

BEFORE THE
GENERAL SERVICES ADMINISTRATION

INFORMATION COLLECTION 9000-0055
FREIGHT CLASSIFICATION DESCRIPTION

DOCKET 2012-0076; SEQUENCE 7

COMMENTS OF
NATIONAL MOTOR FREIGHT TRAFFIC
ASSOCIATION, INC.

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DUE: AUGUST 31, 2012

DATED: AUGUST 22, 2012

1.

National Motor Freight Traffic Association, Inc. (NMFTA) submits these comments in response to the Notice which appeared in the August 1, 2012 issue of the Federal Register regarding a proposed extension to an existing Office of Management and Budget (OMB) clearance previously approved information collection requirement concerning freight classification descriptions.

NMFTA is a non-profit trade association, the membership of which includes approximately 797 motor carriers of property authorized to transport commodities in interstate and/or foreign commerce. Its members are participants in the National Motor Freight Classification (NMFC) which is utilized in identifying the transportation characteristics of the goods they transport. Many of the member motor carriers provide transportation services to government agencies and departments, including the General Services Administration (GSA), the Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA), and their contractors and/or customers.

As indicated in the Federal Register Notice, under the Federal Acquisition Regulation (FAR) the government is required to provide, in solicitations, a complete description of the supplies to be acquired and the packing requirements to determine transportation (freight rate) charges for the evaluation of offers. It is further stated that the freight rate for supplies is based on the applicable freight classification description. As acknowledged, for motor carriers that description is found in the National Motor Freight Classification (NMFC). It is pointed out that when supplies are purchased that are new to the supply system, nonstandard, or modifications of previously shipped supplies, different freight classifications may apply. Per FAR clause 52.247-53, offerors, as pertinent here, are requested to indicate the full NMFC description applicable to those supplies. The Government then uses those descriptions, and other information, to determine the classification description most appropriate and advantageous to the government.

Comment is requested on whether this collection of information is necessary for proper performance of the functions of the FAR; whether it will have practical utility; and whether the agency's estimate of the public burden is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which the agency can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

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The comments of Joel L. Ringer, Chairman of the Commodity Classification Standards Board, (CCSB) is appended as Attachment A. The CCSB is an autonomous body within NMFTA which is responsible for investigating, initiating, considering and acting upon matters affecting the provisions of the NMFC. It handles proposals seeking to amend the classification of commodities; commodity descriptions; rules; packaging definitions, specifications or requirements; bill of lading formats, terms and conditions; and any other provisions contained in the NMFC. Mr. Ringer addresses the recognized value of the NMFC to the entire transportation community, and the critical role freight classification has in the construction of a rational pricing system for motor carriers and shippers. Those are the very objectives which have led to the requirement that the government indicate the full classification description in the NMFC applicable to the commodities to be shipped as per FAR clause 52.247-53. It is submitted that just as the provisions of the NMFC have well served the government in the implementation of the objectives of the FAR in the acquisition of supplies in the past, it presently does so, and will continue to serve that function in the future.

As identified in Mr. Ringer's comments, the utility and the value of the NMFC to the transportation community has long been recognized by the former Interstate Commerce Commission, the agency which had jurisdiction over the contents of the NMFC, Congress, which considered the necessity of the continuation of the freight classification, and the government's Motor Carrier Ratemaking Study Commission which evaluated the benefits of the NMFC. The CCSB keeps abreast of the commodities moving via motor carriage, and gathers information on their transportation characteristics to ensure that they are properly classified within the NMFC. The proper packaging of the articles is also addressed. Accordingly, the continued practical utility of the NMFC in the implementation of freight classification, and its concomitant suitability to meet the government's needs relative to the procurement of transportation services under the requirements of the FAR, cannot be doubted.

The NMFC is readily available to the public in printed and/or electronic format for a reasonable fee. Moreover, the CCBS provides a service whereby members of the transportation community can get assistance in determining the proper classification of the involved commodities. As Mr. Ringer indicates the CCSB would gladly assist the government in interpreting the proper description of commodities and their packaging requirements for inclusion in solicitations. Such information better enables motor carriers to submit bids responsive to the transportation characteristic of the commodities involved, and the government to assess the appropriateness of the bids submitted. Moreover, reliance on the classification and packaging provisions in the NMFC will ensure that the information provided in

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the solicitations is accurate , is created through long-standing and approved standards, and will enhance the quality, utility, and clarity of the freight classifications provided to bidders.

Therefore, NMFTA strongly supports the submission to the Office of Management and Budget a request to review and approve an extension of the previously approved information and collection requirement concerning freight classification descriptions.

