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Federal Highway Administration
Office of the Chief Counsel
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FEDERAL HIGHWAY
ADMINISTRATION

We appreciate the opportunity to offer comments concerning the Safety Rating Proposal. Having been an owner of a transportation company since 1981, I have seen the enormous growth in the trucking industry. I hope everyone would agree that operating on rules that have their genesis in the 1940's is just not practical. We have experienced a D.O.T. compliance audit in January of this year, so we have first hand knowledge of how the process works, or doesn't, depending on your point of view. The following comments, suggestions, and input is designed to help you understand what is really happening out here across the U.S.A., and how it probably differs greatly from its original intent.

SAFETY RATING CATEGORIES:

We believe the "conditional" rating should be eliminated. Shippers, both large and small, are using your rating system to qualify carriers. We understand this was never the intent, but it is a routine practice. We would be happy to show you many bid packages that ask for our current rating. The system should be revised to have an "unsatisfactory" and a "satisfactory". If problems are detected during a compliance review, carriers should be given a pre-determined period of time to take corrective action, then a follow-up review should be scheduled for the purpose of looking at the action that has been taken. A specific date should be set at the exit interview of the initial compliance review.

BASIS OF SAFETY RATINGS:

We would contend, based on experience, that there is no correlation between paperwork compliance in the area of logs **and** accident rates. In fact, we can show you an **inverse relationship**. After we were audited in January, 1996, we did extremely well in qualification files, very good in maintenance, we had an out-of-service rate of **17%**, and our drug and alcohol testing program met the guidelines, except for a few paperwork problems. Our accident rate was just above what would be rated satisfactory. But there was considerable log falsification. So we went out and spent over \$5,000 on a computerized log checking system, contracted with a firm to audit 100% of our logs (near \$1,000 per month), and have brought the rate of falsification down considerably. What was the result? Because our limited resources were diverted to what FHWA considers important, our **accident rate rose significantly**. We simply didn't have the money and time to devote "to what is really important", communication, training, and

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engineering to lower accidents! We understand from other carriers, this is happening all over the country.

The Safety Rating Process should weight the following factors in order of importance: (1) Accident rates, (2) Vehicle Maintenance, (3) Operational factors (hours and false logs). What is the primary mission of the FHWA? I would imagine that the reduction of highway accidents that cause property damage and injury or loss of life is primary among their goals. Therefore, we believe that accident rates and vehicle maintenance are much more relevant to the mission than are "Hours of Service". If you couple this with the fact that enforcing these paperwork violations creates driver turnover; and driver turnover creates more accidents! As you can see this is a never ending scenario that is not going to reduce accidents, injuries, and fatalities.

The criteria for a "recordable accident" should definitely be changed. A recordable accident should be centered around injuries or fatalities. To include the criteria of any vehicle being towed, skews the numbers too much. There are times when a vehicle is towed, because the owner wanted it towed, and that ends up being a "recordable accident". This is wrong, it has no relevance to the severity of an accident, **and we want this changed!**

AUDITS:

The most frustrating part of trying to operate legally is the fact that there are trucking companies all around us who are not, and do not fear an audit. We know personally of other trucking companies that currently do not adhere to the rules of "Hours of Service", and have no intention of doing so. **We feel very strongly that the audit selection needs to be random, so as to catch these other "outlaws"**. We are suffering financially because drivers can leave us and go across the street to another job, knowing that they will not be strict on logs. In theory, high out of service rates would seem to be a fair way of triggering audits, although we have examples every day of inspections that result in an out of service that are not accurate. Just today I'm looking at one from Missouri that the inspector claimed we had three brakes beyond the 2" requirement, and the **inspector would not let the driver see the measurement!** When the driver got under the truck to tighten them, he found them only one half turn or less out of adjustment. We deal with this **all the time**. The present system of just funding more roadside inspections, and letting the individual states run them **is not working**. States are regularly targeting out of state vehicles, while letting in state, local companies, or the "large nationwide trucking companies" go on through.

When an audit takes place, drivers selected should be done on a truly random basis. When we were audited in January, the selection was in no way random. The inspectors already had their list drawn from our carrier profile, based on out of services from particular drivers. Again, many of these inspections are not done accurately or fairly, so your list is tainted from the beginning. There is one thing that we have noticed in the area of "supporting documents" that is particularly disturbing. It is a fact that many Toll Booths "pre-print" their receipts, stick them up on the wall, then hand them out as people

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come through. What is wrong with this picture? As I write this, you can check the Illinois Toll System, and you will find those tickets pre-printed, thereby creating a supporting document that is worthless. How are we, or an inspector to determine "what is real?" If our drivers ask for a current ticket, they are refused. We simply don't have time or money to chase down, make phone calls, write letters, etc. for all these situations that arise with incorrect fuel receipts (date and time) and poor quality inspections. The Federal Government has got to step in and hold the states accountable!

POLICY QUESTIONS

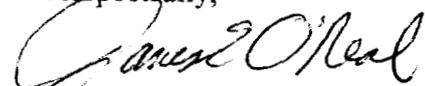
Many carriers, including ourselves, go way beyond D.O.T. regulations and requirements in the area of hiring standards, training, and orientation. We believe some sort of "extra credit, or bonus points" should be given to such carriers during a compliance audit. The auditors we faced I should add were very fair and professional, even personable individuals. They felt, as did we, that their hands were tied in many areas to "go by the book". Issues of compliance versus issues of carriers that go the extra mile, need to adressed. We believe very strongly that any complaints that are made to D.O.T. by a driver deserve "full disclosure" from the D.O.T. We know from experience that disgruntled employees or contractors are the ones who usually file complaints, and most of them are unjustified, or just plain fabrications. The carrier could still be held accountable to "whistleblower" laws. Perhaps you could require a hearing or a meeting between D.O.T., the driver, and the company to flush out the truth from fiction.

We would like add a suggestion about the fine structure and who should be accountable. **Shippers and brokers must be held liable for asking a trucking company to move a "hot load"**. We have no desire or hidden agenda to run illegal loads. Shippers and brokers, **routinely**, ask and even demand that carriers "get the load there", or else. Unfortunately, as we mentioned earlier, there is always a carrier that is willing to run a load illegally, which simply rewards the wrong people. Shippers have to be brought into this equation, since the whole industry begins with the need for a person, or company, to move a product from point A to point B.

And finally, fines should be directed at drivers, as well as the company. Drivers, themselves, many times cause their own violations. Because of all the unecessary delays at loading docks, and inspection stations, it is difficulty for these people to make a living. If they were paid for all the hours they work, they would be at below minimum wage! And if carriers were made to pay drivers for all the, the economy would nearly collapse because of spiraling inflation due to huge increases in the costs of goods. So yes, drivers do sometimes take it upon themselves to run a little over 10 hours in a day, or an hour or two over 70 hours in eight days. As we said in the beginning, in 1940, driving 10 hours a day in a truck of that year, on only two lane roads, was definitely a "tired" day. Driving 10 hours in a 1996 Freightliner, Peterbilt, or any modern truck, is like driving an "RV". They are more comfortable than most automobiles, and the rules have simply got to reflect equipment and interstate highways of the 1990's and beyond.

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Respectfully,



James E. O'Neal
President

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