



To: Surface Transportation Board
From: Laurence J. Krieg, PhD – Executive Committee Chair
Michigan Association of Railroad Passengers (MARP)
Date: 7 February 2016
Subject: Docket EP_726_0

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Rulemaking proceeding to define “on-time performance” for purposes of Section 213 of PRIIA, 49 U.S.C. 24308(f)

I write on behalf of the Michigan Association of Railroad Passengers, Inc. (MARP), a non-profit association of individuals who frequently use passenger rail services, especially Amtrak’s Michigan regional services and long-distance routes. Founded in 1970, MARP’s purposes, as stated in its Bylaws, include:

- 2.1A To represent the interests of the traveling public wishing to use rail and other transportation providers and to educate the public and officials about the benefits of improved and expanded passenger rail services. Such passenger rail services shall include intercity rail, commuter rail, rail transit, and ancillary transit such as improved bus services, which enhance the viability of rail service.

As duly elected Chair of MARP, in accordance with Bylaws Sections 2.1A (above) and Section 5.1, “The Chair shall be the chief officer and spokesperson for the Corporation”, it is my duty and privilege to convey the consensus of the Association to the Surface Transportation Board of the United States of America regarding rules for on-time performance of passenger rail services such as those provided by the National Railroad Passenger Corporation (Amtrak).

The members of MARP greatly appreciate this opportunity to fulfil our organization’s Purpose on behalf of the traveling public by submitting our opinions and concerns to the Surface Transportation Board. Thank you!

MARP has held discussions over the last four weeks regarding the proposed rule-making, culminating in a structured discussion at our General Membership Meeting, January 16, 2016, held in Lansing, Michigan.

Discussion focused on the following five areas of the proposed Rule:

1. Regarding § 1040.2 Definition of “on time.”

‘A train is “on time” if it arrives... no more than five minutes after its scheduled arrival time per 100 miles of operation, or 30 minutes after its scheduled arrival time, whichever is less.’

- a. We concur: Five (5) minutes is a reasonable maximum negative schedule deviation (lateness) for a train to be considered “on time”.
b. We disagree: five (5) minutes additional lateness should not be allowed for every 100 miles a train travels. The proposed maximum allowable 30 minutes of negative schedule deviation at the final destination is too much to be considered “on time” by business travelers and by those connecting with other scheduled surface or air transportation.

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- c. Hence, we hold that **five (5) minutes is be the maximum allowable negative schedule deviation for a passenger train regardless of the number of miles traveled.**
2. **Regarding Place(s) at which on-time performance is measured:**
 § 1040.2 ‘A train is “on time” if it arrives **at its final terminus** no more than five minutes after its scheduled arrival time per 100 miles of operation, or 30 minutes after its scheduled arrival time, whichever is less.’
- a. We concur: On-time performance **should be measured at the final terminus of a service.**
- b. We disagree: **it is not sufficient** to measure on-time performance **only at the final terminus** of a service.
Our concerns:
- i. Measuring only at final termini **discriminates against the large percentage of travelers** whose origin and/or destination are not a final terminus.
 - ii. One of the primary advantages of rail passenger service (as compared with, for example, air service) is the **large number of city-pairs** that can be served by a single scheduled service (train). Failing to consider on-time performance at intermediate stops greatly reduces this advantage by **failing to incentivize timely and reliable service to intermediate destinations.**
 - iii. Measuring only at final termini encourages “**schedule padding**” – the practice of including large amounts of “recovery time” between the penultimate and final destinations. (For example, a distance of 10 miles between the last and next-to-last station may be scheduled for 45 minutes, when it can be traversed at a safe and reasonable speed in 15 minutes.) While **including recovery time in schedules is reasonable**, “**bunching**” **large amounts of the recovery time at the final terminus encourages poor service** to intermediate destinations.

3. **Service that traverses multiple railroads**

We note an **important omission**: Many, if not most, Amtrak services operate over a number of different host railways. For example, Michigan’s “Wolverine Service” trains (operated by Amtrak) originate at Chicago Union Station on trackage owned and dispatched by Amtrak. Within less than five miles, they cross over to tracks owned by Norfolk Southern, where they proceed to Porter, Indiana, and transition to Amtrak-owned rails. At Kalamazoo, ownership changes to State of Michigan tracks (currently dispatched by Norfolk Southern). At Battle Creek, they briefly cross a line owned and dispatched by Canadian National before continuing on state-owned tracks. East of Dearborn, Michigan, the service uses tracks jointly owned by Norfolk Southern and CSX Transportation under the control of Conrail Shared Assets., before proceeding northward from West Detroit Junction to Pontiac on Canadian National property. If trains exceed the maximum negative schedule deviation at Pontiac, **How is responsibility for lateness to be assigned to each of the four dispatching agencies and five track owners?**

- a. As an additional concern regarding measurement of on-time performance only at the final terminus, we note the potential for dispute between host railroads. Should the Surface Transportation Board **fail to include clear and enforceable procedures for assignment responsibility, the result could easily be** protracted dispute between host railroads and, ultimately, **unenforceability of the entire rule structure.**
- b. We strongly recommend: **on-time performance to be measured at each point where host railroad ownership or dispatching responsibility changes.** When a

train is handed off from the dispatch center of one railroad to another, it is essential to:

- i. Assign responsibility for failure of on-time performance to the railroad on which the delay occurred; and
- ii. Hold harmless the railroad that received a passenger train late from another railroad; but
- iii. Assign to the railroad receiving a late train responsibility for any further delay that occurs while it is responsible for the passenger train's performance.

