

provision has been delegated to RSPA. See 49 CFR 1.53(b)(2), 1.73(d)(2).

Written Route Plan and Communication

The 1993 NPRM included a proposal to require compliance with the routing and route plan requirements then set forth in 49 CFR 177.825 (with regard to radioactive materials) and 397.9 (with regard to Class A and B explosives). These requirements (now contained in 49 CFR 397.67 and 397.101) specify that the carrier must provide its driver with a written route plan when the motor vehicle contains a highway route controlled quantity of a Class 7 (radioactive) material or any quantity of a Division 1.1, 1.2, or 1.3 (explosive) material.

FMCSA considers that preparation of and adherence to a written route plan will improve the safety and security of transportation of all materials for which a safety permit is required. Accordingly, in this SNPRM, FMCSA is proposing to revise 49 CFR 397.67(d) to require the carrier or its agent to prepare and provide its driver with a written route plan covering any shipment of a PIH material or liquefied natural gas for which a safety permit is required, in addition, to all shipments of Division 1.1, 1.2, and 1.3 materials. We are also proposing to require (in proposed § 385.415) that the written route plan be carried in the vehicle and followed, unless an alternate route is required by a law enforcement officer or emergency conditions. The written route plan when carried in the vehicle, must be maintained in such a manner that ensures security requirements set forth in Subpart I of part 172 of this title are met. The driver would no longer be allowed to prepare the written route plan for the carrier, but the driver would be required to amend the written route plan to show any deviation. In addition, the driver would be required to communicate with the carrier at least once every two hours and any time there is a deviation from the written route plan, and the motor carrier would be required to contact law enforcement officials in the event that there has been no communication from its driver for more than three hours.

FMCSA is also proposing to require that the vehicle driver must have in the vehicle, and make available to law enforcement officials upon request, the telephone number of an employee of the motor carrier who has a copy of the written route plan and is able to determine whether the motor vehicle is on the route specified in that route plan. Furthermore, FMCSA is proposing to require the motor carrier to maintain a record of all communications with the

vehicle driver during transportation of a hazardous material for which a safety permit is required, containing the name of the driver, identification of the vehicle, the hazardous material(s) being transported, the date and time of each communication, and each period of more than two hours without a communication with the driver including a statement of the facts or conditions that prevented communication for more than two hours.

Pre-Trip Inspections

To implement the pre-trip inspection requirement in 49 U.S.C. 5105(e), FHWA proposed in the 1993 NPRM to require an inspection of a vehicle transporting a highway route controlled quantity of a Class 7 (radioactive) material, before each trip, in accordance with Appendix G to the FMCSRs. FHWA also proposed that the inspector must have the qualifications specified in 49 CFR 396.19 and that written certification including certain information must be prepared and retained by the carrier for one year. It invited comments on its proposed inspection criteria and “whether radiological monitoring should be included.”

The comments on this topic addressed who should perform these inspections, the inspection criteria, and whether or not the inspection should include radiological monitoring. The Department of Energy (DOE) and EEI expressed concern that a requirement for radiological monitoring would duplicate the requirement in 49 CFR 173.441 to ensure that a package containing radioactive material is checked before shipment, but several other commenters supported a requirement for monitoring as part of the pre-trip inspection. To the extent that monitoring is performed, some commenters, including Tri-State, stated that only the shipper has monitoring equipment and trained personnel so that it (rather than the carrier) should perform the pre-trip inspection. DOE endorsed “the flexibility of allowing inspections to be performed by inspectors from organizations other than the carrier itself,” and other persons (besides a motor carrier official) should be allowed to sign the inspection certification. DOE also stated that in any case, radiological monitoring should not be done by “a qualified vehicle inspector” unless that person was also a qualified health physicist.

Tri-State and CHP supported use of the proposed inspection criteria and inspector qualifications in the FMCSRs. Others stated that the criteria in

Appendix G are not sufficient and suggested using standards then under development by the Commercial Vehicle Safety Alliance (CVSA). The Idaho State Police also recommended that “in order to pass the inspection, the vehicle must be defect free.” CHP and Montana DOT recommended that the inspection document or certification must be carried on the vehicle.

In this SNPRM, FMCSA is proposing inspection standards similar to those contained in the CVSA Level VI Inspection Program for Radioactive Shipments. The pre-trip inspection would have to be performed by a government inspector, (*i.e.*, one employed by or under contract to a Federal, State or local government). The inspector must have completed an appropriate training program of at least 104 hours, including at least 24 hours of training in conducting radiological surveys and inspecting vehicles transporting highway route controlled quantity (HRCQ) radioactive materials. The inspection must cover all applicable requirements in the HMRs and FMCSRs, or compatible State regulations, including 49 CFR parts 383 (commercial driver's license), 391 (driver qualifications), 395 (hours of service), parts 393 and 396 (vehicle condition), provisions in the HMRs on the transportation of radioactive materials (49 CFR parts 171, 172, 173, and 178), and registration (49 CFR part 107, subpart G).

Denial, Suspension, or Revocation of a Safety Permit

As discussed above, in order to be issued a safety permit, a motor carrier would have to be registered with RSPA and have a “satisfactory” safety rating and a satisfactory security program. A temporary safety permit could be issued to a carrier that does not have a safety rating, valid for up to 270 days; if the carrier receives a “satisfactory” safety rating, it would receive a safety permit, but the temporary permit would be revoked if the carrier receives a safety rating that is less than “satisfactory.” FMCSA is also proposing that a safety permit will be subject to suspension or revocation if a carrier fails to maintain its “satisfactory” safety rating or under other specified circumstances, including the failure to submit a renewal application or providing any false or misleading information on a required application form; failure to maintain a satisfactory security plan; failure to comply with an out-of-service order; failure to comply with the FMCSRs, HMRs, or compatible State requirements, or an order issued under any of these, in a manner that shows the