



**U.S. Department of
Transportation**
Office of the Secretary
of Transportation

General Counsel

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Ms. Cynthia Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

**Re: No. EP 724 (Sub-No. 4)
United States Rail Service Issues, Performance Data Reporting
Reply Comments of the United States Department of Transportation**

Dear Ms. Brown:

Attached please find the Reply Comments of the United States Department of Transportation in this matter. Thank you for your assistance, and please feel free to contact me with any questions.

Respectfully,

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additional thoughts for the Board to consider in reaching its decision. In addition, the Department supports the Board's efforts to make rail performance data publicly available.

Background

This proceeding is a continuation of the Board's efforts over the past year and a half to examine service disruptions in the rail network. On April 1, 2014, the Board provided notice of its intention to hold a public hearing so that it could learn more about how "poor service [was] negatively affecting agricultural, coal, passenger, and other traffic," and how those service problems were being addressed. STB No. EP 724, *United States Rail Service Issues*, Decision at 2 (Apr. 1, 2014). At the hearing, held on April 10, 2014, the Board received testimony from the Class I railroads and a variety of other stakeholders, including shippers of grain, chemicals, coal, and other commodities. Amtrak also offered testimony about how its passenger rail service, which operates primarily over host railroads, had suffered as a result of freight train delays. See STB No. EP 724, *United States Rail Service Issues*, Tr. of Pub. Hrg. at 62-69 (Apr. 10, 2014).

Given the importance of these issues to the Department, then-FRA Administrator Joseph Szabo also testified at the Board's hearing. He first discussed how safety is FRA's first priority, and explained that freight service disruptions can cause safety problems, particularly as pressures mount to bring the network back into a state of equilibrium. *Id.* at 15-22. Administrator Szabo also expressed concern about passenger rail service, noting that "[t]he largest category of Amtrak delays in recent months ha[d] been host freight train interference." *Id.* at 21. This was a "symptom of a fragile network that is strained and struggling to react." *Id.* at 22.

At this hearing and through other channels, the Board heard concerns from shippers about obtaining better "access to performance data from the railroads to better understand the scope, magnitude, and impact of the service issues, as well as the underlying causes and the prospects

for recovery.” STB No. EP 724 (Sub-No. 4), *United States Rail Service Issues—Performance Data Reporting*, Decision at 2 (Dec. 30, 2014) (the “NPRM” or the “proposal”). Thus, on October 8, 2014, the Board issued an order requiring the Class I railroads to provide weekly data reports, which would be made available to the public, about the railroads’ performance. STB No. EP 724 (Sub-No. 3), *United States Rail Service Issues—Data Collection*, Decision (Oct. 8, 2014). The Board ordered the Class I carriers to provide data on subjects including train speed, terminal dwell time, cars on line, trains held short of destination, and more. *Id.* at 3-4. In some instances, the Board directed the railroads to provide data relating to the shipment of specific commodities, like grain and coal. *Id.* Furthermore, recognizing that disruptions in Chicago had been a major driver of rail service delays, the Board ordered the Class I railroads operating in Chicago to provide data relating specifically to operations at that rail hub, including “service contingency protocols.” *Id.* at 4-5. The Board explained that it planned to require the railroads to provide this data on a temporary basis, but also indicated that it would soon consider making the reporting requirements permanent. *Id.* at 2 & n.6.

The Board’s Proposal

On December 30, 2014, the Board issued its NPRM, by which it proposes permanently to require the Class I railroads and the Chicago Transportation Coordination Office (CTCO), through its Class I members, to report service data publicly, on a weekly basis. The proposal reflects the Board’s view that the temporary reporting obligations imposed last fall have been beneficial in “assist[ing] rail shippers in making logistics decisions, planning operations and production, and mitigating losses amid the challenging railroad operating environment.” NPRM at 2. The Board is seeking to establish a mechanism for the railroads to standardize the data they provide, so that shippers have a meaningful basis of comparison and railroads are not burdened

with weekly “narrative responses” or reporting responsibilities “that vary from week to week.” *Id.* at 7. Indeed, the Board has expressed its intention to tailor the data requirements “to impose as small a burden as possible” on the affected railroads. *Id.* at 3. Thus, the Board has used its 2014 temporary data reporting order as a basis for the NPRM, but with several modifications, and has requested comments on other ways to improve the terms of the proposed rule.

