UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

DIVISION OF
CORPORATION FINANCE

February 6, 2019

Allen C. Goolsby
Hunton Andrews Kurth LLP
agoolsby@huntonak.com

Re: Norfolk Southern Corporation
Incoming letter dated December 11, 2018

Dear Mr. Goolsby:

This letter is in response to your correspondence dated December 11, 2018, December 20, 2018, and January 25, 2019 concerning the shareholder proposal (the "Proposal") submitted to Norfolk Southern Corporation (the "Company") by John Chevedden (the "Proponent") for inclusion in the Company's proxy materials for its upcoming annual meeting of security holders. We also have received correspondence from the Proponent dated December 16, 2018, December 23, 2018, December 24, 2018, January 6, 2019, January 20, 2019 and January 23, 2019. Copies of all of the correspondence on which this response is based will be made available on our website at http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

M. Hughes Bates
Special Counsel

Enclosure

cc: John Chevedden
***

***FISMA & OMB Memorandum M-07-16

February 6, 2019

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Norfolk Southern Corporation
Incoming letter dated December 11, 2018

The Proposal requests that the board take each step necessary so that each voting requirement in the Company's charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary, this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

We are unable to concur in your view that the Company may exclude the Proposal under rule 14a-8(c). Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(c).

We are unable to concur in your view that the Company may exclude the Proposal under rule 14a-8(i)(3). Accordingly, we do not believe that the Company may omit the Proposal from its proxy materials in reliance on rule 14a-8(i)(3).

Sincerely,

Frank Pigott
Attorney-Adviser

DIVISION OF CORPORATION FINANCE
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the company in support of its intention to exclude the proposal from the company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes and rules administered by the Commission, including arguments as to whether or not activities proposed to be taken would violate the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversarial procedure.

It is important to note that the staff's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly, a discretionary determination not to recommend or take Commission enforcement action does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the company's management omit the proposal from the company's proxy materials.

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ANDREWS KURTH

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951 EAST BYRD STREET
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ALLEN C. GOOLSBY
DIRECT DIAL: 804-788-8289
EMAIL: agoolsby@huntonak.com

FILE NO: 033878.0000060

January 25, 2019

VIA EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Norfolk Southern Corporation – Shareholder Proposal Submitted by John Chevedden

Ladies and Gentlemen:

This letter is written in response to the letter by John Chevedden (the "***Proponent***") to the staff of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the "***Commission***"), dated January 23, 2019, in response to the request by Norfolk Southern Corporation (the "***Company***") to exclude the Proponent's shareholder proposal (the "***Proposal***") from its proxy statement and form of proxy pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***").

The Company contended that the Proposal should be excluded under Rule 14a-8(i)(3) because the Proposal is vague and indefinite and, thus, materially false and misleading, as the Proposal relies on an external standard and fails to sufficiently describe the substantive provisions of such standard. The Company also contended that the Proposal should be excluded under Rules 14a-8(c) and 14a-8(i)(3) because the Proposal does not separate each matter to be voted on and cannot be remedied. The Proposal, through its reference to voting requirements "explicit or implicit due to default to state law," seeks to change the Company's requisite shareholder vote requirements on an unquantified number of substantive matters without a single well-defined unifying concept and without the possibility of being "unbundled." The Proponent's January 23, 2019 letter to the Commission attacks this latter argument.

The Proponent's January 23, 2019 letter to the Commission cites precedent, *Marathon Petroleum Corporation* (December 30, 2016) and *BB&T Corporation* (January 3, 2017), that

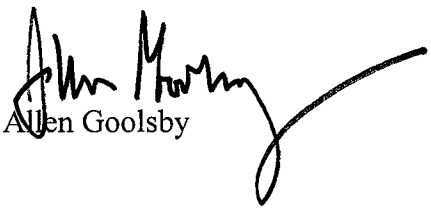
the Proponent contends controls the issue of whether the Company may omit the Proposal under Rule 14a-8(c). As previously stated by the Company, the proposals considered by the Commission under this precedent are materially different than the Proposal submitted by the Proponent to the Company. As stated on page 2 of the Company's no-action request letter to the Commission:

> While the Proponent has submitted less comprehensive, but seemingly similar proposals in previous years, this Proposal is unique. Past proposals have requested that boards of directors take steps to replace supermajority requirements contained in their company's organizational documents, but this Proposal also requests that the board replace all supermajority requirements that are "implicit due to default to state law." We are not aware of any previous proposal containing this same or similar language that has been considered by Staff.

If you have any questions, require further information or would like to discuss this matter, please call the undersigned at (804) 788-8289. Additionally, my email address is agoolsby@huntonak.com.

Thank you for your consideration of our request.

Sincerely,



Allen Goolsby

Enclosures
cc: Virginia K. Fogg, Norfolk Southern Corporation
Scott H. Kimpel, Hunton Andrews Kurth LLP
John Chevedden (via email at ***)

***

JOHN CHEVEDDEN

***

January 23, 2019

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 6 Rule 14a-8 Proposal
Norfolk Southern Corporation (NSC)
Simple Majority Vote
John Chevedden

Ladies and Gentlemen:

This is in regard to the December 11, 2018 no-action request.

These are precedents in regard to Rule 14a-8(c) and/or Rule 14a-8(i)(3) and the last lines of page 6 of the company letter:
Marathon Petroleum Corporation (December 30, 2016)
BB&T Corporation (January 3, 2017)

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,

John Chevedden

cc: Virginia K. Fogg <Virginia.Fogg@nscorp.com>

December 30, 2016

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: Marathon Petroleum Corporation
Incoming letter dated December 19, 2016

The proposal requests that the board take the steps necessary so that each voting requirement in MPC's charter and bylaws that calls for a greater than simple majority vote be eliminated and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws.

We are unable to concur in your view that MPC may exclude the proposal under rule 14a-8(c). In our view, the proponent has submitted only one proposal. Accordingly, we do not believe that MPC may omit the proposal from its proxy materials in reliance on rule 14a-8(c).

Sincerely,

Evan S. Jacobson
Special Counsel

January 3, 2017

Response of the Office of Chief Counsel
Division of Corporation Finance

Re: BB&T Corporation
Incoming letter dated December 22, 2016

The proposal requests that the board take the steps necessary so that each voting requirement in BB&T's charter and bylaws that calls for a greater than simple majority vote be eliminated and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws.

We are unable to concur in your view that BB&T may exclude the proposal under rule 14a-8(c). Accordingly, we do not believe that BB&T may omit the proposal from its proxy materials in reliance on rule 14a-8(c).

We are unable to concur in your view that BB&T may exclude the proposal under rule 14a-8(i)(3). Accordingly, we do not believe that BB&T may omit the proposal from its proxy materials in reliance on rule 14a-8(i)(3).

Sincerely,

Evan S. Jacobson
Special Counsel

JOHN CHEVEDDEN

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January 20, 2019

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 5 Rule 14a-8 Proposal
Norfolk Southern Corporation (NSC)
Simple Majority Vote
John Chevedden

Ladies and Gentlemen:

This is in regard to the December 11, 2018 no-action request.

