

ENTERED

Office of Chief Counsel

BEFORE THE SURFACE TRANSPORTATION BOARD November 26, 2025

STB DOCKET NO. EP 787

Part of
Public Record**UPDATING CLASS I RAIL CARRIER REPORTING REQUIREMENTS****Comments of the Private Railcar Food and Beverage Association**

Private Railcar Food and Beverage Association (“PRFBA”) respectfully submits these comments in response to the Surface Transportation Board’s (the “STB” or “the Board”) proposed rule (“NPRM”) entitled “Updating Class I Rail Carrier Reporting Requirements”, published September 30, 2025. PRFBA also respectfully seeks leave out of time as counsel was traveling due to the holiday which should not result in prejudice to any party. PRFBA appreciates the Board’s continued commitment to addressing chronic freight rail service failures and for recognizing the direct connection between transparency, accountability, and reliable data in promoting efficient rail service.

1. PRFBA’s Interest in Rulemaking

PRFBA is comprised of 13 global food and beverage companies and manufacturers headquartered in North America with combined revenue more than \$150 billion per year. All are major rail shippers that rely on the railroads to distribute their food and beverage products that are vital to the health and welfare of our nation and essential to feeding its citizens. Without affordable and adequate rail service, their food and beverages will not be on American store shelves at reasonable prices.

Moreover, PRFBA members all own or lease railcars. As such, they absorb costs associated with equipment ownership, operation, and maintenance. Investing millions of dollars in rail cars also greatly restricts these members from other transportation modes. If a decision is made to change modes, it means “parking” assets which is seldom a wise financial decision. PRFBA members have skin in the game and deserve to be treated as such.

PRFBA members meet regularly to discuss opportunities and solutions to their similar challenges with railcar service and costs. The membership collaborates with other trade associations with regard to industry changes and proposed legislation as well as regulations that directly impact PRFBA’s food and beverage transportation needs. PRFBA meets with the Class I North American railroads for group discussions on rail service issues unique to its membership. PRFBA provides its members with a forum to work together to break through railroad service challenges, providing a better industry foundation for private railcar food and beverage shippers across North America.

2. The Proposed Rulemaking

With respect to service-related reporting, the Board proposes to require Class I carriers to report metrics that would advance the Board's objective of ensuring rail service reliability.

The Board explained that rail service reliability is essential to the economy, and the Board prioritizes monitoring rail service for emerging issues so that it can act promptly to address them. The Board has broad authority to require reports by rail carriers, 49 U.S.C. § 11145, and it collects a range of data from Class I carriers that allows the Board and stakeholders to monitor railroad performance. The Board's experience has shown that ongoing, standardized reporting of data allows the Board to observe long-term trends and assess changes in service levels, enabling it to take early action to address potential concerns. Therefore, the Board proposes weekly Class I carrier reporting of two additional service metrics: an original estimated time of arrival ("OETA") metric and an industry spot and pull ("ISP") to monitor service reliability and address possible future regional and national service lapses. In *Reciprocal Switching for Inadequate Service* ("Reciprocal Switching"), EP 711 (SubNo. 2) (STB served April 30, 2024), the Board adopted regulations to provide for the prescription of reciprocal switching agreements to promote adequate rail service through access to an additional line haul carrier. Under those regulations, eligibility for prescription of a reciprocal switching agreement was to be determined in part using objective performance standards, including OETA- and ISP-based standards, which had definitions of OETA and ISP that were similar, but not identical to those proposed here. However, those regulations did not survive appeal based on other grounds. As such, the Board now proposes to add these two new reporting requirements.

a. OETA Reporting

The OETA metric would measure a carrier's success in meeting its estimated arrival times for shipments. The Board proposes to define OETA as the estimated time of arrival that the rail carrier provides when the shipper tenders the bill of lading or when the rail carrier receives the shipment from an interchanging carrier. Class I carriers would report, for shipments moving in manifest service, the percentage of weekly shipments that were delivered to destination no later than 24 hours after the OETA, out of all shipments in manifest service on the carrier's system during that week. OETA reporting would give the Board insight into the timeliness of deliveries of manifest traffic system wide. In *Reciprocal Switching*, the Board had established an OETA standard under which "cars arriving more than 24 hours before the OETA will count against the carrier." *Reciprocal Switching*, EP 711 (Sub-No. 2), slip op. at 39. Here, under the Board's proposed rule, any arrivals before the OETA, including those more than 24 hours early, would be counted as on-time deliveries.

b. ISP Reporting

The proposed ISP metric would measure a rail carrier's success in performing local placements ("spots") and pick-ups ("pulls") of loaded railcars and unloaded private or shipper leased railcars at shippers' or receivers' facilities during a planned service window. The metric as proposed would not apply to unit trains or intermodal traffic. The ISP metric would be

calculated by comparing the number of cars for which the carrier successfully completed the requested placements or pick-ups to the number of cars for which the shipper or receiver, by the applicable cut-off time, requested a placement or pick-up. For example, if over the course of a reporting period, a carrier delivers nine of 10 requested cars within the first service window and pulls seven of 10 requested cars during a second service window, the carrier's ISP metric would be 80%.

c. Specific Board Question.

