



**National Grain
and Feed Association**

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Before the U.S. Surface Transportation Board

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

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

Comments

of

National Grain and Feed Association

May 31, 2016

The National Grain and Feed Association (“NGFA”) submits this statement pursuant 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.

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 reporting on a consistent basis across Class I carriers contributed to the lack of information regarding the severity and extent of the service disruptions that gripped agricultural shippers and receivers, as well as multiple other industry sectors, during the fall and winter of 2013/14, and hampered rail customers' ability to meet – or modify – contract commitments or to explore potential alternatives in their logistics planning.

As it has stated consistently throughout the Board's consideration of this matter, the NGFA believes making permanent the weekly collection and reporting of rail service performance metrics will improve the ability of rail customers and the Board to notice future aberrations in rail service performance more quickly and effectively if and when they occur. As the Board has stated, correctly in our view, building a baseline of factual information on rail service performance that can be used as a barometer for comparative analysis to evaluate future trends can be a valuable asset for identifying and addressing future regional or national service disruptions more expeditiously.

Sufficiently specific rail service metrics also have great utility for – and would be used by – 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 or other business options available, 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.

In this statement, the NGFA provides input and comments on specific elements of the Board's proposed rules that are most pertinent to shippers and receivers of grains, oilseeds and grain products. Before doing so, however, the NGFA wishes to reiterate several overarching concerns that we believe are important to agricultural shippers and receivers, and which we respectfully ask the Board to reconsider when developing final regulations in this proceeding:

- **More Granular Data Reporting:** The NGFA recognizes that in the preamble to its proposed rule, the Board rejects “at this stage” the proposal from NGFA, the U.S. Department of Agriculture and several other rail customer organizations to require more granularity in rail service performance data reported by Class I carriers. The STB states that it believes “the burden of more granular metrics outweigh(s) their value as a tool for identifying regional or national system-wide problems,” (*Federal Register* at p. 27022) but then appears to gauge the value of that information based solely upon the Board's ability to monitor rail service. We respectfully disagree, and believe the Board needs to consider the benefits of some additional specific data to rail customers in monitoring service, given the diverse and differing rail transportation service that applies to different types of grain-based agricultural products. The current proposed service data reporting

gives short shrift particularly to processed commodities, such as soybean meal, soybean oil, corn oil, corn syrup, cottonseed oil and other important processed agricultural commodities often shipped in manifest traffic. As an illustration, the NGFA's Rail Arbitration Rules contain no less than 68 distinct Standard Transportation Commodity Code (STCC) designations for various agricultural products eligible for arbitration with rail carriers.

The NGFA's concerns in this regard are buttressed by the report of the National Academies of Sciences Transportation Research Board ("NAS/TRB" Special Report 318, *Modernizing Freight Rail Regulation*) published in 2015. Among other things, the NAS/TRB Special Report states that "the development of a common set of expectations about service quality, particularly for common carrier service, must start with improvements in data for assessing service levels and monitoring performance." (NAS/TRB at p. 83.) The study specifically calls out the inadequacy and potentially misleading nature of aggregated railroad performance measures (RPM), citing as an example BNSF Railway train speed data from October 2013 to September 2014 that did "not immediately suggest service disruptions as described by shippers for the period and largely acknowledged by railroads to have been problematic. Average train speeds fluctuated by a few miles per hour from month to month, with a downward drift for all train types. *The data are too coarse to make meaningful determinations about service quality,*" the NAS/TRB Special Report stated. (Emphasis added; NAS/TRB at p. 84.)

The NAS/TRB Special Report came to the same conclusion regarding dwell time information available from RPM data, stating that, "for the most part the extent of aggregation in the RPM data obscures any meaningful insight into the types and degrees of service quality problems experienced by shippers." (NAS/TRB at p. 85.)

While the NAS/TRB committee that authored the Special Report correctly noted that there was no way of knowing at that time how the Board would resolve this proceeding, it expressed a concern that data being collected at the time were "not specific with regard to shipment or even to origin and destination (with the exception of unit train data)...Better service-related data at the shipment level, for both common and contract

carriage, would allow more objective analysis of common carrier service quality, particularly to evaluate whether this service is chronically substandard and how it changes relative to that of contract carriage when capacity is tight.” (NAS/TRB at pgs. 87-88.)

