



CANADIAN OILSEED PROCESSORS ASSOCIATION

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Updated Submission to the Canada Transportation Act Review

The Canadian Oilseed Processors Association (COPA) is pleased to provide this updated submission for publication on the CTA Review Secretariat's website.

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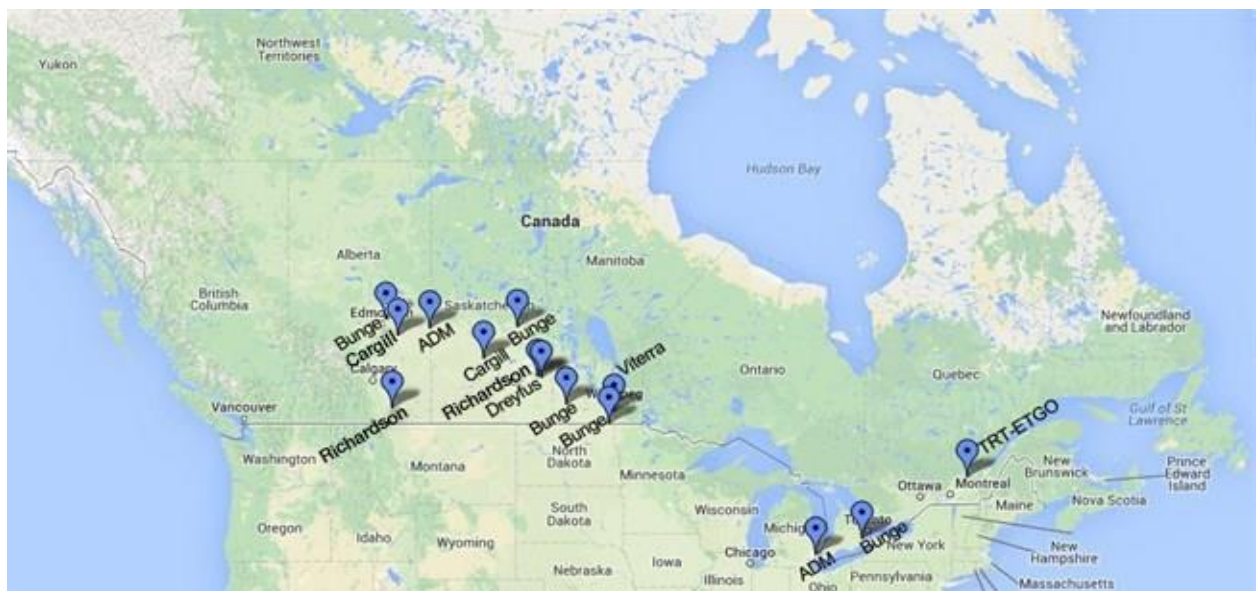
EXECUTIVE SUMMARY

- COPA members' oilseed processing facilities are highly dependent on rail shipment to access raw materials and to move processed oilseed products to continental markets and export ports for offshore movement. In many cases, the COPA plants are captive to only one rail carrier.
- In 2014 COPA members produced 3.1 million tonnes of canola oil, of which 2.4 million tonnes were exported, and 4.0 million tonnes of canola meal, of which 3.5 million tonnes were exported.
- COPA forecasts total volumes for rail shipments of canola and soybean products for 2015 at 7.0 million tonnes. At an average of 90 tonnes per car for oil shipments and 92 tonnes per car for meal, this translates to approximately 6,400 cars on a monthly basis or 1,600 cars weekly in calendar year 2015.
- **Unique aspects of the oilseed processing industry include:** processors lease their own fleets of oil tank cars and about 60% of their hopper car requirements, the inability to benefit from unit train incentives for most shipments; processing facilities run on a continuous schedule requiring just-in-time delivery in-bound and out-bound; and the significant variability in railcar transit times experienced by processors creates logistical challenges to maintaining continuous schedules which has a negative impact on the processing industry.
- **Impacts of inadequate service include:** storage capacity for raw materials and processed products is limited, so facilities need to reduce production swiftly or shut down altogether when rail service is delayed; in 2013/14 Canadian processors lost 358,000 tonnes of crush due to rail related issues for a loss in sales of about \$250 million; Canadian processors have had to invest extra dollars into their fleets (with leasing costs of \$70-90 million a year to support 40 plus day transit times, a 5 day reduction in transit times could save the industry \$9-11 million); 75% of oilseed products are shipped by rail to customers in the U.S. who have many alternative products to Canadian oils and meals if rail service disrupts predictable supplies of Canadian products.

