FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

U.S. DEPARTMENT OF TRANSPORTATION

REQUIREMENTS FOR INTERMODAL EQUIPMENT PROVIDERS AND MOTOR CARRIERS AND DRIVERS OPERATING INTERMODAL EQUIPMENT

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SUBMITTED BY:
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2200 MILL ROAD
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PRIMARY CONTACT

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The American Trucking Associations, Inc. (ATA) is pleased to submit the following comments to the Federal Motor Carrier Safety Administration (FMCSA) in response to the agency's proposed Requirements for Intermodal Equipment Providers and Motor Carriers and Drivers Operating Intermodal Equipment (herein after referred to as Roadability regulations). ATA is the national trade association representing the American trucking industry. The Intermodal Motor Carriers Conference (IMCC) is an affiliated conference within the ATA Federation and represents the interests of ATA member intermodal motor carriers.

ATA and the IMCC offer the following general and specific comments regarding the pending Roadability regulations.

ATA-IMCC's General-Overview Comments

Beginning in 2004, the IMCC entered into discussions and negotiations with both the Ocean Carrier Equipment Management Association (OCEMA) and the Association of American Railroads (AAR) regarding the need and specifics of legislation necessary to improve the safety-maintenance and inspection requirements and procedures for the intermodal chassis fleets owned and operated by OCEMA and AAR members. These negotiations produced a consensus industry agreement and recommended legislation which was jointly released and submitted to key congressional leaders and staff on April 8, 2005 (joint letter attached).

A core element agreed to by the industry participants - which subsequently set the parameters for the specific chassis safety, maintenance, repair, inspection and documentation requirements that were included in the consensus legislation - was that equipment providers would be subject to the same requirements regarding equipment systematic maintenance, inspection and repair that motor carriers are currently required to meet. The legislation based on that fundamental understanding, as modified during the congressional legislative process, was enacted August 10, 2005 as section 4118 of the **Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).**

It is also important to note that this new roadability law is also strategically consistent with the Department of Transportation's (DOT) previously announced plan to improve chassis safety. Specifically, on January 26, 2004, the Secretary of Transportation announced that the DOT would launch a safety inspection program for intermodal container chassis that would provide added oversight to help ensure that the intermodal container chassis used by motor carriers to transport intermodal cargo containers are in safe and proper working order. The Secretary's statement also explained the new inspection program would be modeled on FMCSA's compliance review program already in place for the Nation's interstate motor carriers. Intermodal equipment providers (IEPs) would be required to obtain a USDOT number and

display it on their chassis so that safety performance data could be captured. FMCSA would apply the same penalty structure and enforcement actions used for motor carriers to intermodal equipment providers demonstrating patterns of non-compliance with the new safety requirements. As further discussed below, all of these key DOT enumerated elements and operating parameters were generally included in the SAFETEA-LU roadability provisions.

As we initially reviewed the Notice of Proposed Rulemaking (NPRM) published December 21, 2006, our primary focus was to determine (1) whether all elements of the roadability requirements specified in the statute were included in the proposal, and (2) whether the core principle concerning equipment maintenance, inspection and repair - that IEPs be held to the same requirements and responsibilities as are motor carriers - was indeed followed. We have concluded that the answer to both questions is "Yes" and thus we applaud the agency for its diligence in drafting these regulations which we believe has produced a proposed regulatory regime which is workable and, when implemented, will serve to improve the safety and reliability of intermodal chassis and equipment that traverse America's highways.

Specific Comments Concerning the Proposed Regulations

PART 385 SAFETY FITNESS PROCEDURES

- **Sec. 385.501 Roadability Review**

Comments

FMCSA proposes to conduct roadability reviews in order to evaluate the safety and regulatory compliance status of IEPs. This activity would consist of an on-site examination of an intermodal equipment provider's inspection, repair, and maintenance operation and records to determine its compliance with applicable Federal Motor Carrier Safety Regulations (FMCSRs). We believe the basic elements of this section are appropriate and include the same procedures that apply to motor carriers and their equipment. Roadability review is an integral part of any program designed to insure that the benefits of systematic maintenance and repair are achieved.

- **Sec. 385.503 Results of Roadability Review**

Comments

Subsection (a) Assigning and making public the safety ratings of motor carriers continues to be the focus of ongoing discussions between the industry and the agency. Therefore, following the guiding principle of what applies to motor carries should likewise apply to IEPs, we recommend that procedures currently applicable to motor carries likewise apply to IEPs.

