

ORIGINAL



395 KELLOGG ST.

PORT NEWARK, NEW JERSEY 07114

DEPT. OF TRANSPORTATION
DOCKETS

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(973) 465 5310

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April 18, 1999

Docket Clerk, U.S. DOT Dockets
Room PL 401
400 Seventh Street, S.W.
Washington, D.C. 20590-0001

Re: Docket # FHWA-98-3656 - 45

Gentlemen:

The joint petition for **rulemaking** by the American Trucking Association and the **ATA Intermodal Conference** is a giant step in the right direction and long overdue.

Much of the debate over the conditions and terms of interchange of **intermodal** equipment has been cost, liability, **productivity** and service. These are certainly important concerns but the defining issue is and should be highway safety.

Intermodal equipment by its nature travels mainly short distances by road. Our Company reflects the industry experience in that most roadside inspections are performed in close **proximity** to the terminals where the equipment is picked up. Many inspections are performed during the first mile of our possession.

Most **intermodal** chassis are in our possession between 24 and 46 hours. **Although** we make every effort to inspect and only operate safe equipment we have no access to the maintenance **history** of these units.

Poorly maintained intermodal chassis and trailers have fallen through the cracks of Federal and State regulations. This is evident by the **FHWA's** lack of any meaningful statistics on accidents involving this equipment. The true operators of **Intermodal** equipment, Steamship Lines and Railroads, not Leasing Companies or **Stevedors** should be held to the same regulations of 49 CFR parts **390** and **396** as are Motor Carriers. If these Operators choose to lease or contract repairs they should still be responsible just as a Motor Carrier who leases equipment or uses outside repair shops.

The Ship Lines and Railroads offer these same units for interstate transportation **over and over** again for years. In many cases they offer "door to door" service including trucking and **actually** set trucking rates. Should they be assigned MC numbers? These companies are allowed to attach FHWA Annual Inspection **stickers** to their equipment but are not subject to the regulations and enforcement of Part **396**.

The Federal Regulations intended to keep our highways safe do not get applied in a positive manner to **Intermodal** Equipment. Sections 396.3 and **396.5** are obviously intended to encourage and require preventive maintenance. Steamship Lines and Railroads do not perform preventive maintenance on a consistent basis, they don't **periodically** pull wheels to check and lubricate wheel bearings, and they don't replace brake linings and tires on a schedule. They fix things when they break. Often that is too late.

Making the driver responsible for a walk around inspection is fine for minor and **obvious** items such as lights and mud flaps. Other items such as cracked or loose brake linings, cracked brake drums or the length of travel of a brake **pushrod** are **difficult** or impossible to accomplish without shop equipment or the assistance of another person. The driver may not and should not be required to meet the requirements of Section 396.25, Qualifications of brake inspectors. Truck drivers are not mechanics.

The safety objectives of this rulemaking could be accomplished by requiring more frequent and more comprehensive periodic inspections of container chassis and **intermodal** trailers every 3 or 6 months. There must be real teeth in the requirement that documentation or proof of inspection should be made available to Federal or State Officials.

If these periodic inspections are performed more often and each unit is given a walk around inspection each time it is interchanged most violations and certainly out of service violations would be greatly reduced. The Steamship lines and Railroads should not be afraid to take responsibility for the equipment that they put on American's Highways.

Sincerely,

A handwritten signature in cursive script that reads "Thomas W. Heimgartner". The signature is written in black ink and is positioned above the typed name and title.

Thomas W. Heimgartner
President