

SURFACE TRANSPORTATION BOARD

STB EX PARTE 656 (SUB-NO. 1)



**INVESTIGATION INTO THE PRACTICE OF THE
NATIONAL CLASSIFICATION COMMITTEE**

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FREIGHT TRANSPORTATION CONSULTANTS ASSOCIATION, INC.

The Freight Transportation Consultants Association, Inc. (FTCA) hereby submits these comments in response to the Surface Transportation Board's (STB) initiation of an investigation into the charges of abuse of market power by the National Classification Committee (NCC) on October 12, 2005.

I.

**THE INTERESTS OF THE FREIGHT TRANSPORTATION CONSULTANTS
ASSOCIATION, INC.**

The FTCA is an 80-year old trade organization of transportation consultants whose members represent over 3,000 shippers that spend over \$13 billion in freight charges annually. FTCA's members provide technical transportation services such as freight bill auditing, carrier selection and routing, rate comparisons, and the classification of their numerous commodities. In many cases, these consultants have replaced shipper's entire transportation department. Therefore, FTCA's members act as their clients' representatives in classification matters, and therefore, have an interest in this proceeding.

II.

**THE MISUSE OF NCC'S "VALUE GUIDELINES" IN CLASSIFYING
COMMODITIES**

FTCA's comments in this proceeding are limited to a single issue; i.e., the NCC's practice of using its "Value Guidelines" when classifying commodities notwithstanding changed conditions since the demise of the Interstate Commerce Commission (ICC) and its former policy of not permitting maximum limitations of liability in motor carriers' tariffs.

All commodities moved by the motor carrier industry are classified according to four factors: density, value, stowability and handling characteristics.¹ As an aid to classifying freight uniformly, the NCC has long adhered to two Guidelines: 1) a Density Guideline, and a Value Guideline.² The Density Guideline has always been given greater weight in the classification process than the Value Guideline, but both provided an important tool for shippers and carriers to uniformly classify commodities.

The purpose of the Value Guideline is to establish a class level that will fairly compensate carriers for paying claims for loss and damage. The Value Guideline ranges from \$.91 per lb. for class 50 commodities to \$112.62 per lb. for class 500 commodities. Thus, if a commodity has a density of less than 1 pound per cubic foot and a value of \$112.62 per lb, it would clearly warrant a rating of class 500. However, when the density and value of a product did not match up on the two Guideline charts, the NCC uses its best judgment to establish a reasonable rating based primarily on the commodity's density, and secondly on its value. The remaining factors are also weighed when the characteristics of the commodity warranted consideration.

This system worked well when motor carriers were subject to the pre-ICCTA version of the Carmack Amendment which subjected carriers to a full actual loss liability regime, and they were prohibited by the ICC from publishing a maximum limitation on their liability. The ICC reasoned that since the Carmack Amendment imposed full value liability on motor carriers, it would be unlawful to grant carriers permission to publish provisions absolving them of liability for loss or damage to items of extraordinary value.³

After passage of the Interstate Commerce Commission Termination Act of 1995 (ICCTA), however, the modification of the Carmack Amendment in 49 U.S.C. § 14706 (c)(1)(A) and (B) has been interpreted by the courts as permitting motor carriers to impose maximum liability limitations in their tariffs without a shipper's written agreement. The motor carrier industry immediately began to provide maximum limitations of liability for loss and damage claims in their unfilled tariffs. These limits began at \$50 per lb, but were reduced to \$25 per lb. in year 2000. Annexed as **Appendix B** is a table comparing the liability limits published in tariffs of 63 of the major LTL carriers in 2001.⁴ This table reveals that one-half of the carriers listed limited their liability to \$25 per lb, and the remaining carriers published lower limits ranging from \$.05 to \$20 per lb. The average limitation is approximately \$19.00 per lb. for all 63 carriers. These limitations are essentially the same at the present time.

III.

THE APPLICATION OF THE NCC'S VALUE GUIDELINES IN THE CURRENT REGULATORY ENVIRONMENT IS IMPROPER

¹ *Ex Parte No. MC-98 (Sub-No. 1) Investigation into Motor Carrier Classification*, 367 I.C.C. 243 (1983).

² Copies are annexed to the NCC's Policies and Directives publication as an Attachment to **Appendix A**. A copy is also available at www.erols.com.

³ *Practices of Motor Common Carriers of Household Goods (Limitations of Liability)*, 124 M.C.C. 395 (1976), modified May 26, 1976.

⁴ Excerpt from "Transportation, Logistics and the Law", Second Edition, Augello (2001). ISBN No. 0-9715232-1-5, Appendix 13.

In light of the motor carrier industry's current practice of limiting its liability, as demonstrated in **Appendix B** hereto, it is improper for the NCC to continue utilizing commodity values to establish class ratings on commodities whose actual value exceeds the average limitation published in carriers' tariffs. If carriers will not pay claims for full value due to maximum limits of liability in a carrier's tariff, it would be unreasonable to increase a commodity's class rating for high values which the carrier will never honor.

When pressed by a shipper applicant for a class rating on a new commodity, or in opposing a change in a class rating, the NCC has on two known occasions relented and disregarded the Value Guideline when the commodity's value exceeded \$25 per lb. However, the Value Guideline continues to remain on the NCC's website (www.erols.com/nmfca) as notice to shippers as to the procedures to follow when classifying commodities.