Subsection (b) and (c) concerning equipment deemed an **imminent hazard.**

Comments
These provisions authorizing the agency to prohibit the intermodal equipment provider from tendering specific items of equipment determined to constitute an **imminent hazard** as defined in the regulations, were specifically discussed and included in the industry consensus legislation that was enacted. Indeed, the need to prohibit an intermodal equipment provider from tendering any intermodal equipment from a particular location or multiple locations if the agency determines that the intermodal equipment provider's compliance with the FMCSRs is so deficient that the provider's continued operation constitutes an imminent hazard to highway safety **is essential** to insuring that the safety benefits of systematic maintenance and repair are indeed achieved. We therefore support implementation as proposed.

PART 386 RULES OF PRACTICE

- **Sec. 386.83 Sanctions for Failure to Pay Civil Penalties …**

Comments
This section appropriately applies the same procedures and penalties to IEPs and motor carriers and we therefore support implementation as proposed.

PART 390 FEDERAL MOTOR CARRIER SAFETY REGULATIONS

- **Sec. 390.15 Assistance in Investigations and Special Studies**

The draft regulations impose the same requirements for IEPs and motor carriers, with one exception: Intermodal equipment providers would not be required to maintain the accident register required of motor carriers in Sec. 390.15, but any accident information they do retain must be made available to investigators upon request.

Comments
Because documentation is a key element in insuring that chassis repairs are indeed made, we recommend that IEPs be required to maintain and make available to inspectors all records related to chassis damage and subsequent repairs actually made. Such documentation would also aid in compliance audits which will be undertaken pursuant to these regulations.

- **Sec 390.21 Marking of Equipment…**

FMCSA would require intermodal equipment providers to mark intermodal equipment with an identification number issued by the FMCSA. This number could be a USDOT number or another unique identification number. The USDOT number is currently used to identify all motor carriers in FMCSA's registration/information systems. It is also used by States as the key identifier in the Performance and Registration Information Systems Management (PRISM) project, a cooperative Federal/State program that makes motor carrier safety a requirement for obtaining and keeping commercial motor vehicle registration and privileges.

Comments

As referenced above, motor carries today are required to display the USDOT number issued by the agency. Although the issue of whether IEPs should likewise be required to get and use a comparable USDOT number or instead be permitted to use another unique identification numbering system was discussed during the legislative and early regulatory development process, we are aware of no data or information that has been presented which provides justification for IEPs using anything other the established and reliable USDOT numbering program motor carriers are now required to use. Therefore, absent a strong showing to the contrary in comments filed for the record, we believe that marking standardization requiring a USDOT numbering system for IEPs will greatly facilitate equipment identification and responsibility throughout the repair, maintenance and inspection processes and thereby insure compliance with the clear legislative mandate **to match intermodal equipment readily to an intermodal equipment provider.**

- **Sec. 390.40 Responsibilities of IEPs**

Comments

Implementation of the requirements contained in this section is critical to the success of the Roadability regulations. Subsections (a) through (f) are indeed those elements set out in the consensus SAFETEA-LU requirements and are the same as those responsibilities and obligations applicable to motor carriers and therefore are appropriate for IEPs as well.

Subsection (g) At facilities at which the intermodal equipment provider makes intermodal equipment available for interchange, have procedures in place, and provide sufficient space, for drivers to perform a pre-trip inspection of tendered intermodal equipment.

Comments

Implementation of reasonable space and repair-replace procedure requirement contained in Subsection (g) we believe is also a core element in insuring that the existing driver pre-trip walk around inspection (requiring the driver to be satisfied that the equipment is in good working) will indeed be made; without such a requirement and procedures designed to facilitate compliance, the targeted improved safety and roadability of the chassis will not be insured.

Although anecdotal in nature, current chassis pre-trip inspection activities often occur in operating environs that are described by the trucking industry as being space, time and hassle plagued. As a result, drivers are under countervailing pressures to perform the detailed safety check (and then wait for identified repairs to be made), or instead perform a superficial check (and find no needed repairs) and get on the road in order to get paid and adhere to HOS requirements. We therefore support the establishment of system and space requirements to promote effective and efficient pre trip inspections under a time requirement discussed in subsection (h) below.

