

Before the Surface Transportation Board

**STB Docket No. EP 724 (Sub-No. 5)
Petition for Rulemaking to Amend 49 C.F.R. Part 1250**

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**Comments of
the American Chemistry Council**

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Comments of the American Chemistry Council

The American Chemistry Council (ACC) hereby submits these comments in response to the Surface Transportation Board's April 5, 2019, decision in Docket EP 724 (Sub-No. 5) to open a rulemaking proceeding to amend 49 C.F.R. part 1250. These comments respond to the Board's requests for additional information from ACC about existing use of reported rail performance data, the benefits of expanding the data reporting to include the rail service metrics specified in ACC's petition for rulemaking in this proceeding, and the Mississippi Gateways. These comments also withdraw ACC's request to extend the reporting at 49 C.F.R. § 1250.2(a)(2) to the Chicago gateway. In lieu of this request, ACC seeks revisions to the Chicago terminal reporting rule that will clarify that yard dwell must be reported for each yard subject to average daily car volume reporting.

The comments are organized into four parts. Part I elaborates on shippers' experiences using performance data under the existing rules to mitigate rail service problems. Part II explains that the additional data will materially enhance shippers' decision-making by providing rail network visibility that is not available under the current reporting. It also explains that the additional data will better enable chemical shippers to understand and avoid service issues impacting their traffic, resulting in significant cost savings. Part III explains that ACC selected

the Mississippi Gateways based on the volume of its members' traffic moving through the Gateways, but the Confidential Carload Waybill Sample may have additional information that demonstrates the significance of the Mississippi Gateways to the overall rail network and STCC 28 traffic. Part IV addresses changes to Chicago reporting.

I. Shippers have benefited from the existing performance data.

Existing performance data reporting has played a crucial role in helping ACC's membership address rail service issues. It has enabled members to engage carriers, who have often been reluctant to admit to service failures unless confronted with their own system-level data. It also has helped members internally justify investment in railcars, manage customer expectations, and avoid costly plant shutdowns. In addition, it has provided members the data necessary to seek assistance from the Board, including through its Rail Customer and Public Assistance Program.

Below are specific examples of how the existing performance data reporting has helped ACC members:

- An ACC member used reported dwell data for the ten largest terminals of CSX Transportation (CSXT) to engage CSXT on solutions to service issues resulting from its switch to precision scheduled railroading (PSR). Despite receiving the member's own shipment data showing the impact of these issues on its traffic, CSXT initially refused to acknowledge any service issues and relegated the member to using CSXT's "800" number to report its concerns. The member responded by using CSXT's dwell data to demonstrate that the issues displayed in member's shipment data were related to broader CSXT issues. This helped elevate the member's concerns to CSXT's executives and establish regular structured meetings to address service issues.

- During the winter of 2017-2018, an ACC member combined its own data with reported data from Canadian National Railway (CN), including dwell at its ten largest terminals, system train speed, and number of cars online, to demonstrate to CN that the member was experiencing significant service problems. Prior to being confronted with its own data, CN had not been acknowledging the service issues. The member's use of CN's service data helped to elevate the member's issues to CN's leadership team and begin regular communication about the issues.
- An ACC member has used a railroad's reported dwell at its ten largest terminals, system train speed, and cars online as important factors when deciding to acquire additional rail cars to compensate for the service issues on the railroad. In addition, it used the railroad's reported service metrics to discuss the option of obtaining special train service from a second railroad to move the additional cars to an appropriate interchange point with the railroad experiencing the service issues.
- An ACC member who was experiencing service issues arising from Norfolk Southern (NS) closing its Chattanooga Hump yard and adjusting its Birmingham routing used NS's reported dwell time at its ten largest terminals and system train speed to elevate its service conversations with NS. Initially, NS had directed the member to use NS's "800" number to obtain service support, but the support was unhelpful. After the member demonstrated the service issues to NS using reported data, NS leadership began participating in regular meetings to communicate with the member on addressing the issues.
- An ACC member combined reported dwell data at Houston from Union Pacific Railroad (UP) with the member's internal performance data to demonstrate to UP that the member

was experiencing a service problem affecting a Houston plant. Initially, UP was not acknowledging the issue. The member's use of UP's dwell data, however, helped elevate the matter to UP leadership and begin regular communication with UP about the service issue.