To illustrate, in Docket 2000-1, Subject 8, the NCC proposed to increase the class ratings on Tobacco Products from class 85 to class 100 due to the increases in value being experienced on all tobacco products as a result of the court decisions against cigarette manufacturers for the medical problems of smokers. Representatives of the tobacco industry appeared at the hearing and opposed the increase. The Committee disapproved the proposal in exchange for cooperation from the shippers to gather additional data and work with the NCC's staff to further investigate the characteristics of these products. An industry-wide survey was conducted by the shippers, the results of which revealed that the density of tobacco products ranged from 13.22 pcf to 35.91 pcf. The values ranged from \$5.34 per lb. to \$32.45 per lb.

An NCC staff report indicated that most cigarettes and cigars have an average claims value of \$34.00 per lb., but when the losses are mitigated through salvage efforts, the value drops to approximately \$18.00 per lb. Applying this data to the two Guidelines, it is clear that the proper class for tobacco products based on density is class 85. But if \$34.00 per lb were to be applied to the Value Guideline, the class rating would be increased to class 150.

Although the NCC's General Counsel objected to consideration of individual carriers' tariff limitations as introduced by tobacco shippers (**Appendix B**), the Committee voted to disapprove the proposed increase to class 100 in recognition of the fact that claimants would not recover more than \$25 per lb. from one-half of the LTL carriers, and other claimants would recover much less than \$25 per lb due to tariff limitations.

Soon after, an application was filed for a class rating on a new product: the Segway Human Transporter. Docket 2002-1, Subject 14. An investigation revealed that this commodity had a density of 9.85 pcf and a value of from \$35 to \$84 per lb. Applying this data to the Guidelines reveals that class 100 is warranted on a density basis, but that the value range of \$35 to \$84 per lb. would require a class rating of from class 150 to class 400.

If the carriers' maximum tariff limit is from \$19 to \$25 per lb, it would have been improper to apply the Value Guideline class ratings based on actual values. Therefore, the Committee once again granted applicant's request to disregard the Value Guideline for the commodity's actual value and instead apply the liability limitation reflected in the LTL industry's tariffs. The Committee prescribed class 100 for Segways in Item 114110.

IV.
**THE EXTENSION OF ANTITRUST IMMUNITY TO THE NCC SHOULD BE
CONDITIONED ON AMENDING ITS VALUE GUIDELINES**

The NCC's current Policies and Directives Pertaining to the National Motor Freight Classification are set forth in **Appendix A** hereto. That portion of its policies regarding value is set forth at page 3, Paragraph A. 4 - Liability. The policy of adhering to its Value Guidelines needs to be amended so that all shippers will receive a reasonable, lawful class rating in light of carriers' imposition of maximum liability limits for loss and damage. The Board is respectfully requested to impose as a condition for renewal of antitrust immunity the following addition to said policy statement:

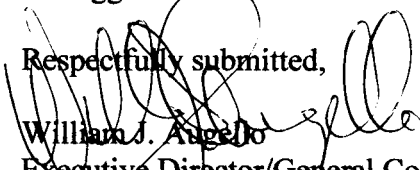
Add at the end of Paragraph 4:

However, where the record reveals that motor carriers generally maintain a limit on their liability at a fixed, uniform level, such as \$25 per lb., that value shall be observed as the actual value of a commodity when applying the Value Guideline.

V.
CONCLUSIONS AND REQUEST FOR FINDINGS

For all of the foregoing reasons, the Board is respectfully requested to find that the NCC's present practice of applying its Value Guidelines notwithstanding evidence of the motor carrier industry's general limitation of liability is an abuse of market power, and that the Board's extension of antitrust immunity to the NCC be conditioned upon the amendment of the NCC's Procedures as suggested herein.

Respectfully submitted,


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APPENDIX A

**NATIONAL CLASSIFICATION
COMMITTEE
POLICIES AND DIRECTIVES
PERTAINING TO THE NATIONAL MOTOR
FREIGHT CLASSIFICATION**

**Revised August 9, 2005, by the
National Classification Committee
at its open meeting in
San Francisco, California**

National Classification Committee Policies and Directives
Pertaining to the National Motor Freight Classification

I. National Classification Committee Policies

Following are the policies of the National Classification Committee (NCC or Committee) for maintaining the descriptions, classes, packaging requirements and specifications, rules, and other provisions of the National Motor Freight Classification (Classification). These policies are intended to be used by the NCC and its Classification Panels as a guide; but the Committee and Panels must, at all times, act in full accord with the National Motor Freight Classification Agreement, the Motor Carrier Act of 1980, and all other applicable laws and regulations.

A. Transportation Characteristics - When evaluating commodities in connection with the assignment of classes, the NCC and its Classification Panels must consider the four transportation characteristics of density, stowability, handling and liability, as set forth in the decisions in Ex Parte No. MC-98 (Sub-No. 1), *Investigation Into Motor Carrier Classification*.

1. Density - It has been well established through numerous administrative decisions that, absent any unusual or significant stowability, handling or liability characteristics, density is of prime importance in the assignment of classes. The NCC has developed density guidelines that are based on the precedent of pertinent administrative decisions as well as the Committee's own past dispositions. The present guidelines are attached hereto.