The company failed to say whether there was ever a precedent that excluded a rule 14a-8 proposal because the proposal failed to explain an "external standard" that was basic "state law." In other words was an adequate explanation of "state law" an issue in any of the purported company precedents.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,

John Chevedden

cc: Virginia K. Fogg <Virginia.Fogg@nscorp.com>

JOHN CHEVEDDEN

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***

January 6, 2019

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 4 Rule 14a-8 Proposal
Norfolk Southern Corporation (NSC)
Simple Majority Vote
John Chevedden

Ladies and Gentlemen:

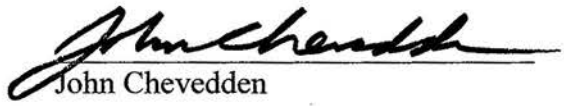
This is in regard to the December 11, 2018 no-action request.

The company seems to disqualify itself from a discussion on the topic of the rule 14a-8 proposal according to page 6 of the company letter. The company said it has a specific inability to identify with certainty.

The rule 14a-8 proposal simply concerns 2 types of supermajority requirements in the company's organizational documents according to page 7 of the company letter.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,



John Chevedden

cc: Virginia K. Fogg <Virginia.Fogg@nscorp.com

While the Company is unable to identify with certainty every voting requirement of the Act that may apply to its organizational documents by default under state law,

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The Proposal contains at least two distinct and separate requirements of the board: (i) the board must take all steps necessary to eliminate and replace any supermajority requirements in the Company's existing organizational documents and (ii) the board must take all steps necessary to amend the Company's organizational documents where a state law supermajority voting requirement applies by default.

JOHN CHEVEDDEN

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December 24, 2018

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 3 Rule 14a-8 Proposal
Norfolk Southern Corporation (NSC)
Simple Majority Vote
John Chevedden

Ladies and Gentlemen:

This is in regard to the December 11, 2018 no-action request.

The company December 20, 2018 letter on cannot be unbundled is nonsense.

This is the resolved statement:

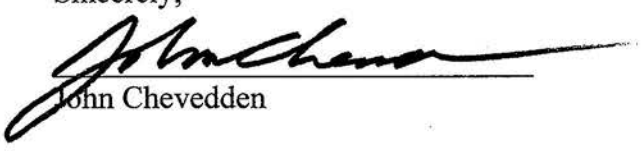
"RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws."

If the company had advised the proponent in October 2018 that the company believed there were multiple proposals, the proponent could have added these words:

The board has the option to apply this standard only to the issue of "the removal of a director by shareholders."

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,



John Chevedden

cc: Virginia K. Fogg <Virginia.Fogg@nscorp.com

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JOHN CHEVEDDEN

***

December 23, 2018

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 2 Rule 14a-8 Proposal
Norfolk Southern Corporation (NSC)
Simple Majority Vote
John Chevedden

Ladies and Gentlemen:

This is in regard to the December 11, 2018 no-action request.

A core company claim (first full paragraph of page 5) is that the proposal needs an "explanation of the applicable state law's default shareholder voting requirement standards."

However the company did not cite one precedent of a very similar situation of a simple majority voting proposal, that only addressed a company's explicit super majority voting provisions, that was required to explain the company's explicit super majority voting provisions in the text of a rule 14a-8 proposal.

There are tons of proposals that only addressed the explicit super majority voting provisions of a company that had absolutely no "explanation" of the "applicable" explicit company super majority voting provisions.

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,

John Chevedden

cc: Virginia K. Fogg <Virginia.Fogg@nscorp.com

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ALLEN C. GOOLSBY
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EMAIL: agoolsby@huntonak.com

FILE NO: 033878.0000060

December 20, 2018

VIA EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Norfolk Southern Corporation – Shareholder Proposal Submitted by John Chevedden

Ladies and Gentlemen:

This letter is written in response to the letter by John Chevedden (the "***Proponent***") to the staff of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the "***Commission***"), dated December 16, 2018, in response to the request by Norfolk Southern Corporation (the "***Company***") to exclude the Proponent's shareholder proposal (the "***Proposal***") from its proxy statement and form of proxy pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***").

The Company requested to exclude the Proposal under Rule 14a-8(i)(3) because the Proposal is vague and indefinite as to which substantive changes are intended to be subject to the proposed reduced shareholder vote requirement. The Proposal relies on an external standard – "state law" – without describing the substance of that standard, possibly including changes that would appear to be contrary to the interests of all shareholders or in some cases one or more classes of shareholders, and suggests that, if approved, it would purportedly prevent "other events [that] also need to be prevented from reoccurring . . ." although none of the enumerated events would be affected by a change in voting requirement.

The Company also contended that the Proposal should be excluded under Rules 14a-8(c) and 14a-8(i)(3) because the Proposal seeks to change the requisite shareholder vote requirements on an unquantified number of substantive matters without a single well-defined unifying concept and without the possibility of being "unbundled."

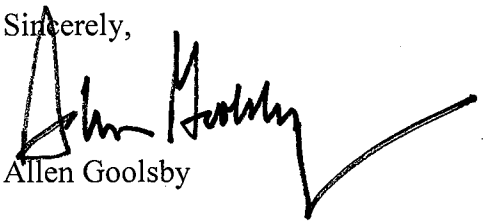
The Proponent's December 16, 2018 letter to the Commission states that Rule 14a-8(f) typically requires a company to provide notice to the proponent of a proposal's alleged deficiency under Rule 14a-8(c).[1] But notice of deficiency is not required if the deficiency cannot be remedied. Because the Proposal seeks to change the shareholder approval requirements for multiple, unrelated matters that cannot be "unbundled," the Company does not believe the Proposal can be amended to constitute a single proposal that complies with Rule 14a-8(c).

More specifically, the Proposal requests that the Company's board of directors take each step necessary so that each voting requirement in its charter and bylaws "*that is explicit or implicit due to default to state law* [emphasis added]" that calls for greater than a simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. This broad request calls to amend the votes required to effect a multitude of changes that have no identifiable relationship to each other, including, for example, a vote to re-domesticate the Company, a vote to engage in a statutory share exchange and a vote to restrict the removal of a director by shareholders so that he or she may only be removed for cause. Any of the multiple possible modifications to eliminate the numerous potential changes contained within the Proposal would effectively render the Proposal a new proposal.

If you have any questions, require further information or would like to discuss this matter, please call the undersigned at (804) 788-8289. Additionally, my email address is agoolsby@huntonak.com.

Thank you for your consideration of our request.

Sincerely,



Allen Goolsby

[1] The Company sent the Proponent a Notice of Deficiency on October 24, 2018, for a deficiency that could be remedied. This notice and Proponent's response remedying the deficiency are attached as part of Exhibit A to the Company's no-action request letter.

Enclosures
cc: Virginia K. Fogg, Norfolk Southern Corporation
Scott H. Kimpel, Hunton Andrews Kurth LLP
John Chevedden (via email at ***)

***

JOHN CHEVEDDEN

***

December 16, 2018

Office of Chief Counsel
Division of Corporation Finance
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

 # 1 Rule 14a-8 Proposal
Norfolk Southern Corporation (NSC)
Simple Majority Vote
John Chevedden

Ladies and Gentlemen:

This is in regard to the December 1, 2018 no-action request.

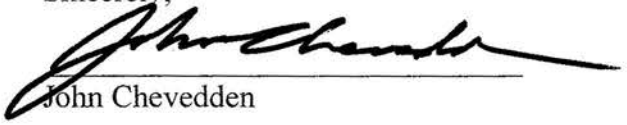
The company failed to address the following rule:

(c) Question 3: How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(f) Question 6: What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under § 240.14a-8 and provide you with a copy under Question 10 below, § 240.14a-8(j)

This is to request that the Securities and Exchange Commission allow this resolution to stand and be voted upon in the 2019 proxy.

