

ONE HUNDRED SEVENTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

May 20, 2021

The Honorable Katherine A. Lemos, Ph.D.
Chairman and CEO
U.S. Chemical Safety and Hazard Investigation Board
1750 Pennsylvania Avenue, NW, Suite 910
Washington, DC 20006

Dear Dr. Lemos:

Pursuant to Rules X and XI of the U.S. House of Representatives, we write to request information regarding ongoing management, resource, and personnel challenges at the U.S. Chemical Safety and Hazard Investigation Board (CSB). The CSB serves a critical mission to investigate independently the causes of chemical incidents and make recommendations to reduce the risk of future accidents.¹ Given the Committee's longstanding interest in ensuring that the CSB is effective, we are concerned about recent reports indicating that both persistent and emergent issues may be undermining the CSB's ability to protect American communities and workers.²

Over its history, the CSB has deployed to over 130 chemical incidents and issued hundreds of safety recommendations, leading to progress across many different industries.³ Although the CSB was authorized by the Clean Air Act Amendments of 1990, it was not funded

¹ 42 U.S.C. § 7412(r)(6).

² See, e.g., U.S. Environmental Protection Agency, Office of the Inspector General, *Fiscal Year 2020 U.S. Chemical Safety and Hazard Investigation Board Management Challenges* (Jul. 6, 2020) (20-N-0218); *Understaffed Chemical Safety Board Ripe for Revamp as Probes Lag*, Bloomberg Law (Mar. 15, 2021) (reporting on concerns about the CSB's lack of sufficient numbers of investigators, board member support, and backlog in investigations).

³ U.S. Chemical Safety and Hazard Investigation Board, Home Page (www.csb.gov) (accessed Feb. 10, 2021).

until 1998.⁴ In the decades since, management problems and resource limitations have compromised the effectiveness of the CSB. These challenges have included insufficient staffing for investigations, investigation backlogs, tensions among board members, and employee dissatisfaction.⁵

We are concerned that some of these challenges continue to plague the CSB, and also that new issues have emerged. For example, the CSB has had perennial, and apparently ongoing, difficulties in hiring qualified chemical safety investigators.⁶ According to the CSB's 2019 Federal Employment Viewpoint Survey, nearly half of the employees surveyed believed that the CSB was unable to recruit staff with the appropriate skills for the job.⁷ While several new investigators were hired in 2020, today there are as few as 12 investigators, a significant drop from the 20 investigators previously at the CSB.⁸

Additionally, the CSB has failed to address its investigations backlog. Currently, the CSB has 20 open investigations, including one from 2016.⁹ And at least two investigations were put on hold in 2020 due to staffing constraints.¹⁰ We are concerned a mounting backlog could

⁴ U.S. Chemical Safety and Hazard Investigation Board, *Fact Sheet* (www.csb.gov/assets/1/6/csb_fact_sheet.pdf) (accessed Feb. 22, 2021).

⁵ See, e.g., U.S. Environmental Protection Agency, Office of the Inspector General, *Fiscal Year 2017 U.S. Chemical Safety and Hazard Investigation Board, Management Challenge* (July 27, 2017) (17-N-0342) (noting the CSB's challenges in obtaining qualified technical staff); U.S. Environmental Protection Agency, Office of the Inspector General, *U.S. Chemical Safety and Hazard Investigation Board Needs to Complete More Timely Investigations* (July 30, 2013) (13-P-0337); U.S. Environmental Protection Agency, Office of the Inspector General, *Fiscal Year 2018 U.S. Chemical Safety and Hazard Investigation Board Management Challenges* (June 4, 2018) (18-N-0208) (recounting divisions among board members and employee morale issues).

⁶ See, e.g., U.S. Environmental Protection Agency, Office of the Inspector General, *Fiscal Year 2017 U.S. Chemical Safety and Hazard Investigation Board, Management Challenge* (July 27, 2017) (17-N-0342).

⁷ Office of Personnel Management, 2019 Federal Employee Viewpoint Survey, Annual Employee Survey (AES) Report: Chemical Safety and Hazard Investigation Board (www.csb.gov/assets/1/6/2019_opm_fevs_aes_chemical_safety_and_hazard_investigation_board.pdf) (accessed May 14, 2021).

⁸ *Beleaguered Chemical Safety Board Could Get More Support*, Chemical & Engineering News (Feb. 1, 2021).

⁹ U.S. Chemical Safety and Hazard Investigations Board, Current Investigations (www.csb.gov/investigations/current-investigations/?Type=1) (accessed May 18, 2021).

¹⁰ *Staffing Shortage Pauses Chemical Safety Board Investigations*, Bloomberg Law (Apr. 29, 2020).

potentially result in some recommendations from older investigations being outdated by the time they are finally issued.¹¹ Furthermore, last year, the CSB did not approve any new recommendations.¹² The reasons for these delays must be understood.