Respectfully submitted,

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Dated: August 22, 2012

My name is Joel L. Ringer. I am employed by the National Motor Freight Traffic Association, Inc. (NMFTA) as Chairman of the Commodity Classification Standards Board (CCSB). My business address is 1001 North Fairfax Street, Suite 600, Alexandria, Virginia 22314. I have been employed by NMFTA in various capacities related to the National Motor Freight Classification (NMFC) since June 1977. I am a graduate of the University of Maryland where I earned a Bachelor of Science degree in Business and Management with a major in Transportation. I have been Chairman of the CCSB since its inception on December 6, 2007.

The National Motor Freight Classification

The National Motor Freight Classification has served motor carriers and their customers, particularly in the less-than-truckload (LTL) sector, for over 75 years.

The freight that moves in LTL service is tremendously diverse, physically; it typically requires multiple handlings, and it must all coexist in the same vehicle. Stone slabs on pallets, copper cable on reels, glass jars in boxes, and lengths of steel pipe are just a few examples of LTL freight, as are internal combustion engines on shipping racks or cradles, wiping cloths in bales, paint in drums, flammable gas in metal cylinders, and tires stacked on pallets or tendered loose. The NMFC provides a standard for identifying these and the thousands of other articles or materials shipped LTL every day, taking into account the respective service demands of these disparate goods.

Freight classification is essentially the grouping of commodities by their relative transportation characteristics. The method by which freight classification is achieved

was aptly and succinctly described by the former Interstate Commerce Commission (ICC), as follows¹:

Classification is largely a matter of comparison of all commodities that move as freight and the assignment of ratings such that each shall bear its fair share of the transportation burden.

Years later, the ICC further observed²:

The primary purpose of a freight classification is to assign each article or groups of articles with comparable transportation characteristics to a class. Assignments are made according to well known classification principles which are based upon distinctions relative to transportability. ... [T]he classification is designed to reflect the characteristics of the commodity transported, [whereas] the class [rate] tariff reflects the characteristics of the haul.

Determining the “transportability” of a product or group of products is accomplished through an evaluation of the following four transportation characteristics, which were initially prescribed by the ICC³:

1. Density;
2. Stowability, which includes excessive weight or excessive length;
3. Ease or difficulty of handling, which includes special care or attention necessary to handle the goods; and
4. Liability, which includes value per pound, susceptibility to theft, liability to damage, perishability, propensity to damage other commodities with which transported and propensity to spontaneous combustion or explosion.

The involved product or product group is then assigned one of 18 classes—ranging from a low of class 50 to a high of class 500—reflective of its transportability.

¹ Classification of Canned Goods, 98 I.C.C. 166, 176 (1925).

² Charge For Shipments Moving On Order-Notify Bill Of Lading, N.M.F.T.A., 367 I.C.C. 330, 335 (1983).

³ Investigation Into Motor Carrier Classification, 367 I.C.C. 243, 258 and 367 I.C.C. 715-717 (1983).

No one characteristic tells the whole story. It is generally accepted that density is the most important element, and where there are no unusual or significant stowability, handling or liability considerations density is the defining characteristic in the assignment of classes. But the other transportation elements can, and frequently do, have a substantial or controlling effect in classifying a particular product as tendered for shipment. Accordingly, only an evaluation of all four characteristics can truly determine a given product's transportability. Products that share comparable transportation characteristics are assigned the same or similar class.

The value of freight classification in the motor carrier industry has been acknowledged on numerous occasions. The legislative history of the Motor Carrier Act of 1980 unequivocally reconfirmed how motor freight classification benefits the entire transportation community⁴:

[T]he Committee is of the view that the commodity classification system currently in place is a useful tool for shippers, receivers and transporters of...freight [s]o all "know what they are talking about" thereby contributing to an efficient and economical transportation system. (Emphasis ours.)

The ICC found motor freight classification to be consistent with the national transportation policy⁵:

A uniform classification system, to the extent the industry chooses to use one, meets many of the motor transportation policy goals of 49 U.S.C. 10101(a). Classification can promote efficiency, encourage sound economic conditions in transportation, and allow a variety of quality and

⁴ H.R. Rept. No. 96-1069, 96th Cong., 2d Sess., p. 28 (1980).

⁵ Interstate Commerce Commission Decision, Section 5a Application No. 61, National Classification Committee – Agreement, served May 18, 1987.

price options to meet changing market demands and the diverse requirements of the shipping public. (Emphasis ours.)

The independent Motor Carrier Ratemaking Study Commission, which was established by the Motor Carrier Act of 1980 and consisted of three Senators, three Congressmen and four members of the public appointed by the President, reached a similar conclusion⁶:

Classification can facilitate competition by helping carriers establish cost-related rates and by easing the task of rate comparison by shippers. Classification can also reduce transaction costs involved in the pricing of motor carrier services.

In considering what would be the appropriate classification system, the Study Commission concluded that it would be a system “with basically the same organizational structure and procedures as the current one”⁷.

In the early 1980s, the ICC conducted an extensive review of motor freight classification. Preliminarily assessing the merits of classification and its role for the future, the ICC stated⁸:

...Even in a competitive environment, the work of the classifiers is important.

