

QA
17862

ORIGINAL

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DOCKET NO. MC-92-4

FEDERAL MOTOR CARRIER SAFETY REGULATIONS
TRANSPORTATION OF HAZARDOUS MATERIALS

FHWA-97-2180-49

COMMENTS OF THE
NATIONAL MOTOR FREIGHT TRAFFIC ASSOCIATION

SEP 1 11:42
LEGS./REGS. DIV.

ALPHABETICALLY

NATIONAL MOTOR FREIGHT
TRAFFIC ASSOCIATION, INC.

By: William W. Pugh
General Counsel
2200 Mill Road
Alexandria, VA 223 14
(703) 838-1825

DATED: August 31, 1993

BEFORE THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

DOCKET NO. MC-92-4

FEDERAL MOTOR CARRIER SAFETY REGULATIONS
TRANSPORTATION OF HAZARDOUS MATERIALS

COMMENTS OF THE
NATIONAL MOTOR FREIGHT TRAFFIC ASSOCIATION

The National Motor Freight Traffic Association (NMFTA) respectfully files these comments on behalf of its member motor carriers in response to the Federal Highway Administration's (FHWA) Notice of Proposed Rulemaking in the above-styled proceeding (58 F.R. 33418).

I. IDENTITY AND INTEREST OF COMMENTER

NMFTA is a nonprofit membership corporation organized under the laws of the District of Columbia, with offices at 2200 Mill Road, Alexandria, Virginia 22314. Its membership is comprised of over 6,000 motor carriers of property by

motor vehicle operating in interstate, intrastate and foreign commerce under regulation by the Interstate Commerce Commission and various state regulatory agencies. Under its Articles of Incorporation, NMFTA is charged with the duty of participating in matters affecting the welfare and interests of its member motor carriers. NMFTA has established a Hazardous Materials Committee to further the interests of a significant number of its members that handle hazardous materials. This Committee participates in proceedings before FHWA, RSPA and other administrative bodies which regulate the transport of hazardous materials.

BACKGROUND

As indicated in the notice of proposed rulemaking for this proceeding which was published in the Federal Register on June **17, 1993**, section 8 of the Hazardous Materials Uniform Safety Act of 1990 (HMTUSA) requires, among other things, the establishment of a motor carrier safety permit program. This section prohibits a motor carrier from transporting, by motor vehicle in either interstate and intrastate commerce, certain hazardous materials unless the motor carrier holds a "safety permit" issued by the Secretary of Transportation. Under this section, the Secretary may grant such permits only to motor carriers that meet specific fitness, financial and regulatory criteria. The safety permit program

is required, at a minimum, for motor carriers transporting: (1) class A and/or B explosives (RSPA hazard classifications - Division **1.1**, **1.2** and **1.3**); **(2)** liquefied natural gas (RSPA hazard class - Division 2.1); (3) hazardous materials designated as extremely toxic by inhalation (RSPA hazard class - Division 2.3, Hazard Zone A or Division **6.1**, Packing Group I, Hazard Zone A); or (4) highway route controlled quantity radioactive materials (RSPA hazard class - Class 7). Section 15 of the HMTUSA requires, in part, inspection of commercial motor vehicles transporting highway route controlled quantity radioactive materials before each trip. FHWA proposes to incorporate this section 15 requirement into the safety permit regulations.

FHWA is proposing, as a condition for each safety permit issued, the display of an assigned safety permit number on the shipping paper or appropriate transportation document which describes the hazardous materials being transported for which a safety permit is required. FHWA also proposes to assign as the safety permit number, the DOT identification number, which is required by 49 C.F.R. 390.21. They intend to utilize and modify existing computerized information systems by adding a "permit" data base. Consequently, safety fitness and permit information would be readily available to federal and state officials and enforcement personnel.

COMMENTS

NMFTA supports the proposed safety permit program. Inasmuch as the program would make a satisfactory safety rating a prerequisite to the carrier's obtaining the required permit, it would enhance motor carrier safety and promote the safe movement of hazardous materials in both interstate and intrastate commerce.

In particular, we support FHWA's proposal to establish, as the safety permit number, the carrier's DOT identification number, which is assigned to interstate carriers pursuant to 49 C.F.R. § 390.21. (Intrastate carriers or new interstate carriers transporting the designated high risk hazardous materials would be assigned a new DOT ID number). We agree that the use of this number would minimize paperwork, inasmuch the assigned safety permit number would be displayed on the carriers' transportation documents which, under 49 C.F.R. 177.817, are already required to accompany each shipment. Consequently, paperwork which the carriers must maintain under other DOT requirements would do double duty, also fulfilling the HMTUSA requirement that a safety permit or proof of the existence of such a permit (permit number) be maintained in the vehicle. This would promote efficiency and advance the goals of the

Paperwork Reduction Act of 1980, one of which is “to minimize the Federal paperwork burden for individuals, small businesses, State and local governments, and other persons.” [44 U.S.C. § **3501** (1)]

NMFTA also encourages FHWA’s proposal to establish a computerized “safety permit” data base to be added the agency’s existing information systems. We support the implementation of this data base inasmuch as it will allow enforcement personnel, federal and state officials and the shipping public ready and immediate access to safety fitness and permit information.

Finally, we support the comments filed by the American Trucking Associations (ATA) in this proceeding. NMFTA concurs with ATA’s opinion that FHWA should include language in the proposed rule which would require shippers to share responsibility for motor carrier compliance with the regulations and place sanctions on those shippers who utilize non-permitted motor carriers.

CONCLUSION

As previously indicated, NMFTA supports the proposed safety permit program. Its implementation would promote motor carrier safety and the safe

transportation of hazardous materials. We also encourage and support the proposed dual use of the U.S. DOT I.D. number, which would also be assigned as the "safety permit" identification number. The establishment of a "safety permit" data base which is proposed to be added to the agency's existing information systems is an important part of this program as it will enable enforcement personnel and state and local officials immediate access to safety fitness and permit information.

Respectfully submitted,

NATIONAL MOTOR FREIGHT TRAFFIC
ASSOCIATION, INC.



William W. Pugh
General Counsel
2200 Mill Road
Alexandria, VA 223 14
(703) 838-1825