

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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STB DOCKET NO. EP 724 (Sub-No. 5)

**ERRATA TO
PETITION FOR RULEMAKING TO AMEND 49 C.F.R. PART 1250**

The American Chemistry Council (“ACC” or Petitioner”) hereby submits this errata to its Petition for Rulemaking filed in this proceeding on December 6, 2018. The last line of Page 14 of the Petition contains an incorrect reference to “Car Hire Rule 7.” This errata corrects the error by changing the reference to “Car Hire Rule 9.” An updated version of the Petition containing the corrected reference is attached.

Respectfully submitted,

/s/ Jason D. Tutrone
Jeffrey O. Moreno
Jason D. Tutrone
THOMPSON HINE LLP
1919 M St. NW Suite 700
Washington, D.C. 20036
(202) 331-8800

Dated: December 12, 2018

*Counsel for the American Chemistry
Council*

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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PETITION FOR RULEMAKING TO AMEND 49 C.F.R. PART 1250

American Chemistry Council
700 2nd St., N.E.
Washington, DC 20002

By its attorneys:

Jeffrey O. Moreno
Jason D. Tutrone
Thompson Hine LLP
1919 M St. NW Suite 700
Washington, DC 20036
(202) 331-8800

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PETITION FOR RULEMAKING TO AMEND 49 C.F.R. PART 1250

The American Chemistry Council (“ACC” or Petitioner”) hereby petitions the Surface Transportation Board (“Board”), pursuant to 5 U.S.C. § 553, to modify its service reporting rules at 49 C.F.R. Part 1250 (the “Rules”) to: (a) include chemical and plastics (STCC 28) traffic as a reporting category for the “cars held” metric at 49 C.F.R. § 1250.2(a)(6); (2) extend the weekly average terminal dwell time reporting requirement at 49 C.F.R. § 1250.2(a)(2) to all Class I, terminal and switching carriers at Chicago; and (3) extend the same types of terminal reporting requirements applied at Chicago (as extended by the preceding request) to the New Orleans, East St Louis, and Memphis gateways (“the Mississippi Gateways”). Exhibit A contains the text of the proposed changes to the Rules.

These changes are desirable to give the Board and shippers consistent service metrics across railroads that provide adequate visibility into critical aspects of the national rail system. STCC 28 traffic accounts for the highest number of manifest carloads, compared to all other 2-digit STCC groups,¹ and plays a key role in the national economy.² Thus, cars-held performance

¹ Surface Transp. Bd., 2-Digit STCC Summary Statistics Report, https://www.stb.gov/stb/industry/econ_reports.html [hereinafter 2 STCC Report] (follow “here”

related to STCC 28 traffic can significantly impact the national economy and rail network fluidity. STCC 28 traffic also is among the most captive 2-digit STCC groups to rail transportation. Not only does this complicate the ability to mitigate rail service issues affecting STCC 28 traffic, but it also increases the risk that service issues affecting STCC 28 traffic will cascade throughout the national rail network and harm the economy. Further, like Chicago, the Mississippi Gateways are crucial carrier interchange points in the cross-country flow of rail traffic. Service issues affecting one carrier at these locations have the greatest potential to extend to the rail networks of other carriers. The importance of this information in providing visibility into developing and on-going rail service problems far outweighs the incremental additional effort associated with reporting this information to the Board.

I. ACC's Identity and Interest

ACC is an industry association that represents America's leading chemical companies. Its members produce and manufacture a wide variety of chemicals, polymers, and related products that make our lives and our world healthier, safer, more sustainable, and more productive. ACC members depend on the nation's railroads for the safe, efficient, and secure transportation of their products. In 2017, U.S. Class I railroads originated 2.1 million carloads of chemicals carrying 175.9 million tons and yielding \$10.3 billion in gross revenue. With significant new production capacity coming on line by 2020, rail shipments of STCC 28 products are expected to increase by more than 270,000 carloads annually.

hyperlink under "2-Digit STCC Summary Statistics Report" heading) (last visited December 5, 2018).

