

May 7, 2012

The Honorable John D. Rockefeller
Chairman
Senate Committee on Commerce, Science
and Transportation
254 Russell Senate Office Building
Washington, D.C. 20510

The Honorable John L. Mica
Chairman
House Committee on Transportation
and Infrastructure
2251 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Kay Bailey Hutchison
Ranking Member
Senate Committee on Commerce, Science
and Transportation
560 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Nick J. Rahall II
Ranking Member
House Committee on Transportation
and Infrastructure
2307 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairmen Rockefeller and Mica, and Ranking Members Hutchison and Rahall:

The undersigned agricultural organizations urge you to include each of the provisions of the freight rail subtitle (Sec. 35401 through Sec. 35408) of Title V of the Senate-passed *Moving Ahead for Progress in the 21st Century* – or *MAP-21* (S.1813) – in the final version of the House-Senate conference agreement on this legislation.

These freight rail provisions are modest steps that we believe would contribute to a better balance between shipper and carrier interests in rail policy deliberations at the Surface Transportation Board (STB), and make the agency more accountable, transparent and effective.

Concerning freight rail rate cases brought before the STB, the Senate bill's provision (Sec. 35403) would take a meaningful step in the right direction in increasing the amount of recovery that a shipper could receive when challenging an unreasonable rail rate. Specifically, the bill would increase maximum damage recoveries allowed under small rail rate cases brought before the STB under the so-called three-benchmark (3-B) and "simplified" stand-alone cost (SAC) methodology to \$1.5 million and \$10 million, respectively, up from the current recovery levels of \$1 million and \$5 million. The Senate provisions also would direct the STB to periodically review these recovery amounts and revise them, as appropriate.

The current limits on the maximum amount that could be recovered under successful freight rail rate challenges are insufficiently low given the time and costs involved in bringing such cases, particularly for shippers of agricultural commodities and crop input supplies that are transported in smaller volumes or between multiple points. The cost of bringing a small rate case through the 3-B methodology (at least \$250,000) remains a significant barrier to bringing a case before the STB given the current limit on potential recovery of damages.

Therefore, we support raising the maximum recoveries for 3-B cases from \$1 million to \$1.5 million – even though several of the undersigned organizations have urged the STB to double that figure to \$3 million. We also fully concur with the Senate bill’s increase in the maximum rate relief for damage recoveries allowed under the “simplified” SAC methodology from \$5 million to \$10 million.

In addition, we strongly support other sections in the Senate bill that would help ensure the STB is more accessible, transparent and accountable. Creating a public database on the types of formal and informal complaints received by the STB, the geographic region from which the complaint originated and how the complaint was resolved would increase transparency and accountability. We also support requiring the agency to report on the status of unfinished regulatory proceedings as a way to encourage the STB to improve the timeliness of its decisions, which currently can take multiple years to complete.

The undersigned organizations urge you to support these and other freight rail provisions included in the Senate version of *MAP-21* (S.1813) to bring a better balance between carrier and shipper interests at the STB.

Sincerely,

Agricultural Retailers Association
American Farm Bureau Federation
American Soybean Association
National Association of Wheat Growers
National Barley Growers Association
National Chicken Council
National Council of Farmer Cooperatives
National Grain and Feed Association
National Oilseed Processors Association
National Turkey Federation
The Fertilizer Institute
USA Rice Federation

CC: House and Senate Conferees