Subsection (h) At facilities at which the intermodal equipment provider makes intermodal equipment available for interchange, develop and implement procedures to repair any equipment damage, defects, or deficiencies identified as part of a pre-

trip inspection, or replace the equipment, prior to the driver's departure. The repairs or replacement must be made in a **timely** manner after being notified by a driver of such damage, defects, or deficiencies.

Comments
As referenced above, compliance with an effective pre-trip inspection regimen is fostered by adequate space and repair procedures. Compliance is likewise extremely sensitive to the time expectations that the driver has as to how long it will take to repair an equipment problem that the driver has found during the pre-trip. Thus, the proposed regulations have correctly noted the countervailing pressures under which the driver operates, potentially balancing economic realities (HOS and "paid by the trip") against the need to identify a deficiency that may impact safety and thus needs to be repaired.

How then should the regulations define the "timely" repair requirement included in this subsection? At the outset, it appears reasonable to assume that during initial deployment and implementation of the roadability program, this pre-trip identification-repair or replace requirement will present-during that initial roll out period of adjustment - a compliance hurdle for IEPs. It also seems reasonable to initially anticipate a disproportionately higher level of "timely" compliance problems as IEP facilities test and refine "repair-replace" decision processes. It should also be recognized, however, that while the specific requirements of the proposed roadability regulations will be mandatory in application, industry procedures currently in existence do require driver chassis pre-trip inspections and IEP repair requirements, so implementation of the regulations is not an entirely new or unknown challenge for IEPs. Adherence to a time certain requirement is also particularly needed because under the current non-federal regime, deficiencies identified today during driver pre-trip generate a "Bad Order" ticket, which requires the driver to take the equipment to the roadability repair line and then, all too often, wait hours for repairs to be made.

Therefore, in order to insure that safety, not economic-time pressures are the driving force of regulatory compliance, we believe the initial agency focus should be to require that following a driver pre-trip identification of a repair need, IEPs should first be required to make a "timely" decision on whether to repair or replace the chassis (within 10 minutes of driver notification of the repair needed) and thereafter equipment repair or replacement must be accomplished within 30 minutes.

Subsection (i) (IEPs should) Refrain from placing intermodal equipment in service on the public highways if that equipment has been found to pose an imminent hazard…
Comments
The importance of the **imminent hazard** finding and resulting restrictions and obligations is discussed in Sec. 386.72 (b) (1), above.

- **Sec. 390.42 Procedures to Correct Safety Records**

Comments
This activity was the subject of detailed discussions that eventually led to the consensus legislation now being implemented. The prescribed procedures permitting intermodal equipment providers and motor carriers to request correction of publicly-accessible safety violation information for which the intermodal equipment provider or motor carrier should not have been held responsible was particularly promoted by motor carriers to address and correct the current roadside inspection procedures which generally assign all chassis-trailing equipment deficiencies to the motor carrier or the driver. Following promulgation of the roadability regulations wherein the chassis IEP is now identified, deficiencies on the power unit should be assigned to the motor carrier or driver, but defects found on the chassis should be assigned to the identified IEP. Thereafter, section 390.42 procedures utilizing the existing DataQs system will facilitate the correction of safety records where the facts warrant.

The practicality of this approach was correctly identified and understood by the agency as reflected in its analysis that the statute states the agency should not attempt to allocate liability between parties tendering and using intermodal equipment. Rather than finding fault among intermodal parties or involving the Government in individual disputes (such as who damaged a particular container chassis), the rulemaking would establish programmatic responsibility for intermodal equipment maintenance. The concept is that a maintenance program would produce safer equipment--safety being in the interest of the traveling public and of the government.

We concur in this analysis.

- **Sec. 390.44 Responsibilities of Drivers and Motor Carriers**

(a) Before operating intermodal equipment over the road, the driver accepting the equipment must inspect the equipment components listed in Sec. 392.7(b) of this chapter and must be satisfied that they are in good working order.