Sincerely,



John Chevedden

cc: Virginia K. Fogg <Virginia.Fogg@nscorp.com

[NSC: Rule 14a-8 Proposal, October 12, 2018]
[This line and any line above it – *Not* for publication.]

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy's. The proponents of these proposals included Ray T. Chevedden and William Steiner. The votes would have been higher than 74% to 88% if all shareholders had ready access to independent voting advice.

Currently a 1%-minority can frustrate the will of our 66%-shareholder majority. In other words a 1%-minority could have the power to prevent shareholders from making an overdue change. This can be particularly important during periods of management underperformance and/or an economic downturn.

Improving the governance of our company is important at a time that other events also need to be prevented from reoccurring such as:

Equal Employment Opportunity Commission lawsuit over alleged age discrimination against older workers
September 2018

Accelerated share repurchase agreements of $1.2 Billion shares
August 2018

Complaints regarding coal dust from Lambert's Point coal terminal
March 2018

Workplace Safety Concern – Train collision and derailment; four crew members injured, Kentucky
March 2018

Workplace Safety Concern – Train crew injured after train collided with truck containing Hydrochloric Acid, Pennsylvania
March 2018

There is a concern about share repurchases like the above. Stock buybacks can be a sign of short-termism for executives – sometimes boosting share price without boosting the underlying value,

profitability, or ingenuity of the company. A dollar spent repurchasing a share is a dollar that cannot be spent on new equipment, an acquisition, entry into a new market or anything else.

Please yes:
Simple Majority Vote – Proposal [4]
[The above line – *Is* for publication.]

HUNTON ANDREWS KURTH LLP
RIVERFRONT PLAZA, EAST TOWER
951 EAST BYRD STREET
RICHMOND, VIRGINIA 23219-4074

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ALLEN C. GOOLSBY
DIRECT DIAL: 804-788-8289
EMAIL: agoolsby@huntonak.com

FILE NO: 033878.0000060

December 11, 2018

VIA EMAIL (shareholderproposals@sec.gov)

U.S. Securities and Exchange Commission
Division of Corporation Finance
Office of Chief Counsel
100 F Street, N.E.
Washington, D.C. 20549

Re: Norfolk Southern Corporation – Exclusion of Shareholder Proposal Pursuant to Rule 14a-8

Ladies and Gentlemen:

This letter is to notify the staff (the "***Staff***") of the Division of Corporation Finance of the U.S. Securities and Exchange Commission (the "***Commission***") that, for the reasons described below, our client, Norfolk Southern Corporation, a Virginia corporation (the "***Company***"), intends to exclude from its proxy statement and form of proxy (collectively, the "***2019 Proxy Materials***") the enclosed shareholder proposal (the "***Proposal***") and supporting statement (the "***Supporting Statement***") submitted by John Chevedden (the "***Proponent***"). We have set forth below the reasons we believe the Proposal may be omitted from the 2019 Proxy Materials pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended (the "***Exchange Act***"). We respectfully request the Staff to confirm that it will not recommend enforcement action to the Commission if the Company omits the Proposal from its 2019 Proxy Materials.

In accordance with Section C of Staff Legal Bulletin No. 14D (Nov. 7, 2008) ("***SLB 14D***"), we are emailing this letter and its attachments to the Staff at shareholderproposals@sec.gov (in lieu of providing six additional copies of this letter pursuant to Rule 14a-8(j)). In accordance with Rule 14a-8(j), we (i) are filing this letter with the Commission no later than eighty (80) calendar days before the Company intends to file its definitive 2019 Proxy Materials with the Commission and (ii) are concurrently sending a copy of this correspondence to the Proponent.

Rule 14a-8(k) and Section E of SLB 14D provide that shareholder proponents are required to send companies a copy of any correspondence that the shareholder proponents elect

to submit to the Commission or the Staff. Accordingly, we are taking this opportunity to remind the Proponent that if he submits correspondence to the Commission or the Staff with respect to the Proposal, a copy of that correspondence should concurrently be furnished to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

The Proposal

On October 21, 2018, the Company received a letter from the Proponent containing the Proposal for inclusion in the Company's 2019 Proxy Materials. The Proposal requests that the Company's "board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws." The Proposal, the Supporting Statement and copies of all relevant correspondence between the Company and the Proponent are attached to this letter as Exhibit A.

Bases for Exclusion

While the Proponent has submitted less comprehensive, but seemingly similar proposals in previous years, this Proposal is unique. Past proposals have requested that boards of directors take steps to replace supermajority requirements contained in their company's organizational documents, but this Proposal also requests that the board replace all supermajority requirements that are "implicit due to default to state law." We are not aware of any previous proposal containing this same or similar language that has been considered by Staff. This broad, ambiguous new language makes the Proposal excludable for the reasons set forth below.

We hereby respectfully request that the Staff concur in the Company's view that it may exclude the Proposal from the 2019 Proxy Materials pursuant to:

- Rule 14a-8(i)(3) because the Proposal is vague and indefinite and, thus, materially false and misleading; and

- Rules 14a-8(c) and 14a-8(i)(3) because the Proposal does not separate each matter to be voted on.

Analysis

The Proposal May be Excluded Pursuant to Rule 14a-8(i)(3) Because it is Vague and Indefinite, and, Thus, Materially False and Misleading

Pursuant to Rule 14a-8(i)(3), a company may exclude a shareholder proposal or supporting statement if it is contrary to any of the Commission's proxy rules, including Rule 14a-9, which prohibits materially false and misleading statements in proxy materials. The Staff has taken the position that a shareholder proposal may be excluded as misleading if it is "so inherently vague or indefinite that neither the stockholders voting on the proposal, nor the company in implementing the proposal (if adopted) would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." Staff Legal Bulletin No. 14B (Sept. 15, 2004). *See, e.g., Alaska Air Group, Inc.* (Mar. 10, 2016); *Verizon Communications Inc.* (Feb. 21, 2008); *Capital One Financial Corporation* (Feb. 7, 2003); *Philadelphia Electric Company* (Jul. 30, 1992); and *Fuqua Industries, Inc.* (Mar. 12, 1991).

Additionally, the Staff has consistently held that a shareholder proposal is excludable under Rule 14a-8(i)(3) if the proposal fails to define key terms or is subject to materially differing interpretations because neither the shareholders nor the company would be able to determine with reasonable certainty exactly what the proposal requires. *See, e.g., The Boeing Co.* (Mar. 2, 2011), *General Electric Co.* (Feb. 10, 2011), *Motorola, Inc.* (Jan. 12, 2011) (allowing, in each case, for exclusion under 14a-8(i)(3) of a proposal that did not explain the meaning of "executive pay rights" because the company had numerous compensation programs, which meant that the proposal was subject to materially different interpretations); *Verizon Communications Inc.* (Feb. 21, 2008) (allowing for exclusion of a proposal where the proposal failed to define the terms "Industry Peer group" and "relevant time period"); *Berkshire Hathaway, Inc.* (Mar. 2, 2007) (allowing for exclusion of proposal under Rule 14a-8(i)(3) where proposal prohibited company from investing in securities of any foreign corporation that engages in activities prohibited for U.S. corporations by Executive Order); *Prudential Financial, Inc.* (Feb. 16, 2007) (allowing for exclusion of a proposal where the proposal was vague on the meaning of "management controlled programs" and "senior management incentive compensation programs"); and *Woodward Governor Co.* (Nov. 26, 2003) (allowing for exclusion of a proposal where the proposal involved executive compensation and was unclear as to which executives were covered).