Since June 2020, the CSB's five-member board has operated with four vacancies.¹³ President Biden recently announced the nomination of three additional CSB board members,¹⁴ but long-standing vacancies have raised fundamental concerns about the CSB's capabilities. The Environmental Protection Agency's Office of Inspector General (OIG), which also serves as the OIG for the CSB, reported in July 2020 that the CSB's mission is impaired due to "workload limitations arising from one board member attempting to perform the work of five."¹⁵ The report outlined a series of associated issues, including concerns that with just one board member, the CSB is limited in meeting its diverse technical responsibilities in the fields of accident reconstruction, safety engineering, human factor identification, toxicology reviews, and air pollution regulation assessments.¹⁶ The CSB recently finalized a new board order to allow staff members to take on certain administrative responsibilities to make up for the missing board members,¹⁷ raising concerns about potential conflicts of interest.¹⁸

As the Committee with jurisdiction over chemical safety and the CSB, we want to ensure that the CSB has the tools it needs during this time of transition to conduct and complete its important investigations. While the Committee appreciates earlier staff briefings with the CSB, we remain concerned about ongoing challenges impacting the agency's ability to mitigate the risks of future chemical accidents, and therefore request you address the following:

¹¹ *Understaffed Chemical Safety Board Ripe for Revamp as Probes Lag*, Bloomberg Law (Mar. 15, 2021).

¹² U.S. Chemical Safety and Hazard Investigations Board, Recommendations Search (www.csb.gov/recommendations/?F_ReportIssueDateLBound=01/01/2020&F_ReportIssueDateUBound=12/31/2020&F_InvestigationStatus=1134,1133,1135) (accessed May 13, 2021).

¹³ U.S. Environmental Protection Agency, Office of the Inspector General, *Fiscal Year 2020 U.S. Chemical Safety and Hazard Investigation Board Management Challenges* (Jul. 6, 2020) (20-N-0218).

¹⁴ The White House, *Nominations Sent to the Senate* (Apr. 29, 2021) (press release).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ U.S. Chemical Safety and Hazard Investigations Board, *Board Member Roles and Responsibilities* (Apr. 1, 2021) (Board Order 028).

¹⁸ *Understaffed Chemical Safety Board Ripe for Revamp as Probes Lag*, Bloomberg Law (Mar. 15, 2021).

1. With respect to staffing at the CSB, please provide the number of vacancies for each job category, including investigators, and an update on the status of filling each vacancy. Please also indicate whether current budget allocations are sufficient to fill every outstanding vacancy.
2. With respect to addressing the investigation backlog, please provide a copy of the CSB's most recent investigation plan, including the status of all open investigations, the expected timeframe for completing each investigation, and the number of investigators assigned to each investigation. Please also provide a status update regarding any investigations that have been terminated, paused, or otherwise put on hold due to staffing or resources constraints.
3. With respect to the recommendations approval process, please describe what factors contributed to the CSB's failure to approve any recommendations during the last fiscal year, and the steps, if any, you are taking or planning to address any deficiencies in the process.
4. With respect to the significant number of board vacancies, please explain the impact and limitations of having a single board member, given the CSB's wide-ranging technical responsibilities, in addition to your administrative responsibilities as its chair.
5. To the extent not discussed in your responses to the previous requests, please describe any additional operational, staffing, and management challenges currently affecting the CSB, and what is being done to address these challenges. Please also describe what additional resources or changes to the CSB's structure and operations, if any, are needed for the CSB to execute its mission fully and effectively.

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Please provide all requested information no later than June 10, 2021. If you have questions, please contact Jon Monger or Bekah Jones with the Energy and Commerce Committee Majority Staff at (202) 225-2927, and Alan Slobodin or Jerry Couri with the Energy and Commerce Committee Minority Staff at (202) 225-3641. Thank you for your attention to this matter.

Sincerely,



Frank Pallone, Jr.
Chairman



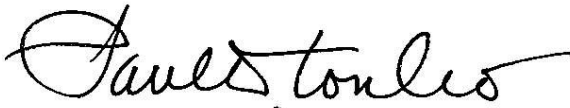
Cathy McMorris Rodgers
Ranking Member



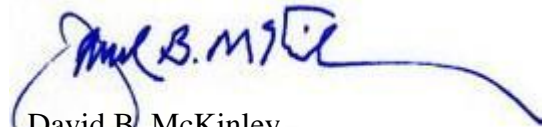
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Subcommittee on Oversight
and Investigations



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Ranking Member
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Paul D. Tonko
Chairman
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Subcommittee on Environment
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