

# United States Senate

WASHINGTON, DC 20510

August 18, 2023

Mr. Alan Shaw  
President and CEO  
Norfolk Southern Corporation  
650 W. Peachtree Street NW  
Atlanta, GA 30308

Dear Mr. Shaw:

Following the derailment in East Palestine, Ohio and subsequent release of toxic chemicals into the region, including Darlington Township, Pennsylvania, Norfolk Southern announced an important first step toward taking accountability by agreeing to participate in the Confidential Close Call Reporting System (C3RS), the anonymous “near-miss” reporting system. However, five months after that commitment, Norfolk Southern has still not formally joined the program. We are writing today to urge you to follow through on your promise and promptly begin participation in C3RS.

C3RS is a promising program with real potential to improve rail safety, protect employees, and reduce incidents if adopted by a larger swath of the rail industry. C3RS acts as one unified database for reporting and, with NASA as an independent third-party administrator, ensures confidentiality and protects against retribution against employees who make reports. Ensuring that employees are not disciplined for reporting near-misses is key to making the program effective, as employees are more likely to report these incidents when they have a guarantee of anonymity and safety from retribution. In turn, addressing the near-misses reported through C3RS makes rail safer by preventing more serious catastrophes.

A recent Federal Railroad Administration (FRA) Safety Culture Assessment of Norfolk Southern paid particular attention to the railroad’s engagement with employees and management on safety issues. FRA found that “NS employees and the organization do not always work to foster mutual trust,” and specifically recommended that Norfolk Southern participate in C3RS. One-third of the labor leaders interviewed by FRA and one-third of craft employees surveyed expressed a reluctance to stop an unsafe action due to a fear of retaliation or disciplinary action. FRA reported that members of labor and Norfolk Southern leadership indicated that some employees may be hesitant to use their company’s internal near-miss reporting system “out of concern that the report could be traced back to the employee.”

Despite these benefits and the clear need, the Association of American Railroads (which represents Norfolk Southern and the other Class I railroads in the C3RS negotiations) has stated that C3RS should permit the railroad to utilize near-miss reports in addressing purported employee misconduct. Allowing the railroads to punish employees who report safety concerns would not only harm rail workers who are simply doing the right thing, but also undermine the program and make rail less safe.

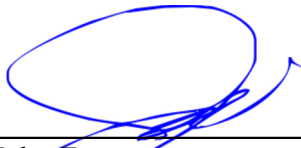
After the East Palestine derailment, Norfolk Southern announced on March 2 that it would join the C3RS report system. In the announcement, you stated that the move “marks another step

[Norfolk Southern is] taking to further [your] commitment to safety.” However, since your initial announcement, you have not followed through on this pledge. We believe that fully participating in C3RS would be a positive step for Norfolk Southern in committing itself to a culture of safety. Accordingly, we ask that you answer the following questions by September 7, 2023:

1. Does Norfolk Southern still intend to join C3RS?
2. Will Norfolk Southern commit to formally joining C3RS before the end of this year?
3. Since the FRA Safety Culture Assessment was published, what actions has Norfolk Southern taken to assess internal safety culture, particularly around mutual trust between employees and leadership?
4. Does Norfolk Southern have data or other evidence indicating that employees at their railroads are more likely than those at participating railroads to utilize the C3RS program to avoid discipline?

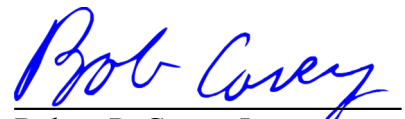
Thank you for your attention to this important subject. We look forward to a timely response to these questions.

Sincerely,



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John Fetterman  
United States Senator



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Robert P. Casey, Jr.  
United States Senator