

SPECIAL Report



NATIONAL ROOFING CONTRACTORS ASSOCIATION

Motor Carrier Regulatory Relief and Safety Demonstration Project

BACKGROUND

On Nov. 28, 1995, President Clinton signed the National Highway System Designation Act of 1995. NRCA reported to the membership at that time that, among other things, FHWA was required to implement a pilot program for motor carriers who operated CMVs between 10,001 and 26,001 pounds. Two comment periods followed seeking information from the public regarding a proposed program and the applicability of the program to interstate transportation. The latter comment period ended on Nov. 29, 1996. The final notice was published in the June 10, 1997 *Federal Register* announcing the pilot and looking for participants. Comments from various sources caused the FHWA to make some changes to the project and extend the deadline for applicants to Jan. 30, 1999.

WHO IS ELIGIBLE

The following delineates who is eligible to participate in the pilot program. An eligible motor carrier (roofing contractor) is one who:

- 1) operates in interstate (crosses state lines) commerce;
- 2) operates CMVs between 10,000 and 26,001 pounds, as long as these vehicles are not designed to transport more than 15 passengers or transport hazardous materials in amounts requiring placards;
- 3) does not have an "Unsatisfactory" Safety Fitness Rating;
- 4) has a 0.5 accident rate per million vehicle miles over three years, or for companies with less than a million miles in a three-year period, one or less DOT-reportable accidents in that time frame.

(The accident rate has been lowered, but the definition of accident has been changed from that of police-reportable to DOT-reportable accident. This means an accident is defined as an incident that results in a. a fatality; b. bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or c. one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle. Also, this rate may be calculated using only those vehicles that will participate in the program.);

- 5) is active year-round and is not a "seasonal" motor carrier, meaning that the business must function in more than one season of the year (roofing contractors who may not work much during the winter months still are considered eligible);
- 6) has drivers who have not been convicted of:
 - (a) an offense as a direct result of a fatal accident,
 - (b) driving under the influence of drugs or alcohol,
 - (c) leaving the scene of an accident, or
 - (d) a felony involving the use of a CMV; and
- 7) has a written Safety Control Plan (SCP).

WHAT FMCSR REQUIREMENTS ARE SUSPENDED

Several FMCSR requirements will be suspended during the three-year project. FHWA has yet to determine how the requirements will be reinstated after the pilot. It is expected that the pilot will generate changes, but time will tell what permanent changes occur. For the duration of the pilot period, the following apply:

1) Driver Qualification Requirements

- drivers are not required to furnish an annual list of motor vehicle violations (**This has been changed to include all drivers on an annual basis. It previously applied only to new-hires.**) [Part 391.11(b)(8)];
- contractors still must obtain the official state driving record (Part 391.23);
- drivers do not have to complete a road test [Part 391.11(b)(10)];
- drivers do not have to furnish an application for employment [Part 391.11(b)(11)];
- contractors do not have to maintain "complete" Driver Qualification Files (Part 391.51) (all documents not exempted must be in the file);
- drivers are not required to read or speak English as long as they can communicate with enforcement officials (**This is a new exception.**) [Part 391.11(b)(2)];
- motor carriers are not required to document investigations of drivers' employment history (**This is a new exception.**) [Part 391.23(c)];
- motor carriers are not required to document annual reviews of drivers' records (**This is a new exception.**) [Part 391.25];
- relief is provided regarding medical examinations and certification provided drivers have current certifications before the project begins (**This is a new exception.**) [Part 391.45(b)(1)]; and
- the unauthorized passenger transportation prohibition is lifted (**This is a new exception.**) [Part 392.60].

2) Driver Hours of Service Requirements

- drivers are not required to maintain compliance with record of duty status (Part 395.8);
- drivers are permitted to be on duty for 12 consecutive hours with no mileage limits or constraints on activities (**This is a revised exception.**). Contractors still are required to comply with driving time rules in Part 395.3(a) and (b); and
- contractors and drivers are required to observe the rules governing the use of ill or fatigued drivers (Part 392.2).

3) CMV Inspection Requirements

- contractors are excepted from the vehicle inspection and record retention requirements (Part 396.3(b)(c));
- drivers do not have to complete vehicle inspection requirements and reports (**This has been expanded from daily requirements and reports to include all requirements and reports.**) (Part 396.11-13);
- contractors are exempt from the periodic (annual) inspection, inspector and preparation of periodic inspection reports (Parts 391.17 & 21); and
- driveaway-towaway inspections are not required (**This is a new exception.**) (Part 396.15).

4) Accident Information

contractors involved in the project will not be required to maintain an accident register (Parts 390.15(b)(1)&(2)).

DUTIES OF PARTICIPANTS

As a participant in the project, contractors must:

- report fatal accidents to the FHWA within 10 business days and non-fatal accidents within 30 business days, along with a re-calculation of the accidents per million vehicle miles. (Previously, notification was required within 10 business days for any accident.) If the new ratio is greater than the project standard, the contractor will be removed from the program (or for contractors with less than a million vehicle miles traveled in the most recent 36 months, if this is the second accident);
- submit an updated roster to the FHWA immediately after hiring a new driver;
- submit driver name and license number to FHWA immediately after a driver ceases to be employed by the project contractor;
- notify the FHWA within 10 days if the business is sold, goes out of business, changes its name, ceases to operate in interstate commerce, ceases to operate the specified CMVs or ceases to conduct operations on a year-round basis;
- notify the FHWA within 30 days if the safety control plan is changed or if the carrier is unable for whatever reason to fulfill the terms of the SCP (This was required within 10 business days in the original version of the project.); and
- provide the FHWA with an updated accident calculation every six months on the anniversary of acceptance to the project.

