

# Loading and Unloading Practices Related to Lumping: Status and Implications for Motor Carriers, Shippers, and Other Parties

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and Other Parties**

**Final Report  
August, 1994**

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**Funded by**

**American Trucking Associations Foundation, Inc.  
and  
Midwest Transportation Center**





## TABLE OF CONTENTS

<b>LIST OF TABLES</b> -----	iii
<b>LIST OF FIGURES</b> -----	v
<b>ACKNOWLEDGEMENTS</b> -----	vii
<b>EXECUTIVE SUMMARY</b> -----	ix
<b>CHAPTER I: Introduction</b> -----	<b>1</b>
Research Methodology-----	2
Organization of Report-----	3
<b>CHAPTER II: The Role and Importance of Lumping</b> -----	<b>5</b>
Introduction-----	5
Definitions and Terminology-----	5
Legal Status Under the Interstate Commerce Act-----	6
Role and Impact of Lumping: Economic Perspectives-----	8
Role and Importance of Lumping: Logistical Perspectives-----	9
Conclusion-----	11
<b>CHAPTER III: Nature and Extent of Lumping Practices</b> -----	<b>13</b>
Introduction-----	13
Loading and Unloading Practices-----	13
The Extent of Lumping-----	22
The Nature of Lumping-----	28
Summary and Conclusions-----	40
<b>CHAPTER IV: Third-Party Loading/Unloading Firms</b> -----	<b>43</b>
Introduction-----	43
Nature of Third-Party Industry-----	44
Nature/Characteristics of Third-Party Firms-----	48
Third-Party Loading/Unloading Firms' Self-Reported Benefits and Problems-----	58
User Perspectives on Third-Party Loading/Unloading Firms-----	59
Conclusions and Implications-----	67
<b>CHAPTER V: Evaluation of Lumping Practices:</b>	
<b>Benefits and Problems</b> -----	<b>71</b>
Introduction-----	71
Benefits Associated with Lumping-----	72
Problems Associated with Lumping-----	79
The Special Case of Involuntary Lumping: Carrier and Driver Perspectives-----	86
Summary and Conclusions-----	92

<b>CHAPTER VI: Worker Classification Issues: Nature and Importance</b>	<b>97</b>
Introduction	97
Worker Classification Law	97
IRS Worker Classification Efforts	106
Awareness of and Efforts to Limit Tax Liability Exposure	108
Conclusion	110
<b>CHAPTER VII: Conclusion: Recommended Initiatives</b>	<b>113</b>
Introduction	113
Individual Firm Initiatives	113
Industry Initiatives	115
Government Initiatives	117
<b>APPENDIX A: Focus Group Meeting Summary</b>	<b>119</b>
<b>APPENDIX B: Survey and Sampling Methodology</b>	<b>133</b>
<b>APPENDIX C: Survey Instruments</b>	<b>139</b>
<b>APPENDIX D: Research Glossary</b>	<b>189</b>
<b>REFERENCES</b>	<b>191</b>

## LIST OF TABLES

<b>Table III-1. Parties Responsible for Loading and Unloading (Percent of For-Hire Truckload Shipments) -----</b>	15
<b>Table III-2. Parties Responsible for Loading and Unloading: Comparison of Motor Carrier Subgroups Based on Type of Commodity Carried (Percent of For-Hire Truckload Shipments) -----</b>	18
<b>Table III-3. Parties Responsible for Loading and Unloading: Comparison of Motor Carrier Subgroups Based on Type of Operation (Percent of For-Hire Truckload Shipments) -----</b>	19
<b>Table III-4. Parties Responsible for Loading and Unloading: Comparison of Shipper Subgroups (Percent of For-Hire Truckload Shipments) -----</b>	20
<b>Table III-5. Loading and Unloading by Driver: Comparison of Motor Carrier Subgroups -----</b>	21
<b>Table III-6. Degree to Which Shipments Are Unitized: Comparison of Motor Carrier Subgroups -----</b>	24
<b>Table III-7. The Degree to Which For-Hire Shipments are Unitized: Comparison of Shipper and Receiver Subgroups -----</b>	25
<b>Table III-8. Use of Lumpers by Carriers -----</b>	27
<b>Table III-9. Lumper's Fee Paid by Shippers, Receivers, and Carriers (Dollars Per Truckload) -----</b>	31
<b>Table III-10. Factors Increasing the Frequency of Lumper Use by Motor Carrier -----</b>	34
<b>Table III-11. Voluntary Versus Involuntary Lumping by Carriers (Percent of Truckload) -----</b>	37
<b>Table III-12. Lumper's Fee per Truckload: Comparison of Motor Carrier Subgroups -----</b>	39
<b>Table IV-1. Locations Served By Third-Party Loading/Unloading Firm Respondents -----</b>	46
<b>Table IV-2. The Effect of Characteristics/Conditions on Third-Party Loading/Unloading Firms' Average Loading/Unloading Charges -----</b>	55
<b>Table IV-3. Reasons For Third-Party Firm Use: The Motor Carrier Perspective -----</b>	60

**Table IV-4. Additional Reasons For Third-Party Firm Use: The Motor Carrier Perspective ----- 61**

**Table IV-5. Reasons For Third-Party Firm Use: The Shipper Perspective -- 62**

**Table IV-6. Reasons For Third-Party Firm Use: The Receiver Perspective - 63**

**Table V-1. Problems Associated with Driver Loading and Unloading ----- 71**

**Table V-2. Carrier Perspectives: Benefits Associated with Lumping----- 73**

**Table V-3. Shipper Perspectives: Benefits Associated with Lumping ----- 74**

**Table V-4. Receiver Perspectives: Benefits Associated with Lumping ----- 74**

**Table V-5. Driver Perspectives: Reasons for Using Lumpers ----- 75**

**Table V-6. Perceived Benefits by Size of Carrier ----- 77**

**Table V-7. Perceived Benefits by Type of Product Carried ----- 78**

**Table V-8. Perceived Benefits by Type of Carrier Operation ----- 78**

**Table V-9. Carrier Perspectives: Problems Associated with Lumping ----- 80**

**Table V-10. Shipper Perspectives: Problems Associated with Lumping ----- 81**

**Table V-11. Receiver Perspectives: Problems Associated with Lumping---- 82**

**Table V-12. Driver Perspectives: Reasons for Not Using Lumpers ----- 83**

**Table V-13. Perceived Problems by Size of Carrier----- 84**

**Table V-14. Perceived Problems by Type of Product Carried ----- 85**

**Table V-15. Perceived Problems by Type of Carrier Operation ----- 86**

**Table V-16. Carrier Perspectives: Causes of Involuntary Lumping----- 88**

**Table V-17. Driver Perspectives: Reasons for Involuntary Lumping ----- 89**

**Table V-18. Causes of Involuntary Lumping by Size of Carrier ----- 90**

**Table V-19. Causes of Involuntary Lumping by Type of Product Carried --- 91**

**Table V-20. Causes of Involuntary Lumping by Type of Carrier Operation 92**

**Table VI-1. The Twenty Factors Compiled by the IRS to Indicate the Existence of an Employer-Employee Relationship ----- 100-101**

**Table VI-2. Section 530 "Safe Haven Rules" ----- 107**

## LIST OF FIGURES

<b>Figure II-1. Motor Carrier Act of 1980</b> .....	7
<b>Figure III-1. Reimbursement by Carrier to Driver for Loading/ Unloading (\$ Per Load)</b> .....	23
<b>Figure III-2. Frequency of Required Use of Lumpers without Compensation (Floorloads)</b> .....	38
<b>Figure III-3. Average Lumper Fee Paid by Driver (\$ Per Load)</b> .....	40
<b>Figure IV-1. Areas Served by Responding Third-Party Unloading Firms</b> –	45
<b>Figure IV-2. Comparative Cost Per Load: Third-Party Firm versus Individual Lumper</b> .....	65
<b>Figure IV-3. Reasons for Third-Party Firm Use Considered Important</b> ----	66
<b>Figure IV-4. Treatment of Third-Party Firms versus Individual Lumpers</b> –	67





## ACKNOWLEDGEMENTS

Many individuals and organizations made this study possible. The authors would especially like to thank Deborah Johnson, Director, Policy Analysis and Research, Western Highways Institute, and Mike Hancock of the Midwest Transportation Center. Ms. Johnson provided ideas, direction, and support throughout the life of the project. Mr. Hancock worked closely with the research team during the latter half of the project.

We appreciate the valuable research assistance provided by Iowa State University graduate and undergraduate students, including Traci Harner, Janel Bateman, Chuck Braunschweig, Mike McInerney, Jim York, John Scheppler, Ann Schwabe-Neumayer, Aimee Dunn, Todd Liddell, Zafar Iqbal, James Young, Paul Wettestad, Jason Urban, Davon Dorn, Patty Scallon, and Travis Schwenneker. Jim York and Janel Bateman merit a special acknowledgement.

We are grateful to the members of the ATA Lumping Task Force for their advice and assistance. The final product was greatly enhanced by their input at critically important times during the project. In particular, we thank Jeff Martin of Westway Express, who served as chairperson of the task force.

We also express our appreciation for the many organizations and firms who assisted and participated in the survey components of the project. The information gathered through the use of surveys was critically important in reaching the objectives of the project. Two organizations, the Food Shippers of America, Inc. and the National Industrial Transportation League, were especially helpful in facilitating the survey work. In addition, three truck stops in Iowa—the Bosselman-Harter Plaza in Altoona, the Bar-B Travel Plaza in West Des Moines, and the Elk Run Truck Stop near Waterloo—greatly assisted the research by allowing us to use their facilities to distribute driver surveys. Especially important were the executives of motor carriers, shippers, receivers, third-party loading and unloading firms, and drivers who pre-tested and completed the surveys.

Thanks also go to the participants of our focus group, which met in Ames, Iowa during the summer of 1993. The insights provided by these participants were very helpful in developing the initiatives for resolving some of the problems associated with lumping.

Jan Stoehr, Vicki Bouillon, and other staff members in the College of Business provided typing and administrative support throughout the project. Pat Allen graciously provided proofreading and editorial assistance. Larry Mendenhall of the Midwest Transportation Center designed the executive summary. Kathleen Shelley of the Statistical Laboratory and Department of Statistics provided significant assistance in the analysis of survey data. We thank them all. David Shrock, Dean of the College of Business, deserves special thanks for his encouragement and support during the project.

Finally, we owe special thanks to Tom Maze, Director of the Midwest Transportation Center, and Greg Lebedev, Senior Vice President and Managing Director of the ATA Foundation, Inc. The Midwest Transportation Center and the ATA Foundation, Inc. provided equal funding to support the project. We greatly appreciate the Interstate Truckload Carriers Conference's significant contribution to the ATA Foundation, Inc. to support this research project. Without this financial support, the project would not have been possible.

The usual disclaimer is important. The assessments, opinions, and recommended initiatives expressed in this manuscript are those of the authors and do not reflect the official policy of either the Midwest Transportation Center or the ATA Foundation, Inc. Errors of omission and commission should be assigned solely to the authors.

# EXECUTIVE SUMMARY

## Introduction

As the United States faces increased competition in the world market, we must continue to improve those infrastructure industries, such as freight transportation, on which national and international economies depend. Any improvements in efficiency in freight transportation are multiplied many times over in the logistics supply chain, thus creating a competitive advantage for those countries or economies that enjoy highly-efficient, low-cost transportation. To achieve any possible increases in efficiency, we must examine the business practices of our freight transportation industries, identify opportunities to increase efficiency, and modify business practices to take full advantage of these opportunities. Toward that end, this research examined one practice associated with the trucking industry—lumping, or the loading and unloading of motor carrier freight by individuals other than the employees of motor carriers, shippers, or receivers.

The purpose of this research is to provide a contemporary view of lumping and lumping practices. Lumping has long been recognized as a fact of life in the motor carrier industry. However, since deregulation the economic factors associated with lumping have become more important to motor carriers, which are forced by increasingly competitive conditions to provide more services to customers, including loading and unloading, without increased rates to cover their costs. Lumping issues and problems can confront not only motor carriers but also shippers and receivers as well and have the potential to adversely affect shipper-carrier relationships. Relatively little research on general lumping practices has been conducted, particularly on the impact of lumping on the total supply chain environment in which carriers, shippers, receivers, and other parties operate. This exploratory research attempts, at least in part, to fill this void by moving from anecdotal evidence to a more comprehensive and systematic examination of this important topic.

## Research Questions and Methodology

The research efforts were directed toward investigation of three major questions:

- What is the nature and extent of lumping as currently practiced in the United States?
- What are the benefits and problems associated with lumping for motor carriers, shippers, receivers, and drivers?
- What are the most important managerial and public policy implications of current lumping practices?

Because little information has been systematically collected on lumping practices, a substantial amount of survey work was required to determine not only the nature and

extent of lumping practices, but also the importance placed on the major lumping problems and benefits by each of the parties involved in the lumping issue. Thus, this project breaks new ground in systematically collecting information from motor carriers, shippers, receivers, and drivers about their use and perception of lumpers. To this extent, the research is exploratory in nature.

A total of six survey instruments were developed and disseminated in an effort to generate a database that would provide more accurate and meaningful information on the current nature and extent of lumping and its associated problems and benefits. This results in a much stronger foundation on which policy options addressing the significant managerial and public policy issues may be based. Descriptions of the six survey instruments are presented below.

1. **Motor carrier—general survey.** Sent to 1,682 Class I, Class II, and Class III truckload motor carriers of general freight, refrigerated products, and agricultural commodities. Number of usable responses: 576.
2. **Motor carrier—tax-related issue survey.** Sent to 414 Class I, Class II, and Class III motor carriers included in the larger sample of 1,682 listed above. Number of usable responses: 165.
3. **Shipper survey.** Sent to 485 shippers falling into three categories: general shippers, large food manufacturers, and produce growers. Number of usable responses: 133.
4. **Receiver survey.** Sent to 617 firms, including general and refrigerated warehouses, wholesale and retail grocery firms, and department/discount stores. Number of usable responses: 111.
5. **Driver survey.** Distributed to 311 drivers at three truck stop locations along the Iowa portions of major regional and national trucking corridors. Surveys were distributed only to truckload drivers, including both owner-operators and company employee drivers. Number of usable responses: 290.
6. **Third-party loading/unloading firm survey.** Sent to the 52 third-party loading/unloading firms identified by motor carriers responding to the motor carrier general survey. Number of usable responses: 13.

While the nature and extent of current lumping practices were well addressed by the survey instruments, identifying and evaluating the benefits and problems associated with lumping required collecting information from additional sources and utilizing other research methodologies. First, secondary sources, including earlier studies on lumping that were more narrow in scope as well as trade journal articles, provided information on the problems and benefits. Second, significant insights about the problems and benefits of lumping were obtained by interacting with motor carrier, shipper, and receiver professionals; over-the-road drivers, including both owner-operators and company employee drivers; and government experts involved with the lumping issue. This interaction was achieved through several means: formal and

informal meetings and discussions involving members of the ATA Task Force on Lumping, conversations with numerous other practitioners and government officials, and a Focus Group meeting that brought together representatives from motor carriers, shippers, receivers, and government, as well as professional drivers and lumpers. Third, legal issues associated with both using and providing lumping services were identified and evaluated by examining relevant case and statutory law.

## **Research Results**

Data were collected on the extent and nature of lumping and its associated benefits and problems for motor carriers, shippers, receivers, and drivers. In addition, a special study was undertaken on the third-party loading/unloading industry and a legal analysis was performed of the relevance and implications of the Internal Revenue Service (IRS) and court rulings with respect to worker classification as related to lumping.

### ***Extent and Nature of Lumping***

To fully understand the scope of the lumping issue and how and why the parties involved are affected by lumping practices, it was imperative that a careful and substantive effort be made to collect data on the magnitude of the lumping issue in terms of the resources allocated to it, the number of carriers affected by it, and the extent to which the use of lumpers varies across carriers, shippers, and receivers. Similarly, to understand the operations and limitations of the markets in which lumpers are used, various characteristics of the nature of lumping practices and lumpers were determined. Fundamental to the understanding of lumping issues in general was knowledge of the loading and unloading practices in the trucking industry.

### ***Key Findings with Respect to Loading and Unloading Practices:***

- **Unloading responsibility unclear for 675,000 loads.** Carriers, shippers, and receivers generally agreed that for about seven percent of the loads the responsibility to unload is either undefined or unclear. For only the motor carrier respondents involved in this study, this translates into about 675,000 loads in 1992 for which the responsibility was unclear or undefined.
- **Two-thirds of shipments are unitized.** Carriers, shippers, and receivers indicated that about two-thirds of their shipments were unitized. Nearly one-half of the carriers responding indicated that the use of unitized shipments had increased during the last five years. Increased use of unitized shipments, however, has not eliminated hand loading and unloading of freight, with receivers indicating that more than one-third of their unitized shipments required breakdown or repalletization in 1992.

### ***Key Findings with Respect to the Extent of Lumping Practices:***

- **Three-fourths of motor carriers use lumpers.** A sizeable majority of responding motor carriers—72 percent—used lumpers in 1992, and those

carriers had lumpers involved in loading or unloading of about half of their loads. More than half of the responding carriers indicated that the percent of truckloads for which lumpers were used had increased over the past five years.

- **Factors increasing the frequency of lumping.** The major factors in increasing the frequency of lumping are:
  - Responsibility for loading or unloading is unclear or undefined.
  - Loading or unloading facilities are large.
  - Third-party loading/unloading firms are available.
  - The driver's reimbursement for lumping fees exceeds loading/unloading allowances.
  - A broker arranges the load.
- **Lumper use at shipper and receiver facilities.** Six out of 10 receivers reported having lumpers involved in unloading at their facilities, while only one out of 10 shippers used lumpers at their facilities.

