



SPECIAL REPORT

NMFTA CHANGES THE UNIFORM STRAIGHT BILL OF LADING – ROUND TWO

**By George Carl Pezold
Executive Director**

As previously reported, on July 14th, the National Motor Freight Traffic Association (NMFTA), publishers of the National Motor Freight Classification (NMFC), issued Supplement 2 to NMF 100-AP, effective August 13, 2016 which contained a number of changes to the Uniform Straight Bill of Lading, including the Terms and Conditions on the reverse side, as well as to the NMFC rules in Item 360 - Bills of Lading, Freight Bills and Statements of Charges.

On July 29th the Council filed a Petition for Suspension and Investigation with the Surface Transportation Board (STB) in opposition to the proposed changes to the Uniform Straight Bill of Lading. The National Shippers Strategic Transportation Council (NASSTRAC) filed its comments in support of the Council on August 1st.

On August 12th, the STB issued a decision in which the Board refused to suspend the changes to the bill of lading, but identified certain questions and invited further comment as to its jurisdiction to investigate or suspend the changes, as well as related matters.

In response to the Board's decision, on September 12th, the parties each filed supplemental pleadings. NMFTA continues to argue that the STB lacks jurisdiction over collectively-made changes to the bill of lading. The Council addressed the Board's jurisdiction and the potential impact of the changes on carrier liability for cargo loss and damage, and NASSTRAC, joined by the National Industrial Traffic League (NITL), filed supplemental pleadings in support of the Council's position. In addition, the Transportation Intermediaries Association (TIA) has now filed its comments in support of the Council. Copies of the following supplemental pleadings are available on the Council's website; www.TLCouncil.org:

TLC Supplemental Pleading (Filed 9-12-16)
NASSTRAC Supplemental Pleading (Filed 9-12-16)
NMFTA Supplemental Comments (Filed 9-12-16)
NITLeague Petition to Intervene (Filed 9-12-16)
TIA comments to STB (Filed 9-15-16)

It remains to be seen what action will be taken by the STB. Since the STB was created following the ICC Termination Act of 1995, it has been primarily involved in railroad rate cases and other rail matters. In fact, the last time it exercised jurisdiction over issues involving the Uniform Straight Bill of Lading was in 1997, some 19 years ago.

If allowed to remain in place, the new rules in the Uniform Straight Bill of Lading have the potential to seriously impact shippers' ability to recover freight loss and damage claims against carriers. Accordingly, the Council urges shippers or anyone responsible for filing and recovering freight loss and damage claims to submit comments in support of the Council's position in this important matter.

The proceedings before the STB will continue to remain open for further replies and comments until October 3rd. Parties wishing to submit replies or comments should file them electronically or by mail to:

Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street, SW
Washington, DC 20423

And refer to: Docket Number ISM 35008, Transportation and Logistics Council -
Petition for Suspension and Investigation

Dated: September 16, 2016