

Before The
U.S. Department of Transportation
Federal Motor Carrier Safety Administration

Docket No. FMCSA-2019-0271

Agency Information Collection Activities:

Renewal of an Approved Information
Collection: Accident Recordkeeping
Requirements

Comments of the
National Motor Freight Traffic Association, Inc.

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Introduction

The National Motor Freight Traffic Association, Inc. (“NMFTA”) submits these comments in response to FMCSA’s Federal Register publication of April 28, 2020, Agency Information Collection Activities: Renewal of an Approved Information Collection: Accident Recordkeeping Requirements. 85 F.R. 23594. FMCSA asked for comments on the burdens and usefulness of the accident registry and related documents that each motor carrier must collect and maintain in their files as required under 49 C.F.R. § 390.15(b). Under this rule, motor carriers are not required to submit or provide the accident registry or documents to FMCSA, except to make them available by specific request of the agency, or state and local enforcement officials.

NMFTA was one of two parties which submitted comments to FMCSA’s previous renewal of this Information Collection. (Docket No. FMCSA-2014-0109). NMFTA was, and remains, concerned that FMCSA’s use of accident information, without regard to fault, inaccurately and unfairly impacts a motor carrier’s safety record.

Five years ago, in response to the question of whether this information collection will have practical utility, NMFTA suggested that FMCSA more effectively utilize police accident reports (“PARs”), which can contain reliable information regarding a carrier’s fault, or lack thereof, for an accident. (FMCSA-2014-0109-0002)

Since then, FMCSA has adopted the Crash Preventability Determination Program (“CPDP”) providing a procedure under which a carrier can, by paying a fee and providing certain assertions and documents, demonstrate that a particular accident was not

preventable. (FMCSA-2014-0177-0262). NMFTA submitted comments with concerns and suggestions for this program. (FMCSA-2014-0177-0122).

Determinations made under the CPDP, however, provide limited relief to NMFTA's concerns for the unfair impact of the maintenance of accident records, regardless of fault, to motor carriers. NMFTA submits these comments to encourage FMCSA to more effectively use this information collection to consider the preventability, or lack of preventability, of each accident.

Identity and Interest of National Motor Freight Traffic Association. Inc.

NMFTA is a nonprofit membership organization headquartered at 1001 North Fairfax Street, Suite 600, Alexandria, VA 22314. Its membership is comprised of approximately 500 motor carriers operating in interstate, intrastate and foreign commerce, primarily specializing in the movement of less-than-truckload quantities of freight (LTL). LTL carriers provide service and operate a business model that is distinct from other types of motor carriers. NMFTA's mission is to promote, advance and improve the welfare and interests of its members and the motor carrier industry in general. NMFTA presents its members' position in relevant judicial, regulatory and legislative proceedings.

Specifically, those member carriers are required to comply with FMCSA's Accident Register regulations set forth in 49 C.F.R. Section 390.15. Accordingly, they are directly affected by the regulations which are the subject of FMCSA's Notice published in the April 28, 2020, issue of the Federal Register (85 Fed. Reg. at pp. 23594-95). NMFTA's Articles of Incorporation, as pertinent, authorize it to initiate and/or participate in regulatory proceedings, such as this,

which affect the interests of its members. NMFTA's comments are specifically directed to FMCSA's request as to ways it can enhance the quality, usefulness, and clarity of the collected information.

Value and Utility of the Accident Register

FMCSA describes the value of its accident reporting requirements as follows:

By requiring motor carriers to gather and record information concerning CMV accidents, FMCSA is strengthening its ability to assess the safety performance of motor carriers. This information is a valuable resource in Agency initiatives to prevent, and reduce the severity of, CMV crashes, (85 Fed. Reg. at p. 23594)

NMFTA agrees that the Accident Register has the potential to be a valuable resource in promoting safety and in reducing commercial motor vehicle crashes. However, FMCSA would greatly increase the effectiveness of its use of the documents collected by motor carriers under § 390.15(b) if it used them to discern whether someone else bore responsibility for an accident. Police accident reports (PARs) can and, where appropriate, be used to get a more accurate understanding of whether the carrier bears responsibility for an accident.

A good example of where a carrier could be impacted unfairly by crash data is in the circumstance of passenger vehicle/truck-involved crashes. As the American Trucking Associations reported from its review of the University of Michigan Transportation Research Institute study of fatal truck/car crashes, cars were the encroaching vehicle in 89% of head-on crashes, 88% of opposite direction sideswipes, 80% of rear-end crashes, and 72% of same-direction sideswipes. Miller, Eric. "Studies Show Auto Driver Often at Fault in Truck-Involved Crashes, ATA Reports." Transport Topics, February 18, 2013.

<https://www.ttnews.com/articles/studies-show-auto-driver-often-fault-truck-involved-crashes-ata-reports>. These statistics indicate that the passenger vehicle drivers were at fault in those crashes. While there may be disagreement regarding the extent to which passenger vehicle drivers cause automobile/truck crashes, there is reliable data demonstrating the fact that the majority of those crashes involve fault on the part of the passenger vehicle driver. . PARs can be a reliable source of such information. FMCSA would better meet its goals of identifying potentially unsafe motor carriers if it used the documents maintained under § 390.15 to understand whether the motor carrier's driver bore responsibility for an accident.

Conclusion

FMCSA will benefit from greater use of accident information, such as police accident reports, that support greater accuracy and fairer portrayal of a carrier's safety practices. FMCSA could more effectively use its enforcement resources if it can better identify motor carriers who bore responsibility for commercial motor vehicle accidents. NMFTA submits these comments to continue to encourage FMCSA to move away from its default presumption of motor carrier fault in each accident and to review and draw inferences from the available evidence of responsibility for such accident.

Respectfully submitted,



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