The density guidelines are used in the assignment of classes where the average density of a particular commodity or group of commodities is representative or reflective of the range of densities exhibited by that commodity or commodity group. Furthermore, the density/class relationships set forth in the guidelines presume that there are no unusual or significant stowability, handling or liability characteristics, which would call for giving those characteristics additional or different "weight" in determining the appropriate class.

Commodities or commodity groups exhibiting a wide density range not accurately reflected by a single, overall average density may be assigned density-based classes; particularly where there are no unusual or significant stowability, handling or liability characteristics and where there is no other feasible means of effectively narrowing the range. And where densities are distributed throughout the range, commodities or commodity groups may be assigned classes predicated on a full density scale. In this regard, unless a substantial percentage of the densities involved exceeds 20 pounds per cubic foot, full-scale density classifications should generally provide the following standard progression:

Less than 1	400
1 but less than 2	300
2 but less than 4	250
4 but less than 6	150
6 but less than 8	125
8 but less than 10	100
10 but less than 12	92.5
12 but less than 15	85
15 or greater	70

When a substantial percentage of the densities involved exceeds 20 pounds per cubic foot, full-scale density classifications should generally provide the following, alternative standard progression:

Less than 1	400
1 but less than 2	300
2 but less than 4	250
4 but less than 6	150
6 but less than 8	125
8 but less than 10	100
10 but less than 12	92.5
12 but less than 15	85
15 but less than 22.5	70
22.5 but less than 30	65
30 or greater	60

Where the NCC or a Classification Panel directs that full-scale density provisions be developed or docketed, such provisions will provide the progression of density groups set forth herein—including references to Item (Rule) 170, the inadvertence clause, and Item (Rule) 171, the "bumping" privilege—unless the NCC or Classification Panel instructs otherwise.

2. Stowability - The majority of shipments tendered to general commodities carriers are comprised of packaged freight that stows well in carriers' equipment. Some articles, however, present additional stowability considerations, including, but not limited to: 1) loading restrictions necessary to comply with government regulations or carrier policies, such as coloaded prohibitions in connection with the transportation of hazardous materials; 2) loading restrictions arising from practical considerations, such as excessive weight or excessive length; 3) difficulty in loading other freight adjacent to the commodity due to protrusions and the like; 4) the inability to tier the commodity in carriers' equipment; and 5) the inability to load other freight on top of the commodity due to the absence of load-bearing surfaces.

In evaluating docket proposals or classification reports involving the assignment of classes, the NCC and Classification Panels must examine stowability and its impact on the transportability of the involved commodity or commodity group. Unusual or significant stowability considerations may warrant deviation from the Committee's density guidelines. In this connection, where loaded density provides a quantifiable measure of the stowability problems associated with a particular commodity or commodity group, such loaded density is to be evaluated by the Committee or Panel in relation to the density guidelines.

3. Handling - As with stowability, most freight tendered to general commodities carriers does not present substantial handling problems. The packaged freight that comprises the majority of shipments is readily handled by dock personnel, often with the aid of mechanical handling equipment. Some articles, however, due to their size, weight, configuration, hazardous nature, fragility, etc., pose additional handling difficulties, whether or not mechanical equipment is used, and may necessitate special care or attention.

In evaluating docket proposals or classification reports involving the assignment of classes, the NCC and its Classification Panels must consider ease or difficulty of handling and the impact of such on the transportability of the involved commodity or commodity group. Unusual or significant handling characteristics may warrant deviation from the Committee's density guidelines.

4. Liability - Pursuant to the MC-98 (Sub-No. 1) decisions, the liability characteristic includes susceptibility to theft, liability to damage, propensity to damage other freight with which transported, perishability, propensity to spontaneous combustion or explosion, and value per pound. Value per pound provides a measure of carriers' potential liability, and the NCC has established value guidelines to assist in the assignment of classes. The present guidelines are attached hereto.

It is the NCC's policy that the value guidelines be reviewed biennially at the Committee's summer meeting to compensate for the impact of inflation. This is accomplished using the Producer Price Index (PPI).

Unlike density, however, value per pound is not in and of itself a transportation characteristic. As set forth in MC-98 (Sub-No. 1), it is only one component of the liability characteristic, and accordingly, information relating to value per pound must be analyzed in conjunction with an analysis of the other liability elements. Where the other liability elements are found to present no substantial problems or concerns, value per pound is of less significance.

Consequently, the attached value guidelines cannot be viewed as forming a matrix with the density guidelines, where one is measured against the other to arrive at the appropriate class. Rather, the value guidelines provide an indication of the upper value limits associated with the various classes, as determined using the density guidelines.

As with stowability and handling, where unusual or significant liability characteristics are revealed, the NCC may deviate from the density guidelines.