- COPA’s recommended changes to the CTA include:** enhance the powers for the Canadian Transportation Agency to monitor railway performance on an on-going basis and to intervene when service problems are identified and to require the railways to file sufficient information to the Agency to allow it to fulfill its mandate; strengthen railway service provisions and balance accountability between parties by providing for reciprocal penalties paid between the contracting parties for non-performance and by amending the definition of “adequate and suitable” service to confirm that railway service must meet the commercial needs of users of the system and promote competitiveness and economic growth; make the 160 km interswitching limit permanent; and add soybeans and soybean products to Schedule II.

CANADA’S OILSEED PROCESSING INDUSTRY

COPA’s seven member companies operate fourteen oilseed processing facilities in five provinces. The eleven facilities located in the Prairie Provinces crush canola and the three plants located in Quebec and Ontario crush canola and soybeans. The oilseed processing facilities are highly dependent on rail shipment to access raw materials and to move processed oilseed products to continental markets and export ports for offshore movement. In many cases, the COPA plants are captive to only one rail carrier.



The oilseed processing sector is a critical segment of the canola and soybean value chain, processing 40-50% of annual canola production and over 30% of soybean production to meet the demands of domestic and export markets for value-added oil and meal products. An efficient processing sector is essential to providing a market for a significant portion of Canadian production.

Canola and Soybean Statistics for 2014, '000 tonnes					
<i>Source: Statistics Canada</i>					
	Crush	Oil produced	Meal produced	Exports	
				Oil	Meal
Canola	7 144.8	3 116.1	4 041.5	2 370.6	3 465.6
Soybeans	1 567.0	281.6	1 223.1	99.3	142.8

In 2013, the Canola Council of Canada commissioned an independent analysis of Canadian-grown canola on the domestic economy¹, which calculated that the canola crushing and refining industry contributes \$1.3 billion in annual economic impacts (direct, indirect and induced impacts). This is accompanied by a \$263 million economic impact related to product (meal and oil) delivery, approximately 85% of which can be attributed to rail. Over 9,700 Canadian jobs are directly and indirectly attributed to the crushing, refining, and delivery of canola by-products.

The Canadian canola sector, led by the Canola Council of Canada, has established a strategic industry plan for growth to 2025. Called “Keep it Coming” the plan forecasts growth in the production, export and processing of canola. The plan forecasts that canola production will increase from the 18 million tonnes produced in 2013 to 26 million tonnes in 2025. This will facilitate a growth in crush volumes from a 2013 level of 7.5 million tonnes, to a total of 14 million tonnes by 2025 - an increase of over 85%.

Canola Production & Processing in Canada – “Keep it Coming” 2025 Targets

	2006	2011 & 2012 Avg	2013	2025*
Production	9.1	14.2	18.0	26.0
Seed Exported	5.2	8.1	8.5	12.0
Processing (domestic crush)	3.7	6.9	7.5	14.0
Canola Oil (42-45% oil)	1.6	3.0	3.3	6.3
Canola meal	2.2	3.9	4.2	7.7
Values expressed in million metric tonnes.				
*Canola Strategic Plan 2025 - Canola Council of Canada				

As the Review considers the key trends and patterns likely to have an impact on Canada and the transportation system over the next 20-30 years, it is important to note that recent and forecast growth indicates a requirement for a substantial increase in transportation capacity in the coming decade.

UNIQUE ASPECTS OF THE OILSEED PROCESSING SECTOR FOR RAILWAY SERVICE

Processed products, while more limited in overall volume and typically shipped in smaller units than bulk grain, have a higher value per unit. And as discussed above, oilseed processing in Canada generates additional economic growth through value-added. Processors of value-added oilseed products have rail service requirements that differ from the majority of bulk grain movement, and a transportation system designed for bulk grains can inherently discriminate against processors if consideration is not given to addressing their unique requirements.

Following the implementation of the March 2014 Order in Council, service was variable with some participants in the value chain benefiting more than others. Processed oilseed products move in smaller units. Additionally, much of the traffic moves south to the U.S. and must travel over longer distances, which makes it less attractive in meeting volume minimums for the OIC. As such, processors of higher value-added products did not benefit to the same extent as bulk shippers from rail service improvements attributed to the implementation of the OIC. As shown on the chart below, average transit times for oil and meal shipments were even longer for COPA members in the summer of 2014, post OIC targets, than in the same period in 2013.

