those lessons learned and take action to help avoid future tragedies.

I am personally familiar with the aftermath of a grade crossing collision and the lifelong grief that surviving family members and friends must endure. My father's cousin, Darcy, was killed at a passive grade crossing near Havelock, North Carolina many years ago.

With that said, I believe it is important, as we have this discussion today, that we keep in mind that rail passenger and freight transportation in the United States is far safer, more fuel efficient, and produces lower emissions than road transportation. I would never want to see that traffic shift away from railways to roadways. It is the opposite we should all strive for: shifting passenger and freight transportation from our deadly roadways to far safer modes of transportation, like rail.

The United States confronts an ongoing public health crisis on our roadways in every corner of this country, losing over 40,000 lives annually in crashes on our roadways.<sup>1</sup> Grade crossings are among the deadliest spaces in our rail system, in part,

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<sup>1</sup> US Department of Transportation, National Highway Traffic Safety Administration. Traffic Safety Facts: Early Estimate of Motor Vehicle Traffic Fatalities for the First Half (January-June) of 2023. Washington, DC: NHTSA, 2023. <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813514>

because they are where our rail and highway systems meet. Better separating these systems would save thousands of lives and incur many other benefits.

However, we must also be clear that the only acceptable number of fatalities on our rail system is zero, and although rail transportation is comparatively safe in contrast to highway transportation, we must still work to ensure that no lives are needlessly lost to preventable collisions.

Since 1967, the NTSB has been at the forefront of railroad safety. We have a long record of highlighting numerous safety issues on our railways and have particularly strong concerns about rail worker safety, train approach warnings, positive train control, and railroad company safety cultures, in addition to the grade-crossing concerns that we are here to discuss today.

In total, the NTSB currently has over 190 open rail safety recommendations.<sup>2</sup> These include 5 recommendations to the US Department of Transportation (DOT), 90 recommendations to the Federal Railroad Administration (FRA), and 12 recommendations to the Pipeline and Hazardous Materials Safety Administration (PHMSA). There are also over 115 recommendations to the FRA that are closed with unacceptable action.<sup>3</sup> The collisions we see in our investigations are tragic because they are preventable, and we believe the safety issues we identify in these investigations should be acted on swiftly.

## **NTSB's Longstanding Interest in Grade Crossings**

In 2022, 272 people were killed in collisions at grade crossings, and the rate of grade crossing collisions has increased significantly over the past decade, from 2.811 per million train miles in 2013 to 3.758 per million train miles in 2022. This represents the overwhelming majority of rail fatalities in the United States, and we are grateful that Congress included several provisions in the Infrastructure Investment and Jobs Act of 2021 (IIJA) to address grade-crossing and trespasser safety.<sup>4</sup> In the last 10 years, the rate of grade crossing incidents has increased by one incident per million train miles.

Many of you may know of someone who has been killed or injured in a grade-crossing accident. It was almost 5 years ago, as I'm sure some of you may remember that an Amtrak train carrying members of Congress and staff struck a refuse truck that

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<sup>2</sup> A report of all open safety recommendations related to rail (nontransit) can be accessed here: <https://data.nts.gov/carol-main-public/query-builder/route/?t=published&n=28>.

<sup>3</sup> A report of all closed-unacceptable safety recommendations related to FRA can be accessed here: <https://data.nts.gov/carol-main-public/query-builder/route/?t=published&n=33>.

<sup>4</sup> Public Law 117-58.

was stopped on the tracks of a grade crossing in Crozet, Virginia.<sup>5</sup> The collision resulted in the death of one truck passenger, serious injuries to the second passenger, and minor injuries to the truck driver. Four train crew members and three train passengers sustained minor injuries. In this case, the NTSB determined that the truck driver entered the active grade crossing, but failed to take action once he encountered obstacles, likely due to the driver's impairment.

