

NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

ISSUED: September 25, 1975

Forwarded to:

Honorable William T. Coleman, Jr.
Secretary of Transportation
Washington, D. C. 20590

SAFETY RECOMMENDATION(S)

HM-75-1 and 2

The National Transportation Safety Board has reviewed the Materials Transportation Bureau's (MTB) "Hazardous Materials Regulations - Proposed Exemption Procedures" in Docket HM 127, Notice 75-7, published in the Federal Register on August 4, 1975. These procedures would be used in applying for and the processing of applications for exemptions from the MTB regulations governing the transportation of hazardous materials which, except for bulk transportation by water and certain ships' supplies, govern the movement of such materials by any mode of transportation.

The Safety Board has concluded that the proposed exemption procedures do not fulfill the intent of Section 107 of the Hazardous Materials Transportation Act, which calls for "a safety analysis as prescribed by the Secretary to justify the grant of such exemption." The information required by the proposed 49 CFR 107.5(b)(4), (5), (6), (7), and (9) will not result in a clear presentation of specific safety concerns and does not constitute a safety analysis. If the safety concerns are not clearly delineated, the MTB will not have the information it needs to establish the proper regulatory safeguards in each case, and some risks that need to be controlled may be overlooked.

An applicant for an exemption to MTB regulations should be required to prepare a formal safety analysis statement which would (1) identify the ways persons could be injured with respect to the quantity and form of the materials to be transported, (2) identify the specific risks for which the applicant considers it necessary to establish safety control measures, based on 107.5(b)(9)(i) and (ii) of the proposed exemption procedure, and (3) describe measures which would control or eliminate these risks. This procedure would assure that applicants focus on the safety problems which need to be considered. Also, the data derived from this procedure could be used as base data in future risk analyses.

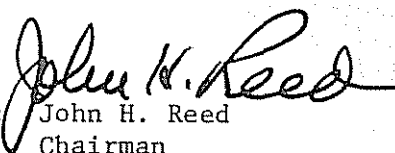
Therefore, the National Transportation Safety Board recommends that the Secretary of Transportation:

- (1) Prescribe the content and form for a safety analysis statement to accompany applications for exemptions to the Materials Transportation Bureau's regulations. (Recommendation HM-75-1) (Class I)
- (2) Revise Proposed 49 CFR 107.5(b)(9) to require submission of a safety analysis statement, in the form prescribed by the Secretary of Transportation, to support the applicant's belief that his proposed exemption will achieve the level of safety specified in 49 CFR 107.5(b)(9)(i) and (ii). (Recommendation HM-75-2) (Class I)

A copy of this letter is being sent to the Materials Transportation Bureau, with the request that it be considered a response to the Notice of Proposed Rulemaking in HM Docket 127, Notice 75-7.

Personnel from our Bureau of Surface Transportation Safety are available if further information or assistance is required.

REED, Chairman, McADAMS, BURGESS, and HALEY, Members, concurred in the above recommendations. THAYER, Member, did not participate.


By: John H. Reed
Chairman

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