

Surface Transportation Board
Washington, D.C. 20423-0001

Decision ID No. 46370

Office of Economics

December 27, 2017

Mr. John B. Totaro, Jr.
Neville Peterson LLP
1400 16th Street, N.W.
Suite 350
Washington, DC 20036

In Response Refer To Waybill Request WB17-51

Dear Mr. Totaro:

The Surface Transportation Board (STB) has approved your request of December 5, 2017 on behalf of Trinity Industries for permission to access specific data items in STB Carload Waybill Sample for 2016 and continues access to certain approved items in the 2003-2015 Carload Waybill Samples. The 2016 waybill sample will be sent to you when it has been approved for release. Your request was published in the Federal Register on December 12, 2017. ***This approval becomes effective when the signed agreements from the parties listed below are received by the STB:***

- a) *Trinity Industries, and*
- b) *Patrick Krick*

The new expiration date for this agreement is January 31, 2019. Failure to renew an agreement for any year requires you to return or destroy all copies of the data for that year (see item 4 of the agreement).

This letter replaces all previous agreements with Trinity Industries.

Parties using waybill data must recognize several aspects which limit drawing general conclusions from any potential findings: 1) the waybill data are sample data, and 2) the data are based on terminating shipments from relatively large carriers. Only those railroads with more than 4,500 annual terminating carloads were included in the sample. This limited sampling of very small railroads may have a substantial effect on studies covering small areas served predominately by a non-sample railroad.

Because contract information is privileged, the revenue field of the waybill sample may not represent the true revenue for contract movements. Railroads are permitted, under certain conditions, to replace the contract revenue with a calculated "masked" figure. The masked revenue figures are typically larger than actual contract revenues, but need not be. Further, there are often end-of-year adjustments provided for in contract rates, typically calling for rebates or

discounts once minimum volume commitments are met, that may not always be included in the masked or actual waybill revenue figures. You should not use revenue data from the Carload Waybill Sample in any type of comparison which may lead to wrong or misleading results.

The rules for release of waybill data [Ex Parte No. 385 (Sub-No. 2)] are codified at 49 CFR 1244.9. The waybill data contain confidential shipper and railroad data. As a result, waybill data are commercially sensitive and have the potential for competitive harm to shippers and railroads. Therefore, the following agreement must be signed before any waybill data can be released.

Your signature acknowledges your agreement to comply with the following:

1. The information contained in the released waybill data shall be made available only to approved members of your firm participating in the analysis.
2. The waybill data released shall be used solely for the purpose requested.
3. Your company will not release any waybill data to the public until the STB has had the opportunity to review the data to ensure its confidentiality.
4. Use of the waybill data is permitted through January 31, 2019. If the waybill data are needed for an additional period of time, you must request an extension of the agreement at least 30 days before expiration of this agreement. **If an annual agreement is not signed, all waybill materials (including all copies) obtained under this agreement will be returned to the STB or your company must certify that the data has been destroyed.**
5. Failure to request an extension, return the data, or destroy the data may prevent any future release of waybill data from the STB.

After you sign and return this agreement, please contact Mr. Dusenberry (202-245-0319) to make the necessary arrangements to have a copy of the data sent to you. The STB will provide the data electronically by email.

Sincerely,

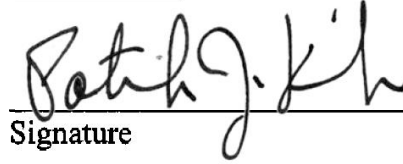


William Brennan
Acting Director

I have read and understand the conditions for release of the waybill data. I agree to comply fully with these conditions and the provision of this confidential agreement. Thirty days before the agreement expires, I will request an extension of this agreement. If no extension is requested, then all waybill data will be returned or destroyed. Trinity Industries will certify that neither I nor my company has any copies of data or reports developed from the Carload Waybill Sample. I understand that failure to comply with items 4 and 5 above may keep Trinity Industries from receiving any future waybill data from the STB.

Patrick Krick

By:



Signature

Patrick J. KRICK

Name - Please Print

Consultant

Title

December 28, 2017

Date

For STB use only:

Signed Agreement Returned: WB17-51 _____

Expiration Date: 1/31/19

I have read and understand the conditions for release of the waybill data. I agree to comply fully with these conditions and the provision of this confidential agreement. Thirty days before the agreement expires, I will request an extension of this agreement. If no extension is requested, then all waybill data will be returned or destroyed. Trinity Industries will certify that neither I nor my company has any copies of data or reports developed from the Carload Waybill Sample. I understand that failure to comply with items 4 and 5 above may keep Trinity Industries from receiving any future waybill data from the STB. I have the authority to sign this agreement for Trinity Industries.

By: Trinity Industries


Signature

S. Theis Rice
Name - Please Print

Sr. V.P. & Chief Legal Officer
Title

12/28/2017
Date

For STB use only:

Signed Agreement Returned: WB17-51 _____

Expiration Date: 1/31/19