These concerns were echoed previously by Laurits R. Christensen Associates Inc.’s November 2008 report (“Christensen”) commissioned by the Board. In that report, Christensen stated that RPM data on train speeds allow average train speeds to be calculated across a railroad’s overall network, but noted that “comparisons across railroads are not necessarily meaningful” in part because they “do not allow for route-specific or corridor-specific analysis, nor do the RPM data allow an evaluation of on-time performance or variability of performance from a shipper’s perspective. The average train speeds calculated from RPM data provide a crude, aggregate proxy for the railroad service performance received by shippers.” (Christensen at pgs. ES-35-36.)

The Christensen report also referenced the importance to shippers of service data on cycle times, particularly by route or commodity, “to better identify and rectify service quality issues.” (Christensen at p. ES-36.)

The Christensen report also noted that for shippers, variability in rail service performance often is more costly and problematic than the “absolute level” of performance, and found that grain units and coal units tended to receive “the least predictable service.” (Christensen at p. ES-37.)

All this said, however, in subsequent comments herein, the NGFA attempts to narrow its initial request for more granular rail service metrics reporting for grain and oilseed products by now requesting more all-inclusive categories for “*vegetable oils*” [to capture such products as soybean oil (STCC 20-921), corn oil (STCC 20-465), corn syrup (STCC 20-461), cottonseed oil (STCC 20-111), etc.] and “*vegetable meals*” [to capture such products as soybean meal and hulls (STCC 20-923), oilseed meals (STCC 20-939), canola meal, cottonseed meal or by-products (STCC 20-914), vegetable oils (STCC 20-933) and other processed agricultural commodities.

The NGFA also reiterates its previously stated view regarding the importance of obtaining service performance data relevant to local service – reflected in railroad “Industry Spot and Pull (ISP)” reports – already maintained by most, if not all, Class I railroads. Concerning the need for ISP reports, it should be noted that the velocity metrics reported by carriers currently only reflect velocities from terminal-to-terminal, and are not a true reflection of service. As such, ISP reports are a much better indicator of the service shippers and receivers actually are receiving.

However, in an effort to minimize any perceived burden to rail carriers for providing such data, the NGFA is modifying its original proposal to request that the STB require by regulation that ISP reports be provided by Class I railroads on a rail customer-specific basis contingent upon receiving a one-time written request from the rail customer. As noted in its initial comments submitted in this proceeding, the NGFA believes these data are valuable particularly to shippers of single cars and manifest traffic. The NGFA is requesting that data be provided, upon request, regarding the weekly percentage of a rail carrier’s local service design plan that has been fulfilled for all single car and manifest traffic, delineated by business traffic category. This service performance metric, when requested, should capture the percent of local industry switches (manifest traffic) that actually occurred during the time window in the local operating plan for the pertinent reporting week. As an example, if “Company A” had a local service design that indicated the facility will be switched between 2 p.m. and 8 p.m., and the rail carrier only spotted and pulled cars within this time frame for 20 of the 30 days of a monthly period, the ISP performance would be 67 percent for the month. It is this percentage figure that we believe that rail carriers maintaining such data should be required to provide to shippers upon written request.

- **Improvements to STB Website:** The NGFA commends the Board for ongoing improvements to its website. Specifically, our members find extremely useful the Board’s creation of a specific “Rail Service Updates” portal on its website homepage and its development of a “Consolidated Rail Service Performance Data Spreadsheet” – a more standardized and user-friendly format that allows for more comparative analysis of rail service performance metrics across all Class I carriers.

As resources permit, we encourage the Board to continue to take steps to improve the utility and functionality of its website to provide useful information to rail customers.

NGFA's Comments on the Board's Specific Proposed Rules

The NGFA provides the following comments on specific elements of the STB's proposed regulations:

- **Weekly Reporting Period:** The STB proposes to change the timing of the weekly reporting period to run from Saturdays through Fridays, with reports due the following Wednesdays (instead of the current Sunday to Saturday reporting period with reports filed on Tuesdays) so as to align with carriers' current data-collection procedures. The NGFA does not oppose a Saturday through Friday weekly reporting period if that is more compatible with carriers' existing data-collection practices. However, the NGFA does believe it is essential that the reports be issued in a more timely manner than the following Wednesday. Specifically, the NGFA recommends that the reports be issued no later than the following Monday.
- **Definition of Unit Train:** The NGFA does not oppose the STB's proposal to allow carriers to report unit train data based upon their assignment of train codes, rather than establishing a specific definition for unit trains as comprising 50 or more cars carrying single commodities in bulk. But the NGFA reiterates the views expressed in its Reply Comments in this proceeding that the Board should require by regulation that each carrier provide its own unit-train definition in its initial report, and then update that information if and when its definition of unit trains changes. Train size is a critical component of useful reporting data, and we caution that blending all train sizes together under various codes would create confusion, provide less transparency, and enable railroads to mask those units where poor service performance is occurring. Further, the definition of unit train can include whether there are (or are not) additional incentives beyond the rate offered (e.g., load incentives, trip incentives, auctions for equipment, etc.). If there are any of these additional terms, the unit train more likely is a shuttle train and should be designated as such.

