



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

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May 19, 2022

Hon. Martin Oberman
Chairman
Surface Transportation Board

Hon. Michelle Schultz
Vice Chairman
Surface Transportation Board

Hon. Patrick Fuchs
Member
Surface Transportation Board

Hon. Robert Primus
Member
Surface Transportation Board

Hon. Karen Hedlund
Member
Surface Transportation Board

RE: STB Docket No. EP 762, Revisions to Regulations for Expedited Relief for Service Emergencies

Dear Chairman Oberman, Vice Chairman Schultz, and Members Fuchs, Primus, and Hedlund:

The U.S. Department of Agriculture (USDA) appreciates the Surface Transportation Board's (Board) proposal to amend its emergency service regulations. As discussed in a March 30 letter from the Secretary to the Board and in the Deputy Secretary's testimony in the Board's recent rail service hearing, USDA is deeply concerned about ongoing rail service problems and their detrimental effects on the agricultural industry. USDA believes the Board's proposed amendments would improve rail service in times of disruption and incentivize railroads to maintain better service overall.

USDA supports the Board's proposal. It aligns with the Department's perspective and prior comments in a number of ways. The proposal reduces the amount of time and information required for a shipper to obtain relief from the Board, while still maintaining standards for determining whether relief is warranted and which solution, if any, would be effective. In emergency situations—such as recent cases of agricultural shippers struggling to feed their animals—shippers need quick resolution. Also, those shippers have access only to information surrounding their own costs and actions, but not information on the railroads' traffic and network. USDA believes the Board is moving in the right direction by shortening procedural timelines; creating an accelerated process to handle acute service emergencies; and shifting the informational burden onto the party most likely to have that information.

In general, USDA believes market-based solutions—where shippers and railroads find the best way to resolve their problems on their own—are the ideal. However, it is clear from the ongoing severe service problems that purely voluntary solutions are not enough. USDA believes the Board needs to implement an effective regulatory backdrop to set the boundaries within which voluntary negotiations take place. A more accessible emergency service rule is an effective step in that direction. Ideally, scenarios where the railroads were unable to provide reasonable service to shippers would be rare. Still, USDA appreciates that the Board is proposing a better last-resort option to shippers when private negotiations fall through.

USDA encourages the Board to take a similar perspective in other open proceedings, such as Reciprocal Switching and Final Offer Rate Review. The final rules to emerge from these proceedings could fulfill a similar role as the amended emergency service regulations: that is, they could serve as an accessible and effective regulatory backstop, strengthening railroads' incentives to fulfill their common carrier obligation and improve their service to shippers.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer Moffitt". The signature is fluid and cursive, with the first name "Jennifer" written in a larger, more prominent script than the last name "Moffitt".

Jennifer Moffitt
Under Secretary
Marketing and Regulatory Programs