Numerous shippers have filed comments that are generally supportive of the Board’s proposal. The Alliance for Rail Competition argues that “reporting is a critical first step in identifying the scope of service disruptions,” and that the absence of permanent data reporting impedes shippers’ “efforts to develop appropriate responses.” Opening Comments of Alliance for Rail Competition, *et al.*, at 6 (Mar. 2, 2015). Similarly, grain shippers contend that with more data, they could seek transportation alternatives when rail problems arise, or if no such alternatives exist, they could at least take other measures “to mitigate the business harm.” Comments of National Grain and Feed Association at 2 (Mar. 2, 2015) (“NGFA Comments”). The United States Department of Agriculture echoes these views, opining that additional data will allow shippers “to begin making contingency plans ahead of any perceived transportation issue, rather than scrambling in a reactionary nature to achieve second-best outcomes.” Comments of the U.S. Dep’t of Agric. at 3 (Mar. 2, 2015) (“USDA Comments”).

However, some shippers have suggested additional performance metrics for inclusion in the rule. For example, the National Industrial Transportation League (NITL) recommends “that the Board add a metric that would require each Class I railroad to provide information on average train speed over key corridors, or by region,” since such “geographic information . . . might reveal where there are problem areas in the system.” Comments submitted by the Nat’l Indus. Transp. League at 5 (Mar. 2, 2015) (“NITL Comments”). Other

shippers have suggested that the Board require additional information that is specific to certain commodities. The Western Coal Traffic League (WCTL) and its fellow commenters recommend that the Board require data reporting on weekly average cycle times for coal trains operating over certain corridors, as well as information about restrictions on the availability of crews and locomotives for coal service. Opening Joint Comments of the Western Coal Traffic League, *et al.*, at 11-12 (Mar. 2, 2015) (“WCTL Comments”).

By contrast, the railroads have raised several concerns about the Board’s proposal. The Association of American Railroads (AAR) argues that the Board has “limited authority over service issues,” particularly disruptions “caused by severe weather and capacity constraints,” and that the proposed data requirements would not “improve [the Board’s] ability to monitor the railroad industry or otherwise carry out its statutory responsibilities.” Comments of the Ass’n of Am. R.R. at 10-12 (Mar. 2, 2015) (“AAR Comments”). The railroads also contend that the burdens of collecting some of this data outweigh the benefits, particularly the data relating to specific commodities and regions of the country. *Id.* at 14. In AAR’s view, “only macro metrics should be permanent,” *id.* at 16, since data on particular commodities (like grain or coal) can be misleading and may not be relevant to “a future service disruption that would warrant federal monitoring.” *Id.* at 15. In addition, some of the railroads have proposed technical changes to the Board’s proposal to lessen the burdens of data collection. *See, e.g.*, Comments of CSX Transp., Inc. at 4 (Mar. 2, 2015) (suggesting changes to the definition of a reporting week).

The Department’s Views

The Department shares the Board’s concerns about service problems in the rail network and is pleased that the Board is considering appropriate solutions. As explained in Administrator Szabo’s testimony to the Board last year, rail service problems negatively affect the movement

of goods, but also, can lead to safety problems and delays in passenger rail service. Among other things, service delays diminish the predictability of the railroads' operations, and this can result in the ineffective utilization of train crews, employee fatigue, and additional pressures upon supervisors, as well as a risk of inadequate training of new employees brought on to address service problems. STB No. EP 724, United States Rail Service Issues, Tr. of Pub. Hrg. at 17-18 (Apr. 10, 2014). Amtrak and other passenger rail carriers also depend upon an efficient and fluid network of host freight railroads to deliver service across the country. *Id.* at 21-22; *see also id.* at 62-69 (Amtrak testimony about diminished passenger rail service caused by freight delays).

Additionally, through fiscal year 2014 (FY14), Amtrak operations were delayed as demonstrated by their declining on-time performance on routes that operate on the freight railroads. For example, according to Amtrak's September 2014 report, approximately half of all Amtrak Long Distance trains arrived late to their final destination, roughly 20 points worse than the prior year. *See* Amtrak Monthly Performance Report for Sept. 2014 at E-7 (Nov. 12, 2014).² Even fewer, 40 percent, arrived at intermediate stations along the route on time. *Id.* at E-8. Indeed, according to Amtrak's statistics for the period of October 2013 through September 2014, major host railroads were responsible for approximately 73% of Amtrak train delays. *Id.* at E-3.