Section 1250.2 – Railroad Performance Data Elements

- **Section 1250.2(a)(1) – System Average Train Speed:** The Board proposes to continue to require overall system-average train speeds (to align with reporting carriers already provide to the Association of American Railroads) for the reporting week measured for line-haul movements between terminals. The Board proposes that such data be reported separately for intermodal, grain unit, coal unit, automotive unit, crude oil unit, ethanol unit, manifest traffic, fertilizer unit, and a catch-all “system” category for all other traffic.

Given this is a critical reporting element, the NGFA continues to believe, and recommends that the STB require, more granular reporting within the “grain-unit” category. However, in an effort to accomplish this objective while minimizing reporting burdens, the NGFA recommends the addition of the following reporting subcategories: “vegetable oils,” and “vegetable meals.”

- **Section 1250.2(a)(2) – Weekly Average Terminal Dwell Time:** The STB proposes to retain, without change, the existing requirement to report weekly average terminal dwell time (in hours, excluding cars on run-through trains) for each carrier’s system and their 10 largest terminals in terms of railcars processed.

The NGFA strongly supports retaining this data-reporting element. However, we again recommend that the STB require reporting of terminal dwell time by the same traffic categories it proposes to require for train speed, with the addition of the reporting subcategories of “vegetable oils,” and “vegetable meals” within the “grain unit” category.

- **Section 1250.2(a)(3) – Weekly Average Cars On-Line:** The STB proposes to retain the current requirement that carriers report weekly average cars on line for seven car types, as well as an “other” category and “total” cars on line. The NGFA supports retaining this reporting requirement, although these data are of lesser importance to the grain, oilseed and grain processing industry. However, if retained, the NGFA urges that the Board also require carriers to subdivide the “tank car” reporting requirement to include subcategories for tank

cars hauling “hazmat” and “non-hazmat,” and include a reporting category of cars that are “industry-placed.”

- **Section 1250.2(a)(4) – Weekly Average Dwell Time at Origin:** The Board proposes to continue to require reporting of weekly average dwell time at origin for the following train types: grain unit, coal unit, automotive unit, crude oil unit, ethanol unit, and all “other units,” while adding a new separate category for “fertilizer.” Further, the Agency proposes to delete the current requirement to report dwell times at interchange locations.

The NGFA again urges the Board to require more granular reporting within the “grain-unit” category, and recommends the addition of the following subcategories: “vegetable oils” and “vegetable meals.” As stated previously, the NGFA also urges the Board to require that Class I carriers provide ISP reports upon one-time written request from rail customers.

- **Section 1250.2(a)(5) – Weekly Average of Number of Trains Holding Per Day:** The Board proposes to require reporting of the weekly average number of trains holding per day, sorted by nine train types (intermodal, grain unit, coal unit, automotive unit, crude oil unit, ethanol unit, fertilizer unit, other unit and manifest), as well as the cause of the delay (crew, locomotive power or other). The Agency also proposes to eliminate its current requirement that such reporting be triggered in situations in which the delay is longer than six consecutive hours, and replace it with a requirement that carriers run a “same-time” snapshot of trains holding each day, calculating and reporting the average for the reporting week.

The NGFA commends the STB for adding reporting categories for “fertilizer” and “manifest” traffic, but again urges the Board to add subcategories within the grain unit to account for “vegetable oils” and “vegetable meals.”

- **Section 1250.2(a)(6) – Weekly Average of Loaded and Empty Cars Operating in Normal Movement and Billed to an Origin or Destination:** The NGFA supports the Board’s proposal to continue to modify its current reporting requirement to require reporting of the total number of loaded and empty cars, operating in normal movement and billed to an

origin or destination, which have not moved in 48 hours or more, sorted by service type (intermodal, grain, coal, crude oil, automotive, ethanol, fertilizer or “all other”). We agree with the Board that eliminating the current requirement that railroads report cars that have not moved in more than 120 hours is warranted, given that stationary cars generally become a concern at the 48-hour mark or sooner. The NGFA also concurs that reporting should *not* be required for cars placed or constructively placed at a rail customer’s facility, placed for interchange to another carrier, or bad-order cars or cars in storage or operating in railroad service (i.e., ballast cars). However, the NGFA reiterates its previously stated position that additional granularity is needed within the grain-unit category, and recommends adding reporting subcategories for “vegetable oils” and “vegetable meals.” The NGFA also suggests that the Board consider requiring that cars placed in interchange to another carrier also be reported on a weekly basis.

