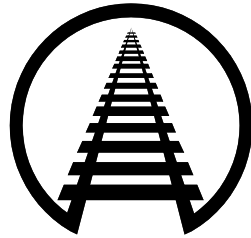


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BEFORE THE
UNITED STATES SENATE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
HEARING ON THE STATE OF TRANSPORTATION AND CRITICAL
INFRASTRUCTURE: EXAMINING THE IMPACT OF THE COVID-19
PANDEMIC

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Introduction

On behalf of the members of the Association of American Railroads (AAR), thank you for the opportunity to testify on the rail industry's response to the ongoing COVID-19 pandemic. AAR members account for the vast majority of North America's freight railroad mileage, employees, revenue, and traffic.

All of us are forever grateful to our medical professionals and other first responders who are working on the front lines, at substantial personal risk, to care for COVID-19 patients. We should also be grateful to, and proud of, the men and women of the railroads and other transportation industries who are working tirelessly day-in and day-out behind the scenes to keep our supply chains functioning and to deliver critical products to our communities.

As the COVID-19 pandemic continues to evolve across the globe, North America's freight railroads remain focused on safeguarding the health and safety of their workforce and maintaining the flow of goods necessary to preserve public health, sustain families, and keep essential businesses in operation. Railroads continue to deliver the goods that matter, including chlorine-based disinfectants for water treatment, e-commerce, food, and energy products to support electricity demands, all at high levels of service.

Railroad Response to COVID-19

Railroads have established three main goals in their response to the COVID-19 pandemic. The first is to keep their employees safe. Guided by recommendations from the Centers for Disease Control and Prevention and other health professionals, railroads quickly took extensive steps to protect their employees. They transitioned most of their office employees to telework arrangements and began using technology to replace face-to-face interactions. For employees whose jobs require them to work on-site or in the field, railroads worked diligently to

quickly implement appropriate social distancing policies and established rigorous cleaning protocols for their work environments (for example, sanitation of locomotive cabs).

The use of protective devices, including gloves and masks, is now ubiquitous on railroads, and self-isolation protocols are in place for those potentially exposed to the virus or showing symptoms. Access by visitors to rail facilities has been sharply curtailed, and railroads are providing timely information to employees through various communications channels, such as emails, virtual townhalls, newsletters, intranets, and conference calls. Railroads have also bolstered the efforts of their own internal medical teams and increased their emotional and mental health resources to ensure their large, dispersed workforces remain supported.

My understanding is that, due to railroads' preventive measures and the diligence of their employees, the number of confirmed COVID-19 cases among rail employees to date has, thankfully, been relatively low. Moreover, I am not aware of any instances in which Class I railroads have been unable to serve customers or suffered meaningful business interruptions due to pandemic-related railroad crew shortages.

Railroads' second main goal is to continue to provide high levels of safe, reliable service to their customers. Virtually every railroad customer has had to adjust its operations because of the pandemic, and railroads have partnered with them every step of the way. Railroads know their customers count on them for responsive service, close collaboration, and nimble operational adjustments; and that's exactly what railroads are delivering. While occasional disruptions in various locations and times on America's nearly 140,000-mile freight rail network are bound to occur, by and large America's freight railroads today are running better than ever, keeping North America's supply chain moving and delivering critical products where they're needed. Railroads are also making special efforts to expedite shipments of goods that are in short supply or urgently

needed.

Railroads' third main goal is to continue to operate efficiently and preserve their financial stability and integrity, so that in the future they will be there to handle our nation's freight. In recent years, railroads have continued to evolve their operating practices, resulting in more resilient networks that put them in a strong position to navigate the current market disruptions. As demand returns, railroads' improved service capabilities will allow them to more safely, reliably, and cost-effectively meet the increasing freight transportation needs of their customers.

Railroads have also continued to invest substantial funds in their core track, bridge, and signal infrastructure, prioritizing investments that lead to safer, more reliable train operations. And while railroads would prefer more traffic operating on their networks than they currently have,¹ they are taking advantage of reduced traffic levels by fast-forwarding maintenance and construction activity, as appropriate, to further strengthen their networks and make them better able to serve their customers and our nation in the years ahead.

Freight railroads continue to work hard every day to make a safe rail network even safer. They recognize they have not yet reached their goal of zero accidents and injuries, but data from the Federal Railroad Administration (FRA) confirm that their safety gains over the years have given them a good base for further improvement toward that goal.

Actions by Rail Regulators in Response to COVID-19

The rail industry appreciates the efforts of federal agencies to help ensure that railroads can continue to provide essential transportation services during this difficult time. Each year, FRA establishes an emergency docket for granting relief from its regulations if needed to provide

¹ Total rail traffic from mid-March 2020 through mid-May 2020 is down approximately 20 percent as compared to the same time period in 2019. While it's impossible to precisely quantify the impact of the pandemic on rail volumes, it's safe to say that the vast majority of this decline, representing hundreds of thousands of carloads and intermodal units, is pandemic-related.

essential transportation services safely in the event of an emergency. For example, in 2019, FRA used the docket to grant relief from certain regulations when catastrophic flooding occurred in several states.