4. Exclusion of trains which fail to reach their final destination.

'§ 1040.4 Calculation of quarterly on-time performance.

In any given calendar quarter, on-time performance shall be calculated as a percentage using the following formula:

(a) The denominator shall be the number of trains that operated during that calendar quarter, **excluding any train not operating from its scheduled origin to its scheduled destination; ...'**

- a. **We do not agree that trains which fail reach their scheduled destination should, in effect, be considered "on time" by removing them from the calculation.**
- b. Failure to reach final terminus is the ultimate and most severe failure of on-time performance.
- c. We believe this method of calculation could lead to exclusion from STB oversight of some of the most serious forms of inconvenience to rail passengers; and
- d. We believe further that **this provides a significant loophole** which could be exploited to make on-time performance look good while causing grave inconvenience to passengers. For example, a railroad dispatching authority under whose control a passenger train loses several hours could withhold from the train authority to proceeding to its final destination, instead holding it at the penultimate station.
- e. We believe this "unintended consequence" of the calculation formula **could actually be used with significant frequency by unscrupulous dispatching agencies** resulting in grave inconvenience to the traveling public.

5. "Concerned Parties"

- a. It is our understanding that the authority of the Surface Transportation Board extends to "Concerned Parties" – those entities primarily involved in surface transportation.
- b. We are further given to understand that past practice has defined "Concerned Parties" as the corporate entities providing surface transportation, and the corporate entities (or their representatives) whose goods are shipped by the transportation providers.
- c. **We submit to the Surface Transportation Board that the primary "Concerned Party" in passenger rail service is/are the passengers themselves, not Amtrak and not the host railroads.**
 - i. We firmly believe that the **routine exclusion of the voice of railroad passenger representatives is contrary to the basic principles of democratic government;**
 - ii. If shipper representatives are considered "Concerned Parties," we can see **no legally defensible reason why passenger representatives should not also be considered "Concerned Parties".**
 - iii. Therefore, **we hold it to be self-evident that rail passenger representatives be considered the primary "Concerned Party" in matters involving passenger rail service; and further,**

- iv. **Representatives of railroad passengers have legal standing** in any and all matters regarding passenger rail service, including but not limited to on-time performance.

The Michigan Association of Railroad Passengers therefore submits the following proposed language:

“Markup” copy:

PART 1040—ON-TIME PERFORMANCE OF INTERCITY PASSENGER RAIL SERVICE

Authority:

[49 U.S.C. 721](#) and [24308\(f\)](#).

§ 1040.1 Purpose.

This section defines “on-time performance” for the purpose of implementing Section 213 of the Passenger Rail Investment and Improvement Act of 2008, [49 U.S.C. 24308\(f\)](#).

§ 1040.2 Definition of “on time.”

A train is “on time” if it arrives at ~~its final terminus~~ each scheduled station stop and each point at which rail ownership and/or dispatching responsibility changes no more than five minutes after its scheduled arrival time. ~~per 100 miles of operation, or 30 minutes after its scheduled arrival time, whichever is less. This definition shall be implemented in accordance with the table provided in § 1040.3.~~

~~**§ 1040.3 Table of maximum allowances.**~~

~~The following table sets forth the maximum number of minutes after the scheduled arrival time that a train may arrive at its final terminus and be considered on time for the purpose of implementing [49 U.S.C. 24308\(f\)](#).~~

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Distance operated (miles)		Maximum allowance (minutes)
Over	Up to and including	
0	100	5
100	200	10
200	300	15
300	400	20
400	500	25
500	No limit	30

~~**§ 1040.43 Calculation of quarterly on-time performance.**~~

In any given calendar quarter, on-time performance shall be calculated as a percentage using the following formula:

- (a) The denominator shall be the number of trains that operated during that calendar quarter, ~~excluding any train not operating from its scheduled origin to its scheduled destination;~~ and
- (b) The numerator shall be the number of trains included in the denominator that also satisfy the definition of “on-time performance,” as set forth in ~~§§ 1040.2 and 1040.3.~~

“Clean” copy:

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§1040.2 Definition of “on time.”

A train is “on time” if it arrives at each scheduled station stop and each point at which rail ownership and/or dispatching responsibility changes no more than five minutes after its scheduled arrival time.

§1040.3 Calculation of quarterly on-time performance.

In any given calendar quarter, on-time performance shall be calculated as a percentage using the following formula:

- (a) The denominator shall be the number of trains that operated during that calendar quarter;
and
- (b) The numerator shall be the number of trains included in the denominator that also satisfy the definition of “on-time performance,” as set forth in §1040.2.