

Before the
**FEDERAL HIGHWAY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION**

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DECEMBER 16, 1996
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ADMINISTRATION

Comments of
AMERICAN TRUCKING ASSOCIATIONS, INC.

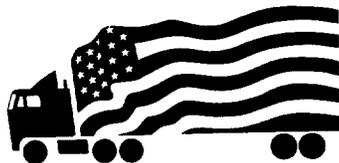
On

**PARTS AND ACCESSORIES NECESSARY FOR SAFE
OPERATION; DEVELOPMENT OF A NORTH AMERICAN
STANDARD FOR PROTECTION AGAINST SHIFTING
OR FALLING CARGO
49 CFR PART 393**

FHWA-97-2289-4

FHWA Docket No. MC-96-41

Fed. Reg./Vol. 61, No. 202/October 17, 1996, pg. 54142



**Without Trucks
America Stops**



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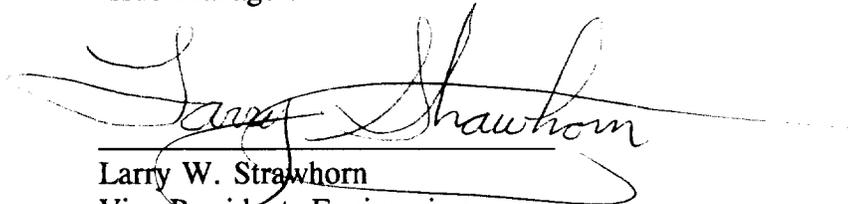
FOREWORD

The American Trucking Associations (ATA), Inc., located at 2200 Mill Road, Alexandria, Virginia 22314-4677, is a federation with affiliated associations in every state and the District of Columbia. In the aggregate, ATA represents every type and class of motor carrier in the country, for-hire and private. As the national representative of the trucking industry, ATA is vitally interested in any regulation affecting the operation of equipment utilized in the nation's trucking fleet.

ATA's comment herein to Federal Highway Administration/Office of Motor Carriers (FHWA/OMC) docket No. MC-96-41 (Advance notice of proposed rulemaking [ANPR]) from the Federal Register dated October 17, 1996, page 54142; was prepared by the staff of ATA's Engineering Department, which is responsible for handling issues dealing with the construction of trucks and their components. For many years the Department has developed ATA's major position papers, docket submissions, and testimony relating to truck design. Among these were submissions addressing load securement.

Along with the work of the ATA Engineering Department staff, these comments also reflect guidance and technical input from ATA's Technical Advisory Group (TAG). TAG members are motor carrier maintenance, safety, research and development executives, balanced both geographically and by types of fleets, thereby, representing a broad spectrum of vehicle users who will be impacted by equipment regulations.

Issue Manager:



Larry W. Strawhorn
Vice President, Engineering
Engineering Department
(703) 838-1845

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INTRODUCTION

The American Trucking Associations (ATA) takes this opportunity to comment on FHWA/OMC ANPR docket MC-96-41 Titled "Parts and Accessories Necessary for Safe Operation: Development of a North American Standard for Protection Against Shifting or Falling Cargo"; from the Federal Register dated October 17, 1996, page 54142.

These comments will cover those topics which the agency specifically asked to be addressed, namely:

- The process outlined for load securement study, and
- A decision to consider overhauling the safe loading regulations.

DISCUSSION

○ **Issue 1. Process.** The following comments are in response to the agency's request for commentary on the process which it has outlined for use in considering adoption of amendments to its cargo securement requirements.

Discussion. ATA commends FHWA/OMC for the procedures it has instituted to facilitate a review of Federal Motor Carrier Safety Regulations (FMCSR) 393.100 - 104 dealing with protection against shifting or falling cargo. This is a very broad topic which will impact many different carriers in a variety of ways. Holding outreach meetings and seeking comments via the INTERNET are both good methods to bring the discussion to the myriad interested parties.

Use of the INTERNET for rulemaking is a bold and innovative step for the agency. We wholeheartedly endorse this effort and appreciate the agency's willingness to use new technology. Unfortunately this docket notice does not give an INTERNET address where pertinent information will be posted.

We certainly support the concept of harmonized safe loading rules among all the jurisdictions in North America. We also believe that the recommended practice approach of developing such rules is innovative and very practical. This will facilitate "real world" experimentation with new concepts before they are cast into the cumbersome stone of regulations. Following with new regulations after the harmonization process appears to be a wise way to handle this effort.

We are aware that there are those who fear the "recommended practice approach" as they believe it will expose them to increased liability should an accident occur and the load or equipment be found to be in compliance with the regulations but not the practices. To an extent we too share that concern. However, there is a possibility one will be sued regardless of the manner of loading and the best defense is to have a legitimate reason for having done things as they were. Carriers meeting today's rules certainly have accomplished this.

