

In accordance with the Commission's rules regarding freight commodity statistics of motor carriers (49 C.F.R. 206.7, Dec. 16, 1964) the reports of individual motor carriers pertaining to traffic for the year 1965 will be open to public inspection. However, carriers may file supplemental reports not open to public inspection on traffic involving less than three shippers. These reports may be inspected upon approval by the Commission.

Another area related to disclosure or withholding of information concerns the Commission's investigatory files. These files contain the results of investigations of possible violations of the statutes administered by the Commission. This material consists primarily of complaints against persons subject to the jurisdiction of the Commission and of information obtained by the Commission's agents from examination of carriers' records and equipment and from other sources. It is the Commission's practice not to make such investigatory files available for public inspection for several reasons. First, disclosure of such files would reveal the identity of certain sources of information which would become unavailable to the Commission under a general practice of disclosure. It is well established that law enforcement agencies may treat as privileged or confidential the identity of persons who furnish information as to possible violations of law. Second, sections 20(7) (f) and 222(d) of the Interstate Commerce Act provide that it shall be a criminal offense for an agent, accountant, or an examiner of the Commission to knowingly or willfully divulge any fact or information which comes to his knowledge during the course of any examination or inspection made under the authority of section 20 or 220, except as he may be directed by the Commission or by a court. Third, indiscriminate disclosure of such files which sometimes contain unevaluated raw material would often produce injustice to innocent persons by permitting publicity of groundless charges against them.

Another area concerns the legal power and the policy of the Commission with respect to the disclosure or nondisclosure of accident reports which carriers are required to file with the Commission. The Accident Reports Act requires rail carriers to submit monthly accident reports, empowers the Commission to investigate and make reports on accidents, and provides:

That neither said report nor any report of said investigation nor any part thereof shall be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in said report of investigation, 45 U.S.C. 38, 40, 41.

Similarly, section 220(f) of the Interstate Commerce Act provides that:

No report by any motor carrier of any accident arising in the course of the operations of such carrier, made pursuant to any requirement of the Commission, and no report by the Commission of any investigation of any such accident, shall be admitted as evidence, or used for any other purpose, in any suit or action for damages growing out of any matter mentioned in such report or investigation.

The Commission's regulations with respect to railroad accident reports (49 CFR 125.9) provide that:

Accident reports made by railroads in compliance with these rules shall be for the information of the Commission and shall be open to public inspection only upon prior approval of an application by this Commission. Applications for public inspection will be granted if the Commission is satisfied that such inspection will not result in a violation of section 4 of the Accident Reports Act and is for the purpose of obtaining information to be presented before Federal and other governmental bodies, or which will contribute to the promotion of safety in railroad operations.

The Commission's regulations with respect to motor carrier accident reports (49 CFR 194.1) provide that:

Accident reports made by motor carriers in compliance with these regulations shall be for the information of the Commission, and shall not be open to public inspection.

In brief, Congress has provided that accident reports filed by rail or motor carriers shall not "be admitted as evidence, or used for any other purpose, in any suit or action for damages growing out of any matter mentioned in such report * * *." Thus, it is clear that the information contained in such reports was intended to assist the Commission in the exercise of its safety functions, rather than to assist litigants. Congress encouraged the carriers to file candid accident reports by providing that such reports shall not "be admitted in evidence, or used for any other purpose," in damage litigation.