

**Transportation and Logistics Committee**  
**Report to the NGFA Board of Directors**  
**March 2024**

**Rail Shipper/Receiver Subcommittee**

**I. Key Issues:**

- Engage with the Surface Transportation Board (STB or Board) on proceedings.
- Engage with rail carriers, STB and Congress on rail service problems.

**II. Subcommittee Activities:**

- A. Rail Service:** NGFA continues to regularly engage with Class I carriers, STB and Congress on the need for sustained, reliable rail service.
- B. STB:** In November 2023, Marty Oberman announced his intention to step down from the STB Chairmanship in 2024, although he left the precise timing open ended. Upon Chairman Oberman providing a date for his retirement, NGFA plans to endorse Robert Primus to succeed to chairman. NGFA is supporting Patrick Fuchs' effort to be confirmed for a second term on the Board.
- C. Rail Safety:** The Senate Commerce Committee passed a rail safety bill following a train derailment near East Palestine, Ohio in February 2023 that drew national attention. The derailed equipment included 11 tank cars carrying hazardous materials that subsequently ignited. The bill would mandate two-person crews, require a regulatory review of train length maximum limits, create train speed limits, mandate two separate processes for rail car inspection, and require the installation of hot-box detectors among other things. Due to the multitude of items that could negatively impact rail service, NGFA opted to not endorse the bill. Thus far, a full Senate vote on the bill has not occurred, and the House Transportation and Infrastructure Committee has not yet considered rail safety legislation. The National Transportation Safety Board is holding a meeting on June 25, 2024, during which it is expected to vote on the final findings, probable cause and recommendations.
- D. Common Carrier Obligation Legislation:** NGFA is advocating for a bill cosponsored by Sens. Tammy Baldwin (D-WI) and Roger Marshall (R-KS) that would further define Class I rail carriers' common carrier obligation.
- E. Emergency Service Orders:** STB released a final rule supported by NGFA in January 2024 which removes the requirement that a shipper's petition for alternative rail service contains a commitment from another available railroad, shortens the petition process for

emergency service orders, and continues the policy of not prohibiting relief to contract traffic.

- F. Rail Rate Arbitration and Final Offer Rate Review (FORR):** In December 2022, STB issued rules on rail rate arbitration and FORR to create new methods for shippers to challenge unreasonable rail rates. STB rejected petitions from CN, UP, CSX and NS to stay its rules until district court challenges are completed. To help STB defend the rules, NGFA has filed with the district courts to preserve its right to submit an intervenor's brief if the court asks for it, and to participate in oral arguments if NGFA requests and the court allows it. No substantial actions have been taken in the district courts yet.
- G. Reciprocal Switching Proceeding:** After 12 years of gathering input on ways to increase rail-on-rail competition via reciprocal switching, the Board released a revised proposal in September 2023 that abandons the concept of creating competition and instead focuses on rail service to determine if switches will be allowed, i.e., if a carrier falls below a STB determined service threshold, then shippers/receivers within a terminal area can petition STB to grant a switching opportunity for 2-4 years. NGFA submitted comments on the revised proposal and provided ideas on how to make it more workable and recommended the Board incorporate competition-enhancing concepts.
- H. Acquisition:** In late 2023, the Canadian National Railway contracted to acquire the Iowa Northern (CN) Railway and is seeking STB approval. On February 27, 2024, NGFA submitted its first round of comments and asked the Board to consider the acquisition as a significant transaction, which carries with it the highest level of regulatory scrutiny that can be applied to a merger involving a short line. NGFA also asked STB to use the highest level of regulatory scrutiny when Canadian Pacific Railway and CN submitted their KCS merger applications in 2021. STB decided on February 29, 2024, to evaluate the CN acquisition of Iowa Northern as a minor transaction. In its decision, STB said it can place conditions on the merger even though it's classified as a minor transaction. NGFA has until April 1 to submit comments on what kind of conditions NGFA members would like placed on the acquisition.
- I. Private Railcar Proceeding:** NGFA and other petitioners submitted comments requesting STB to create incentives for rail carriers to efficiently use private railcars. NGFA argued that STB regulation has not kept pace with the changeover in railcar ownership.
- J. California Air Resources Board (CARB):** CARB has proposed changes to locomotive regulations. By 2030, CARB seeks to require all freight locomotives operating in California to be less than 23 years old and by 2035, for all freight locomotives to be emission free.

### **III. Issue for Discussion/Input:**

1. What are your primary problems with rail freight and how can NGFA help?

## IV. Other Actions:

The Rail Shipper/Receiver Subcommittee and NGFA staff also were engaged in the following activities during the September 2023 – March 2024 period:

- A. **Rail Service:** NGFA worked on behalf of members with rail carriers and STB to obtain better rail service. NGFA also helped members understand regulatory remedies available to them.
- B. **U.S./Mexico Rail Crossings:** In September 2023 and December 2023, Customs and Border Protection closed rail crossings that severely restricted commerce between the United States and Mexico. NGFA rallied other agricultural groups and worked with the affected rail carriers to convince Congress and the Biden administration to pressure the Customs and Border Protection to reopen the crossings.