To us, the liability risk does not outweigh the good inherent in the approach. We see great benefit from the "recommended practice" as it will enable all involved jurisdictions to address harmonization by seeing the general form of a new rule while there is still an opportunity to easily change it. Also, the ideas can be tried in practice before they become law, which affords another opportunity to make corrections in a less formal manner than such things as petitions for reconsideration.

The research being conducted to determine how some of today's load securement practices manage the forces which can be expected to be encountered during normal trucking operations is also excellent. It is an important portion of the total research necessary to determine if regulatory changes can be made to promote more cost effective means of preventing dangerously shifting or falling cargo.

Along with the engineering review of loading practices, the agency should also conduct a study of accidents to learn from actual experience where improper loading has either caused or contributed to safety problems.

There are an almost countless number of items which must be secured for shipment and multiple acceptable ways to anchor each of them. While it is reasonable for the FMCSR to contain specific, detailed requirements for the securement of certain cargo, like coils, it is unrealistic to have such rules for every item of freight. Not only would this add volumes to the regulations, it would require constant upgrades to keep up with the creation of both new methods of securing loads and new products. To a large extent, therefore, the regulations for proper loading must retain their present performance traits as this ensures their general applicability.

Also, the existing regulations have been in effect for many years and have stood and been tempered by the test of time. It is important, therefore, to ascertain whether mishaps involving improper loading are the result of either the rules being technically incorrect or their being violated by the use of improper practices committed either overtly or through inadequate training or knowledge. Such questions drive the need for accident research. It is only by knowing what the actual problems are that appropriate measures can be taken to solve them.

Southern Illinois University's (SIU) March 1995 report entitled "Analysis of Rules and Regulations for Steel Coil Truck Transport" was referenced in this ANPR. That report concludes that twice as many securement devices as are now being used should be employed to restrain coils. If the FMCSR and current practice are really this deficient and 100% more load attachment devices are actually necessary for safety, it is logical to conclude that there must be a tremendous number of coils, secured according to existing regulations, falling from trucks. We are unaware of trucking safety statistics which show this. In fact, fleets have reported to us that properly secured loads (according to FMCSR 393.100-104) have stayed on trailers during rollover accidents.

Indeed, many of the problems occurring today may well result from failure to understand and adhere to the existing rules. In fact, another of the SIU conclusions was that "drivers need

more training to understand the importance of adequate securement and the procedures used to ensure safe coil transport." This gives more evidence that a careful accident analysis is necessary before meaningful changes can be made to the existing FMCSR.

Recommendation. Along with the excellent engineering analysis of load securement which is being conducted in Canada, there is also a need for an accident analysis of equal quality to support this rulemaking. That work should be directed at defining what types of cargo are being inadequately secured and if the problem involves an improper means of cargo restraint or bad practice on the part of the person doing the work or both.

As we are sure the agency intends to do, the INTERNET address for this proceeding should be made public.

○ **Issue 2. Decision to consider an overhaul of the load securement rules.** FHWA/OMC has asked if its decision to consider a rulemaking to overhaul its cargo securement regulations is appropriate.

Discussion. Given that many existing load securement practices have not been subject to the quality engineering analysis which they are now receiving, it is entirely appropriate to consider changes. Ultimately deciding on whether or what type of changes should be made is another matter and dependent on factors beyond just the technical studies.

Unfortunately, as extensive as it is, the research being conducted is very narrow when compared to the many existing types of cargo and methods used to secure it. Performance oriented cargo securement guidelines, which have general applicability regardless of the freight being secured, must remain in the regulations if they are to cover the fastening of any load. While such rules, per se, are not a focus of the research work, many of the important elements of most securement methods, things like friction and securement device tension, are. Therefore the research provides some of the tools necessary to make and judge the attachment of any load.

Again, as we stated in our previous discussion of "Procedure", the need to know why accidents are occurring and which types of cargo are involved is vital to determining if existing load securement rules need overhaul. Therefore, we once more point to the necessity of doing an exhaustive accident study.

If accident analysis indicates that cargo is not being lost on the highways because of a shortcoming in the regulations but is rather a result of violating those rules, then revisions of their technical provisions may well be improper. A finding that there is a significant problem resulting from poor securement practices and violations of the rules points to the need for a better education of those who actually secure loads. The most productive efforts at improving safety, through achieving better load securement, would, in the case just described, be obtained through training programs and rules to assure that those who load trucks really know what they are doing.

Recommendation. FHWA/OMC should begin an intense campaign of finding the contributing factors in load securement related accidents.

CONCLUSIONS

The ATA believes that FHWA/OMC has established some bold new procedures for facilitating the rulemaking process in this docket. We applaud both those methods and the insight to adopt them.

The technical aspects of load securement are being handled well in this proceeding. A complete understanding of load securement problems also requires knowledge of what is going wrong and why. To that end FHWA/OMC should instigate an accident investigation phase of this work of the same caliber as the engineering studies.