² Am. Chemistry Council, 2018 Elements of the Business of Chemistry 1-7 (2018), <https://www.americanchemistry.com/2017-Elements-of-the-Business-of-Chemistry.pdf> [hereinafter Business of Chemistry].

Rail service issues have serious consequences for ACC members given their heavy reliance upon rail transportation. They can disrupt distribution and supply networks, interrupt production, and jeopardize business relationships. The proposed modifications to the Rules will increase chemical shippers' ability to view service trends, enabling them to proactively mitigate service issues and foster a swifter return to normal service.³

II. Background

In the aftermath of a rail service crisis that began in late 2013 and predominantly affected the Chicago gateway and upper Midwest ("2013 Service Crisis"), the Board issued the Rules, which require railroads to report regularly various service performance data. Under the Rules, Class I railroads must provide 11 system-wide data elements. They also must provide data elements concerning service at the Chicago gateway and report certain events regarding the Chicago Transportation Coordination Office's oversight of Chicago rail service.

The main purpose of the Rules 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."⁴ Monitoring service conditions is an essential Board function. It enables the Board to advance various goals of the Rail Transportation Policy, including to ensure the development and continuation of a sound rail transportation system to meet the needs of the public and to encourage efficient management of railroads.⁵ It also enables

³ See PwC, Transporting Growth: Delivering a Chemical Manufacturing Renaissance 14 (2017), <https://www.americanchemistry.com/Transporting-Growth-Delivering-a-Chemical-Manufacturing-Renaissance.pdf> (stating that sharing of rail transportation data may help avert bottlenecks).

⁴ U.S. Rail Serv. Issues—Performance Data Reporting, STB Docket No. EP 724 (Sub-No. 4), slip op. at 3 (STB Served Nov. 30, 2016)

⁵ 49 U.S.C. § 10101(4), (9).

the Board to exercise its emergency service powers, which in some cases cannot be invoked without a prerequisite finding concerning rail service. For example, the Board cannot exercise its power under 49 U.S.C. § 11123 to direct certain railroad activities unless certain operational conditions exist. Although the required reporting does not address all potential service issues that may have a bearing on Board activity, it enables the Board to identify additional information to determine if Board action is necessary.

Shippers benefit directly from rail service data reported under the Rules. The Board found that “[a] corollary benefit [of the Rules] is that shippers and other stakeholders will have access to the reported data to assist in their business decisions and supply-chain planning.”⁶ For example, ACC members use network fluidity data to identify and monitor service issues as they evolve and use that information to anticipate and prepare for the impacts those issues may have as they become more severe. In addition, high service-performance visibility enables ACC members to spot railroad service trends that affect railcar cycle times and to manage their private rail fleets to mitigate the impact of cycle time variability. ACC members also use the data to decide whether they need to transport product to customers via alternative modes before that product becomes ensnared in a congested rail system. Possessing performance data also enables them to have collaborative discussions with carriers about reducing the impact of service issues. Shippers can suggest service adjustments to routes, fleet sizes, and sourcing locations as viable solutions.

Recent service issues have demonstrated the utility of the Rules. In 2017, CSX Transportation, Inc. (“CSXT”) began experiencing significant service problems due to operational changes and its transition to a new “precision railroading” plan. CSXT’s reporting

⁶ Rail Serv. Issues, slip op. at 3.

under the Rules enabled the Board to actively monitor the situation and CSXT's recovery efforts.⁷ Other railroads also began experiencing service issues in late 2017, which have extended into 2018, including Norfolk Southern, Union Pacific, and Canadian National. Unlike the 2013 Service Crisis, these issues are not limited to northern regions and the Chicago gateway. Instead, they are system-wide issues that have had a significant impact on movements of STCC 28 commodities, including by increasing transit and dwell times and, thus, increasing transportation costs. Data reported under the Rules reflected these issues, prompting the Board to request a near term and 2018 service outlook from each Class I railroad.⁸ More recently, Union Pacific has announced that it too will adopt precision scheduled railroading which has the same service disruption potential as the recent CSX transition.⁹

Through this Petition, ACC requests additional incremental reporting that is better tailored to, and more focused upon, railroad performance metrics that will provide greater and more advanced insight into rail service issues for the nation's largest segment of manifest traffic and at locations most vulnerable to contagion from service problems. The objective is both to mitigate the harm caused to shippers by rail service problems and to facilitate faster and smoother recoveries.