## Motor Carrier Subcommittee

### I. Key Issues:

- Work to safely increase trucking capacity and efficiency by engaging with the U.S. Department of Transportation (U.S. DOT) and Congress.

### II. Subcommittee Activities:

- A. **Infrastructure Investment and Jobs Act (IIJA):** NGFA is monitoring the implementation of the apprentice program to allow commercial driver's license (CDL) holders aged 18-20 to drive across state lines. This is seen as a pathway for more people to enter the trucking industry.
- B. **House Transportation and Infrastructure Committee Votes:** NGFA led a coalition of agricultural associations in supporting the following trucking bills that were passed by the House Transportation and Infrastructure Committee on May 23, 2023.

H.R. 3372 - 91,000-lb. Weight Exemption Pilot Program

H.R. 3318 - 10% Axle Variance for Dry Bulk

H.R. 3013 – Licensing Individual Commercial Exam-takers Now Safely and Efficiently

H.R. 2367 – Truck Parking Safety Improvement Act

- C. **Independent Contractor Rule:** The Motor Carrier Subcommittee is evaluating a Department of Labor rule released in January 2024 that forces employers to consider contractors as employees when they are economically dependent on a company.
- D. **Lawsuits:** The Motor Carrier Subcommittee is monitoring lawsuits in which plaintiffs bypass suing independent truck drivers and instead sue the companies who hired them to haul their freight.

- E. Insurance:** The Motor Carrier Subcommittee is monitoring a bill in the House called the Fair Compensation for Truck Crash Victims Act that would increase the minimum liability insurance requirements for interstate motor carriers from \$750,000 to \$5 million.

### **III. Issues for Discussion/Input:**

1. Are you able to hire/retain enough drivers?
2. What other trucking issues are you experiencing?

### **IV. Other Actions:**

The Motor Carrier Subcommittee and NGFA staff also were engaged in the following activities during the September 2023 – March 2024 period:

- A.** The National Transportation Safety Board has called for the Federal Motor Carrier Safety Administration (FMCSA) to study the prevalence of fatigue for drivers operating under the agricultural exemption to the hours-of-service rules. NGFA is engaging with FMCSA on the importance of the hours-of-service exemption for ag haulers.

## **Waterborne Commerce Subcommittee**

### **I. Key Issues**

- Maintaining navigational access to the Lower Snake River Dams. The Columbia-Snake River System is the third-largest grain export corridor in the world, transporting nearly 30 percent of U.S. grain and oilseed exports through a sophisticated navigation system to deliver high value farm products safely and efficiently to West Coast ports and consumers worldwide.
- Advocate for the Water Resources and Development Act of 2024 (WRDA) to continue to provide federal funding of inland waterways projects identified in the Infrastructure Investment and Jobs Act (IIJA) to keep U.S. agriculture competitive in the global market.

### **II. Subcommittee Activities**

- A. Snake River Dams:** On December 15, 2023, the White House Council on Environmental Quality announced a plan to restore salmon populations in the Columbia River basin, which includes studies into the possibility of removing the Snake River basin's four dams. The plan represents a settlement in the latest legal action trying to remove the dams to purportedly increase salmon returns in the river.

The studies outlined in the agreement still need to be authorized and funded by Congress, as would eventual removal of the dams. NGFA and its allies are educating lawmakers about the impact removing the dams would have on the agriculture industry in the United States and urging them to not include studies concerning the dams in upcoming policy or funding bills such as WRDA or the Energy & Water Development Appropriations bills. Our collective efforts have resulted in several congressional oversight hearings on the issue in recent months.

- B. Appropriations:** At the time of this report, Congress has not passed any 2024 appropriations bills, but “mini-bus” bills (bills that package several appropriations bills together) are scheduled to be on the floor the weeks of March 4 and 18. At the same time, appropriations committees are gearing up to begin drafting the 2025 bills. President Biden’s State of the Union Address is scheduled for March 7 and the FY25 budget request is expected to be released on March 11 (though these dates could slip if there is a government shutdown). The release of the President’s FY25 budget request will start the appropriations process. We will closely watch the development of appropriations bills for both funding and policy riders that address the Lower Snake River Dams.
- C. WRDA:** NGFA's Water Resources Development Act (WRDA) 2024 request is to adhere to congressional intent by providing 100% federal funding for the construction and major rehabilitation projects considered funded to completion in the IJA. We understand the Senate Environment and Public Works Committee will mark up WRDA 2024 in April, the House will mark up its version in May, and a final bill will be considered in September.

### **III. Issues for Discussion/Input**

- Apart from preserving the Snake River Dams, what other priorities should NGFA pursue in the FY2025 Appropriations bills?