

operators, rail carriers and ocean carriers that furnish chassis for transportation by motor carriers. Many believed FMCSA lacks statutory authority to regulate non-motor carrier entities.

Uniform Agreement

Some motor carriers expressed concern their interests are not fully represented on the governing board because they are in a minority position relative to the rail and water carriers. These motor carriers believe the Department of Transportation should regulate the interchange agreement and address the unequal bargaining power between rail/water carriers and motor carriers. Others believed the Department of Transportation should not regulate the interchange agreement because it is the result of years of evolution of the commercial relationship between the motor carriers and the equipment providers.

Of concern to many motor carriers is that the interchange agreement states that equipment providers do not warrant the roadability of the equipment. Moreover, an addendum to the interchange agreement requires the motor carrier that picks up the equipment to accept responsibility for the roadworthiness of the chassis.

However, some interviewees did not believe the interchange agreement is the appropriate mechanism to implement changes in the intermodal industry because usage of the interchange agreement is only voluntary. They argue that the use of the interchange agreement is prevalent, but there is no data to indicate how much of the industry is actually covered by it. In contrast, other interviewees believe changes to the uniform agreement would become the industry standard and be sanctioned by DOT.

FMCSA Decision

FMCSA withdraws the ANPRM because there is insufficient data to support moving forward with the rulemaking at this time. While the agency could quantify the costs of regulatory options that could potentially result in improved maintenance practices by equipment providers, there is insufficient data currently to quantify the safety benefits of such a rulemaking. The agency has reviewed information provided by commenters responding to the ANPRM, transcripts from listening sessions, safety performance data concerning motor carriers engaged primarily in intermodal transportation, and the neutral convenor's final report. FMCSA has determined it is unlikely the agency could craft a rulemaking that would resolve the maintenance responsibility disputes between equipment providers and motor carriers, and be supported with sufficient safety data to prove its necessity, and subsequently its effectiveness. The available data show a significant number of container chassis dispatched from intermodal terminals are later shown to have safety defects during roadside inspection. However, the relationship between these defects and accident causation has not been substantiated.

FMCSA recognizes most motor carriers do not have the economic leverage to persuade equipment providers to ensure proper chassis maintenance. It is also true the Uniform Intermodal Interchange and Facilities Access Agreement that motor carriers typically must sign in order to do business has the effect of shifting both the maintenance or repair burden and the liability to motor carriers. Based on the comments to the ANPRM, statements from participants in the

listening sessions, and the interviews conducted by the neutral convenor who examined the feasibility of conducting a negotiated rulemaking on this subject, there is no readily apparent regulatory option that would be well received among the many parties.

There are two data limitations that prevent the agency from proceeding with a defensible rulemaking: (1) chassis inspection and accident data is lumped in among "trailer" data; and (2) relatively few accidents are shown as involving chassis, possibly because the short distances chassis travel work to reduce accident exposure or possibly because the chassis are categorized as "trailers" in the accident reports. The first step toward a Federal rule must be data collection, addressing these data limitations, and possibly identifying chassis owners whose equipment shows a pattern of poor maintenance.

FMCSA is considering options to better capture data about chassis at the point of inspection and at accident scenes. A special study could be conducted if resources become available. However, the time required to complete a comprehensive data collection and analysis effort would prolong the period that the rulemaking is left unresolved, with no certainty regarding the outcome. Therefore, FMCSA believes it is in the best interests of all parties that the agency discontinue consideration of a negotiated rulemaking based on the convenor's final report, and withdraw its 1999 ANPRM.

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