Recognizing the emergency created by the COVID-19 pandemic, in March 2020, FRA granted railroads temporary waivers from certain regulations. Some of these regulations were waived to enable railroads to abide by social distancing requirements and guidelines, while other regulations were waived to enable railroads to continue to operate effectively in cases of rail workforce shortages caused by the pandemic. The rail industry is committed to using the waivers only to the extent necessary to address legitimate problems arising from COVID-19. To date, Class I freight railroads have only used the waivers granted for social distancing purposes, and it was only those waivers which they sought, and were ultimately granted, an extension for continued use. Railroads' experience with COVID-19 has confirmed that FRA is acting appropriately by using the emergency docket process only when the situation is extremely urgent.

Railroads also commend the Department of Homeland Security's Cybersecurity & Infrastructure Security Agency (CISA) for quickly providing guidance on the essential critical infrastructure workforce. This guidance has been important to the continuity of freight rail operations, especially as state and local governments issued disparate edicts in response to the pandemic. The Surface Transportation Board emphasized CISA's guidance in its statement on April 22nd in support of railroad operations, which urged state and local authorities to recognize the importance of rail operations and to support the ability of railroads and their supply chain partners to contribute to the nation's welfare.

Finally, the rail industry also appreciates the efforts of the Department of Homeland

Security's Customs and Border Protection for ensuring that cross-border railroad operations have remained fluid and unencumbered while the United States' borders with Canada and Mexico remain closed to non-essential traffic. The rail industry has worked closely with officials on both sides of the borders to ensure that we can continue to serve our customers across North America's supply chain.

Further Legislative Actions

In the weeks and months ahead, Congress will be considering additional measures in response to the pandemic and its aftermath. Railroads respectfully suggest that, as it does so, Congress should include provisions that would facilitate the rail industry's ability to move the goods our nation depends on.

First and foremost, Congress should reject controversial policy riders that have little or no relationship to actual pandemic-related needs, such as harmful economic regulation or mandates for specific operating models, such as minimum railroad crew size. Additionally, railroads support the goal of improved access to reliable broadband for all Americans, but Congress should reject proposals that mandate one-size-fits-all, non-compensatory access to private property, including railroad rights-of-way, under the guise of pandemic relief. Additionally, railroads must also be able to ensure that proposed broadband projects have undergone appropriate engineering review and construction oversight and will comply with applicable federal regulations, including the use of flagmen for worker protection, and other sensible national safety codes and standards.

Likewise, temporary waivers from existing maximum truck weight limits for the delivery of emergency supplies might be appropriate in some cases today, but Congress should not include permanent increases to existing truck length or weight limits in any future pandemic-

related (or, for that matter, non-pandemic related) legislation. The rail industry opposes permitting larger trucks to operate on our nation's roads and bridges until the user fees that trucks pay into the Highway Trust Fund cover the costs of the highway damage they cause.

Second, rail employees, as well as other essential critical infrastructure workers, should be given elevated priority access to COVID-19 testing, personal protective equipment, sanitizers, non-medical grade facial coverings, and other health-related or protective supplies so that essential goods can keep moving. The rail industry supports Chairman Wicker's bill—S. 3728, the Critical Infrastructure Employee Protection Act of 2020—and thanks Chairman Wicker, as well as Ranking Member Cantwell, and Senators Blunt, Young, and Sullivan for supporting this effort.

Third, if an infrastructure package is considered in future legislation, increased funding for highway-rail grade crossing and grade separation projects, which communities across the country continue to call for, as well as funding for Amtrak to maintain and replace current critical infrastructure, should also be included.

Finally, the freight rail industry is grateful for the provisions in the CARES Act that made rail industry employees eligible for enhanced sickness and unemployment insurance benefits, matching the enhanced benefits made available to other U.S. workers. Looking ahead, railroads also support the removal of the impact of sequester on these benefits as well as the Railroad Retirement Board's request for an additional \$11.5 million in administrative funds to provide much-needed IT modernization.

Conclusion

Our country is enduring a truly challenging and unprecedented time, but the optimist in me knows that this too shall pass. Because of the many uncertainties we still face, the timing and

the roadmap for returning to a more normal way of life remain unclear. Successful navigation of all the unknowns will require flexibility, innovation, and determination – characteristics that the rail industry and its employees have demonstrated in past emergencies and that are seeing the industry through this one. In the weeks and months ahead, freight railroads will remain in close collaboration with their customers and employees, policymakers, and others to ensure that our nation’s freight transportation needs are met safely, reliably, and cost effectively.