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Tealinc Touchbase Newsletter – November 2019

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Offering freight assistance on our bulkhead flatcars!

Demurrage – history, current application and STB investigation

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Contact Kristen Kempson

kristen@tealinc.com | (708) 854-6307 | webmail@tealinc.com

The Edge with Darell Luther



I find the discussion of demurrage interesting. It's one of the few programs that rely heavily on data sets that are generally 80% accurate (my guess from experience) by only taking into account the results of reporting versus the cause of that reporting.

I entered the rail industry in the late 1980's a couple of years after Staggers was implemented. I remember at that time demurrage was specifically a challenge. The biggest challenge was (and still is) measurement of cause and effect on how and why demurrage did or didn't apply to a specific situation. Understandably at that time the railroads systems were not adequate to accurately measure the various placement and release codes required to determine compliance or non-compliance with demurrage rules. Today those systems are

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“Demurrage is a charge that both compensates rail carriers for the expense incurred when rail cars are detained beyond a specified period of time (i.e., “free time”) for loading and unloading and serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network”

much better but still can’t measure or identify the cause and effect or where the exact blame lies for the delay. We all want efficient operations whether it be in an originating location shipping product out or a receiving location taking product in.

Demurrage is a constant struggle for shippers, receivers and warehousemen to manage especially in the new PSR operating model being implemented across most Class I and Class II railroad networks in the US and Canada. By STB definition: “Demurrage is a charge that both compensates rail carriers for the expense incurred when rail cars are detained beyond a specified period of time (i.e., “free time”) for loading and unloading and serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network”.

A little history. Demurrage and accessorial charges actually came into being in 1910 via the uniform code of demurrage rules and charges. Throughout history there’s been challenges to the rules and charges. In fact Chrysler Corp challenged New York Central Railroad over demurrage rules and application of those rules in 1939 (234 ICC 755, 759-760). The uniform code offered shippers two options for demurrage straight time and average time. Saturdays, Sundays and holidays were generally excluded and shippers received 48 hours for loading or unloading.

In 1975 railroads convinced the Interstate Commerce Commission (“ICC” – predecessor to the STB) to lower free time for loading to 24 hours under the premise that it would increase railcar asset utilization and not be an undue burden on shippers. In 1976 the Rail Reform and Regulatory Act (“4-R Act”) was put in place requiring that demurrage charges be computed in such a manner to as to fulfill specific national needs and the ICC regulate such charges. Along came the Staggers Act in 1985. Here’s how the timeline played out.

Following enactment of the 4-R Act and the Staggers Act, the ICC in 1985 allowed

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Following enactment of the Staggers Act, the ICC allowed rail carriers to establish individualized demurrage and storage rules and charges that were based on market forces but still generally subject to the statutory requirements for reasonableness

In the new Precision Scheduled Railroading (PSR) world, demurrage is only going to get more intense

rail carriers to establish individualized demurrage and storage rules and charges that were based on market forces but still generally subject to the statutory requirements for reasonableness under 49 U.S.C. § 10702 and demurrage under what is now 49 U.S.C. § 10746. Railroads Per Diem, Mileage, Demurrage & Storage Agreement, 1 I.C.C.2d 924, 934 (1985) (finding that “the need for uniform demurrage and storage charges has been overstated” and that “a free market approach to such charges will more effectively foster the goals of the national transportation policy”). Later that year, the ICC sought comment in Exemption of Demurrage from Regulation, Docket No. EP 462, on whether action should be taken under former 49 U.S.C. § 10505 (current 49 U.S.C. § 10502) to reduce or eliminate the regulation of demurrage. In 1996, the Board ultimately determined not to take further deregulatory action on demurrage, concluding that “exemption could result in shippers paying unreasonable charges for detention that they did not cause. Thus, there is the potential with such an exemption for an abuse of market power.”

In the new Precision Scheduled Railroading (PSR) world, demurrage is only going to get more intense. From train building delays for holding railcars to building trains before shipment. In one case railcars are held waiting to build a train and in the other case railcars are released to a local yard and instead of going on the original train pre-PSR days they are put on the same held train getting to destination before the logistics schedule anticipated causing bunching at the destination.