In light of these concerns, the Department is generally supportive of the Board's proposal here, with some further thoughts and suggestions set forth below. The Board has required the railroads to provide weekly data reports on a temporary basis for the past several months, and the Department agrees that permanent reporting could be a useful tool in assisting the STB to "identify and help resolve future regional or national service disruptions more quickly." NPRM

² This document is among the "Monthly Performance Reports" on Amtrak's website: <http://www.amtrak.com/servlet/ContentServer?c=Page&pagename=am%2FLayout&cid=1241245669222>.

at 3. Furthermore, the shippers' opening comments support the Board's supposition that this data will assist in "plan[ning] operations" and making adjustments when service disruptions occur. *Id.*; see NGFA Comments at 3 (data reporting affects "adjustments to business and logistical plans"); USDA Comments at 3 (data may allow shippers to be "proactive" to "avert or mitigate rail service issues").

DOT also agrees with the Board's proposals to obtain information on a regular basis about service problems in Chicago. Railroads and shippers have both recognized the importance of ensuring that traffic is interchanged smoothly through this critical rail hub. *See, e.g.*, Comments of Canadian Pacific at 3 (Mar. 2, 2015) ("CP Comments") ("The Board is rightly concerned with the operational importance of the Chicago Terminal to the national rail network."); NITL Comments at 4 ("The League believes that the Board's focus on Chicago is entirely appropriate and important."). CP points out that "[a]ll Class I railroads, except Kansas City Southern, meet at Chicago and interchange traffic with one another every day," and consequently, "congestion at the Chicago Terminal can cascade throughout the network." CP Comments at 3. The Department is pleased that service issues in Chicago have improved with the Board's oversight and guidance, and that the railroads have augmented their channels of communication and contingency plans to address problems quickly. *See id.* at 3 (explaining the daily conference calls between the Class I railroads to share data and address problems at the Chicago Terminal); AAR Comments at 5 (discussing process improvements at CTCO, including "automatic triggers" for contingency plans under specified operating conditions in Chicago). The Department anticipates that the CTCO data the Board proposes to collect would further assist in these efforts to identify and solve service disruptions in Chicago.

The Department also suggests that the Board give additional consideration to the ways in which the collected data will be used in STB proceedings. In particular, the Department notes that the STB's weekly collection of data has "allowed the Board to begin to develop baseline performance data." NPRM at 3; *see* USDA Comments at 3 ("It is important to establish baselines from which to gauge future events."). The Department agrees that it is useful to collect and examine a broad data set to identify problems in the rail network, and for this purpose, FRA regularly examines the weekly performance data that the railroads make available to the public, particularly with respect to average system speed and average terminal dwell time. However, in evaluating the data that the railroads provide, the Department recommends that the Board use caution in drawing conclusions about the state of the industry, particularly in making year-over-year comparisons.

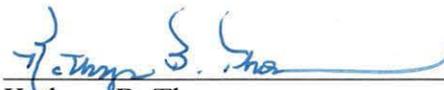
The railroad industry is a dynamic one, and railroads are continually faced with changes in traffic and the mix of commodities to be shipped. Railroads may also act as a "release valve" under certain conditions, helping to address challenges that arise in other modes of transportation. For example, when water levels are low on the Mississippi River, impeding barge movements, the railroads may be called upon to handle additional, unexpected volumes of traffic. Thus, it can be difficult to draw conclusions about the causes of rail service issues over time. To the extent that the Board deems it appropriate to use the data to establish a "baseline," it should do so with an appropriate degree of flexibility, taking account of the many factors that may affect service. As the Board has suggested, the greater value of the data may be in helping stakeholders to identify and address service problems more quickly as they arise, and to allow for better contingency planning in the event of unexpected system shocks or traffic disruptions. NPRM at 3.

Finally, the Department believes that the Board is appropriately concerned with weighing the costs and benefits of the data reporting requirements. *Id.* The Department agrees that any requirements the Board adopts should (1) “impose as small a burden as possible” on the affected railroads, *id.*; (2) be clear and consistent from week to week, *id.* at 7; and (3) be reasonably accessible from information “maintained by railroads in the ordinary course of business.” *Id.* Consistent with those goals, the Department suggests that the Board examine closely the technical suggestions submitted by the other commenters on various definitions and other details set forth in the NPRM. For example, the railroads suggest that changes to the reporting day might allow for better data presentation while lessening the burden of the reporting requirements. *See, e.g.*, Opening Comments of BNSF Railway Company at 9-10 (Mar. 2, 2015); Comments of Norfolk Southern Railway Company at 3-4 (Mar. 2, 2015). The Department appreciates the Board’s consideration of these details, which should help the Board to tailor a rule that provides useful service data without undue costs.

The Department remains attentive to the challenges facing the railroad industry, and would be pleased to provide further support to the Board in considering ways to identify and resolve service problems throughout the rail network.

April 29, 2015

Respectfully submitted,


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United States Department of Transportation