

Surface Transportation Board

§ 1034.1

transaction pursuant to which the car was furnished to the rail carrier making the election as to that rail carrier and all users and subsequent owners if:

(1) That rail carrier does not have legal title to the car and does not obtain written consent or such election from the party holding legal title;

(2) The transaction was entered into prior to January 1, 1991; and

(3) The transaction does not provide that the compensation to be paid to the party furnishing the car is to be based in whole or in part directly on the car hire earnings of the car; provided, however, that if the rail carrier making the election subsequently obtains legal title to the car, such election shall then be irrevocable and binding as to the rail carrier and all users and subsequent owners.

(C) The party holding legal title to the car may revoke an election subject to the provisions of paragraph (b)(3)(i)(B) of this section only:

(1) At the time the transaction pursuant to which the car was furnished to the rail carrier making the election is first extended or renewed after January 1, 1991; or

(2) If such transaction is not extended or renewed, at the time such transaction terminates.

If such election is so revoked, a rail carrier may make a new election only with the written consent of the party holding legal title to the car, and such election shall be irrevocable and binding as to the rail carrier making the election and all users and subsequent owners.

(ii) Nothing in paragraph (b)(3)(i) of this section shall be construed to limit the rights of parties to any transaction to provide for the consent of any party to an election made pursuant to paragraph (b)(3)(i) of this section.

(c) *Market rate cars.* (1) Market rate cars shall not be subject to prescribed rates or to the provisions of 49 CFR 1039.14(c)(1) (i) and (ii) and (c)(4).

(2) (i) The Board shall not prescribe car hire for market rate cars.

(ii) The Code of Car Hire Rules referenced in the Association of American Railroads Car Service and Car Hire Agreement provides that owners and users party to that agreement shall resolve car hire disputes thereunder. The

Board may review allegations of abuse of the car hire dispute resolution process established under those rules.

(iii) Car hire disputes involving an owner or user not a party to that agreement may be resolved by the Board.

(d) *Car hire agreements.* Rail carriers are authorized to negotiate and enter into agreements governing car hire.

(e) *Effective date.* This part shall take effect on January 1, 1994.

[58 FR 60144, Nov. 15, 1993]

§ 1033.2 Car service orders.

Emergency and temporary service orders are issued under this part but are not carried in the Code of Federal Regulations.

[58 FR 60145, Nov. 15, 1993]

PART 1034—ROUTING OF TRAFFIC

AUTHORITY: 49 U.S.C. 1321, 11123.

§ 1034.1 Temporary authority.

(a) *Authority.* Any railroad subject to regulation under 49 U.S.C. 10501 may reasonably divert or reroute traffic to other carriers, if it is unable due to circumstances beyond its control promptly to transport traffic over a portion of its lines. Traffic necessarily diverted under this authority shall be rerouted to preserve as much as possible the participation and revenues of other carriers provided in the original routing. This authority may be exercised for no more than 30 days following the day on which the rerouting begins. If a carrier needs more than 30 days before its disability or the disability of a receiving carrier is cured, it may automatically extend its rerouting for additional 30-day periods. To extend the period, it must submit a written or electronic notice to the Association of American Railroads and the Board's Office of Public Assistance, Governmental Affairs, and Compliance explaining why the rerouting is necessary, when it began, when the disability occurred, why an extension is necessary, the specific lines disabled, the rerouting to be continued, which shippers are affected, and any other important facts.

(b) *Concurrence by carriers.* A railroad rerouting traffic must receive the concurrence of other railroads to which the traffic will be diverted or rerouted, before the rerouting or diversion begins. A rerouting carrier must also confirm the inability of a disabled receiving carrier to handle the traffic before rerouting that traffic. If the receiving carrier is no longer disabled, it must accept the traffic according to the routing originally designated.

(c) *Notice by rerouting carrier.* A rerouting carrier must notify the Board's Office of Public Assistance, Governmental Affairs, and Compliance, the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to car service and car hire agreements, and the American Short Line Railroad Association before the rerouting or diversion begins. The originating carrier must notify each shipper at the time each shipment is rerouted or diverted and furnish to each shipper the rerouting, *except when the disability requiring the rerouting occurs after the movement has begun.* When a rerouting carrier submits to the Board a notice and explanation for an extension of the rerouting period, it must immediately also submit a copy of that notice and explanation to the AAR, the ASLRA and all shippers that have been affected or that the carrier believes will be affected or that request a copy.

(d) *Notice by AAR.* The AAR shall notify all carriers affected by rerouting or by an extension of a rerouting period, in a manner similar to that used for embargoes.

(e) *Applicable rates.* The rates applicable on shipments rerouted or diverted will be the rates applicable over the route originally designated at the time the shipments are tendered.

(f) *Divisions.* The carriers involved in the rerouting or diversion shall proceed even though no contracts, agreements, or arrangements exist between them at the time concerning the divisions of the rates applicable to the traffic. Divisions shall be, during the time the rerouting is in effect, those voluntarily agreed upon by the carriers.

[46 FR 21782, Apr. 14, 1981, as amended at 46 FR 26064, May 11, 1981; 64 FR 53267, Oct. 1, 1999; 81 FR 8852, Feb. 23, 2016]

PART 1035—BILLS OF LADING

Sec.

1035.1 Requirement for certain forms of bills of lading.

1035.2 Modification of front of uniform bill of lading.

APPENDIX A TO PART 1035—UNIFORM STRAIGHT BILL OF LADING

APPENDIX B TO PART 1035—CONTRACT TERMS AND CONDITIONS

AUTHORITY: 49 U.S.C. 1321, 11706, 14706.

SOURCE: 58 FR 60797, Nov. 18, 1993, unless otherwise noted.

CROSS REFERENCES: For interstate transportation of livestock, see 9 CFR parts 71–77. For lading and unlading of vessels, see 19 CFR part 4.

§ 1035.1 Requirement for certain forms of bills of lading.

(a) All common carriers, except express companies, engaged in the transportation of property other than livestock and wild animals, by rail or by water subject to the Interstate Commerce Act are required to use straight bills of lading as prescribed in Appendix A and B to this part, or order bills of lading as prescribed in Appendix A and B to this Part, except that order bills of lading shall:

(1) Be entitled “Uniform Order Bill of Lading” and be designated as “Negotiable” on the front (appendix A to this part);

(2) Indicate consignment “to the order of * * * ” on the front (appendix A to this part); and

(3) Provide for endorsement on the back portion (appendix B to this part).

(b) All such bills of lading:

(1) May be either documented on paper or issued electronically;

(2) May be a copy, reprographic or otherwise, of a printed bill of lading, free from erasure and interlineation;

(3) May vary in the arrangement and spacing of the printed matter on the face of the form.

§ 1035.2 Modification of front of uniform bill of lading.

Notwithstanding any other provision of § 1035.1(a), with respect to the information called for, the front portion only (appendix A to this part) of a bill of lading may deviate from the language prescribed in this part so long as