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September 17, 1998

DOT Docket No. FHWA-98-3414-D
Docket Clerk
US DOT Dockets
Room PI-40 1
400 Seventh Street, SW
Washington, DC
20590-000 1

Dear Sir/Madam:

This letter is in response to the Federal Highways Administration's (FHWA) request for comment relating to the CVSA North American Uniform Out-of-Service Criteria (OOSC). The Canadian Council of Motor Transport Administrators (CCMTA) is a non-profit association of senior officials from the federal, provincial, and territorial governments responsible for the administration, regulation and control of motor vehicle transportation and highway safety in Canada. CCMTA also includes some two hundred associate members drawn from the academic, manufacturing, motor carrier, shipper and enforcement communities in Canada and the United States.

Canadian governments have expressed concern about placing the entire OOSC in US federal regulations. To do so would have the effect of fundamentally altering the until-now "North America" collaborative nature of developing, revising and implementing the criteria on a continent wide basis. To place the OOSC in US federal regulations would mean that Canada (and Mexico, but we do not presume to comment on their behalf), would, by default be tied to United States' law and its resulting processes without the same opportunity to review and revise the OOSC as is now currently provided within the existing CVSA framework.

CVSA is a major contributing factor to the uniformity of commercial vehicle safety enforcement in Canada, the United States and now Mexico. The OOSC is used as the basis to enforce the commercial vehicle safety standards which are contained in the legislation of each Canadian jurisdiction. This is due, in part to the formal process under the current CVSA bylaws that enable all government agencies and industry in Canada the same opportunity as US agencies and industry to provide input into the OOSC, and subsequently all jurisdictions to have an equal vote on any proposed changes. CCMTA member governments are concerned that placing the OOSC in US federal regulations would have the effect of undermining the CVSA collaborative process which in our view has worked well to develop uniform on-road inspection procedures and policies in North America. It is worth noting the current notice while acknowledging the international character of CVSA, does little to consider the impact that placing the OOSC in US federal regulations will have on the Canadian and Mexican "partners" in commercial vehicle safety.

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The existing rulemaking process in the US would not afford the same opportunity to Canadian government agencies and industry for input and voting as previously mentioned. The regulatory process is generally slow and cumbersome, and it could conceivably take years to adopt the numerous amendments that are required to ensure continuous improvement of a living document such as the OOSC. This is particularly true if each amendment made to the OOSC must be subject to the formal US rulemaking process.

It has been the Canadian experience the ongoing CVSA review of the OOSC with implementation scheduled for April of each year works well to promote international consistency in the requirements. Delays associated with the formal US rulemaking including the prescribed comment period leading to a final rule could have significant detrimental consequences for industry in the areas such as technology, where the opportunities to enhance safety and efficiencies at the same time are arising constantly. Moreover, CCMTA governments are concerned that no mechanism is being proposed or considered in the ANPRM to ensure the OOSC requirements are modified collectively and perhaps more importantly implemented at the same time on a North American wide basis. CCMTA believes the relative consistency and uniformity in inspection process and procedures which has been achieved to date on a North American basis using the existing CVSA framework will be undermined to the detriment of Canadian, US, and Mexican carriers if amendments to the OOSC are not coordinated and implemented at the same time between the three countries. Differing requirements as it applies to the OOSC in the United States and Canada would seem to be the likely result of subjecting the OOSC to the formal US regulatory process without formal Canadian and indeed Mexican cooperation in the implementation of the amendments. This we believe would be to the detriment of the thousands of drivers and carriers who are currently engaged in international transportation between our respective countries.

If there is any way the OOSC could be linked to US federal regulations only by way of reference, where CVSA would still be free to update the criteria using its current methods (open to all stakeholders) without being caught in the administrative burdens associated with formal rulemaking, we would be pleased to look favourably at such an alternative. CCMTA notes other US federal regulations adopt by reference standards developed by other organizations and we encourage FHWA to treat the OOSC in the same manner. Language indicating FHWA adopts by reference the OOSC as periodically updated by CVSA would seem to accomplish the same objective without undermining the existing collaborative processes which have been utilized successfully to date to make the OOSC a truly North American initiative.

Yours sincerely,



Marlene Zyluk
President, CCMTA

cc: CCMTA Board of Directors
CCMTA Standing Committee on Compliance and Regulatory Affairs
R. Fiste, Executive Director, CVSA and P. Hurst, President, CVSA Region V - Canada
Foreign Affairs and International Trade - Washington (Terry Wood)