The Board specifically seeks comment on whether to include unit train and intermodal traffic in the OETA and ISP metrics. The Board proposes to apply the service reliability standard only to shipments that are moving in manifest service, not to unit trains. The Board seeks comments on whether the better approach would be to apply the same or a similar service reliability standard to unit trains as applied to manifest traffic. PRFBA urges the Board to apply this same service reliability standard to unit trains. Otherwise, unit-train shippers will lose the benefit of this standard despite being some of the largest shippers by rail in the US.

3. PRFBA Strongly Supports the Proposed Rules to Ensure Better Rail Service and the Proper Monitoring of the US Class I Railroads.

The initial performance data reporting stemmed from the service crisis in 2013-14. The Board reasoned as follows in making its determination to issue an interim order requiring railroads to temporarily provide data in 2014:

The United States rail system is an interconnected network, and one carrier's service problems can affect the performance of other carriers. Although the severity differs, shippers have reported problems on multiple carriers. Thus, the Board views the network as a whole, and seeks to better understand performance across the entire network.

The new reporting requirements will give the agency and stakeholders access to data needed for real-time understanding of regional and national service issues.

United States Rail Service Issues – Data Collection, EP 724 (Sub-No. 3), slip op. at 2.

Later, the Board explained that the primary purpose for the subsequent related rulemaking was to develop a set of performance data that will allow the agency to monitor current service conditions in the industry and to identify trends or aberrations, which may indicate problems. The cumulative data was meant to give the Board reference points for measuring an individual railroad against its past performance. A corollary benefit is that shippers and other stakeholders will have access to the reported data to assist in their business decisions and supply-chain planning. At the same time, the Board sought to make

sure that any rule adopted regarding service data results in the collection of information that will be useful to the agency and its stakeholders. The Board believed that the final rule adopted an appropriate balance of considerations that would provide helpful information to both the agency and the public. *United States Rail Service Issues – Performance Data Reporting*, EP 724 (Sub-No. 4), slip op. at 3-4. 21

In providing the basis for its action, the Board stated that “the need and justification for a permanent reporting rule is clear.” *SNPR*, slip op. at 22.

Under the Interstate Commerce Act, the Board has broad authority to require reports by rail carriers under 49 U.S.C. §§ 1321, 11145. The statute also makes clear that service adequacy is a key part of the Board’s mandate, beginning with the provisions of the rail transportation policy (RTP) of 49 U.S.C. § 10101. *See SNPR*, slip op. at 22. The RTP states that, in regulating the railroad industry, it is policy of the United States Government to minimize the need for regulatory control, 49 U.S.C. § 10101(2), promote a safe and efficient rail transportation system, 49 U.S.C. § 10101(3), ensure the development of a sound rail transportation system to meet the needs of the public, 49 U.S.C. § 10101(4), and encourage efficient management of railroads, 49 U.S.C. § 10101(9). The Board finds that having data that will allow it to monitor service across the rail network advances these RTP goals. The data will help promote the RTP by allowing the agency, as well as shippers and other stakeholders, to more quickly identify and react to service issues than it would otherwise have the ability to do.

As also explained in the *SNPR*, slip op. at 22, the Board has the responsibility for monitoring the adequacy of service under specific statutory provisions, including service emergencies under 49 U.S.C. § 11123. The Board’s powers under § 11123 are extensive¹ and can be initiated by the agency. The potential triggers for Board action, such as “congestion of traffic” and “other failure of traffic movement” (49 U.S.C. § 11123(a)), are clearly implicated by the collection of service metrics, and the Board has explained that reporting would “improve the Board’s ability to identify and help resolve future regional or national service disruptions more quickly.” *SNPR*, slip op. at 22. Service issues can also be relevant when the Board considers whether railroad service practices are reasonable (49 U.S.C. § 10702), whether to force a line sale in the event of inadequate service (49 U.S.C. § 10907), and whether railroads are fulfilling their common carrier obligations (49 U.S.C. § 11101) or providing safe and adequate car service (49

¹ When requisite statutory criteria are met, the Board can (1) direct the handling, routing, and movement of the traffic of a rail carrier and its distribution over its own or other railroad lines; (2) require joint or common use of railroad facilities; (3) prescribe temporary through routes; (4) give directions for—(A) preference or priority in transportation; (B) embargoes; or (C) movement of traffic under permits. See 49 U.S.C. § 11123.

