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UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
WASHINGTON, D.C.

ISSUED: August 17, 1971

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D. C.
on the 29th day of July, 1971.

FORWARDED TO:)
Chairman)
Hazardous Materials Regulations)
Board)
Department of Transportation)
Washington, D. C. 20590)

SAFETY RECOMMENDATION I-71-2 43

The National Transportation Safety Board notes that current practices under which Special Permits authorizing transportation of hazardous materials are issued (49 CFR 170.13-15), allow economic considerations to escalate during the period the Permits are in effect, creating conditions which might adversely influence safety decisions. A recent Hazardous Materials Regulations Board Docket (HM-63) illustrates how this escalation can occur. In this proceeding, it was proposed, for safety reasons, to cease issuance and renewal of Special Permits which modify certain regulatory requirements for tank cars. The proposal was later withdrawn.

The record indicates that if the Special Permits had been withdrawn as proposed, approximately 7,000 tank cars with an estimated value of \$160,000,000, representing almost one-half of the total fleet of LPG tank cars in the larger size category, would have had to be removed from LPG transportation service. The scope of the economic hardships such action would precipitate is readily apparent. Circumstances which encourage economic considerations of this magnitude to develop, on a Special Permit basis, appear contrary to the best interest of safety.

The practice of issuing Special Permits, which do not limit the number of cars that could be built or updated thereunder, and which are renewed almost automatically, is conducive to the development of such circumstances. For example, one respondent to the Notice indicated it was his belief that it was just a matter of time before the terms of one of the Permits would be incorporated into the regulations. Another asserted that because of the prior

governmental sanctions of the use of cars with a welded joint efficiency of $E = 1.0$, he had entered into long-term commitments. Regardless of the merits of the proposal to withdraw these Special Permits, it is evident that the large fleet of cars built and operated under these Special Permits relentlessly increased the weight of economic considerations in the safety decision.

Special Permits could be controlled to prevent a recurrence of this type of situation which distorts tradeoffs between economic and safety considerations. The Safety Board believes that this can be achieved by placing restrictions on the "investment" which may evolve by limiting the duration, number of shipments, or amount of equipment authorized for use under Special Permits issued in accordance with 49 CFR 170.15. By limiting the use of Special Permits to situations in which their principal purpose would be the development of experimental data to support regulatory changes, or carefully controlled responses to emergencies, the intensification of economic forces in a safety decision of the type cited above would be minimized.

The Safety Board realizes that the elimination of the Special Permits for other purposes could present difficulties in the development of new regulations designed to respond to changed conditions or information. Nevertheless, the difficulties arising from escalating "investments" involving Special Permits without appropriate limitations significantly outweigh these other difficulties.

For these reasons, the Safety Board recommends that:

- I-71-2 1. The Hazardous Materials Regulations Board and the Department of Transportation Administrations act to amend 49 CFR 170.15(b) to establish appropriate limitations on the time duration, number of shipments, or amount of equipment which will henceforth be authorized under the terms of each Special Permit.
- I-71-3 2. The Hazardous Materials Regulations Board monitor Special Permits in sufficient detail to achieve pre-determined objectives necessary to support regulatory actions.

The Safety Board would be pleased to make our staff available for whatever further information you may desire in connection with this recommendation.

This recommendation will be released to the public on the issue date shown above. No public dissemination of the contents of this document should be made prior to that date.

Laurel, McAdams, and Thayer, Members, concurred in the above recommendations. Reed, Chairman, and Burgess, Member, were absent, not voting.



By: Oscar M. Laurel
Acting Chairman