



August 10, 1993

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Office of the Chief Council
Federal Highway Administration
400 Seventh Street, SW
Washington, DC 20590

Re: Comments on Federal Register Vol. 52, No. 115, Thursday? June 17, 1993 49 CFR part 397, FWHA Docket No. MC-92-4, proposal to establish a motor carrier safety permit program.

Dear Sir(s):

FHWA-97-2K80-21

Baker Performance Chemicals, Inc. (BPCI) would like to provide the following comments and suggestions regarding the referenced proposed rule published in the Federal Register on June 17, 1993. These comments are provided in two sections: Section one will discuss general comments; section two will discuss specific comments.

1. General Comments

Financial responsibility - Page 33420

The following information should be considered as it does pertain to the safety permit program.

- 1. Impact that the safety permit program will have on end users or small operations.

According to page 33420, motor carriers would be required to obtain financial responsibility coverage in the amount of \$5 million dollars. Some of the companies we deal with on a daily basis are small operations, consisting of one or two people. These companies come to our facilities and pick up their own containers filled with our products and transport them to their destination for end use. The product that these companies are transporting is an inhalation hazard. The average distance this product is being transported is about 75 to 90 miles.

Has the USDOT considered the impact that this safety permit program will have on end users or small operations?



2. Specific Comments

Definitions - Page 33424, section 397.39

The following definition needs clarification as it pertains to the intent of the motor carrier safety program:

- 1) Liquefied natural gas as it applies to the definition of bulk.

According to the definition given in this section, BULK means a containment system that has a capacity in excess of 3,500 water gallons or 468 cubic feet. Does this definition apply to gases (i.e. 3,500 water gallons or 468 cubic feet) only, or does this definition change the level for bulk? Which is currently at 119 gallons as a receptacle for liquids per 49CRF section 171.8 Definitions and abbreviations.

Safety permit determinations - Page 33424, section 397.4 (b) and (d)

The following section needs clarification as it pertains to the satisfactory rating:

- 1) Written notification of a satisfactory safety rating, section 397.4 (b)

According to this specific section, a written notification of a satisfactory safety rating issued to 385.11 of this subchapter shall serve as a safety permit and shall include the safety permit number that is assigned.

BPCI feels that USDOT should provide more discussion on this issue. How is the rating determined?

- 2) Temporary safety permit, section 397.4 (d)

According to this section a temporary safety permit shall remain in effect for no more than 120 days from the date of issuance, or until a safety rating is assigned.

What would happen if the safety rating determination exceeded the 120 day deadline? Again BPCI feels USDOT should provide more discussion on this issue.



2. Specific Comments continued

Conditions for safety permits, Page 33424, section 397.49 (b)

The following section needs clarification as it pertains to conditions for safety permits:

- 1) Safety permit numbers displayed on shipping papers, section 397.4 (d)

According to this section, safety permit numbers shall be displayed on shipping papers or appropriate transportation document which contains the description of the designated high risk hazardous materials which require a safety permit

This section does not discuss the specific area on the shipping papers that the safety permit number must appear. Furthermore BPCI uses common carriers. Are we responsible for putting their safety permit numbers on our shipping papers? Is this even possible? or would we be in violation?

BPCI feels that USDOT should provide more discussion on this issue.

BPCI appreciates the opportunity that they have been given to comment on the FHWA Docket No. MC 92-4, proposal to establish a motor carrier safety permit program.

Very truly yours,

Matthew A. Talbert
Regulatory Transportation Specialist