

**§ 1312.16 Substitution of service.**

If a water or motor carrier (hereafter referred to as Carrier A) desires to have the option of substituting the services of a carrier of a different transportation mode (hereafter referred to as Carrier B) for part of its movement of a shipment, it may do so if:

(a) The shipment moves on the bill of lading that would be used if Carrier A were performing the service;

(b) Carrier A assumes the responsibility for the lading while it is in the possession of Carrier B; and

(c) Movement of the lading has been made prior to, or will be made subsequent to, the service performed by Carrier B.

**PART 1313—RAILROAD CONTRACTS FOR THE TRANSPORTATION OF AGRICULTURAL PRODUCTS**

Sec.

1313.1 Scope; definition of terms.

1313.2 Contract summary filing requirement.

1313.3 Board review; contract disapproval.

1313.4 Filing procedures and formats for contract summaries.

1313.5 Contract and contract summary availability.

1313.6 Contract summary for agricultural commodities.

1313.7 Contract summary for grain products—involving a port.

1313.8 Contract summary for grain products—not involving a port.

1313.9 Grounds for complaints and contract review.

1313.10 Procedures for complaints and discovery.

AUTHORITY: 49 U.S.C. 721(a) and 10709.

SOURCE: 61 FR 68669, Dec. 30, 1996, unless otherwise noted.

**§ 1313.1 Scope; definition of terms.**

(a) This part addresses the provisions of 49 U.S.C. 10709 that require rail carriers to file with the Board a summary of each contract for the transportation of agricultural products (including grain, as defined in 7 U.S.C. 75 and products thereof) and that allow complaints to be filed with the Board regarding such contracts.

(b) The provisions of this part do not apply to any transportation that is exempted from the Board's contract regu-

lation pursuant to an exemption issued under 49 U.S.C. 10502 or former 49 U.S.C. 10505 (repealed effective January 1, 1996).

(c) For purposes of this part, the term contract means an agreement, including any amendment thereto, entered into by one or more rail carriers and one or more purchasers of rail services to provide specified transportation of agricultural products (including grain, as defined in 7 U.S.C. 75 and products thereof) under specified rates and conditions. The term amendment includes contract modifications agreed to by the parties.

(d) An amended contract is treated as a new contract under this part. Remedies are revived and review is again available, upon complaint.

**§ 1313.2 Contract summary filing requirement.**

(a) Rail carriers subject to the jurisdiction of the Surface Transportation Board under 49 U.S.C. 10501 must promptly file with the Board a summary of each contract entered into for the transportation of agricultural products.

(b) Contract summaries not in compliance with this part may be rejected by the Board. If a contract summary is rejected, it will be considered as not filed, and the carrier must promptly file a corrected contract summary to replace the rejected summary.

**§ 1313.3 Board review; contract disapproval.**

(a) Board review. (1) No later than 30 days after a contract summary is filed, the Board may, on complaint, begin a proceeding to review such contract on the grounds described in § 1313.9.

(2) If the Board begins a proceeding, it shall determine, within 30 days after the proceeding is commenced, whether the contract is in violation of 49 U.S.C. 10709.

(b) Contract disapproval. If the Board finds that the contract is in violation of 49 U.S.C. 10709, it will:

(1) Disapprove the contract; or

(2) Where the Board finds unreasonable discrimination, in accordance with 49 U.S.C. 10709(g)(2)(B)(i), order the contracting carrier(s) to provide to the complainant(s) rates and service

#### § 1313.4

#### 49 CFR Ch. X (10–1–07 Edition)

substantially similar to those contained in the contract at issue, with such differences in terms and conditions as are justified by the evidence.

(c) *Applicable rates/charges if a contract is disapproved.* If the Board disapproves a contract (or contract amendment), the appropriate non-contract rates/charges (or the contract provisions otherwise in effect) will be applicable.

#### § 1313.4 Filing procedures and formats for contract summaries.

(a) *Filing of Summaries.* (1) Two copies of each contract summary, containing the applicable information specified in §§ 1313.6, 1313.7, or 1313.8, as appropriate, must be filed with the Board as soon as possible, but no longer than 7 days after the date of the contract (or contract amendment).

(2) The outside envelope or wrapper containing one or more contract summaries must be prominently marked "Rail Contract Summary" and addressed to: Tariffs Branch, Surface Transportation Board, Washington, DC 20423.

(3) A transmittal letter identifying the submitted publication(s), and the name and telephone number of a contact person, must accompany each filing of one or more contract summaries. Each transmittal letter shall clearly indicate in the upper left-hand corner thereof:

(i) The assigned alpha code of the filing carrier;

(ii) The number of summaries transmitted;

(iii) The filing fee enclosed, the account number to be billed, or the credit card to be charged;

(iv) The transmittal number if the filer utilizes transmittal numbers; and

(v) If the filing fee is charged to a credit card, the information must include the credit card number and expiration date, and an authorized signature.

(b) *Contract summary title page.* The title page of each contract summary must contain only the following information:

(1) In the upper right corner, the contract summary number (see paragraph (c) of this section), followed by the

amendment number if an amended contract summary.

(2) In the center of the page, the filing carrier's name, followed by the words "CONTRACT SUMMARY" or "AMENDED CONTRACT SUMMARY", as applicable, in large print.

(3) Date of contract and its effective date.

(4) In the center lower portion, the individual submitting the filing, and the name of the individual(s) for service of complaints (if not the same individual). If not otherwise noted, a complainant may rely on service to the individual submitting the filing.

(c) *Contract summary numbering system.* (1) The contract summary identification number must include the word "STB," the standard carrier alphabetic code for the filing railroad (limited to four letters), the letter "C," and a sequential number, with each separated by a hyphen. The following is an example: the 357th contract summary filed by the Conrail would have the following identification number: "STB-CR-C-357."

(2) At its option, the carrier may issue contract summaries with non-consecutive numbers if it assigns blocks of numbers for specific uses. An index to the blocks of reserved numbers shall be filed with the Board.

(d) *Format requirements for contract summary information.* (1) The contract summary must enumerate and have each item required in §§ 1313.6, 1313.7 or 1313.8 of this part, as applicable, completed. When the item does not pertain to the contract, the term "Not Applicable" ("NA") shall be used.

(2) Changes in prior contract summaries must be underscored and must be followed by the words "addition," "deletion," "extension," "cancellation," or other appropriate descriptive phrase in parentheses. If the change to the contract is only in confidential matter, a statement to that effect must be made in the amended contract summary and must indicate the particular feature to which the change applies (i.e., rate, special feature, etc.). If "not applicable" is permitted in the original summary under §§ 1313.6 through 1313.8 of this part, the amended summary may use "not applicable"