

Surface Transportation Board, DOT

§1133.2

request for this expedited service must be made no less than 5 days before the statement is due to be filed with the Board.

(d) *Copies; service.* In connection with proceedings involving proposals subject to the special procedures in Ex Parte No. MC-82, *New Procedures in Motor Carrier Rev. Proc.* 339 I.C.C. 324, and set forth at 49 CFR part 1139, an original and 10 copies of every protest or reply filed under this section should be furnished for the use of the Board. Except as provided for proposals subject to the special procedures in Ex Parte No. MC-82, the original and 10 copies of each protest, or of each reply filed under this section, must be filed with the Board, and one copy simultaneously must be served upon the publishing carrier or collective ratemaking organization, and upon other persons known by protestant to be interested. These pleadings should be directed to the attention of the Secretary, Surface Transportation Board.

(e) *Reply to protest.* A reply to a protest filed at least 12 days before the effective date of proposed collective action provisions must reach the Board not later than the fourth working day prior to the scheduled effective date of the protested provisions unless otherwise provided. Replies to protests against motor carrier rate bureau proposals subject to Ex Parte No. MC-82 procedures, to be assured of consideration, must reach the Board no later than 14 days before the scheduled effective date of the protested provisions.

§1132.2 Procedures in certain suspension matters.

(a) A petition for reconsideration may be filed by any interested person within 20 days after the date of service of a Board decision which results in an order for:

- (1) Investigation and suspension of collective ratemaking actions, or
- (2) Investigation (without suspension) of collective ratemaking actions.

(b) Any interested person may file and serve a reply to any petition for reconsideration permitted under paragraph (a) of this section within 20 days after the filing of such petition with the Board, but if the facts stated in any such petition disclose a need for

accelerated action, such action may be taken before expiration of the time allowed for reply. In all other respects, such petitions and replies thereto will be governed by the rules of general applicability of the Rules of Practice.

PART 1133—RECOVERY OF DAMAGES

Sec.

1133.1 Freight bill filing requirement under modified procedure.

1133.2 Statement of claimed damages based on Board findings.

AUTHORITY: 49 U.S.C. 721.

SOURCE: 47 FR 49575, Nov. 1, 1982, unless otherwise noted.

§1133.1 Freight bill filing requirement under modified procedure.

If, under modified procedure (for general rules governing modified procedure, see part 1112), an award of damages is sought, complainant should submit the paid freight bills or properly certified copies with its statement when there are not more than 10 shipments; if more than 10 shipments are involved, complainant should retain the documents.

§1133.2 Statement of claimed damages based on Board findings.

(a) When the Board finds that damages are due, but that the amount cannot be ascertained upon the record before it, the complainant should immediately prepare a statement showing details of the shipments on which damages are claimed, in accordance with the following form:

Claim of _____ under decision of the Surface Transportation Board in Docket No. _____.

- _____ Date of shipment.
- _____ Date of delivery or tender of delivery.
- _____ Date charges were paid.
- _____ Car (or vessel) initials.
- _____ Car (or voyage) number.
- _____ Origin.
- _____ Destination.
- _____ Route.
- _____ Commodity.
- _____ Weight.
- _____ Rate.
- _____ Amount.
- _____ Rate.
- _____ Amount.

_____ Reparation on basis of Board's decision.

_____ Charges paid by.¹

Claimant hereby certifies that this statement includes claims only on shipments covered by the findings in the docket above described and contains no claim for reparation previously filed with the Board by or on behalf of claimant or, so far as claimant knows, by or on behalf of any person, in any other proceedings, except as follows: (Here indicate any exceptions, and explanation thereof).

 (Claimant)
 By _____
 (Practitioner)

 (Address)

 (Date)

Total amount of reparation \$ _____. The undersigned hereby certifies that this statement has been checked against the records of this company and found correct.

Date _____ Concurred² in: _____ Company
 _____ Company, Defendant Collecting Carrier, Defendant³.
 By _____, Auditor. By _____, Auditor.

(b) The statement should not include any shipment not covered by the Board's findings, or any shipment on which complaint was not filed with the Board within the statutory period. The filing of a statement will not stop the running of the statute of limitations as to shipments not covered by complaint or supplemental complaint. If the shipments moved over more than one route, a separate statement should be prepared for each route, and separately numbered, except that shipments as to which the collecting carrier is in each instance the same may be listed in a single statement if grouped according to routes. The statement, together with the paid freight bills on the shipments, or true copies thereof, should then be forwarded to the carrier which collected the charges, for verification and certification as to its accuracy. If the statement is not forwarded immediately to the collecting carrier for certification, a letter request from de-

¹Here insert name of person paying charges in the first instance, and state whether as consignor, consignee, or in what other capacity.

²For concurring certificate in case collecting carrier is not a defendant.

³If not a defendant, strike out the word "defendant."

endants that forwarding be expedited will be considered to the end that steps be taken to have the statement forwarded immediately. All discrepancies, duplications, or other errors in the statements should be adjusted by the parties and corrected agreed statements submitted to the Board. The certificate must be signed in ink by a general accounting officer of the carrier and should cover all of the information shown in the statement. If the carrier which collected the charges is not a defendant in the case, its certificate must be concurred in by like signature on behalf of a carrier defendant. Statements so prepared and certified shall be filed with the Board whereupon it will consider entry of a decision awarding damages.

[47 FR 49575, Nov. 1, 1982, as amended at 64 FR 53268, Oct. 1, 1999]

PART 1135—RAILROAD COST RECOVERY PROCEDURES

AUTHORITY: : 5 U.S.C. 553 and 49 U.S.C. 721 and 10708.

§1135.1 Quarterly adjustment of rates.

(a) Rail carriers may adjust rates and charges quarterly in order to compensate for inflationary cost increases. The quarterly adjustment shall not exceed the percentage change in the all inclusive index of railroad costs as proposed by the Association of American Railroads and modified by the Board. The Board will make modifications of the revisions to the index as necessary.

(b) The allowable increase will be based on a projection of the index to the midpoint of the quarter to which the index will apply. The percentage change must be calculated from a comparison of the forecast index for the midpoint of the quarter during which the rates will be in effect with the forecast index for the midpoint of the previous quarter. Each quarterly index will be adjusted for forecast error in the index issued six months earlier. The adjustments will be made by adding or subtracting, as appropriate, the difference between the index using actual data for the second prior quarter and the index using forecasted data for that quarter. Additionally, AAR shall