- An ACC member uses the reported data in regular service review meetings with its carriers. The member reports that the data is essential for discussing service issues at the meetings, because the rail carriers generally do not lead the discussion about their service performance or provide their own service metrics for the discussion.
- For business planning, an ACC member combined the reported data with its own data to demonstrate the severity of a railroad's service issues to the member's executives. Specifically, the member's data showed the executives the impact of the railroad's service issues on the member, while the reported data illustrated the larger rail network issues that the member had to address insofar as finding a solution. Based on this data, the executives were able to make informed decisions about using alternate transportation, making a capital investment in railcars, and informing customers of transit delays.
- An ACC member has used the reported data to assess network issues that could impact its transit times and to update the transit times it uses for operational planning. By using the reported data to inform its own transit-time estimates, the member has been able to better manage its supply of inbound raw materials and its supply of goods to its customers. Supply management is a critical function for the member, because an interruption in supply could cause it or its customers to temporarily shut down, which is costly.
- An ACC member has used reported data to establish a performance baseline for the railroads, which enables the member to spot service issues. But the railroads' ability to

change the methodology they use to calculate their performance data threatens the usefulness of the data. For example, CSXT has revised its methodology concerning multiple performance metrics that it reports on its website.¹ Thus, for the *same* metrics, CSXT's website and the data it provides to the Board each show *different* performance. See Table 1. Without standardized metrics reporting to the Board, the member will not be able to make an apples-to-apples comparison of CSXT's performance to its historical performance and other carriers' performance.

Table 1: CSXT Reporting for 2019 Week 17

	CSXT Web Site	STB Web Site
Velocity (mph)	19.9	24.9
Dwell (hrs)	9.3	19.1
Top 10 Terminal Dwell (hrs)	CSXT Web Site	STB Web Site
Baltimore, MD	9.6	16.3
Chicago, IL	5.6	11.4
Cincinnati, OH	18.4	24.8
Indianapolis, IN	17.1	21.5
Jacksonville, FL	12.4	17.2
Louisville, KY	15.7	22.1
Nashville, TN	12.2	21.5
Selkirk, NY	19.8	30.0
Toledo, OH	18.7	24.8
Waycross, GA	16	21.9

II. Benefits to shippers of the proposed additional performance data reporting.

The additional reporting metrics proposed in ACC's petition will provide critical data points for the movement of STCC 28 traffic. With this data, chemical shippers will be better prepared to identify rail service issues, address them with railroads, make internal operational

¹ CSX.com, Methodology, <https://www.csx.com/index.cfm/customers/performance-measures/methodology/> (last visited May 3, 2019).

adjustments, and manage their railcar fleet. This is especially useful in today's rail service environment, where rail customers frequently experience costly service disruptions as railroads transition to new service models.

