

# **Transportation and Logistics Committee**

## **Report to the NGFA Board of Directors**

### **March 2025**

## **Rail Shipper/Receiver Subcommittee**

### **I. Key Issues:**

- Engage with the Surface Transportation Board (STB or Board) on proceedings.
- Engage with rail carriers, STB and Congress on rail service problems.

### **II. Subcommittee Activities:**

- A. Rail Service:** NGFA continues to engage with Class I carriers, STB and Congress on the need for sustained, reliable rail service.
- B. STB:** Patrick Fuchs was designated by President Trump as Chairman of the Board effective January 20, 2025, and he is eligible to serve the entire four-year term for President Trump as Fuchs' second term does not expire until January 14, 2029. Robert Primus' first term expires December 31, 2027, Karen Hedlund's first term expires December 31, 2025, and Michelle Schultz's first term expires January 11, 2026. The fifth Board seat is vacant and is expected to be filled soon. There currently are two Democrat Board members and two Republican Board members.
- C. Rail Safety:** A train derailment near East Palestine, Ohio in February 2023 that drew national attention led to bills last Congress in both chambers that would mandate two-person crews, require a regulatory review of train length maximum limits, create train speed limits, mandate two separate processes for rail car inspection, and require the installation of hot-box detectors among other things. Due to the multitude of items that could negatively impact rail service, NGFA opted to not endorse the bills. The Senate Commerce Committee passed its bill, but a full Senate vote was not held. The House bill was not brought up for a Committee vote.

On July 15, 2024, the National Transportation Safety Board (NTSB) released its final report on the East Palestine derailment. NTSB found a visual rail car inspection failed to catch the failing wheel bearing and thus one of NTSB's main recommendations is for research to create regulations on bearing defect detection systems. NTSB also recommends a phaseout of DOT-111 cars to happen more quickly since DOT-111 cars are more likely to become compromised during derailments. NTSB also has many recommendations to improve the emergency response effort. Of note, NTSB did not identify train length as a contributing factor to the derailment, nor are there recommendations for visual railcar inspections.

Vice President JD Vance toured East Palestine on February 3, 2025, and reportedly said “we continue to need to do better on rail safety in this country,” and he promised to work on it, but at another point he said it will be up to Ohio’s two new senators and their colleagues to pass it. Ted Cruz (R-TX) is Chairman of the Senate Commerce Committee and Sam Graves (R-MO) is Chairman of the House Transportation and Infrastructure Committee. Neither committee is anticipated to hold votes on a rail safety bill. However, if the Trump Administration pushes for a bill the sentiment toward the bill in Congress could change.

- D. Common Carrier Obligation Legislation:** NGFA is advocating for a bill cosponsored by Sens. Tammy Baldwin (D-WI) and Roger Marshall (R-KS) that would further define Class I rail carriers’ common carrier obligation. The bill is anticipated to be reintroduced in the current Congress.
- E. Rail Rate Arbitration and Final Offer Rate Review (FORR):** In December 2022, STB issued rules on rail rate arbitration and FORR to create new methods for shippers to challenge unreasonable rail rates in smaller disputes. STB prescribed an all or none approach to Class I rail carriers opting into rail rate arbitration and there was not unanimity among the carriers. Thus, FORR became the default method for shippers to file smaller rate cases.

On August 20, 2024, the 8th Circuit of Appeals decided STB lacks statutory authority to prescribe rates through FORR and thus vacated STB’s final rule for FORR. Since FORR is no longer available, the options for shippers to challenge unreasonable rail rates reverts to Full Stand-Alone Cost (SAC), Simplified SAC, or Three-Benchmark. To enable a simpler method for smaller rate disputes, another STB rulemaking will be required.

- F. CN Acquisition (FD 36744):** On January 14, 2025, STB approved CN’s acquisition of the Northern Iowa Railway Company with conditions. STB is requiring CN, upon shipper’s request, to provide written justification for any rate increase above the rate of inflation. CN also is required to create a local service plan for the Board, and all directly impacted shippers and provide quarterly updates during the 3-year oversight period.
- G. Private Railcar Use Rulemaking Proceeding (EP 768):** On July 26, 2021, NGFA and other petitioners filed a petition requesting STB to create incentives for rail carriers to efficiently use private railcars. NGFA and the other petitioners argued that STB regulation has not kept pace with the changeover in railcar ownership. STB remains in the pre-rulemaking stage.
- H. California Air Resources Board (CARB):** CARB has proposed changes to locomotive regulations. By 2030, CARB seeks to require all freight locomotives operating in California to be less than 23 years old and by 2035, for all freight locomotives to be emission free. On April 5, 2024, NGFA led a coalition of ag associations requesting the U.S. Environmental Protection Agency (EPA) to reject the proposal. On January 15, 2025, CARB withdrew its proposal. CARB regulators said its zero-emission plans for locomotives would have been rejected by the Trump administration.

