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FEDERAL MOTOR CARRIER SAFETY REGULATIONS

FHWA-97-2180-26
BEFORE THE FEDERAL HIGHWAY ADMINISTRATION
UNITED STATES DEPARTMENT OF TRANSPORTATION

In the matter of:

Docket MC-92-4

Federal Motor Carrier Safety Regulations:
Transportation of Hazardous Materials

Comments of:

National Tank Truck Carriers, Inc.
2200 Mill Road
Alexandria, VA 22314
(703) 838-1960

Clifford J. Harvison, President

August 16, 1993

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Before the Administrator:

, National Tank Truck Carriers, Inc. (NTTC) is the national trade association of motor carriers specializing in the bulk highway transportation of hazardous materials, hazardous substances and hazardous wastes in cargo tank motor vehicles. Our 200 corporate members have a substantial interest in this docket.

NTTC'S BASIC POSITION

At the outset, NTTC expresses its general support for regulatory implementation of the "safety permit", as proposed in the June 17, 1993 edition of the **Federal Register**. We believe that, with one significant exception, the Administrator has captured the "spirit" of the "permit concept" as codified in the Hazardous Materials Transportation Uniform Safety Act of 1990 (HMTUSA).

Additionally, NTTC concurs with the Administrator's finding that the concept should be applied (initially) to carriers transporting commodities classified in the (proposed) four hazard classifications. As a practical matter, the proposed system--applied to tank truck carriers--would impact the transportation of only two such classifications, namely "liquefied natural gas" and certain "high hazard" liquids. Thus, the compliance costs and administrative impact of the proposal would be minimal on affected carriers.

ONE SIGNIFICANT SHORTCOMING IN THE PROPOSAL

Simply stated, NTTC believes that the Administrator has ignored the fact that the best "enforcement" of the proposed **"permit"** system rests with the shipper (or "offerer") of the commodities impacted by the new regulations.

We believe it is altogether appropriate, and well within the jurisdiction of the Administrator, to require shippers to inquire of and verify the issuance of a "permit" (to a given carrier) prior to transportation. Just as it is incumbent on the shipper to assure that hazardous materials are properly packaged, marked, labeled, etc.; so too should that same commercial entity be required to verify the compliance credentials of the carriers utilized to transport their products.

Clearly, the Congress anticipated that the "permit program" would include shippers in the compliance process, since the

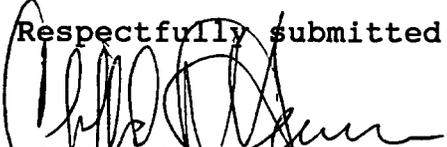
legislature specifically addressed this topic in HMTUSA (see 49 USC 1805 (d)(3)).

Therefore, various factors are obvious. First, the Congress explicitly imposed a statutory burden on shippers. Second, the Administrator has failed to include relevant obligations (and sanctions) in his proposal. Thus, by placing obligations (and sanctions) only on carriers, the Administrator has thwarted Congressional intent.

NTTC believes that the final rule must contain appropriate corrections and amendments. Accordingly, we suggest the following amendment be added (as appropriate to Title 49 CFR).

... (at Section 397.37, add the following): **"No person shall offer for transportation (or otherwise cause to be transported), any high risk hazardous material, as defined in 397.39, in interstate or intrastate commerce, unless such person has in possession a copy of the safety permit (or renewal thereof) issued to the motor carrier performing such transportation.**

Respectfully submitted:


Clifford J. Harvison
President

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