Moreover, the Staff has historically concurred with the exclusion of shareholder proposals that rely on an external standard for a central element of the proposal in instances where the proposal and supporting statement failed to sufficiently describe the substantive

provisions of such external standard. *See, e.g., Bank of America Corp.* (Mar. 6, 2014) (concurring with the exclusion of a proposal that requested the board to appoint a committee to develop a plan for divesting all "non-core banking business segments," which the proposal defined as "operations other than what the corporation calls Consumer & Business Banking, Consumer Real Estate Services, and Global Banking (in Note 26 of the 2012 annual report, p. 271-272)".); *Chevron Corp.* (Mar. 15, 2013) (concurring with the exclusion of a proposal that requested that the board adopt a policy that the board's chairman be "an independent director according to the definition set forth in the New York Stock Exchange listing standards" but failed to describe or explain the substantive provisions of the standard); *Dell Inc.* (Mar. 30, 2012) (permitting exclusion of a proposal to include certain shareholder-named director nominees in company proxy statements, including any nominee named by "shareholders of whom one hundred or more satisfy SEC Rule 14a-8(b) eligibility requirements"); *Exxon Mobil Corp. (Naylor)* (Mar. 21, 2011) (concurring with the exclusion of a proposal requesting "a report . . . on the community and environmental impact of [the company's] logistics decisions, using guidelines from the Global Reporting Initiative" where the proposal did not adequately describe the "voluminous and highly complex" guidelines, which contained over 150 pages of material, or the "additional descriptive materials on the [Global Reporting Initiative] website" relating to the guidelines); *AT&T Inc.* (Feb. 16, 2010, *recon. denied* Mar. 2, 2010) (concurring with the exclusion of a proposal that sought a report on, among other things, "grassroots lobbying communications as defined in 26 C.F.R. § 56.4911-2"); *The Boeing Co.* (Feb. 5, 2010) (concurring with the exclusion of a proposal as vague and indefinite where the proposal requested the establishment of a board committee that "will follow the Universal Declaration of Human Rights," but the proposal failed to adequately describe the substantive provisions of the standard to be applied).

In the above precedents, the failure to sufficiently describe or explain the substantive provisions of the external guidelines meant that, as a result, "neither shareholders nor the company would be able to determine with any reasonable certainty exactly what actions or measures the proposal requires." *See, e.g., Bank of America Corp.* (Mar. 6, 2014); *Dell Inc.* (Mar. 30, 2012); *Exxon Mobil Corp. (Naylor)* (Mar. 21, 2011).

These precedents are consistent with the Staff's explanation of its approach in determining whether a proposal that contains a reference to an external standard is excludable for being vague and misleading, specifically in the context of when a proposal references a website. Staff Legal Bulletin 14G (Oct. 16, 2012). The Staff stated that it considers "only the information contained in the proposal and supporting statement and determine[s] whether, based on that information, shareholders and the company can determine what actions the proposal seeks." Further, "[i]f a proposal or supporting statement refers to a website that provides information

necessary for shareholders and the company to understand with reasonable certainty exactly what actions or measures the proposal requires, and such information is not also contained in the proposal or in the supporting statement, then we believe the proposal would raise concerns under Rule 14a-9 and would be subject to exclusion under Rule 14a-8(i)(3) as vague and indefinite."

The Proposal requires the board of directors "take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default in state law)[1] that calls for a greater than simple majority vote be eliminated" and replaced by a simple majority requirement. Like the above precedent, the Proposal relies upon an external standard (state law) in order to implement the central aspect of the proposal (simple majority voting standards), and fails to adequately describe the substance of the external standard. It is unclear that shareholders considering the Proposal will have an understanding of which state's law applies to the Company's organizational documents, as the applicable state is not identified in the Proposal or Supporting Statement. Furthermore, without explanation of the applicable state law's default shareholder voting requirement standards, the Company and shareholders will be unable to determine what substantive changes must be made to implement the Proposal. Because the goal of the Proposal is to change the Company's voting requirements, the Proposal's reference to "state law" and its numerous and unspecified applicable voting requirements is a critical element of the Proposal. Without more information it is difficult, if not impossible, for the Company and shareholders to determine what voting changes will be effected should the proposal be adopted because "state law" applies by default wherever the Company's organizational documents are silent as to what matters could be subject to a shareholder vote.

Additionally, given the complexity of state law, the Proposal has not provided sufficient and accurate information for shareholders and the Company to understand with reasonable certainty exactly what measures or actions the Proposal requires. Shareholders could easily misinterpret the effects of the Proposal, should it be adopted. For example, the Supporting Statement suggests that the Proposal is intended to prevent the recurrence of events such as the Equal Opportunity Commission lawsuit over alleged aged discrimination against older workers, accelerated share repurchase agreements of $1.2 billion shares, and complaints regarding coal dust from Lambert's Point coal terminal, among others, yet these events would not have been

[1] While the Proposal does not identify which state's law it refers to, and it is not at all clear that the Proponent has any particular state in mind, solely for the purposes of this letter we are assuming the reference is to the law of the Commonwealth of Virginia, since the Company is incorporated in this Commonwealth. More specifically, we are assuming that the reference is to both the common and statutory corporate law of the Commonwealth, including the multiple provisions of the Virginia Stock Corporation Act (Ch. 9 of Title 13.1 of the Code of Virginia). As detailed further in this letter, we are not certain that the shareholders will make this same assumption and would expect few to have a knowledge of applicable elements of Virginia law.

affected by the changes in voting requirements requested by the Proposal. The Supporting Statement further suggests that the Proposal seeks to eliminate the negative effects of "entrenchment mechanisms." But some of the supermajority voting requirements imposed by default under the Virginia Stock Corporation Act (the "***Act***") are intended to protect shareholder rights. For example, Section 13.1-707 of the Act, by default, necessitates the affirmative vote of two-thirds of a corporation's voting shares to amend the corporation's articles. This supermajority requirement of Section 13.1-707 acts in conjunction with the default rule in Section 13.1-680 that permits shareholders to remove directors without cause unless the corporation's articles state otherwise, effectively protecting the rights of shareholders to remove a director without cause by requiring a supermajority of shareholders to eliminate this right. Similarly, Section 13.1-678 of the Act permits a corporation's articles of incorporation to be amended to provide for staggering the terms of directors. The supermajority requirement in Section 13.1-707 acts to make it more difficult for a corporation to amend its articles, which in turn makes it more difficult for a corporation to authorize staggered terms, which many shareholders view as a director entrenchment mechanism. The Proposal, however, would require the Company to "take each step necessary" to eliminate the effects of Section 13.1-707 and to permit amendment of the Company's articles by a simple majority of the shares actually voted, making it much easier to implement staggered terms for directors.

