

March 2, 2023

The Honorable Pete Buttigieg
Secretary of Transportation
U.S. Department of Transportation
West Building – 1200 New Jersey Ave., SE
Washington, DC 20590

Dear Secretary Buttigieg:

I am writing on behalf of the freight rail industry to inform you that all seven Class I railroads have agreed to join FRA's voluntary Confidential Close Call Reporting System (C3RS), as requested in your February 27, 2023 letter to the Class I CEOs. The industry absolutely shares your commitment to establishing effective mechanisms to help prevent future accidents like the derailment in East Palestine. You will hear from each of the railroads individually in response to your letter as well. I write to provide important history and context regarding railroad use of close call reporting, hopefully to pave the way for working with you, FRA, and our employees to develop an even better system.

It was two Class I railroads -- Union Pacific and Canadian Pacific -- that actually initiated the first C3RS pilot programs with FRA in 2007. All Class I railroads have longstanding programs in place that allow employees to provide confidential feedback on safety issues. These programs range from establishing and using anonymous reporting hotlines to processes that incorporate peer review teams and root cause analysis, much like C3RS. The railroads value receiving this type of close call information in a timely manner because it allows them to act quickly and proactively to address safety issues before they lead to an accident. The Class I railroads expect to continue to operate these internal confidential reporting programs in addition to their voluntary participation in C3RS.

As you know, some railroads currently participate in FRA's C3RS program while others that formerly participated dropped out of the program because it was viewed as less effective than their existing programs. We want to work with FRA to make the C3RS program better and more effective. In that spirit, we are identifying certain aspects of the current FRA program that have historically led to railroads declining to participate in favor of their own internal programs. We believe these matters can and should be improved. Our interest is in seeing a streamlined process that maintains important confidentiality for both reporting employees and carriers while also efficiently sharing high quality safety information so that railroads can quickly take appropriate action to address legitimate safety issues. More specifically, areas for improvement include:

- Quality of reporting: The information provided by employees is currently routed through NASA's reporting system. As noted by the U.S. Government Accountability Office (GAO), often the information received is insufficient for railroads to act on because it does not contain

enough detail to develop practical corrective actions.¹ NASA staff, who are understandably not familiar with railroading, face difficulties with gathering the needed additional information. We believe these issues can be easily addressed.

- Speed of reporting: Feedback on a close call that did not result in an accident takes a long time to reach the railroad. Indeed, NASA's procedure requires it to wait at least 30 days before it reports to the railroads, which makes a quick response impossible. This too, should be addressed.
- Confidentiality. There are concerns that FRA may have not always kept close-call reporting data confidential. Protocols that protect the confidentiality of the information will ensure continued and robust participation. The Federal Aviation Administration has such protocols in its Aviation Safety Reporting Program (ASPR), and we believe similar protocols should be adopted by FRA.
- Addressing repeated unsafe conduct: Typically, the person reporting a close call is exempt from the internal disciplinary process that would otherwise apply in the case of a violation of safety rules. AAR recognizes that protection as a necessary feature of the program in the vast majority of circumstances. However, in the rare situation in which an employee is misusing the system to prevent his or her unsafe decisions or actions from being addressed by the railroad, the program should permit the railroad to address that repeated misconduct with the employee. This is needed for the safety of the railroad, its other employees, and the public.
- Sharing of information: To the extent the information collected by the program is useful in improving safety practices and policies, it should be shared with the wider industry and in a timely fashion. GAO has made this recommendation and AAR agrees.

As you know, FRA had already scheduled a Railroad Safety Advisory Committee (RSAC) Meeting for March 14, 2023 to address this program. AAR's members look forward to participating in that meeting to provide their perspectives on the opportunities and challenges related to close call reporting.

We are committed to continuing the 20-year trend of continuous safety improvements in the rail industry. We look forward to working with you and with FRA on these critical issues.

Sincerely,



Ian Jefferies

¹ GAO Report, "Better Communication of Safety Information Could Improve the Close Call System," pg. 20-21.
<https://www.gao.gov/assets/gao-23-105287.pdf>