

## 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

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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-

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party intermediary for demurrage charges for which the third-party intermediary is responsible pursuant to 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 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]

#### § 1333.4 Information Requirements for Demurrage Invoices

The following information shall be provided on or with any demurrage invoices issued by Class I carriers:

- (a) The billing cycle covered by the invoice;
- (b) The unique identifying information (*e.g.*, reporting marks and number) of each car involved;
- (c) The following information, where applicable:
  - (1) The date the waybill was created;
  - (2) The status of each car as loaded or empty;
  - (3) The commodity being shipped (if the car is loaded);
  - (4) The identity of the shipper, consignee, and/or care-of party, as applicable; and

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(5) The origin station and state of the shipment;

(d) The dates and times of:

(1) Original estimated arrival of each car, as generated promptly following interchange or release of shipment to the invoicing carrier and as based on the first movement of the invoicing carrier;

(2) Receipt of each car at the last interchange with the invoicing carrier (if applicable);

(3) Actual placement of each car;

(4) Constructive placement of each car (if applicable and different from actual placement);

(5) Notification of constructive placement to the shipper or third-party intermediary (if applicable);

(6) Each car ordered in (if applicable) (*i.e.*, the date and time demurrage first stops accruing with respect to a closed-gate facility);

(7) release of each car; and

(e) The number of credits and debits attributable to each car (if applicable).

[86 FR 17750, Apr. 6, 2021]

#### § 1333.5 Machine-Readable Access to Information Required for Demurrage Invoices

In addition to providing the minimum information on or with demurrage invoices, Class I carriers shall provide machine-readable access to the information listed in § 1333.4. For purposes of this part, 'machine-readable' means data in an open format that can be easily processed by computer without human intervention while ensuring no semantic meaning is lost. An 'open format' is a format that is not limited to a specific software program and not subject to restrictions on re-use.

[86 FR 17750, Apr. 6, 2021]

#### PARTS 1334–1399 [RESERVED]

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