- B. Class Floor and Ceiling - The NCC has established class 50 as the lowest class in the Classification and class 500 as the highest. (For a complete listing of the classes assigned in the Classification, as established by the NCC, see the attached density and value guidelines.)
- C. Classification Updating - The provisions of the Classification are to be kept up-to-date with respect to the commodities moving in commerce. Included in this policy is the: 1) establishment of classifications for new commodities; 2) amendment of existing classifications to reflect changes in transportation characteristics; 3) establishment of classifications for commodities classed by analogy, in keeping with the requirements of Item (Rule) 421 of the Classification; and 4) establishment or amendment of classifications for commodities that are a source, or potential source, of interpretation disputes so as to eliminate or avoid those disputes.
- D. Clarification, Simplification and Uniformity - Generally speaking, the policies grouped under this heading pertain to "housekeeping" matters necessary to improve the usability of the Classification and to ensure compliance with regulations. The following activities are to be conducted to implement these policies: 1) adding commonly used terminology to item descriptions to identify commodities (including trade names, properly noticed, where a commodity is essentially known by a trade name); 2) replacing outdated terminology in item descriptions with current terminology; 3) combining item descriptions embracing related commodities, including the combining of subclassifications having the same class; 4) eliminating excess or unclear wording, and employing language that is concise and clear as to intent; 5) structuring item descriptions so as to foster clarification and simplification; 6) listing item descriptions alphabetically by noun or compound noun, as the case may be; 7) replacing broad, indistinct nouns (e.g., assemblies, devices, units) with more specific, definitive nouns wherever appropriate and practicable; 8) listing items under appropriate generic headings; 9) providing uniformity in provisions addressing the same or similar circumstances published in conjunction with different items; and 10) removing obsolete provisions.
- E. Classification Index - The index is typically the Classification user's "first step" when determining the applicable provisions. Accordingly, the NCC has developed policies to improve the index and, thus, the usability of the Classification. As index listings are generally derived directly from the item descriptions, these policies are closely related to those established for "Clarification, Simplification and Uniformity." The policies are as follows:
- The index should list commodities by their commonly recognized names in addition to their technically correct names. Where a commodity is essentially known by a trade name, the index should include that trade name. (The trade name should be properly noticed.)
 - Where commodities may be looked up in more than one way, the index should be cross-referenced. This includes adding index listings that are keyed to adjectives as well as to nouns; particularly where the noun is broad and indistinct.

- Index listings should be as specific and definitive as practicable.
- Index listings that can be consolidated should be consolidated, and unnecessary listings should be removed.

F. Packaging - The NCC is to establish packaging rules and specifications as necessary to ensure that freight is adequately protected in the motor-carrier environment, and can be handled and stowed in a manner that is reasonably safe and practicable.

In considering docket proposals or classification reports involving packaging, the NCC and its Classification Panels are to evaluate prospective packagings against established performance criteria, as reflected by the packaging provisions published in the Classification. Generally speaking, prospective packaging materials or methods are considered consistent with NCC packaging policy when their performance is demonstrated to be as good as, or better than, currently authorized materials or methods.

G. Rules - The rules published in the Classification are to be: 1) consistent with current law as well as applicable decisions of the Surface Transportation Board of the U. S. Department of Transportation (STB) and its predecessor, the Interstate Commerce Commission (ICC); 2) consistent with NCC precedent and current motor carrier practice; 3) clear as to intent; and 4) otherwise up-to-date.

H. Other Policies -

1. Members of the Committee are not to divulge the identity (number) of a Classification Panel or the names of individual members of a Classification Panel prior to the meeting of that Classification Panel.
2. Members of the Committee may furnish copies of classification reports, analyses, studies, work papers or supporting raw data to any interested person. However, the NCC will continue to honor its commitment to protect the confidentiality of commercially sensitive information that it receives from shippers and others on the assurance, expressed or implied, that disclosure will be limited. Therefore, confidential information such as market data and data on specific, identified products of a particular shipper, as well as the names of data sources or information that could lead to the names of data sources—the dissemination of which might be detrimental to a company or individual that has chosen to participate in the classification process—should not be released. Similarly, privileged information or material, such as attorney-client work products prepared by Counsel, should not be released.

II. Role of the Staff

Pursuant to the aforementioned policies, and in strict accord with the National Motor Freight Classification Agreement, the Motor Carrier Act of 1980 and all other applicable laws and regulations, the NCC charges the staff with three primary responsibilities: 1) to receive on behalf of the NCC information from shippers, carriers and other sources pertaining to commodities moving in commerce, including their transportation characteristics, as well as packaging and other classification-related matters; 2) to report that information to the NCC or one of its Classification Panels for their consideration and appropriate action; and 3) to be responsive to directives from the NCC and its Classification Panels, as well as from individual member carriers, in connection with classification matters.

- A. Classification Reports - Where the staff receives information indicating that the classification of a particular commodity or group of commodities is inconsistent with NCC policies or precedent, pertinent STB/ICC decisions, current motor carrier practice, or the law, the NCC directs the staff to report on such commodity or commodity group. The reports are to relate the information received to the NCC's policies. Density data are to be compared to the NCC's density guidelines, and stowability, handling and liability must be analyzed with respect to their impact on the transportability of the involved commodity or commodity group and related to applicable NCC and STB/ICC precedent. In connection with stowability, reports are to include information regarding loaded density, where relevant, and how that density relates to the density guidelines.

To enable the staff to adequately perform this function, the staff is directed to keep apprised of new commodities and technologies, as well as changes in existing commodities.

The staff is also directed to report on classification descriptions that are inconsistent with NCC policies or precedent respecting clarification, simplification or uniformity. Reports pertaining to such "housekeeping" matters may include possible language that would bring the involved classification description(s) into conformance with NCC policies and precedent. And the staff shall report on provisions published in the Classification that are indicated to be obsolete.

