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December 15, 1998

Via Fax - (202) 366-3244

Mr. Kenneth Wykle
Administrator
Federal Highway Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, D.C. 20590

49796 Re: FHWA Docket No. FHWA 98-3414-13 - 36

Dear Mr. Wykle:

The purpose of this letter is to request that the Federal Highway Administration (**FHWA**) consider imposing a moratorium on the inclusion of out-of-service data **from** roadside inspections of **intermodal freight** equipment in the Agency's **safety** analysis system. This equipment is defined as chassis, containers and trailers.

The **Intermodal** Association of North America (**IANA**) makes this request for the following reasons:

- The question of how best to share responsibility for the safe operations' of intermodal equipment is currently the subject of intense discussion among the various elements of the **intermodal freight** community. Given the number of parties to a typical intermodal transaction, the **frequency** with which equipment changes hands and the widespread variability in leasing arrangements, the **question** of who maintains "control" of the equipment at any given time for purposes of **safety** compliance is **difficult** and complex. It is **IANA's** view that a good faith effort is being made by all sides to resolve this issue in a manner that addresses the needs of the involved parties.
- In addition, **IANA** has initiated a cooperative, **voluntary** program to help insure that **intermodal** equipment is in compliance prior to **its** being tendered for highway transport. While this program is still in its infancy, the early results are promising.
- In the meantime, **IANA recognizes** that the current system of **safety** enforcement, which has the effect of holding the motor **carrier** solely responsible for equipment **violations**, can at times, place an **unfair** burden on carriers offering **intermodal** service.

In the interest of fairness to these carriers, we believe, that a moratorium on the inclusion of out-of-service data on **intermodal** freight equipment in the **FHWA safety** analysis systems, including **SafeStat** and the Inspection Selection System, should be imposed until such time as the private sector can determine how best to equitably share responsibility for safety compliance.

Email: IANA@intermodal.org • Web-site www.intermodal.org

Mr. Kenneth Wykle

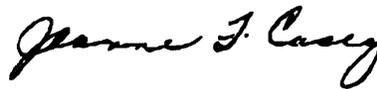
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By the same token, any **rulemaking** or other **government** actions that could inhibit on-going cooperative industry efforts to **quantify** the **magnitude** of the issue, reach consensus and develop an appropriate methodology for determining **safety responsibility** for **intermodal** equipment should not be considered at this time. This will provide **the** parties a **full** opportunity to resolve this issue in a timely and cooperative manner.

We request that this letter be included in the record of FHWA Docket No. **FHWA** 98-34 14, *Out-Of-Service Criteria*.

sincerely,



Joanne F. Casey

JFC:lnc