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Comments of the American Chemistry Council
on
Surface Transportation Board Docket No. EP 759
Demurrage Billing Requirements

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The American Chemistry Council (ACC) is pleased to provide comments on the Board's Notice of Proposed Rulemaking on demurrage billing requirements. We commend the Board for responding to stakeholder concerns about the litany of changes to Class I railroads' demurrage practices, and for proposing meaningful and appropriate actions.

ACC represents the leading companies in the business of chemistry. Our members apply the science of chemistry to provide innovative products and services that make people's lives better, healthier and safer. As a \$526 billion enterprise, the business of chemistry is a key element in the nation's economy and one of the largest customers of the U.S. freight rail system. Thanks to the shale gas revolution, our industry is growing significantly. With more than \$200 billion in announced new capital investments and an estimated 60 million metric tons of additional production capacity expected to come online by 2022, chemical shippers are increasingly reliant on the U.S. freight rail system.

These comments focus on the Board's proposed requirements for demurrage invoices, including the minimum information to be included with those invoices. The overarching purpose of demurrage is to incentivize the efficient use of rail assets. However, demurrage does not further this purpose when railroads fail to provide sufficient information with their invoices. Shippers must be able to understand the basis of the charges in order to assess their validity, and to adjust practices to prevent similar charges in the future.

ACC strongly supports the Board's proposed rule. However, we offer several suggestions to ensure that invoices include sufficient information to allow recipients to audit invoices and determine if they have been properly charged. Specifically, ACC proposes the following additional requirements for information to be provided with demurrage invoices under Section 1333.4.

- Original estimated date and time of arrival (ETA). This is a necessary piece of data to determine whether a railroad-caused problem or delay impacted a car, and to be certain that the proper credits are being applied. As discussed in ACC's comments on EP 757, it should be standard practice for carriers to provide an ETA for car delivery, and to define an "on time" window.

- Date and time cars was ordered into the facility or submitted on the outbound switch list. This would be useful in helping shippers validate demurrage charges, alter their practices to prevent similar demurrage events, and hold railroads accountable for railroad-caused delays. ACC understands that one railroad already provides the ordered-in date on its demurrage bills.
- Date and time the delivering railroad received the car at interchange, where applicable. This would help shippers understand the impact of bunching, and avoid unwarranted charges for delays outside of their control. Without information on when the interchange occurred, rail users will have significant difficulty demonstrating that demurrage resulted from delay caused by an upstream carrier.
- The number of additional days of dwell impacting deliveries. The proposed rule requires carriers to annotate credits and debits attributed to each invoice, but there needs to be a way to identify when bunching occurs.
- Supporting data in a computer-readable format. Providing computer-readable data with invoices would facilitate analysis of demurrage charges and associated data. This should not be unreasonably burdensome on carriers. ACC understands that at least one carrier currently provides such data in a Microsoft Excel format.

Providing this additional information will help recipients assess the validity of demurrage charges, and will provide greater insight into the root cause of delays that led to the charges. It also enhances transparency and accountability needed to ensure reasonable demurrage rules and charges.

Thank you for your consideration of these comments and suggestions. If you have questions about this submission, please contact Jeffrey Sloan at 202-249-6710 or jeffrey_sloan@americanchemistry.com.