

UNITED STATES  
DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

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**Knowledge Testing of New Entrant Motor Carriers, Freight Forwarders and Brokers**

**Notice; Request for Public Comment  
Docket No. FMCSA-2013-0518**

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**COMMENTS**

**SUBMITTED BY THE**

**TRANSPORTATION INTERMEDIARIES ASSOCIATION**

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President and CEO

January 10, 2014

The Transportation Intermediaries Association (TIA) submits these comments in response to the Federal Motor Carrier Safety Administration's (FMCSA) December 26, 2013 notice of public listening session; requesting public comments on proposed Knowledge Testing of New Entrant Motor Carriers, Freight Forwarders, and Brokers. TIA commends the FMCSA's primary mission of promoting and maintaining the highest level of safety on our nation's roads and highways. TIA looks forward to working with FMCSA and industry stakeholders on these new requirements understanding the industry and the essential role it plays improving safety.

For reasons set forth in more detail below, TIA recommends, that in order for new brokers and forwarders to demonstrate sufficient relevant experience, an individual must complete an industry related educational course and exam provided by a transportation industry non-profit organization that meets industry standards.

#### **IDENTITY AND INTEREST OF THE TRANSPORTATION INTERMEDIARIES ASSOCIATION**

TIA is the professional organization of the \$162 billion third-party logistics industry. TIA is the only U.S. organization exclusively representing transportation intermediaries of all disciplines doing business in domestic and international commerce. TIA is the voice of transportation intermediaries to shippers, carriers, government officials, and international organizations.

TIA members include approximately 1,400 motor carrier property brokers, surface freight forwarders, international ocean transportation intermediaries (ocean freight forwarders and non-vessel-operating common carriers), air forwarders, customs brokers, warehouse operators, logistics management companies, intermodal marketing companies, and motor carriers.

TIA is also the U.S. member of the International Federation of Freight Forwarders Associations (FIATA), the worldwide trade association of transportation intermediaries representing more than 40,000 companies in virtually every trading country.

## **THE ROLE OF TRANSPORTATION INTERMEDIARIES**

Transportation intermediaries or third party logistics professionals act as the "travel agents" for freight. They serve tens of thousands of shippers and carriers, bringing together the transportation needs of the cargo interests with the corresponding capacity and special equipment offered by rail, motor, air, and ocean carriers.

Transportation intermediaries are primarily non-asset based companies whose expertise is providing mode and carrier neutral transportation arrangements for shippers with the underlying asset owning and operating carriers. They get to know the details of a shipper's business, then tailor a package of transportation services, sometimes by various modes of transportation, to meet those needs. Transportation intermediaries bring a targeted expertise to meet the shippers' transportation needs.

Many shippers in recent years have streamlined their acquisition and distribution operations. They have reduced their in-house transportation departments, and have chosen to deal with only a few "core carriers" directly. Increasingly, they have contracted out the function of arranging transportation to intermediaries or third party experts. Every Fortune 100 Company now has at least one third party logistics company ("3PL") as one of its core carriers. Since the intermediary or 3PL, in turn, may have relationships with dozens, or even thousands of underlying carriers, the shipper has many service options available to it from a single source by employing an intermediary.

Although intermediaries are described in the business and trade literature as "non-asset-based," many intermediaries in fact own some assets, broadly defined. These include local pick up and delivery vehicles, over the road trucks, warehouses and cargo consolidation centers, complex computer and telecommunications systems, dispatching centers and sales offices. Shippers count on transportation intermediaries to arrange for the smooth and uninterrupted flow of goods from origin to destination, and many carriers rely upon them to keep their

equipment filled and moving. It is, therefore, difficult to describe a typical intermediary, or to divide them into fixed categories. They range from small, family owned businesses to multi-billion dollar, publicly traded corporations.

#### **SHIPPERS AND CARRIERS RELY ON TRANSPORTATION INTERMEDIARIES**

Shippers rely upon 3PLs to arrange for the smooth and uninterrupted flow of goods from origin to destination, and carriers rely upon them to keep their equipment filled and moving. Many carriers, especially the thousands of small motor carriers and owner operators rely on motor carrier brokers to find freight for them, and to process the paperwork necessary for the movement.

TIA and its members support outsourcing part or all of an entity's supply chain to a third party logistics professional. To be successful, both parties need to be clear about what is expected, how it will be measured, and how it will work. The shipper and its 3PLs work together to craft the best solution by lane and circumstance to meet the shipper's needs.

Thus, in the comments that follow, TIA has taken into account the experience and needs both of its own members and of the customers they serve.

#### **FMCSA NEEDS TO REQUIRE COMPLETION OF AN EDUCATIONAL COURSE FROM A TRANSPORTATION INDUSTRY NON-PROFIT ORGANIZATION**

On July 6, 2012, President Obama signed H.R. 4348, the "Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) into law. The new law included certain requirements concerning the registration of motor carriers (property, passenger, and household goods), freight forwarders and brokers. Section 32916 of MAP-21 includes requirements that applicants for freight forwarders and broker registration authority employ, as an officer, an individual with three years of relevant experience **or an individual who** "provides the Secretary with satisfactory evidence of the individuals' knowledge of related rules, regulations, and industry practices."

The notice published in the Federal Register posted on December 26, 2013, contains a typo when describing the requirements promulgated through Section 32916, by stating: **“an officer, an individual with 3 years of relevant experience who “provides the Secretary with satisfactory evidence of the individuals’ knowledge of related rules, regulations, and industry practices.”** Public Law 112-141 (MAP-21) clearly states that an individual must either have three years of experience or demonstrate relevant experience, not both.

TIA recommends that new entrants receive a satisfactory certificate of completion from an educational course provided by a transportation industry non-profit organization. The course should be between thirty to ninety hours of online or in-person work. The faculty must be from an accredited school or university. The certificate should be issued only after passage of an exam covering all aspects of the course.

Furthermore, the course should meet the following criteria:

- Provide detailed information about the certifications, rules, regulations, government filings, and types of liability protection required to operate as a transportation broker, freight forwarder, motor carrier, and other regulations pertaining to all modes of transportation.
- Provide an understanding of the key types of freight and/or cargo and how to properly handle each variety in a proper manner.
- Provide information about compliance with key business processes that must be adhered to for operation of a legally compliant transportation brokerage business.
- Provide insight into the many types of insurance available to help protect transportation brokers operating in today’s environment.
- Provide an understanding and proper use of legal transportation documentation including the Bill of Lading, written contracts, and rate confirmation sheets.
- Provide insight into the contractual processes associated with being a transportation broker. These could include key contractual issues including price, pick-up and delivery

locations, freight shipping terms, and performance requirement specifics such as delivery time, specialized equipment needs, special billing requirements, and insurance coverage.

- Provide insight into the business and financial operations of a transportation brokerage operation.
- Provide an understanding between exempt, non-exempt, cross border, and household goods movements.
- Provide an overview discussion and examples of ethical (unethical) business behavior. Also discuss the impacts of ethical practices on business relationships and compliance with legal and regulatory statutes such as the Sarbanes-Oxley (SOX) Act.

#### CONCLUSION

TIA applauds the FMCSA on its continued efforts to increase safety on our nation's highways and roads while also making improvements to the new entrants application process. The latter of which ultimately ensures that those individuals operating on our nation's roads and highways have a solid foundation of the Agency's rules and regulations. TIA is a strong advocate for the FMCSA, and looks forward to a partnership in order to achieve our mutual beneficial goals.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert A. Voltmann", followed by a horizontal line and a small dash.

Robert A. Voltmann  
President & CEO  
TIA