

BEFORE THE SURFACE TRANSPORTATION BOARD

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OVERSIGHT HEARING ON DEMURRAGE AND ACCESSORIAL CHARGES

WRITTEN TESTIMONY OF THE AMERICAN FROZEN FOOD INSTITUTE

Pursuant to the Board's notice served on April 8, 2019, The American Frozen Food Institute (AFFI) hereby submits its written testimony for the hearing before the Surface Transportation Board (STB) on May 22, 2019. AFFI thanks the Board for holding this hearing and the opportunity to address recent changes in railroad policies concerning demurrage and accessorial charges that have led to increased shipping costs and violate commercial fairness practices. AFFI is the member-driven national trade association that advances the interest of all segments of the \$57 billion frozen food and beverage industry. AFFI members are small and medium-sized companies through the frozen value chain. AFFI is proud to represent the frozen food category that feeds nearly 100% of American households and fuels the American economy by providing 670,000 jobs.

AFFI members are concerned with the reductions in free time before demurrage and storage penalties are administered and encourages the Board to declare these charges unlawful.

AFFI members depend on reliable and predictable rail transportation to ensure Americans nationwide have convenient access to safe and nutritious frozen foods. Rail service disruptions and delays at the rail yard have negatively affected AFFI members, resulting in late shipments to retail locations and unforeseen shipping costs. These delays, in addition to new shipping charges, place a heavy burden on frozen food manufacturers. These new shipping charges on top of already thin

margins and high shipping costs, because of the need to maintain freezing temperatures to assure food safety standards, impact the frozen food industry's ability to competitively conduct business.

Class I railroads in the United States have recently updated their tariff schedules since January 1, 2019, in a manner that ignores reciprocity and commercial fairness practices. The most impactful change has been the reduction in credit days for private railcars, resulting in charges of between \$60-\$150 per day for cars that were unable to be unloaded upon arrival. Previously, demurrage charges did not begin until a railcar had been on the railroad property for 48-hours in acknowledgement of the fact that decoupling and unloading a train is a time-consuming and complicated process and delays are common.

The move to immediate demurrage charges places an undue burden on shippers and delays have been exacerbated by recent changes in railroad policies that have resulted in longer, heavier trains running on high-volume lanes. The new policies have often resulted in delays unloading cars at the destination by no fault of the shipper. Though AFFI and our member companies appreciate the desire for increased efficiency in shipping processes, the implementation of the new Precision Scheduled Railroading (PSR) has led to delays in shipments and the assertion of undue costs to shippers in the form of new demurrage penalties, which are often passed along to the receiver.

In addition, a significant portion of demurrage costs are incurred as a result of limited track space and limited operating hours at receiving warehouses. Shippers do not have the ability to control when their cars will be spotted and are at the

mercy of the railroad to determine placement of the car, charges for storage and how many cars will be housed at a given time.

The frozen food industry supports efforts to increase efficiency through railyards but believe that the newly-enacted demurrage policies exceed the shippers' ability to comply. In addition, PSR neglects the role of the railroads in the process and places an increased burden on all members of the supply chain.

In the interest of efficiency and fairness, AFFI encourages the Board to review these newly-enacted free-time reductions and ensure that railroads maintain reciprocity when service failures would otherwise lead to demurrage charges so that shippers are compensated for delays; examine the role of service inconsistencies in the assessment of charges; and the motivations of the railroads.