¹ LMC International, 2013. The Economic Impact of Canola on the Canadian Economy. Submission to Canadian Transportation Act Review
Canola Oilseed Processors Association
21/08/15

Railway Transit Times (days) for COPA Plants ¹									
	Domestic		Offshore		US			Mexico	TOTAL
	East	West	West	East	East	Central	West		
July-Sept 2013									
Canola oil	21	24	14	-	31	22	23	41	20
Canola meal	-	-	8	-	17	19	22	-	21
July-Sept 2014									
Canola oil	18	18	14	-	28	29	31	40	27
Canola meal	20	18	12	-	28	24	24	33	24
Increase in average transit times July-Sept 2014 compared to 2013: 7 days for canola oil and 3 days for canola meal									
¹ Railway transit times include loaded and empty transit times, and exclude shipper and receiver hold times									

The following are important considerations for rail service to value-added processors which COPA requests be considered in the CTA Review:

Size of Shipments

- Processors for the most part cannot benefit from unit train incentives for oil, which moves primarily as single car shipments. These cars are destined for food processing companies that rely on just-in-time delivery to meet their production schedules. Meal, moved in hopper cars, can vary from single car movements to 25-car blocks to 100-car unit trains, but the majority is still in smaller block units.

Location Shapes Demand

- For western processors, facilities rely heavily on rail for just-in-time movement of out-bound traffic; the majority of in-bound product is trucked.
- For eastern processors drawing on product grown in western Canada, predictable in-bound rail service is the priority; the majority of out-bound processed product moves by truck from the eastern processors.
- Eastern plants rely on rail for in-bound canola and this service was badly disrupted in the winter of 2013-14 due to longer car transit times for this traffic.
- There are also important seasonal differences in the movement of canola to the processing plants in Ontario and Quebec. During St. Lawrence Seaway navigation season, most canola is shipped by rail to Thunder Bay and then transferred to vessel for delivery to the plants. The majority of canola processed annually is delivered this way. However, when the Seaway is closed, the eastern plants need to be served by rail directly to the processing plant.

COPA Fleets Reduce Burden on Rail Companies

- Processors lease their own fleets of oil tank cars and about 60% of their hopper car requirements, taking a significant burden off the rail companies.

Tank and Hopper Car Fleets as of April 1, 2014	April 1/14		December 1/14	
	number	% of total	number	% of total
Total size of tank car fleet	3,773	100.0%	3,866	100.0%
# of leased tank cars	3,773	100.0%	3,866	100.0%
# of railway supplied tank cars	0	0.0%	0	0.0%
Total size of hopper car fleet	4,736	100.0%	4,966	100.0%
# of leased hoppers	2,827	59.7%	2,806	56.5%
# of railway supplied hoppers	1,909	40.3%	2,160	43.5%

- For COPA, a key issue is the ‘surge’ capacity made available by railways to compensate for cold weather related service reductions in winter months. When cold weather causes railways to reduce train length in order to ensure properly-functioning braking systems, the movement of cars slows substantially. This causes railcar turn times to elongate. Shippers run short of empty railcar capacity to fill at their production facilities and receivers run short of oil and meal for their requirements. The cold-weather risk is placed squarely on the shoulders of the shippers, who are forced to either carry extra fleet to account for the winter railway slowdowns or reduce production, at a high price, when railways are not moving cars effectively.
- Value added processors have highly predictable railway use requirements. These needs do not change to any significant degree in winter months. Rail companies should plan on maintaining additional car and locomotive power to compensate for predictable reductions in train sizes caused by cold weather.

Predictable Service Demands

- Processing facilities run on a continuous, steady schedule requiring just-in-time delivery, in-bound and out-bound, in order to maximize capacity utilization.
- Based on the consistent schedule of the processing facility, rail service requirements are very predictable both for in-bound and out-bound traffic. This is true for a typical processing week or month but is also true throughout the year where there is relatively little variation between seasons.
- COPA forecasts total volumes for rail shipments of canola and soybean products for 2015 at 7.0 million tonnes. At an average of 90 tonnes per car for oil shipments and 92 tonnes per car for meal, this translates to approximately 6,400 cars on a monthly basis or 1,600 cars weekly in calendar year 2015.
- Given the predictable and consistent requirements of the processors, variability of rail service has a pronounced impact on their ability to service their customers on a timely basis. The charts below illustrate the variability in transit times (in days) that COPA members experience for oil from various Canadian origins to and from Vancouver and for oil and meal from various Canadian origins to and from US interchange gateways.
- Each of the charts illustrate considerable variability over the measured time-period (December 2014 – July 2015) for specific origin/destination combinations. The variability for the various origin/destination combinations is measured by the transit range (minimum planning range vs maximum planning range).
- The charts show that transit ranges for either empty or loaded shipments are significant, often exceeding 10 days. This range widens to more than 20 days when combining empty and loaded shipments together.
- This large transit range (i.e. variability in transit time) creates logistical challenges for shippers and has a significant economic impact on COPA members.