- **Section 1250.2(a)(7) – Grain Cars Loaded and Billed:** The NGFA supports the Board’s proposal to retain the current requirement that Class I railroads report the weekly total number of grain cars loaded and billed, reported by state and aggregated for several grain-based Standard Transportation Commodity Codes (STCCs) (specifically including barley, corn, oats, rye, sorghum, wheat, “grain not elsewhere classified,” soybeans, dry beans, dry peas, cowpeas, lentils or lupines.”) Total grain cars loaded and billed would encompass cars in shuttle service, dedicated train service, reservation, lottery, open and other ordering systems, and private cars. The NGFA also supports the Board’s proposal to retain separate reporting of total cars loaded and billed in shuttle service (or dedicated train service), if any, versus total cars loaded and billed in all other ordering systems, including private cars.

However, the NGFA again urges the Board to add granularity by requiring separate reporting for grain products – specifically “vegetable oils” and “vegetable meals.”

- **Section 1250.2(a)(8) – Aggregated STCCs:** In response to previous comments submitted by the NGFA regarding the lack of standardization between various railroads’ grain car-ordering systems, the Board proposes to simplify its current requirement by requiring the reporting of the aggregated STCCs in grain cars loaded and billed to be broken out by state to

cover: 1) running total of orders placed; 2) the running total of orders filled; and 3) the number of orders that are one to 10 days past due and 11 or more days past due. The Board also proposes to require reporting of such data for rail- owned and leased cars moving in manifest service.

The NGFA appreciates the Board’s request for additional comments on how to refine this reporting metric regarding grain car fulfillment to best achieve the goal of effectively monitoring service to grain shippers. One concept that may be worthy of consideration is to require that each Class I railroad report in its initial report – and subsequently thereafter if changes are made – its definition of its specific car-ordering system for shuttles and manifest traffic.

In addition, for reasons previously articulated, the NGFA again urges the Board to require more granular reporting within the grain STCC category, and recommends the addition of the following subcategories: “vegetable oils” and “vegetable meals”

The NGFA also continues to recommend that the Board require each Class I carrier to report whether it placed or pulled cars that were ordered or cancelled as a result of a railroad spotting more cars than the facility requested.

The NGFA commends the STB for proposing three new rail service reporting requirements not previously mandated, and offers the following comments on each:

- **Section 1250.2(a)(10) – Average Grain Shuttle or Dedicated Grain Trips Per Month:**
The NGFA commends the STB for proposing to require that in the first report each month (covering the previous month), carriers report the previous month’s average grain shuttle or dedicated grain train trips per month by region. This is consistent with the NGFA’s previous recommendation that reporting of shuttle trains and dedicated grain trips by corridor or region (e.g., Pacific Northwest, Texas Gulf, etc.) is an extremely important metric for grain shippers and receivers. The Board notes that the BNSF and Canadian Pacific Railways have been reporting this metric under an interim data order for some time, and we concur with the

STB that this metric should be expanded to apply to all Class I railroads. The proposal allows carriers to report unit train loadings or car loadings, but would require that such reporting be consistent on a weekly basis.

However, the NGFA does not believe that monthly reporting of this key metric is sufficient, and urges the Board to require reporting on a weekly basis instead, as already is done by several Class I railroads. As noted previously in this statement, both the NAS/TRB Special Report and Christensen study have noted the importance of such data to evaluate impacts of rail service on the common-carrier obligation of Class I railroads.

Further, we are very concerned about the Board's statements that it anticipates entertaining and granting waiver requests for carriers whose operations "do not permit this type of reporting, for various reasons." We are unaware of any Class I carrier subject to such reporting requirements that do not have the capability to track shuttle or dedicated grain trips by region or corridor. Further, we find insufficient the Board's "fallback" position of requiring carriers for which waivers are granted to be able to solely report average grain unit trips per month on a system-wide basis, as that would provide little useful information to rail grain customers. Thus, the NGFA urges the STB not to provide for granting waivers from this requirement in its final rules. However, if the Agency does retain this waiver authority, the NGFA urges that the STB be transparent by requiring the requesting carrier to stipulate specifically the reasons its grain car records system is insufficient to report these data, with the Board subsequently required to issue a proposed notice in the *Federal Register* if it is considering granting a waiver request, enunciating the specific reasons it believes a waiver is warranted, and requesting public comment for at least a 30-day period before any such waiver is granted.