The NCC directs the staff to report on rules published in the Classification where such rules are inconsistent with current law, applicable STB/ICC decisions, NCC precedent or current motor carrier practice, or where they lack clarity or otherwise require updating. Reports of a clarification nature may include possible clarifying language for consideration.

Generally, reports prepared by the staff are to be presented to any one of the NCC's Classification Panels. It is the Panel's responsibility to determine what action, if any, is appropriate. Upon consideration of a classification report, the Panel may vote to: docket a proposal; direct the staff to institute a research investigation (project) into the transportation characteristics of the involved commodity(ies)*; or refer the matter to the full NCC. It may also decide to take no further classification action.

* Research investigations (projects) may also be initiated at the direction of an individual member carrier, and on a direct-cost reimbursement basis, at the request of shippers.

The staff shall advise the full NCC of matters having broad-based interest or implications for the Classification, such as those involving significant STB decisions or changes in law.

All determinations respecting the appropriate course of action in connection with staff-prepared reports rests solely with the NCC or Classification Panel, as the case may be. The staff may not docket, direct the docketing or recommend the docketing of any classification proposal, nor may the staff on its own initiative conduct research investigations on commodities. Indeed, without expressed, specific direction or instruction from the Committee or Panel, the staff may not act in any way on the reports.

Where research is directed, the staff is to make every effort to identify and contact potential shippers of the involved commodity(ies). It is to consult all available sources in this regard, including the *Thomas Register of American Manufacturers* and the NCC's files. The staff shall also contact trade associations to request their assistance in identifying potential shippers and obtaining relevant information.

- B. Packaging - The NCC directs the staff to: 1) receive information pertinent to the efficacy of currently authorized packaging materials or methods; 2) keep apprised of new packaging materials and methods; and 3) develop, in cooperation with shippers, packaging manufacturers and packaging professionals, improved packaging.

The staff is further directed to report problems and other information concerning packaging to any one of the Classification Panels or, with respect to packaging matters having industry-wide interest or implications, to the Packaging Subcommittee of the NCC.

- C. Analysis of Classification Proposals - The NCC directs the staff to collect pertinent information in conjunction with docketed proposals, including proposals under reconsideration. The staff is further directed to prepare written analyses of such pertinent information, which are to be submitted to the NCC or its Classification Panels, as the case may be, for the Committee's or Panel's consideration and action, subject to the deadlines set forth in the National Motor Freight Classification Agreement.

The analyses are to relate the information of record to the NCC's policies, and analyses of proposals involving the assignment of classes are to include a discussion of all four transportation characteristics, as set forth in the Ex Parte No. MC-98 (Sub-No. 1) decisions. Density data are to be compared to the NCC's density guidelines, and stowability, handling and liability must be analyzed with respect to their impact on the transportability of the involved commodity or commodity group and related to applicable NCC and STB/ICC precedent. In connection with stowability, proposal analyses are to include information regarding loaded density, where relevant, and how that density relates to the density guidelines.

The staff, however, is not to make any decisions or recommendations with respect to the disposition of any classification proposal.

D. Other NCC Directives to the Staff -

1. Providing Assistance to Interested Persons - The staff shall assist interested persons, including shippers, in the development of classification proposals or amendments (modifications) to proposals already docketed, when so requested. And when requested the staff shall assist shippers, on a direct-cost reimbursement basis, in conducting research on classification matters and report the results to the NCC when the research reveals that a classification change may be warranted. With respect to proposals and other classification matters, the staff is directed to make itself available to receive on behalf of the NCC comments and statements of position from interested persons, answer questions from interested persons concerning classification principles and procedures, and be responsive to requests for information pertaining to the background of a proposal or the facts of record. In this connection, the staff shall provide copies of classification reports, analyses, studies, work papers or supporting raw data to any interested person, upon request. However, the NCC will continue to honor its commitment to protect the confidentiality of commercially sensitive information that it receives from shippers and others on the assurance, expressed or implied, that disclosure will be limited. Therefore, the staff is not to release confidential information such as market data or data on specific, identified products of a particular shipper, nor the names of data sources or information that could lead to the names of data sources—the dissemination of which might be detrimental to a company or individual that has chosen to participate in the classification process. Similarly, the staff is not to release any privileged information or material, such as attorney-client work products prepared by Counsel.
2. Providing Notice to Interested Persons – The public should be as fully informed as practicable with regard to the National Motor Freight Classification and the work performed by, or on behalf of, the NCC. Toward that end, the staff shall provide notice of proposals and other classification matters in accord with the National Motor Freight Classification Agreement. At a minimum, notice shall be given to all shippers who have expressed an interest in the matter being considered, including shippers who have participated in NCC research by submitting relevant information, and trade associations that may represent shippers of the involved commodity(ies).
3. Classification Interpretations - On request of any interested person and upon receipt of the requisite information, the staff shall research and issue nonbinding, informal opinions (interpretations) as to the classification provisions applicable to any particular commodity.
4. Defending Classifications and Interpretations - The staff shall prepare and submit defenses to appropriate regulatory or judicial bodies where published classification provisions, or interpretations, are contested. The staff shall also report to the NCC the status of these administrative or judicial proceedings at the Committee's regularly scheduled meetings.

