



## *Frequently Asked Questions (FAQs)*

### **Why is National Motor Freight Traffic Association (NMFTA) changing the procedures for freight classification-making?**

A Decision served on May 7, 2007, in Surface Transportation Board (STB) Ex Parte No. 656, STB Ex Parte No. 656 (Sub-No. 1), and Section 5a Application No. 46 (Sub-No. 20), terminated all motor carrier collective ratemaking and classification-making agreements as contrary to the public interest, thereby ending antitrust immunity for those activities. The Decision becomes effective on January 1, 2008.

In response to the STB's termination of antitrust immunity for the National Classification Committee's (NCC) classification-making activities, NMFTA's members voted to adopt a new organizational structure and set of operating procedures.

### **Will NMFTA be able to continue making freight classifications without antitrust immunity and producing the National Motor Freight Classification (NMFC)?**

The new Procedures allow for the continued development and maintenance of the NMFC without the need for antitrust immunity while facilitating continued input of pertinent classification information from carriers, shippers and third parties. NMFTA's new Procedures will be effective December 6, 2007.

### **How can carriers, shippers, and third parties be assured participation in the classification-making process will not conflict with antitrust laws?**

These new Procedures were reviewed and approved by prominent antitrust attorneys of Covington and Burling LLP, a law firm whose reputation is nationally recognized. It is the strong opinion of Covington and Burling LLP that the Procedures do comply with U.S. Federal antitrust standards.

### **What will happen to the National Classification Committee (NCC)?**

Effective December 6, 2007, the NCC will disband, and NMFTA has created two new organizations to implement the Procedures replacing the NCC's functions. They are the Classification Resource Committee (CRC) and the Commodity Classification Standards Board (CCSB).

### **What is the Classification Resource Committee (CRC)?**

The CRC is comprised of the elected representatives of NMFC-participating motor carriers in North America and it serves to provide advice, information, and other resources to the CCSB.

### **How are the CRC members determined?**

The CRC is comprised of a maximum of 100 elected representatives of NMFC-participating motor carriers in North America. CRC members are selected in essentially the same process that the NCC members were determined.

### **What authority does the CRC have?**

Under the new Procedures, the CRC will provide the CCSB information regarding the transportation characteristics of commodities as well as information relating to motor carrier operations. They will also provide input regarding classification proposals, formulating proposals, making recommendations regarding proposals, and suggesting modifications to proposals. In short, they will do everything that the old Classification Panels could do and more, except make the actual decisions on classification matters.

### **What is the Commodity Classification Standards Board (CCSB)?**

The CCSB is the new autonomous classification-making board. It is comprised of full-time employees of NMFTA. It includes a Chairman and four members, a Counsel, a Packaging Consultant, and a Classification Coordinator. The CCSB will be responsible for investigating, considering, and acting on classification matters, including proposals for amending the classification of commodities, commodity descriptions, classes, rules, packaging definitions, specifications and requirements, bills of lading, and any other provisions contained in the NMFC.

### **How were the Commodity Classification Standards Board members determined?**

The Chairman was appointed by the Executive Director of NMFTA and the four members were appointed by the Executive Director of NMFTA in consultation with the CCSB Chairman.



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## Frequently Asked Questions (continued)

### What are the processes in place to ensure that the CCSB's decisions are autonomous in maintaining and developing the Classification?

The CCSB will operate under rules and policies that are substantially similar to the rules and policies that comprise the NCC Agreement and that were developed in accordance with directives of the Interstate Commerce Commission and the STB. Under the new rules and policies, proposals for amending the NMFC may be made by any party having an interest in the contents of the NMFC and will be processed by the CCSB through a formalized, transparent decision-making process in which all interested parties can participate.

In addition, the CCSB will engage in an open process that welcomes input not only from NMFTA members but from any carriers, shippers, groups of carriers or shippers, or any other interested parties. The CCSB's Policies and Directives provide that when conducting research in connection with the classification or packaging of a particular commodity, the CCSB shall make a reasonable effort to identify and contact potential shippers of the involved commodities and shall also search for and attempt to contact trade associations having members with a potential interest in the commodity to request their assistance.

Moreover, the Procedures will ensure that interested parties have notice of proceedings and access to all relevant data so that they can fully participate in proceedings involving proposed amendments to the NMFC. The CCSB will conduct an independent investigation and analysis of proposed amendments. The source of any data will be kept confidential thereby ensuring that no individual party's input will dictate the outcome of any proposal and thus that no one party can "game" the system or misuse the Procedures.

### How can shippers rely on the objectivity of the classification-making body if it is comprised of employees of NMFTA whose carrier membership pays their salaries?

To ensure integrity of the classification-making process, the Procedures include the following safeguards:

- All raw data relating to the docketed proposal that is submitted by an interested party will be provided to CCSB members.
- The CCSB will not reveal the source of raw data in public docket files but will identify only the type of source — e.g. shipper/receiver or carrier, etc.

- The CCSB will use clear, fair, transparent procedures that encourage broad participation by carriers and shippers.
- The CCSB will provide interested parties with access to all reports, analyses, studies, work papers, supporting raw data and other information in its possession relating to docketed proposals.
- The CCSB will provide all interested parties with notice of docketed proposals and an opportunity to advocate their position, orally and/or in writing, before the CCSB.
- The CCSB will dispose of docketed proposals at public meetings.
- The CCSB's decisions will be guided by the same classification-making standards that were prescribed by the STB and its predecessor agency, the Interstate Commerce Commission.
- Parties of record may appeal CCSB decisions to an arbitrator who is independent of NMFTA.

### What are the new procedures for submitting and advancing a change to a commodity's classification?

Proposals for amending the NMFC may be made by the CCSB or any party having an interest in the contents of the NMFC. Proposals will be docketed for consideration at public meetings of the CCSB, and all interested parties will be given notice of the meetings and the proposals to be considered. Information in the CCSB's possession related to docketed proposals will be made available for public inspection, and all interested parties will be permitted to present their views on any proposal under consideration in writing and/or orally at public meetings of the CCSB. The CCSB's decision with respect to any docketed proposal will be made in the public meetings and may be appealed to a neutral arbitrator by any party of record to that proposal.

### Where can I get more information on the NMFC?

To obtain more information on the NMFC, please visit NMFTA's website at [www.nmfta.org](http://www.nmfta.org), email [customerservice@nmfta.org](mailto:customerservice@nmfta.org) or call 866.411.6632.

