

Surface Transportation Board

§ 1333.3

agreements entered into by the U.S. Postal Service with any common carrier by rail or motor vehicle (including passenger-carrying vehicle), or freight forwarder, express company, or other person, for the surface transportation of mail as authorized by Chapters 50 and 52 of Title 39, United States Code, as revised and reenacted by the Postal Reorganization Act, 84 Stat. 719, 39 U.S.C. 5001 and 5201.

[36 FR 6426, Apr. 3, 1971]

§ 1332.2 Availability of contracts.

Upon request from any member of the public to inspect a contract(s) or agreement(s) described in § 1332.1, at any time between the effective date of such contract(s) or agreement(s) and 15 days prior thereto, the Board will obtain the requested contract(s) or agreement(s) from the U.S. Postal Service and make it (them) available for inspection.

[57 FR 23539, June 4, 1992]

§ 1332.3 Manner of submitting contracts.

The U.S. Postal Service will submit to the Board, upon request, a copy of the requested contract(s) or agreement(s). Such contract(s) or agreement(s) will be submitted by facsimile transmission or messenger service where feasible, and, where such services are not feasible, by the fastest available mail service.

[57 FR 23539, June 4, 1992]

PART 1333—DEMURRAGE LIABILITY

Sec.

1333.1 Demurrage defined.

1333.2 Who may charge demurrage and who may enter into contracts pertaining to demurrage.

1333.3 Who is subject to demurrage.

AUTHORITY: 49 U.S.C. 1321, 10702, and 10746.

SOURCE: 79 FR 21412, Apr. 16, 2014, unless otherwise noted.

§ 1333.1 Demurrage defined.

Demurrage is a charge that both compensates rail carriers for the expenses incurred when rail cars are detained beyond a specified period of time (i.e., free time) for loading or unloading, and

serves as a penalty for undue car detention to encourage the efficient use of rail cars in the rail network.

§ 1333.2 Who may charge demurrage and who may enter into contracts pertaining to demurrage.

A serving carrier and its customers (including those to which it delivers rail cars at origin or destination) may enter into contracts pertaining to demurrage. Additionally, a third-party intermediary may enter into contracts with a shipper (or consignee) that the shipper (or consignee) shall be billed for demurrage pursuant to section 1333.3(b). However, in the absence of such contracts, demurrage will be governed by the demurrage tariff of the serving carrier.

[85 FR 26865, May 6, 2020]

§ 1333.3 Who is subject to demurrage.

(a) Any person receiving rail cars from a rail carrier for loading or unloading who detains the cars beyond the period of free time set forth in the governing demurrage tariff may be held liable for demurrage if the carrier has provided that person with actual notice of the demurrage tariff providing for such liability prior to the placement of the rail cars. The notice required by this section shall be in written or electronic form.

(b) If the rail cars are delivered to a third-party intermediary that has reached an agreement with a shipper (or consignee) that the shipper (or consignee) shall be billed for demurrage, then the serving Class I carrier shall, after being jointly notified of the agreement by the shipper (or consignee) and third-party intermediary, bill the shipper (or consignee) for demurrage charges without requiring the third-party intermediary to act as a guarantor, unless and until a party to the agreement notifies both the serving Class I carrier and the other party to the agreement that the agreement is no longer in force. Pursuant to this paragraph, the shipper (or consignee) shall be liable to the Class I carrier for demurrage but shall not be prohibited from seeking payment from the third-party intermediary for demurrage charges for which the third-party intermediary is responsible pursuant to

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an agreement between the shipper (or consignee) and the third-party intermediary. The joint notice required by this paragraph may be provided in hard copy or electronic form, and must contain the contact information for the shipper (or consignee) who has agreed to be billed (and liable to the Class I carrier) for demurrage and provide the date upon which the Class I carrier is to begin billing the shipper (or consignee) for demurrage (no earlier than 20 days after the notice is provided). With respect to Class I carriers' obligations for direct billing, a statement from one party that the agreement has been terminated is sufficient to end the

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direct-billing requirement, regardless of any disputes as to the sufficiency of the termination under the terms of the specific agreement between the shipper (or consignee) and third-party intermediary.

[79 FR 21412, Apr. 16, 2014, as amended at 85 FR 26865, May 6, 2020]

PARTS 1334–1399 [RESERVED]

CHAPTER XI—RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION [RESERVED]