***Key Findings with Respect to the Nature of Lumping Practices:***

- **Two-fifths of lumping is involuntary.** Two-fifths of all lumping in 1992 was reported as involuntary by responding motor carriers. While this does represent the loads for which motor carriers did not want to use lumpers, it does not, however, represent the amount of illegal lumping practices as defined by the Motor Carrier Act of 1980.
- **Widespread use of third-party loading/unloading firms.** Third-party loading/unloading firms have been used more than conventional wisdom would suggest. Half of the motor carriers surveyed have had some experience with third-party firms; nearly half of the receivers had third-party firms available at their facilities in 1992; and more than half of the drivers indicated they had used third-party firms in 1992.
- **Most lumping occurs at the unloading site.** Consistent with anecdotal evidence, survey results indicated nearly all lumping takes place at the unloading site. Of all unloading sites, receivers' private warehouses ranked highest in the prevalence of lumping, followed by public warehouses.
- **Unitized shipments do not eliminate lumping.** Data from the motor carrier, driver, and receiver surveys indicated that non-unitized shipments involve lumpers almost twice as much as unitized shipments. Therefore, the use of unitized shipments mitigates, but does not eliminate, the need or requirement to use lumpers. Drivers use lumpers extensively for floor loads and almost as much for unitized loads requiring breakdown or repalletization.



- **Lumping practices are pervasive.** Lumping occurs throughout the United States, with two-thirds of motor carriers indicating that lumping occurs in most or virtually all of their markets.
- **Average cost of lumpers.** The average cost for using lumpers per truckload was \$65 for motor carriers, \$88 for shippers, and \$58 for receivers. Drivers indicated lumping costs per truckload are usually in the \$61 to \$70 range.
- **\$250 million paid to lumpers.** In 1992, approximately \$250 million was paid to lumpers for loading or unloading the equipment of the motor carrier respondents involved in this study. On average, \$600,000 was spent to load and unload equipment for each of the respondents.
- **Lumping fee reimbursements.** Receivers usually do not reimburse motor carriers that hire lumpers, yet receivers are usually reimbursed when they hire lumpers. Four out of five drivers received reimbursement from their employers or lessors when they hired a lumper.

#### ***Third-Party Loading/Unloading Firms***

A third-party loading/unloading firm is defined as an independent business firm that specializes in contracting to provide loading and/or unloading services. A special study was made of these third-party firms due to their potential for mitigating, if not eliminating, some of the problems commonly associated with the use of self-employed or independent lumpers. For example, potential carrier, shipper, receiver, or owner-operator liability under federal, state, and workers' compensation laws may be resolved when using lumping services provided by a third-party loading/unloading firm. If these firms can compete on the basis of price and service with self-employed lumpers, the use of third-party firms could become an attractive option for motor carriers, shippers, and receivers.

To gain a better understanding of how third-party firms are structured and operated and how their services are perceived by users, both third-party loading/unloading firms and users of their services were surveyed. In general, to determine the viability of third-party firms in solving some of the lumping problems, issues such as their ability to compete with self-employed lumpers on the basis of price and service, the problems that these third-party loading/unloading firms create for users, and the degree to which they actually insulate the user from tax and other types of liability exposure were examined.

#### ***Key Findings with Respect to the Third-Party Lumping Industry:***

- **Third-party industry larger than expected.** The number of third-party firms is larger than anecdotal evidence suggests, with at least 50 loading/unloading firms in operation, and conceivably many more given the receiver and driver responses. Interestingly, a number of third-party firms believe their services are unique and are unaware of other similar firms. Third-party firms are located throughout the United States, with responding firms operating in 18 states and serving at least 140 facilities.

- **Third-party loading and unloading industry is composed of small firms.** The third-party loading/unloading industry is comprised of many small firms, with the average third-party firm having revenues of about \$700,000 from loading/unloading operations and employing 40 loading/unloading laborers. The number of laborers employed ranged from 11 to more than 800.
- **Other services offered.** Most third-party loading/unloading firms offer services in addition to loading/unloading. Approximately half of the firms provided warehousing, half provided temporary employees, one-third provided consulting, and one-fifth provided brokerage services. However, providing loading/unloading services was the primary business for all but one of the respondents.

***Key Findings with Respect to Operational Characteristics:***

- **Legal form of business structure.** Most third-party firms operate as corporations, while a small minority of firms operate as single proprietorships. Those operating as corporations may do so in order to insulate the owners from potential legal liability.
- **Worker classification and issues.** Some third-party firms use 100 percent employees, others use 100 percent independent contractors, and still others use a mix of both. There appears to be a move toward using company employees instead of independent contractors because of legal concerns.
- **Worker pay and retention.** The average pay received by laborers of third-party loading/unloading firms ranged from \$30 to \$90 per truckload, with the overall average amounting to less than \$50 per truckload. Annual turnover of third-party loading/unloading personnel is high, with one firm reporting a turnover rate of 700 percent. The median turnover rate was 50 percent.
- **Commodities handled.** The commodity group most likely to be handled by a third-party firm is refrigerated or frozen foodstuffs. However, two of the third-party respondents handle tires 100 percent of the time.
- **Location of service.** Almost all third-party firms provide loading/unloading services at receivers' facilities, about half serve shippers' facilities, and a third provide loading/unloading services at their own facilities.
- **Nature of contracts.** Many of the third-party firms have prearranged contracts with companies, with the number of companies contracted ranging from two to 96 companies (the median is seven companies). Nearly two-thirds of these prearranged contracts are with motor carriers, while the remaining contracts are split nearly evenly between shippers and receivers.
- **Charge for services.** The overall average charged by third-party loading/unloading firms is \$71, with a range between \$40 and \$121.

- **Difficulties exist.** Potential difficulties exist when third-party firms enter into exclusive contractual arrangements with receivers, shippers, and motor carriers. For example, a conflict may arise when Carrier X, with an exclusive contractual arrangement with Third-Party Firm A, arrives at a receiver's facility where the receiver has an exclusive contractual arrangement with Third-Party Firm B.

***Key Findings with Respect to Benefits Offered by Third-Party Firms:***

- **Major benefits.** Among the major benefits reported by third-party loading/unloading firms were the payment of worker taxes, workers' compensation insurance, and liability insurance by the third-party firm. In addition, consistent loading/unloading fees, account billing, and elimination of driver supervision were indicated as benefits.

***Key Findings with Respect to Problems Experienced by Third-Party Firms:***

- **Unfair competition.** Competition from self-employed lumpers who do not pay taxes, workers' compensation insurance, or liability insurance reduces the viability of third-party firms and makes it difficult for these firms to earn a profit.
- **Lack of acceptance.** Lack of acceptance of third-party loading/unloading firms by motor carriers, shippers, and receivers is due in large part to their refusal to distinguish the services provided by third-party firms from services provided by self-employed individual lumpers.

***Key Findings with Respect to User Perspectives:***

- **Cost.** Motor carriers and shippers tend to believe that the cost per load of using a third-party loading/unloading firm is higher than when using a self-employed lumper. In contrast, receivers believe the cost of using third-party firms is lower.
- **Reasons for use.** Reasons for using third-party loading/unloading firms rather than self-employed lumpers vary among carriers, shippers, and receivers. Motor carriers ranked the reduction in loading/unloading time and reduction of driver harassment as the two most important reasons. Both shippers and receivers included standardization of loading/unloading fees among the two most important reasons, with shippers adding the reduction in loss and damage and receivers including the reduction of personal injury liability.

***Benefits and Problems Associated with Lumping***

To fully and fairly evaluate the services provided by lumpers, perspectives of all of the different groups using or allowing the use of lumpers were systematically sought. These groups were asked to identify and rate the importance of benefits and problems associated with lumpers and lumping practices. In addition, views were sought on the problem of involuntary lumping.

***Key Findings with Respect to Perceived Benefits:***

- **Carrier benefits.** Of the benefits from lumping identified by carriers, two were named most often:

- reduced driver fatigue and
- reduced risk of driver injury from loading and unloading.

These benefits were rated as being “important” or “very important” by 77 percent and 70 percent of the respondents respectively. No other benefit received higher than a 60 percent rating.

- **Shipper benefits.** As might be expected, shippers identified benefits from lumping that differed greatly from motor carriers. The two benefits rated as most important by shippers were:

- improved relations with receivers/customers and
- reduced loading time during periods of normal demand.

These benefits were rated as being “important” or “very important” by 44 percent and 35 percent of the respondents respectively. No other benefit received as high as a 30 percent rating.

- **Receiver benefits.** Similar to shipper benefits yet including some lumping benefits unique to unloading, receivers perceived the most important benefits of lumping to be:

- increased ability to meet peak-period unloading demands (75 percent of the respondents rated the benefit as either “important” or “very important”),
- reduced unloading times during periods of normal demand (67 percent), and
- facilitating floor load conversions to in-house pallet configurations (67 percent).

No other benefit received as high as a 60 percent rating.

- **Driver benefits.** Drivers identified the most important benefits as:

- getting needed rest and
- faster unloading.

These were identified by 81 percent and 71 percent of the respondents respectively. No other reason was cited by as many as 50 percent of the respondents.

- **Relative importance of lumping benefits.** Shippers tended to consistently assign less importance to a similar set of possible benefits than did receivers.

This can be explained in part by the fact that lumpers are much less likely to be involved in loading as compared to unloading operations.

***Key Findings with Respect to Perceived Problems:***

- **Carrier problems.** Carriers identified the major problems associated with lumping as:
  - the high cost of hiring lumpers,
  - increased waiting time to load/unload if lumpers are not used,
  - insufficient reimbursement from the shipper/receiver,
  - forced use of lumpers when not needed, and
  - variations in the cost of hiring lumpers.

Each of these problems was cited as “important” or “very important” by 75 percent or more of the respondents. No other problem received as high as a 70 percent rating.

- **Shipper problems.** Shippers agreed with carriers on two of the most important problems associated with lumping as:
  - high cost of hiring lumpers and
  - forced use of lumpers when not needed.

Each of these two problems was cited as “important” or “very important” by 70 percent of the respondents. No other problem received as high as a 60 percent rating.

- **Receiver problems.** Receivers differed from carriers and shippers by identifying the major problems as:
  - exposure to liability due to injury to lumpers (62 percent rated the problem as “important” or “very important”),
  - increase in loss and damage (44 percent), and
  - unavailability of lumpers when needed (44 percent).

No other problem received as high as a 40 percent rating.

- **Driver problems.** Reflecting the different concerns inherent in direct personal contact with lumpers versus a purely business standpoint, drivers identified the major reasons for not using lumpers as:
  - cost of lumpers exceeds carrier reimbursements (identified by 64 percent of the respondents),

- risks associated with carrying cash to pay lumpers (37 percent), and
- driver wants additional income from the loading/unloading allowance (31 percent).

No other problem was cited by as many as 25 percent of the respondents.

In terms of specific regions, drivers indicated that they experienced the greatest frequency of lumping-related problems in (areas roughly defined as) the Middle Atlantic (34 percent) and Midwest States (31 percent) and to a somewhat lesser extent on the West Coast (23 percent) and in the South Atlantic States (21 percent). No other area was identified by more than 15 percent of driver respondents. Approximately 30 percent of drivers indicated that the frequency of lumping problems was the “same” throughout the United States. [Drivers were permitted to identify more than one area in their responses.]

- **Relative importance of lumping problems.** In general, receivers view lumping as being less problematic than do shippers. This can be explained in part by the fact that receivers tend to pay less for lumping services, are usually reimbursed when they hire lumpers, and usually do not reimburse motor carriers that hire lumpers. In addition, carriers tend to view lumping problems as being more important than do either shippers or receivers. This reflects the fact that carriers have a greater exposure to the problems associated with lumping since they serve both shipper and receiver facilities.

***Key Findings with Respect to the Problem of Involuntary Lumping:***

- **Forced use of lumpers is not an uncommon event.** In 1992, for those carriers using lumpers, approximately one out of five truckloads involved the involuntary use of lumpers. Drivers indicated that for floor loads they were required to use and pay for lumpers without being compensated for it approximately 29 percent of the time (12 percent often, 17 percent always). Similarly, drivers also indicated that, when lumpers were used to breakdown or repalletize loads, approximately 25 percent of the time they were either “often” (nine percent) or “always” (16 percent) required to use and pay for lumpers without being compensated for it.
- **Involuntary lumping is an important problem.** Involuntary or forced use of lumpers is viewed by both carrier and shipper respondents as an important problem. Eighty percent of carriers and seventy percent of shippers responding indicated that “forced use of lumpers when not needed” was an “important” or “very important” problem.
- **Major causes of involuntary lumping.** Motor carriers indicated the following factors as being the most important causes of involuntary lumping: (1) lack of Interstate Commerce Commission (ICC) enforcement of existing laws, (2) market power favors shippers/receivers, and (3) unrealistic



loading/unloading schedules at shipper/receiver facilities. Each of these reasons was cited as being either "important" or "very important" by at least 66 percent of the respondents. No other factor received higher than a 60 percent rating. Indicating a slightly different perspective, drivers indicated the most important reasons for involuntary lumping as (1) a general attitude of shippers, receivers, and carriers that exploits truck drivers and (2) a lack of ICC enforcement. Both of these reasons were mentioned by approximately 72 percent of the drivers. No other reason was mentioned by more than 45 percent of respondents.

- **Nature of involuntary lumping has changed.** In general, driver comments support the view that the nature of involuntary lumping has changed from "physical coercion" (based upon the threats of violence) to a more subtle "economic coercion" (based upon the consequences of waiting time). The most common methods reportedly being used to force drivers to use lumpers include (1) delays in unloading if a lumper is not used, (2) not being allowed to unload without hiring a lumper, (3) restricting the time permitted to unload, (4) requiring the load to be broken down or repalletized, and (5) permitting the lumper to use handling equipment, but requiring the driver to load/unload manually. Drivers report that their most common response (by over 50 percent of the drivers) to dealing with situations involving coercion is to simply "hire the lumper." No other response was mentioned by more than 10 percent of the drivers.
- **Motor carriers continue to seek successful approaches to deal with the problem.** Of the carriers attempting to deal with the problem of involuntary lumping, approximately one-half viewed their efforts as unsuccessful, while only 20 percent rated their efforts as very successful.

#### ***Worker Classification Issues Associated with Lumping***

One problem associated with using lumpers that appears to be significant and of increasing importance, particularly at a time when the government is seeking additional tax sources, is the liability that users of lumpers face with respect to federal and other taxes. In the last year several motor carriers have been audited by the IRS with respect to this issue. Research into the issue of worker classification, as it relates to exposure to tax liability, produced the following findings:

***Employee status for federal tax purposes.*** A worker is an employee for federal employment tax purposes if he or she has the status of an employee under the usual common law rules used to determine the existence of an employer-employee relationship. Under these rules, a worker is an employee if he or she is subject to an employer's will and control not only as to what shall be done but also as to how it shall be done.

***Classification of workers is difficult.*** Determining whether a worker is an employee or an independent contractor, which is the essential issue in the misclassification examination, is not a simple matter. For example, IRS Revenue Ruling 87-41 lists 20

common law factors to be used in determining the status of a worker. The courts have developed additional factors such as custom in the trade, feasibility and practicability of obtaining from workers needed tax information, intentions of the parties to the work relationship, and whether workers are engaged in a recognized occupation.

***Increased efforts by IRS.*** The IRS has increased its audit efforts in the area of worker misclassification in the past year. The survey results clearly indicated that a number of motor carriers, shippers, and receivers responding to the surveys have been involved with lumpers in a manner which the IRS might interpret as an employer-employee relationship.

***Tax liability not perceived as important.*** Carriers, shippers, and receivers should be particularly aware of their exposure to tax liabilities and the IRS' increased efforts in this area. Interestingly, these parties are aware of possible exposure to tax liability arising from the use of lumpers, but do not consider this potential liability to be as important as other problems associated with using lumpers. Carriers, shippers, and receivers rated the potential exposure to tax liability as no more than moderately important.

***Few efforts taken to reduce tax liability exposure.*** Reflecting their lack of concern about tax liabilities associated with lumping, carriers, shippers, and receivers have not given much indication of taking formal steps to reduce exposure to tax liability in the use of lumpers.

### **Managerial and Policy Options**

This study found that motor carriers, shippers, receivers, drivers, and other parties view lumpers and lumping services as producing both important benefits and problems. In general, lumping services appear to provide an important logistical function by providing a mechanism for meeting the needs of shippers, receivers, and carriers in performing a necessary function of logistics—loading and unloading of carrier equipment. Furthermore, lumping services provide an alternative for hand loading or unloading by drivers so that they can meet time-sensitive schedules and reduce their exposure to injury as well as fatigue. As a result, lumpers provide social benefits by increasing the safety of the trucking industry and all who share the highways.

At the same time, the findings of this study confirmed the existence of problems associated with lumping as identified in the anecdotal evidence and documented additional problems. The evidence collected in this research effort suggests that lumping practices considered illegal under the Interstate Commerce Act, as amended by the Motor Carrier Act of 1980, still exist to some degree. Study findings also suggest an emerging problem of tax exposure for users of lumpers due to recently increased efforts by the IRS and state agencies to tap additional tax revenue sources through reclassification of workers. The evidence also strongly suggests that lumping markets do not always work efficiently or fairly because of economic and other factors that restrict supply or artificially increase demand. Economic coercion, no

matter how subtle or whether unintentionally created, places the buyer of lumping services at a disadvantage.

