



SURFACE TRANSPORTATION BOARD

FOR RELEASE

10/07/2019 (Monday)
No. 19-14
www.stb.gov

Contact: Janie Sheng
202-245-0221
FedRelay 1-800-877-8339

SURFACE TRANSPORTATION BOARD ISSUES DECISIONS RELATED TO DEMURRAGE RULES AND CHARGES

The Surface Transportation Board today announced that it is issuing a series of decisions on demurrage and accessorial rules and charges, continuing its efforts to improve dispute resolution processes, promote transparency, and make the agency more accessible. Informed by the agency's two-day public hearing with over 50 participants, the Board is issuing three decisions: (1) a proposed policy statement to facilitate more effective problem solving between railroads, shippers, and receivers by providing information on principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges; (2) a proposed rule to enhance the transparency and accuracy of demurrage invoices; and (3) a proposed rule to make unambiguous that the regulation of demurrage is not excluded for exempt miscellaneous commodities and boxcar transportation, and to treat the exemption for certain agricultural commodities similarly.

The Board is issuing these three decisions concurrently to address matters arising from the Board's May 2019 two-day public hearing on railroad demurrage and accessorial charges, Oversight Hearing on Demurrage and Accessorial Charges, Docket No. EP 754. The hearing was held in response to significant recent changes in demurrage and accessorial rules and charges implemented by several Class I railroads, which the Board was actively monitoring. The Board received over 90 pre-hearing submissions from stakeholders; heard testimony from 12 panels; and received 36 post-hearing comments. In testimony and in written comments, shippers, receivers, and others expressed concern about the commercial fairness, reciprocity, and feasibility of the recent changes to demurrage and accessorial rules and charges being implemented by the Class I railroads.

Today's proposed policy statement, Policy Statement on Demurrage and Accessorial Rules and Charges, Docket No. EP 757, provides information on principles the Board would consider in evaluating the reasonableness of demurrage and accessorial rules and charges. The proposed policy statement addresses a number of key areas of concern raised during the hearing, including free time, bunching, overlapping charges, invoicing and dispute resolution, credits, notice of major tariff changes, and warehouseman liability. With the proposed policy statement, the Board expects to facilitate more effective problem solving between railroads, shippers, and receivers; to help prevent unnecessary future issues; and when disputes arise, to help resolve them more efficiently and cost-effectively.

The Board also is issuing a proposed rule, Demurrage Billing Requirements, Docket No. EP 759 (Demurrage Billing NPRM), to enhance the transparency and accuracy of demurrage invoices by requiring Class I railroads to include on or with those invoices specific, minimum information that would assist shippers and receivers in verifying charges, determining who is responsible for delays, and evaluating whether and how they can expedite their handling of cars. The Board also proposes a requirement that Class I railroads send demurrage invoices directly to the shipper, instead of the warehouseman, if the shipper and warehouseman agree to such an arrangement and so notify the railroad.

In its third decision, Exclusion of Demurrage Regulation from Certain Class Exemptions, Docket No. EP 760 (Exclusion of Demurrage NPRM), the Board proposes to clarify its regulations governing exemptions for certain miscellaneous commodities, such as paper products and steel scrap, and boxcar transportation to ensure that they clearly reflect longstanding court and agency rulings that these exemptions do not apply to the regulation of demurrage. The Board also proposes to make the exemption for certain agricultural commodities consistent with those exemptions by revoking, in part, the exemption that currently covers certain agricultural commodities so that the exemption does not apply to the regulation of demurrage.

Comments on the proposed policy statement, the Demurrage Billing NPRM, and the Exclusion of Demurrage NPRM are due by November 6, 2019, and replies are due by December 6, 2019.

The Board's decision in Policy Statement on Demurrage and Accessorial Rules and Charges, Docket No. EP 757, may be viewed and downloaded [here](#). The Board's decision in Demurrage Billing Requirements, Docket No. EP 759, may be viewed and downloaded [here](#), and the decision in Exclusion of Demurrage Regulation from Certain Class Exemptions, Docket No. EP 760, may be viewed and downloaded [here](#).

POSTED: 10/07/2019 10:37 AM