5. Miscellaneous -

- a. In preparing NCC docket bulletins, the staff may suggest technical amendments to proposals, provided such amendments are nonsubstantive and do not alter the intent or spirit of the proposal. These amendments include bringing proposals into conformance with accepted convention regarding Classification language and format.
 - b. The staff is directed to issue and publish whatever dispositions may be established by vote of the NCC or its Classification Panels.
 - c. The staff is not to divulge the identity (number) of a Classification Panel or the names of individual members of a Classification Panel prior to the meeting of that Classification Panel.
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At least once a year, the NCC shall review these policies and directives, including the density and value guidelines, in view of current NCC dispositions, STB decisions, changes in law, and the like. When the staff receives information indicating that any of the policies or directives are no longer consistent with NCC precedent, STB decisions or the law, or otherwise may be in need of revision or updating, the staff is directed to bring such information to the NCC's attention for the Committee's review.

NATIONAL CLASSIFICATION COMMITTEE DENSITY GUIDELINES	
Minimum Average Density (in pounds per cubic foot)	Class
50	50
35	55
30	60
22.5	65
15	70
13.5	77.5
12	85
10.5	92.5
9	100
8	110
7	125
6	150
5	175
4	200
3	250
2	300
1	400
Less than 1	500

The density guidelines are used in the assignment of classes where average density is representative or reflective of the range of densities exhibited. Furthermore, the density/class relationships set forth in the guidelines presume that there are no unusual or significant stowability, handling or liability characteristics, which would call for giving those characteristics additional or different "weight" in determining the appropriate class.

NATIONAL CLASSIFICATION COMMITTEE VALUE GUIDELINES	
Class	Maximum Average Value Per Pound
50	\$ 0.99
55	\$ 1.93
60	\$ 2.93
65	\$ 4.85
70	\$ 7.32
77.5	\$ 9.75
85	\$ 14.65
92.5	\$ 19.50
100	\$ 24.39
110	\$ 26.84
125	\$ 30.49
150	\$ 36.61
175	\$ 42.71
200	\$ 48.81
250	\$ 61.01
300	\$ 73.20
400	\$ 97.61
500	\$122.02

Unlike density, value per pound is not in and of itself a separate transportation characteristic. Pursuant to the decisions in Ex Parte No. MC-98 (Sub-No. 1), *Investigation Into Motor Carrier Classification*, value per pound is only one component of the liability characteristic. Accordingly, information relating to value per pound must be analyzed in conjunction with the other liability elements, i.e., susceptibility to theft, liability to damage, propensity to damage other freight, perishability, and propensity to spontaneous combustion or explosion. Where those other liability elements are found to present no substantial problems or concerns, value per pound is of less significance.

Consequently, the value guidelines cannot be viewed as forming a matrix with the density guidelines, where one is measured against the other to arrive at the appropriate class representing an "average" of the two factors. Rather, the value guidelines provide an indication of the upper value limits associated with the various classes, as determined using the density guidelines.

APPENDIX B



Summary of Carrier Liability On General Commodities

Carrier	Liability per Pound	Comments	Is it Per Package ?	Liability Per Shipment	Excess Value Charge Per \$100.00	Minimum Excess Value Charge	Maximum Declared Value
AAA Cooper	\$25.00		Yes	\$1,000,000	\$0.35	\$25.00	\$1,000,000
ABF Freight System	\$25.00		Yes	\$100,000	\$0.50	\$28.00	\$1,850,000
American Freightways	\$25.00		Yes	\$100,000	\$0.36	\$23.50	\$1,750,000
APA Transport	\$25.00		Yes	\$125,000	\$0.50	\$30.00	\$1,125,000
Arrow Trucking	\$2.50	Partial Truckloads (LTL)	Yes	\$100,000	None	None	\$100,000
Averitt Express	\$25.00		Yes	\$250,000	None	None	\$250,000
ATS, Inc.	\$2.50	See scale 7 for excess value change	Yes	\$100,000	See Scale	None	\$100,000
Benton Express	\$25.00		No	\$100,000	\$0.90	None	\$100,000
Beaumont Transport	\$25.00	Or Under 300 lbs = \$100.00 per Container	Yes	\$100,000	None	None	\$100,000
Brandt Truck Lines	\$5.00		No	None	None	None	None
Bullocks Express	\$25.00		Yes	\$100,000	\$0.50	\$30.00	\$600,000
Carter & Son	\$25.00		Yes	\$125,000	None	None	\$125,000
Central Freight (Florida)	\$25.00		Yes	\$100,000	None	None	\$100,000
Central Freight (Texas)	\$10.00		Yes	\$100,000	\$0.26	\$22.00	\$185,000
Central Transport	\$10.00		Yes	\$100,000	\$0.26	\$22.00	\$1,850,000
CF Motor Freight	\$25.00		Yes	\$100,000	\$0.55	\$28.00	\$250,000
Chns Truck Line	\$10.00		No	None	None	None	None
Clark Brothers	\$25.00		Yes	None	None	None	None
Collins Transportation Services		See Scale 6 based on class	No	None	None	None	None
Connection, The	\$7.50		No	\$100,000	None	None	\$100,000
Conway Transportation	\$25.00		Yes	\$250,000	\$0.60	\$33.30	\$1,000,000
Crouse Cartage	\$25.00		No	\$250,000	\$0.30	\$25.00	\$500,000
Dawes Transport	\$20.00		No	None	None	None	None
Estes Express		See Scale 1 when claim exceeds \$300.00	No	\$250,000	None	None	\$250,000
GI Trucking		See Scale 1 when claim exceeds \$300.00	No	\$250,000	None	None	\$250,000
Howard's Express	\$50.00	Intermodal \$9.50 per pound or \$500.00	Yes	None	\$1.00	\$22.00	None
Jevic Trucking	\$50.00		Yes	\$250,000	None	None	\$1,000,000
K & R Express Systems	\$25.00		Yes	\$125,000	\$0.26	\$22.00	\$1,875,000
Lynden Trucking	\$20.00		No	\$200,000	See Surcharge 4	\$150.00	\$200,000
Mercer Transportation	\$2.50		Yes	\$125,000	2.50%	None	\$125,000
Midland Transportation			No	\$50,000	None	None	\$50,000
Milan Express		See Scale 2 and see Joint Line Provision # 1	No	\$125,000	None	None	\$125,000