(b) A driver or motor carrier transporting intermodal equipment must report to the intermodal equipment provider, or its designated agent, any known damage or deficiencies in the intermodal equipment at the time the equipment is returned to the provider or the provider's designated agent. The report must include, at a minimum, the items in Sec. 396.11 (a) (2) of this chapter.
Comments
Under current FMCSA regulations, drivers are generally required to make a pre-trip walk a round inspection of the items listed in Sec. 392.7 (b) prior to departure. Following several years of discussions by intermodal stakeholders (ocean carriers, railroads, motor carriers) under the auspices of the Intermodal Association of North America (IANA) the industry agreed to and adopted a specific list of intermodal chassis items that should be visually and audibly inspected by the driver as part of the normal pre-trip walk around inspection. That list was formally incorporated (2005) in the industry's interchange agreement (Uniform Intermodal Interchange and Facilities Access Agreement – UIIA) as Exhibit A and is appended to these comments. Given

the extensive vetting this list received and the known and implemented inspection requirements widely used within the intermodal community, we strongly recommend that this list also be the list adopted by the agency to comply with section 390.44 requirements.

In addition, it should also be noted that as developed during industry consensus discussions and now required and performed under the UIIA, the pre-trip inspection using the Exhibit A list did not and does not require a specific pre-trip inspection document to be generated. We likewise believe this "no document" practice be adopted in the roadability regulations; however, to meet the targeted repair requirements rightly imposed by these regulations, we recommend that **where an equipment deficiency** is discovered by the driver during the pre-trip, documentation of both the deficiency and subsequent repair should be required. To facilitate implementation and standardization, we likewise recommend that FMCSA adopt the aforementioned UIIA Exhibit A as the basis for the pre-trip deficiency report.

- **Sec 390.46 Preemption**

Comments

The specifics and needs regarding federal preemption and the ability of a state which had roadability regulations in place prior to the January date certain referenced in the statute was discussed extensively during industry and congressional deliberations that ultimately led to adoption and enactment of Section 4118 of SAFETEA-LU. The regulations proposed in the pending draft we believe accurately reflect the legislative language and therefore we support implementation as proposed.

- **Sec. 390.5 Definitions**

Comments

FMCSA proposes to add definitions of ``interchange," ``intermodal equipment," ``intermodal equipment interchange agreement," and ``intermodal equipment provider" to Sec. 390.5 to provide a consistent vocabulary for dealing with intermodal equipment issues. The agency has correctly identified and defined the necessary terms related to intermodal chassis interchange as specifically set out in legislation as codified in 49 U.S.C. 31151(f) and therefore we support implementation as proposed.
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PART 392 DRIVING OF COMMERCIAL MOTOR VEHICLES

- **Sec 392.7 Equipment, Inspection, and Use.**

Comments

As discussed in comments to Section 390.44 above, drivers today make a pre-trip inspection of their equipment prior to departure, and concerning the intermodal chassis, are required under the UIIA as detailed in Exhibit A to visually and audibly inspect a specific list of components. We again recommend that the agency adopt the industry procedures and the Exhibit A list for compliance with this section.

PART 393 PARTS & ACCESSORIES NECESSARY FOR SAFE OPERATION

The agency is proposing to revise Sec. 393.1 to make IEPs responsible for offering in interstate commerce intermodal equipment that is equipped with all required parts and accessories. The proposed changes are intended to ensure each required component and system is in safe and proper working order.

- **Sec. 393.1 Scope of the Rules**

Comments

This section appropriately requires both the motor carrier and IEP to be knowledgeable of and comply with the applicable requirements and specifications of the relevant regulations and not operate or permit equipment to be operated unless it is equipped in accordance with the requirements and specifications of the regulations. We therefore support implementation as proposed.

PART 396 INPECTION, REPAIR, MAINTENANCE

- **Sec. 396.1 Scope**

Comments

As discussed in section 393.1 above, this section also appropriately requires both the motor carrier and IEP to be knowledgeable of and comply with the applicable rules for inspection, maintenance and repair requirements included in this Part and therefore we support implementation as proposed.

- **Sec. 396.11 Driver Vehicle Inspection Reports**

(a) Report required.

(1) Motor carriers. Every motor carrier must require its drivers to report, and every driver must prepare a report in writing at the completion of each day's work on each vehicle operated.

Comments

This section extends the current driver post trip report to cover chassis related items. As we have recommended above in comments to Sec. 392.7, the items specifically related to chassis in the new requirements should include the items listed in UIIA Exhibit A.

Subsection (a) (2) Intermodal equipment providers. Every intermodal equipment provider must have a process to receive driver reports of defects or deficiencies in the intermodal equipment operated.

