

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Ex Parte No. 759

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DEMURRAGE BILLING REQUIREMENTS

**NORFOLK SOUTHERN RAILWAY COMPANY
REPLY COMMENTS**

Norfolk Southern Railway Company (“Norfolk Southern” or “NS”) files these reply comments in response to the feedback provided by shippers and railroads in opening comments in response to the Board’s Supplemental Notice of Proposed Rulemaking (“SNPRM”) published on May 1, 2020 regarding demurrage billing requirements. Norfolk Southern reaffirms its opening comments of June 5, 2020 and additionally files these reply comments to address a few specific issues.

Norfolk Southern continues to oppose any final rule that is overly prescriptive in nature. Norfolk Southern joins Canadian National and other carriers who have encouraged the Board to adopt a performance-based rule. *See* Opening Comments of CN, Surface Transportation Board Ex Parte 759 at 4-5 (filed June 5, 2020). In these reply comments, Norfolk Southern further explains and clarifies its use of Original ETA in response to numerous comments from customers requesting a variety of changes from the Board that would be overly burdensome and would ultimately do nothing to improve the accuracy of information that is currently provided to our customers.

1. Performance-Based Standard

As noted in its opening comments, Norfolk Southern urges the Board to avoid an overly prescriptive rule regarding demurrage billing requirements. *See* Comments of Norfolk Southern Railway Company, Surface Transportation Board Ex Parte 759 at 10 (filed June 5, 2020).

Additionally, Norfolk Southern supports the proposal by Canadian National that the Board should adopt a performance-based standard. *See* Comments of CN at 4-5. By adopting a performance-based standard, the Board can require a railroad to provide customers with sufficient information to understand their demurrage charges and dispute charges they believe to be incorrect. This would achieve the Board's stated goal while allowing carriers necessary flexibility on the delivery method.

Furthermore, a performance-based standard would support innovation and development of advanced technological platforms such as AccessNS, which NS described in significant detail in its opening comments.

2. Original ETA

In opening comments, a number of shippers requested that the Board require railroads to modify their definitions of original ETA, and to provide original ETA data on demurrage bills. *See, e.g.,* Opening Comments of American Chemistry Council at 3-7; Opening Comments of Dow, Inc. at 2-5; Opening Comments of Institute of Scrap Recycling Industries, Inc., at 3-7. Norfolk Southern opposes the changes proposed by shippers and notes that those proposed changes would be incredibly burdensome to develop, and ultimately would not serve the shippers' stated purpose.

Norfolk Southern takes this opportunity to clarify its use of Original ETA. Norfolk Southern generates and provides an official Original ETA to its customers via AccessNS following the first car handling event on the Norfolk Southern network for any particular car. The Original ETA is not a service guarantee, but instead is made available to customers to assist them in managing their pipelines. NS uses the Original ETA for corporate measurements and for tariff programs, such as to issue service credits for cars that arrive early or late to a customer facility. If an upstream carrier provides ETA information, which is occasionally—but by no means

consistently—provided, Norfolk Southern provides that information to the shipper. This informal ETA, not generated by NS, is not the Original ETA used for billing purposes. Rather, this information is intended to facilitate planning and pipeline management for our customers. NS has no control over—or insight into—the accuracy of ETA data provided by other carriers.

When an upstream carrier provides an ETA, or if the Original ETA is updated after being generated, this information will be displayed on AccessNS alongside other relevant shipment planning information and tools. The following screenshot of the AccessNS pipeline management screen provides an example of a customer’s view of their pipeline on NS.

Figure 1: AccessNS Pipeline

The screenshot shows the AccessNS Pipeline management interface. At the top, there's a navigation bar with tabs: ACCESS, DASHBOARD, PLAN, MANAGE, TRACK, BILL, and ADMIN. Below this is a header section with 'CUSTOMER NAME' (City, State - A01) and 'NS Division'. A summary bar indicates 'Receiving' status with totals: Cars: 4, Loads: 4, Empties: 0, Tons: 534, Feet: 274. The main table is titled 'Available For Placement' and 'Pipeline'. It contains a table with columns: Equipment Id, Event Code, Current Location, Track/Train, Position, L/E, Tons, Class, Hdg Cd, Lcd, Commodity, Current ETA, Original ETA, Car Type, Request @, Shipper, Consignee, Origin, and Destination. The table lists four equipment IDs: NW 123456, NS 123456, SOU 123456, and CR 123456. The third car (SOU 123456) is highlighted, showing a delay from its Original ETA to its Current ETA.

