

HARRIS TRUCKING CO.
P.O. Box 10309
Lynchburg, Virginia 24506

Local Office 804-847-0973
U.S. WATS 800-999-1623
FAX 804-522-2190

REGS. DIV.
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FEDERAL HIGHWAY ADMINISTRATION

FHWA Docket No. Mc-96-18
Federal Highway Administration
Office of the Chief Counsel
HCC-10, Room 4232
400 Seventh Street S. W.
Washington, DC 20590

QA-20596

FHWA-97-2299-16

Dear Sir/Madam:

The purpose of my letter is to address comments to the FHWA's rulemaking regarding safety ratings and investigations. Our company is very supportive of the work of the FHWA towards improving highway safety.

The specific comments are outlined below.

1. Safety rating categories.

I favor dropping the conditional rating and retaining the satisfactory and unsatisfactory ratings. Carriers which have never received a rating should simply be classified as unrated.

2. Selection of carriers for audit.

I believe the selection criteria for audits should weigh heavily towards results reflected in accident and out of service inspection statistics. Accident statistics must be more accurate and definitive. Only preventable accidents should be recorded, with the policeman's citation being the objective factor. There should be a significant level of severity required, i.e. injuries requiring treatment or property damage of \$10,000.00 or greater. The towaway provision should be dropped. Unless accident statistics are made more reliable, they should not be used to determine if an audit is needed.

3. Investigation of employee complaints.

Employee complaints should not trigger full-blown audits. These complaints can be handled without revealing the employee's identity by requiring the carrier to provide a written response to an examiner's questionnaire relating to the complaint. If the carrier is able to show evidence that its safety program is

addressing the complaint, then there should be no need for a full audit. If the carrier's profile shows other evidence of a marginal safety program, then an employee complaint would likely be a signal that an on-site audit is needed.

4. Carriers operating in congested areas.

With respect to accident statistics, the area in which a carrier operates should be considered in determining if the rating parameters apply. Carriers operating in the Northeast corridor and major metropolitan areas should have higher normal parameters than carriers not operating in these areas.

5. Assessing penalties against drivers for logbook violations.

When a driver is cited for a traffic violation, the fine is levied against him, not his employer. Unless drivers are held directly accountable for logging violations (Violations that actually compromise safety), a carrier's efforts to control these violations are frustrated. If the driver can expect to be fined for a violation when caught, then he has the incentive to join with the carrier in preventing the violations.

6. Expanding safety investigations to shippers.

No shipper should be brought into a carrier audit directly or indirectly. This has the effect of creating unanswered questions in the mind of the shipper about the operating stability of the carrier.

7. Log compliance auditing.

The FHA should use an actual random sampling of drivers in auditing for a pattern of non-compliance. Records which the carrier uses to audit its own logs should be available to FHA. The focus should be on detecting falsification, not simple errors.

In my opinion, any data that indicates the actual location of a truck, with time and date, is the most practical means of detecting falsification.

If a pattern of non-compliance is determined in an audit, the pattern should be considered in the context of the active compliance program being conducted by the carrier. A carrier which is tracking log violations and suspending or dismissing drivers according to policy should be given more consideration than one which is not, in assessing an unsatisfactory rating.

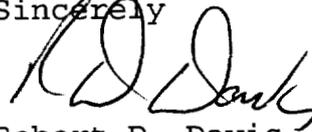
8. DOT inspection citations.

Citations for equipment problems that are not serious enough to place the equipment out of service should be discounted in reviewing performance statistics, unless there is an inordinant number of these violations.

9. State matters

Some states are attacking the trucking industry with punitive fines which bear no relationship to the violation committed. Pennsylvania routinely assesses fines of \$700.00 or higher for overlength/overwidth violations, without posting warning signs. The industry needs the help of the FHA to draw attention to and change these practices.

Sincerely



Robert D. Davis
President

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