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Carrier	Liability per Pound	Comments	Is It Per Package ?	Liability Per Shipment	Excess Value Charge Per \$100.00	Minimum Excess Value Charge	Maximum Declared Value
Molerway	\$5.00		No	None	50% of class rate	None	None
	FAK-\$1.00	See Joint Line Provision # 2 and reduction of claim by percentage of discount provision	No		No Discount or Reduced Rates		
Motor Cargo	\$35.00	See Scale 5	No	None	none	none	None
Mountain Valley Express	\$10.00	Reduction of claim by % of discount provision	Yes	None	none	none	None
New England	\$5.00	\$50.00 per minimum charge shipment	No	None	None	None	None
		Reduction of claim by % of discount provision					
		602-C Item 165					
New Penn	\$25.00		Yes	\$125,000	\$0.50	\$25.00	\$225,000
Oak Harbor		See Scale 1 \$300 claims	No	\$150,000	None	None	\$150,000
Old Dominion		See Scale 3 & See joint line Provision # 3	No	\$125,000	None	None	\$125,000
Overnite Transportation	\$25.00	See Scale 4	Yes	None	\$0.50	\$30.00	None
Parker	\$25.00		Yes	\$250,000	\$1.25	\$40.00	\$2,000,000
Pitt Ohio	\$10.00	Applies per shipment and incident	Yes	\$100,000	\$0.50	\$25.00	\$100,000
Prime Inc.	N/A		N/A	\$100,000	None	None	\$100,000
R&L Carriers	\$5.00	Or 5 times freight charges whichever is lower	No	\$100,000	\$1.00	\$25.00	\$100,000
Roadrunner	\$20.00		Yes	\$200,000	\$0.33	\$27.50	\$2,000,000
Roadway Express	\$25.00	See scale 7	Yes	\$100,000	\$0.50	\$30.00	\$150,000
SALA Motor Freight	\$25.00		Yes	\$150,000	None	None	\$150,000
Schneider National	N/A		No	\$100,000	\$0.50	None	\$100,000
Southeastern	\$25.00		Yes	\$250,000	None	None	\$250,000
Southwestern	\$5.00		Yes	\$100,000	\$1.00	\$25.00	\$100,000
Treal's Express	\$25.00		No	None	None	None	None
USF Bestway	\$10.00		Yes	\$100,000	None	None	\$100,000
USF Holland	\$10.00	Not available on Joint Line Traffic	Yes	\$100,000	\$0.32	\$0.32	\$2,000,000
USF Reddaway	\$25.00		Yes	None	None	None	None
USF Redstar	\$10.00		No	\$60,000	None	None	None
Viking Freight	\$25.00	Per Incident per shipper	Yes	\$100,000	\$1.36	\$29.00	\$100,000
Vitrin Express	\$25.00		Yes	\$100,000	\$0.35	\$35.00	\$2,000,000
Ward Trucking	\$10.00	\$1.70 on Partial losses Must call if over \$10,000	No	None	\$0.55	None	None
West Brother's Transport	\$25.00		No	\$1,000,000	None	None	\$1,000,000
WestEx	\$10.00		No	None	None	None	None
Wichita Southeast Kansas	\$8.50		Yes	\$125,000	None	None	None
Yellow Freight	\$25.00		Yes	\$125,000	\$0.35	\$24.33	\$2,000,000

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Carrier Liability Summary Scales