The NTSB has a long history of investigating these kinds of preventable collisions at grade crossings. Over the years, our agency has issued many recommendations aimed at improving the safety of motorists and train occupants at crossings. Our investigations have identified numerous recurring safety issues, such as the following:

- Grade separation is needed at high-risk locations.
- Improved signage and warnings for motorists are needed at many crossings.
- High vertical profile crossings ("humped crossings") continue to cause problems nationwide, with trucks and buses becoming stuck on tracks.
- Traffic queues at grade crossings must be avoided, and they require active traffic management by local highway authorities to ensure vehicles are not trapped on tracks.
- Adequate line of sight at both public and private grade crossings is needed to prevent collisions.
- Advanced technology solutions (i.e. improved vehicle navigation systems, connected vehicle-to-train, GPS tracking) could be used to warn train operators and motorists of active railroad tracks in the area or of impending conflict.
- Improved data and reporting requirements for both public and private highway-railroad grade crossings are needed.
- Increasing participation in Operation Lifesaver to educate road users about safely walking, rolling, or driving near grade crossings.

We should be clear up front that the safest treatment for any grade crossing is its elimination. At grade crossings, trains have the right of way. Building an overpass or underpass and eliminating the shared space between trains and automobiles is the surest way to reduce the possibility of deadly interaction. When grade crossings cannot be eliminated, it is important to understand the differing levels of safety afforded by various types of grade-crossing warning systems.

To mitigate collisions with highway vehicles, grade crossings have either active or passive warning devices. Active grade crossings have active warning and control devices such as bells, flashing lights, and gates, in addition to passive warning

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<sup>5</sup> National Transportation Safety Board. *Collision Between Passenger Train and Refuse Truck at Active Grade Crossing, Crozet, Virginia, January 31, 2018*. Rpt. No. HAB-19/03. Washington, DC: NTSB, 2019.

devices, such as crossbucks (the familiar x-shaped signs that mean yield to the train), yield or stop signs, and pavement markings.

## **NTSB Investigations and Recommendations**

During the past decade, the NTSB has conducted over 10 major collision investigations at grade crossings and has issued numerous recommendations, mirroring the issues bulleted above, to prevent the recurrence of similar collisions. Many of our recommendations remain open and require action.

Each one of our investigations is a significant undertaking, and resolving the safety issues they raise requires involvement and collaboration at all levels across government and industry—from federal, state, and local, to public and private, and must include members of the affected communities themselves. I would like to begin my discussion of these incidents and our related safety recommendations by pointing to one recent example of successful collaboration that I hope can serve as a model going forward.

On June 27, 2022, eastbound National Railroad Passenger Corporation (Amtrak) train 4 (also known as the Southwest Chief) derailed both locomotives and all eight railcars in Mendon, Missouri, after colliding with an MS Contracting LLC dump truck that had entered a grade crossing on County Road 113, Porsche Prairie Avenue.<sup>6</sup> Three passengers and the truck driver were killed, and 146 other passengers and Amtrak crewmembers were transported to local hospitals with injuries. Amtrak and the BNSF Railway Company estimated damage to track and equipment to be about \$4 million.

It would be easy for anyone to blame the truck driver, but the NTSB's investigations take a systems approach. We look broadly at all factors that could have contributed to such a collision. As such, the NTSB determined that the cause of the collision, in short, was the grade crossing's poor design. The road design leading to the crossing was too steep, and the angle of the crossing was 30 degrees sharper than the recommended limit. More will be said below about grade-crossing design, but there is an additional important factor for this specific investigation: the community in Mendon knew that the grade crossing was dangerous and had been sounding the alarm for years. Unfortunately, there were no resources available to them to resolve the problem.

In response to tragedy, and thanks to the diligent efforts of many stakeholders—including Chairman Sam Graves of this committee, and his staff, Missouri Department of Transportation Director Patrick McKenna, whose efforts were key in achieving a

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<sup>6</sup> National Transportation Safety Board. *Grade Crossing Collision Between MS Contracting LLC Dump Truck and Amtrak Passenger Train, Mendon, Missouri, July 27, 2022*. Rpt. No. RIR-23/09. Washington, DC: NTSB, 2023.

viable solution—the NTSB was able to convene all parties across different levels of the community to discuss the community’s concerns. A year after the accident, I had the honor of joining Missouri Governor Mike Parson as he announced a \$50 million investment in rail safety, and Director McKenna unveiled a plan to improve the state’s 47 passive grade crossings.

This success was only possible through collaboration, and it must be emphasized that the NTSB’s safety recommendations in relation to grade crossings, and in relation to railways and other modes of transportation more generally, always rely on the conviction that a safe system is the responsibility of every stakeholder. Everyone has a role to play in ensuring no lives are needlessly lost, so we issue our recommendations to federal agencies, states, local governments, private companies, and nonprofit associations in our industry, often urging they work together to achieve a safer outcome.

