

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED

Office of Proceedings

STB Ex Parte No. 759

June 5, 2020

Part of

Public Record

DEMURRAGE BILLING REQUIREMENTS

**NORFOLK SOUTHERN RAILWAY COMPANY
COMMENTS**

Norfolk Southern Railway Company (“Norfolk Southern” or “NS”) files these comments in response to the request for feedback made by the Board in its Supplemental Notice of Proposed Rulemaking (“SNPRM”) published on May 1, 2020 regarding demurrage billing requirements. Norfolk Southern reaffirms its reply comments of December 6, 2019 and additionally files these comments to address newly raised issues.

Norfolk Southern opposes the Board’s proposals to impose minimum information requirements directly on demurrage invoices. This proposal would impose prescriptive measures on the railroad’s billing practices and information platforms. It will stifle innovation and make information that is already readily available to our customers on web-based computer software more difficult to ascertain. Norfolk Southern takes this opportunity to more fully describe to the Board the information that is already available to its customers via NS’s customer platform, AccessNS.¹ The information provided on AccessNS empowers our customers to have real-time

¹ AccessNS is widely available to our customers. To date, AccessNS has 28,794 external users. Norfolk Southern has worked hard to ensure that customers are familiar with AccessNS, and has solicited feedback from its customers on ways to change and enhance the software. For example, Norfolk Southern has hosted face-to-face sessions with groups of customers to gather feedback and brainstorm ideas; Marketing and Customer Services discusses AccessNS offerings at customer meetings and has hosted open forums via Webex, where all customers have been invited to join and provide feedback. Surveys have also been distributed by email inquiring about customer preferences. Earlier this year, Norfolk Southern added a ‘FEEDBACK’ button that is always available on all AccessNS screens. Norfolk Southern evaluates all feedback that it has received and has made changes as a direct result of that feedback.

data and awareness regarding all of their shipments on our network. The historical data available in AccessNS also addresses the Board's stated concern regarding a customer's insight into demurrage charges.

Although Norfolk Southern generally opposes increasing the burden on railroads through these proposals and continues to question the authority of the Board to require this information,² the following discussion will substantively address the Board's proposals. These comments will first address the suggestion that the Board is "considering requiring that Class I carriers provide access to demurrage invoicing data in machine-readable format." SNPRM at 5. These comments then review each of the additional data points that the Board is considering adding to the billing requirements.