The initiatives outlined below could eliminate, or at least mitigate, some of the problems associated with lumping while recognizing the legitimate and important role lumpers play in the logistics supply chain for food and other products. These initiatives range from those that can be developed and implemented by individual firms to those requiring policy changes through legislation. These initiatives should not be viewed individually, or even collectively, as capable of solving all of the problems associated with lumping; rather, they provide a starting point for possible improvements.

#### ***Individual Firm Initiatives***

***Initiative #1 – Undertake internal audit of tax and liability exposure.*** This initiative addresses the tax liability problem associated with the use of lumpers and liability arising from lumper negligence. Carriers, shippers, and receivers using lumpers should undertake an audit of their procedures and relationships with lumpers to determine if the IRS or some other agency might classify these lumpers as their employees. The audit could be conducted internally or an outside expert could be used. The audit should examine the firm's possible exposure to personal and property injury liability.

Carriers, shippers, and receivers would benefit from this initiative by the resulting reduction in exposure to tax liability. The costs associated with this initiative would be hiring an outside expert or attending a seminar, as well as the increased internal administrative costs.

***Initiative #2 – Use third-party loading/unloading firms.*** Carriers, shippers, and receivers using lumpers should consider the use of third-party loading/unloading firms to reduce some of the problems and liabilities associated with lumping. As is the case in any decision to out source an activity to an outside firm, the decision to select a particular firm should follow a careful study of its relationship with its workers and service record.

The use of a third-party loading/unloading firm may address a number of the problems associated with lumping, including (1) the exposure to tax and other liabilities when using self-employed lumpers, (2) the uncertainty and variation of loading/unloading fees charged by lumpers, (3) driver harassment to use lumpers at unloading facilities, and (4) the need for drivers to carry cash to pay lumpers. The cost of using a third-party firm may be higher than using independent casual lumpers, however, and additional administrative costs would be necessary.

***Initiative #3 – Improve selection and retention decisions.*** Shipper/receiver/carrier selection and retention of business relationships should be based upon total supply chain costs including all direct and indirect costs associated with using lumpers. Each party needs to develop a costing methodology and a decision criterion which will indicate if and when serving a particular customer or using a particular carrier

becomes unprofitable because of either the cost of using lumpers or the inefficiencies created by refusing to use lumpers.

This initiative addresses a number of problems for the particular carrier, including the problems related to the high cost of using lumpers. To the degree that a large number of carriers use this methodology, certain markets where lumping is not working efficiently would be avoided, which would tend to increase transportation rates. To the extent that these higher rates will affect the shipper or receiver, an incentive will be created for the shipper or receiver to correct these lumping problems and therefore reduce its overall shipping costs.

Costs associated with this initiative would include developing a costing methodology by the use of internal or external expertise, the risk of the carrier losing an account with a shipper or receiver which has overall profitability, and the risk of the shipper/receiver losing a good carrier.

***Initiative #4 – Use tri-party negotiations and communications.*** Miscommunications among the parties regarding the responsibility to load or unload was revealed in this research project. Furthermore, the data indicated that when the responsibility to load or unload is unclear, the amount of lumping usually increases. The potential for the use of unitized shipments to solve some of the problems associated with lumping is also reduced by the lack of effective communications between the shipper and receiver with respect to pallet configurations. The carrier plays a pivotal role as a communications link between the shipper and receiver with respect to this unitization issue. Therefore, carriers, shippers, and receivers need to improve their communications with each other. One step in that direction is to involve the shipper, receiver, and carrier in both the communication and negotiation process at the same time. Costs associated with these negotiations would be the organizational costs, subsequent costs of attending meetings, and the risk associated with possibly divulging proprietary information.

#### ***Industry Initiatives***

***Initiative #1 – Develop a lumper information system.*** To address the issues associated with lumper availability and service, the motor carrier, shipper, or receiver industries, through their trade associations or in conjunction with a private vendor, could develop an information system. This would identify legitimate third-party loading/unloading firms for users of lumping services. Included in this system could be a “lumping hot-line” which would provide users with information on locations where lumping problems may exist.

This initiative would enhance the effectiveness of the Individual Firm Initiatives which suggested using third-party loading/unloading firms. The lumping market would work better if all of the parties had access to complete and timely information. Costs associated with this initiative would be development of the system and user fees.

***Initiative #2 – Develop a third-party loading/unloading firm certification program.*** A possible extension of the previous initiative would be the development of a

certification program. Again, the industries' trade associations or a private vendor could develop a review process, a training program, and other mechanisms to provide the users some assurance that they won't be exposed to tax and other liabilities. This certification program would benefit all users of lumping services and enhance the overall professionalism of the lumping industry.

Costs associated with this initiative would be the development of the certification program, increased administrative costs, and a probable certification cost for third-party firms. If the costs of certification are prohibitive, this initiative could carry the potential for restraining the entry of legitimate third party firms.

***Initiative #3 – Develop educational programs.*** In order for motor carriers, shippers, receivers, and owner-operators to make informed decisions concerning lumping, they must have access to information on lumping problems and benefits as well as methods to better balance these two. To achieve this information exchange, the motor carrier, shipper, or receiver industries, through their trade associations, could develop programs which would educate industry members about lumping issues. Costs associated with this initiative would be the development and administrative costs of the seminars and information packets which would ultimately be borne by the industry members, and the direct cost to the industry members for attending the seminars.

***Initiative #4 – Establish an inter-industry standing committee on lumping.*** To capitalize on the momentum created by this study while maintaining a strong focus on lumping issues and creating a “watch-dog” organization to monitor lumping activities, trade associations representing shippers, receivers, carriers, and other parties could develop a standing committee on lumping. This committee would serve as a mechanism for discussing lumping problems that arise, developing relevant research agendas, and lobbying for government initiatives which address lumping problems. The major costs associated with this initiative would be organizational and operational costs.

***Initiative #5 – Develop a third-party loading/unloading trade association.*** To facilitate utilization of third-party firms and capitalize on their benefits, a third-party loading/unloading firm trade association could be developed to provide buyers of loading and unloading services with better information about the availability and nature of existing loading/unloading firms. Services that this association might provide include matching service providers with users, consulting to individuals on how to establish third-party firms, educational services, and lobbying efforts.

An association could benefit the members by providing recognition and enhancing the professionalism of third-party firms, and arranging pre-scheduled loads. Users of third-party firms could benefit by having better information regarding services and availability of third-party firms. The major costs associated with this initiative would be organizational and operational costs.

## ***Government Initiatives***

***Initiative #1 – Increase enforcement of existing laws.*** To address illegal lumping practices still found in some instances, a new rulemaking or a reopening of the Congressionally mandated study of lumping issues in 1981-82 (Ex Parte 410) could be instituted to look at the lumping issue again to determine the effectiveness of the current statutory provisions and the reasons why they might not be adequate. Ample time has now elapsed to fully realize the impact of deregulation on the motor carrier industry regarding the extent and nature of lumping abuses, as well as the impacts of changes in logistical practices such as just-in-time (JIT) systems on lumping.

This initiative would not, however, address the problems associated with tax liability exposure. Costs associated with this initiative would include the ICC's costs of reopening the case, the participants' costs in the form of legal fees, and any administrative expenses.

***Initiative #2 – Declare lumpers as independent contractors.*** To address the many issues related to the IRS employment classification of lumpers, some legislative action may be required to clearly define their status. For example, real estate agents and direct sellers now are identified specifically by law as independent contractors. Also, Congress has previously rejected an IRS request that lumpers be declared as employees.

This initiative would eliminate exposure to tax liability that is based on lumpers being classified as employees. However, it would not necessarily eliminate the problems associated with coercive lumping. The major costs associated with this initiative would include the organizational expense and efforts of involving all parties in presenting a unified position to Congress, plus any lobbying costs.

***Initiative #3 – Urge Congressional action regarding a “shipper load, receiver unloads” policy.*** To address the problems associated with lumping for motor carriers and drivers, governmental action could be taken to eliminate motor carrier and driver involvement in loading and unloading processes. This initiative, applied to truckload shipments only, involves what may be referred to as driver “no touch” loads. Before such a policy should be legislated, however, a comprehensive study should be undertaken to fully investigate all potential impacts on carriers, shippers, receivers, and other affected parties.

Such a policy, if shown to be feasible, would tend to reduce, and perhaps eliminate, forced lumping or coercive lumping involving the motor carrier because instances of coerced lumping would be more easily identified. The problem of effectively monitoring and regulating illegal lumping activities would be reduced and exposure to tax liability would be eliminated for carriers, but not for shippers and receivers. There would also be benefits to society through improved transportation safety as a result of reduced driver fatigue and injury.

This initiative would not eliminate the beneficial aspects of lumping services, whether provided by individuals or third party loading/unloading firms. Rather, increased loading/unloading efficiency is a possible benefit of this initiative.



However, unless shippers and receivers develop efficient methods of loading/unloading carrier equipment, carriers may be forced to consider reinstating detention rules and seek ICC enforcement.

Costs associated with this initiative would include the organizational expense and efforts of involving all parties in presenting a unified position to Congress and any lobbying costs. Loading/unloading costs would increase for shippers and receivers, but could be partially offset by reduced transportation rates and increased handling efficiencies.



## CHAPTER I INTRODUCTION

As the United States faces increased competition in the world market, we must continue to improve those infrastructure industries, such as freight transportation, on which national and international economies depend. Any improvements in efficiency in freight transportation are multiplied many times over in the logistics supply chain, thus creating a competitive advantage for those countries or economies that enjoy highly efficient, low-cost transportation. To achieve any possible increases in efficiency, we must examine the business practices of our freight transportation industries, identify opportunities to increase efficiency, and modify business practices to take full advantage of these opportunities. Toward that end, this research examined one practice associated with the trucking industry—lumping, or the loading and unloading of motor carrier freight by individuals other than the employees of motor carriers, shippers, or receivers.

Lumping has long been recognized as a fact of life in the motor carrier industry. Lumping services provide an important logistical function by providing a mechanism by which drivers, carriers, shippers, and receivers can outsource their loading and unloading activity. Thus, lumping services can help carriers meet time-sensitive schedules and reduce driver exposure to injury and fatigue.

Lumping and lumpers, however, are often viewed by carriers and drivers as creating more problems than benefits. Lumping markets are not viewed as either efficient or fair. Furthermore, lumping and lumpers create problems for users in cognate areas such as exposure to tax and other liabilities. Congress viewed the act of coercing drivers to employ lumpers as sufficiently pervasive and problematic in the late 1970s and voted to outlaw the practice in the Motor Carrier Act of 1980.

Illegal, coercive lumping remains as do the other problems created by lumpers. In fact, since deregulation, the economic factors associated with lumping have become more important to motor carriers, which are forced by increasingly competitive conditions to provide more services to customers, including loading and unloading, without increased rates to cover their costs. Lumping problems are confronted by not only motor carriers but also shippers and receivers as well and have the potential to adversely affect shipper-carrier relationships.

Relatively little research on general lumping practices has been conducted, particularly on the impact of lumping on the total supply chain environment in which carriers, shippers, receivers, and other parties operate. Relatively little is known even about the amount of lumping activity currently taking place. Most of the information about lumping has been anecdotal. This research attempts, at least in part, to fill this void by basing its analyses on a more comprehensive and systematic examination of this important topic.

## Research Methodology

The research efforts were directed toward investigation of three major questions:

- What is the nature and extent of lumping as currently practiced in the United States?
- What are the benefits and problems associated with lumping for motor carriers, shippers, receivers, and drivers?
- What are the most important managerial and public policy implications of current lumping practices?

Because little information has been systematically collected on lumping practices, a substantial amount of survey work was required to determine not only the nature and extent of lumping practices, but also the importance placed on the major lumping problems and benefits by each of the parties involved. Thus, this project breaks new ground in systematically collecting information from motor carriers, shippers, receivers, and drivers about their use and perception of lumpers. To this extent, the research is exploratory in nature.

A total of six survey instruments were developed and disseminated in an effort to generate a database that would provide more accurate and meaningful information on the current nature and extent of lumping and its associated problems and benefits. Two survey instruments were sent to Class I, Class II, and Class III motor carriers. One survey requested general information about carrier use of and experiences with lumpers, while the other sought information about carrier use of lumpers and motor carrier executives' concerns about possible tax liability exposure. Three other survey instruments were sent to shippers, receivers, and third-party loading/unloading firms. A final survey was distributed to company drivers and owner-operators.<sup>1</sup> The information collected from these instruments provides a much stronger foundation than the existing anecdotal material on which to base managerial and policy options addressing lumping issues.

While the nature and extent of current lumping practices were well addressed by the survey instruments, identifying and evaluating the benefits and problems associated with lumping required collecting information from additional sources and utilizing other research methodologies. First, secondary sources, including earlier studies on lumping that were more narrow in scope as well as trade journal articles, were examined. Second, significant insights about the problems and benefits of lumping were obtained by interacting with motor carrier, shipper, and receiver professionals; over-the-road drivers, including both owner-operators and company employee drivers; and government experts involved with the lumping issue. This interaction was achieved through several means: formal and informal meetings and discussions involving members of the American Trucking Associations Foundation Task Force

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<sup>1</sup> Copies of the six survey instruments are in Appendix C and a discussion of the samples is in Appendix B.

on Lumping, conversations with numerous other practitioners and government officials, and a specially arranged focus group meeting that brought together representatives from motor carriers, shippers, receivers, and government, as well as professional drivers and lumpers. Third, employee classification issues associated with both using and providing lumping services were identified and evaluated by examining relevant case and statutory law, and legal-oriented articles.

Based on the information, analyses, and findings that resulted from these investigations, the major public policy and managerial implications of lumping were identified. Initiatives were developed at the firm, industry, and government levels to address the most important problems associated with lumping. Hence, some recommendations can be implemented by individual firms, others can be implemented by the various industries associated with lumping practices, and the government may address the remainder.

### **Organization of Report**

This report is divided into seven chapters. Chapter II provides an overview of the lumping issue with a description of the legal environment in which lumping practices take place, a discussion of the basic economic and logistical issues associated with lumping, and an indication of the extent and nature of the information which existed before this study. Chapter III reports on the study findings with respect to the extent and nature of current lumping practices, and loading and unloading practices in the United States. Findings with respect to the nature and value of firms providing loading and unloading services to shippers, carriers, and receivers are provided in Chapter IV. Chapter V reviews the reported benefits and problems associated with lumping as indicated by carriers, shippers, receivers, and drivers. The nature, importance, and implications regarding the legal status of lumpers, as either employees or independent contractors, are discussed in Chapter VI. Lastly, Chapter VII presents and discusses twelve recommended initiatives to address selected problems associated with lumping.



## CHAPTER II THE ROLE AND IMPORTANCE OF LUMPING

### **Introduction**

The terms "lumping" and "lumper" have different meanings for different people. To some, the term "lumper" is a pejorative with a long list of negative connotations. To others, it is a person who provides a legitimate, labor-intensive service in the area of materials handling. Similarly, others see lumpers as having value in certain situations but creating problems for users and non-users of their services in other situations.

The purpose of this chapter is to provide an overview of the role and importance, in qualitative terms, of lumping. First, the definitions used by the research team for some of the basic terms are provided. Second, lumping is placed into perspective by discussing (1) its legal status under the Interstate Commerce Act, (2) the impacts of economic factors on lumping and the economic impacts of lumping, (3) the effects of logistical trends on lumping and the role of lumping in the logistical supply chain, and (4) selected benefits and problems that have been asserted to be associated with lumpers and lumping practices.

### **Definitions and Terminology**

The terms "lumper" and "lumping" have been defined in a variety of ways. This study uses the definition which states that lumping is the loading or unloading of motor carrier equipment by individuals other than employees of carriers, shippers, or receivers. These individuals who load or unload motor carrier equipment are called lumpers. Furthermore, this study specifies that these laborers can be either self-employed, independent lumpers or individuals working for third-party loading/unloading firms that specialize in providing loading and unloading services. Although the term "lumpers" is the most commonly used term to describe self-employed, independent laborers involved in the loading or unloading of motor carrier equipment, other terms including "swampers," "humpers," "house men," "gypsy chasers," and "big boys" are also used.<sup>2</sup> This study will use the term "lumper."

The use of lumpers or lumping services is, to a large extent, the outsourcing or contracting out of necessary loading or unloading activities. Thus, the nature and number of lumping issues are shaped to some degree by the loading and unloading practices in the trucking industry, and thus cannot be completely divorced from them. For example, some of the problems associated with lumping might be mitigated if carriers had no loading or unloading responsibilities. Other problems might surface, however.

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<sup>2</sup> B. Joe Rosa, "Lumpers, Humpers, Swampers, Gypsy Chasers, Big Boys and House Men!," *Land Line*, Vol. 14, No. 3, June 1989, 28.

## **Legal Status Under the Interstate Commerce Act**

Contrary to the belief of some, lumping services were not made illegal by the Motor Carrier Act of 1980. What was made illegal was coercive actions taken by lumpers, receivers, and shippers that tend to restrict choice in loading and unloading as well as in using the services of a lumper. Figure 1 contains the relevant provisions of the Motor Carrier Act of 1980. The Interstate Commerce Commission (ICC) was given specific authority by the Motor Carrier Act of 1980 to address illegal lumper activities. ICC authority in this area includes situations where the commodity being transported is not regulated by the ICC.