What follows is an outline of some of the key outstanding recommendations and recent investigations related to grade-crossing safety divided into categories of (1) rail worker safety, (2) grade-crossing design, (3) technology improvement, and (4) public versus private grade-crossing safety and hazardous materials (hazmat) concerns.

### *Rail Worker Safety at Grade Crossings*

The NTSB has long been concerned about rail worker safety, and there are, of course, risks to train crews when a grade-crossing collision occurs. We have investigated multiple accidents in which a railroad worker was killed while riding a shoving movement through a grade crossing, and we have urged action to ensure greater rail worker safety in response.<sup>7</sup>

In April 2020, the NTSB investigated a collision between a Union Pacific train and a combination vehicle as the train entered a public grade crossing outside the Proviso Yard in Northlake, Illinois.<sup>8</sup> In this incident, the train and the remote-controlled locomotive collided with the front of a combination vehicle and the railroad worker operating the remote-controlled locomotive was killed. The train had proceeded into a public grade crossing with passive warning devices without stopping because the train crew determined that ground protection was not required. The combination vehicle entered the crossing at the same time, and the train and vehicle collided.

The NTSB determined that the probable cause of this collision was Union Pacific’s allowance of train movement through a grade crossing without first stopping the train to provide warning. Also contributing to the collision was the combination

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<sup>7</sup> A shoving movement is the process of pushing railcars or a train from the rear with a locomotive.

<sup>8</sup> NTSB. *Union Pacific Railroad Employee Fatality, Northlake, Illinois, April 23, 2020*. Rpt. No. RAB-21/04. Washington, DC: NTSB, 2021.

vehicle driver's failure to stop for the train as he approached the public grade crossing.

In another incident, on October 29, 2021, a Watco Dock and Rail, LLC (WDRL) conductor from WDRL train 202 was killed protecting a shoving movement when the train collided with a combination vehicle at a private grade crossing outside the Greens Port Industrial Park in Houston, Texas.<sup>9</sup> The conductor was riding on the platform of the leading railcar of train 202 when he was pinned between the train and the combination vehicle as both vehicles simultaneously entered the grade crossing of the industrial park.

The NTSB determined the probable cause of the Houston, Texas, collision was the failure of the combination vehicle driver to follow their employer's driver code of conduct to stop the vehicle before entering the grade crossing. Contributing to the collision was the train's movement through a passive grade crossing without adequate protection.

In response to these incidents, the NTSB issued recommendations to the FRA and to the General Code of Operating Rules Committee, the Northeast Operating Rules Advisory Committee, Canadian National Railway, and the Norfolk Southern Corporation. We recommended that when approaching crossings not equipped with gates that are in the fully lowered position, or someone already positioned at the crossing, rail workers stop the movement, dismount the equipment, protect the crossing from the ground, and get back on the equipment after the equipment is through the crossing.<sup>10</sup> To date, we have received no response to our recommendations.

The NTSB is currently investigating another similar incident, which occurred on March 3, 2023, when a Norfolk Southern Corporation train and a dump truck collided as they simultaneously entered a private grade crossing with passive warning devices in Cleveland, Ohio.<sup>11</sup> In this incident, the conductor was riding on the end platform of the lead railcar during a shoving movement in the Cleveland-Cliffs Incorporated steel plant when he was pinned between the railcar he was riding and the dump truck during the collision. This investigation is still ongoing.

### Grade-Crossing Design

On March 7, 2017, a motorcoach carrying a driver and 49 passengers attempted to move through a grade crossing on Main Street in Biloxi, Mississippi, that

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<sup>9</sup> NTSB. *Watco Dock and Rail, L.L.C. Employee Fatality, Houston, Texas, October 29, 2021*. Rpt. No. RIR-23/13. Washington, DC: NTSB, 2023.

<sup>10</sup> Safety Recommendations R-23-19 and -20.