While the Company is unable to identify with certainty every voting requirement of the Act that may apply to its organizational documents by default under state law, numerous other provisions of the Act would likely be implicated should the Proposal be adopted, including voting requirements to approve mergers, share exchanges, a domestication, a conversion, certain dispositions of assets and dissolution, as well as voting requirements intended to protect the rights of holders of preferred shares from the holders of shares of common stock. Without a comprehensive knowledge of Virginia corporate law, the shareholders will be unable to fully comprehend and understand the various potential effects of the proposal they are being asked to vote on.

For these reasons, the Proposal is vague and indefinite because a central aspect of the Proposal is defined by reference to an external standard (state law), and the Proposal fails to describe the substance of that standard. Thus, consistent with the precedents discussed above, we believe the Proposal is excludable under Rule 14a-8(i)(3).

The Proposal May be Excluded Because it Does Not Separate Each Matter to be Voted on in Violation of Rules 14a-8(c) and 14a-8(i)(3)

Pursuant to Rule 14a-8(c), a shareholder may submit only one proposal per shareholder meeting. The Staff has historically taken the position that a company may exclude a shareholder proposal when a shareholder submits more than one proposal and does not timely reduce the number of submitted proposals to one. *See, e.g., Parker-Hannifin Corporation* (Sept. 4, 2009); *Morgan Stanley* (Feb. 4, 2009). Furthermore, the Staff has consistently recognized that Rule 14a-8(c) permits the exclusion of shareholder proposals combining separate and distinct elements that do not share a single well-defined unifying concept, even if the elements are presented as part of a single program and relate to the same general subject matter. *See, e.g., Duke Energy Corp.* (Feb. 27, 2009) (permitting the exclusion of a proposal requiring the company's directors to own a requisite amount of the company's stock, to disclose all conflicts of interest, and to be compensated only in the form of the company's common stock); *Morgan Stanley* (Feb. 4, 2009) (permitting the exclusion of a proposal requesting stock ownership guidelines for director candidates, new conflict of interest disclosures and restrictions on director compensation); and *Centra Software, Inc.* (Mar. 31, 2003) (permitting the exclusion of a proposal requesting amendments to the bylaws to require separate meetings of the independent directors and that the chairman of the board not be a company officer or employee, where the company argued the proposals would amend "quite different provisions" of the bylaws and were therefore unrelated).

The Proposal contains at least two distinct and separate requirements of the board: (i) the board must take all steps necessary to eliminate and replace any supermajority requirements in the Company's existing organizational documents and (ii) the board must take all steps necessary to amend the Company's organizational documents where a state law supermajority voting requirement applies by default. Under Rule 14a-8(c), the requested amendments to the organizational documents must share a "single well-defined unifying concept" in order to be viewed as a single proposal. The Supporting Statement implies that the Proposal's intent is to improve corporate governance and protect against management entrenchment, however, the absence of any causal link between multiple and unspecified, default state laws and ineffective corporate governance or management entrenchment precludes the prospect that there could be a single well-defined unifying concept with respect to the multiple corporate actions requested by the Proponent.

Additionally, pursuant to Rule 14a-8(i)(3), a company may exclude a shareholder proposal or supporting statement which is contrary to any of the Commission's proxy rules. This Proposal is inconsistent with the "unbundling" provisions of Rule 14a-4(a)(3). Rule 14a-4(a)(3) provides that a form of proxy must "identify clearly and impartially each separate matter intended to be acted upon, whether or not related to or conditioned upon the approval of other matters, and whether proposed by the registrant or by security holders." In the context of an

amendment to a company's articles of incorporation, for example, the Staff issued a compliance and disclosure interpretation relating to Rule 14a-4(a)(3) on January 24, 2014, stating in Question 101.02 that "if management knows or has reason to believe that a particular amendment . . . is one on which shareholders could reasonably be expected to express a view separate from their views on the other amendments that are part of the restatement, the amendment should be unbundled."

The Proposal asks shareholders to vote on whether to require the Board to "take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for greater than a simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws." While the Proponent has submitted similar proposals to companies in that past that have not been determined by the Staff to be excludable as inconsistent with the unbundling requirement of Rule 14a-4(a)(3), this Proposal is distinct because of its additional request for the board of directors to take action to amend the company's bylaws and articles in order to eliminate default supermajority requirements that apply under state law. As discussed earlier in this letter, the Proposal's broad implications could include the elimination or reduction of rights intended to protect shareholders. Reducing the voting threshold required for shareholders to amend the Company's articles would, for example, make it easier for the Company to both eliminate the right of shareholders to remove a director without cause and to authorize staggered terms for directors. It is possible that the Company's shareholders may wish for management to "take the steps necessary" to eliminate the explicit supermajority voting requirements contained in the Company's articles of incorporation and bylaws, but not wish for management to eliminate some or all supermajority voting requirements that may be implied pursuant to Virginia state law's default rules but not expressly set forth in the Company's current organizational documents. Under the Proposal, however, any such shareholder will be precluded from distinguishing between, and choosing from among, any multiple possible substantive changes because the Proposal has not been properly unbundled under Rule 14a-4(a)(3).

For these reasons, the Company believes it may properly exclude the Proposal from the 2019 Proxy Materials under Rules 14a-8(c) and 14a-8(i)(3).

Conclusion

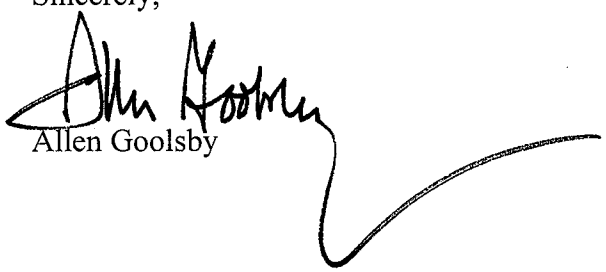
For the reasons stated above, we believe that the Proposal may be omitted from the 2019 Proxy Materials pursuant to Rules 14a-8(c) and 14a-8(i)(3). Accordingly, we respectfully

request the Staff to confirm that it will not recommend enforcement action if the Company omits the Proposal from its 2019 Proxy Materials.

If you have any questions, require further information or would like to discuss this matter, please call the undersigned at (804) 788-8289. Additionally, my email address is agoolsby@huntonak.com.

Thank you for your consideration of this request.

Sincerely,



Allen Goolsby

Enclosures
cc: Virginia K. Fogg, Norfolk Southern Corporation
Steven M. Haas, Hunton Andrews Kurth LLP
Scott H. Kimpel, Hunton Andrews Kurth LLP
Meghan Garrant, Hunton Andrews Kurth LLP
John Chevedden (via email at ***

EXHIBIT A

Hutson, Denise W

From: ***
Sent: Sunday, October 21, 2018 9:33 PM
To: Hutson, Denise W
Cc: Hostutler, Michael J.
Subject: [EXTERNAL] Rule 14a-8 Proposal (NSC)``
Attachments: CCE21102018_3.pdf

Dear Ms. Hutson,
Please see the attached rule 14a-8 proposal to improve corporate governance and enhance long-term shareholder value at de minimis up-front cost – especially considering the substantial market capitalization of the company.
Sincerely,
John Chevedden

JOHN CHEVEDDEN

*** ***

Ms. Denise W. Hutson
Corporate Secretary
Norfolk Southern Corporation (NSC)
Three Commercial Place, Floor 13
Norfolk VA 23510
PH: 757-629-2837
FX: 757-664-5069
PH: 757-629-2645
FX: 757-533-4917

Dear Ms. Hutson,

This Rule 14a-8 proposal is respectfully submitted in support of the long-term performance of our company.