- **Section 1250.2(a)(11) – Weekly Originated Carloads by Commodity Group:** The NGFA supports the Board's proposal to require reporting of weekly originated carloads by major commodity group and intermodal units, which Class I carriers already report to the Association of American Railroads. For agricultural products, the following categories would be required to be reported: 1) grain; 2) grain mill products; 3) farm products, except

grain; 4) lumber and wood products; and 5) fertilizer (a proposed newly added category). The NGFA supports each of these, but urges the board to also consider separate reporting categories for “vegetable oils” and “vegetable meals.”

- **Section 1250.2(a)(12) – Car Order Fulfillment Percentage by Car Type:** The NGFA supports the STB proposal to require reporting of weekly car order fulfillment rates by major car type (box car, covered hopper, center-beam, gondola, flatcar, intermodal, multilevel (auto), open hopper, tank car and “other”). Car order fulfillment would be reported as a percentage of cars due to be placed during the reporting week (as determined by the governing tariff) versus cars actually or constructively placed.
- **Section 1250.2(b) – Chicago Gateway:** The Board proposes to retain its existing requirements that each Class I railroad operating at the Chicago gateway jointly report its weekly: 1) average daily car volume in specific Chicago-area yards; and 2) average daily number of trains held for delivery to Chicago, sorted by receiving carrier.

The STB does seek comment on suggestions to increase the granularity of data by requiring the reporting of speed and transit times for Chicago corridors, including information on train length, crosstown transit times through the Chicago terminal and the number of intermodal container lifts at key Chicago terminals. The Board also seeks feedback on suggestions from the Canadian Pacific Railroad to require data on the number of cars arrived per day; number of cars humped or processed per day; number of cars re-humped or processed each day; number of cars pulled each day; number of trains departed each day, broken out by railroad; average terminal dwell; average departure yard dwell; and percentage of trains departing on-time for each day, broken out by carrier.

As a potential alternative to the aforementioned proposed data reporting, the NGFA reiterates its previous recommendation that the STB instead 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. We believe these are more accurate barometers of traffic congestion in the Chicago terminus.

- **Section 1250.2(c) – Infrastructure Investment:** The Board proposes to modify significantly the current quarterly reporting to require annual – instead of the originally proposed quarterly – reports of rail infrastructure projects valued at \$75 million or more (instead of the originally proposed \$25 million or more) to be commenced during the given calendar year. The Agency further proposes that the railroad reports include a brief description of each such project and its purpose, location (state and counties) and projected completion date. The STB also proposes that carriers provide six-month updates on the status of infrastructure projects valued at \$75 million or more.

The NGFA supported the STB’s original proposal to require quarterly reports on infrastructure projects valued at \$25 million or more, and believe that remains the preferred alternative. The NGFA believes one of the fundamental objectives of this proceeding and the regulations emanating from it is to create a one-stop-shop for more standardized information affecting rail service – the impacts of infrastructure investment certainly being one. For that reason, we take exception to the Board’s statements that interested rail customers could obtain infrastructure spending information from divergent sources, such as investor reports, industry conferences and rail marketing materials. We find that to be of little solace, as access to this information can vary widely between Class I carriers.

Further, what is most important to rail customers is having access to timely information on potential disruption to predictable service that may result from infrastructure projects that are undertaken by carriers. For this reason, the NGFA proposes that the STB require rail carriers to also report, and periodically update, the time frames when freight traffic may be interrupted in various corridors as a result of infrastructure projects, including through maintenance-of-way restrictions, track work or curfew hours on traffic movement that could cause stoppages or reduced speeds for traffic, and thereby reduce the volume of rail movements in different traffic corridors. The NGFA does not believe this would impose a reporting burden, as several rail carriers already provide maps detailing infrastructure projects that explain when, where and for how long service interruptions may occur.

Conclusion

In conclusion, the NGFA urges the Board to finalize its regulations to create a more standardized, timely and user-friendly and permanent rail service performance reporting system that will be invaluable to rail users and the customers they serve, as well as to the Board and other relevant policymakers. We trust the NGFA's comments will be useful to the Board in achieving that objective, and appreciates the opportunity to convey its views. We again commend the Board and its staff for their proactive efforts in this proceeding, and 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