



The Resource for Warehouse Logistics

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Docket No. EP 759
Supplemental Notice of Rulemaking
DEMURRAGE BILLING REQUIREMENTS

COMMENTS
submitted by the
International Warehouse Logistics Association

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The International Warehouse Logistics Association (IWLA) respectfully submits these comments in response to the Surface Transportation Board's Supplemental Notice of Proposed Rulemaking on Demurrage Billing Requirements, Docket No. EP 759 regarding the minimum information that Class I carriers must include with demurrage invoices. IWLA is pleased that the Board clearly heard the concerns about excessive demurrage fees and billing procedures raised during the May 22-23 Oversight Hearing on Demurrage & Accessorial Charges and commends the Board for taking steps to address these concerns through this rulemaking.

The IWLA is a 501(c) (6) non-profit trade association representing the interests of third party logistic (3PL) warehouse operations through-out the United States and Canada. 3PL warehouse companies receive, store, and ship other company's goods and act as that company's warehouse, while not owning any of the products. We represent 360 companies whose 3500 warehouses primarily serve manufacturers and retailers in metropolitan areas. 50 percent of the 3PL warehouse companies receive and/or ship goods via rail.

IWLA has been a party to the STB's proceedings on rail demurrage and supports the previously proposed minimum information requirements proposed in the Notice of Proposed Rulemaking, and the additional requirements that in the Supplemental Notice of Proposed Rulemaking.

IWLA supports the information requirement proposed in the NPRM, including

- the unique identifying information (e.g., reporting marks and number) of each car involved;
- the following shipment information, where applicable:

- the date the waybill was created;
- the status of each car as loaded or empty;
- the commodity being shipped (if the car is loaded);
- the identity of the shipper, consignee, and/or care-of party, as applicable; and
- the origin station and state of the shipment;
- the dates and times of:
 - actual placement of each car;
 - constructive placement of each car (if applicable and different from actual placement);
 - notification of constructive placement to the shipper, consignee, or third-party intermediary (if applicable); and
 - release of each car; and
- the number of credits and debits attributable to each car (if applicable).

Comments on Proposed Additional Required Information

The additional proposed information that the STB included in the SNPRM is justified and potentially only available from rail carriers.

Billing Cycle: IWLA agrees with the STB that providing the date range for the invoice is basic information that must be provided on any invoice. It is common commercial practice for bills and invoices to note the period over which services being charged for are delivered. This allows those being invoiced to understand what period the charges are for, thus reducing the necessity to search for confirming records over potentially overlapping periods.

Original ETA and Date and Time Cars are Received at Interchange: This information should be provided for each car and verifies the carrier's claims that a delay has occurred or to show that there was a carrier-caused delay (e.g., bunching). This would allow shippers to know when to dispute unsupported demurrage charges and verify credits that may be due. The complexity of collecting all the necessary data points goes up when there are one or more interchanges. Some short line railroads do not communicate railcar activity with other railroads.

Date and Time Each Car is Ordered In: Providing this information to rail users allows them to validate delays resulting in demurrage charges or to challenge carriers for unfounded charges. While carriers may not place cars at closed-gate facilities until cars are ordered in, without some transparency around what the carrier believes to be the date and time a car is called in and date and time of placement, there would be no way for a rail user to validate or dispute a demurrage claim.

Machine Readable Data: It is reasonable for STB to require that Class I carriers provide information about demurrage claims and resulting invoices to rail users. Many of the carriers claim to offer on-line portals to the data. However, that data is often only viewable on-line or the process to produce downloadable, machine-readable reports is

cumbersome. If they already have the information available in electronic form it would be a minimal burden to require that they provide that information in an open source, structured data file format for use by rail users.

IWLA agrees with the STB that providing this information in machine readable format also makes demurrage invoice information more accessible and transparent. IWLA does not object to the notion that not all rail users may want machine readable data and would support the STB allowing for information to be made available in a different format on an as-requested basis.

Comments on Ensuring Demurrage Charges Are Accurate and Warranted : Requiring carriers to take appropriate action to ensure that demurrage charges are accurate and warranted is the most basic requirement for commercially acceptable practice. Class I carriers should follow EP 757 Policies to determine invoice accuracy and if warranted. For any carrier to say it should not have to verify charges made to a customer is unreasonable. IWLA agrees that supporting documentation must be producible to back up any charges made.

Demurrage Billing Requirements Should Apply to All Rail Carriers While we understand the argument that Class I carriers have the most resources to meet these needs, demurrage charges are levied by smaller carriers on our members and their shippers, many of which are also smaller businesses. If a carrier is to be allowed to invoice rail users for demurrage charges it must be able to produce sufficient information to support those charges.

IWLA fully supports all the additional information discussed in the supplemental notice of proposed rulemaking be required of rail carriers when invoicing for demurrage. We appreciate your consideration of these comments.

Sincerely

A handwritten signature in black ink, appearing to read 'Steve DeHaan', with a long horizontal flourish extending to the right.

Steve DeHaan
President and CEO