A. The additional data provides important visibility into the location of service issues.

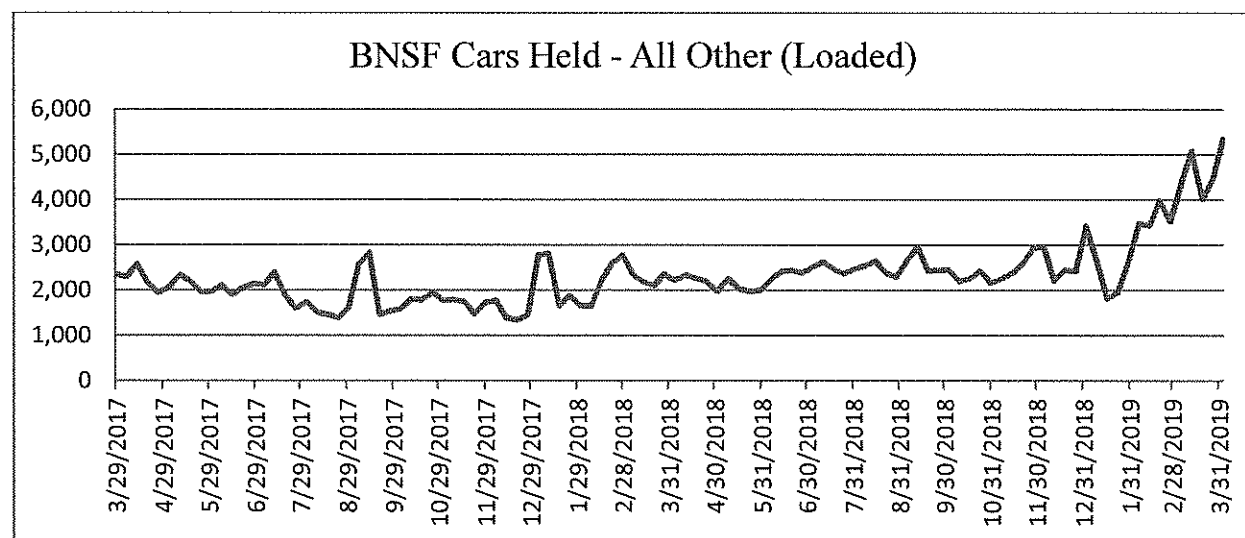
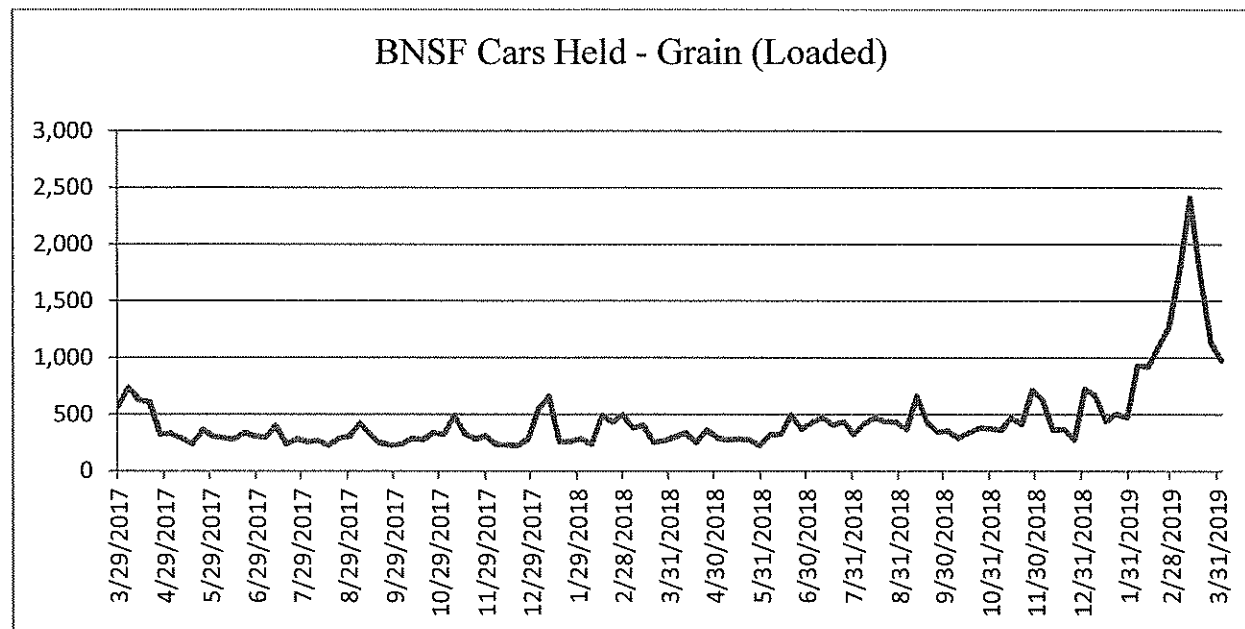
Expanding the railroad performance data reporting to include cars held data for STCC 28 traffic and Mississippi Gateways will provide chemical shippers a clearer view of rail service performance issues impacting their traffic.

Separately reporting cars held data for STCC 28 traffic will enable shippers to see regional issues affecting STCC 28 traffic. The cars held metric, which provides the weekly average of loaded and empty cars that have not moved in 48 hours or more, is an important indicator of rail system fluidity. For STCC 28 traffic, a fluid rail system is especially important in the Gulf Coast, where a substantial portion of this traffic is concentrated. The current data reporting, which combines STCC 28 traffic with other manifest traffic that may have different regional concentrations, masks the severity of service events having a disproportionate impact on STCC 28 traffic.

For example, the charts below show that during the 2019 Midwestern U.S. flooding, the cars held figure of Burlington Northern & Santa Fe Railway (BNSF) for grain traffic spiked nearly five-fold in the first two months of this year, but BNSF's cars held figure for all other traffic² increased a more modest two-thirds. This difference seems to reflect the geographic concentration of each traffic category. BNSF's grain traffic was concentrated in the flooded area,

² All other traffic means all cars that do not move in the following service types: intermodal, grain, crude oil, automotive, ethanol, fertilizer. *See* 49 C.F.R. § 1250.2(a)(6).

so it was heavily exposed to flooding. BNSF's all other traffic was dispersed across BNSF's network, so its cars held metric muted the severity of the flooding event.