Comments

This section is a key element in insuring that intermodal equipment is indeed repaired and maintained. The out-gate pre trip inspection issue was discussed above and recommendations were provided on the documentation of repairs needed before departure. This section concerns the in-gate process following completion of the truck

movement. As in the case of out-gate, we recommend that the driver report cover those items included in UIIA Exhibit A.

It should also be noted that many new and modernized intermodal terminal facilities may use or intend to use *photo* documentation at both processing gates, although gate systems currently being automated are often being set up with in-gate only photo documentation. This photo documentation is designed to improve both system efficiencies and provide additional documentation for assessing equipment damage which is otherwise beyond the scope of these proposed rules. However, photos obviously cannot capture audible inspections, brake conditions and other key safety related items that under the new requirements must be reported.

Therefore, while we support the introduction of photo recordation, we believe limitations cited above regarding safety inspections and the need to comply with the reporting requirements set out in Section 396.12 below require a true document to be generated which will reliably provide a record of equipment condition and repairs needed, and then provide the tracking/audit basis for insuring that necessary repairs are actually made. We would also suggest that as part of the anticipated maintenance and repair compliance audit process, where in-gate photos are available, audit personnel randomly review the immediately preceding in-gate photo of the equipment repair being audited as another useful tool that may aid in substantiating system repair compliance.

- **Sec. 396.12 IEP Report Acceptance Requirements**

(a) System for reports. Each intermodal equipment provider must establish a system for motor carriers and drivers to report to it any damage, defects, or deficiencies discovered by, or reported to, the motor carrier or driver which would--

(1) Affect the safety of operation of the intermodal equipment, or

(2) Result in its mechanical breakdown while transported on public roads.

(b) Report content. The system required by paragraph (a) of this section must include documentation of all of the following:

(1) Name of the motor carrier responsible for the operation of the intermodal equipment at the time the damage, defects, or deficiencies were discovered by, or reported to, the driver.

(2) Motor carrier's USDOT Number or other unique identifying number.

(3) Date and time the report was submitted.

(4) All damage, defects, or deficiencies reported to the equipment provider by the motor carrier or its driver.

Comments

As we have previously recommended in other documentation comments, we likewise recommend that the document envisioned in this section should be developed and standardized by the agency and utilize the safety check items listed in UIIA Exhibit A. Such document standardization will facilitate: driver acceptance (and use); maintenance and repair efficiencies; and, streamline the audit review process.

It likewise is clear that IEPs must have a time and process efficient system in place to allow drivers at the in-gate to inspect the equipment, complete the form, turn it in and receive a copy of the document.

Subsection (c) Corrective action.

(1) Prior to allowing or permitting a motor carrier to transport a piece of intermodal equipment for which a motor carrier or driver has submitted a report about damage, defects or deficiencies, each intermodal equipment provider or its agent must repair reported damage, defects, or deficiencies that are likely to affect the safety of operation of the vehicle.

(2) Each intermodal equipment provider or its agent must document whether the reported damage, defects, or deficiencies have been repaired, or whether repair is unnecessary, before the vehicle is operated again.

Comments

This provision completes the chassis safety status process and ultimately secures chassis fleet roadability. Historically, the motor carriers have reported all too common instances of repairs not being made on a particular piece of equipment, as evidenced by repair bills being sent to multiple motor carriers for the same damage on the same equipment during their sequential use of the same piece of equipment. Thus, the new requirement to document repairs closes this loop and will insure that noted damage and deficiencies are repaired before redeployment of the equipment. As referenced above in section 396.11 comments, where in gate photos are available, we also recommend that the use of the immediately preceding in-gate photo of the equipment repair be used as an audit tool to verify the reliability of the system being audited.

- **Secs. 396.17 Periodic Inspection,396.21 Recordkeeping and 396.23 Equivalent Periodic Inspection**

Comments

These sections extend the periodic inspection related requirements motor carriers are now subject to and correctly includes IEPs in the regulatory regime.

Section 396-19 Inspector Qualifications and 396.25 Qualifications of Brake Inspectors

Comments

These sections extend the periodic inspector qualification related requirements motor carriers are now subject to and correctly include IEPs in the regulatory regime.

International Implications

FMCSA has solicited comments on the various enumerated international aspects of the proposed chassis safety program detailed in the published NPRM.

