

SURFACE TRANSPORTATION BOARD PROPOSES RULE CLARIFYING LIABILITY FOR RAILCAR DEMURRAGE

The Surface Transportation Board announced today that it is proposing a rule providing that any person receiving rail cars that detains those cars beyond specified "free time" may be responsible for paying demurrage charges, so long as that person accepts cars with actual notice of the demurrage terms prior to the cars' delivery.

Demurrage serves two primary functions. First, it compensates railroads for the time their equipment is held out of the transportation network. Second, it penalizes parties for detaining rail cars for too long, thereby encouraging prompt return of cars into the transportation network.

Differences among recent court decisions highlight the need for uniformity on demurrage liability, particularly on the issue of which party—receiver or intermediary—should be liable when an intermediary detains rail cars for too long.

In announcing the proposal, Board Chairman Daniel R. Elliott III said,

"We expect this rule to bring clarity to what has become a murky legal area. It should simplify the roles and responsibilities of all parties in the chain of rail car movements, realigning them with actual industry practices and enhancing efficiency of movements."

The Board's Notice of Proposed Rulemaking in [Demurrage Liability, EP 707](#), is available for viewing and downloading at the Board's website at www.stb.dot.gov.

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