



**National Grain
and Feed Association**

www.ngfa.org

1250 Eye Street, N.W., Suite 1003
Washington, DC 20005-3922

P: (202) 289-0873

F: (202) 289-5388

241002

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STB Docket No. EP 724 (Sub-No. 4)

**UNITED STATES RAIL SERVICE ISSUES –
PERFORMANCE DATA REPORTING**

Reply Comments

of

National Grain and Feed Association

June 28, 2016

The National Grain and Feed Association (“NGFA”) submits these reply comments in response to the Surface Transportation Board’s (“Board” or “STB”) notice of proposed rulemaking to establish new regulations to make permanent the reporting of rail service performance data on a weekly basis by all Class I railroads and the Chicago Transportation Coordination Office (CTCO) through its Class I members.

The NGFA, established in 1896, consists of more than 1,050 grain, feed, processing, exporting and other grain-related companies that operate more than 7,000 facilities and handle more than 70 percent of all U.S. grains and oilseeds. Its membership includes grain elevators; feed and feed ingredient manufacturers; biofuels companies; grain and oilseed processors and millers; exporters; livestock and poultry integrators; and associated firms that provide goods and services to the nation's grain, feed and processing industry. The NGFA also consists of 26 affiliated State and Regional Grain and Feed Associations, has a joint operating and services agreement with the North American Export Grain Association, and has a strategic alliance with the Pet Food Institute.

As it has previously, the NGFA commends the STB for publishing the proposed rule and for its continued commitment to enhancing the transparency and accountability of Class I rail carriers regarding rail service performance reporting. As the Board and rail customers recall vividly, the absence of such information on a consistent basis across Class I carriers contributed to the inability of agricultural shippers and receivers, as well as multiple other industry sectors, to make alternative logistic plans to ameliorate the economic damage caused by the severe freight rail service disruptions that gripped many regions of the country during the fall and winter of 2013/14.

The NGFA also commends the Board for its decision to waive its *ex parte* rules and invite interested parties, including the NGFA, to meet with its staff in late 2015 to discuss the technical aspects of this rulemaking. We believe the interactions that occurred during those meetings were beneficial, and contributed to a more informed and judicious proposed rule. The NGFA also encourages the Board to extend such opportunities to future proceedings of importance to rail users, and to broaden the waiver to permit dialogue with Board members, as well as their staffs.

Upon review of the comments submitted by other parties in this proceeding, the NGFA reiterates and urges that the Board consider adopting the recommendations contained in its May 31, 2016 opening comments. In addition, the NGFA wishes to reinforce the following specific points:

- First, the NGFA urges the Board to reject as wholly insufficient the proposals by the Association of American Railroads (AAR) and its member carriers, which argue that the STB should require only macro-level metrics and system averages of rail service

performance as permanent reporting requirements. (AAR at 12.) System averages do not provide an adequate – and in fact can be a misleading – indicator of the fluidity or congestion of a rail network’s performance by region or corridor, which is of paramount importance to shippers and receivers located in specific geographic regions or areas from which export market shipments are derived. Indeed, the most severe service disruptions that occurred during the 2013/14 period were regional or corridor-specific in nature.

In this regard, as noted in its May 31, 2016 opening statement, the NGFA continues to believe the Board should apply to all Class I railroads the requirement that shuttle trains and dedicated grain trips be reported by corridor or region (e.g., Pacific Northwest, Texas Gulf, etc.), as has been done by the BNSF and Canadian Pacific Railways under an interim order for some time. Further, we reiterate that if the Board retains its proposal to grant waivers from this requirement to specific carriers, it should be done transparently through notice-and-comment rulemaking in the *Federal Register*. (NGFA at 12.)

- Second, the NGFA reiterates the recommendation in its opening comments that the Board should strengthen its proposed reporting requirements by providing for some modicum of granular reporting of rail service performance for certain segments of freight traffic. This is extremely important to rail users in monitoring service, given the diverse and varying rail transportation service that applies to different types of grain-based agricultural products – particularly for processed commodities, such as soybean meal, soybean oil, corn oil, corn syrup, cottonseed oil and other important processed agricultural products often shipped in tank cars or manifest traffic. The NGFA again requests that the Board consider separate data reporting for “vegetable oils” and “vegetable meals” as an achievable way to add more granularity without burdening rail carriers. (NGFA at 5.)
- Third, many of the comments submitted by the AAR and endorsed by its rail carrier members argue that since freight rail service has improved, the need for many of the Board’s proposed rules no longer are justified. (AAR at 3.) The NGFA and its members strongly disagree, and note that one of the principal values of permanent rail service

reporting on a regular, weekly basis is to provide baseline data that can be used to track trends in service over time and to flag anomalies and aberrations in service performance when they occur in the future – as most surely they will.