Chart 1 - Loaded Rail Transit - Oil to Vancouver

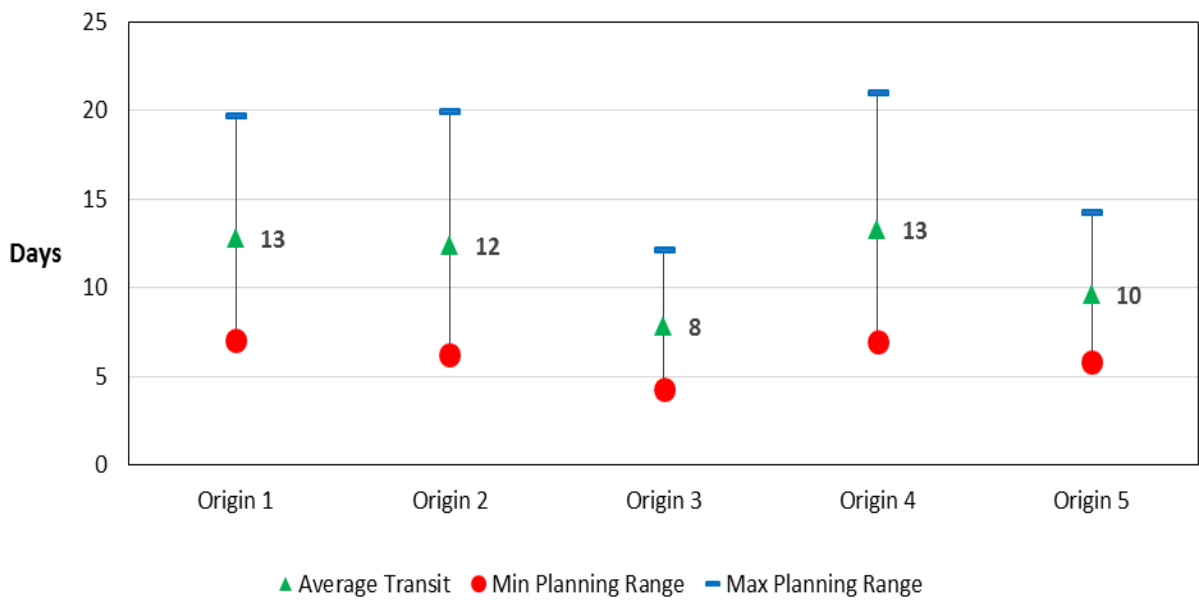
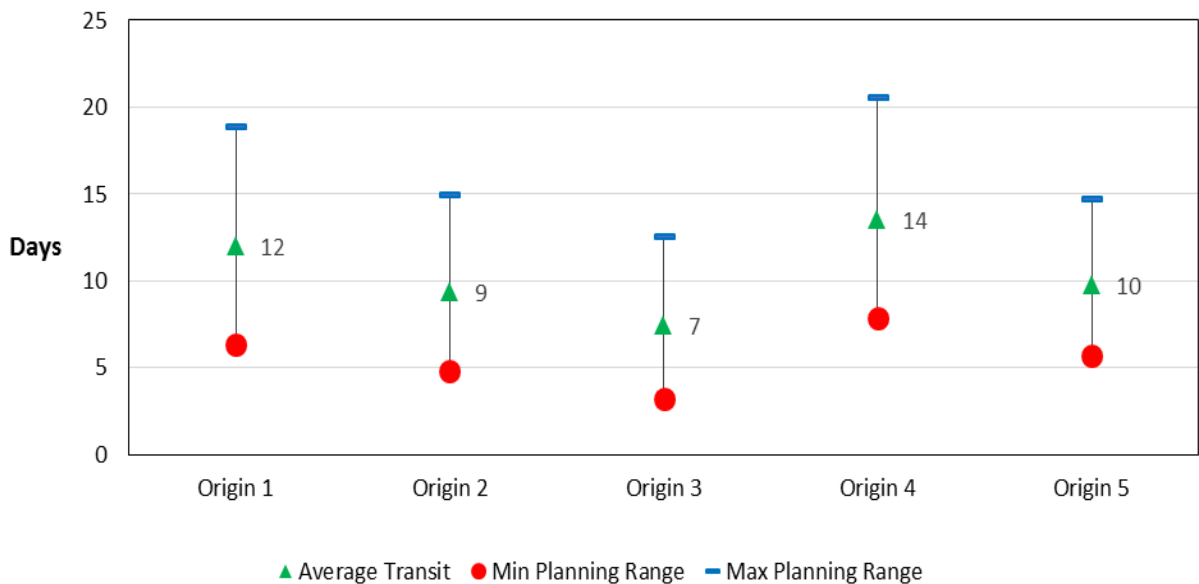
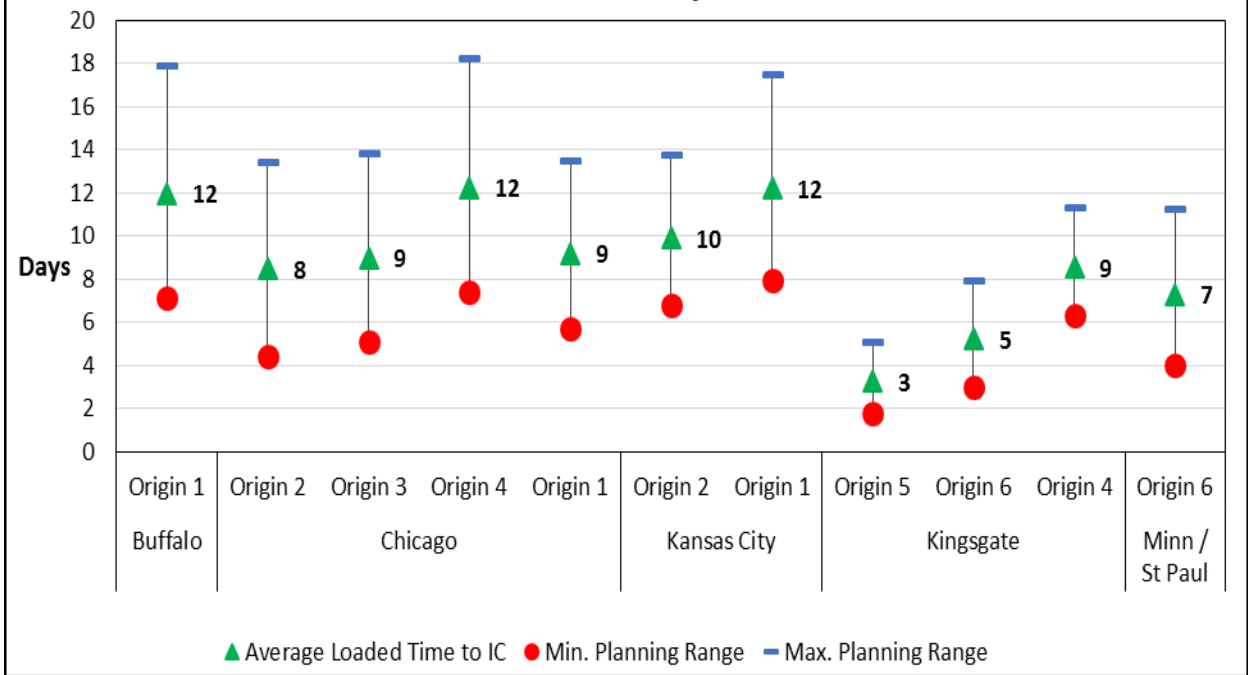