1. Machine Readable Data

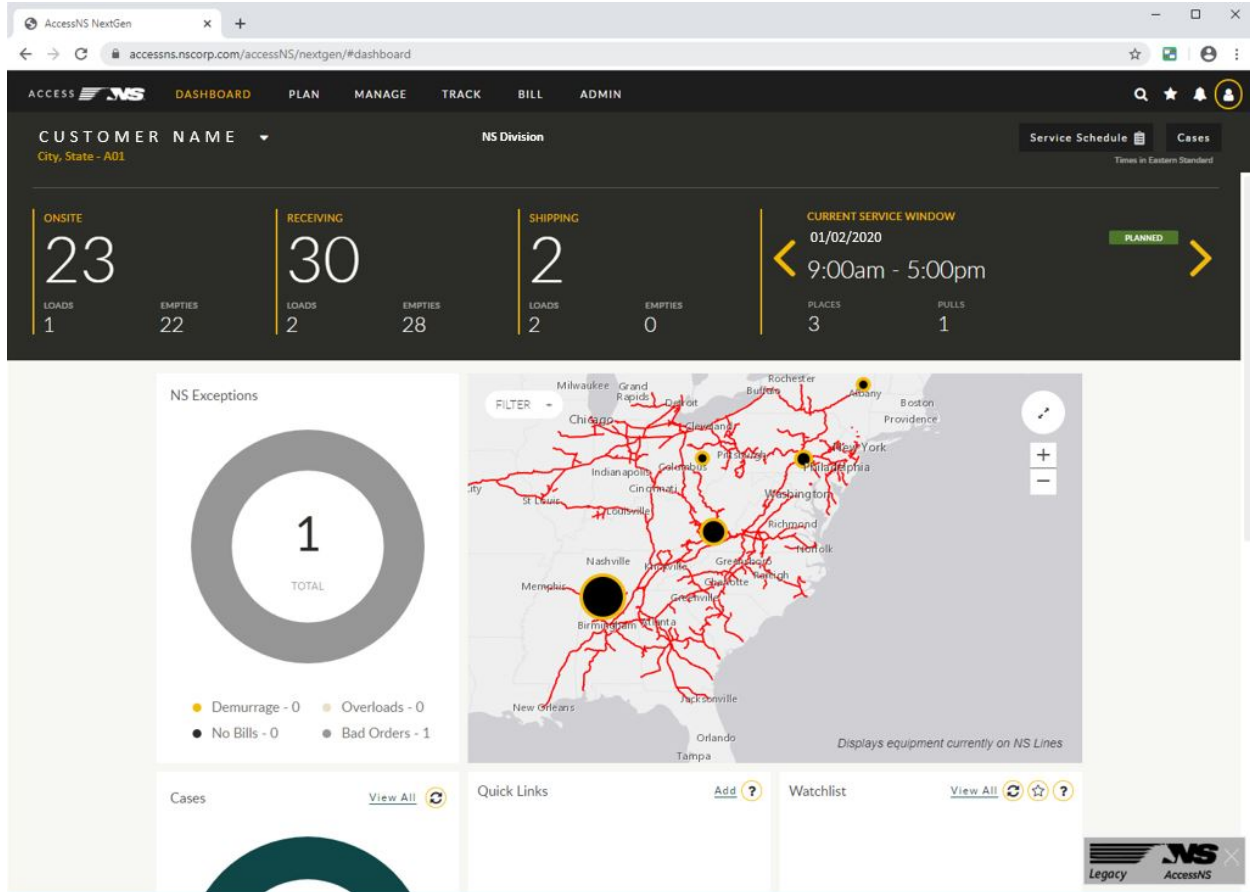
Norfolk Southern supports the use of machine readable data to provide shippers with real-time and historical data regarding all of their shipments on the Norfolk Southern system. Overly crowded invoices do not serve the overall goal of providing relevant information in a meaningful way. Rather, invoices with excessive information make it more challenging to identify the most important data points. The Board should not require carriers to provide additional, detailed information on paper invoices. Instead, the Board should encourage carriers to continue to innovate and develop platforms that enable customers to receive real-time information about their shipments, thereby providing those customers with advanced tools to manage their rail pipelines.

² It is not clear to Norfolk Southern that the Board has the authority to compel railroads to provide particular information related to demurrage invoices, and it is even less clear that the Board has the authority to compel railroads to turn over particular railroad records to its customers upon request by those customers. Norfolk Southern does not intend to formally raise such an objection at this point in this process, but reserves its right to do so depending on what the Board ultimately attempts to require in this docket.

Norfolk Southern already provides information to shippers in a machine-readable format, including some of the new information addressed in this SNPRM (addressed substantively below). AccessNS is a shipment management tool that provides relevant, timely information to shippers. Norfolk Southern considers AccessNS crucial to our ability to deliver exceptional service and maintain clear lines of communication with our customers. The Board's description of machine readable data would likely encompass our current practices. For example, the Board notes that some comments support spreadsheets as an acceptable method. SNPRM at 9. Currently, AccessNS allows customers to download spreadsheets, including Excel or CSV files, with detailed supporting documentation of any demurrage charges reflected on an invoice.