DISQUALIFYING EVENTS

The following events will disqualify a contractor from participating in the project:

- if a motor carrier's accident rate exceeds 0.5, or if the contractor who travels less than a million miles experiences a second accident within a three year period; or
- if the FHWA determines a participating carrier to be a threat to the public, then that motor carrier will be excluded from the project; or
- drivers convicted of any of the offenses listed under the "Who is Eligible" section of this document may result in disqualification of the motor carrier, or may result in at least closer scrutiny by the FHWA; or
- project drivers who pose a threat to highway safety will be excluded from participating in the project.

OTHER

Two other points to note are:

- participating carriers are not excepted from roadside inspections, compliance reviews, or enforcement actions other than those specifically listed as exceptions.
- the FHWA will evaluate participants by viewing various state and federal databases as well as project data from the participating carriers.

APPLICATION REQUIREMENTS

To be considered for this project, contractors must submit the following items in writing by **Jan. 30, 1999 to: United States Department of Transportation, Federal Highway Administration, 10-26 Safety Demonstration Project, HMT - 1, 400 Seventh Street, S.W., Washington, D.C. 20590-0001.**

- 1) MCS-150, Motor Carrier Identification Report, which provides updated information about the

overall operation of the motor carrier

2) Signed Certification Statement, executed by the Chief Operating Officer of the motor carrier

I certify that [name of the motor carrier] operates CMVs having a Gross Vehicle Weight Rating (GVWR) between 10,001 and 26,000 pounds, inclusive, in interstate commerce, on a year-round basis, and is not rated "Unsatisfactory" by the FHWA. I certify that the company has approved the attached Safety Control Plan and will employ these controls throughout the Project. I certify that the motor carrier EITHER:

has an accident rate equal to or less than 0.5 accidents per million vehicle miles traveled (VMT), averaged over the most recent 36 months, based upon _____ police-reported accidents and _____ vehicle miles traveled, by CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, OR has _____ actual VMT (less than one million) over the most recent 36 months and has experienced _____ (less than 2) police-reported accidents involving subject vehicles over that period of time.

I hereby submit a roster of _____ company drivers for participation in the Project. The roster includes driver names, license numbers and State of licensure, and dates of employment. I certify that each of these drivers is eligible to participate in the Project, that each operates CMVs having a GVWR between 10,001 and 26,000 pounds, inclusive, and that I have independently verified that the driving record of each does not include any convictions within the past three years of any of the disqualifying offenses enumerated in the Project criteria. I have read and agree to be bound by the requirements for notification and submission of information to the FHWA outlined in the section entitled "The Agreement" in the notice of final determination of this Project.

Signature

Name

Title

Name of Motor Carrier

3) A Safety Control Plan - There must be a written plan that explains in detail how the current level of safety will not be compromised by the project exceptions. A current safety program may be sufficient or a sample plan outline may be obtained by calling NRCA.

4) A Driver Roster - consisting of driver names, driver license numbers and state of licensure, and dates of employment. Applicants must submit the names of ALL eligible drivers for participation in the project.

CONCLUSION

The FHWA currently imposes a number of requirements upon businesses who operate carriers larger than 10,000 pounds. This project is an opportunity for drivers of vehicles up to 26,000 pounds to demonstrate that individual safety control plans can result in equal, or increased, efficiency and safety on the road. All non-seasonal, interstate carriers of vehicles between 10,000 and 26,001 pounds are eligible to apply for this data-gathering pilot project, which may ultimately result in decreased regulatory control by DOT. If there are any questions, please call Amy Staska at 847/ 299-9070 x207. Again, the application deadline at this time is Jan. 30, 1999.



*The voice of professional
roofing contractors.*

January 5, 1999

Dear Member:

This special report provides information regarding an **updated** pilot program being offered by the U.S. Department of Transportation's (DOT's) Federal Highway Administration (FHWA). The original deadline for this pilot was in December of 1997. In recent months the deadline has been extended to Jan. 30, 1999, and some of the exceptions have been expanded. ***There is a likelihood that the deadline will be extended further and some of the exceptions will change slightly. We will keep you updated.***

The program is being offered again to certain qualified interstate motor carriers (roofing contractors) who operate light- to medium-weight (between 10,000 and 26,001 pounds) commercial motor vehicles (CMV). However, the qualifications have been changed to increase participation. The changes are bolded in the special report. If accepted into the pilot program, a roofing contractor will be required to perform certain duties and excepted from others required by the Federal Motor Carrier Safety Regulations (FMCSRs).

The principal objective of the pilot is to provide information to the FHWA regarding its ongoing zero-based review and cost-benefit analysis of the FMCSRs, as they apply to this range of CMV. The data derived from the pilot will, it is hoped, put an end to many of the FMCSR regulatory requirements placed on roofing contractors and others in this CMV range. It will allow you to show that implementing your own safety plan can be as effective, if not more so, as the DOT regulations.

This is an exciting opportunity to participate in a program that may ultimately result in the CMV weight threshold of the FMCSRs, which trigger all the requirements, being raised from 10,001 to 26,001 pounds. We hope you will carefully review this report and consider participating in the pilot program. If you have questions, please contact me at extension 207.

Again, the deadline is Jan. 30, so there isn't much time. It is an effort that will benefit you, as well as others in the industry, so I hope you will consider participating.

Sincerely,
NRCA

Amy B. Staska
Director, Education Programs