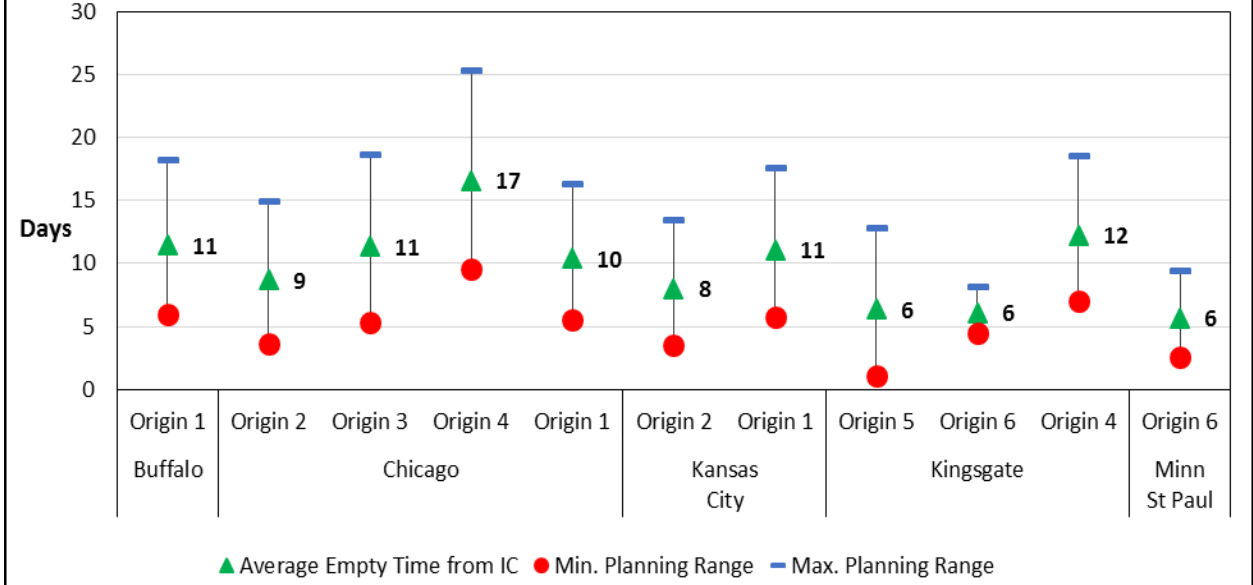
Chart 2 - Empty Rail Transit - Oil to Vancouver