AccessNS is an online portal that allows shippers to view and interact with real-time data related to their shipments. In particular, customers can plan, manage, and track shipments, as well as view key billing information. AccessNS is both user-friendly and customizable. Shippers can personalize the main screen, called a "dashboard," by selecting widgets for high-priority information. Customers can plan for shipments by viewing how many cars are in-bound to its facility and where the cars are on the network, and when they will arrive using railcar ETAs. This functionality facilitates overall network fluidity. The following screenshot from the AccessNS dashboard provides an example of a customer's view of their shipments on NS.

Figure 1: AccessNS Customer Dashboard



This screenshot illustrates the wide variety of information available to our customers via the AccessNS dashboard, including details about all cars in-bound and out-bound from that customer's facility. In this example, a customer has 23 cars onsite, one loaded and 22 empty. 30 cars are in-bound to its facility (2 loaded, and 28 empty). The "shipping" data identifies cars already pulled from the customer's track and moving on the NS network. NS reflects two loaded cars ready to be shipped. The "Current Service Window" also indicates the date and time when local service will be performed and indicates the work that will be completed; in this case, the placement of three cars, and the pulling of one car. This dashboard also identifies any exceptions, including demurrage, overloads, or bad ordered cars (here, one car has been identified as bad ordered). And the map displays the customer's equipment currently on NS lines. This dashboard

allows a customer to monitor their supply chain and to anticipate their rail shipment needs, which in turn can eliminate, or at a minimum significantly minimize, any demurrage charges.

AccessNS also provides car-level detail for each shipment terminating or originating with a customer. The following screenshot provides an example of the car-level data available to a customer.

Figure 2: Car Level Records Available on AccessNS

App	Disp	Equipment Id	Car Type	Commodity	Original ETA	AVPL	NOPA	PCON	ORPL	PACT	Release	PFPS	Credits	Service Credits	Adjusted Credits	Car Days	Total	App
☐	☐	NS 123456	A001	FREIGHT	04/30/2020 05:00 AM	04/29/2020 05:40 AM	04/29/2020 05:45 AM		04/29/2020 09:00 PM	04/29/2020 11:35 PM	05/01/2020 01:00 PM	05/04/2020 01:10 AM	1	1	0	2	0	
☐	☐	NW 123456	A001	FREIGHT	05/04/2020 05:00 AM	05/01/2020 09:30 AM	05/01/2020 09:30 AM		05/03/2020 09:00 PM	05/04/2020 01:10 AM	05/04/2020 01:45 PM	05/05/2020 12:52 AM	1	1	0	0	2	
☐	☐	CR 123456	A001	FREIGHT	05/11/2020 05:00 AM	05/07/2020 08:00 AM	05/07/2020 08:00 AM		05/07/2020 09:00 PM	05/07/2020 11:53 PM	05/08/2020 02:30 PM	05/11/2020 12:25 AM	1	4	0	1	4	
☐	☐	SOU 123456	A001	FREIGHT	05/11/2020 05:00 AM	05/08/2020 08:15 AM	05/08/2020 08:15 AM		05/10/2020 09:00 PM	05/11/2020 12:25 AM	05/11/2020 04:30 PM	05/11/2020 10:30 PM	1	1	0	0	2	

Here, a customer can review (1) the original ETA supplied by Norfolk Southern at the time the car entered the NS rail network; (2) the time at which the car was available for placement (“AVPL”); (3) the time at which the customer was notified that the car is available for placement (“NOPA”); (4) the time of Constructive Placement (“PCON”); (5) the time that the customer ordered the car for placement (“ORPL”); (6) the time the car was actually placed (“PACT”); (7) the time of the release of the car (“Release”), the ending event which stops the calculation of any demurrage charges; and (8) the time the car was pulled from patron siding (“PFPS”). In this example, car NS 123456 had an original ETA of 4/30/2020 at 5:00 AM. The car arrived approximately 24 hours early, at 5:40 AM on 4/29/2020. The customer was notified that the car

was available for placement on 4/29/2020 at 5:45 AM. The customer ordered the car to be delivered on 4/29/2020 at 9:00 PM which was the first available service window after the car arrived. The car was placed at the customer facility on 4/29/2020 at 11:35 PM.

