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Before the  
**FEDERAL HIGHWAY ADMINISTRATION**  
**U.S. DEPARTMENT OF TRANSPORTATION**

July 26, 1996  
Washington, DC

LEGS./REGS. DIV.

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FEDERAL  
ADMINISTRATION

**IN THE MATTER OF:**  
**FEDERAL HIGHWAY ADMINISTRATION**  
**PROPOSED RULE MAKING PROCEEDING**

**DOCKET NO. MC-96-18**

Comments of

U.S. XPRESS ENTERPRISES, INC.  
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IN RESPONSE TO  
PROPOSED RULE MAKING PROCEEDING

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### Determining Safety Fitness Ratings

Safety fitness ratings should be based on a motor carrier's on-the-road performance -- record keeping or paperwork violations should bear little, if any, weight on a motor carrier's rating. Preventable, recordable accident ratio, driver and vehicle out-of-service percentages from roadside inspections and any other measurable data relating to bottom line performance should be considered when determining a carrier rating.

By focusing more on results and not the record keeping, FHWA should have additional opportunity to evaluate the vast number of unrated motor carriers in this country. Please simplify the process, but retain the satisfactory and unsatisfactory categories. Without some kind of satisfactory or "adequate" ratings, the shipping public will not know if a carrier is responsible.

### Assess Penalties For Hours Of Service Violations Against The Driver

FHWA should assess the civil penalties for violations of the hours of service against the driver involved and not the motor carrier. Doing so would maximize the deterrent. Motor carriers can take a disciplined approach to workforce utilization, have a good system in place to uncover violations, sanction drivers who violate the regulations and still see violations occur. Without penalties levied to the driver by FHWA, the worst a violating driver has to face is the loss of his current driving job. With the abundance of driving job opportunities in the truckload sector, most over-the-road truck drivers do not fear the loss of their job. Any other employee of a company who commits a federal offense is subject to prosecution and is likely to be prosecuted and lose their job. Under the regulation part 395 of FMCSR - drivers could be subject to civil penalties as well as carriers.

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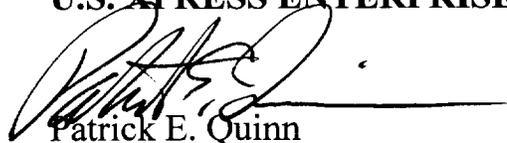
FHWA Should Make a Distinction Between Logbook Violations Caused By Mistake, Error Or Omission And Those Due To Intentional Falsification

Office of Motor Carrier Safety investigators should want to treat violations caused by error or mistake differently than those due to intentional falsification. If compliance and safe operation are FHWA goals, it does not make sense to cite or prosecute a motor carrier for log inaccuracies which were not instigated to hide or cover up a driver's excess of the maximum driving and on-duty time. If motor carriers are capable of making the distinction between a simple unintentional error in recording activity and those false record of duty status entries designed to camouflage excess of the hour maximums, then the highly trained FHWA investigator should be able to as well.

FHWA investigators should be held to the same high standards of thoroughness as those placed upon those they regulate. They should go beyond just identifying logbook and document inconsistencies. Perceived logbook inconsistencies can have more than one explanation. A toll receipt which does not agree with the log can have multiple explanations. Certain members of the driving workforce can have the best of intentions and at the same time, the worst record keeping habits. Our justice system is full of differentiation based upon intent. FHWA investigators should search for complete answers.

Respectfully,

**U.S. XPRESS ENTERPRISES, INC.**

  
Patrick E. Quinn  
President

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