⁷ Pub. Listening Session Regarding CSX Transp., Inc.'s Rail Svc. Issues, STB Docket No. EP 742, slip op. at 2 (STB served Aug. 24, 2017).

⁸ See, e.g., Letter from Surface Transp. Bd. to Lance Fritz, Chairman, Union Pac. Corp. (Mar. 16, 2019).

⁹ Letter from Kenny Rucker, Executive Vice President, Union Pac. Corp., to customers, CN2018-33 (Sept. 17, 2018), <https://www.up.com/customers/announcements/customernews/generalannouncements/CN2018-33.html> .

III. Request No. 1: Amend 49 CFR 1250.2(a)(6) to include a new sorting category for reporting the weekly average of loaded and empty cars which have not moved in 48 hours for all STCC 28 commodities not already reported under the fertilizer category.

Section 1250.2(a)(6) currently requires railroads to report the weekly average 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 the following service types: intermodal, grain, coal, crude oil, automotive, ethanol, fertilizer, and all other traffic. Petitioner requests that the Board amend 49 C.F.R. § 1250.2(a)(6) by including a sorting category for all STCC 28 commodities, except the STCC 28 fertilizer commodities that have their own sorting category. Exhibit A contains the proposed amended text of 49 C.F.R. § 1250.2(a)(6).

A. STCC 28 traffic is critically important to the nation.

STCC 28 traffic plays a key role in the national economy. The U.S. chemical industry produced \$526 billion in shipments.¹⁰ It is the largest U.S. exporting sector, with chemicals and related products accounting for more than 10 cents of every dollar of U.S. exports.¹¹ STCC 28 traffic is vital to many essential goods and services for consumers and industries. For example:

- Water agencies across the country rely on chlorine and other treatment chemicals to purify public water supplies.
- A typical automobile contains more than \$3,000 worth of chemistry including 330 pounds of plastics and polymers.
- Chlorine chemistry is essential to the manufacture of at least 88% of prescription pharmaceuticals sold in the U.S. and Canada.
- Polyethylene, polyvinyl chloride and polycarbonate are used in medical devices and hundreds of other health care applications.

¹⁰ Business of Chemistry, supra note 2, at 9.

¹¹ Id.

- Wind power turbine blades are made using plastics such as carbon fiber-reinforced polyurethane.
- High performance fibers are used to make protective clothing, including bulletproof vests.

The critical importance of STCC 28 traffic to the U.S. economy and availability of essential goods and services meets the “heightened importance” standard for creating an additional sorting category for the cars-held metric. When initially developing the cars-held metric, the Board granted a request to add a sorting category for fertilizers, but denied a similar request for vegetable oils and vegetable meals.¹² The Board based both decisions on whether the commodities had heightened importance, finding that fertilizers were of “critical importance to the nation’s agricultural production” and that vegetable oils and vegetable meals lacked heightened importance.¹³ Given the overwhelming contributions of chemical traffic to the national economy, adding a sorting category for STCC 28 (excluding fertilizers) would be consistent with the Board’s inclusion of the fertilizer category.

B. STCC 28 traffic is especially vulnerable to rail service problems.

STCC 28 traffic is especially vulnerable to rail service problems because it cannot readily shift to alternative rail carriers or to other modes. It often must weather an entire service crisis, resulting in substantial economic harm and delaying the return to normal service. But requiring accurate and consistent reporting of STCC 28 service metrics across rail carriers enables early identification of service issues and a greater opportunity to mitigate them.