In this example, because the customer ordered in the car promptly for the next available service window the car was not put into constructive placement, and no car days were assessed for the time it was held in NS's serving yard. Because the car arrived early to the customer facility, the customer was awarded a credit, which, in addition to the one free credit day granted by the tariff, balanced against the two car days incurred between the time of placement (4/29) and the time of release (5/01). As a result, this customer was not charged demurrage for this car.

In the other three examples, each car arrived for placement before the original ETA. When this happens, a customer is not charged demurrage so long as the customer orders in the car for the first available service window after the car arrives. For example, car CR 123456 was scheduled to arrive at the serving yard on 5/11/2020 at 5:00 AM. The car arrived early, and NS notified the customer on 5/7/2020 at 8:00 AM that the car was available for placement. Rather than wait for the original ETA, the customer ordered the car in for the next available service window, and NS delivered the car on 5/7/2020 at 11:53 PM. Because the customer ordered in the car in advance of the original ETA, the customer was granted 4 service credits, which the customer can use against future demurrage charges within that month.

Norfolk Southern urges the Board not to make the Machine Readable Data requirement so prescriptive that it would stifle carrier and technological innovation such as platforms including AccessNS. Norfolk Southern encourages the Board to adopt a final rule that is more performance-based that will provide carriers with the flexibility to deploy a wide variability in the methods by

which carriers communicate with their customers and which would support carriers' technological advancements.

2. Proposed Additional Requirements

a. Billing Cycle

The Board proposes to require that invoices indicate the relevant billing cycle, noting that many carriers are likely already doing this. SNPRM at 5. Norfolk Southern already includes the billing cycle on its invoices. Each invoice indicates the time period during which the car incurred demurrage charges. If a railcar incurs charges over multiple months, the customer will be charged when the demurrage cycle has ended. The railcar is summarized on a monthly invoice with other equipment during the billing period. That single invoice will reflect the billing cycle for that month. Additionally, the customer will receive information showing the full range of dates where that particular car incurred charges.

Norfolk Southern interprets the Board's description to include the scenario described above, and requests additional clarity should the Board decide to adopt this proposal.

b. Estimated Time of Arrival and Date and Time Cars Received at Interchange

The Board proposes to require carriers to provide the Original Estimated Time of Arrival and the date and time cars are received at interchange, either on the invoice or upon reasonable request. Norfolk Southern provides an estimated ETA to its customers via AccessNS. *See* Figure 2, *supra*. That ETA is generated once the car is pulled from an industry or at the time the car leaves an interchange. The ETA is updated during transit should the anticipated time and date change.

While Norfolk Southern provides this data, Norfolk Southern would oppose any effort by the Board or a customer to attempt to impose a penalty or any requirement that Norfolk Southern be held to that original ETA. Any such effort would be in conflict with the principles of providing

common carriage upon reasonable dispatch. *Chesapeake & Ohio Ry. V. Martin*, 283 U.S. 209, 213 (1931) (reasonable dispatch is “such time as is necessary conveniently to transport and make delivery of the shipment in the ordinary course of business, in light of the circumstances and conditions surrounding the transaction.”).

As to cars being delivered at an interchange, AccessNS also indicates the date and time that Norfolk Southern received the car from the upstream interchange carrier. Once a car is received by NS at interchange, an ETA is generated and is available to the customer via AccessNS. *See, e.g.*, Figure 2, *supra*. This keeps a consignee/receiver informed throughout the entire service.