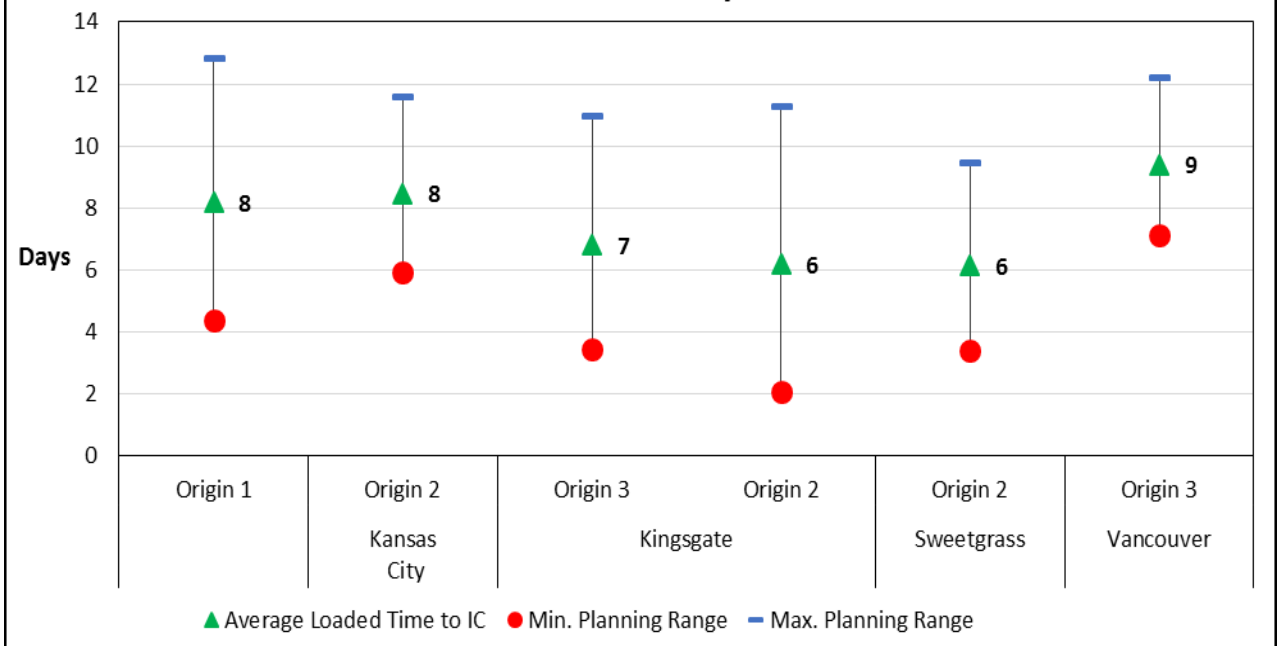
**Chart 3 - Loaded Transit Time to Interchange Gateway -
Oil Traffic to USA / Mexico**