This Rule 14a-8 proposal is intended as a low-cost method to improve company performance – especially compared to the substantial captializtion of our company.

This proposal is for the annual shareholder meeting. Rule 14a-8 requirements will be met including the continuous ownership of the required stock value until after the date of the respective shareholder meeting and presentation of the proposal at the annual meeting. This submitted format, with the shareholder-supplied emphasis, is intended to be used for definitive proxy publication.

Your consideration and the consideration of the Board of Directors is appreciated in support of the long-term performance of our company. Please acknowledge receipt of this proposal by email to ***

Sincerely,

John Chevedden

October 21, 2018

Date

cc: Michael J. Hostutler <michael.hostutler@nscorp.com>

[NSC: Rule 14a-8 Proposal, October 12, 2018]
[This line and any line above it – *Not* for publication.]

Proposal [4] – Simple Majority Vote

RESOLVED, Shareholders request that our board take each step necessary so that each voting requirement in our charter and bylaws (that is explicit or implicit due to default to state law) that calls for a greater than simple majority vote be eliminated, and replaced by a requirement for a majority of the votes cast for and against applicable proposals, or a simple majority in compliance with applicable laws. If necessary this means the closest standard to a majority of the votes cast for and against such proposals consistent with applicable laws.

Shareholders are willing to pay a premium for shares of companies that have excellent corporate governance. Supermajority voting requirements have been found to be one of 6 entrenching mechanisms that are negatively related to company performance according to "What Matters in Corporate Governance" by Lucien Bebchuk, Alma Cohen and Allen Ferrell of the Harvard Law School. Supermajority requirements are used to block initiatives supported by most shareowners but opposed by a status quo management.

This proposal topic won from 74% to 88% support at Weyerhaeuser, Alcoa, Waste Management, Goldman Sachs, FirstEnergy, McGraw-Hill and Macy's. The proponents of these proposals included Ray T. Chevedden and William Steiner. The votes would have been higher than 74% to 88% if all shareholders had ready access to independent voting advice.

Currently a 1%-minority can frustrate the will of our 66%-shareholder majority. In other words a 1%-minority could have the power to prevent shareholders from making an overdue change. This can be particularly important during periods of management underperformance and/or an economic downturn.

Improving the governance of our company is important at a time that other events also need to be prevented from reoccurring such as:

Equal Employment Opportunity Commission lawsuit over alleged age discrimination against older workers
September 2018

Accelerated share repurchase agreements of $1.2 Billion shares
August 2018

Complaints regarding coal dust from Lambert's Point coal terminal
March 2018

Workplace Safety Concern – Train collision and derailment; four crew members injured, Kentucky
March 2018

Workplace Safety Concern – Train crew injured after train collided with truck containing Hydrochloric Acid, Pennsylvania
March 2018

There is a concern about share repurchases like the above. Stock buybacks can be a sign of short-termism for executives – sometimes boosting share price without boosting the underlying value.

profitability, or ingenuity of the company. A dollar spent repurchasing a share is a dollar that cannot be spent on new equipment, an acquisition, entry into a new market or anything else.

Please yes:
Simple Majority Vote – Proposal [4]
[The above line – *Is* for publication.]

John Chevedden, *** sponsors this proposal.

Notes:
This proposal is believed to conform with Staff Legal Bulletin No. 14B (CF), September 15, 2004 including (emphasis added):

Accordingly, going forward, we believe that it would not be appropriate for companies to exclude supporting statement language and/or an entire proposal in reliance on rule 14a-8(l)(3) in the following circumstances:

- the company objects to factual assertions because they are not supported;
- the company objects to factual assertions that, while not materially false or misleading, may be disputed or countered;
- the company objects to factual assertions because those assertions may be interpreted by shareholders in a manner that is unfavorable to the company, its directors, or its officers; and/or
- the company objects to statements because they represent the opinion of the shareholder proponent or a referenced source, but the statements are not identified specifically as such.

We believe that it is appropriate under rule 14a-8 for companies to address these objections in their statements of opposition.

See also: Sun Microsystems, Inc. (July 21, 2005).

The stock supporting this proposal will be held until after the annual meeting and the proposal will be presented at the annual meeting. Please acknowledge this proposal promptly by email
***

Norfolk Southern Corporation
Office of the Corporate Secretary
Three Commercial Place
Norfolk, Virginia 23510-9219
Fax: 757/533-4917

Denise W. Hutson
Corporate Secretary
(757) 629-2645

October 24. 2018

BY EMAIL AND FEDERAL EXPRESS

John Chevedden
***

RE: Notice of Deficiency

Dear Mr. Chevedden:

I am writing to acknowledge receipt on October 21, 2018, of your shareholder proposal (the "Proposal") submitted to Norfolk Southern Corporation ("Norfolk Southern") pursuant to Rule 14a-8 under the Securities Exchange Act of 1934, as amended, for inclusion in Norfolk Southern's proxy materials for the 2019 Annual Meeting of Shareholders (the "Annual Meeting").

Under the proxy rules of the Securities and Exchange Commission (the "SEC"), in order to be eligible to submit a proposal for the Annual Meeting, a proponent must have continuously held at least $2,000 in market value of Norfolk Southern common stock for at least one year, preceding and including October 21, 2018, the date that the Proposal was submitted. For your reference, a copy of Rule 14a-8 is attached to this letter as Exhibit A.

Based on our review of the information in your letter, our records, and regulatory materials, we are unable to conclude that you are a registered holder of Norfolk Southern common stock, as required by Rule 14a-8. Therefore, the Proposal contains a procedural deficiency which SEC regulations require us to bring to your attention. Unless this deficiency can be remedied in the proper time frame, as discussed below, we will be entitled to exclude the Proposal from our proxy materials for the 2019 Annual Meeting.

Please provide a written statement from the record holder of your shares (usually a bank or broker) and a participant in the Depository Trust Company (DTC) verifying that, at the time you submitted the Proposal, you had beneficially held the

requisite number of shares of Norfolk Southern common stock continuously for at least one year.

In order to determine if the bank or broker holding your shares is a DTC participant, you can check the DTC's participant list, which is currently available on the Internet at http://www.dtcc.com/client-center/dtc-directories. If the bank or broker holding your shares is not a DTC participant, you also will need to obtain proof of ownership from the DTC participant through which the shares are held. You should be able to find out who this DTC participant is by asking your broker or bank. If the DTC participant knows your broker or bank's holdings, but does not know your holdings, you can satisfy Rule 14a-8 by obtaining and submitting two letters– one from your broker or bank confirming your ownership, and the other from the DTC participant confirming the broker or bank's ownership - verifying that, at the time the Proposal was submitted, the required amount of shares were continuously held for at least one year. For additional information regarding the acceptable methods of proving your ownership of the minimum number of shares of Norfolk Southern common stock, please see Rule 14a-8(b)(2) in Exhibit A.

The SEC rules require that the documentation be postmarked or transmitted electronically to us no later than 14 calendar days from the date you receive this letter. Once we receive this documentation, we will be in a position to determine whether the Proposal is eligible for inclusion in the proxy materials for the 2019 Annual Meeting. Norfolk Southern reserves the right to submit a no-action request to the Staff of the SEC, as appropriate, with respect to this Proposal.