The lumper provisions in the Motor Carrier Act of 1980 address both loading and unloading practices, and practices of lumpers and firms requiring motor carriers and drivers to be assisted. First, coercing or attempting to coerce a driver or carrier to load or unload if another party has that responsibility, and coercing or attempting to coerce the driver or carrier to employ or pay persons to load or unload any part of a load were declared unlawful. Violation of this provision is a felony and the person violating the provision can be fined up to \$10,000, imprisoned for not more than two years, or both. Second, if shipping or receiving facilities require the use of additional unloaders, either to assist the driver or to assist a lumper already being used, the facility, rather than the driver or carrier, is responsible for providing such assistance or shall compensate the driver or carrier for all costs associated with using a lumper. Violation of this provision is a civil offense, and the person is liable for a civil penalty of not more than \$10,000 for each violation.

In short, the law does not prohibit a driver from being made to load or unload if this responsibility is the carrier's because of either tariff or contract provisions. It does prohibit, however, the shipper or receiver from coercing the driver to hire lumpers to perform the loading or unloading service. It also prohibits the shipper or receiver from requiring the driver to use or be assisted by a lumper in loading or unloading unless the shipper or receiver compensates the driver or carrier for the costs of using the lumper.

In theory, the authority given to the ICC in 1980 to address lumping issues should have helped alleviate some of the problems associated with the use of lumpers. First, it addresses the most egregious aspects of using lumpers—physical threats and violent practices. To some degree, these are acts of extortion. Second, by establishing the right for the driver to choose either to use or not to use lumpers, more competition is injected into the lumping markets, which acts as a constraint on prices for lumping services. Third, the right of the shipper or receiver to require the driver to be assisted if the receiver or shipper compensates the driver, accommodates the materials handling needs of the shipper or receiver without adversely affecting the economic welfare of the driver or carrier.

The important question is: How effective have the lumping provisions been in addressing the problems associated with lumping? Have they corrected existing problems associated with lumping? Have they deterred lumping abuses?



### Figure II-1. Motor Carrier Act of 1980

With the passage of the Motor Carrier Act of 1980, the ICC was given specific authority to combat illegal lumper activities, regardless of whether the commodity being transported is subject to ICC regulation. Under the Motor Carrier Act of 1980, the ICC is for the first time mandated to investigate for criminal prosecution illegal lumper activities.

Section 11109(a) of Title 49 United States Code, Loading and Unloading Motor Vehicles, provides:

Whenever a shipper or receiver of property requires that any person who owns or operates a motor vehicle transporting property in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) be assisted in the loading or unloading of such vehicle, the shipper or receiver shall be responsible for providing such assistance or shall compensate the owner or operator for all costs associated with securing and compensating the person or persons providing such assistance.

Section 11109(b) of Title 49 United States Code provides:

It shall be unlawful to coerce or attempt to coerce any person providing transportation of property by motor vehicle for compensation in interstate commerce (whether or not such transportation is subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title) to load or unload any part of such property onto or from such

vehicle or to employ or pay one or more persons to load or unload any part of such property onto or from such vehicle, except that this subsection shall not be construed as making unlawful any activity which is not unlawful under the National Labor Relations Act of the Act of March 23, 1932 (47 Stat. 70; 29 U.S.C. 101, et seq), commonly known as the Norris-LaGuardia Act. Title 49 U.S.C. 11902a(b). Penalties for violations of rules relating to loading and unloading motor vehicles provides:

Any person who knowingly violates section 11109(b) of this title shall be fined not more than \$10,000, imprisoned for not more than 2 years, or both.

Violation of 11109(b) is a felony.

The civil penalty set forth in 49 U.S.C. 11902a(a) states:

Any person who knowingly authorizes, consents to, or permits a violation of subsections (a) or (b) of section 11109 of this title or who knowingly violates subsection (a) of such section is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

Congressional concern about the effectiveness of the provision is suggested by the statutory provision stipulating that the ICC study and report to Congress, within 18 months of enactment of the law, regarding the loading and unloading practices in the motor carrier industry.

In its report to Congress, the ICC concluded that no legislative changes to the policy were warranted. They found the problems to be limited to unloading and primarily in the hauling of exempt produce. Lumping practices were found to range from the tolerable to the abusive. Additionally, it concluded that there was not enough experience with the lumping provisions to make any final judgment on their effectiveness.<sup>3</sup>

The ICC also acknowledged that problems of enforcement of the provision exist. First, enforcement actions under this section were found to involve significant proof problems, and the development of records on which to proceed was expensive and time-consuming. Second, there were resource problems. Department of Justice personnel are required to conduct proceedings for civil or criminal penalties associated with violation of the lumping provision. The ICC suggested that cases involving lumpers may have low priority with the U.S. Attorney offices.<sup>4</sup>

In general, the effectiveness of a policy depends on whether the statutory language clearly establishes when a firm is behaving in a manner consistent with the law, whether resources required to effectively monitor and regulate practices are allocated to the effort, and if the penalties associated with illegal behavior are credible to the perpetrators (i.e., are the penalties sufficiently large to serve as a deterrent and are the penalties actually assessed to the perpetrators?). The available data suggest that either very few violations are occurring in the area of lumping, or the policy as written and implemented is not effective in controlling the situation.

First, the ICC never promulgated regulations to operationalize the statutory language in the lumping provisions to help determine when actions by shippers or receivers are coercive. For example, is it a coercive practice to require the driver to unload within a time period so brief that assistance is necessary? In addition, effective enforcement of a regulation of this type that is applicable to thousands of locations each day requires that the parties adversely affected by lumper practices report such activities to the ICC. Reporting such activities, however, might jeopardize the commercial relationship between carriers and shippers/receivers, which in turn might inhibit carriers from filing complaints.

### **Role and Impact of Lumping: Economic Perspectives**

Several different economic perspectives are relevant to understanding the nature of lumping and the issues associated with lumping. One economic perspective, a macro-view, suggests that the competition in the trucking industry affects the amount and incidence of lumping costs (i.e., who ultimately pays the lumping fees). The partial deregulation of the trucking industry has led to a substantial increase in the amount of competition in the trucking industry. This higher level of competition is likely to increase the probability that the carrier will ultimately pay most of the lumping fees,

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3 Ex Parte No. 410, Report to Congress on Study of Loading and Unloading Practices in the Motor Carrier of Property Industry, February 23, 1982, 23.

4 Ibid., 24.

and it also might affect the total amount of lumping. In today's competitive environment, motor carriers attempt to exceed the service requirements of their customers by offering additional services such as loading and unloading, and agreeing to use lumpers if requested by the customer. Competitive pressures often preclude the motor carrier from charging the total costs associated with the service to customers. Thus, the motor carrier firm is likely not only to be willing to use lumpers, but also forced to pay their fees because of competitive pressures.

Although the competitive environment in the trucking industry suggests which party will ultimately pay for the services, and to a lesser extent the overall amount of lumping services, it does not explain the level of competition in the lumping markets themselves. Lumping services normally are provided in markets where supply and demand forces determine the price and quantity of lumping services provided at a facility. If lumping markets are competitive and working without constraints, the market-determined price and service levels should be efficient and fair. Anecdotal evidence suggests, however, that drivers are often in a disadvantaged position when negotiating with lumpers. As noted by Beilock and Mahan, drivers are usually alone, fatigued, and under a time constraint to unload in a timely manner. Lumpers might be organized, and have the tacit or overt support of personnel at the loading or unloading facility. Equipment available to the lumpers might be denied to drivers. These factors combine to create market situations that will heavily favor the seller over the buyer, leading to inefficient results.<sup>5</sup> The existence of coercion, either physical or economic, has the effect of increasing the demand for lumping services and making the demand for lumping services more price inelastic.

As noted above, relative economic power of the parties involved in the supply chain will also affect the incidence of the costs of lumping. The person directly paying the lumper may not be the party ultimately bearing the costs. The shifting of the costs can lead to some indirect inefficiencies. For example, if receivers are able to continually shift the costs of loading, they might under-invest in materials handling equipment such as slipsheets and pallets. There is also evidence that some carriers and owner-operators are willing to accept non-optimal routings, or at least demonstrate a willingness to spend time and money for extended search efforts for traffic to avoid locations or facilities with either real or perceived lumping problems.

### **Role and Importance of Lumping: Logistical Perspectives**

The issue of lumpers, and particularly the development of solutions to some of the problems associated with lumping and lumpers, also should be viewed from an overall logistical perspective. Three logistical trends appear to have major implications for lumping practices: downsizing of logistical areas with a concomitant increase in outsourcing of logistical activities, more use of just-in-time (JIT)

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<sup>5</sup> Richard Beilock and Ronald Mahan, "The Nature and Extent of Problems Related to Unloading Produce," Report prepared for the Office of Transportation, United States Department of Agriculture, March 1987, 2.

production and scheduling, and increased focus on meeting or exceeding customer service requirements.

From a logistical perspective, lumping is simply a part of the materials handling function in the logistical system. Using lumpers instead of in-house personnel is essentially the outsourcing of a required materials handling activity. The amount of outsourcing, or subcontracting, in the logistical area is growing in the United States.<sup>6</sup> Many firms are downsizing in an attempt to focus on their core competencies. For many firms, the performance of logistical functions is not included in their core competencies. Using lumpers could be viewed as simply a logical extension of this trend to outsource.

Many of the factors which explain the use of lumpers and the requirement by certain facilities to use lumpers are based largely on management objectives in the logistical area. First, from the perspective of the facility or firm requiring the use of lumpers, the logistical reasons are predominantly cost oriented. Even if the facility or firm ultimately pays for the lumping services, there might be a cost incentive for using lumpers. For example, the use of lumpers allows the facility to convert fixed labor costs into variable costs. Not only does this arrangement increase the flexibility of the firm to use workers only when needed but also provides an opportunity to reduce labor costs by not having to pay for fringe benefits for these workers. Furthermore, actual costs may be less if insurance costs for their regular workers are lower because workers do not have to enter the carriers' vehicles. Finally, the use of lumpers for this activity facilitates the shifting of the costs of this activity to another party.

Although these arguments support the position of using personnel other than shipper or receiver personnel, they do not necessarily advance the position that lumpers, and not the drivers, should load or unload carrier equipment. Assuming that a lumper might be able to unload a vehicle faster than a driver, however, the shipper or receiver has an incentive to use lumpers to make more effective use of dock space. Some have also argued that lumpers are often associated with labor unions, and refusal to allow lumpers may result in union action against the facility.<sup>7</sup> Similarly, anecdotal evidence suggests that dock management personnel at some facilities have a personal financial incentive to strongly encourage the use of lumpers.

The increasing use of JIT production with its more demanding and precise schedules for all parties in the supply chain enhances the importance of avoiding situations in which delays might arise. To the degree that the use of lumpers augments the capability to avoid delays, the greater will be the demand for lumping services. In addition, the increased effort in logistics to meet or exceed the expected customer service would tend to increase the acquiescence of shippers and carriers to accommodate the receiver's requirement that lumpers be used.

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<sup>6</sup> See E.J. Muller, "A defining moment for contract logistics," *Distribution*, July 1993, pages 64-69 for a discussion of the growth in firm's outsourcing parts of their logistical activities.

<sup>7</sup> U.S. Congress, "Small Business Problems in the Marketing of Meat and Other Commodities," *Part 2: Extortionate Meat Unloading Practices—Lumping*, Committee on Small Business, U.S. House of Representatives, 1978, pages 4-13.

Motor carrier firms have similar logistical or economic-based reasons for using lumpers instead of their own drivers. Faster unloading by lumpers allows the carrier to better utilize its equipment, which produces cost savings. In addition, the use of lumpers should reduce driver injury and the costs associated with such injuries. To the degree that use of lumpers allows the driver to rest, it reduces the safety problems associated with driver fatigue. Improvements in driver safety performance ultimately translate into lower costs and enhanced customer service.

## Conclusion

In general, lumpers provide a very basic but important and legitimate logistical service by providing a mechanism for meeting the needs of shippers, receivers, and carriers in loading and unloading carrier equipment. As noted above, lumping services generate a variety of benefits for their users, including increased logistical efficiencies and improved customer service. Anecdotal evidence has suggested, however, that a variety of problems are associated with lumpers and lumping practices.<sup>8</sup> Congress identified one major problem—coercive tactics of lumpers or collaborators with lumpers. Congress's concern focused on the efficiency and equity implications of monopoly power enhanced by coercion. Not only are drivers and others mistreated in this coercive environment, but it is also likely that supra-competitive loading and unloading fees are being obtained by lumpers. The direct and indirect effects on efficiencies, both from a general economics perspective and from a logistical perspective, were noted above.

As important as the effects of these possible market failures are, the more indirect effects and problems associated with lumping might be just as substantive. For example, the anecdotal evidence suggests that most lumpers, who are normally paid in cash, are treated as independent contractors but they do not pay required state and federal taxes. State governments and the federal government could be suffering from a substantial loss of tax revenue. In addition, users of lumping services, which include shippers, carriers, and receivers, could be exposing themselves to liability for these taxes. These users could be exposed to other types of liability as well, such as injury and property damage liability.

Lumpers and lumping services also would appear to be related to the significant issues of driver turnover, highway safety, and the efficiency of the logistics supply chain. It is not clear, however, what this effect is. For example, availability of lumpers should have the effect of reducing the amount of loading and unloading for drivers, which was found in a recent study to be by far the most negative aspect of the job for owner-operators.<sup>9</sup> On the other hand, anecdotal evidence suggests that driver harassment by lumpers and the general dislike of lumpers by drivers leads to

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<sup>8</sup> For example, see Daniel P. Bearth, "Negotiating From Weakness: They Say You Have a Choice But You Really Have No Choice," *Transport Topics*, November 18, 1991 and Daniel P. Bearth, "Lumping," *Transport Topics*, November 11, 1991.

<sup>9</sup> Gene C. Griffin and Juliene M. Rodriguez, *Creating A Competitive Advantage Through Partnershipping With Owner-Operators*, The Upper Great Plains Transportation Institute, North Dakota State University, June 1992, 13.

greater driver dissatisfaction and, consequently, a higher level of driver turnover. Highway safety should increase because of the availability of lumping services if drivers can gain rest by outsourcing the loading or unloading of freight. Evidence exists, however, that suggests that the net effect on safety is not clear. The lack of trust in lumpers frequently prevents the driver from resting during the loading and unloading period. Finally, it is not clear how the apparent frictions at these interfaces in the supply chain (i.e., shipper-carrier and carrier-receiver) affect the various relationships among the parties remaining in the chain as well as the overall chain efficiency and effectiveness.

This research project attempts to move the discussion of the lumping issue from one based on anecdotal evidence to one based on a foundation of systematically collected information. The project will attempt to confirm and assess the various alleged benefits and problems associated with lumping as currently practiced in the United States. In order to put these benefits and problems in perspective, several informational needs have to be met. First, the magnitude of the lumping activity needs to be estimated using scientific sampling so that the quantitative impact of the activity can be measured. Questions, such as how much money is being spent on lumping services and how pervasive is the use of lumping, need to be answered to put the lumping issue in some perspective compared with the many other issues facing the motor carrier, shipper, and receiver industries. Second, the most direct benefits and problems need to be identified and assessed. Questions that need to be answered include, how important are the benefits and problems associated with lumping that are cited in the anecdotal evidence, and how do carriers, shippers, receivers, and drivers differ with respect to their ratings of the importance of benefits and problems? This exploratory research attempts to generate the informational prerequisites needed to answer these and additional questions relating to contemporary lumping practices.

## **CHAPTER III**

### **NATURE AND EXTENT OF LUMPING PRACTICES**

#### **Introduction**

To gain a better understanding of the importance and role of lumping in today's logistical supply chain, information about the extent and nature of lumping practices is needed. To date, information about lumping has been largely anecdotal. No effort has been made to determine the degree to which the conventional wisdom about lumping matched the reality of lumping practices. Without a solid information base about the extent and nature of lumping practices, the significance of the problems and benefits associated with lumping cannot be put in perspective. Developing policies, both public and managerial, that address lumping problems would be premature without a better understanding of the dimensions of lumping activities.

This chapter reports the results of an effort to collect information about the extent and nature of lumping practices by surveying for-hire motor carriers, drivers (both company drivers and owner-operators), shippers, receivers, and firms that specialize in providing loading/unloading services. Appendix B contains a discussion of the sampling methodology and Appendix C contains all of the survey instruments used to collect information on the extent and nature of lumping.

The results of the surveys are presented in three sections. General information about loading and unloading practices in the trucking industry is presented in the next section. These practices are closely related to lumping issues and, thus, information is needed to put the extent and nature of lumping in perspective, and to determine the source of some of the problems associated with the use of lumpers. Second, the results with respect to the extent of lumper usage in the trucking industry are discussed. Third, the results with respect to the nature and characteristics of lumping practices are presented. In each of these three sections, the overall results are presented and comparisons among carrier, shipper, receiver, and driver subgroups are made when possible and appropriate.

#### **Loading and Unloading Practices**

Motor carriers, shippers, receivers, and drivers were asked several questions about loading and unloading practices. The basic research questions with respect to loading and unloading practices were:

- Which party (i.e., carrier, shipper, or receiver) has responsibility for loading and unloading?
- What percent of the loads are actually loaded or unloaded by the driver?

- To what degree do drivers receive separate payment from carriers for loading or unloading carrier equipment?
- To what degree are unitized loads used and how do unitized loads affect the amount of hand loading or unloading of freight?