Comments
FMCSA has identified some potential hurdles to enforcement of the proposed rules against IEPs located outside the United States. As a point of comparison, we draw attention to the treatment of foreign-based motor carriers. Motor carriers based in Canada, and now recently motor carriers based in Mexico that are part of the pilot program, that intend to operate equipment in the United States are required to register with FMCSA and comply with the FMCSRs. Additionally, as part of bilateral agreements entered into between the United States and Canada and the United States and Mexico, DOT officials have authority to audit and inspect the records of motor carriers in their home country (whether it be Canada or Mexico). We recommend a similar regime be established for foreign-based IEPs.

To the extent that an IEP located in a foreign country knows that it is offering equipment that will be operated in the United States, that IEP should be required to register with FMCSA. The bilateral agreements currently in existence should allow FMCSA to enforce the proposed regulatory regime, including the marking, recordkeeping and systematic maintenance and repair requirements. If the bilateral agreement currently in place for motor carriers cannot be reasonably read to include foreign-based IEPs, those agreements should be amended – or new agreements put in place – to achieve inclusion of those IEPs.

We agree that the marketplace will help dictate the extent to which foreign-based IEPs register with FMCSA. For example, once the proposed regulations become effective, a motor carrier using a chassis provided by a foreign-based IEP will have to ensure that the chassis is marked with the identifying number when operated in the United States or else face citation when operating on U.S. highways. That motor carrier will simply no longer be able to do business with an IEP that refuses to register and mark the chassis if that carrier will be taking the chassis into the United States. But until the bilateral agreements with Canada and Mexico now governing compliance by and FMCSA audit of foreign-based motor carriers are read or amended to include foreign-based IEPs, FMCSA should set up a program to keep statistical data on chassis violations attributable those IEPs and allow motor carriers to correct their safety records for violations properly attributable to the foreign-based IEPs.

Finally, while not limited to foreign-based IEPs, we recommend that FMCSA implement a requirement that all registered IEPs (whether foreign or domestic) designate service of process agents. This requirement is similar to the requirement for motor carriers and the BOC-3 form and has proven an effective and efficient way to ensure jurisdiction over resolution of civil disputes.

Intermodal Chassis Tires
Tire condition and safety as it relates to the roadability regulations is generally addressed in the inspection and record keeping requirements and procedures discussed above. However, one fundamental tire safety issue not directly addressed in either the statute or the pending regulations concerns the issue of whether imported

bias ply tires universally installed and used on ocean carrier supplied chassis are properly rated and with sufficient load and speed specifications to insure safe transport of the wide range of heavy container loads moved in domestic intermodal transportation.

Comments

With the exception of the ocean carrier-provided chassis identified above, motor carrier truck transportation is universally moved on radial tires which have tested and uniform specifications covering weight and speed limitations. Beyond the fact that the imported bias ply tires used on ocean carrier-supplied chassis are generally less expensive than similarly sized radials, we are unaware of any comprehensive governmental testing and evaluation concerning the adequacy and practicality of weight and speed ratings on these non radial tires. We therefore recommend that FMCSA conduct a review of this issue in order to verify tire safety adequacy and compliance regarding intermodal chassis-container transportation.

Obviously, an otherwise “safe” chassis whose tires pass the pre-trip visual or routine inspections required could actually be unsafe if the tires are not manufactured to meet the weight and speed conditions under which intermodal container transport routinely takes place.

Regulatory Implementation Schedule

From the trucker perspective, we would obviously like to get this long awaited safety program underway at the earliest possible time i.e. immediately. Recognizing that this historic Roadability regime is indeed the product of industry consensus and that our intermodal equipment provider-partners may potentially have to make systemic changes in their intermodal numbering, inspection and repair related operations to comply with the new law, we believe a staged roll-out of the requirements should be allowed with full implementation and compliance required within 9 months of final rule promulgation.

REFERENCED ATTACHMENTS

April 8, 2005

The Honorable Ted Stevens
Chairman
Committee on Commerce, Science, and Transportation
United States Senate
308 Dirksen Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

Over the last three years, the trucking, maritime, and railroad industries have been striving to reach consensus on key intermodal equipment (chassis) safety related issues. As a result of these efforts, important indemnification provisions were added to the widely-used interchange agreement (the Uniform Intermodal Interchange and Facilities Access Agreement, or UIIA) and the industries developed a systematic maintenance "best practices" program for chassis fleets.