<sup>11</sup> NTSB. *Norfolk Southern Railway Conductor Fatality, Cleveland, Ohio, March 7, 2023*.

had a high vertical profile.<sup>12</sup> The frame of the motorcoach came into contact with the pavement during crossing and became stuck over the tracks. The motorcoach was then hit by an eastbound CSX transportation freight train, pushing the motorcoach 259 feet down the tracks before coming to a stop, with the motorcoach still in contact with the lead locomotive. Four motorcoach passengers died, and the driver and 37 passengers sustained injuries.

The NTSB determined that the probable cause of this collision was the failure of CSX Transportation and the city of Biloxi to coordinate and take action to improve the safety of the Main Street grade crossing, a high-vertical-profile crossing on which motor vehicles were known to ground frequently. Their inaction led to the grounding of the motorcoach that was subsequently struck by the CSX Transportation freight train. Contributing to the circumstances of the collision was the inadequate guidance from the Federal Highway Administration (FHWA) on how to mitigate the risks posed by grade crossings with high vertical profiles.

In response to this investigation, the NTSB successfully urged the FHWA, with assistance from the FRA, American Association of State Highway and Transportation Officials, and American Railway Engineering and Maintenance-of-Way Association, to develop specific criteria to establish when an existing grade crossing should be reconstructed, closed, or otherwise have the risk posed by its unsafe vertical profile comprehensively mitigated.<sup>13</sup>

We also issued further recommendations to the FHWA, which remain open, urging an update to FHWA grade-crossing signage guidance to federal, state, and local agencies.<sup>14</sup> We continue to work with FHWA to ensure follow-through on this recommendation pending our review of the revised *Manual on Uniform Traffic Control Devices for Streets and Highways* (MUTCD), published December 2023 and officially effective January 18, 2024.<sup>15</sup>

The NTSB issued several other recommendations in response to this investigation aimed at ensuring better coordination between all relevant stakeholders when it comes to addressing grade-crossing design and maintenance.<sup>16</sup>

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<sup>12</sup> NTSB. *Collision Between Freight Train and Charter Motorcoach at High-Profile Highway-Railroad Grade Crossing, Biloxi, Mississippi, March 7, 2017*. Rpt. No. HAR-18/01. Washington, DC: NTSB, 2018.

<sup>13</sup> Safety Recommendation H-18-25.

<sup>14</sup> Safety Recommendations H-18-23 and H-18-24.

<sup>15</sup> US DOT, Federal Highway Administration. *Manual on Uniform Traffic Control Devices for Streets and Highways*. Washington, DC: FHWA. [https://mutcd.fhwa.dot.gov/previous\\_editions.htm](https://mutcd.fhwa.dot.gov/previous_editions.htm).

<sup>16</sup> Safety Recommendations H-18-28; R-18-12, -13, -14 and -15.; R-18-12, -13, -14, and -15.

## Technology Improvement

On Tuesday, February 24, 2015, in the predawn hours, Metrolink commuter train 102, operated by Amtrak, was on route from Oxnard, California, to Los Angeles.<sup>17</sup> As the train approached the South Rice Avenue grade crossing, it collided with a 2005 Ford F450 service truck towing a 2000 Wells Cargo two-axle utility trailer. The truck driver had mistakenly turned right from South Rice Avenue onto the Union Pacific Railroad track, and the truck became lodged on the track 80 feet west of the grade crossing. The train consisted of a cab/coach car in the lead, three coach cars, and a locomotive at the rear. It was occupied by three crew members and 51 passengers. The NTSB determined that the probable cause of the Oxnard, California, collision was the truck driver mistakenly turning onto the railroad right-of-way due to acute fatigue and unfamiliarity with the area.

In response to this incident, the NTSB issued a multi-recipient recommendation to Google, Apple, Garmin Ltd., HERE, TomTom NV, INRIX, MapQuest, Microsoft Corporation, Omnitrac LLC, OpenStreetMap US, Sensys Networks, StreetLight Data, Inc., Teletrac, Inc., and United Parcel Service of America, Inc., urging that they incorporate grade crossing-related geographic data, such as those currently being prepared by the FRA, into their navigation applications to provide road users with additional safety cues and to reduce the likelihood of collisions at or near public or private grade crossings.<sup>18</sup> This recommendation remains open to 10 of the 14 recipients, and the NTSB continues to advocate for implementation by the remaining open recipient organizations.