Similarly, Mississippi Gateway reporting provides important visibility into service issues affecting STCC 28 traffic. ACC members report that upwards of 25% of their traffic move through the Mississippi Gateways. Yet, understanding the impact of Mississippi Gateway congestion on STCC 28 traffic is difficult. Because these gateways are complex terminals with

many interchange yards and multiple carriers, congestion may impact some, but not all, of the yards and carriers serving a Gateway.

The proposed Mississippi Gateway reporting provides the terminal- and yard-level data necessary for chemical shippers to pinpoint service issues in these critical gateways. It includes a trains-held metric that will provide insight into which carriers at each Gateway are having difficulty accepting trains and should be avoided. It also includes an average daily car volume metric for key yards in each Gateway, which will enable shippers to identify yard congestion.

ACC also proposes that yard dwell will be reported for the key yards in each Mississippi Gateway, similar to the current reporting at Chicago. Although ACC's petition may not have been clear on this point, ACC's intent was to extend the existing Chicago terminal reporting to the Mississippi Gateways. ACC Petition 10. Today, as part of the Chicago reporting, the Association of American Railroads (AAR) reports yard dwell for the Chicago area yards that are subject to the average daily car volume reporting.³ AAR, Chicago Terminal Weekly Information (Apr. 27, 2019), <https://tinyurl.com/y5qqjl6a>. This metric provides important yard-fluidity information that could be used to anticipate bunching and other delays. In fact, an ACC member reports that it needs yard dwell data to anticipate and avoid bunching at East St. Louis, which is a Mississippi Gateway. The member's own data shows that bunching is occurring frequently at East St. Louis, but the data does not show where the bunching is occurring within the Gateway, which has many yards and railroads. Thus, the member's own data has not been sufficient to have constructive conversations with its rail carriers regarding East St. Louis bunching.

³ In its decision adopting the Chicago reporting, the Board accepted AAR's voluntary offer to report this information, but the Board did not memorialize this in the text of the Chicago terminal reporting rule. *U.S. Rail Serv. Issues—Performance Data Reporting*, EP 724 (Sub-No. 4), slip op. at 23, 32-33 (STB served Nov. 30, 2016).

B. Additional data will enable chemical shippers to better address service issues both externally, with the railroads, and internally.

The additional data reporting provides the necessary service visibility for shippers to productively collaborate with rail carriers on service issues. ACC members report that railroads are generally reluctant to collaborate on service issues unless the shipper is able to provide data identifying the issue and possible solutions. The additional reporting will enable shippers to engage railroads to identify alternative routings involving the Mississippi Gateways or address network issues impacting STCC 28 traffic. It also enhances shippers' ability to internally manage service issues and may lead to substantial cost savings.

Thus, ACC's membership has identified multiple examples of how the additional reporting benefits chemical shippers:

- An ACC member has indicated that the Mississippi Gateway reporting provides yard dwell data that it can use to anticipate and address bunching that results in NS charging a congestion fee on traffic into its facility. *See* NS Tariff 6004-D, Item 6265 (Apr. 1, 2019) (imposing a congestion fee regardless of bunching). This bunching often arises at a Mississippi Gateway, while the cars are in the hands of the upstream carrier. Thus, yard dwell data for the Mississippi Gateways will enable the member to anticipate bunching and adjust its supply-chain pipeline to reduce the impacts of bunching. It will also facilitate the identification of alternative routing options that could mitigate, if not avoid, bunching. Because bunching is a key contributor to the half million dollars in congestion charges the member expects to incur this year on traffic moving to its facility, these benefits could result in significant cost savings for the member.
- An ACC member indicates that the Mississippi Gateway reporting is necessary to determine whether it needs to use alternate rail carriers or approach its carriers about

different routing. Often, the member does not know whether a Mississippi Gateway issue is attributable to a carrier or a specific Gateway yard. If attributable to a carrier, the member needs to consider using another carrier who is not experiencing the same issue. But if attributable to a Gateway yard, a change in routing may mitigate the service issue.

- The ACC membership reports that the proposed Mississippi Gateway reporting and cars held reporting for STCC 28 traffic will help increase the accuracy of their own transit time estimates. This will help members better anticipate when they need to increase or decrease shipments to avoid supply-chain disruptions.