Further, the AAR and several of its member carriers argue that the Board’s proposed service-reporting requirements are not necessary for transparency or accountability, since “railroads are transparent and accountable to their individual customers.” (AAR at 6.) To the contrary, the evidentiary record of this proceeding paints a far different picture – one in which many rail customers were unable to obtain accurate, timely or reliable service projections from their carriers during the onset and aftermath of the severe service disruptions of 2013/14. The Board’s weekly rail service reporting requirements have served a useful function by providing the necessary standardization and transparency that was sorely lacking previously, and whose value to rail customers has been amply demonstrated.

A data-reporting system activated in fits-and-starts only when service disruptions become apparent is an inherently flawed concept, and should be rejected out-of-hand by the Board.

- Fourth, the NGFA is pleased to support the position of the National Industrial Transportation League (NITL) with respect to the proposed elimination of two of the reportable causes of trains being held pursuant to data request number 5 (Trains Held Short of Destination or Interchange). NITL argues, persuasively in our view, that the Board should not eliminate “track maintenance” and “mechanical issues” as reportable causes for trains being held, and agree with its stated concern that in the absence of these two categories, reports of the causes of delays will revert too frequently to the proposed new “other” category. Like NITL, we are unconvinced that assigning causation of delays is a heavy burden on the reporting railroads or are subjective in nature. (NITL at 3.)

Also regarding this data element, the NGFA believes the Board should consider the concept proposed by BNSF Railway to allow the reporting of data sets that identify trains being held on the network for railroad-caused reasons (including holding for

locomotive power and crews, as well as the track maintenance and mechanical issues cited by NITL). (BNSF at 3-4.) This, we believe, would provide a more accurate barometer of service disruption and alleviate non-railroad-caused reasons for held trains (e.g., to meet prescribed delivery time frames at a facility or interchange point at the request of the shipper). However, we do oppose BNSF's recommendation that this metric be eliminated altogether.

- Finally, we do find intriguing the comments of the AAR concerning providing to the Board additional weekly reports on freight traffic transiting through Chicago. Specifically, AAR states that the Class I carriers have agreed to provide the Chicago Metropolitan Agency for Planning (CMAP) with weekly reports that include the yard inventory and yard dwell time metrics called for in the Board's proposed rule and already being provided under the interim rule. But AAR also proposes to provide new reports to the Board on cars enroute to Chicago and cars processed, each delineated by cars terminated in and those transiting through Chicago. AAR states the weekly report also includes a seven-day average freight transit time through Chicago. (AAR at 10.) We recommend that the Board evaluate whether these additional metrics would improve the understanding of conditions at this vital terminal.

Alternatively, we urge the Board to reconsider the NGFA's previously proposed recommendation that – as more accurate barometers of traffic congestion in the Chicago terminus – the STB instead should require reporting of the number of: 1) origin Chicago cars that are idled for more than 48 hours in a Chicago-area yard; 2) destination-bound cars idled in a Chicago-area yard for more than 48 hours; and 3) cars idled for more than 48 hours awaiting interchange in a Chicago-area yard.

Conclusion

In closing, having access to sufficiently specific rail service metrics has great utility for – and would be useful to – rail customers, including shippers and receivers of grains, oilseeds and grain products, as an early alert to potential service disruptions. For rail customers that are captive to a single railroad, access to such information can assist in taking steps to try to mitigate the business harm caused by having sporadic, unpredictable or even non-existent, rail service for an

extended period of time. In addition, for other rail customers that do have access to alternative transportation modes, having the ability to monitor rail service performance data and to take preemptive action earlier in the process may have the benefit of reducing the overall adverse impact of such rail service disruptions in the future.

As such, accurate and sufficiently specific rail service performance data provided in a timely, consistent and uniform format are critical for the agricultural industry to be able to make necessary adjustments to business and logistical plans, storage and marketing strategies, and customer-service responses (including to farmer-customers) if there are disruptions in reliable, predictable rail service. The ability to do so is critical to minimizing, to the degree possible, the economic harm throughout the agricultural value chain, including the operations of facilities of NGFA-member companies, as well as the upstream and downstream domestic and export customers those companies serve.

The NGFA again commends the Board and its professional staff for their proactive efforts in this proceeding, and urge that a final rule be issued as soon as possible. We would be pleased to respond to any questions the Board may have.

Sincerely yours,

A handwritten signature in black ink that reads "Randall C. Gordon". The signature is written in a cursive, flowing style.

Randall C. Gordon
President