Carriers will always need a way of listing their prices. Classifying articles according to their relative transportation characteristics is one way of starting to assemble a rational pricing system.

Later in that proceeding, then-Commissioner Gradison offered a separate opinion respecting the NMFC⁹:

⁶ See report, *Collective Ratemaking In The Trucking Industry*, p. 455, June 1, 1983.

⁷ See report, *supra*, p. 457.

⁸ Investigation Into Motor Carrier Classification, 364 I.C.C. 906, 910 (1981).

[T]he [National Motor Freight] Classification is the useful product of many decades of careful work. It helps both carriers and shippers to do their work more efficiently. The Congress has recognized this and has found that the Classification will be as useful under a system in which carriers make individual rates as it was under the system in which carriers made collective rate decisions. It assists new entrants into the motor carrier industry to make rational rate decisions, and it promotes the cost based rate system mandated by the Motor Carrier Act of 1980. (Emphasis ours.)

The NMFC provides a standard for identifying the thousands of products moving in commerce, as has been mentioned, and by grouping all products into only 18 classes it greatly simplifies motor carrier pricing. Importantly, though, freight classification is not ratemaking; the NMFC contains no rates or charges for transportation services, nor does it suggest rates or charges. Motor carriers establish their own pricing and are free to negotiate with their shipper customers in this regard.

In addition to commodity descriptions and classes, the NMFC specifies minimum packaging requirements to ensure that goods are adequately protected and can withstand the normal rigors of the motor carrier environment. The NMFC also contains various rules, which fall into the following four categories:

1. Rules of general application (such as Item 110, Definitions and Explanations of Terms, Punctuation and References);
2. Rules governing assignment of classes in normal and extraordinary situations (such as Item 422, Classification of Combined Articles, and Item 640, Mixed Shipments);
3. Rules governing packaging, bills of lading, and related provisions (such as Items 222 through 222-6, Specifications for Fiberboard Boxes, and Item 360, Bills of Lading, Freight Bills and Statements of Charges); and
4. Rules governing claims and motor carrier interline shipments (such as Items 300100 through 300155, Procedures Governing the Investigation and Disposition of Freight Claims for Loss or Damage,

⁹ Investigation Into Motor Carrier Classification, 367 I.C.C. 243, 259-260 (1983).

and Items 400100 through 401700, Rules Governing Adjustment of Overcharge Claims and Interline Settlements).

**The Commodity Classification Standards Board and the
Freight Classification Process**

The NMFC is dynamic, continually adapting to meet the ever-changing needs of motor carriers and their customers. The nature of commerce is one of change. With advances in technology, and through innovation, new products enter the marketplace, others exit, while yet others are transformed. (Think, for instance, how much televisions have changed in the past 20 years.) At the same time, new packaging techniques and materials are introduced. And federal regulations governing the transportation of hazardous materials are subject to revision. Such changes can, and do, have a direct impact on LTL operations and the transportability of LTL freight. The NMFC evolves accordingly to meet these changing conditions.

Development and maintenance of the NMFC are the responsibility of the Commodity Classification Standards Board. The CCSB is an autonomous, decision-making body consisting of classification and packaging professionals who are full-time employees of NMFTA. At present, there are six CCSB members who together have over 170 years of NMFC experience.

The CCSB investigates, initiates, considers and acts on matters affecting the provisions of the NMFC, including: proposals for amending the classification of commodities; commodity descriptions; classes; rules; packaging definitions,

specifications and requirements; bill of lading formats, terms and conditions; and other provisions contained in the NMFC.

Anyone or any group having an interest in the content of the NMFC can file a proposal to amend the NMFC. Proposals are considered through a formalized, transparent process in which all NMFC stakeholders can equally participate. Meetings of the CCSB where proposed changes are considered and acted upon are open to the public, and notice of each meeting and the proposals to be considered is provided at least forty-five (45) days in advance, so that interested persons can attend and share information, ideas and opinions on any proposal being considered. Information of record relating to the proposals, including written statements and pertinent correspondence, is available for public inspection on NMFTA's website, www.nmfta.org, and the decisions of the CCSB are based on this public information. Class assignments are predicated on analysis of the aforementioned four transportation characteristics, as originally prescribed by the ICC and later adopted by its successor agency, the Surface Transportation Board (STB).

The CCSB also assists users of the NMFC in the correct application of the NMFC's provisions. Upon request, and with the submission of descriptive product information—e.g. advertising literature, specification sheets or direct website link—the CCSB issues nonbinding, informal opinions (interpretations) as to how a given article or material is properly classified. This service is offered to shippers and NMFC-participating carriers

and transportation companies at no charge. The CCSB would welcome the opportunity, and stands ready, to help DOD, GSA and NASA in this regard.

Additional information on the CCSB, including its policies and procedures as well as upcoming classification proposals, is available online at www.nmfta.org.