The regulation of these metrics and product flows at the exact origin and exact destination are challenging. It’s good news that the Surface Transportation Board (STB) is open minded and provides oversight to the process. The STB is giving the rail shipping community an opportunity to comment on evaluating the reasonableness of demurrage and accessorial rules and charges (Docket Number

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Through the proposed policy statement the STB is trying to facilitate more effective negotiations and problem solving between shippers et al and railroads

Demurrage issues?

Contact Darell Luther:
darell@tealinc.com
(406) 347-5301

EP 757). Comments are due November 6, 2019 and reply comments are due December 6, 2019. [Click here](#) for the actual document.

The policy statement proposed by the STB focuses on measuring the reasonableness of demurrage and accessorial tariffs and charges. The STB is looking for and has found several companies providing initial input. In fact in the initial May 22, 2019 hearing (EP 754) the STB received over 90 pre-hearing submissions from interested parties; heard testimony over a two-day period from 12 panels composed of, collectively, over 50 participants; and received 36 post-hearing comments.

Through the proposed policy statement the STB is trying to facilitate more effective negotiations and problem solving between shippers et al and railroads. The STB also recognizes that individual railroads have different operating environments and therefore a standard demurrage and accessorial program across railroads is not feasible.

If you're having demurrage issues give us a call. We have the tools and knowledge required to help you better manage your operations to minimize demurrage issues.

The STB is still reviewing the demurrage and accessorial issues and you have a chance to watch and participate. Important and encouraging comments by the STB have been issued. [Contact Darell Luther directly to learn more.](#)

Darell Luther is the founder and CEO of Tealinc, Ltd. You may contact Darell directly in his office at (406) 347-5237 or via email at darell@tealinc.com.

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Railroad Safety: The importance of instilling a Blue Flag Policy at your industry

Within the railroad industry blue flags are used by railcar maintenance workers to indicate then they are working on or near rail equipment feet in front of the equipment that will be worked on

Mechanical Brief with Dan Madden



Safety in any industry is critical and in the rail industry, safety is paramount. To ensure everyone’s safety, any time people are working on, under or around railcars a positive protection plan should be utilized. To that end, this month I want to explain what a blue flag is and stress to you the importance of instilling a Blue Flag Policy at your industry.

A “Blue Flag” for our purposes today is a portable clamp type staff with a blue sign attached to it that says “STOP CAR CONNECTED” OR “STOP MEN AT WORK” painted on both sides of the sign. The blue metal sign is generally about 12 by 18 inches in size and may be accompanied by (or in the instance of darkness, be replaced by) a steady burning light or flashing blue light. The clamp is made to attach to the head of the rail. The sign should be mounted onto a device that will display the sign at least 5ft above the rail so it is clearly visible. When positioning the flag in-between the tracks, the sign should be placed at least 50 feet in front of the equipment that will be worked on. Always make sure that there are signs on both end of the tracks to ensure both ends are identified as personal are working on, around or under rolling stock.



Within the railroad industry blue flags are used by railcar maintenance workers to

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In general, most Blue Flag Policies dictate that once a blue flag is put into place no work can be done on those tracks unless such work is completed by the personnel who put the blue flags in place. Additionally, no rolling stock is allowed to enter or exit those tracks when a blue flag is in place

indicate then they are working on or near rail equipment. When in use the track is locked at both ends to prevent equipment from gaining access to the track. Since I travel all over the country and generally by plane, I don't generally carry a blue flag with me. Instead, I contact the right people operating the piece of track and/or who own the property I'm visiting to ensure that they understand I will be working in the area and be able to provide the proper protection and blue flag once I'm on-site. Additionally, I find it important to acquaint myself with the tracks Blue Flag Policy when possible.

In general, most Blue Flag Policies dictate that once a blue flag is put into place no work can be done on those tracks unless such work is completed by the personnel who put the blue flags in place. Additionally, no rolling stock is allowed to enter or exit those tracks when a blue flag is in place. If possible, the tracks that personnel are working should be locked out as well. The tracks should be locked out at a switching point and the switch position should be moved to align to another track to help avoid any rolling equipment from entering the track the maintenance personnel is working on.

When using blue flags there are some key tips to remember.

- Keep blue flags clean on both sides with the paint in good condition so they are clearly visible
- Keep switches lined away from the protected track and locked with a special lock to prevent access
- Do not display them between adjacent railcars which can block them from view of other employees.
- Flags are to be displayed between the rails and not on the equipment
- Develop safety procedures for flag protection and removal
- High visibility blue lights should be used along with the flags when possible during evenings or in bad weather

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Violations of blue flag protection is one of the most serious rule infractions railroad personnel can commit.