### ***Aggregate Analysis***

The initial analysis used the survey data to develop descriptive statistics about the loading and unloading practices of each of the major groups surveyed. The results of the analysis are presented in four sections: (1) responsibility for loading/unloading, (2) amount of loading/unloading by the driver, (3) driver payment for loading/unloading, and (4) unitized shipments and loading/unloading practices.

***Responsibility for loading/unloading.*** Carriers and shippers were asked to indicate which party has responsibility to load and unload by estimating the percent of truckloads for which the carrier had responsibility to load or unload, the percent for which the shipper/ receiver had the responsibility, and the percent for which responsibility was either unclear or undefined. Receivers were asked the same question but only with respect to unloading. As Table III-1 indicates, the carrier responses were very similar to the receiver responses with respect to the allocation of the responsibility for unloading. Both groups indicated that the carrier has the responsibility to unload for about 45 percent of the shipments. In contrast, the shipper respondents strongly suggested a larger responsibility for the receivers to unload than was suggested by either carrier or receiver respondents.

Carriers and shippers also had differing estimates with respect to loading responsibility. Carriers indicated a greater carrier responsibility than shippers reported. Similarly, shippers reported a larger responsibility for shippers than carriers indicated.

Situations in which the responsibility to load/unload is unclear may create or exacerbate problems associated with loading/unloading of freight or the use of lumpers. So information was sought with respect to the percentage of loads for which the party having responsibility to load/unload was either unclear or undefined. All parties agreed that the responsibility to unload is either undefined or unclear for approximately seven percent of the loads. This percent translates into about 675,000 loads per year for the carriers responding to the motor carrier survey. In contrast, motor carriers and shippers did not agree with respect to their estimates of the percent of their loads for which the responsibility to load is unclear or undefined. Carriers indicated a percent (five percent) of truckloads for which the responsibility for loading was either unclear or undefined which was more than double the percent (2 percent) estimated by shippers.

***Amount of loading/unloading by driver.*** Motor carriers were also asked to estimate the percent of their truckloads that the driver ultimately loaded or unloaded regardless of which party had the specific responsibility to do so. The carriers



**Table III-1. Parties Responsible for Loading and Unloading  
(Percent of For-Hire Truckload Shipments)**

	Loading Responsibility		Unloading Responsibility		
	Carriers' <sup>1</sup> Estimation	Shippers' <sup>1</sup> Estimation	Carriers' <sup>1</sup> Estimation	Shippers' <sup>1</sup> Estimation	Receivers' <sup>1</sup> Estimation
Carrier was clearly responsible	22.6	10.5	44.1	27.6	45.8
Shipper/Receiver was clearly responsible	71.2	87.7 <sup>1</sup>	47.3	65.4 <sup>1</sup>	47.5 <sup>1</sup>
Responsibility was unclear/undefined	5.2	1.8	8.0	6.1	7.0

<sup>1</sup>The motor carriers were asked to estimate the percent of truckload shipments that either the shipper or receiver was responsible for but were not requested to allocate a percent to the shipper and allocate a percent to receiver. On the other hand, both shippers and receivers were asked to allocate the responsibility to either themselves or to the receivers (for shippers) or shippers (for receivers) in addition to the carrier or unclear/undefined categories. For purposes of presentation in this table, the shippers' estimates for themselves and receivers (and receivers' estimates for themselves and shippers) were combined so that comparisons could be made with the carrier respondents.

estimated that their drivers loaded 21 percent and unloaded 43 percent of the shipments. In addition, drivers were asked to approximate the number of floorloads handled by them and/or a lumper and the number of loads requiring breakdown or repalletization handled by them and/or a lumper. Drivers also were asked about the frequency with which they used lumpers to do the hand loading or unloading of a floorload and to breakdown or repalletize loads. The results indicate that while drivers were involved with about an equal number of loads requiring breakdown and floorloads, they used lumpers more often for the floorloads. This suggests that drivers were loading or unloading more of the loads requiring breakdown or repalletization.

Drivers were asked in this study to compare the amount of hand loading/unloading of freight they were responsible for to the amount their carriers originally indicated to them. Forty-three percent of the drivers indicated that the amount of loading/unloading which they did was what they had expected while 14 percent said that the carrier never indicated the amount of loading or unloading that would be expected of drivers. Almost 32 percent of the driver respondents noted that the amount of hand loading/unloading of freight that they did was more than expected

based on what the carrier had originally indicated to them. Only 12 percent of the drivers indicated that the amount of loading or unloading was less than expected.

***Driver payment for loading/unloading.*** According to the motor carrier survey, 62 percent of the carriers provided separate payments to the driver for loading and unloading freight. Eighty-seven percent of the driver respondents indicated that they were reimbursed by the carrier when they hand loaded/unloaded freight in 1992. The average reimbursement indicated by the carriers, which were given options with respect to use of units, was \$50 per truckload. Given eight categories of ranges from "\$1-\$30" to "\$91 or more," 30 percent of the drivers marked the "\$41-\$50" category, 13 percent marked "\$31-\$40," and 12 percent checked "\$51-\$60." Only four percent marked "\$91 or more."

***Unitized shipments and loading/unloading.*** A unitized shipment was defined for the respondents to include shipments using pallets, slipsheets, bins, or containers. Motor carriers indicated that 63 percent of their truckloads were unitized, shippers reported that 74 percent of their for-hire outbound shipments were unitized, and receivers said that 66 percent of their for-hire inbound shipments were unitized.

Motor carriers also were asked about the change within the last five years in the percent of their firms' truckloads involving unitized shipments. Thirteen percent of the respondents reported a significant increase in the percent of their truckloads involving unitized shipments, and another 26 percent indicated an increase in the percent of truckloads unitized. In contrast, only three percent indicated either a decrease or significant decrease in the percent of their truckloads which were unitized.

Information from the receiver and driver respondents clearly indicate, however, that unitization does not eliminate issues associated with unloading and lumping. For example, receivers indicated that 37 percent of their unitized shipments required breakdown or repalletization. In addition, as noted above, drivers were involved with a substantial number of loads last year that involved breakdown or repalletization of unitized loads.

### ***Analysis by Subgroups***

To gain a better insight into the key issues with respect to loading and unloading of motor carrier freight, each of the major groups sampled (motor carriers, drivers, shippers, and receivers) were further segmented into subgroups for statistical analysis. For example, motor carrier respondents were segmented by size of carrier, type of product carried, and type of operation. Drivers were grouped into three categories: company employee drivers, owner operators, and leased drivers. The receiver respondents were segmented into three subgroups: public warehouses, non-warehouse receivers associated with the food industry, and discount/department stores involved with merchandise. Finally, shippers were subdivided into three categories: large food manufacturers, produce growers and shippers, and general shippers belonging to the National Industrial Transportation League (NITL). Appendix D contains more complete descriptions of each of these subgroups. The

issues discussed above—party responsible for loading/unloading of freight, the amount of hand loading and unloading by the driver, the degree to which the driver receives separate payment for loading/unloading, and the degree to which shipments are unitized—are examined below with comparisons made among the relevant subgroups.

***Responsibility for loading/unloading.*** As noted above, the overall motor carrier sample was broken into subsamples based on three criteria: size of carrier (Class I, Class II, or Class III), type of product carried (general freight, refrigerated product, and agricultural commodities), and type of operation (common carrier, contract, or exempt). No statistically significant differences were found among Class I, Class II, and Class III motor carriers with respect to their indication of which party has responsibility to load or unload.<sup>10</sup>

This finding contrasts with the findings with respect to the subgroups of motor carriers based on type of commodity carried. As Table III-2 indicates, general freight carriers have less responsibility to load than carriers of agricultural commodities (in terms of a statistically significant difference) and less of a requirement to unload than either carriers of agricultural commodities or carriers of refrigerated products. Similar results were found for the shipper/receiver responsibility option in which the general freight carriers believed that shippers/receivers were responsible for loading 77 percent of the truckloads, a significantly higher percent than the percent indicated by either carriers of agricultural commodities or carriers of refrigerated products. General freight carriers also indicated that shippers/receivers were responsible for unloading 61 percent of the truckloads, also a significantly larger percent than indicated by the other two types of carriers. Interestingly, carriers of refrigerated products indicated a significantly higher percent of their truckloads falling in the category in which the responsibility is unclear or undefined for both loading and unloading. These carriers indicated that the unloading responsibility is either undefined or unclear in more than one out of ten truckloads.

Table III-3 indicates that common carriers reported a significantly higher percent of their truckload shipments for which the carrier is responsible for loading than contract carriers indicated. For unloading responsibility the exempt carriers' indication of the percent of their loads for which the carrier had responsibility was significantly larger than the common carriers reported. The percentage of truckloads reported by contract carriers for which shippers/receivers have responsibility for loading is significantly higher than common carriers reported. On the other hand, there were no significant differences among common carriers, contract carriers, and exempt carriers with respect to their allocation of the unloading responsibility to shippers/receivers or their allocation of traffic to unclear/undefined for both loading and unloading.

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<sup>10</sup> All statistical tests were conducted at the five percent level of significance. In terms of test of differences, a finding that the difference is significant at the five percent level means that if there is no difference between the population means, the probability of getting an observed difference from the samples is only 5 percent.

**Table III-2. Parties Responsible for Loading and Unloading:  
Comparison of Motor Carrier Subgroups Based on Type of Commodity Carried  
(Percent of For-Hire Truckload Shipments)**

	Estimation of Loading Responsibility by:			Estimation of Unloading Responsibility by:		
	General Freight Carriers	Carriers of Refrigerated Products	Carriers of Agricultural Commodities	General Freight Carriers	Carriers of Refrigerated Products	Carriers of Agricultural Commodities
<b>Carrier clearly responsible</b>	18.01	26.1	34.2 <sup>1</sup>	31.6 <sup>2,3</sup>	59.8 <sup>2</sup>	55.3 <sup>3</sup>
<b>Shipper/ Receiver clearly responsible</b>	77.3 <sup>4,5</sup>	64.1 <sup>4</sup>	61.1 <sup>5</sup>	61.2 <sup>6,7</sup>	25.9 <sup>6</sup>	39.3 <sup>7</sup>
<b>Responsibility unclear/ undefined</b>	4.3 <sup>8</sup>	8.9 <sup>8,9</sup>	1.1 <sup>9</sup>	6.8 <sup>10</sup>	13.0 <sup>10,11</sup>	4.3 <sup>11</sup>

<sup>1</sup> The difference between the general freight carriers estimate and the carriers of agricultural commodities estimate is the degree to which carriers are responsible for loading are statistically significant at the 5 percent level of confidence.

<sup>2</sup> The difference between the general freight carriers estimate and the carriers of refrigerated products estimate of the degree to which carriers are responsible for unloading are statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the general freight carriers estimate and the carriers of agriculture commodities estimate if the degree to which carriers are responsible for unloading are statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the general freight carriers estimate and the carriers of refrigerated products estimate of the degree to which the shippers and receivers are responsible for loading are statistically significant at the 5 percent level of confidence.

<sup>5</sup> The difference between the general freight carriers estimate and the carriers of agriculture commodities estimate of the degree to which the shippers and receivers are responsible for loading are statistically significant at the 5 percent level of confidence.

<sup>6</sup> The difference between the general freight carriers estimate and the carriers of refrigerated products estimate of the degree to which the shippers and receivers are responsible for unloading are statistically significant at the 5 percent level of confidence.

<sup>7</sup> The difference between the general freight carriers estimate and the carriers of agriculture commodities estimate of the degree to which the shippers and receivers are responsible for unloading are statistically significant at the 5 percent level of confidence.

<sup>8</sup> The difference between the carriers of refrigerated products estimate and the general freight carriers estimate if the degree to which the responsibility to load is unclear or uncertain are statistically significant at the 5 percent level of confidence.

<sup>9</sup> The difference between the carriers of refrigerated products estimate and the carriers of agriculture commodities estimate of the degree to which the responsibility is load is unclear or uncertain are statistically significant at the 5 percent level of confidence.

<sup>10</sup> The difference between the carriers of refrigerated products estimate and the general freight carriers estimate of the degree to which the responsibility to unload is unclear or uncertain are statistically significant at the 5 percent level of confidence.

<sup>11</sup> The difference between the carriers of refrigerated products estimate and the carriers of agriculture commodities estimate of the degree to which the responsibility to unload is unclear or uncertain are statistically significant at the 5 percent level of confidence.

**Table III-3. Parties Responsible for Loading and Unloading:  
Comparison of Motor Carrier Subgroups Based on Type of Operation  
(Percent of For-Hire Truckload Shipments)**

	Estimation of Loading Responsibility by:			Estimation of Unloading Responsibility by:		
	Common Carrier	Contract Carrier	Exempt Carrier	Common Carrier	Contract Carrier	Exempt Carrier
<b>Carrier was clearly responsible</b>	28.6 <sup>1</sup>	18.7 <sup>1</sup>	24.2	39.2 <sup>2</sup>	43.8	57.8 <sup>2</sup>
<b>Shipper/Receiver was clearly responsible</b>	65.1 <sup>3</sup>	74.7 <sup>3</sup>	70.3	53.5	45.8	40.7
<b>Responsibility was unclear/undefined</b>	4.6	6.0	3.9	5.0	9.7	6.2

<sup>1</sup> The difference between the common carriers estimate and the contract carriers estimate of the degree to which carriers are responsible for loading are statistically significant at the 5 percent level of confidence.

<sup>2</sup> The difference between the common carriers estimate and the exempt carriers estimate of the degree to which the carriers are responsible for unloading are statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the common carriers estimate and the contract carriers estimate of the degree to which shippers/receivers are responsible for loading are statistically significant at the 5 percent level of confidence.

Table III-4 provides information on differences among subgroups of shippers with respect to their estimation of the responsibility to load and unload. The results in Table III-4 show that the general shippers' estimate of the degree to which receivers are responsible for unloading (75 percent of the loads) is significantly greater than the estimate of either the large food manufacturers (41 percent of the loads) or the produce shippers (50 percent of the loads). None of the differences among the subgroups of receivers was found to be statistically significant.

*Amount of loading/unloading by driver.* Table III-5 allows a comparison among the various subgroups of motor carriers with respect to the percent of their truckloads that the driver ultimately loaded or unloaded regardless of which party had the specific responsibility to do so. Although there were no significant differences among Class I, Class II, and Class III carriers with respect to their estimated percent of truckloads unloaded by the driver, Class III carriers reported a significantly higher

**Table III-4. Parties Responsible for Loading and Unloading:  
Comparison of Shipper Subgroups  
(Percent of For-Hire Truckload Shipments)**

	Estimation of Loading Responsibility by:			Estimation of Unloading Responsibility by:		
	General Shippers	Large Food Manu- facturers	Produce Shippers	General Shippers	Large Food Manu- facturers	Produce Shippers
<b>Carrier is responsible</b>	11.0	7.7	11.0	17.2	39.2	32.5
<b>Shipper is responsible</b>	86.6	92.2	86.3	6.2	14.5	6.2
<b>Receiver/ Customer is responsible</b>	0.2	0.1	0.4	74.6 <sup>1,2</sup>	41.3 <sup>1</sup>	49.7 <sup>2</sup>
<b>Responsibility is unclear or undefined</b>	2.1	0.0	2.2	2.0	5.0	9.9

<sup>1</sup> The difference between the general shippers estimate and the large food manufacturers estimate of the degree to which the receiver or customer is responsible for unloading is statistically significant at the 5 percent level of confidence.

<sup>2</sup> The difference between the general shippers estimate and the produce shippers estimate of the degree to which the receiver or customer is responsible for unloading is statistically significant at the 5 percent level of confidence.

percent of trucks loaded by the driver than either Class I or Class II carriers. General freight carriers had a significantly lower percent of their truckloads both loaded and unloaded by the driver than either carriers of refrigerated products or carriers of agricultural commodities. Common carriers had a significantly larger percent of their loads loaded by the driver than contract carriers. In contrast, there were no significant differences among common carriers, contract carriers, or exempt carriers with respect to the percent of loads unloaded by the driver.

**Driver payment for loading/unloading.** The results clearly show that the larger the motor carrier, the more likely it is to provide separate payment to the driver for loading/unloading. Class I carriers, with 79 percent of the respondents indicating they provide separate payment, were more than twice as likely to provide separate payment to the driver as were Class III carriers (only 37 percent indicated making separate payments). There are statistically significant differences among all three

carrier sizes with respect to this issue. Significant differences also exist among subgroups of carriers based on type of product hauled, with carriers of agricultural

**Table III-5. Loading and Unloading by Driver:  
Comparison of Motor Carrier Subgroups**

	Loaded (Percent of Truckloads)	Unloaded (Percent of Truckloads)
<b>Size of Carriers</b>		
Class I Carriers	17.5 <sup>1</sup>	39.9
Class II Carriers	19.6 <sup>2</sup>	44.2
Class III Carriers	28.7 <sup>1,2</sup>	47.3
<b>Type of Product Carried</b>		
General Freight Carriers	14.6 <sup>3,4</sup>	31.0 <sup>5,6</sup>
Carriers of Refrigerated Products	26.1 <sup>4</sup>	58.5 <sup>5</sup>
Carriers of Agricultural Commodities	34.8 <sup>3</sup>	54.6 <sup>6</sup>
<b>Type of Operation</b>		
Common Carriers	27.6 <sup>7</sup>	41.4
Contract Carriers	16.1	42.4
Exempt Carriers	23.2 <sup>7</sup>	51.5

<sup>1</sup> The difference between the Class I carriers estimate and the Class III carriers estimate of the extent to which drivers load is statistically significant at the 5 percent level of confidence.

