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Association  
of Electric  
Cooperatives

DEPT. OF TRANSPORTATION  
DOCKET SECTION

Virginia, Maryland & Delaware

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Publishers of RURAL LIVING and CURRENT LIVING

September 18, 1998

Docket Clerk-  
U.S. DOT Dockets  
Room PL-401  
400 Seventh Street, SW  
Washington, D.C. 20590

Dear Mr. Schultz:

RE: Docket No. FHWA-98-3414-34

The Virginia, Maryland & Delaware Association of Electric Cooperatives (Association) is an organization representing 14 electric distribution cooperatives in the three-state area. This represents approximately 1.2 million consumer-owners. On behalf of our member systems, the Association appreciates the opportunity to comment on the Federal Highway Administration's (FHWA) Advanced notice of proposed rulemaking regarding out-of-service criteria,

The Association does not support adoption of the out-of-service criteria as regulations. As stated in the background section of your notice, the criteria is currently put together by state officials who administer the law. This procedure offers individual states flexibility, and provides the law-enforcing agent with the ability to assess each incident on a case-by-case basis. This flexibility and necessary discretion will be greatly sacrificed if the criteria becomes regulation.

The notice refers to the criteria as measuring "enforcement tolerances". In this capacity, it is appropriate that they remain criteria, as guidelines to law enforcing agents. Placing them in the regulation provides no benefit; instead, it creates a less flexible system with more burden on the regulated community.

Additionally, the proposal would take away the development of the criteria from those who actually administer the regulation to those who write the regulation. For practical purposes, it is clear that those who administer the regulation are better fit to write the criteria.

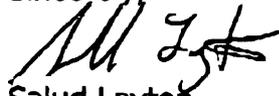
The Association believes it is practical for the criteria to remain as policy, written by the appropriate state officials. This approach is not unprecedented, as many regulations require guidelines for administrative purposes. As such, we recommend the FHWA not proceed with this rulemaking.

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Should you have any questions, please feel free to contact me at 804-968-4088.

Sincerely,



Salud Layton  
Government Affairs Coordinator

cc: Greg White  
Mark Tubbs  
Lloyd Sholes  
Regulatory Liaisons