Equipment Id	Event Code	Current Location	Track/Train	Position	L/E	Tons	Class	Hdg Cd	Lcd	Commodity	Current ETA	Original ETA	Car Type	Request @	Shipper	Consignee	Origin	Destination
NW 123456	ABIL	CITY, ST	123A101	119	L	122	A01			FREIGHT	06/27/2020 11:59 PM	06/27/2020 11:59 PM	A001		SHPPR	CONSIG	CITY, ST	CITY, ST
NS 123456	ABIL	CITY, ST	123A101	120	L	126	A01			FREIGHT	06/27/2020 11:59 PM	06/27/2020 11:59 PM	A001		SHPPR	CONSIG	CITY, ST	CITY, ST
SOU 123456	ABIL	CITY, ST	CT01	2	L	123	A01			FREIGHT	06/26/2020 08:00 AM	06/25/2020 08:00 AM	A001		SHPPR	CONSIG	CITY, ST	CITY, ST
CR 123456	ABIL	CITY, ST	CT01	5	L	124	A01			FREIGHT	06/26/2020 08:00 AM	06/26/2020 08:00 AM	A001		SHPPR	CONSIG	CITY, ST	CITY, ST

Here, a shipper can view original and updated ETAs easily on AccessNS, allowing them to manage their pipelines to maintain network fluidity. As discussed above, the Original ETA column shows the ETA generated when Norfolk Southern first touches the car. The Current ETA column shows any updates to that Original ETA. In this example, the third car was delayed from its Original ETA as reflected by the Current ETA. In the event a car is delayed from its Original ETA, the shipper may be entitled to credits, which would offset demurrage charges that the customer may incur on other cars that month. For the other cars shown in Figure 1, the Original

ETA and Current ETA match, illustrating that those cars are still scheduled to be delivered to the customer on the anticipated schedule.

In addition to the detailed ETA information made available on AccessNS, customers can also elect to receive email or text notifications updating them any time an ETA for each of their in-bound cars changes. The following screenshot shows an example of an email notification with updated ETA information for cars that are scheduled to arrive after the Original ETA.

Figure 2: Email Notification of Updated ETA

From: No Reply <noreply@nscorp.com>

Sent: Monday, May 4, 2020 9:57 PM

To:

Subject: [EXTERNAL] NS ETA Changes: Customer ETA Changes - # shipments have been rescheduled.



Customer ETA Changes - # shipments have been rescheduled.

No	Account Location	Equip Id	Prev ETA	New ETA	Last Event	Last Event Location	Last Event Date Time	Delay Description	L/E	STCC
1	CITY, STATE	ID NO.	5/6/2020 8:30 PM EST	5/7/2020 8:30 PM EST	ARRIVAL AT INTRANSIT LOCATION	CITY, STATE	5/4/2020 9:08 PM EST	TRAIN BEHIND SCHEDULE	E	XXXX
2	CITY, STATE	ID NO.	5/6/2020 8:30 PM EST	5/7/2020 8:30 PM EST	ARRIVAL AT INTRANSIT LOCATION	CITY, STATE	5/4/2020 9:08 PM EST	TRAIN BEHIND SCHEDULE	E	XXXX
3	CITY, STATE	ID NO.	5/6/2020 8:30 PM EST	5/7/2020 8:30 PM EST	ARRIVAL AT INTRANSIT LOCATION	CITY, STATE	5/4/2020 9:08 PM EST	TRAIN BEHIND SCHEDULE	E	XXXX
4	CITY, STATE	ID NO.	5/6/2020 8:30 PM EST	5/7/2020 8:30 PM EST	ARRIVAL AT INTRANSIT LOCATION	CITY, STATE	5/4/2020 9:08 PM EST	TRAIN BEHIND SCHEDULE	E	XXXX

As with many of the tools Norfolk Southern makes available to its customers via AccessNS, these updates are intended to assist customers with the planning of their pipelines into and out of their facilities.

A number of shippers call on the Board to require carriers to develop an ETA immediately upon receipt of a car in interchange. *See, e.g.,* Opening Comments of Dow, Inc. at 3. As NS explained above, NS generates its Original ETA immediately following its first handling of a rail

car. This may be after the car has reached the interchange. It is not currently feasible for NS to alter the time at which Original ETA is generated. Norfolk Southern's Original ETA is generated when a trip plan for the car is created. To adjust the time at which the Original ETA is generated would require the reconfiguration of Norfolk Southern's trip plan software, an incredibly complicated reconfiguration that would take years to implement due to the legacy infrastructure. Further, such data is likely to be very inaccurate and of little use to customers. Any ETA would have to be generated before Norfolk Southern had control over the car, and thus would be reliant on a waybill, because carriers do not have insight into the planned future movements of cars on other carrier networks. Waybill data does not provide the accuracy that would help a customer—or Norfolk Southern—evaluate the actual anticipated date of arrival for any given car.

The Board should not require carriers to make these sorts of expensive and burdensome changes to their technological infrastructure—changes that would require diversion of resources from current planned projects that are designed to improve service and benefit our customers. In short, requiring Norfolk Southern to change the way it calculates Original ETA would result in more inaccuracy, significant time and expense, and diversion of projects that are being rolled out to meet our customers' needs. This sort of prescriptive regulation is the very type that should be avoided.

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In addition to affirming the position articulated in its comments of June 5, 2020, Norfolk Southern urges the Board to adopt a performance-based rule that allows for flexibility in the method of information delivery. The Board should refrain from issuing prescriptive rules that

would do nothing to improve the information already provided to customers, and which would divert resources away from other developments that will directly benefit our customers.

Respectfully submitted,

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