

ELKHART & WESTERN RAILROAD CO.

FREIGHT TARIFF EWR 6007-F
(Replaces EWR 6007-E)

NAMING
DEMURRAGE
AND
CHARGES
APPLYING
AT
STATIONS ON
THE ELKHART & WESTERN RAILROAD CO.

DEMURRAGE TARIFF

This tariff is also applicable on intrastate traffic, except where expressly provided to the contrary in Connection with particular rates and provisions contained herein.

ISSUED: March 8, 2012

EFFECTIVE: July 1, 2012

ISSUED BY:

Pioneer Railcorp Commercial Department
Acting as Agent for Subscribing Carrier
5619 DTC Parkway, Suite 650
Greenwood Village, CO 80111

(The provisions published herein, if effective, will not result in an effect on the quality of the human environment.)

FREIGHT TARIFF EWR 6007-F (cont'd)

**RULES AND OTHER GOVERNING PROVISIONS
GENERAL RULES AND REGULATIONS**

ITEM 10

REFERENCE TO TARIFFS, ITEMS, NOTES, RULES, ETC.

Where reference is made in this tariff to tariffs, items notes, rules, etc., such references are continuous and include supplements to successive issues of such tariffs and reissues of such items, notes, rules, etc.

ITEM 20

METHOD OF CANCELLING ITEMS

As this tariff is supplemented, numbered items with letter suffixes cancel correspondingly numbered items in the original tariff or in a prior supplement. Letter suffixes will be used in alphabetical sequence starting with A. Example: Item 445-A cancels Item 445, and Item 365-B cancels Items 365-A in a prior supplement, which in turn cancelled Item 365.

ITEM 30

SUPPLEMENTS AND REISSUES

When reference is made in this tariff, or supplements, to other publications for rates or other information, it includes "Supplements thereto or successive issues thereof."

Where reference is made in this tariff to items, it includes "reissues" of such items.

**SECTION 1
CAR DEMURRAGE RULES AND CHARGES**

ITEM 100

APPLICATION

Except where provided to the contrary, Demurrage Rules and Charges contained herein apply to all railroad and privately-owned cars held for or by consignors and consignees for any purpose.

ITEM 110

HOLIDAYS

Whenever reference is made to "holidays", it shall mean only the days listed below:

New Year's Day – January 1 (See Note 1)
Memorial Day – Last Monday of May
Independence Day – July 4 (See Note 1)
Labor Day – First Monday of September
Thanksgiving Day - Fourth Thursday of November
Christmas Day – December 25 (See Note 1)

Note 1: When this date occurs on a Sunday, the following Monday will be observed as the holiday.
When this date occurs on a Saturday, the preceding Friday will be observed as the holiday.

ITEM 120

ACTUAL PLACEMENT

Actual placement is made when a car is placed in an accessible position for loading or unloading or at a point previously designated by the consignor or consignee.

ITEM 130

CONSTRUCTIVE PLACEMENT

When a car consigned or ordered to a private track or other-than-public delivery track cannot be actually placed because of a condition attributable to the consignor or consignee, such car will be held at available hold point and notice shall be sent or given the consignor or consignee that the car is being held and that this railroad is unable to effect placement; however, if car is placed on private track or other-than-public delivery track serving the consignor or consignee, the car will be considered constructively placed without notice.

FREIGHT TARIFF EWR 6007-F (cont'd)
CAR DEMURRAGE RULES AND CHARGES

ITEM 140

FREE TIME

(Applies to Standard Demurrage)

Free time for each car will be allowed, as follows:

Forty-eight (48) hours to complete unloading.

Twenty-four (24) hours to complete loading.

Free time will be computed from the first 7:00 AM after placement, or after notification has been sent or given where required. For the purpose of computing free time, Saturdays, Sundays, and holidays will be excluded.

Exception: On unit trains (10 cars or more-same product; same origin/destination); or on shipments of machinery, transformers, etc. which require special or heavy duty equipment, or in which detention charges or special equipment usage charges may apply, free time will be computed from time of actual or constructive placement. For purposes of computing free time, Saturdays, Sundays, and holidays will be included.

ITEM 150

DEMURRAGE/CHARGES

Railroad Equipment

After expiration of allowed free time, the following charges will apply per car, per day, or fraction of a day, and will be made until car is released.

\$45.00 for each of the first four chargeable days.

\$55.00 for each day thereafter.

Private Equipment

After expiration of allowed free time, the following charges will apply per car, per day, or fraction of a day, and will be made until car is released. The following Charges apply to privately owned/leased cars held on Railroad owned track and not covered by lease agreement.

\$35.00 for all chargeable days

***Exception 1: On shipments requiring special or heavy duty equipment, a rate of \$150.00 for each day, or fraction of a day, will apply upon expiration of free time.**

***Exception 2: On shipments in equipment whose gross weight on rail capacity exceeds 263,000#, a rate of \$75.00 for each day, or fraction of a day, will apply upon expiration of free time.**

Moving an overweight car will be at the discretion of the EWR and may be subject to additional charges. When Exceptions 1 and 2 both apply, demurrage will be charged at the higher daily rate.

Unless otherwise noted, demurrage charges will accrue on all Saturdays, Sundays, and holidays subsequent to the first chargeable day, including a Saturday, Sunday, or holiday immediately following the day on which the first Chargeable day begins to run.

All charges are due and payable 30 days from date of invoice. If Consignee or Consignor fails to pay any demurrage charges within 45 days of the date of invoice, Consignee or Consignor shall be liable to railroad for the costs and expenses, including court costs and expenses and reasonable attorney fees of collecting such demurrage charges due as well as post-judgment interest at the rate allowed by law.

Note 1: Not applicable in privately-owned cars on private tracks.

Note 2: Loaded privately-owned cars consigned or ordered for delivery to private tracks which are first held on railroad tracks under constructive placement will be subject to demurrage charges provided for herein after expiration of free time (See Item 140) until such time car is placed on private tracks to which consigned or ordered.

ITEM 160

CLAIMS

Any claim or dispute must be presented in writing within (30) days of the invoice date for relief of any charges to be considered. Claims or disputes presented after this 30-day period will be null and void, and Charges will be due and payable as presented in the invoice. Any/all charges on an invoice, other than those in dispute, are due and payable within the (30) days of the invoice date.

- A.** If by error, demurrage charges are improperly assessed, charges will be adjusted to the amount that would have accrued but for such error.
- B.** Bunching and Run Around of cars will not be considered railroad error and no allowance will be made.

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