## Public Versus Private Crossings and Hazardous Materials Concerns

In light of the tragic events in East Palestine, Ohio, on February 3, 2023, and the ongoing investigation into the Norfolk Southern derailment there, it seems inevitable that some members of this committee will be wondering if there are examples of train derailments involving a hazmat release in connection with grade-crossing collisions. Unfortunately, the answer is yes, and the risk of significant hazmat release incidents, either at grade crossings or elsewhere, remains serious.

On May 28, 2013, a 2003 Mack Granite truck was traveling northwest on a private road toward a private grade crossing in Rosedale, Maryland, a Baltimore suburb less than a 90-minute drive from our nation's capital.<sup>19</sup> The truck was carrying a load of debris to a recycling center located 3.5 miles from the carrier terminal. About the same time, a CSX Transportation freight train—which consisted of two locomotives, 31 empty cars, and 14 loaded cars—was traveling southwest at a speed

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<sup>17</sup> NTSB. *Train and Truck Crash on Railroad Right-of-Way and Subsequent Fire, Oxnard, California, February 24, 2015*. Rpt. No. HAB-16/07. Washington, DC: NTSB, 2016.

<sup>18</sup> Safety Recommendation H-16-15.

<sup>19</sup> NTSB. *Highway-Railroad Grade Crossing Collision, Rosedale, Maryland, May 28, 2013*. Rpt. No. HAR-14/02. Washington, DC: NTSB, 2014.

of 49 mph. As the train approached the crossing, the train horn sounded three times. The truck did not stop and was hit by the train.

Three of the 15 derailed cars contained hazmat. The other derailed cars contained non-US DOT-regulated commodities or were empty. One car loaded with sodium chlorate crystal and four cars loaded with terephthalic acid released their products.

Following the derailment, a postcrash fire resulted in an explosion, which caused widespread property damage. The fire remained confined to the derailed train cars. The truck driver was seriously injured in the collision. Three workers in a building adjacent to the railroad tracks and a Maryland Transportation Authority police officer who responded to the initial incident also received minor injuries as a result of the explosion.

The NTSB determined that the probable cause of the Rosedale, Maryland, collision was the truck driver's failure to ensure that the tracks were clear before traversing the grade crossing. Contributing to the collision were (1) the truck driver's distraction due to a hands-free cell phone conversation; (2) the limited sight distance due to vegetation and roadway curvature; and (3) the Federal Motor Carrier Safety Administration's (FMCSA's) inadequate oversight of Alban Waste, LLC, which allowed the new entrant motor carrier to continue operations despite a serious and consistent pattern of safety deficiencies. Contributing to the severity of the damage was the postcrash fire and the resulting explosion of a rail car carrying sodium chlorate, an oxidizer.

In response to this incident, the NTSB issued several recommendations to the FRA, the states, the Association of American Railroads, and the American Short Line and Regional Railroad Association aimed at ensuring safety equivalence between public and private grade crossings.<sup>20</sup> None of these recommendations has been acceptably addressed.

### **Current Open Investigations Involving Brightline Intercity Passenger Rail**

Finally, I'd also like to note that we currently have four open investigations concerning collisions that occurred on grade crossings along the Brightline intercity passenger rail line in Florida. Two of these investigations began just in the past week, with two separate collisions occurring at the same location within days of each other. In the last five years, there have been over 30 fatalities and over 30 injuries at grade crossings involving Brightline as part of over 100 separate incidents.

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<sup>20</sup> Safety Recommendations [R-14-48](#), [-49](#), [-50](#), [-52](#).

On February 8, 2023, in Delray Beach, Florida, a sport utility vehicle (SUV) stopped with its front tires over the southbound track of a grade crossing.<sup>21</sup> The southbound Brightline intercity passenger train approached that crossing, sounded its horn, and applied emergency braking, but was unable to stop. The two SUV occupants died from injuries sustained in the collision. As part of this investigation, we are also gathering information on the following two subsequent collisions involving Brightline:

- On March 3, 2023, in North Miami, Florida, a passenger car, occupied by the driver and a child passenger, made a left turn and entered a grade crossing consisting of two main track lines running north and south. The grade crossing was protected by a combination of quad-gates, flashing lights, and pavement markings. After crossing the first set of tracks, the driver became stopped in a traffic queue on the second set of tracks as traffic ahead waited to turn onto southbound US-1. After being stopped for about a minute, a southbound Brightline passenger train approached, causing the grade crossing's warning devices to activate; the grade crossing entrance gates lowered, and the lights began flashing. The driver and child exited the car, leaving it parked on the railroad tracks. After they exited the car, the traffic ahead cleared, and the grade-crossing exit gate lowered. Prior to reaching the 141st Street grade crossing, the Brightline train operator observed the traffic queue, and applied brakes to reduce speed. When the operator realized that the passenger car was not going to move, the operator activated the emergency braking system, but was unable to stop in time.
- On April 12, 2023, in Hollywood, Florida, a truck-tractor combination car carrier trailer was approaching an intersection with two sets of railroad tracks, running north and south. The grade crossing for the tracks was protected by a combination of quad-gates, flashing lights, and pavement markings. As the combination vehicle traversed the grade crossing, the undercarriage of the trailer contacted the ground, causing the vehicle to become stuck on the tracks. While the truck was stopped on the tracks, a southbound Brightline passenger train approached, causing the crossing's warning devices to activate. The trailer was struck on the left side by the train and the locomotive and next car derailed. One train passenger sustained a minor injury.

And last week, we opened an investigation into another fatal collision on January 12 in Melbourne, Florida, involving a Brightline train at an active grade crossing, resulting in two fatalities. Two days earlier, another collision at the same crossing resulted in one fatality.

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<sup>21</sup> NTSB. *Fatal Grade Crossing Crash between Sport Utility Vehicle and Intercity Passenger Train, Delray Beach, Florida, February 8, 2023*. Washington, DC: NTSB, 2023.

Again, these investigations are ongoing, and our investigators will continue to work with the parties involved to identify any potential areas for safety improvements.

## **Rail Safety and Reauthorization**

Before concluding, I would be remiss if I did not take this opportunity to mention the needs of the NTSB itself. All the investigations I have discussed today—all the careful analysis and safety recommendations, and the material benefits they bring to the travelling public—would not be possible without the NTSB’s meticulous and expert investigators. As a small, independent federal agency, the NTSB’s primary expense is our personnel, including all these investigators. Over 70 percent of the agency’s funding is used to fund employee payroll and benefits (which will increase this year due to increased staffing) and we historically have very little discretionary funding to spend on an annual basis.

Given the 5.2 percent federal employee pay raise and an increase of 5 percent in the agency’s share of employee health benefits, the NTSB’s mission will be greatly impacted if we must continue to operate indefinitely, or under a full year continuing resolution, at our fiscal year (FY) 2023 funding levels of \$129.3 million. In effect, we are operating at a cut from FY2023 funding levels.

An appropriations lapse and government shutdown would also dramatically hinder our ability to begin, continue, and complete accident and incident investigations and timely issue relevant safety recommendations, potentially including those that may result from the NTSB’s investigation of the East Palestine investigation and the recent Alaska Airlines 1282 accident. The effect could be a temporary delay in investigations under a short shutdown, or it could preclude entire investigations depending on the length of the lapse, the volume and complexity of investigations that needed to be performed during a lapse, and the perishability of the evidence required to conduct investigations. Many investigations with national safety relevance may not be undertaken or completed and any resulting safety recommendations potentially foregone. Other critical work such as assistance to families of victims, safety studies, or advocacy efforts would be delayed or cancelled depending on the timing and length of a lapse. Efforts underway to right-size the agency and bring new staff on board to backfill critical vacancies would also be halted.

Additionally, as you know, our current authorization expired at the end of FY 2022, and earlier last year, we transmitted a reauthorization proposal to Congress, requesting resources and hiring flexibility to increase the number of investigators throughout the agency.<sup>22</sup>

I am deeply grateful to this committee for its responsiveness to our request, and for including NTSB reauthorization in its FAA legislation last year and moving that

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<sup>22</sup> [National Transportation Safety Board Draft Reauthorization Act of 2023](#). Washington, DC: NTSB.

legislation through the House. With a strongly bipartisan voice, this committee ensured that House legislation supported critical efforts to strengthen the NTSB and better position our agency to pursue its life-saving mission in the transportation space. In particular, your inclusion of authorization for increased funding levels supports our efforts to obtain increased funding during negotiations with appropriators and OMB.