- I. Private Tank Car Proceeding (NOR 42144):** After a ten-year proceeding, the STB issued a mostly unsavory decision for private tank car providers in their case against UP. According to STB, UP reasonably relied on STB precedent authorizing charges to move empty railcars to repair shops. Regarding the allegation that UP failed to pay for its use of private tank cars, STB wrote that there is no persuasive evidence that UP failed to reimburse private tank car providers for those charges or that the private tank car providers have availed themselves of existing processes to ensure they are compensated. However, the Board is modifying its prior treatment of this issue and moving forward will prohibit UP from charging for empty repair moves unless it can demonstrate that car providers are reimbursed for these costs.

### **III. Other Actions:**

The Rail Shipper/Receiver Subcommittee and NGFA staff also were engaged in the following activities during the September 2024 – March 2025 period:

- A. Rail Service:** NGFA worked on behalf of members with rail carriers and STB to obtain better rail service. NGFA also helped members understand regulatory remedies available to them.
- B. U.S./Mexico Rail Crossings:** In September 2023 and December 2023, Customs and Border Protection closed rail crossings that severely restricted commerce between the United States and Mexico. NGFA rallied other agricultural groups and worked with the affected rail carriers to convince Congress and the Biden administration to pressure the Customs and Border Protection to reopen the crossings.

In 2024, service conditions were substandard for grain railcars that go through the Eagle Pass and El Paso crossings. On July 31, 2024, NGFA sent an agricultural coalition letter to the U.S. government asking them to work with their Mexican government colleagues to improve rail service in Mexico. NGFA has had many subsequent meetings with U.S. government officials on the topic of Mexico rail service.

NGFA has the following asks: 1) For Ferromex to stop embargoing U.S. agricultural products; 2) For Ferromex to cycle U.S. agricultural railcar equipment more efficiently; 3) For Ferromex to develop enough infrastructure to support bi-lateral trade; and 4) for Mexico's National Service for Animal and Plant Health, Food Safety and Quality (SENASICA) to utilize a more efficient grain inspection process that does not require trains to stop at the border, preferably a process to allow U.S. origin testing in lieu of border testing.

- C. BNSF Programs:** In June 2024, the Subcommittee provided BNSF an opportunity to explain their strategy for revising grain shuttle and destination efficiency train (DET) programs. BNSF reduced shuttle offering from 155 to 140 sets, increased direct DETs from 8 to 15, and held regular DETs unchanged. BNSF believes it can increase turns to 2.7 trips per month in the last quarter of 2024 to offset the reduction in the number of grain shuttles.

- D. Canada Rail Labor:** In 2024, NGFA sent three letters to the Canadian government asking for their assistance to ensure agricultural freight continues to move regardless of the duration or outcome of the negotiations between CN and CPKC and the Teamsters Canada Rail Conference. On August 23, the Canada Industrial Relations Board ordered the striking workers back to work and imposed binding arbitration. Mediation meetings will occur over seven days in March 2025 and if a mediated settlement is not reached during those seven days, arbitration will be scheduled to take place in April.
- E. East Coast Ports:** On January 8, 2025, the International Longshoremen's Association and United States Maritime Alliance announced a tentative agreement on a new six-year master contract to avert a second strike within four months. The first strike began on October 1, 2024, and lasted for three days before a temporary agreement was reached to resume work through January 15, 2025. The NGFA organized agricultural coalition efforts twice to ask the Biden Administration and then the incoming Trump Administration to help with the negotiations.
- F. STB Hearing:** On September 16 and 17, STB held a hearing on Growth in the Freight Rail Industry and NGFA's President and CEO, Mike Seyfert, testified and provided ideas on how STB can help grow rail freight volumes, such as by finishing its proceeding on efficient use of private railcars and by issuing guidance on the common carrier obligation.

