

ORIGINAL



DEPT. OF TRANSPORTATION  
DOCKETS

INSTITUTE OF INTERNATIONAL CONTAINER LESSORS

April 19, 1999

53975

Docket Clerk  
U.S. DOT Dockets, Room PL-40 1  
400 Seventh Street SW  
Washington, DC 20590-0001

Re: Docket #FHWA-98-3656 - 46  
Inspection, Repair and Maintenance: Intermodal Container Chassis and Trailers

Dear Sirs:

The Institute of International Container Lessors ("IICL") submits these comment in response to the ANPRM on the subject referred to above, published in 64 Fed Reg. 7849-7852 (No. 31 February 17, 1999). IICL also attaches its letter dated May 23, 1997 addressed to Ms. Jane Garvey, Acting Administrator of the FHWA in regard to the earlier joint petition by American Trucking Associations, Inc. & ATA Intermodal Conference.

IICL is the trade association for the international chassis and container leasing industry. IICL represents the owners of in excess of 225,000 chassis, or about 40% or more of the U.S. chassis fleet. IICL's members also own approximately 5 million TEU (twenty foot equivalent units) of international containers, or 40% of the world container fleet. A list of the IICL members is attached. IICL does not concede that the FHWA has jurisdiction over its members (see May 23, 1997 attachment), but wishes to comment because of the importance of this issue.

IICL is a major proponent of inspection, maintenance and repair of chassis and containers with particular emphasis on FHWA inspection requirements. IICL is the principal publisher in the United States of inspection and maintenance manuals for chassis and has issued publications for the inspection and maintenance of chassis since 1977. IICL currently publishes three titles on inspection and maintenance of chassis plus three additional workbooks. IICL's workbooks set forth in detail chassis components (i) recommended to be inspected daily, (ii) recommended to be inspected monthly and (iii) recommended to be inspected annually.

In support of its program to encourage the delivery and use of safe and structurally sound equipment, IICL has also conducted an annual container chassis inspectors' certification examination since 1991. IICL's annual Inspection Directory includes the names of companies offering inspection and repair services and of those individuals who have passed the chassis inspection examination (as well as those passing the larger container

inspection examination); and IICL gives an annual award to the person achieving the highest score on the chassis examination. The examination is conducted each year in approximately twelve cities throughout the United States. IICL has undertaken to expand the examination program and to expand its series of publications in collaboration with the Intermodal Association of North America ("IANA").

IICL urges the use of such approaches prior to the consideration of the imposition of **further** regulations and penalties. If mandatory requirements are imposed, they should be imposed on the carriers and personnel which have the equipment in their possession and control. Unwillingness to take the time to conduct inspections cannot be considered a basis for imposing responsibility on other parties, particularly on those which do not have possession and control of the equipment. Since there is little question that the **FHWA** is serious in attempting to achieve greater safety on the highway, any requirement to inspect and maintain should be **imposed** on those in a position to control and maintain the equipment, i.e. those in possession.

IICL's comments on the **FHWA's** fourteen points follow:

1. Out of service rate for intermodal container chassis or trailers inspected at roadside. IANA has an Equipment Task Force which is conducting a study on this matter, and IICL suggests that the **FHWA** await the results of that study.
2. Violation rate of federal motor carrier safety regulations (FMCSRs) for chassis or trailers inspected at roadside. This information is best obtained from operators or state enforcement authorities. Lessors, which do not have possession or control of their equipment when it is in use, learn of violations only on a hit-or-miss, unreliable basis.
3. Omission from Uniform Intermodal Interchange and Facilities Access Agreement of responsibility for "fitness". IICL is not a party to this Agreement but in business practice and actual operations an owner or supplier is commercially **successful** only if it provides equipment in a good and safe condition.
4. Mechanical defects or deficiencies to which accidents may be attributable. This question appears to be directed to state officials and motor carriers. IICL has no data on this subject but, again, calls the attention of the **FHWA** to the IANA study being undertaken.
5. FHWA imposition of responsibility for mechanical condition on parties offering container chassis and trailers for transportation? IICL suggests that it is most likely

that defects or deficiencies will develop during operation by the motor carrier rather than during storage in a depot or garage prior to delivery and, therefore, agrees that the party tendering cannot be "cited" without proof that the damage took place before delivery of the equipment.