<sup>2</sup> The difference between the Class II carriers estimate and the Class III carriers estimate of the extent to which drivers load is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the general freight carriers estimate and the carriers of agriculture commodities estimate of the extent to which drivers load is statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the general freight carriers estimate and the carriers of refrigerated products estimate of the extent to which drivers load is statistically significant at the 5 percent level of confidence.

<sup>5</sup> The difference between the general freight carriers estimate and the carriers of refrigerated products estimate of the extent to which drivers unload is statistically significant at the 5 percent level of confidence.

<sup>6</sup> The difference between the general freight carriers estimate and the carriers of agricultural commodities estimate of the extent to which drivers unload is statistically significant at the 5 percent level of confidence.

<sup>7</sup> The difference between the common carriers estimate and the contract carriers estimate of the extent to which drivers load is statistically significant at the 5 percent level of confidence.

commodities (with only 46 percent indicating separate payment) less likely to be providing separate payment to the driver than either general freight carriers or carriers of refrigerated products (more than 60 percent in both subgroups indicated making separate payments). Finally, contract carriers (71 percent indicated making separate payments) were much more likely to provide separate payments than either common carriers (54 percent making separate payments) or exempt carriers (42 percent making separate payments).

Figure III-1 illustrates the comparison among company employee drivers, owner-operators, and leased drivers, with respect to the average amount the carrier compensated them per load when they hand loaded/unloaded freight. The data show that a larger percent of company employee drivers received a separate payment for loading or unloading than either the owner-operator or leased driver. Compensation for loading and unloading can, of course, be handled in alternative ways such as higher wages for company employee drivers or better lease rates for owner-operators.

*Unitized shipments and loading/unloading.* Table III-6 shows the degree to which the various subgroups of carriers transported unitized shipments. Class I and Class II carriers tend to have a higher percent of their truckloads unitized than Class III, with a significant difference between Class II and Class III carriers. In addition, Table III-6 shows that carriers of refrigerated products hauled a significantly higher percent of their loads as unitized loads than did general freight carriers, which in turn hauled a significantly higher percent of their loads as unitized loads than did carriers of agricultural commodities. No statistically significant differences were found among common carriers, contract carriers, and exempt carriers.

Table III-7 shows the degree to which the three subgroups of shippers differed from each other and the three subgroups of receivers differed from each other in their use of unitized shipments. The information clearly shows the greater use of unitized shipments by large food manufacturers and produce shippers than by general shippers. Of the three subgroups of receivers, discount and department stores received fewer unitized shipments than did either public warehouses or receivers of food products.

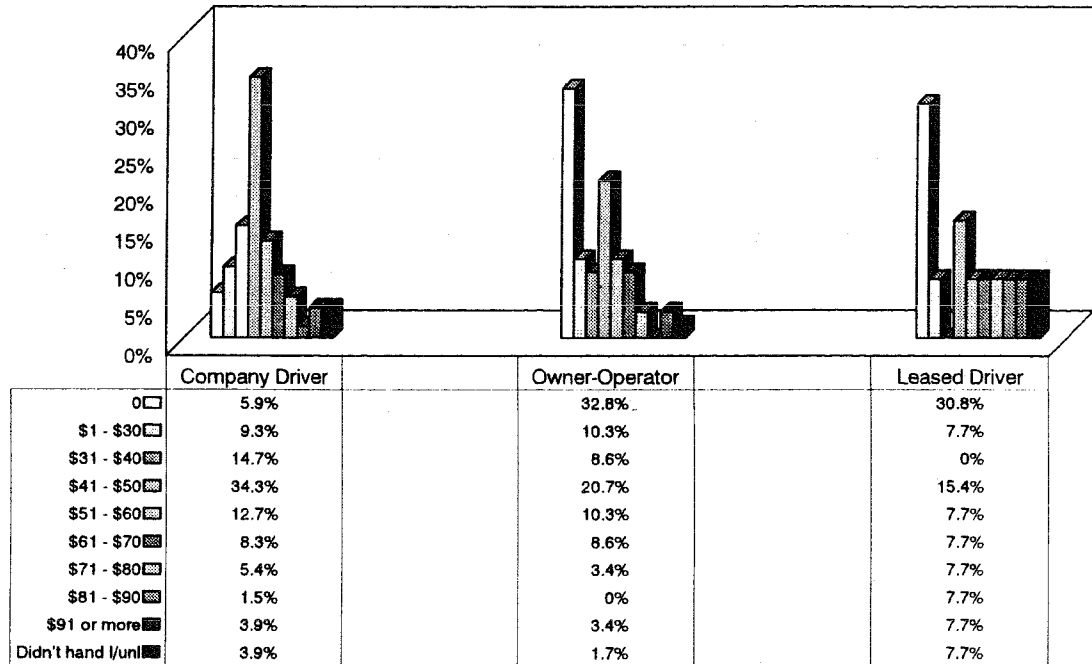
### **The Extent of Lumping**

Motor carriers, shippers, receivers, and drivers were asked a number of questions about the extent of lumping. The basic research questions were:

- What percent of the carriers, shippers, receivers, and drivers used lumpers in 1992?
- How extensively did these firms and drivers use lumpers in 1992?
- To what degree did the use of lumpers vary according to carrier size, type of carrier, industry of shipper, commodity hauled, and type of driver (owner-operator, company employed driver, or leased driver)?



**Figure III-1. Reimbursement by Carrier to Driver for Loading/Unloading (\$ Per Load)**



### ***Aggregate Analysis***

In 1992, 72 percent of the motor carrier respondents (406 out of 566) reported hiring lumpers. Carriers using lumpers estimated that 50 percent of their total truckloads hauled annually involved the use of lumpers. This usage translates into more than 4.8 million loads for the responding carriers in which lumpers were used in 1992. More than 50 percent of the carrier respondents indicated that the percent of their firm's truckloads for which lumpers were used had either significantly increased (24 percent) or increased (30 percent) since 1980.

Drivers were asked about the extent to which they used lumpers for both floorloads and unitized loads requiring breakdown or repalletization. With respect to the number of floorloads handled (either by the driver and/or a lumper), the drivers indicated the following: hauled no floor loads (five percent), one or two per month hauled (51 percent), one per week hauled (22 percent), two per week hauled (12 percent), three or more per week hauled (five percent), or all floorloads handled by shipper/receiver personnel (four percent). In response to the question of how frequently did they use lumpers to do the hand loading or unloading of a floorload, 28 percent responded always and 29 percent indicated often. The other options for the drivers were never (five percent), seldom (10 percent), and sometimes (28 percent).

**Table III-6. Degree to Which Shipments Are Unitized:  
Comparison of Motor Carrier Subgroups**

	<b>Percent of Truckloads Unitized</b>
<b>Size of Carrier</b>	
Class I Carriers	64.1
Class II Carriers	66.1 <sup>1</sup>
Class III Carriers	56.0 <sup>1</sup>
<b>Type of Product Carried</b>	
General Freight Carriers	64.8 <sup>2, 3</sup>
Carriers of Refrigerated Products	73.9 <sup>3, 4</sup>
Carriers of Agriculture Commodities	37.4 <sup>2, 4</sup>
<b>Type of Operation</b>	
Common Carriers	58.3
Contract Carriers	66.1
Exempt Carriers	52.8

<sup>1</sup> The difference between the Class II carriers estimate and the Class III carriers estimate of the extent to which shipments are unitized is statistically significant at the 5 percent level of confidence.

<sup>2</sup> The difference between the general freight carriers estimate and the agricultural commodities carriers estimate of the extent to which shipments is unitized are statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the refrigerated products carriers estimate and the agricultural commodities carriers estimate of the extent to which shipments is unitized are statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the refrigerated products carriers estimate and the agricultural commodities estimate of the extent to which shipments are unitized is statistically significant at the 5 percent level of confidence.

With respect to the number of loads requiring breakdown or repalletization, the drivers indicated the following: hauled no loads requiring breakdown or repalletization (seven percent), one or two per month hauled (48 percent), one per week hauled (18 percent), two per week hauled (13 percent), three or more per week hauled (11 percent), or all loads requiring breakdown or repalletization handled by shipper/receiver personnel (2.5 percent). Seventeen percent indicated they always used lumpers, while 23 percent reported often using lumpers on these loads. Other drivers reported never using lumpers on these loads (12 percent), seldom using lumpers (17 percent), or sometimes using lumpers (31 percent). The results seem to indicate a greater use of lumpers for floorloads than for loads requiring breakdown or repalletization.

Shipper responses revealed that only nine percent (9 out of 100 answering the question) of the shippers had lumpers involved in the loading of their for-hire outbound truckload shipments in 1992. For these nine shippers, however, almost 30

**Table III-7. The Degree to Which For-Hire Shipments are Unitized:  
Comparison of Shipper and Receiver Subgroups**

<b>Shipper Subgroups</b>			
	General Shippers	Large Food Manufacturers	Produce Shippers
Percent of Shipments Unitized	58.1 <sup>1, 2</sup>	93.4 <sup>1</sup>	81.2 <sup>2</sup>
<b>Receiver Subgroups</b>			
	Public Warehouse	Discount/ Department Receiver	Receiver of Food Products
Percent of Shipments Unitized	77.6 <sup>3</sup>	22.9 <sup>3, 4</sup>	67.2 <sup>4</sup>

<sup>1</sup> The difference between general shippers and large food manufacturers with respect to the relative use of unitized shipments is statistically significant at the 5 percent level of confidence.

<sup>2</sup> The difference between general shippers and produce shippers with respect to the relative use of unitized shipments is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between public warehouses and discount/department store receivers with respect to the relative use of unitized shipments is statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between discount/department store receivers and non-warehouse receivers of food products with respect to the relative use of unitized shipments is statistically significant at the 5 percent level of confidence.

percent of their for-hire truckload shipments involved the use of lumpers. Almost 50 percent of the shipper respondents reported that lumpers were involved in the unloading of their firm's for-hire outbound truckload shipments in 1992. Of the remaining shippers, 20 percent did not know if lumpers were used to unload their for-hire outbound truckload shipments. In response to the question of how frequently they (the shippers) hired lumpers to unload at their receivers' facilities last year, 25 (19 percent) said never, nine (seven percent) indicated rarely, and 12 (nine percent) said sometimes. Only one shipper said it always hired lumpers, while five shippers indicated that they often hire lumpers.

Sixty-two percent (68 out of 109) of the receiver respondents indicated that lumpers were involved in the unloading of their firm's for-hire inbound shipments last year. For those receivers using lumpers, lumpers were involved in unloading 46 percent of their shipments.

### ***Analysis by Subgroups***

To gain further insight into the extent of use of lumpers, each of the basic groups sampled (motor carriers, drivers, shippers, and receivers) was further segmented into subgroups as indicated above. The manner in which the survey data were collected allowed testing of differences among carrier, shipper, and receiver subgroups.

***Carrier subgroups.*** Table III-8 contains information about the relative use of lumpers by various subgroups of carriers. The information indicates that a larger percent (81 percent) of Class I carriers used lumpers than Class II carriers (74 percent), and a larger percent (74 percent) of Class II carriers hired lumpers than Class III carriers (56 percent). The difference between Class I and Class II estimated use is not statistically significant, while the differences between Class I and Class III usage and Class II and Class III usage are significant. With respect to the extent of use by those carriers hiring lumpers (in terms of the percent of their truckloads involving the use of lumpers), there are no significant statistical differences among the three classes of carriers.

Comparisons were also made among three carrier subgroups based on the type of freight hauled. As Table III-8 shows, a significantly larger percent of carriers of refrigerated products were involved with lumpers in 1992 than the other two types of carriers. In terms of total annual truckloads for which lumpers were used, general freight carriers had only 35 percent of their truckloads involved with the use of lumpers, which was significantly less than either carriers of refrigerated products (62 percent) or carriers of agricultural commodities (59 percent).

Table III-8 also reveals that a larger percent of contract carriers used lumpers than either common carriers or exempt carriers, with the difference between contract and common carriers being statistically significant. With respect to the percent of total truckloads involving the use of lumpers, there are no statistically significant differences among the three types of carriers.

***Shipper subgroups.*** As noted above, a total of only nine shippers in the total sample had lumpers involved in the loading of their firm's for-hire outbound truckload shipments. Four of these cases involved general shippers, four involved produce shippers, and one involved the large food manufacturers. With respect to the involvement of lumpers in the unloading of the freight of these shippers, a substantial variation exists among the three groups, with 80 percent of the large food manufacturer shippers indicating the involvement of lumpers, while only 40 percent of the produce shippers and 15 percent of the general shippers indicated lumpers were involved in the unloading of their freight. The differences between large food manufacturers and both general shippers and produce shippers are statistically significant.

***Receiver subgroups.*** Differences among public warehouses, discount/department stores, and non-warehouse receivers of food products, with respect to whether

**Table III-8. Use of Lumpers by Carriers**

	Percentage of Firms Using Lumpers	Percentage of Truckloads Involving Use of Lumpers
<b>Size of Carriers</b>		
Class I Carriers	80.6 <sup>1</sup>	48.2
Class II Carriers	73.8 <sup>2</sup>	54.8
Class III Carriers	55.7 <sup>1,2</sup>	48.7
<b>Type of Product Carried</b>		
General Freight Carriers	64.4 <sup>3,4</sup>	34.9 <sup>7,8</sup>
Refrigerated Products Carriers	90.2 <sup>3,5</sup>	61.7 <sup>7</sup>
Agricultural Commodity Carriers	46.0 <sup>4,5</sup>	59.4 <sup>8</sup>
<b>Type of Operation</b>		
Common Carriers	54.2 <sup>6</sup>	45.4
Contract Carriers	78.6 <sup>6</sup>	48.3
Exempt Carriers	62.8	67.0

<sup>1</sup> The difference between Class I and Class II carriers with respect to the percent of firms in each subgroup using lumpers in 1992 is statistically significant at the 5 percent level of confidence.

<sup>2</sup> The difference between Class II and Class III carriers with respect to the percent of firms in each subgroup using lumpers in 1992 is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between general freight carriers and carriers of refrigerated products with respect to the percent of firms in each subgroups using lumpers in 1992 is statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between general freight carriers and carriers of agricultural commodities with respect to the percent of firms in each subgroup using lumpers in 1992 is statistically significant at the 5 percent level of confidence.

<sup>5</sup> The difference between carriers of refrigerated products and carriers of agricultural products with respect to the percent of firms in each subgroup using lumpers in 1992 is statistically significant at the 5 percent level of confidence.

<sup>6</sup> The difference between common carriers and contract carriers with respect to the percent of firms in each subgroup using lumpers in 1992 is statistically significant at the 5 percent level of confidence.

<sup>7</sup> The difference between general freight carriers and carriers of refrigerated products with respect to the extent each carrier uses lumpers is statistically significant at the 5 percent level of confidence.

<sup>8</sup> The difference between general freight carriers and carriers of agricultural commodities with respect to the extent each carrier uses lumpers is statistically significant at the 5 percent level of confidence.

lumpers were involved in the unloading of their firm's for-hire inbound truckload shipments in 1992 were found not to be significant. For those receivers having lumpers involved, the degree of use in terms of the percent of their firm's for-hire inbound truckloads being unloaded by lumpers ranged from 60 percent (for non-warehouse receivers of food products) to 32 percent (for public warehouses). Discount/department stores reported that 44 percent of their truckloads were unloaded by lumpers. The difference between non-warehouse receivers of food and public warehouses is statistically significant.

## **The Nature of Lumping**

Motor carriers, shippers, receivers, and drivers were asked a number of questions about the nature of lumping. The basic research questions were:

- How much of the lumping is perceived by carriers and drivers to be involuntary?
- What is the incidence of lumping with respect to pervasiveness across few or all of the carrier markets, the type of facilities served by motor carriers, and the type of shipments (unitized versus non-unitized)?
- What types of lumping operations exist and what types of arrangements are used to identify and hire lumpers?
- What is the total cost associated with using a lumper (per truckload, per firm, and for the trucking industry), and how much does this cost vary according to type of carrier, driver status, and other dimensions?
- To what degree do certain factors affect the frequency of lumping?

### ***Aggregate Analysis***

The overall results are presented in six sections: (1) voluntary versus involuntary lumping, (2) use of third-party loading/unloading firms, (3) incidence of lumping, (4) cost of lumping, (5) lumping operations and arrangements, and (6) factors affecting lumping frequency.

***Voluntary versus involuntary lumping.*** Both motor carriers and drivers were asked to estimate both the extent to which they used lumping services and the amount of these lumping services that they perceived to be involuntary. The motor carrier respondents using lumpers indicated that 21 percent of all of their truckloads involved the use of lumpers on an involuntary basis, while 30 percent of their truckloads involved the use of lumpers on a voluntary basis. Their remaining truckloads did not involve the use of lumpers. In short, the driver was required by the shipper or receiver to use a lumper. This does not indicate the amount of illegal lumping taking place because if the shipper or receiver paid for the lumper or reimbursed the carrier for using the lumper, the practice would be considered legal. If the driver or carrier were coerced, however, the practice would be considered illegal. This amount of involuntary lumping represents approximately 42 percent of the total use of lumpers by motor carriers in 1992.

Drivers were asked to indicate how often they were required by shippers or receivers to use and pay for a lumper without being reimbursed by the shipper or receiver requiring the use. It is likely that this situation would represent a case of illegal lumping under the Motor Carrier Act of 1980. Given the options of “never,” “seldom,” “sometimes,” “often,” and “always,” nearly half of the drivers indicated that they were never required to use lumpers without being compensated for it for both floorloads and loads requiring breakdown or repalletization in which lumpers

were used. On the other hand, 17 percent of the drivers marked “always” for situations involving floorloads, and 16 percent of the drivers marked “always” for situations involving breakdowns or repalletization in which lumpers were used.