Very truly yours,

Denise W. Hutson

Denise W. Hutson
Corporate Secretary

Enclosure

EXHIBIT A

[ATTACHED]

§ 240.14a-8 Shareholder proposals.

This section addresses when a company must include a shareholder's proposal in its proxy statement and identify the proposal in its form of proxy when the company holds an annual or special meeting of shareholders. In summary, in order to have your shareholder proposal included on a company's proxy card, and included along with any supporting statement in its proxy statement, you must be eligible and follow certain procedures. Under a few specific circumstances, the company is permitted to exclude your proposal, but only after submitting its reasons to the Commission. We structured this section in a question-and-answer format so that it is easier to understand. The references to "you" are to a shareholder seeking to submit the proposal.

(a) *Question 1:* What is a proposal? A shareholder proposal is your recommendation or requirement that the company and/or its board of directors take action, which you intend to present at a meeting of the company's shareholders. Your proposal should state as clearly as possible the course of action that you believe the company should follow. If your proposal is placed on the company's proxy card, the company must also provide in the form of proxy means for shareholders to specify by boxes a choice between approval or disapproval, or abstention. Unless otherwise indicated, the word "proposal" as used in this section refers both to your proposal, and to your corresponding statement in support of your proposal (if any).

(b) *Question 2:* Who is eligible to submit a proposal, and how do I demonstrate to the company that I am eligible? (1) In order to be eligible to submit a proposal, you must have continuously held at least $2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the meeting for at least one year by the date you submit the proposal. You must continue to hold those securities through the date of the meeting.

(2) If you are the registered holder of your securities, which means that your name appears in the company's records as a shareholder, the company can verify your eligibility on its own, although you will still have to provide the company with a written statement that you intend to continue to hold the securities through the date of the meeting of shareholders. However, if like many shareholders you are not a registered holder, the company likely does not know that you are a shareholder, or how many shares you own. In this case, at the time you submit your proposal, you must prove your eligibility to the company in one of two ways:

(i) The first way is to submit to the company a written statement from the "record" holder of your securities (usually a broker or bank) verifying that, at the time you submitted your proposal, you continuously held the securities for at least one year. You must also include your own written statement that you intend to continue to hold the securities through the date of the meeting of shareholders; or

(ii) The second way to prove ownership applies only if you have filed a Schedule 13D (§240.13d–101), Schedule 13G (§240.13d–102), Form 3 (§249.103 of this chapter), Form 4 (§249.104 of this chapter) and/or Form 5 (§249.105 of this chapter), or amendments to those documents or updated forms, reflecting your ownership of the shares as of or before the date on which the one-year eligibility period begins. If you have filed one of these documents with the SEC, you may demonstrate your eligibility by submitting to the company:

(A) A copy of the schedule and/or form, and any subsequent amendments reporting a change in your ownership level;

(B) Your written statement that you continuously held the required number of shares for the one-year period as of the date of the statement; and

(C) Your written statement that you intend to continue ownership of the shares through the date of the company's annual or special meeting.

(c) *Question 3:* How many proposals may I submit? Each shareholder may submit no more than one proposal to a company for a particular shareholders' meeting.

(d) *Question 4:* How long can my proposal be? The proposal, including any accompanying supporting statement, may not exceed 500 words.

(e) *Question 5:* What is the deadline for submitting a proposal? (1) If you are submitting your proposal for the company's annual meeting, you can in most cases find the deadline in last year's proxy statement. However, if the company did not hold an annual meeting last year, or has changed the date of its meeting for this year more than 30 days from last year's meeting, you can usually find the deadline in one of the company's quarterly reports on Form 10–Q (§249.308a of this chapter), or in shareholder reports of investment companies under §270.30d–1 of this chapter of the Investment Company Act of 1940. In order to avoid controversy, shareholders should submit their proposals by means, including electronic means, that permit them to prove the date of delivery.

(2) The deadline is calculated in the following manner if the proposal is submitted for a regularly scheduled annual meeting. The proposal must be received at the company's principal executive offices not less than 120 calendar days before the date of the company's proxy statement released to shareholders in connection with the previous year's annual meeting. However, if the company did not hold an annual meeting the previous year, or if the date of this year's annual meeting has been changed by more

than 30 days from the date of the previous year's meeting, then the deadline is a reasonable time before the company begins to print and send its proxy materials.

(3) If you are submitting your proposal for a meeting of shareholders other than a regularly scheduled annual meeting, the deadline is a reasonable time before the company begins to print and send its proxy materials.

(f) *Question 6:* What if I fail to follow one of the eligibility or procedural requirements explained in answers to Questions 1 through 4 of this section? (1) The company may exclude your proposal, but only after it has notified you of the problem, and you have failed adequately to correct it. Within 14 calendar days of receiving your proposal, the company must notify you in writing of any procedural or eligibility deficiencies, as well as of the time frame for your response. Your response must be postmarked, or transmitted electronically, no later than 14 days from the date you received the company's notification. A company need not provide you such notice of a deficiency if the deficiency cannot be remedied, such as if you fail to submit a proposal by the company's properly determined deadline. If the company intends to exclude the proposal, it will later have to make a submission under §240.14a–8 and provide you with a copy under Question 10 below, §240.14a–8(j).

(2) If you fail in your promise to hold the required number of securities through the date of the meeting of shareholders, then the company will be permitted to exclude all of your proposals from its proxy materials for any meeting held in the following two calendar years.

(g) *Question 7:* Who has the burden of persuading the Commission or its staff that my proposal can be excluded? Except as otherwise noted, the burden is on the company to demonstrate that it is entitled to exclude a proposal.

(h) *Question 8:* Must I appear personally at the shareholders' meeting to present the proposal? (1) Either you, or your representative who is qualified under state law to present the proposal on your behalf, must attend the meeting to present the proposal. Whether you attend the meeting yourself or send a qualified representative to the meeting in your place, you should make sure that you, or your representative, follow the proper state law procedures for attending the meeting and/or presenting your proposal.

(2) If the company holds its shareholder meeting in whole or in part via electronic media, and the company permits you or your representative to present your proposal via such media, then you may appear through electronic media rather than traveling to the meeting to appear in person.

(3) If you or your qualified representative fail to appear and present the proposal, without good cause, the company will be permitted to exclude all of your proposals from its proxy materials for any meetings held in the following two calendar years.

(i) *Question 9:* If I have complied with the procedural requirements, on what other bases may a company rely to exclude my proposal? (1) Improper under state law: If the proposal is not a proper subject for action by shareholders under the laws of the jurisdiction of the company's organization;

Note to paragraph (i)(1): Depending on the subject matter, some proposals are not considered proper under state law if they would be binding on the company if approved by shareholders. In our experience, most proposals that are cast as recommendations or requests that the board of directors take specified action are proper under state law. Accordingly, we will assume that a proposal drafted as a recommendation or suggestion is proper unless the company demonstrates otherwise.

(2) *Violation of law:* If the proposal would, if implemented, cause the company to violate any state, federal, or foreign law to which it is subject;

Note to paragraph (i)(2): We will not apply this basis for exclusion to permit exclusion of a proposal on grounds that it would violate foreign law if compliance with the foreign law would result in a violation of any state or federal law.