6. Should the party tendering be responsible for defects or deficiencies irrespective of the time that the motor carrier has operated the chassis or trailer? At what point should responsibility be transferred from the party offering the vehicle for transportation to the motor carrier? Responsibility should be transferred on delivery of the vehicle or equipment. It is age old legal principle that the party in control of property is responsible only until possession is transferred and that the transferee assumes responsibility thereafter. That is the normal point in any sale, lease or transfer when responsibility is transferred. That is the time at which inspections can be efficiently undertaken and there is no reason to change. Any attempt to change will create a class of operators who will feel free to operate in a reckless manner free and devoid of liability. Such a change would be totally counterproductive.
7. Inability or lack of opportunity for inspection when drivers accept intermodal equipment at a port or railhead. Types of training needed. Transfer of possession is the logical time for a driver to perform a walk around inspection, and drivers are the most logical persons to undertake such inspections, as they are about to assume responsibility for operation of the equipment. Drivers must take the limited amount of time necessary to inspect equipment they are about to use. In regard to training, IICL calls attention to its manuals for inspection of container chassis. It expects to offer similar manuals for inspection of intermodal trailers in cooperation with IANA in the future. IICL has offered a chassis inspectors' examination since 1991 and such examinations offer an efficient method of providing training either on a self-study or other basis.
8. Inspection, repair and maintenance facilities mechanics currently used by lessors. IICL members deliver their equipment for lease in satisfactory mechanical condition, and there has been no evidence introduced to support any contention to the contrary. There is no proper way to impose on lessors or any other parties responsibility or liability for mechanical condition after delivery and transfer of possession. Mechanical condition must be ascertained at transfer of possession.
9. How often do equipment providers tender and motor carriers accept container chassis without proof of periodic inspection. IICL does not believe that any of its members deliver equipment which has not had its periodic inspection.

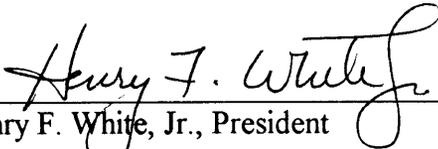
- 10-13 Frequency of periodic inspections and number of defects or deficiencies found after inspections performed within three months prior to equipment delivery, within six months prior to equipment delivery, and within nine months prior to equipment delivery suggests that the FHWA await the findings of the IANA equipment task force. That task force is studying the effect of time elapsed between annual FHWA inspections.
14. Offering by suppliers of equipment of maintenance consortiums, and similar arrangements to insure performance of routine maintenance and repairs. No systematic study has been undertaken to demonstrate that equipment suppliers do not provide **routine** maintenance or timely repairs. IICL's members rely on its manuals and the manuals' recommendations to provide equipment which has been properly maintained and repaired.

IICL would be happy to respond to any further inquiries by the FHWA. The programs undertaken by the private sector, including the cooperative efforts by IICL and IANA, building on IICL's consistent offering of instructional materials and examinations represent better assurance of properly inspected, maintained and repaired equipment than government regulation.

Very truly yours,

INSTITUTE OF INTERNATIONAL  
CONTAINER LESSORS

by

  
Henry F. White, Jr., President

HFW:rac

enclosures

**1999 Member Companies**  
**Institute of International Container Lessors**

***Carlisle Leasing International, LLC***

1 Maynard Drive  
Park Ridge, NJ 07656

Phone: (201) 391-0800  
Fax: (201) 391-0356

***Container Applications International, Inc.***

Three Embarcadero Center - Suite 1850  
San Francisco, CA 94111 I-4003

Phone: (415) 788-0100  
Fax: (415) 788-3430

***Cronos Containers Limited***

Orchard Lea  
Winkfield Lane  
Winkfield, Windsor  
Berkshire **SI4** 4RU UNITED KINGDOM

Phone: 44 1344 891 111  
Fax: 441344894102  
Telex: 848770

***Flexi-Van Leasing, Inc.***

251 Monroe Avenue  
Kenilworth, NJ 07033-I 106

Phone: (908) 276-8000  
Fax: (908) 276-7666  
Telex: 716853016 (MCI)

***Florens Container Services (U.S.) Ltd.***

851 Traeger Avenue Suite 210  
San Bruno, CA 94066-3037

Phone: (650) 829-2800  
(888) 356-7367  
Fax: (650) 829-2888

***Florens Group Limited***

35th Floor, Yat Chau International Plaza  
118 Connaught Road West Hong Kong CHINA

Phone: 85225596177  
Fax: 85225592762

***GE SeaCo SRL***

c/o GE SeaCo Services Limited  
Sea Containers House  
20 Upper Ground  
London SE1 UNITED KINGDOM

Phone: 441718055000  
Fax: 441718055900

***Interpool Limited***

633 Third Avenue 27<sup>th</sup> Floor  
New York, NY 10017

Phone: (212) 916-3260  
Fax: (212) 687-8403

***Textainer Equipment Management (U.S.) Limited***

650 California Street, 16th Floor  
San Francisco, CA 94108

Phone: (415) 434-0551  
Fax: (415) 434-0599  
Telex: 278635 TEXSFO

***Trac Lease, Inc.***

633 Third Avenue 27<sup>th</sup> Floor  
New York, NY 10017

Phone: (212) 916-3260  
Fax: (212) 687-8403

***Transamerica Leasing Inc.***

100 Manhattanville Road  
Purchase, NY 10577-2135

Phone: (914) 251-9000  
Fax: (914) 251-0248  
Telex: 7162373

***Triton Container International Ltd.***

55 Green Street  
San Francisco, CA 94111

Phone: (415) 956-6311  
Fax: (415) 421-5318  
Telex: 171100

***XTRA International, Ltd.***

One California Street Suite 2400  
San Francisco, CA 94111

Phone: (415) 477-8700  
Fax: (415) 477-8781