***Use of third-party loading/unloading firms.*** Motor carriers, shippers, receivers, and drivers were asked to indicate the extent to which they had used, are using, or have available for use third-party loading/unloading services. Third-party loading/unloading or lumping firms are defined as independent business firms that contract for providing laborers to load and unload.<sup>11</sup>

Of those carriers answering the question, 53 percent had used a third-party loading/unloading firm. Shippers indicated that six percent of their for-hire outbound truckload shipments involved the use of third-party loading/unloading firms in 1992. Forty-three percent of the receiver respondents indicated that third-party firms were available at their facilities to perform unloading services in 1992. In response to a similar question about third-party loading/unloading firms, 57 percent of the drivers indicated using a lumper provided by a third-party firm in 1992, and 29 percent of drivers had not used any, while 14 percent of the drivers didn't know if they had used a third-party loading/unloading firm.

***Incidence of lumping.*** A number of questions on several of the surveys addressed the incidence of lumping. Issues addressed by the questions included the degree to which lumping occurred at the unloading site compared to the loading site, the difference in the extent of lumping between unitized and non-unitized loads, the pervasiveness of lumping in the context of the carrier's operations, differences in lumping use by geographical area, and extent of lumping at different types of facilities.

Consistent with the anecdotal evidence, the results of the motor carrier survey clearly indicate and the findings from the shipper survey strongly suggest that almost all lumping activities occur at the unloading site. The motor carrier respondents indicated that of the truckloads for which lumpers were used, 83 percent of those loads were at the unloading site only, while 8 percent involved lumpers at both the loading and unloading sites. Only seven percent of the shipper respondents reported the use of lumpers in the loading of their firm's for-hire outbound truckload shipments in 1992, while 36 percent of these same shippers indicated that lumpers were involved in the unloading of their firm's for-hire outbound truckload shipments in the same year. Sixty-two percent of the receiver respondents reported that lumpers were involved in the unloading of their for-hire inbound truckload shipments in 1992.

Information from the motor carrier survey indicates that non-unitized shipments involved the use of lumpers almost twice as much as unitized shipments. Fifty-three percent of the non-unitized shipments and 30 percent of the unitized shipments involved the use of lumpers. Although the relative incidence of lumping with respect to unitized and non-unitized loads cannot be determined with the driver survey results, they do indicate that a substantial number of unitized loads required

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<sup>11</sup> Chapter IV contains detailed information pertaining to this topic.

breakdown and repalletization, and a substantial percentage of the drivers (39 percent) used lumpers either “always” or “often” to breakdown or repalletize loads.

The motor carrier respondents indicated that the use of lumpers was quite pervasive in the context of their own markets. Thirty-three percent of the motor carrier respondents indicated that lumping most likely occurs in virtually all of their markets, 29 percent said in most markets, and 26 percent stated in some markets, while 13 percent selected the category indicating very few markets.

Drivers were asked to indicate the regions of the country in which they were most likely to use a lumper. Multiple responses were allowed. Thirty-four percent of the drivers answering the question indicated that all the regions were about the same with respect to the likely use of a lumper. In comparing the drivers’ responses with respect to the question about the regions of the country they served with their answers about the regions where they were most likely to use a lumper, a stronger likelihood of using a lumper in the states of New York, New Jersey, Virginia, Maryland, and Delaware as opposed to other states is suggested.

Carriers were also asked to indicate the types of facilities at which lumping was most prevalent. A list of types of facilities was provided and multiple responses were allowed. The type of facility listed the most was private warehouse of the receiver (85.2 percent of 405 respondents), followed by public warehouse or distribution center (58.5 percent), private warehouse of the shipper (19 percent), water port facilities (9.9 percent), and airport facilities (2.5 percent). Carriers listed produce markets seven times in the space requesting “other.” Again, these results strongly suggest that lumping is most likely occurring at the receiving point—a finding consistent with conventional wisdom.

**Costs of lumping.** The determination of the average costs associated with using lumpers was one of the major objectives of the project. Carriers, receivers, shippers, and drivers were asked about lumpers’ fees on a per truckload basis. Table III-9 provides information on the average fee, the average highest fee, and the average lowest fee paid by carriers, shippers, and receivers. The average fee paid by all carriers hiring lumpers was \$65.40. The average fee paid by the four shippers at their shipping facilities was \$88.75, while the average paid for lumpers by 22 shippers at their receivers’ facilities was \$91.59. The average fee paid by receivers to hire lumpers in 1992 was \$58.33.

Drivers were asked to indicate what they paid to lumpers in 1992 by marking one of eight categories ranging from less than \$30 to more than \$81. The range of prices paid to the lumpers is suggested by the fact that 18 percent of the drivers checked the option “\$81 or more,” while only about one-half of a percent checked the option “less than \$30.” The option “\$71–\$80” was checked by the most drivers (27 percent of the drivers), while “\$61–\$70” was checked by 23 percent of the drivers, and “\$51–\$60” by 16 percent of the drivers.



**Table III-9. Lumper's Fee Paid by Shippers, Receivers, and Carriers  
(Dollars Per Truckload)**

	Average Amount Paid for Lumping Services	Average Lowest Fee Paid	Average Highest Fee Paid
Carriers	65.40	39.30	118.20
Shippers	88.75	56.67	383.33
Receivers	58.33	40.06	92.03

Given the number of loads involving lumpers in 1992 and the average fee paid to the lumper per load, the total amount paid to lumpers for loading or unloading the equipment of responding carriers in 1992 can be estimated. In 1992, approximately \$250 million was paid to lumpers for loading or unloading carrier equipment of the responding carriers. On average, \$600,000 was spent on lumpers for each of the 406 motor carrier respondents that used lumpers in 1992.

The determination of which party ultimately pays for the lumping service is more difficult to make. At one extreme, a full forward shifting of the lumping costs to the final consumer of the product being lumped could occur. At the other extreme, no shifting of the lumping costs could take place, with the burden being assumed by the party making the initial payment to the lumper or the third-party loading/unloading firm. The nature and extent of shifting are likely to vary somewhere in between these extremes in most situations. For this research project, the incidence of the cost question focuses on the issue of the degree to which the following parties absorb the costs of using lumpers: the motor carrier, the shipper of the product, the receiver of the product, or the driver.

The results from the surveys do allow limited inferences to be made about the incidence of the costs associated with using lumpers. For example, 86 percent of the receivers indicated that they never reimburse for-hire carriers if the for-hire carriers hire lumpers at their facilities, and another 10 percent indicated that they rarely do. On the other hand, the receiver respondents indicated that they are reimbursed 66 percent of time when they pay for the use of lumpers.

Shippers were asked the same question about their reimbursement practices toward for-hire carriers hiring lumpers to unload at their receivers' facilities. Twenty-five percent of the shippers indicated that they always reimbursed carriers in this situation, eight percent reimbursed often, 25 percent reimbursed sometimes, 15 percent reimbursed rarely, and 27 percent never reimbursed for-hire carriers for lumping expenses at their receivers' facilities.

The drivers were asked to indicate the average amount the carriers reimbursed them when they hired a lumper to load or unload in 1992. Eight reimbursement levels were provided including a "no reimbursement" option. The surveys revealed that 18 percent of the drivers did not receive reimbursement from their carriers when they hired a lumper to hand load or unload in 1992. The option "\$81 or more" was checked by the most drivers (17 percent of the drivers), while "\$51-\$60" was checked by 16 percent of the drivers and "\$41-\$50" by 15 percent of the drivers. Fewer drivers checked "Less than \$30" (six percent), "\$31-\$40" (eight percent), "\$61-\$70" (12 percent), and "\$81 or more" (nine percent).

***Lumping operations and arrangements.*** To gain a better understanding of how the lumping market works, motor carriers, shippers, receivers, and drivers were asked about how they located and hired lumpers, the number and source of lumpers at loading and unloading facilities, the party that normally hires the lumpers, the party that tends to supervise the activities of lumpers, and other issues related to how lumping services are provided and how the lumping market functions. Lumping services can be provided by both self-employed individuals and by third-party firms acting as independent business firms that contract for providing laborers to load and unload. While Chapter IV discusses in detail the practices of third-party firms, this section of the report addresses lumping practices in general.

Drivers indicated that they used a variety of sources to obtain information about available lumpers. A list of possible methods to obtain was provided, and multiple responses were allowed. The method listed the most was from lumpers at site or outside of gate (90 percent of 261 respondents), followed by Citizens Band (CB) radio solicitation from lumpers (80 percent), list provided by shipper or receiver (46 percent), driver word of mouth (30 percent), business cards left near pay phones or on bulletin boards (22 percent), names or contacts obtained at the nearest truckstop (13 percent), list provided by the carrier (12.3 percent), and eleven respondents checked the "other" category. Two of the "other" methods indicated that the driver repeatedly used the same lumper at a particular facility.

Motor carriers were asked to indicate the percent of lumping services arranged by either themselves, the driver, shipper, receiver, or a third-party provider of lumping services. The results show that drivers arranged lumping services in the majority of situations (56 percent), while carriers and the combination of shippers and receivers arranged services about equally (shipper or receiver arranged services in 19 percent of the cases; carriers, in 18 percent of the cases). Lumping services were arranged by third-parties in only five percent of the cases.

Thirty-one of the receiver respondents (47 percent) answering a similar question indicated that they arranged for lumpers to be available at their facilities. Twenty-three (34 percent) of the receivers provided potential users an approved or recommended list of lumpers. Separate questions on the shipper and receiver survey instruments addressed the issue of which party normally hires the lumper. The number of shipper respondents addressing this question (10) was insufficient to produce meaningful results. The sixty-six receiver respondents indicated that for 66

percent of their for-hire truckload shipments, carriers hired lumpers, while the receiver hired lumpers for 26 percent of the loads. Shippers hired lumpers for the remaining seven percent of the for-hire loads on which lumpers were used to unload at the receivers' facilities.

In addition to examining the issue of which parties arrange and hire lumpers, survey questions addressed the issue of which party provides management oversight or some type of control of the services provided by self-employed lumpers. The issue of control of self-employed lumpers was directly addressed by the special motor carrier survey designed to examine IRS-related issues. Carriers indicated that in 44 percent of the cases, lumpers are controlled by the shipper or receiver, 32 percent of the time by the driver, and 8 percent of the time by a third-party firm. For 14 percent of the situations, there was no supervision. Fifty-eight out of 66 receivers (88 percent) indicated that they supervised the unloading of freight by lumpers. These findings have potentially significant implications with respect to the issue of tax liabilities associated with using lumpers.

Repeated use of the same lumpers by motor carriers at facilities frequently served might suggest more than a casual relationship between the carrier and lumper. The special motor carrier survey examining IRS-related issues asked carriers to indicate the extent to which they used the same lumper or lumpers at frequently served facilities. Seven percent indicated "never," 34 percent indicated "rarely," 31 percent indicated "sometimes," 22 percent said "often," and seven percent said they used the same lumpers "always."

The receiver responses provide some insights into the nature of the lumpers available at unloading docks. Receivers report that they have about nine lumpers at each facility and that, in general, this number per facility had not either increased or decreased within the last year. Most (60 percent) of these lumpers at receivers' facilities are self-employed individuals other than former employees of the receivers, 30 percent are third-party firm personnel, five percent are the receivers' off-duty personnel, and three percent are former employees of the receivers. Although 41 percent of the receivers' dock personnel belong to unions, only two percent of the lumpers are members of unions.

Motor carrier responses support the conventional wisdom that most financial transactions with lumpers are cash transactions. Seventy-seven percent of the motor carrier respondents indicated that the driver pays the lumper directly in cash. Fourteen percent indicated that a bill of services is paid by the accounts payable process, while the remaining responses indicated other methods of payment.

Additional questions addressed the relationship between the lumper and various parties. For example, the receiver responses revealed that 24 percent of the receivers train lumpers to use their firm's handling equipment, 51 percent of the receivers allow lumpers to use their handling equipment, and 28 percent of the receivers control lumping fees at their own docks. On the other hand, only 15 percent of the receivers allow lumpers on their facilities when the lumper is not unloading.

**Factors affecting lumping frequency.** Motor carriers were asked to indicate the influence of a number of factors on the frequency of lumping. Each motor carrier respondent was asked to indicate if the particular factor increased, decreased, or had no effect on the frequency of lumping. These factors can be used to help examine the nature of demand for lumping services and the situations that provide an environment conducive to the supply of lumping services. The indication that the frequency is increased because of a certain factor might indicate something about normal demand where the driver is willing and able to purchase lumping services or abnormal or artificial demand where the driver is coerced in some manner to hire lumpers. These factors along with how the motor carriers perceived their impact on lumping are presented in Table III-10.

The factors in Table III-10 have been grouped into three categories: factors that more than 50 percent of the respondents indicated would increase the frequency of lumping, factors that more than 25 percent but less than 50 percent of the respondents thought would increase the frequency of lumping, and factors that less than 25 percent of the motor carriers thought would increase the frequency of lumping.

**Table III-10. Factors Increasing the Frequency of Lumper Use  
By Motor Carrier**

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**Factors Indicated by > 50% of the Respondents**

- Responsibility for loading/unloading is unclear (60.9)
- Loading/Unloading facility is large (52.7)
- Availability of 3rd party loading/unloading (50.1)

**Factors Indicated by > 25% but < 50% of the Respondents**

- Driver is reimbursed for lumping fees which exceed loading/unloading allowances (48.8)
- Broker arranges load/transportation (48.7)
- Size of shipper/receiver is large (48.0)
- Region served is East or West Coast (44.8)
- Store door delivery is used (38.4)
- Commodity is exempt (37.0)
- Driver is greater than 50 years old (28.3)
- Appointment only pickup/delivery times (28.2)
- Shipper/receiver uses Just-In-Time scheduling (26.2)

**Factors Indicated by < 25% of the Respondents**

- Driver is female (21.5)
  - Drivers belong to union (19.0)
  - Owner/operators are used, rather than company drivers (18.3)
  - Size of carrier is large (15.9)
- 

The results indicate that unclear responsibility for loading or unloading is an important factor in increasing the use of lumpers, with 61 percent of the motor carriers indicating that it increases the frequency of lumping. Fifty-three percent of

the respondents indicated that frequency of lumping is increased at large loading/unloading facilities, while slightly more than 50 percent of the carriers thought that the availability of third-party loading/unloading firms increased the frequency of lumping. Determining why each of these factors or even how these factors tended to increase the frequency of lumping is difficult. The availability of third-party loading/unloading firms could enhance the use of lumping services because the service might be more dependable and the price might be known by the driver before arrival at the facility. The driver can use the lumping service with less hassle. The large loading and unloading facility might have more lumpers available with some competition among the lumpers. This would provide the user with more alternatives and possibly more competitive pricing of lumping services. On the other hand, it could mean that the schedules for loading or unloading the trucks are more demanding and the driver is essentially coerced to use lumpers to meet the facility's schedule requirements. In the case of unclear responsibility for loading or unloading, the use of lumpers could be interpreted as possibly a method to delay accepting the responsibility of loading or unloading. The driver or carrier may pay for a lumper but will pursue the issue later with another party in the transaction.

Leading the next group of factors (greater than 25 percent but less than 50 percent of respondents) is when the driver is reimbursed for lumping fees that exceed his or her loading/unloading allowance. The driver does not have to absorb any cost of using a lumper in this situation, and thus has no financial disincentive not to employ lumpers. A variety of interpretations can be made with respect to the factor "broker arranges load/transportation" and its relatively high ranking. One explanation for this ranking is the possible association of this factor with the factor found to be most important—unclear or undefined loading/unloading responsibility. Adding another party to the transactions enhances the probability that the responsibility for loading or unloading is not clearly communicated to all parties. In addition, the broker may have an incentive not to specify, or to misspecify, the carrier's responsibility at the loading and unloading sites in order to contract with a carrier to move the freight at a reasonable rate. Size of shipper or receiver is next with 48 percent of the carriers indicating that lumping frequency is increased when large shippers or receivers are involved. The larger shippers and receivers might create an environment where more lumping services are used not only because of their tighter shipping and receiving schedules than what smaller firms might have, but also because of their ability to dictate the terms of the relationships with its vendors, including motor carriers, due to their economic clout. Although the driver survey indicated that the use of lumpers occurred throughout the United States, motor carrier responses for this question do suggest that lumping is more frequent on the West Coast and East Coast.

### ***Analysis by Subgroups***

To gain further insight into the nature of lumping practices, the basic groups sampled (motor carriers, drivers, shippers, and receivers) were segmented into subgroups. Statistical differences were found only among carrier subgroups. As noted earlier, the data did not allow a testing of significance of differences among the driver subgroups.

***Voluntary versus involuntary lumping.*** Table III-11 shows that Class II carriers experienced more involuntary lumping, with the difference between Class II and Class I being statistically significant. Carriers of refrigerated products and carriers of agricultural commodities experienced very similar levels of involuntary lumping as a percent of their truckloads and significantly more than general freight carriers. Finally, exempt carriers, with 36 percent of the truckloads involving involuntary use of lumpers, had a much higher level of involuntary lumping than either common carriers (with 21 percent) or contract carriers (with 17 percent), with the difference between exempt carriers and contract carriers being statistically significant.