Diverting STCC 28 traffic to truck is often difficult and sometimes impossible. A significant portion of STCC 28 traffic comprises bulk shipments of certain hazardous chemicals

¹² U.S. Rail Serv. Issues—Performance Data Reporting, STB Docket No. EP 724, slip op. at 15 (Sub-No. 4) (STB Served Nov. 30, 2016)

¹³ Id.

that rarely, if ever, travel by truck. Also, many producers and receivers of STCC 28 traffic store their production in railcars pending sale or consumption. For example, polymer producers and consumers own large fleets of covered hoppers in which to store product prior to sale and consumption, respectively. Moreover, the nation's truck capacity and driver shortage prevents trucks from absorbing large traffic shifts during rail service crises. The driver shortage is exacerbated for hazardous materials transport because additional driver licensing is required.

Water transportation options for STCC 28 traffic also are limited. Water transportation is viable only where the origin and destination are on a waterway. Even where barge transportation is a physical option, dedicated infrastructure would be needed at both the shipper and receiver facilities. Therefore, it is unlikely that significant STCC 28 traffic could be shifted from rails to barges.

Moreover, rail options for mitigating service issues are especially limited for STCC 28 traffic, which is among the most captive traffic to a single Class I carrier. Consequently, switching rail carriers is impossible for most STCC 28 traffic. Also, STCC 28 traffic relies heavily on private railcar fleets that have been optimally sized for normal conditions. During service slowdowns, STCC 28 shippers must either acquire additional cars, if they are available, to compensate for slower transit times or reduce production. Acquiring more cars in response to service issues is difficult, because of limited car availability, long lead times for car deliveries, and unique car specifications. Also, additional cars can exacerbate the congestion that a shipper is experiencing and will become stranded assets when rail service returns to normal. Similarly, reducing production in response to rail service slowdowns can be problematic for many STCC 28 commodities, because shutting down, restarting, and throttling chemical production facilities is highly complex and must be performed within strict safety parameters.

Given the limited alternative transportation options for STCC 28 traffic, early visibility into rail service issues is crucial to mitigating their impact. Absent transportation options for their traffic, the only alternative for many STCC 28 shippers facing service issues is to make complex operational adjustments, like reducing or suspending production or attempting to supply customers from origins not affected by the service issue. These adjustments require time and coordination with railroads to execute. Having accurate data about STCC 28 traffic greatly improves shippers' and the Board's views of trends that signal impending service issues and the pace of improvement. This will also enable shippers to collaborate meaningfully with railroads to resolve the issue or to mitigate its negative impacts.

C. STCC 28 traffic is an important bellwether of service issues.

STCC 28 traffic has broad national reach, which exposes it to services issues arising virtually anywhere in the national rail system. It originates at locations across the country, including at production centers on the Gulf Coast and in the Northeast and West. Also, it moves long distances, being second only to coal in ton-miles and car-miles.¹⁴ These factors give STCC 28 traffic greater geographic exposure to service issues than many other commodities.

STCC 28 traffic also is a leader in traffic volume, which enables service issues to have a deeper impact on STCC 28 commodities than most other commodity groups. It is second to only coal in total carloads and consistently represents the most waybills of all 2-digit STCC categories.¹⁵

This broad reach and large traffic volume, in addition to broadly exposing STCC 28 traffic to service issues, also contributes to the spread of these issues. STCC 28 traffic's high

¹⁴ 2 STCC Report, *supra* note 1.

¹⁵ *Id.* It occasionally is second to STCC 37, which covers the movement of private cars. Since nearly all STCC 28 traffic moves in private cars, it contributes to much of the STCC 37 traffic.

volume can feed congestion events by adding even more cars to parts of the rail network that already are struggling to meet demand. Moreover, its long travel distances mean that localized congestion events can affect distant downstream rail operations.

Further, STCC 28 traffic is more likely to signal congestion at terminals than many of the existing sorting categories for the cars-held metric, which mostly represent unit train traffic. A key characteristic of STCC 28 traffic is that it moves almost exclusively in manifest service, which involves shipments of small groups or individual cars. This places high demands on terminals and gateways, because these cars must be switched individually or in small blocks. In comparison, unit train traffic requires little or no switching at terminals, because cars in unit trains move as a single block. Thus, the number of STCC 28 car holds enhances the accuracy and utility of the cars-held metric.