House Transportation and Infrastructure Committee members also fought to ensure the NTSB's needs were reflected in House appropriations legislation, and I would like, in particular, to express my gratitude to Representative Van Orden for his amendment to increase NTSB funding levels in FY 2024. I can only hope the Senate matches the House committee's good work in support of the NTSB and transportation safety.

We need these additional resources, among other reasons, because the NTSB is required to investigate any railroad accident in the country in which there is a fatality or "substantial" property damage, or that involves a passenger train.<sup>23</sup> We must currently meet this mandate with only 19 investigators, two of whom are eligible for retirement. Those 19 investigators are currently working on 21 investigations, and we open about 12 new investigations each year. This office is understaffed. In fact, as part of our reauthorization proposal, we identified a need for 21 additional staff in our Rail, Pipeline and Hazardous Materials office over the next 5 years. Our reauthorization request only fills a portion of this need.

I am happy to report that, over the last 2 years, we have already made great progress across the agency toward our goals to ensure that our employees have the right skill set, staffing up to our highest level since 2017 to 428 people at the end of 2023. In FY 2023, we hired 71 people, the highest number in 10 years. Our reauthorization proposal anticipates adding roughly 15 new employees per year through 2027, in addition to filling the vacancies that will occur through retirements and separations.

Since February of 2022, we have significantly reduced the backlog of investigations open for more than 2 years from 442 to zero at the end of FY 2023, by filling open investigative and technical review positions, reassigning investigations that could be expedited, using reemployed annuitants to broaden the pool of report reviewers in the short term, enhancing employee performance standards, and developing quality metrics and a means to track them for all investigations.

The resources provided in this reauthorization will allow us to hire professionals with the needed skills, purchase the equipment necessary for those skilled

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<sup>23</sup> 49 *United States Code* (U.S.C.) 1131(a)(1)(C).

professionals to do their jobs, and invest in staff training and development. Our workforce is our greatest asset and is essential to our mission.

Even if provided with the requested resources and workforce flexibilities, however, we would be challenged to meet the broad rail investigations mandate in Title 49 *United States Code (U.S.C.)* 1131, given the tragic number of fatalities that result from collisions at grade crossings or involving trespassers on railroad property each year.

That's why our reauthorization proposal would amend the current mandate so that collisions at grade crossings or accidents involving rail trespassers no longer fall under our investigative mandate. Instead, we would maintain the flexibility to investigate those grade-crossing collisions or trespasser accidents that may provide a significant safety benefit to the public, similar to how we approach highway crashes. In fact, the Board traditionally treats such grade-crossing collisions as highway investigations that include railroad investigators. This change to our mandate would allow us to focus our resources on investigating those accidents and collisions where we can provide the most effective findings and recommendations to improve safety.

For those railroad accidents that we do not investigate, it is important to note that the FRA, as the regulator, may still conduct an accident or incident investigation. We have expressed concern in the past that FRA investigations do not use the party process, as we do, to encourage participation from relevant organizations, including employee unions. We have found that union representation brings operations-specific knowledge to the accident investigation team and helps facilitate employee cooperation. As a result, in 2014, we recommended that the FRA include union participation in its accident investigations, seeking congressional authority to allow such participation, if necessary.<sup>24</sup> We appreciate that the IIJA includes a provision to address this issue by requiring the DOT to develop a standard process for its rail accident and incident investigations, including consulting with relevant entities, including employees.<sup>25</sup>

Let me be clear: this does not mean that improving safety on and around tracks and at grade crossings is not a priority for the NTSB. On the contrary, more flexibility will allow us to focus on specific collision investigations that afford the most safety benefit to the American people.

## **Conclusion**

Again, thank you for the opportunity to discuss these critical rail safety issues and the NTSB's perspectives and recommendations with the committee today. We

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<sup>24</sup> Safety Recommendation [R-14-37](#).

<sup>25</sup> Pub. L. 117-58, section 22417.

believe strongly that continued vigilance and improvement are needed in our rail system. We recognize the progress that has been made; yet there will always be room for more when it comes to safety. We stand ready to work with the committee to continue improving rail safety, which includes ensuring that the NTSB has the resources needed to carry out our essential mission.

I am happy to answer your questions.