

## Waybill Compliance Survey – Statutory Support

### 49 USC 11144. Records: form; inspection; preservation

(a) The Board may prescribe the form of records required to be prepared or compiled under this subchapter--

(1) by rail carriers and lessors, including records related to movement of traffic and receipts and expenditures of money; and

(2) by persons furnishing cars to or for a rail carrier providing transportation subject to the jurisdiction of the Board under this part [[49 USCS §§ 10101](#) et seq.] to the extent related to those cars or that service.

(b) The Board, or an employee designated by the Board, may on demand and display of proper credentials--

(1) inspect and examine the lands, buildings, and equipment of a rail carrier or lessor; and

(2) inspect and copy any record of--

(A) a rail carrier, lessor, or association;

(B) a person controlling, controlled by, or under common control with a rail carrier if the Board considers inspection relevant to that person's relation to, or transaction with, that rail carrier; and

(C) a person furnishing cars to or for a rail carrier if the Board prescribed the form of that record.

(c) The Board may prescribe the time period during which operating, accounting, and financial records must be preserved by rail carriers, lessors, and persons furnishing cars.

### 49 USC 11145. Reports by rail carriers, lessors, and associations

(a) The Board may require--

(1) rail carriers, lessors, and associations, or classes of them as the Board may prescribe, to file annual, periodic, and special reports with the Board containing answers to questions asked by it; and

(2) a person furnishing cars to a rail carrier to file reports with the Board containing answers to questions about those cars.

(b) (1) An annual report shall contain an account, in as much detail as the Board may require, of the affairs of the rail carrier, lessor, or association for the 12-month period ending on December 31 of each year.

(2) An annual report shall be filed with the Board by the end of the third month after the end of the year for which the report is made unless the Board extends the filing date or changes the period covered by the report. The annual report and, if the Board requires, any other report made under this section, shall be made under Oath.

#### **49 USC 11901. General civil penalties**

(a) Except as otherwise provided in this section, a rail carrier providing transportation subject to the jurisdiction of the Board under this part, an officer or agent of that rail carrier, or a receiver, trustee, lessee, or agent of one of them, knowingly violating this part or an order of the Board under this part is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation. Liability under this subsection is incurred for each distinct violation. A separate violation occurs for each day the violation continues.

(b) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, or a receiver or trustee of that rail carrier, violating a regulation or order of the Board under section 11124(a)(2) or (b) of this title is liable to the United States Government for a civil penalty of \$500 for each violation and for \$25 for each day the violation continues.

(c) A person knowingly authorizing, consenting to, or permitting a violation of sections 10901 through 10906 of this title or of a requirement or a regulation under any of those sections, is liable to the United States Government for a civil penalty of not more than \$5,000.

(d) A rail carrier, receiver, or operating trustee violating an order or direction of the Board under section 11123 or 11124(a)(1) of this title is liable to the United States Government for a civil penalty of at least \$100 but not more than \$500 for each violation and for \$50 for each day the violation continues.

(e)(1) A person required under subchapter III of chapter 111 of this title to make, prepare, preserve, or submit to the Board a record concerning

transportation subject to the jurisdiction of the Board under this part that does not make, prepare, preserve, or submit that record as required under that subchapter, is liable to the United States Government for a civil penalty of \$500 for each violation.

(2) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, and a lessor, receiver, or trustee of that rail carrier, violating section 11144(b)(1) of this title, is liable to the United States Government for a civil penalty of \$100 for each violation.

(3) A rail carrier providing transportation subject to the jurisdiction of the Board under this part, a lessor, receiver, or trustee of that rail carrier, a person furnishing cars, and an officer, agent, or employee of one of them, required to make a report to the Board or answer a question that does not make the report or does not specifically, completely, and truthfully answer the question, is liable to the United States Government for a civil penalty of \$100 for each violation.

(4) A separate violation occurs for each day a violation under this subsection continues.

(f) Trial in a civil action under subsections (a) through (e) of this section is in the judicial district in which the rail carrier has its principal operating office or in a district through which the railroad of the rail carrier runs.

#### **49 CFR 1244.2    Applicability.**

(a) Effective July 1, 1981 and thereafter, unless otherwise ordered, each railroad as defined in § 1244.1 above is required to file waybill sample information for all line-haul revenue waybills terminated on its lines if it terminates at least 4,500 revenue carloads in any of the three preceding years, or if it terminates at least 5% of the revenue carloads terminating in any state in any of the three preceding years. A railroad required to file waybill sample information under this section shall herein be referred to as "subject railroad."

(b) Waybill terminations shall include all line-haul revenue movements terminating for waybilling purposes on the subject railroad's line whether the lading is destined for the terminating station as denoted on the waybill or the shipment is being rebilled or forwarded to the ultimate destination by another railroad or another mode of transportation (e.g., lake cargo, inbound transit, or

other rebilled movements).

(c) Each subject railroad shall also file the required waybill sample information for all of its railroad subsidiaries.

(d) Each subject railroad shall also file the required waybill sample information for any other railroad for which it performs revenue billing and/or interline settlements under special agreement.

(e) The surviving corporate entity of railroads (subject to the Interstate Commerce Act) who have merged or reorganized shall be required to report waybill sample information if its predecessor railroad or any of its predecessor railroads were required to report under this section.

(f) In order to determine the number of carloads terminated in each state, railroads not otherwise submitting waybill information must report annually the number of carloads terminated by state for the last calendar year. These reports shall be submitted by March 1 of the year following the report year.

(g) Transition-- This final rule will apply to all subject waybills which are in the subject railroad's audit month of July 1981 and all audit months thereafter. The former rule will continue to apply to all subject waybills for the prior audit months up to and including June 1981.