

SUBCHAPTER D—CARRIER RATES AND SERVICE TERMS

PART 1300—DISCLOSURE, PUBLICATION, AND NOTICE OF CHANGE OF RATES AND OTHER SERVICE TERMS FOR RAIL COMMON CARRIAGE

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§ 1300.1 Scope; definitions.

(a) The provisions of this part address the requirements imposed on rail carriers by 49 U.S.C. 11101(b), 11101(c), 11101(d) and 11101(f).

(b) Except as otherwise provided in this section, the provisions of this part apply to any common carriage transportation or service provided by a rail carrier subject to the jurisdiction of the Surface Transportation Board under 49 U.S.C. 10501.

(c) The provisions of this part do not apply to any transportation or service provided by a rail carrier under a contract authorized under 49 U.S.C. 10709 or former 49 U.S.C. 10713 (repealed effective January 1, 1996).

(d) The provisions of this part do not apply to any transportation or service provided by a rail carrier to the extent that such transportation or service is exempted from rate notice and disclosure requirements pursuant to an exemption issued under 49 U.S.C. 10502 or former 49 U.S.C. 10505 (repealed effective January 1, 1996).

(e) For the purposes of this part, “service terms” means all classifications, rules, and practices that affect the rates, charges, or level of service for rail transportation.

§ 1300.2 Disclosure requirement for existing rates.

(a) A rail carrier must disclose to any person, upon formal request, the specific rate(s) requested (or the basis for calculating the specific rate(s)), as well as all charges and service terms that may be applicable to transportation covered by the rate(s). For purposes of § 1300.4(a)(1) of this part, a formal request under this part is one that clearly notifies the railroad that the requester seeks not only immediate information but also notification of any future increases in the rate(s) involved or changes in pertinent service terms.

(b) The information provided by a rail carrier under this section must be provided immediately. (It is expected that the response will be sent within hours, or at least by the next business day, in most situations.) Such information may be provided either in written or electronic form as agreed to by the parties. If the parties cannot agree, such information is to be provided in electronic (non-passive) form where both parties have the requisite capabilities; otherwise, it is to be provided in writing.

(c) A rail carrier may, at its option, require that all requests submitted under this section be in written or electronic form, although the carrier may permit oral requests.

§ 1300.3 Response to request for establishment of a new rate.

Where a shipper or a prospective shipper or person acting on behalf of a shipper or a prospective shipper requests that the carrier establish a rate in the absence of an existing rate for particular transportation, the carrier must promptly establish and provide to the requester a rate and applicable service terms. The information may be provided either in written or electronic form, as agreed to by the parties. If the parties cannot agree, such information is to be provided in electronic (non-passive) form where both parties have the requisite capabilities; otherwise, it is to be provided in writing. The response

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should be provided as soon as reasonably possible, but no later than 10 business days from receipt of the request. If a carrier determines that additional information is required from the requester before a rate or term can be established, the carrier must so notify the requester as soon as possible, but no later than 10 business days after receipt of the request. Once the additional information is received, the carrier must set the rate and related service terms, and relay them to the requester, as soon as reasonably possible, but no later than 10 business days from the receipt of the additional information. (However, the parties may agree to a different time period, in which case these time periods would not apply.) A rail carrier may, at its option, require that requests submitted under this section be in written or electronic form, although the carrier may permit oral requests.

§ 1300.4 Notice requirement.

(a) A rail carrier may not increase any rates or charges, or change any service terms (except for changes that are equivalent to rate reductions), unless 20 days have expired after written or electronic notice has been provided to all persons who, within the previous 12 months:

(1) Have formally requested under §§ 1300.2 or 1300.3 of this part the affected rates or service terms; or

(2) Have made arrangements with the carrier for a future shipment that would be subject to the increased rates or changed service terms.

(b) The notice required by this section may be in written or electronic form, as agreed to by the parties. If the parties cannot agree, the information is to be provided in electronic (non-passive) form where both parties have the requisite capabilities; otherwise, it is to be provided in writing.

(c) For purposes of this section, a mailed notice is deemed "provided" on the date such notice is postmarked.

(d) The notice required by this section must clearly identify the increases in rates or charges or the changes in service terms.

§ 1300.5 Additional publication requirement for agricultural products and fertilizer.

(a) With respect to transportation of agricultural products (including grain, as defined in 7 U.S.C. 75, and all products thereof) and fertilizer, a rail carrier shall publish, make available, and retain for public inspection its currently effective rates, schedules of rates, charges, and other service terms, and any scheduled changes to such rates, charges, and service terms. This requirement is in addition to the requirements imposed by §§ 1300.2, 1300.3, and 1300.4 of this part.

(b) The information published under this section must include an accurate description of the services offered to the public; must provide the specific applicable rates (or the basis for calculating the specific applicable rates), charges, and service terms; and must be arranged in a way that allows for the determination of the exact rate, charges, and service terms applicable to any given shipment (or to any given group of shipments). Increases, reductions and other changes must be symbolized or highlighted in some way to facilitate ready identification of the changes, the nature of those changes and their effective dates.

(c) A rail carrier must make the information available at offices where it normally keeps rate information. Access to the information at such offices must be provided to any person, without charge, during normal business hours.

(d) A rail carrier must also make the required publications available to all persons (hereinafter referred to as subscribers) who have subscribed to a publication service operated either by the rail carrier itself or by an agent acting at the rail carrier's direction. Such publications may be made available either in printed or in electronic form as agreed to by the parties. Any scheduled changes must be published in a manner that provides timely notice to subscribers. A rail carrier may impose reasonable charges for such publications. Publications may be limited to the specific information requested by the subscriber, and charges for such limited publications should be set accordingly.