(3) *Violation of proxy rules:* If the proposal or supporting statement is contrary to any of the Commission's proxy rules, including §240.14a-9, which prohibits materially false or misleading statements in proxy soliciting materials;

(4) *Personal grievance; special interest:* If the proposal relates to the redress of a personal claim or grievance against the company or any other person, or if it is designed to result in a benefit to you, or to further a personal interest, which is not shared by the other shareholders at large;

(5) *Relevance:* If the proposal relates to operations which account for less than 5 percent of the company's total assets at the end of its most recent fiscal year, and for less than 5 percent of its net earnings and gross sales for its most recent fiscal year, and is not otherwise significantly related to the company's business;

(6) *Absence of power/authority:* If the company would lack the power or authority to implement the proposal;

(7) *Management functions:* If the proposal deals with a matter relating to the company's ordinary business operations;

(8) *Director elections:* If the proposal:

(i) Would disqualify a nominee who is standing for election;

(ii) Would remove a director from office before his or her term expired;

(iii) Questions the competence, business judgment, or character of one or more nominees or directors;

(iv) Seeks to include a specific individual in the company's proxy materials for election to the board of directors; or

(v) Otherwise could affect the outcome of the upcoming election of directors.

(9) *Conflicts with company's proposal:* If the proposal directly conflicts with one of the company's own proposals to be submitted to shareholders at the same meeting;

Note to paragraph (i)(9): A company's submission to the Commission under this section should specify the points of conflict with the company's proposal.

(10) *Substantially implemented:* If the company has already substantially implemented the proposal;

Note to paragraph (i)(10): A company may exclude a shareholder proposal that would provide an advisory vote or seek future advisory votes to approve the compensation of executives as disclosed pursuant to Item 402 of Regulation S–K (§229.402 of this chapter) or any successor to Item 402 (a "say-on-pay vote") or that relates to the frequency of say-on-pay votes, provided that in the most recent shareholder vote required by §240.14a–21(b) of this chapter a single year (*i.e.*, one, two, or three years) received approval of a majority of votes cast on the matter and the company has adopted a policy on the frequency of say-on-pay votes that is consistent with the choice of the majority of votes cast in the most recent shareholder vote required by §240.14a–21(b) of this chapter.

(11) *Duplication:* If the proposal substantially duplicates another proposal previously submitted to the company by another proponent that will be included in the company's proxy materials for the same meeting;

(12) *Resubmissions:* If the proposal deals with substantially the same subject matter as another proposal or proposals that has or have been previously included in the company's proxy materials within the preceding 5 calendar years, a company may exclude it from its proxy materials for any meeting held within 3 calendar years of the last time it was included if the proposal received:

(i) Less than 3% of the vote if proposed once within the preceding 5 calendar years;

(ii) Less than 6% of the vote on its last submission to shareholders if proposed twice previously within the preceding 5 calendar years; or

(iii) Less than 10% of the vote on its last submission to shareholders if proposed three times or more previously within the preceding 5 calendar years; and

(13) *Specific amount of dividends:* If the proposal relates to specific amounts of cash or stock dividends.

(j) *Question 10:* What procedures must the company follow if it intends to exclude my proposal? (1) If the company intends to exclude a proposal from its proxy materials, it must file its reasons with the Commission no later than 80 calendar days before it files its definitive proxy statement and form of proxy with the Commission. The company must simultaneously provide you with a copy of its submission. The Commission staff may permit the company to make its submission later than 80 days before the company files its definitive proxy statement and form of proxy, if the company demonstrates good cause for missing the deadline.

(2) The company must file six paper copies of the following:

(i) The proposal;

(ii) An explanation of why the company believes that it may exclude the proposal, which should, if possible, refer to the most recent applicable authority, such as prior Division letters issued under the rule; and

(iii) A supporting opinion of counsel when such reasons are based on matters of state or foreign law.

(k) *Question 11:* May I submit my own statement to the Commission responding to the company's arguments?

Yes, you may submit a response, but it is not required. You should try to submit any response to us, with a copy to the company, as soon as possible after the company makes its submission. This way, the Commission staff will have time to consider fully your submission before it issues its response. You should submit six paper copies of your response.

(l) *Question 12:* If the company includes my shareholder proposal in its proxy materials, what information about me must it include along with the proposal itself?

(1) The company's proxy statement must include your name and address, as well as the number of the company's voting securities that you hold. However, instead of providing that information, the company may instead include a statement that it will provide the information to shareholders promptly upon receiving an oral or written request.

(2) The company is not responsible for the contents of your proposal or supporting statement.

(m) *Question 13:* What can I do if the company includes in its proxy statement reasons why it believes shareholders should not vote in favor of my proposal, and I disagree with some of its statements?

(1) The company may elect to include in its proxy statement reasons why it believes shareholders should vote against your proposal. The company is allowed to make arguments reflecting its own point of view, just as you may express your own point of view in your proposal's supporting statement.

(2) However, if you believe that the company's opposition to your proposal contains materially false or misleading statements that may violate our anti-fraud rule, §240.14a–9, you should promptly send to the Commission staff and the company a letter explaining the reasons for your view, along with a copy of the company's statements opposing your proposal. To the extent possible, your letter should include specific factual information demonstrating the inaccuracy of the company's claims. Time permitting, you may wish to try to work out your differences with the company by yourself before contacting the Commission staff.

(3) We require the company to send you a copy of its statements opposing your proposal before it sends its proxy materials, so that you may bring to our attention any materially false or misleading statements, under the following timeframes:

(i) If our no-action response requires that you make revisions to your proposal or supporting statement as a condition to requiring the company to include it in its proxy materials, then the company must provide you with a copy of its opposition statements no later than 5 calendar days after the company receives a copy of your revised proposal; or

(ii) In all other cases, the company must provide you with a copy of its opposition statements no later than 30 calendar days before its files definitive copies of its proxy statement and form of proxy under §240.14a–6.

Hutson, Denise W

From: ***
Sent: Monday, October 29, 2018 7:56 PM
To: Hutson, Denise W
Cc: Hostutler, Michael J.
Subject: [EXTERNAL] Rule 14a-8 Proposal (NSC) blb
Attachments: CCE29102018_3.pdf

Dear Ms. Hutson,
Please see the attached broker letter.
Sincerely,
John Chevedden

Personal Investing

P.O. Box 770001
Cincinnati, OH 45277-0045

October 25, 2018

John R Chevedden
***

To Whom It May Concern:

This letter is provided at the request of Mr. John R. Chevedden, a customer of Fidelity Investments.

Please accept this letter as confirmation that as of the date of this letter, Mr. Chevedden has continuously owned no fewer than the share quantity listed in the following table in the following security, since June 1st, 2017:

Security Name	CUSIP	Symbol	Share Quantity
General Dynamics Corporation	369550108	GD	100
United Rentals	911363109	URI	30
Advanced Auto Parts	00751Y106	AAP	50
JetBlue Airways Corporation	477143101	JBLU	200
Norfolk Southern Corp	655844108	NSC	50

These securities are registered in the name of National Financial Services LLC, a DTC participant (DTC number: 0226) and Fidelity Investments subsidiary.

I hope you find this information helpful. If you have any questions regarding this issue, please feel free to contact me by calling 800-397-9945 between the hours of 8:30 a.m. and 5:00 p.m. Eastern Standard Time (Monday through Friday) and entering my extension 13813 when prompted.

Sincerely,

Stormy Delehanty
Personal Investing Operations

Our File: W612869-25OCT18