Need help writing a Blue Flag Policy?

Contact Dan Madden:
dan@tealinc.com
(541) 915-8981

It appears we're still in a freight recession

For the first 43 weeks of 2019, U.S. railroads reported cumulative volume down 4.2%

- Blue flags can only be removed but the customer who installed them and none is allowed to remove a blue flag that is put into place to protect workers

When you choose to use blue flags on your property be sure you have a clear written procedure pertaining to its use. Always refer to local and government requirements in your region.

Violations of blue flag protection is one of the most serious rule infractions railroad personnel can commit. Blue flag protection exists to give personnel the confidence they are safe and can work around rolling stock without the fear rolling stock injuring them. Safety is everyone's responsibility. Always protect yourself and your team and look out for one another. If you need help writing a Blue Flag Policy, let us know. We can write the policy, provide on-site training and help your team implement this very important safety procedure.

Dan Madden is the Manager Value Creation-Operations for Tealinc, Ltd. You may contact Dan directly in his office at (541) 915-8981 or via email at dan@tealinc.com.

Railroad Traffic

It appears we're still in a freight recession, as total carloads for the week ended Oct. 26 were 243,321 carloads, down 9.4% compared with the same week in 2018, while U.S. weekly intermodal volume was 269,826 containers and trailers, down 8.3% compared to 2018.

None of the 10 carload commodity groups posted an increase compared with the same week in 2018. Commodity groups that posted decreases compared with the same week in 2018 included commodities such as coal, down 14,797 carloads, to 73,184; grain, down 2,152 carloads, to 21,135; and metallic ores and metals, down

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For the first 43 weeks of 2019, Canadian railroads reported cumulative rail traffic volume up 0.7%

Cumulative volume on Mexican railroads for the first 43 weeks of 2019 was down 2.8% from the same point last year

2,064 carloads, to 21,291.

For the first 43 weeks of 2019, U.S. railroads reported cumulative volume of 10,843,404 carloads, down 4.2% from the same point last year; and 11,457,177 intermodal units, down 4.4% from last year. Total combined U.S. traffic for the first 43 weeks of 2019 was 22,300,581 carloads and intermodal units, a decrease of 4.3% compared to last year.

North American rail volume for the week ended Oct. 26, 2019, on 12 reporting U.S., Canadian and Mexican railroads totaled 344,796 carloads, down 8.6% compared with the same week last year, and 360,303 intermodal units, down 7.3% compared with last year. Total combined weekly rail traffic in North America was 705,099 carloads and intermodal units, down 8%. North American rail volume for the first 43 weeks of 2019 was 30,449,640 carloads and intermodal units, down 3.2% compared with 2018.

Canadian railroads reported 81,902 carloads for the week, down 7.9%, and 71,105 intermodal units, down 3.6% compared with the same week in 2018. For the first 43 weeks of 2019, Canadian railroads reported cumulative rail traffic volume of 6,523,922 carloads, containers and trailers, up 0.7%.

Mexican railroads reported 19,573 carloads for the week, down 1.1% compared with the same week last year, and 19,372 intermodal units, down 5.6%. Cumulative volume on Mexican railroads for the first 43 weeks of 2019 was 1,625,137 carloads and intermodal containers and trailers, down 2.8% from the same point last year.

Learn more at:

https://www.railwayage.com/freight/class-i/aar-u-s-traffic-not-improving/?utm_source=&utm_medium=email&utm_campaign=10113

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Slower growth but no recession near, predicts latest cement industry forecast

“Public construction continues to receive the benefit of the 2018 federal budget that allowed for \$20 billion in spending on roads, bridges, water and rail projects over 2018 and 2019...”

Have or need railcars for cement shipments?

Contact Kristen
kristen@tealinc.com
(708) 854-6307

Industrial Inside

Cement consumption – and the overall U.S. economy – is expected to continue to grow through 2021 but at a slowing pace. That’s the most recent forecast from the Portland Cement Association. Though the U.S. economy will gradually weaken during that time, PCA says it does not see any indicators that a recession is near. PCA cites the growing labor market, mild inflation and rising home prices as signs that the longest expansion in U.S. history is dwindling.