U.S.C. § 11121). *See SNPR*, slip op. at 22 (explaining that “permanent reporting . . . would aid the Board and industry stakeholders in identifying whether railroads are adequately meeting those statutory requirements.”)

United States Rail Service Issues – Performance Data Reporting, EP 724 (Sub-No. 4), slip op. at 5-6. Also, 49 U.S.C. § 11701 provides the Board with the power to conduct investigations if a carrier is violating the statute, including with respect to its common carrier obligation.

While the existing metrics are helpful, these proposed metrics are an important source of data because they are a truer reflection of service than these current metrics which only reflect velocities from terminal-to-terminal. The proposed data better indicates the service shippers and receivers are actually receiving. The Board did not mandate that railroads report this data in its prior rulemaking on this subject. The metrics now required in 49 C.F.R. § 1250.2 are too general to allow the Board (and shippers) to assess local service and on time performance.

This conclusion was supported by findings made in a 2015 National Academy of Sciences/Transportation Research Board report and a 2008 Laurits R. Christensen Associates Inc. report.² The TRB Report provided that “[s]hippers and the railroads have recognized a need for better data on freight railroad service performance that can be collected and published in a timely manner. Better data could aid shippers in planning for and coping with transportation conditions, reinforce the railroads’ accountability, and help regulators evaluate shipper complaints. P. 83. The TRB Report further explained with respect to train speed and dwell time aggregated data that “for the most part the extent of aggregation of the RPM [railroad performance measurement] data obscures any meaningful insight into the types and degree of service quality problems experienced by shippers. Furthermore, an estimate of how long shipments took to move between any two particular points cannot be derived from the two data series, and neither sheds any light on how long shippers at various locations had to wait for rail cars.” P. 85.

[T]he data to be collected are not specific with regard to shipment or even to origin and destination (with the exception of unit train data) in the same manner as are the on-time arrival data collected for many years by the U.S. Department of Transportation (USDOT) for airlines. Furthermore, the proposed collection effort appears to be an ad hoc response to the disturbances of the previous winter; it does not appear to have been strategically devised in the sense of there being a plan for routine use of the information in monitoring performance.

² *See Transp. Research Bd. of the Nat’l Acad., Modernizing Freight Rail Regulation (“TRB Report”),* 75-88 (2015); Laurits R. Christensen Associates, *A Study of Competition in the U.S. Freight Railroad Industry and Analysis of Proposals that Might Enhance Competition*, ES-35 to ES-37 (2009), <https://www.stb.gov/stb/docs/competitionstudy/executive%20summary.pdf>.

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.

TRB Report at 87-88.

In its evaluation of the railroad performance data, Laurits R. Christensen Associates (2009a, 17–19; 2009b, 2-31–2-34) reached the same conclusion: average train speed and dwell time data are too gross to offer more than a rough indication of service performance. For example, it calculated correlations of changes in real GDP with changes in dwell time, cars on line, and train speed by railroad during the period 2006–2008 and found that the measures did not consistently change in the expected direction. Christensen Associates also pointed out that the performance features of greatest concern to shippers, such as route-specific or corridor specific information on on-time performance and the variability of performance, are not part of the measurement system.

In other words, both of these independent research sources found that the data collected by the STB could not accurately provide how a railroad was performing or predict how it would perform. Both studies recommend the use of on-time performance measurements like OETA and ISP data that would provide a more accurate picture of the rail service situation.

Therefore, it is clear that proposed data is needed to provide the Board and shippers with a better view of how the rail industry is operating. Consequently, it seems logical for the Board to require the Class I railroads to submit this proposed data regarding on-time performance and switching.

The present metrics reported to the STB do not allow the Board or shippers to make informed decisions. It would also make sense to require railroads to compensate shippers when plants are shut down due to poor service at least in certain circumstances. In addition, the Board should consider creating regulations that identify violations of railroads common carrier obligation. Without the proper motivation and a stronger hand by the STB, railroads have not been responsive to the Board or its customers with respect to service issues.

CONCLUSION

The Board's proposed rulemaking is a welcome and necessary action to counteract the lamentable service of American rail carriers over the past decade.

We fully support the Board instituting the new rules as suggested here by the Board.

Respectfully submitted,

/s/ Herman Haksteen
Herman Haksteen
President, Private Railcar Food and Beverage
Association

/s/ Daniel R. Elliott
Daniel R. Elliott
John H. Kester
GKG Law, P.C.
1055 Thomas Jefferson St., NW
Suite 620
Washington, DC 20007
(202) 342-5248
delliott@gkglaw.com

Attorneys for Private Railcar Food and
Beverage Association

Dated: November 26, 2025