IV. Request No. 2: Expand the data reporting requirements for Chicago and apply the expanded Chicago requirements to the Mississippi Gateways.

The Board's service performance reporting Rules at 49 C.F.R. § 1250.3(a) require each Class I railroad operating at the Chicago gateway to report weekly the average daily car volume in certain Chicago yards and the average daily number of trains held for delivery to Chicago, sorted by receiving carrier. In addition, when Chicago is among a Class I carrier's ten largest terminals, that carrier must report its weekly average terminal dwell time for Chicago pursuant to 49 C.F.R. § 1250.2(a)(2). Petitioner requests that the Board: (1) require all Class I carriers to report Chicago weekly average terminal dwell time regardless of whether Chicago is among a carrier's ten largest terminals; (2) extend the Chicago reporting requirements (including terminal dwell time reporting) to the Mississippi Gateways; and (3) require terminal and switching carriers to participate in this reporting for the Mississippi Gateways. Exhibit A contains the proposed rule text associated with this request.

A. The Board should require weekly average terminal dwell time reporting at Chicago and extend this and all other Chicago reporting requirements to the Mississippi Gateways.

In proposing its Chicago Rules, the Board noted that “Chicago is an important hub in national rail operations, and extreme congestion there has an impact on rail service in the Upper Midwest and beyond.”¹⁶ Yet the Board inexplicably only required weekly reporting of average terminal dwell times when Chicago is among a Class I carrier’s ten largest terminals. 49 C.F.R. § 1250.2(a)(2). A review of recent reports to the Board indicates that only CSX and UP include Chicago among their ten largest terminals for reporting average weekly terminal dwell times. Even though Chicago may not be among the ten largest terminals on other Class I railroads, the role of Chicago as the only terminal where all seven Class I railroads interchange traffic makes it vitally important to track the dwell time of all Class I carriers at Chicago because the problems of one carrier can have a cascading effect upon other carriers in the national network.

Like Chicago, the Mississippi Gateways are crucial hubs in national rail operations, and congestion at these gateways also impacts rail service in distant locations. Collectively, the yards of all the carriers serving the Mississippi Gateways place them among the largest terminal networks in the country. Moreover, unlike most other terminals, each of the Mississippi Gateways interchanges traffic among three or more Class I railroads, and the gateways serve as principal interchange points for traffic moving between the eastern and western Class I railroads, as well as the Canadian National Railroad. These locations, thus, are the most likely points where the problems of one carrier can have a cascading effect upon other carriers in the national network. But, because these terminals often are not among each individual carrier’s ten largest

¹⁶ U.S. Rail Serv. Issues—Performance Data Reporting, STB Docket No. EP 724 (Sub-No. 4), slip op. at 17 (STB Served May 13, 2016).

terminals, existing reporting under the Rules does not cover them adequately, if at all.

Consequently, the omission of the Mississippi Gateways from the Board's Rules on performance metric reporting leaves the Board and shippers without critical information about traffic interchanging between carriers at these key junction points.

Information about service performance at the Mississippi Gateways is especially important for STCC 28 traffic. A high proportion of this traffic originates on Western carriers in Texas and Louisiana and interchanges at the Mississippi Gateways to reach destinations in the Eastern U.S. It is fair to say that these gateways are more important to STCC 28 traffic than Chicago. Early warning signs of service issues at these gateways will enable STCC 28 shippers to engage rail carriers about rerouting traffic through another gateway or to make operational changes to relieve pressure on the gateways.

B. The Board should require terminal and switching carriers to participate in Mississippi Gateway reporting.

Performance of terminal and switching railroads is critical to gateway operations. These railroads form the connection that allows traffic to transfer between Class I carriers at gateways. Service issues affecting terminal and switching railroads can sever or degrade that connection.

The Board's Chicago reporting rules account for terminal and switching railroad performance by requiring reports related to the Chicago Transportation Coordination Office ("CTCO"). The CTCO is a consortium of railroads that serve the Chicago gateway, including terminal and switching railroads like the Indiana Harbor Belt and Belt Railway Company of Chicago. It continuously monitors conditions across the Chicago gateway and updates the gateway's operational status alert level, which corresponds to the gateway's fluidity and triggers service contingency measures by participating railroads. The Chicago reporting rules require

Class I members of the CTCO to report changes in the alert level and changes in CTCO's protocol of service contingency measures.