C. Additional data is necessary to make fleet management decisions.

Nearly all chemical shippers have their own private railcar fleets, which represent a multi-billion-dollar investment. A key driver of the size of these fleets, and the size of this investment, is transit time, because as transit time increases, more cars are necessary to maintain the same rate of supply. As explained in Part II.A, the additional data reporting enables shippers to more accurately predict their transit times and, thus, more efficiently manage their railcar fleets.

Examples of how the additional data reporting would benefit fleet management decision-making include:

- The Mississippi Gateway data would enable an ACC member to identify the source of Gateway dwells. If the member could eliminate a single day of dwell at East St. Louis, a Mississippi Gateway, it would reduce its fleet by approximately 80 cars, which amounts to an eight million dollar capital investment (for owned cars) or a half million dollar annual lease impact (for leased cars).

- Mississippi Gateway data would help an ACC member advocate for shifting traffic from East St. Louis to another Mississippi Gateway to reduce delays that are causing the member to carry excess railcars in its fleet. The member's data shows that its traffic experiences significant delays at East St. Louis, but flows quickly through the other Mississippi Gateway. Nevertheless, the railroad involved probably will not acknowledge the issue or consider the member's proposed solution without the member using the railroad's data to show that the railroad is broadly experiencing issues at East St. Louis, but not at the other Gateway.

III. ACC data justifies the proposed list of Mississippi Gateways.

ACC selected the Mississippi Gateways for additional data reporting because a substantial amount of its members' traffic move through these gateways. In fact, multiple large ACC members indicated that approximately 25% of their traffic moves through the Mississippi Gateways. Unfortunately, ACC is unable to provide additional data regarding the Mississippi Gateways because the Public Use Waybill Sample does not identify specific interchange locations.

For additional data regarding the volume of STCC 28 traffic that moves over the Mississippi Gateways, the Board can review the Confidential Carload Waybill Sample (CCWS). The CCWS will have the interchange-specific data that will enable the Board to calculate the volume of STCC 28 traffic moving through the Mississippi Gateways, as well as other gateway locations, and understand the the significance of the Mississippi Gateways to the overall rail network and STCC 28 traffic. ACC would support the inclusion of additional Mississippi Gateways that the Board determines are significant to the overall rail network.

IV. The Board should include the Chicago yard dwell reporting requirement in the text of the Chicago terminal reporting rule.

ACC withdraws its request for Chicago terminal dwell reporting, but seeks clarifying edits to its Chicago terminal reporting rule at 49 C.F.R. § 1250.3(a) that address yard-dwell reporting.

In ACC's petition, it requested an amendment of this rule to include weekly average terminal dwell time reporting for Chicago. In response to ACC's petition, AAR indicated that the Chicago Transportation Coordination Office currently reports this metric for 11 individual Chicago yards, and the reporting covers each Class I, terminal, and switching railroad operating at Chicago. AAR Comments 4-5. Upon further review of the current Chicago reporting, ACC does not believe that adding the requested terminal dwell reporting is necessary at this time.

While reviewing the Chicago reporting, ACC discovered a disconnect between the current reporting practice and the Chicago terminal reporting rule. It hereby requests that the Board make a clarifying amendment to the rule to remedy this issue. Specifically, AAR has been reporting the 7-day average yard dwell for the Chicago terminal yards that are subject to average daily car volume reporting under 49 C.F.R. § 1250.3(a). The Board appears to have required this reporting in its decision that issued the Chicago terminal reporting rule, but it did not include the requirement in the rule's text. Instead, in the Board's decision adopting the rule, the Board explained that it was accepting an AAR offer to include data that it was reporting to the Chicago Metropolitan Agency for Planning (CMAP), which included yard dwell data for Chicago yards, in the Chicago Transportation Coordination Office report that the rule required. *U.S. Rail Serv. Issues—Performance Data Reporting*, EP 724 (Sub-No. 4), slip op. at 22-23 (STB served Nov. 30, 2016). To eliminate any confusion regarding the scope of required reporting for Chicago, the

Board should make clarifying edits to 49 C.F.R. § 1250.3 to capture the full scope of required reporting.

V. Conclusion

For the foregoing reasons, the proposed additional data reporting for STCC 28 traffic and Mississippi Gateways will materially benefit chemical shippers, over and above the existing reporting requirements.

Respectfully submitted,

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