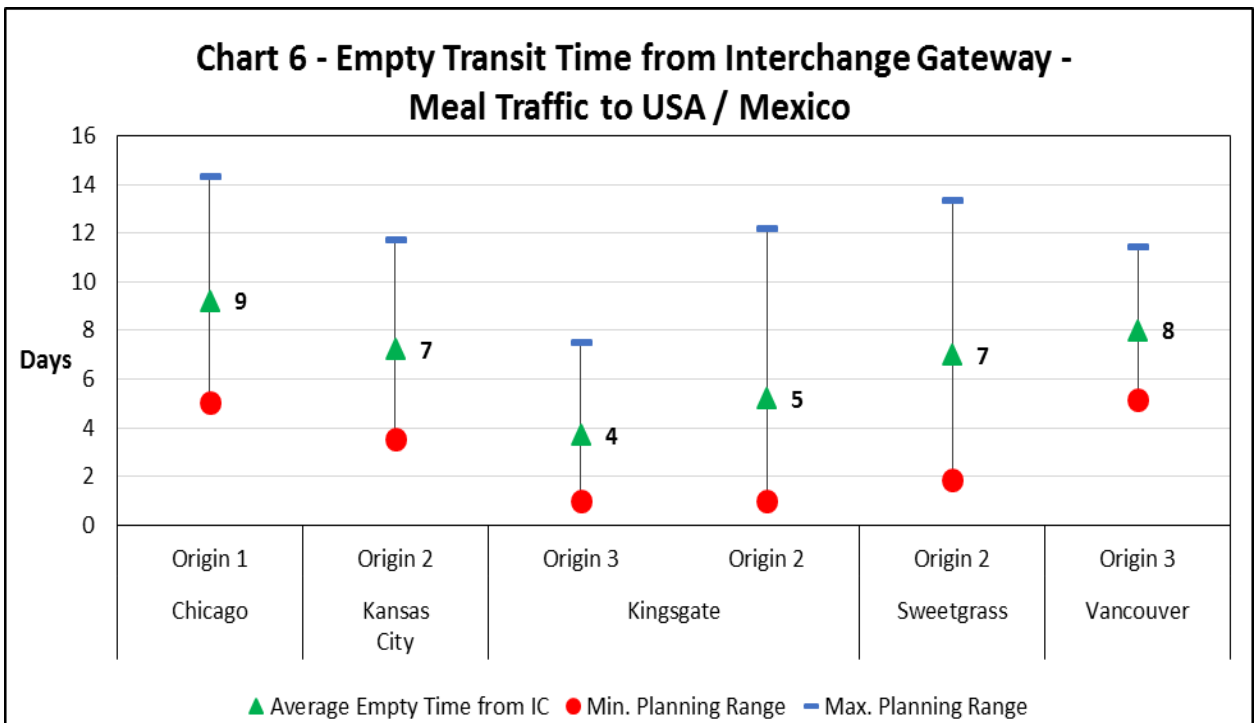
**Chart 4 - Empty Transit Time from Interchange Gateway -
Oil Traffic to USA / Mexico**



**Chart 5 - Loaded Transit Time to Interchange Gateway -
Meal Traffic to USA / Mexico**



**Chart 6 - Empty Transit Time from Interchange Gateway -
Meal Traffic to USA / Mexico**



Impacts of Inadequate Service

- Inadequate rail service has an immediate impact on processors, producers that deliver to them and on their customers. Storage capacity for raw materials and processed products is limited, so facilities need to reduce production swiftly or shut down altogether when rail service is delayed. Since these facilities operate 24/7 all year long, any unutilized capacity is lost forever and cannot be recaptured when rail service improves.
- Processed oilseed products have a perishable nature; insufficient rail service delaying transport can compromise the ability to maintain product quality for delivery to the customer.
- In 2013/14 it is estimated that Canadian processors lost 358,000 tonnes of crush due to rail related issues; this translates into a loss in sales of about \$250 million.
- The lack of reliable and predictable railway service necessitates that Canadian processors have to invest extra dollars into their fleets; with leasing costs of \$70-90 million a year to support 40 plus day transit times, a 5 day reduction in transit times could save the industry \$9-11 million.
- About three-quarters of oilseed product rail movements are in a southerly direction, moving to Mexico and virtually every U.S. state. Customers in the U.S. have many alternative products to Canadian oils and meals. When rail service disrupts predictable supplies of Canadian products, those customers can source products elsewhere and markets for Canadian products are lost.

RECOMMENDED CHANGES TO THE CTA SUPPORTED BY COPA

Reliable, competitive rail service should be delivered through market forces and not be driven by regulation. Over the longer term, COPA would hope that market forces will be the dominant driver. The industry's long term growth plans should be a guide to help plan for future infrastructure requirements including rail. However, it is clear that market dynamics failed considerably in delivering adequate service in the winter of 2013-14. The economic loss throughout the value chain was considerable. The *Canada Transportation Act* Review provides the opportunity to adopt market frameworks (such as reciprocal penalty provisions and improved definitions of service levels) which would promote market driven solutions.

While COPA represents an oilseed processing sector with unique rail transportation requirements, as described above, it also works closely with other segments of the supply chain including the Canadian Canola Growers Association (CCGA), and as a member of the Ag Transport Coalition (ATC) and the Crop Logistics Working Group (CLWG), to establish common interests and develop shared recommendations.

COPA suggests that the CTA Review should take the following recommendations under consideration:

Powers and effectiveness of the Agency

Agency Powers

- Give the Agency enhanced powers and the mandate to identify and resolve problems in the rail industry:
 - Authority for the Agency to act on its own motion and ex parte.
 - Require the Agency to investigate and act on problems identified.

The Agency is currently only empowered to act to address rail service in response to shipper complaints. These recommendations, while maintaining the Agency's authority to investigate service level complaints, would empower the Agency and require it to monitor railway performance on an

on-going basis and to intervene when service problems are identified. Allowing the Agency to investigate, take measures, and give orders without a shipper being required to file a formal service level complaint would protect individual (particularly captive) shippers from having to take on their powerful rail supplier. Allowing the Agency to act ex parte permits it to address service problems early before major service failures occur.