## Motor Carrier Subcommittee

### I. Key Issues:

- Work to safely increase trucking capacity and efficiency by engaging with the U.S. Department of Transportation (U.S. DOT) and Congress.

### II. Subcommittee Activities:

- A. Infrastructure Investment and Jobs Act (IIJA):** NGFA is monitoring the implementation of the apprentice program to allow commercial driver's license (CDL) holders aged 18-20 to drive across state lines. As of December 31, 2024, there are 59 companies approved to hire apprentices and 36 people have completed the apprenticeship program. This is seen as a pathway for more people to enter the trucking industry.
- B. House Transportation and Infrastructure Committee Votes:** NGFA led a coalition of agricultural associations in supporting the following trucking bills that were passed by the House Transportation and Infrastructure Committee on May 23, 2023. These bills are anticipated to be reintroduced in the current Congress for consideration as part of the next surface transportation reauthorization. The current surface transportation bill expires on September 30, 2026.

H.R. 3372 - 91,000-lb. Weight Exemption Pilot Program

H.R. 3318 - 10% Axle Variance for Dry Bulk

H.R. 3013 – Licensing Individual Commercial Exam-takers Now Safely and Efficiently  
H.R. 2367 – Truck Parking Safety Improvement Act

- C. Independent Contractor Rule:** A Department of Labor rule was released in January 2024 is a set of guidelines for determining if a worker is an employee or an independent contractor. The Fifth Circuit Court of Appeals has postponed oral arguments that were scheduled for February 5, 2025, in a case seeking to undo new independent contractor rules. The Trump Administration has until March 25 to inform the court how it plans to proceed with the case. It is anticipated the Trump Administration will rescind the Biden era rule.
- D. Lawsuits:** NGFA is monitoring lawsuits in which plaintiffs bypass suing independent truck drivers and instead sue the companies who hired them to haul their freight.
- E. Insurance:** NGFA monitors bills that would increase the minimum liability insurance requirements for interstate motor carriers above the current \$750,000.
- F. Hour-of-Service:** NGFA stays apprised of any attempts to change the agricultural exemption to the hours-of-service rules.

## Waterborne Commerce Subcommittee

### I. Key Issues:

- Maintaining navigational access to the Lower Snake River Dams. The Columbia-Snake River System is the third-largest grain export corridor in the world, transporting nearly 30 percent of U.S. grain and oilseed exports through a sophisticated navigation system to deliver high value farm products safely and efficiently to West Coast ports and consumers worldwide.
- Continue to advocate for timely and efficient rehabilitation, modernization, and maintenance of the inland waterways system through implementation of policy such as the Infrastructure Investment and Jobs Act (IIJA) and Water Resources and Development Act of 2024 (WRDA) to keep U.S. agriculture competitive in the global market.

### II. Subcommittee Activities:

- A. Snake River Dams:** In December 2024, the U.S. Army Corps of Engineers and the Bureau of Reclamation announced that they will update an environmental study on the management of federal dams along the Columbia and Snake rivers, based on the policy papers published since the 2020 study. NGFA submitted comments in opposition to the updated study on the basis that the policy papers were not scientific studies and that no new scientific information has been produced since 2020. It is likely that action on the dams will slow under the new administration. The committee will use the next two years to identify steps that can be taken to better prepare industry for when the political environment changes.

- B. Appropriations:** In December 2024, Congress passed another Continuing Resolution, holding funding levels at FY24 amounts. Several House Appropriations Committee members have indicated they anticipate a full-year CR for FY25 to be passed in March, and that the committee will move to working on FY26 appropriations. It is important to note that should Congress pass a full-year CR for FY25, there could be a sequestration order or an across-the-board cut to all programs, projects and activities, under the Fiscal Responsibility Act of 2023. Due to the complexities of the caps in both defense and non-defense discretionary spending, it is unclear the total percentage of the potential cuts to both these categories, but it is possible the industry could see waterways project delays.
- C. WRDA 2024:** The 2024 Water Resources Development Act (WRDA) was signed into law by President Biden on January 4, 2025. The final bill permanently sets the cost share for inland waterways projects to 75% (federal)/25% Inland Waterways Trust Fund.

### **Issues for Discussion/Input:**

- Are there opportunities for efficiencies in the inland waterways systems that NGFA can identify for the Trump administration's campaign to improve government efficiency?
- How will possible Trump administration policies on the Panama Canal and the Jones Act impact the agriculture industry?