



Montana Department
of Transportation

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FWHA Docket No. MC-92-4
Room 4232, HCC-10
Office of the Chief Counsel
Federal Highway Administration
400 Seventh Street SW
Washington, DC 20590

FWHA-97-2180-33

Subject: Comments on Proposed Rule for Safety Permits on
Hazardous Materials Carriers

The Montana Department of Transportation has some concerns about the creation of another permit or license at the Federal level. In addition, as a member of the Alliance for Uniform Hazardous Materials Regulations, we view this additional permit requirement as duplicating a state effort.

In July of 1992, the Research and Special Programs Administration implemented a registration program for shippers and transporters of hazardous materials. This program was designed to generate a revenue base and distribute these funds to local response teams for equipment and training. Every carrier, including agricultural carriers, is required to file a registration every year and pay a \$300.00 annual fee. From the reports that I have heard this program did not achieve the original goals for revenue and compliance. In fact, they fell far short. Is it possible that this proposed permit program could meet with the same results?

HMTUSA also contained requirements to form a committee to address the need for uniform procedures and processes for state and local entities that require permits for the transportation of hazardous materials. A group of industry and government officials was formed and called the Alliance for Uniform Hazardous Materials Regulations. The Alliance worked under the guidance and support of the National Governor's Association and the National Council for State Legislatures. The Alliance has produced a final product that calls for uniformity and reciprocity in the issuance of state and local hazardous materials permits and registrations. Additionally, California, Nevada, West Virginia, and Ohio are pilot states and are in the process of testing the Alliance's program. We believe that FHWA

should review the Alliance proposal and see if one permit program could be established.

Although the Alliance proposal leaves the requirement to permit or register hazardous material transporters, optional, we believe that if the Alliance proposal is adopted, all states will chose to issue permits. Please consider this scenario: Twenty of the fifty states require hazardous materials permits for transporters, and the Alliance proposal has been adopted mandating permit reciprocity. Montana is a state that has not chosen to require these permits. While Montana based carriers can purchase all their licensing and fuel credentials for travel throughout the nation at their base state licensing office (IRP/IFTA) they must apply to a different state for a hazardous materials permit. We believe that carriers based in Montana would advocate a permit program so that true one stop shopping could be achieved.

Should FHWA decide to pursue the safety permit requirement, we submit the following specific concerns:

- 1) Whether radiological monitoring should be included with the inspection requirement for highway controlled radioactive materials.

There should be no monitoring required as a part of the vehicle inspection. Only the shipper would have the expertise and necessary equipment to perform the monitoring. Shippers monitor the material currently to determine the transport index per package.

- 2) The regulation requires a satisfactory safety fitness rating to receive a permit number and applies to inter and intrastate carriers.

How does FHWA plan to review all intrastate carriers who must obtain a permit and all interstate carriers who currently have less than a satisfactory rating within the 120 days a temporary permit is issued for? This will be an extensive program for OMC offices to achieve.

Will an extension be available to those carriers who have requested a review and are awaiting the OMC? How quickly will the OMC

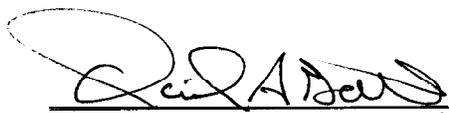
return to a carrier which receives a less than satisfactory rating? This may be critical for the carrier to remain in business. Intrastate carriers may have little of the FHWA required safety programs. This is not to infer that they have an unsafe operation just they are not familiar with the regulations, as many states are only beginning an intrastate safety fitness program.

- 3) Should a copy of the inspection report be carried in the vehicle hauling highway controlled radioactive material?

Yes, without the inspection report a roadside inspector would have no means to assure the inspection was performed.

In closing, consider the Alliance proposal and see if both proposals could be tied together and eliminate state/federal duplication. Programs created by the individual states could possibly achieve the same goals as the proposed Federal program.


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