The Board also requests comment on a definition of Original ETA. Although Norfolk Southern opposes the inclusion of this requirement, any definition must be practicable. If adopted, Original ETA should refer to the ETA generated once the invoicing carrier receives the car at interchange, rather than the ETA provided at the trip’s genesis. Norfolk Southern has no visibility into the operations of its interchange partners, and does not have access to information regarding any trip plan or ETA that may have been generated upstream by other carriers.

c. Ordered-In Date and Time

The Board proposes to require carriers to note the ordered-in date and time for closed-gate facilities. NS already records the effective order date on invoices as well as on AccessNS (see figure 2, *supra*) and takes this opportunity to clarify what that information reflects. The effective order date is selected by the customer from their service schedule. It represents the date the railcar is to be delivered. It can be entered for the next service window or later during the week. The date/time the order was physically entered online is not used for demurrage/storage purposes and is provided to the customer on the order confirmation email. As an example, if a facility is served five days per week, Monday through Friday, and the customer orders in a car on Saturday morning,

the customer selects an order for a placement service window from the calendar, which will show available service windows of Monday through Friday.

3. Steps to Ensure Invoice Accuracy

Norfolk Southern has implemented several processes to ensure invoice accuracy. Before a customer receives a bill, three different checks ensure demurrage charges are accurate and justified. First, any factual errors identified by personnel who discover an error in the field are reported to and corrected by a dedicated team. Second, customers can proactively view charges on AccessNS before an invoice is processed. If a customer notices an error, they can request a correction before receiving an invoice. For example, occasionally reporting errors are made regarding event dates, which can be corrected at this stage. The following screen shot illustrates the platform available on AccessNS by which a customer can dispute a demurrage billing charge before that charge is formalized on an invoice.

Figure 3: Dispute Prior to Invoice

The screenshot displays the 'Demurrage Dispute - Terminating' page in the AccessNS NextGen system. The page features a navigation bar with tabs for DASHBOARD, PLAN, MANAGE, TRACK, BILL, and ADMIN. Below the navigation bar, there is a header section with the customer name and division. The main content area contains a table with the following columns: Equipment Id, PCON, ORPL, PACT, Release, PFPS, Reason Code, and Comments. A row is selected for equipment 'NS 123456' with a reason code of 'CAR OFF SPOT (OS)'. The interface includes a 'Cancel' button and a 'Submit' button.

Equipment Id	PCON	ORPL	PACT	Release	PFPS	Reason Code	Comments
NS 123456		04/29/2020 09:00 P	04/30/2020 05:25 P	05/01/2020 01:00 P	05/04/2020 01:10 A	CAR OFF SPOT (OS)	Sample Comment

In this case, a customer could select the equipment (“NS 123456”) and include a reason for the disputed charge (in this case “Car Off Spot”). In this example the car was not in the spot requested

by the customer. The customer enters the railcar's new placement date, representing when the car was corrected and placed in the right location. This information can be included in the "comments" section. That information is then conveyed via AccessNS to Norfolk Southern for review.

In the event of errors of these sorts, an internal case is created to review and address the root cause of reporting issues. These cases are discussed with internal departments, so as to proactively prevent similar occurrences in the future. Follow-up is also provided to the customer.

Finally, internal software handles certain demurrage exceptions. These exceptions address situations where, for example, the cars were delivered to a different customer than that expected in the system, or a railcar was located on a customer's track but the actual placement date was not recorded by the crew. Similarly, occasionally a customer may not enter an electronic request for a car to be pulled, but instead speaks directly to a Norfolk Southern crew member on site. In that instance, the record may not close, and would reflect an exception. These issues are corrected prior to any invoice being issued.

Despite these processes, disputes occasionally arise after an invoice is generated. Once a customer disputes an invoice, a case is created, and a dedicated team works to determine whether the invoice contains factual inaccuracies. The customer receives follow-up during this process.

* * * * *

For the reasons set forth herein, Norfolk Southern strongly urges the Board not to be overly prescriptive and not to adopt these proposed demurrage billing requirements. The Board should

allow railroads to continue to innovate new, technologically advanced mechanisms to convey information to their customers.

Respectfully submitted,

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