Because the Mississippi Gateways do not have an equivalent of the CTCO, reporting by the terminal and switching railroads serving these gateways is necessary to monitor the switching operations that are vital to the gateways' fluidity. This reporting also is critical to providing a complete picture of the transcontinental flow of traffic between all Class I railroads,

Nevertheless, this proposal would likely not require direct reporting by any terminal railroad. The East St. Louis gateway is served by two terminal railroads, both owned by Class I railroads who likely have access to the gateway data of the terminal railroads and can report the data on their behalf, similar to how the Class I members of the CTCO report on behalf of the CTCO. This may reduce the reporting burden on the East St. Louis terminal railroads. Similarly, the New Orleans gateway is served by a single terminal railroad, the New Orleans Public Belt Railroad (NOPB), and Class I carriers serving New Orleans likely have access to the NOPB's data and could report on the NOPB's behalf. Memphis does not have a terminal railroad.

V. The Value of These Additional Reporting Requirements Outweighs the Small Additional Burden Upon Rail Carriers.

The proposed extension of the existing reporting metrics to STCC 28 and Mississippi Gateways will provide shippers and the Board with valuable information about critical rail service matters while imposing very little additional burden upon rail carriers. All of this information already is tracked by the rail industry, which means that most of the additional work involved is reporting it to the STB.

The existing weekly cars held reporting Rule already requires Class I railroads to collect data necessary to report cars held for STCC 28 commodities and extract fertilizer STCCs from

the 2-digit STCC 28 commodities. The ACC simply asks that these carriers identify the balance of the STCC 28 data in their weekly reports to the Board.

For the Chicago and the Mississippi Gateways, the railroad industry currently collects the data needed to calculate the average weekly terminal dwell time and yard-specific average daily car volumes. In fact, the industry gathers this data for all yards and terminals. When a car arrives at a yard or terminal, it is monitored electronically and its electronic status changes to indicate both that it has arrived at the yard or terminal and has not departed. Once the car departs the yard or terminal, its status electronically changes to departed. Railroads are able to filter this data and associated time stamps to determine the number of cars at a terminal location or yard and the length of time a car resided at a specific terminal location or yard. Further, the rail industry aggregates this data both to comply with the existing terminal dwell time reporting Rule and to more broadly monitor the average weekly dwell time and average daily car volume at yards and terminal locations.

Similarly, the rail industry generates data about trains held at the Mississippi Gateways. In response to service disruptions from tropical weather affecting the Gulf Coast and flooding of the Mississippi and Missouri Rivers, railroads serving the Mississippi Gateways developed databases and reports necessary to monitor the status of the Gateways. Further, all railroads operating at the Mississippi Gateways subscribe to the Car Hire Rules in AAR Circular OT-10, which require railroads to report substantial throughput data. For example, when a non-embargoed car cannot be interchanged to a connecting railroad, Car Hire Rule 15 requires the holding railroad to send the receiving road an electronic notice via AAR of the held car. When the car is interchanged, Car Hire Rule 9 requires electronic reporting of the interchange,

including the interchange time and location. This well-established reporting and monitoring regime could be used to support reporting trains held performance of the Mississippi Gateways.

VI. The Board has authority to grant these requests.

The Board has authority to implement the reporting requirements that Petitioner requests. As the Board explained when it issued the current reporting rules, the Board’s authority to require reports by rail carriers is broad.¹⁷ Under 49 USC § 721(b), the Board may obtain information about the operations of railroads subject to its authority.¹⁸ Further, under 49 U.S.C. § 11145, the Board may require railroads to submit periodic reports providing requested data.

