



Freight Rail Customer Alliance

Precision Scheduled Railroading

FRCA Position

FRCA supports legislation that would examine how certain rail carrier operating practices, such as Precision Scheduled Railroading (PSR), are impacting freight rail shippers including their effect on demurrage and accessorial charges and overall service problems.

Issue Background

PSR is a railroad operating strategy that uses departure schedules and point-to-point delivery methods to achieve low operating ratios and consolidate railroad networks. PSR, initiated by the late Hunter Harrison, has grown in popularity and is being implemented by Canadian National Railway (CN), Canadian Pacific Railway Limited (CP), CSX Corporation, Norfolk Southern Corporation (NS), and Union Pacific Corporation (UP). BNSF has not adopted it formally, but may still be incorporating some aspects.

Freight rail shippers, notably rail-dependent shippers, continue to experience a wide array of service problems and increased costs ranging from missed switches, late deliveries, wrong cars being delivered, double stacking of cars, crew shortages, and unexpected and/or increased demurrage and accessorial charges.

During the last 116th Congress, the Surface Transportation Board (STB) and Capitol Hill began shedding a spotlight on the impacts of PSR especially in response to continued shipper community stated service and rate problems or concerns.

Actions

✓ Surface Transportation Board

On April 7, 2021, FRCA issued a statement thanking the Board for issuing its Final Rule in Docket No. EP 759, *Demurrage Billing Requirements*. This Final Rule reflects various recommendations put forth by FRCA during the proceeding process. Read FRCA's statement [here](#).

On April 6, 2021, the Board adopted a Final Rule Docket No. EP 759, *Demurrage Billing Requirements*, requiring Class I carriers to include certain minimum information on or with demurrage invoices, and to provide machine-readable access to the minimum information. This Final rule is effective on October 6, 2021 and can be [read here](#).

On May 14, 2020 FRCA issued its response to the STB Decisions re: 1) Final Statement of Board Policy in Docket No. EP 757, *Policy Statement on Demurrage and Accessorial Rules and Charges*; 2) Final Rule in Docket No. EP 759, *Demurrage Billing Requirements*; and, 3) Supplemental Notice of Proposed Rulemaking (SNPR) in Docket No. EP 759, *Demurrage Billing Requirements*. [FRCA's response can be read here](#).

On April 30, 2020, the Board issued its new demurrage policy in Document No. EP 757, (Proposed) *Policy Statement on Demurrage and Accessorial Rules and Charges*.

On November 6, 2019, FRCA submitted comments in response to three proceedings issued by the STB on October 7, 2019: Document No. EP 757, (Proposed) *Policy Statement on Demurrage and Accessorial Rules and*

Charges, Document No. EP 759, [Notice of Proposed Rulemaking (NPM)] *Demurrage Billing Requirements*, and Document No. EP 760, (Notice of Proposed Rulemaking) *Exclusion of Demurrage Regulations from Certain Class Exemptions*. All of these dockets can be accessed [here](#). FRCA’s comments can be read [here](#).

Previously on May 24, 2019, the STB held a hearing, Ex Parte No. 754, *Oversight Hearing on Demurrage and Accessorial Charges*. This docket can be found [here](#). FRCA testified during this hearing and relayed the problems being experienced by some of its members, including:

- Being charged separately for additional amounts that were previously encompassed in the line-haul transportation.
- Substantial disruption and deterioration in service.
- There is an absence of fundamental fairness and basic reciprocity between shippers and railroads in the PSR world. Shippers are punished financially for not being able to receive a return train at the appointed time, or for taking too long to receive or unload a railcar. In contrast, railroads enjoy free rein to supply reduced and inconsistent service, without any monetary consequences, other than the lower operating ratios that appear to be their governing objective.

In addition, FRCA suggested recommendations for the Board to consider including:

- Rail carriers should not be allowed to establish new charges for services that were previously provided as part of the regular line-haul rate services, at least not without a showing that the line-haul rates have been reduced commensurately.
- Rail carriers should not be allowed to use demurrage and accessorial charges as a profit center.
- The principle of reciprocity should apply to rail carriers.
- Adopting the approach that the Federal Energy Regulatory Commission requires of jurisdictional public utilities and natural gas pipelines.

FRCA’s written submitted testimony can be read [here](#).

✓ U.S. Congress

- House: On May 13, 2021, at the request of FRCA, House T&I Committee Chairman Peter DeFazio (D-OR-4) and Railroad, Pipelines, and Hazardous Materials Subcommittee Chairman Donald Payne (D-NJ-10) sent a letter to the GAO asking for a study on the impacts of PSR. Such a study has been advocated by FRCA to help identify and realize necessary Federal policy decisions moving forward to the benefit of all stakeholders.

This study is to examine: (1) the impacts of the operation of longer trains; (2) safety impacts of reduction in workforce, including occupational injury rates, impacts to inspection frequencies and repair quality, and changes in workforce demands; (3) the elimination or downsizing of yards, repair facilities, and other operational facilities; (4) increases in demurrage or accessorial charges or other costs to shippers; (5) capital expenditures for rail infrastructure; and, (6) the effect of changes to dispatching practices and locations of dispatching centers on— (A) the on-time performance of passenger trains, and (B) the quality and reliability of service to freight shippers.

Not later than 1 year after the date of enactment of this Act, the GAO would have been required to submit to the House Transportation and Infrastructure (T&I) Committee and the Senate

Commerce, Science, and Transportation (Commerce) Committee a report summarizing the study and the results of such study, including recommendations for addressing any negative impacts of precision scheduled railroading on freight shippers or passenger railroads.

The study request letter and accompanying T&I Committee press release can be [read here](#).

On June 25, 2019, FRCA participated in a House Railroad, Pipeline and Hazardous Materials Subcommittee Railroad Shipper's Roundtable. As relayed during the STB *Oversight Hearing on Demurrage and Accessorial Charges* a month earlier, FRCA again discussed problems being experienced by several FRCA members as a result of PSR.

FRCA's informal oral remarks can be read [here](#).

- Senate: On June 16, 2021, Senator Tammy Baldwin (D-WI) offered and then withdrew her draft ***Rail Shipper Fairness Act of 2021*** as an amendment to the [Surface Transportation Investment Act](#), S. 2016, during Senate Commerce, Science, and Transportation Committee consideration. Among the draft amendment's several provisions, is a provision that would have required the Board to initiate a rulemaking to provide standards or guidance to improve rail service and equitable relief to affected shippers.

Senator Baldwin is also a supporter of the GAO study request on PSR as requested by House Chairmen DeFazio and Payne.

Status

Although it is not known at the current time when the GAO will officially begin this PSR study, FRCA understands that the GAO has responded formally to House Chairmen DeFazio and Payne on their joint request.

FRCA understands that Senator Baldwin is continuing to find other legislative avenues to advance her draft ***Rail Shipper Fairness Act of 2021***, especially considering the [STB Reauthorization Act of 2015](#) expired on September 30, 2020.