	Scale 1	Scale 2	Scale 3	Scale 4	Scale 5	Scale 6
	Estes Express GI Trucking Oak Harbor	Milan Express	Old Dominion	Overnite	Motor Cargo	Collins Transport
Actual NMFC Class	Maximum Value Per Pound	Maximum Value Per Pound	Maximum Value Per Pound	Maximum Value Per Pound	Maximum Value Per Pound	Maximum Value Per Pound
50	\$2.00	\$10.00	\$2.00	\$0.86	\$10.87	\$2.00
55	\$2.00	\$10.00	\$2.00	\$1.70	\$12.64	\$2.00
60	\$2.35	\$10.00	\$2.35	\$2.57	\$14.41	\$2.00
65	\$3.92	\$10.00	\$3.92	\$4.27	\$16.18	\$4.00
70	\$5.92	\$10.00	\$5.92	\$6.45	\$17.95	\$4.00
77.5	\$7.90	\$10.00	\$7.90	\$8.59	\$19.72	\$4.00
85	\$11.87	\$10.00	\$11.87	\$12.91	\$21.48	\$5.00
92.5	\$15.80	\$10.00	\$15.80	\$17.19	\$23.25	\$5.00
100	\$19.76	\$20.00	\$19.76	\$21.49	\$25.00	\$5.00
110	\$21.74	\$20.00	\$21.74	\$23.65	\$25.00	\$6.00
125	\$24.70	\$20.00	\$24.70	\$25.00	\$25.00	\$6.00
150	\$29.66	\$20.00	\$25.00	\$25.00	\$25.00	\$6.00
175	\$34.60	\$20.00	\$25.00	\$25.00	\$25.00	\$8.00
200	\$39.54	\$20.00	\$25.00	\$25.00	\$25.00	\$8.00
250	\$49.42	\$20.00	\$25.00	\$25.00	\$25.00	\$8.00
300	\$50.00	\$20.00	\$25.00	\$25.00	\$25.00	\$10.00
400	\$50.00	\$20.00	\$25.00	\$25.00	\$25.00	\$10.00
500	\$50.00	\$20.00	\$25.00	\$25.00	\$25.00	\$10.00

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Carrier Liability Summary Scales

Scale 7 Roadway Express		
Items that Excess Insurance is Not Available on	Lowest value not exceeding	Highest Value
Animal Feed Supplement	\$0.50	No Value Stated
Animal Hides	\$1.50	\$7.50
Chemicals (Certain Ones)	\$2.15	No Value Stated
Chinaware/Stoneware	\$90.00 per 100 lbs.	No Value Stated
Clothing Used (Fur or Fur lined)	\$1.50	\$7.50
Computer Systems/components	\$5.00	\$25.00
Drugs (Certain Ones)	\$2.15	No Value Stated
Earthenware, Pottery, and Porcelainware	\$90.00 per 100 lbs.	No Value Stated
Electronic Tubes (Not specifically named in the NMFC)	\$1.50	\$3.00 (or No Value Stated)
Engines (Internal Combustion)	\$5.00	\$9.99
FAX Machines	\$5.00	\$25.00
Flatware (Sterling Silver)	\$1.00	\$5.00
Glassware	\$0.90	\$18.00
Glass- Ceramic Ware or laminated	\$0.80	\$12.65
Household Goods or personal effects	\$0.10	\$5.00
Jewelry (Costume)	\$1.00	\$5.00
Leather Scrap	\$0.03 1/2 per lb.	No Value Stated
Leatherboard Scrap	\$0.03 1/2 per lb.	Exceeding \$0.03 1/2 per lb.
Lighters (Cigarette, etc.)	\$0.50 each	No Value Stated
Machinery, used/reconditioned	\$1.00	\$2.50
Metal or Metal Alloys	\$0.40	\$5.00
Office Records (old)	\$0.03 1/2 per lb.	No Value Stated
Oils (Essential, natural, or artificial)	\$0.50	\$7.50
Ore	\$0.05	\$1.00
Paintings or Pictures	\$0.50	\$5.00
Printed Matter (Having exchange value, i.e., as sales coupons etc.)	\$0.50	\$1.00
Radio or TV Transmitting or Receiving sets	\$3.00	\$10.00
Radioactive Materials	\$0.40	\$5.00
Rugs	\$125.00 per 100 lb.	Exceeding \$300.00 per 300
Semi-Conductors	\$3.00	\$20.00
Semi-Conductors, Parts	\$1.50	\$1.50
Silk	\$1.00	No Value Stated
Toilet Preparations	\$2.15	No Value Stated

Carrier Liability Summary Scales

Tubes, Cathode Ray (Other than TV)	\$3.00	No Value Stated
Matches or Watch Movements	\$2.00 each	\$10.00

Carrier Liability Summary Scales

Jointline Provisions		
1. When on shipments handled by MLXP in connection with another carrier (either Air, Motor, Water or Rail), Milan Express Company, Inc. maximum liability in the event of loss and damage will in case exceed the maximum liability of other carrier, For example, if the other carrier's maximum liability is \$50.00 per shipment, the maximum liability of the other and MLXP will be \$50.00 per shipment		
2. A loss or damage claim arising against a shipment that has moved at rates less than class rates whether such rates are discounted, class exception rated, commodity rates, or as quoted rates, then the amount of the claim shall be reduced by the percentage of difference between the actual rate and the class rate which would apply regardless of any agreement to reduce said rate. This provision shall apply to both single line traffic and joint line traffic where Molerway Freight Lines is the originating, bridge or delivering carrier.		
3. When on shipments handled by ODFL in connection with another carrier (either Air, Motor, Water or Rail), Old Dominion Freight Lines' maximum liability in the event of loss or damage will in no case exceed the maximum liability of the other carrier. For example: if the other carrier's maximum liability is \$50.00 per shipment, the maximum carrier liability of the other carrier and ODFL will be \$50.00 for the shipment.		

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