Transparency of Information.

- Require railways to file information with the Agency sufficient to allow the Agency to fulfill its mandate:
 - Detailed operational plans and expected traffic and performance levels.
 - Confidential contracts and agreements affecting operations between railways.
 - Waybills on all traffic handled on Canadian railways.
- Require the Agency to publish annual summaries of key railway revenue and cost factors at levels of detail commensurate with the need to identify and resolve problems.
- Require the railways to provide detailed and timely capacity and performance data to an independent monitor to support on-going performance measurement and to the Agency, upon request. The monitor will publish transparent and timely railway capacity and performance measurement for all commodities and corridors.
- Require the monitor to make periodic reports to the Agency on rail system performance.

For the Agency to effectively regulate, complete information on rail system operation is needed, including both service performance and conditions of carriage and pricing at a detailed level, while protecting confidentiality of sensitive commercial information. Further, shippers need to be empowered with information on both railway performance and high level railway pricing in order to re-balance their position when negotiating with railways which currently have a monopoly on performance and pricing data.

Railway Service Obligations

Railway service obligations should be strengthened to address the issue of a commercially unbalanced relationship between the railway and shipper, by clarifying obligations and ensuring the service responds to the commercial needs of shippers, and supports economic growth. Shippers have limited means to hold rail service providers to account. Increased railway accountability is needed or chronic service disruptions can be expected to continue. Service obligations need to be considered in a broader context than just short-term railway capacity.

The Agency, in its October 3, 2014 decision in the application by Louis Dreyfus Canada Ltd. against the Canadian National Railway Company, provided an opinion recognizing the imbalance on the railway company's preferences over those of the shipper:

[13] The Agency is of the opinion that where competitive pressures are low or absent and where there is a relatively low cost to the railway company for delaying traffic or otherwise reducing the level of service, the supply of cars and motive power will tend to be set at a level that favours railway company (producer) preferences over shipper (consumer) preferences.

In the absence of significant railway competition incentivizing the marketplace to facilitate service, balanced accountability needs to be re-established through legislation to enforce the level of service that a monopoly would not otherwise provide.

Financial consequences (reciprocal penalties) for non-performance

- Provide that financial consequences (reciprocal penalties paid between the contracting parties) for non-performance are an operational term within arbitrated Service Level Agreements. Reciprocal penalties for non-performance within a commercial agreement will increase the accountability between parties in the supply chain and hold them financially responsible to each other. This commercial framework will drive more responsive behavior in the supply chain by restoring some long-absent balance in the relationship between shipper and rail service provider.

Strengthen the level of service provisions

- Amend the definition of “adequate and suitable” service in the common carrier obligations of the Act to confirm that the railway service must meet the commercial needs of users of the system and promote competitiveness and economic growth (section 113).
- Amend the Act to provide that the level of service provisions of the Act must be interpreted in a manner that ensures that the Canadian economy is not negatively affected by the practices or preferences of railway companies where they unduly restrict the ability of shippers to move their goods (section 116).

The railway-shipper relationship lacks balanced commercial accountability. By defining service as that which meets the needs of the shipper, the service provider will be compelled to carry the traffic presented to them, and make any operational changes to enable doing so, thereby addressing the capacity issue without Government prescription.

Shipper protection measures

- Provide that 120.1 of the Act allow the Agency to review for reasonableness all terms and conditions imposed in a railway’s tariff other than the base rate for the movement of traffic.
- Provide that the Act confirms the right of a shipper to bring private cars on to a railway’s system.
- Remove requirement that a service level arbitrator consider railways’ service obligations to other shippers and persons.
- Remove sunset provisions in the Act related to the power of the Agency to make regulations with respect to operational terms.
- Amend operational terms regulations to remove things over which a railway has control from force majeure conditions.

Pro-competitive Measures

- Amend the interswitching regulations to extend 160 km interswitching limits to be permanent.

The railway industry in Canada is a natural monopoly or duopoly in virtually all markets. Limited opportunities exist to increase direct competition between the railways.

Measures particular to the grain industry

- Add soybeans and soybean products to the list of regulated grains (Schedule II) in the Act. Currently soybeans and soybean products (oil and meal) are not included in Schedule II. Given the increasing acreage seeded in western Canada, soybeans and products should be included in Schedule II.
- Maintain the maximum grain review entitlement, until such time as there is a known guarantee that better service will be provided.

At this time it is not expected that any removal of the maximum grain review entitlement would result in improved service performance. Until such time, the MGRE should be maintained.