“Some of the pent-up demand zip that invigorates the initial stages of economic recovery are long past,” says PCA Senior Vice President and Chief Economist Ed Sullivan. “As such, the economy is now more vulnerable to economic shocks. “While PCA does not believe data revealed by the economy suggests a recession is near, it does point to a gradually weakening economy.”

The cement industry will follow a similar model to the overall economy, with slower increases in consumption over the next three years. PCA predicts this year will end with a 2.4 percent increase in cement consumption in the United States, 1.7 percent next year and 1.4 percent in 2021. The association’s forecast for GDP, a measure of the overall economy, is 2.4 percent this year, 2.1 percent next year and 1.7 percent in 2021.

“Public construction continues to receive the benefit of the 2018 federal budget that allowed for \$20 billion in spending on roads, bridges, water and rail projects over 2018 and 2019,” Sullivan says. “These gains come in the context of increased challenges at the state level to manage deficits as entitlement spending growth continues at a strong pace.”

Read the entire article at:

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<https://www.equipmentworld.com/slower-growth-but-no-recession-near-predicts-latest-cement-industry-forecast/>

Financial Focus

The Federal Reserve cut interest rates by a quarter percentage point Wednesday [October 30, 2019] in an effort to support an economy that continues to tap the brakes.

In announcing the move, Fed Chairman Jerome Powell pointed to weak business investment, which has been a drag on the economy, even as consumer spending has held up relatively well.

"We took this step to help keep the U.S. economy strong in the face of global developments and to provide some insurance against ongoing risks," he said. This is the Fed's third interest rate cut since July, and it brings the federal funds rate target down to a range of 1.5% to 1.75%. Falling interest rates have contributed to a modest rebound in the housing market and big-ticket consumer purchases. But they've done little so far to boost business investment.

Powell suggested a pickup in global demand and a resolution of trade tensions would do more to encourage business spending. "I think interest rates are a factor in business investment, but I don't believe they're the main factor," he said.

The central bank kept its options open for its next rate-setting meeting in December, saying officials would continue to monitor economic developments. Language promising to "act as appropriate to sustain the expansion" was dropped from the Fed's statement, suggesting officials may not anticipate a need for a fourth rate cut later this year. But Powell left the door open to one, if the economy weakens further.

"Of course, if developments emerge that cause a material reassessment of our

Fed cuts rates again to boost a slowing economy

Falling interest rates have contributed to a modest rebound in the housing market and big-ticket consumer purchases. But they've done little so far to boost business investment

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**OT-5 will be deleted.
A new circular, OT-57,
will be published with
new requirements**

**OT-5 Registrations
should continue until
the new process is in
place. In January 2020,
the existing system
will stop accepting**

outlook, we would respond accordingly," Powell said. "Policy is not on a preset course."

Learn more at:

<https://www.npr.org/2019/10/30/774700678/fed-cuts-rates-again-to-boost-a-slowing-economy>

Railroad & Policy Updates

The Loading Authority portions of AAR Circular OT-5 will be deleted. A new Circular, OT-57, will be published with new requirements. Circular OT-57 will describe a streamlined private car registration process.

Railinc is currently developing this new system with the help of the North America Freight Car Association (NAFCA) and the Association of American Railroads (AAR).

- Railroads will no longer approve private cars for loading
- Mechanical data will not be reviewed as part of the registration process
- Commodity information will no longer be required
- Loading point information will no longer be required
- Management tools will be included that will make managing fleets in the new system much easier

The following information will be required in the new system:

- Contact Name, Number and E-mail (registered in FindUs.Rail)
- Storage location(s) (Delivering railroad, FSAC, SPLC, CIF)
- Car initial and number (Uploaded via CSV or entered manually)

OT-5 Registrations should continue until the new process is in place. In January 2020, the existing system will stop accepting new information. Users will be

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new information.

Need help with OT-5, OT-57 or FindUs.Rail?

Contact Shannon:
shannon@tealinc.com
(814) 631-9277

directed to the new process. When the new system is ready, private cars will need to be registered in the new system. Notification will be sent to users of the current system when the new system is ready to accept registrations. Implementation of the new system is anticipated to be in early 2020. Preliminary steps can be taken now.

Need help with the process? Shannon Rodgers is Customer Support & Development Specialist for Tealinc, Ltd. You may contact Shannon directly in her office at (814) 631-9277 or via email at shannon@tealinc.com.

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