The three industries also agree that the federal government should establish requirements addressing the systematic maintenance of intermodal equipment traveling on America's highways. We are pleased to report that as part of this consensus, the American Trucking Associations (ATA), the Ocean Carrier Equipment Management Association (OCEMA) and the Association of American Railroads (AAR) have reached agreement on the enclosed draft legislation that would establish a systematic maintenance and inspection program addressing the roles of all sector participants.

The draft legislation would require the Department of Transportation, through regulations promulgated by the Federal Motor Carrier Safety Administration, to issue rules and procedures ensuring the safety of intermodal transportation. Included in the draft legislation are provisions requiring DOT to: provide for the inspection, repair, and maintenance of intermodal equipment by equipment providers; identify what motor vehicle drivers must inspect before operating intermodal equipment; require actual equipment defects identified by drivers to be repaired and the repairs documented before the equipment is put back in service; and establish a procedure for motor carriers and intermodal equipment providers to petition for the correction of safety records to delete violations of safety regulations for which they should not have been held responsible.

Recognizing that intermodal transportation is quintessentially the type of interstate commerce requiring a uniform national approach to safety requirements, the legislation would preempt states from adopting duplicative requirements in the future, but would allow a state with existing state standards that are determined by the Secretary to be as effective as the Federal standards and not unduly burdensome to interstate commerce to seek non-preemption.

It is our hope that you include this consensus legislative proposal in the final version of Transportation Equity Act: A Legacy for Users (TEALU). We would be happy to meet with you or your staff to address any additional concerns.

Sincerely,

Bill Graves
President and CEO
American Trucking Associations

Edward R. Hamberger
President and CEO
Association of American Railroads

Jeffrey F. Lawrence
Executive Director
Ocean Carrier Equipment Management Association

Enclosure

Exhibit A to UIIA

As referenced in Sections D.3.a.1 and F.4.b.
The following list sets forth those items, which the Motor Carrier has responsibility for visually or audibly checking prior to use of the Equipment:
1. Chassis Twist Locks and Safety Latches – (Check that twist locks and safety latches are engaged and properly secured.)
2. Slider Pins – (Check that slider pins are engaged for all sliding chassis.)
3. Bolsters (Check that bolsters are not bent and the container can be secured properly.)
4. Landing Legs (Check that Landing legs are in 90 degree position and they move up and down properly.)
5. Sand Shoes (Check that sand shoes or dolly wheels are attached to landing legs and secure.)
6. Crank Handles (Check that handle is attached, secure and operable to move landing legs up and down.)
7. Mud Flaps – (Check that mud flaps are whole and properly secured.)
8. Tires (Check that the following conditions are **not** present.)
a. Tire is flat, underinflated or has noticeable (e.g., can be heard or felt) leak.
b. Any tire with excessive wear (2/32nds or less thread depth), visually observable bump, or knot apparently related to tread or sidewall separation.
c. Tire is mounted or inflated so that it comes in contact with any part of the vehicle. (This includes any tire contacting its mate in a dual set.)
d. Seventy-five percent or more of the tread width is loose or missing in excess of 12 inches (30cm) in circumference.
9. Rims (Check that rims are not cracked and/or bent.)
10. Rear Underride Guard ("ICC Bumper") (Check that Guard is in place and not bent under the frame.)
11. Electrical Wiring/Lights – (Check that lights are in working order.)
12. Reflectors/Conspicuity Treatments (Check for reflector lenses and presence of conspicuity tape or bar on the 3 visual sides of the chassis.)
13. Brake Lines, Including Air Hoses and Glad Hands – (Check for audible air leaks and proper pressurization only.)
14. Current License Plate (Check to see that it is affixed to equipment.)
15. Proper Display of Hazardous Cargo Placards, In Accordance with Shipping Papers
16. Display of Current Non-expired Federal Placards or Stickers (Check to see that it is affixed to equipment.)
The foregoing list does not include latent defects unless caused by or resulting from the negligent or intentional acts or omissions of the Motor Carrier, its agents, employees, vendors or subcontractors during the Interchange Period. The foregoing list is without limitation of any federal or state legal requirements applicable to Motor Carrier with respect to use or operation of Equipment. **[Revised 1/17/05]**