

# National Transportation Safety Board

Office of the Chair

Washington, DC 20594



January 17, 2024

The Honorable Maria Cantwell  
Chair  
Committee on Commerce, Science, and Transportation  
US Senate  
511 Hart Senate Office Bldg.  
Washington, DC 20510

Dear Chair Cantwell:

As Chair of the National Transportation Safety Board (NTSB), I am writing to express my deep concern about the negative impact that a government shutdown would have on the NTSB and on transportation safety more broadly in the case of completing ongoing investigations and responding to new events.

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.

We currently have 1,254 open investigations. These include major investigations across each mode of transportation, including the Alaska Airlines flight 1282 in-flight separation of a door plug after takeoff from Portland, Oregon; multiple investigations into runway incursions, near misses, and other incidents in aviation; and the Norfolk Southern Railway train derailment with hazardous material release and fires in East Palestine, Ohio, as well as five other Norfolk Southern accidents and our related investigation of the railroad's safety culture.

The NTSB has a Contingency Plan for Lapse in Appropriations, developed based on longstanding Department of Justice and Office of Management and

Budget guidance.<sup>1</sup> As described in that plan, significant activities that would cease during a lapse, unless they are deemed necessary for the direct support of authorized emergency-essential activities, include investigative work on new accidents that goes beyond efforts to preserve evidence and determine any immediate risk to human life, as well as routine work on investigations initiated prior to a lapse in funds.

At this time in our investigation of the Alaska Airlines 1282 accident, we have completed our initial launch and on-scene activities and secured essential physical evidence, including the door plug that blew out mid-flight. Examination of the door plug is ongoing in the NTSB's Materials Laboratory, as is follow-on examination and analysis of the accident airplane's maintenance and manufacturing records. Interviews of involved persons are also anticipated to be conducted in the near future. These efforts will be critical to determining the systemic factors that may have contributed to the accident's probable cause(s).

The FAA has grounded the Boeing 737-9 Max to provide for emergency inspections of the planes and to protect human life.<sup>2</sup> The FAA has also initiated its own investigation with a view toward emergency actions necessary to return the planes to safe flight and appropriately oversee inspection and manufacture of this series of Boeing aircraft.<sup>3</sup>

NTSB staff have determined that, in the event of a lapse of appropriations, while the airplane remains grounded, there is no known imminent threat to the safety of human life or protection of property that would justify the continuation of ongoing work related to the NTSB's AK 1282 investigation. Therefore, if a lapse occurs, expending appropriated funds to continue the non-emergency-essential aspects of the NTSB's investigation of this accident would result in a violation of the Anti-Deficiency Act.<sup>4</sup>

In short, a lapse in funding would 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 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

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<sup>1</sup> <https://www.nts.gov/Documents/Contingency%20Plan%20for%20Lapse%20in%20Appropriations.pdf>

<sup>2</sup> [Updates on Grounding of Boeing 737 MAX 9 Aircraft | Federal Aviation Administration \(faa.gov\)](#).

<sup>3</sup> Letter from John Piccola, Director of FAA Integrated Certificate Management Division, to Carole Murray, Vice President of Total Quality Boeing Commercial Airplanes, dated January 10, 2024, available at [Letter \(faa.gov\)](#).

<sup>4</sup> Penalties for Anti-Deficiency Act violations can include administrative discipline, such as suspension from duty without pay or removal from office, as well as fines, imprisonment, or both.

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.

I trust that you will consider these concerns as Congress works to complete work on funding for fiscal year 2024 without a lapse in appropriations. As you do, I request that you support the NTSB's budget request of \$145 million so that our work to improve transportation safety through our investigations and recommendations is fully effectuated.

As a small, independent federal agency, the NTSB's primary expense is our personnel, including all 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 well-deserved 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 (CR), at our fiscal year (FY) 2023 funding level of \$129.3 million. In effect, a full-year continuing resolution is a significant budget cut that would impact the agency in the following ways:

- A full-year CR would require the agency to cease efforts to increase staffing. Instead, the agency would need to implement a hiring freeze and reduce current staffing levels via reduction in force actions and/or not backfilling departed employee positions, which will halt the process the agency has made to right-size staffing levels needed to close investigations in a timely manner and advance our critical safety mission.
- The agency would not be able to invest in modernizing and upgrading critical information technology systems needed to replace outdated legacy systems and meet cybersecurity mandates.
- The agency would be forced to cut discretionary spending on employee training which would have a negative effect on overall mission outcomes, including the ability to conduct comprehensive, timely investigations involving emerging technologies.

- If the agency was to experience higher than normal mission activity, normal operations could be impacted as well.

If you have any further questions or concerns, please feel free to contact me personally, or Christopher Wallace, Chief of Government and Industry Affairs, at (202) 314-6007.

Sincerely,

[Original signed]

Jennifer Homendy  
Chair