VII. Conclusion.

Service issues affecting STCC 28 traffic and the Mississippi Gateways have serious implications for the national economy and the flow of goods throughout the national rail system. By collecting accurate data about these items, the Board can foster collaborative action with shippers and railroads to mitigate service issues and help to restore normal service. For the foregoing reasons, the ACC requests that the Board issue a notice of proposed rulemaking proposing the requested amendments and, after receiving comments, adopt the amendments.

¹⁷ U.S. Rail Serv. Issues—Performance Data Reporting, STB Docket No. EP 724 (Sub-No. 4), slip op. at 5 (STB Served Nov. 30, 2016).

¹⁸ 49 U.S.C. § 721(b) permits the Board to “inquire into and report on the management of the business of carriers providing transportation and services subject to [49 U.S.C.] subtitle IV” and “obtain from those carriers and persons information the Board decides is necessary to carry out [49 U.S.C.] subtitle IV.”

Respectfully submitted,

/s/ Jason D. Tutrone
Jeffrey O. Moreno
Jason D. Tutrone
THOMPSON HINE LLP
1919 M St. NW Suite 700
Washington, D.C. 20036
(202) 331-8800

Dated: December 6, 2018

*Counsel for the American Chemistry
Council*

Exhibit A

Proposed Rules

ACC proposes to revise 49 C.F.R. § 1250.2(a)(6) to:

(6) The weekly average 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 (the following Standard Transportation Commodity Codes (STCCs): 2871236, 2871235, 2871238, 2819454, 2812534, 2818426, 2819815, 2818170, 2871315, 2818142, 2818146, 2871244, 2819173, 2871313, and 2871451), chemicals (all STCC 28, except the fertilizer sorting category), and all other. In order to derive the averages for the reporting period, carriers should run a same-time snapshot each day of the reporting period, capturing cars that have not moved in 48 hours or more. The number of cars captured on the daily snapshot for each category should be added, and then divided by the number of days in the reporting period. In deriving this data, carriers should include cars in normal service anywhere on their system, but should not include cars placed at a customer facility; in constructive placement; placed for interchange to another carrier; in bad order status; in storage; or operating in railroad service (e.g., ballast).

ACC proposes to modify 1250.3(a) and add a new section 1250.3(a)(3) as follows:

(a) Each Class I railroad and terminal and switching carrier operating at the Chicago gateway...

(3) If not already reporting pursuant to § 1250.2(a)(2), weekly average terminal dwell time, measured in hours, excluding cars on run-through trains (i.e., cars that arrive at, and depart from, a terminal on the same through train). (Terminal dwell is the average time a car resides at a specified terminal location expressed in hours.)

ACC proposes the following new section 1250.4 for Mississippi River Gateway reporting and renumber the current section 1250.4 as 1250.5:

§ 1250.4 Mississippi River Gateway Reporting.

(a) Each Class I railroad and terminal and switching carrier operating at the New Orleans, East St. Louis, or Memphis gateways must jointly report the following performance data on a weekly basis for the reporting period, as defined in §1250.1(a), for each such gateway where it operates. The reports required under this section may be submitted by the Association of American Railroads (AAR).

(1) Average daily car volume in the following yards:

(a) For the east East St. Louis gateway: Lindenwood/Chouteau; Madison; Gateway; Roselake; Luther.

(b) For the Memphis gateway: Harrison; Leewood, Tennessee; Harris.

(c) For the New Orleans gateway: Avondale; Destrahan; France; Gentilly; Mays; New Orleans; Oliver.

(2) Average daily number of trains held for delivery to each gateway, sorted by receiving carrier for the reporting week. The average daily number should be derived by taking a same time snapshot each day of the reporting week, capturing the trains held for each railroad at that time, and then adding those snapshots together and dividing by the days in the reporting week. For purposes of this request, “held for delivery” refers to a train staged by the delivering railroad short of its scheduled arrival at the gateway at the request of the receiving railroad, and that has missed its scheduled window for arrival.

(3) If not already reporting pursuant to § 1250.2(a)(2), weekly average terminal dwell time, measured in hours, excluding cars on run-through trains (i.e., cars that arrive at, and depart from, a terminal on the same through train). (Terminal dwell is the average time a car resides at a specified terminal location expressed in hours.)