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February 20, 2007

U.S. Department of Transportation
400 7th Street SW
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Washington, DC 20590-0001

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Reference: DOT DMS Docket Number FMCSA-2001-11061 RIN 2126-AA59

Dear Sir;

FMCSA proposes that committing any one of the following 11 regulatory violations would result in an automatic failure of a Safety Audit.

#6: §387.7(a) *Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.*

Comment:

There is some question as to what constitutes "hazardous materials" and the required dollar amount of public liability. As the regulation states now, a motor carrier must carry \$1 million in liability insurance if hauling a single piece of lawn equipment with a small fuel tank attachment, such as a weed-wacker. It seems excessive to fail a motor carrier for not meeting this requirement if this type of carrier has \$750,000 financial responsibility. Under "Materials of Trade," a carrier hauling a small amount of fuel is not subject to the Federal Hazardous Materials Regulations. §387.7(a) is requiring a carrier hauling a minimal amount of fuel to have \$1 million in liability insurance even though placarding is not required.

#9: §395.8(a) *Failing to require a driver to make a record of duty status.*

Comment:

49 CFR Part 395 has several exceptions such as 'short haul operations'. By this new standard a motor carrier would fail if one driver worked over 12 hours in one day and did not complete a log book for that day. In a Compliance Review this type of violation would not be a critical or an acute violation; but for a Safety Audit it would be looked upon as failing to meet a requirement. Most of 49 CFR Part 395 exceptions will have the same results. This seems excessive to fail a motor carrier for not meeting this one requirement, when a Compliance Review will require multiple violations indicating a pattern.



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#11: §396.17(a) Using a commercial motor vehicle not periodically inspected.

Comment:

Failing to have one vehicle periodically inspected is not a critical or an acute violation during a Compliance Review, however the same violation during a Safety Audit will be considered failing to meet the requirements. Again it seems rather harsh for a motor carrier to fail a Safety Audit, when the same violation for a Compliance Review requires a pattern to be established.

"Under the current New Entrant Safety Assurance Process, FMCSA provides applicants with an application package including, upon request, educational and technical assistance materials. The applicant must complete the application, including Form MCS-150A – Safety Certification for Application for USDOT Number, which requires the carrier to certify procedures are in place for basic safety management controls."

Comment:

Most carriers do not know there are educational and technical assistance materials available in the first place; let alone how to request them. That information should be available on the FMCSA web site. Most carriers are not knowledgeable of all the regulations and having this at their finger tips is a great tool.

Sincerely,



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