

## Lahman, Kathy

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**From:** Shawn Ford <Shawn.Ford@renzenberger.com>  
**Sent:** Wednesday, September 10, 2014 10:00 AM  
**To:** Lahman, Kathy  
**Cc:** Suzanne Washington; Steve Heinking; Char Duffy  
**Subject:** RE: Renzenberger Comments to Proposed Rule 006028A.docx

Thank you Kathy.

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**From:** Lahman, Kathy [<mailto:kathy.lahman@nebraska.gov>]  
**Sent:** Wednesday, September 10, 2014 9:39 AM  
**To:** Shawn Ford  
**Subject:** RE: Renzenberger Comments to Proposed Rule 006028A.docx

No that's OK. I'll just print off 5 copies from here.

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**From:** Shawn Ford [<mailto:Shawn.Ford@renzenberger.com>]  
**Sent:** Tuesday, September 09, 2014 4:19 PM  
**To:** Lahman, Kathy  
**Cc:** Breiner, Mark; Steve Heinking; Suzanne Washington; Char Duffy  
**Subject:** RE: Renzenberger Comments to Proposed Rule 006028A.docx

Kathy: Thank you for allowing us to revise our comments. Should we resend five hard copies of the revised document?



Shawn M. Ford  
Renzenberger, Inc.  
General Counsel &  
Director of Labor Relations

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14325 W. 95th Street Lenexa, KS 66215

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**From:** Lahman, Kathy [<mailto:kathy.lahman@nebraska.gov>]  
**Sent:** Tuesday, September 09, 2014 1:23 PM  
**To:** Shawn Ford  
**Subject:** RE: Renzenberger Comments to Proposed Rule 006028A.docx

I received the comments you filed on Friday regarding Rule and Regulation #182, the complete rewrite of the motor carrier rules. We noted in your letter that you are filing comments on the **SECOND** set of rules rather than the **THIRD** set of rules that we are accepting comments on. It appears from the content that you are responding to the third set. Would you like the opportunity to correct your letter and resend it to me before I load it to our website?

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**From:** Shawn Ford [<mailto:Shawn.Ford@renzenberger.com>]  
**Sent:** Friday, September 05, 2014 2:59 PM  
**To:** Lahman, Kathy  
**Cc:** Shawn Ford; Suzanne Washington; Breiner, Mark  
**Subject:** Renzenberger Comments to Proposed Rule 006028A.docx

Please see attached Comments.



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Shawn Ford, General Counsel

REVISED  
COMMENTS

To: **Nebraska Public Service Commission**  
**Mark Breiner, Director, Transportation Department**

Please accept these comments of Renzenberger, Inc. regarding the Commission's Third set of proposed Rules and Regulations to Title 291, Chapter 3, Motor Carrier Rules and Regulations. Rule and Regulation No. 182 Motor Carriers.

Renzenberger, Inc. is a motor vehicle transportation provider who contracts with various railroads to provide off track motor vehicle transportation for train crews in more than twenty states, including Nebraska. The proposed rule is largely duplicative of the contractual requirements imposed by Renzenberger, Inc.'s railroad customers, including the BNSF Railway and the Union Pacific Railway, as it relates to vehicle and passenger safety, and creates unneeded oversight in that regard.

In addition, Renzenberger's railroad customers require Renzenberger to indemnify the railroads for injury or death of their employees regardless of who is at fault in an accident. Accordingly, Rule 006.02A, proposing to require higher uninsured and underinsured motorist insurance coverage for carriers providing transportation of railroad train crews, would only serve to add additional financial burden to contract carriers like Renzenberger, and would not provide any additional protection for injuries incurred involving contract carriers.

Moreover, the Commission may in fact lack the jurisdiction to impose the higher insurance requirements defined in the proposed rule. Nebraska Revised Statute 44-101.01 specifically reserves to the Department of Insurance, and the Director thereof, sole rulemaking authority in matters involving insurance, insurance requirements, and insurance agencies and providers. Section 44-6414 reserves to the Director the authority to promulgate rules and regulations regarding Uninsured and Underinsured Motorist Insurance Coverage:

**"The director shall have the power and duty to enforce and execute all the insurance laws of this state and to adopt and promulgate all needful rules and regulations . . ." Neb. Rev. Stat. 44-101.01.**

**"The Director of Insurance may adopt and promulgate rules and regulations to carry out the Uninsured and Underinsured Motorist Insurance Coverage Act." Neb. Rev. Stat. 44-6414.**

Even assuming for argument's sake that the Commission has the jurisdiction to promulgate Rules and Regulations imposing these higher insurance requirements – to do so specifically targeting rail crew transportation companies is unfair, as all other transportation carriers are required only to maintain coverage pursuant to the Uninsured and Underinsured Motorist Coverage Act. If the Commission deems this heightened level of coverage necessary, then its decision should not be so narrowly tailored as to affect only a small group of carriers and passengers, but should be a uniformly applied rule for the benefit of all motorists.

Sincerely,

\s\ Shawn M. Ford  
General Counsel  
**Renzenberger, Inc.**