Figure III-2 illustrates the differences between company employee drivers, owner operators, and leased drivers with respect to involuntary lumping. The figure reports on the frequency of responses based on the question of how frequently did the shipper or receiver require you to use and pay for a lumper without compensating you for it, with respect to floorloads in which lumpers were involved. Although overall comparisons are difficult, it appears that company employee drivers are exposed to slightly fewer occasions of involuntary lumping. In particular, a much larger percent of the company employee drivers indicated that the shipper or receiver never had required them to use and pay for the lumper without compensation.

***Use of third-party loading/unloading firms.*** There are substantial differences among the different subgroups of carriers with respect to their use of third-party loading/unloading firms. Nearly two-thirds of the Class I carriers had used third-party loading/unloading firms compared to 47 percent of the Class II carriers and 36 percent of the Class III carriers. The differences are significant between Class I carriers and Class II carriers and between Class I carriers and Class III carriers. The carrier subgroups based on type of commodity carried also had differences, with 66 percent of the carriers of refrigerated products having used third-party loading/unloading firms and only 50 percent of the general freight carriers and 45 percent of the carriers of agricultural commodities having used such firms. The difference between carriers of agricultural commodities and general freight carriers is statistically significant. There are no statistically significant differences among the carrier subgroups based on type of operation.

The three subgroups of shippers reported similar percents of their firms' for-hire outbound truckload shipments having been unloaded by third-party firms in 1992. Each group averaged about six percent. Receivers were asked to indicate if third-party firms were available at their facilities to perform unloading services in 1992. Forty-four percent (14 out of 32 receivers answering the question) of the non-warehouse receivers of food products and 45 percent of the public warehouses (14 out of 31) had third-party lumping loading/unloading services available at their firm's facilities in 1992. Only seven discount/department store receivers answered this question, with two indicating that they had third-party loading/unloading firms available at their facilities. No statistical differences exist between driver subgroups with respect to their having used third-party lumping firms during the past year.

**Table III-11. Voluntary Versus Involuntary Lumping by Carriers  
(Percent of Truckloads)**

	Involuntary Use of Lumpers	Voluntary Use of Lumpers	Involuntary Use as a Percent of Total Lumpers <sup>1</sup>
<b>Size of Carriers</b>			
Class I Carriers	17.8 <sup>2</sup>	30.4	36.9
Class II Carriers	26.1 <sup>2</sup>	28.7	47.6
Class III Carriers	20.3	28.4	41.7
<b>Type of Product Carried</b>			
General Freight	12.8 <sup>3,4</sup>	22.1	36.7
Refrigerated Products	23.2 <sup>4</sup>	38.5	37.6
Agricultural Commodities	24.8 <sup>3</sup>	34.6	41.8
<b>Type of Operation</b>			
Common Carriers	21.4	24.0	47.1
Contract Carriers	17.5 <sup>5</sup>	30.8	36.2
Exempt Carriers	35.8 <sup>5</sup>	31.2	53.4

<sup>1</sup> No test of differences were made with respect to information in this column.

<sup>2</sup> The difference between Class I carriers and Class II carriers with respect to the estimated amount (as percent of total truckloads) if involuntary lumping is statistically significant at the 5 percent level of confidence.

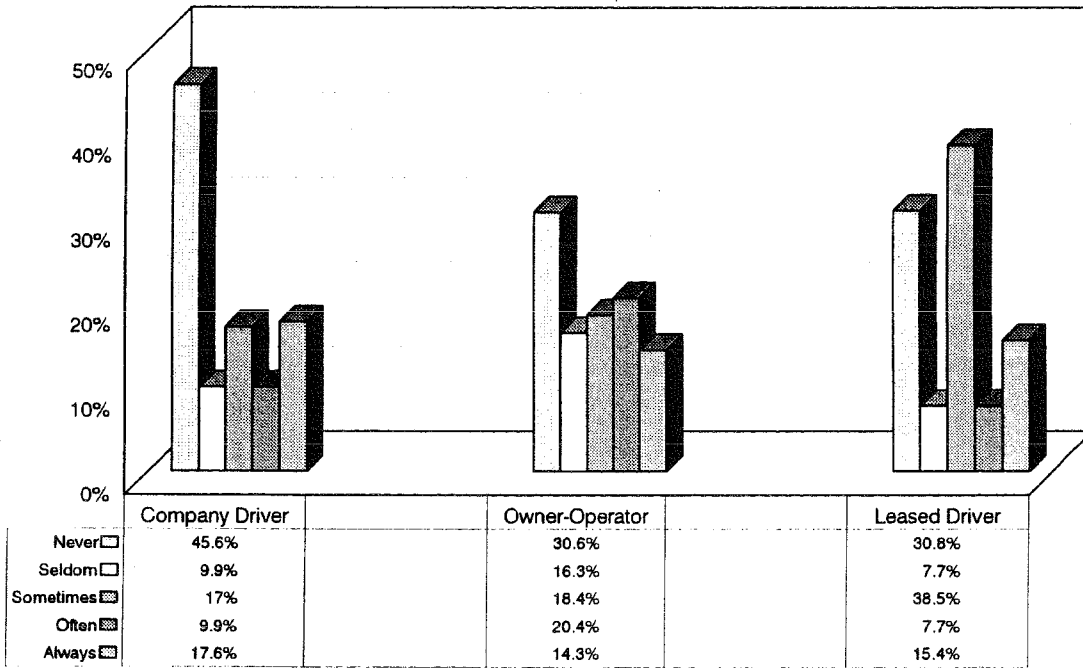
<sup>3</sup> The difference between general freight carriers and agricultural commodities carriers with respect to the estimated amount (as percent of total truckloads) if involuntary lumping is statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between general freight carriers and refrigerated product carriers with respect to the estimated amount (as percent of total truckload) of involuntary lumping is statistically significant at the 5 percent level of confidence.

<sup>5</sup> The difference between contract carriers and exempt carriers with respect to the estimated amount (as percent of total truckload) of involuntary lumping is statistically significant at the 5 percent level of confidence.

**Incidence of lumping.** Significant differences were found between carrier subgroups based on size and type of product carried with respect to the percent of their unitized loads loaded or unloaded by lumpers. Class I carriers had a significantly smaller percent (23 percent) of their unitized loads involving the use of lumpers than either Class II carriers (34 percent) or Class III carriers (38 percent). In addition, general freight carriers used lumpers less on their unitized loads (20 percent of their unitized truckloads involved lumpers) than either carriers of refrigerated products (38 percent) or carriers of agricultural commodities (35 percent). The differences are statistically significant. The differences among the subgroups based on type of operations are not statistically significant.

**Figure III-2. Frequency of Required Use of Lumpers without Compensation (Floorloads)**



Comparisons among the carrier subgroups also were made with respect to the pervasiveness of lumping in the context of their operations. No statistical differences were found among carrier subgroups based on either size or type of operation. More pronounced differences were found, however, among carrier subgroups based on type of product carried. Carriers were given four options (in virtually all markets, in most markets, in some markets, and in very few markets) to respond to the question: “In the context of your operations, where does lumping most likely occur?”. Eighty-six percent of the carriers of refrigerated products and 58 percent of the carriers of agricultural commodities indicated either “in virtually all markets” or “in most markets,” while only 39 percent of the general freight carriers marked these categories. The differences between the general freight carriers and both carriers of refrigerated products and agricultural commodities are significant.

**Cost of lumping.** Table III-12 presents the average lumping costs or fee paid per truckload, the average highest lumping fee per truckload, and the average lowest lumping fee per truckload. No statistical differences were found among Class I, Class II, and Class III carriers with respect to the average fee and the average lowest fee, but Class I carriers’ average highest fee of \$132.10 was significantly higher than the average highest fee for Class II (\$109.00) and Class III (\$103.50). No statistical differences were found among general freight carriers, carriers of refrigerated products, and carriers of agricultural commodities with respect to the average fee and the average lowest fee, but carriers of refrigerated products had a significantly larger average highest fee (\$129.60) than either general freight carriers (\$113.90) or carriers of agricultural commodities (\$100.00). The only significant difference among



common carriers, contract carriers, and exempt carriers exists in the average highest fee in which contract carriers' average highest fee of \$124.40 is significantly higher than the average highest fee paid by common carriers (\$106.60).

**Table III-12. Lumper's Fee per Truckload:  
Comparison of Motor Carrier Subgroups**

	Average Fee (\$ Per Truckload)	Average Lowest Fee (\$ Per Truckload)	Average Highest Fee (\$ Per Truckload)
<b>Size of Carrier</b>			
Class I Carriers	\$64.40	\$38.50	\$132.00 <sup>1, 2</sup>
Class II Carriers	66.70	41.20	109.00 <sup>1</sup>
Class III Carriers	66.00	38.50	103.50 <sup>2</sup>
<b>Type of Product Carried</b>			
General Freight	\$65.00	\$40.00	\$113.90 <sup>3</sup>
Refrigerated Products	65.60	40.50	129.60 <sup>3, 4</sup>
Agricultural Commodities	77.40	34.60	100.00 <sup>4</sup>
<b>Type of Operation</b>			
Common Carriers	\$66.90	\$38.40	\$106.60 <sup>5</sup>
Contract Carriers	65.80	40.90	124.40 <sup>5</sup>
Exempt Carriers	64.10	37.30	105.20

<sup>1</sup> The difference between Class I carriers and Class II carriers with respect to their estimated average high fee is significant at the 5 percent level of confidence.

<sup>2</sup> The difference between Class I carriers and Class III carriers with respect to their estimated average high fee is significant at the 5 percent level of confidence.

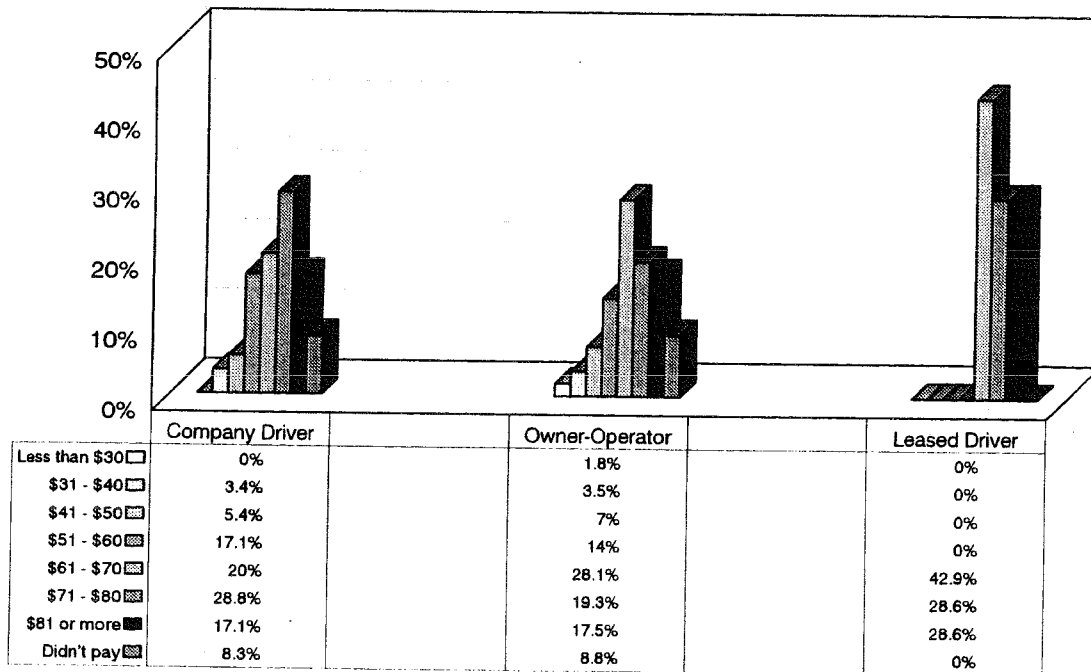
<sup>3</sup> The difference between general freight carriers and carriers of refrigerated products with respects to their estimated average high fee is significant at the 5 percent level of confidence.

<sup>4</sup> The difference between carriers of refrigerated products and carriers of agricultural commodities with respect to their estimated average high fee is significant at the 5 percent level of confidence.

<sup>5</sup> The difference between common carriers and contract carriers with respect to their estimated average high fee is significant at the 5 percent level of confidence.

Figure III-3 compares the average amounts paid to lumpers per load by owner operators, company employee drivers, and leased drivers. In general, Figure III-3 suggests that leased drivers are paying slightly higher fees per truckload for lumping services.

**Figure III-3. Average Lumper Fee Paid by Driver (\$ Per Load)**



As noted previously, information about reimbursement does not fully address the question of which party ultimately pays for the costs associated with the lumpers' fees. It does, however, allow inferences to be drawn about some of the shifting of the costs associated with the fee. Only the driver survey produced the number of responses by subgroup to allow comparison of subgroups with respect to reimbursement by carriers. The driver surveys revealed that 36 percent of the owner-operators were not reimbursed, while only 12 percent of the company employee drivers were not reimbursed. Leased drivers were treated like owner-operators with respect to reimbursement, with 29 percent of leased drivers indicating no reimbursement received from the carrier.

### Summary and Conclusions

To fully understand the size of the lumping issue and how and why the parties involved are affected, it was imperative that a careful and substantive effort be made to collect data on how large the lumping issue is in terms of resources allocated to it, number of carriers affected by it, and how the use of lumpers varies across different categories of carriers, shippers, and receivers. Furthermore, to understand the operations and limitations of the markets in which lumpers are hired, various characteristics of the nature of lumping practices and lumpers needed to be determined. In addition, a prerequisite to the understanding of the lumping issues was knowledge of the loading and unloading practices in the trucking industry. The most important findings are the following:

***Key Findings with Respect to Loading and Unloading Practices***

***Unloading responsibility unclear for 675,000 loads.*** Carriers, shippers, and receivers generally agreed that for about seven percent of the loads, the responsibility to unload is either undefined or unclear. For only the motor carrier respondents involved in this study, this translates into about 675,000 loads in 1992 for which the responsibility was unclear or undefined.

***Two-thirds of shipments are unitized.*** Carriers, shippers, and receivers indicated that about two-thirds of their shipments were unitized. Nearly half of the carriers indicated that the use of unitized shipments had increased during the last five years. The increasing use of unitized shipments, however, has not eliminated hand loading or unloading of freight, with receivers indicating that more than a third of their unitized shipments required breakdown or repalletization in 1992.

***Key Findings with Respect to the Extent of Lumping Practices***

***Three-fourths of motor carriers use lumpers.*** A vast majority of the responding motor carriers (72 percent) used lumpers in 1992, and those carriers had lumpers involved in loading or unloading about half of their loads. More than half of the carriers indicated that the percent of truckloads for which lumpers were used had increased over the past five years.

- A significantly higher percent of Class I carriers than Class II carriers used lumpers in 1992.
- A significantly higher percent of carriers of refrigerated products than either general freight carriers or carriers of agricultural commodities used lumpers. Furthermore, these carriers of refrigerated products had a much higher percent of their loads involving the use of lumpers than either general freight carriers or carriers of agricultural commodities.
- The factors most important in increasing the frequency of lumping are: (1) when the responsibility for loading or unloading is unclear or undefined, (2) when the loading or unloading facilities are large, (3) when third-party loading/unloading firms are available, (4) when the driver is reimbursed for lumping fees which exceed loading/unloading allowances, and (5) when a broker arranges the load.

***Few shippers use lumpers at their facilities.*** In contrast, six out of ten receivers reported having lumpers involved in unloading at their facilities.

- In terms of percent of truckloads involving lumpers, non-warehouse receivers of food products were significantly more involved with lumpers than public warehouses.

***Key Findings with Respect to the Nature of Lumping Practices***

***Two-fifths of lumping involuntary.*** Two-fifths of all lumping in 1992 was considered involuntary by motor carriers. This does not necessarily represent the amount of illegal lumping practices under the Interstate Commerce Act.

***Substantial use of third-party loading/unloading firms.*** Third-party loading/unloading firms have been used more than conventional wisdom would suggest. Half of the motor carriers have had some experience with third-party firms. Nearly half of the receivers had third-party firms available at their facilities in 1992. More than half of the drivers used third-party firms in 1992.

***Most lumpers at unloading site.*** Consistent with the anecdotal evidence, almost all lumping takes place at the unloading site. Lumping is most prevalent in receivers' private warehouses followed by public warehouses.

***Unitized shipments involve lumpers.*** The use of unitized shipments mitigates but does not eliminate the need or requirement to use lumpers. Non-unitized shipments involve lumpers almost twice as much as unitized shipments.

***Lumping practices are pervasive.***

- Lumping practices are quite pervasive in the context of the motor carriers' markets, with a third of the carriers indicating that lumping occurs in virtually all of their markets while another third noted that it occurs in most markets.
- Nine out of ten carriers of refrigerated products use lumpers in virtually all of their markets, as do nearly six out of ten carriers of agricultural commodities.
- Lumping practices are found throughout the United States.

***Average cost of lumpers.*** The average cost in using lumpers was \$65 for motor carriers, \$88 for shippers, and \$58 for receivers. Drivers responses suggest a cost in the \$65 to \$75 range.

***\$250 million paid to lumpers.*** In 1992, approximately \$250 million was paid to lumpers for loading or unloading the equipment of the motor carrier respondents involved in this study. On average, \$600,000 was spent to load or unload equipment of each of the 406 responding motor carriers that used lumpers in 1992.

***Lumping fee reimbursements.*** Receivers usually do not reimburse motor carriers when they hire lumpers, while receivers are usually reimbursed when they hire lumpers. Four out of five drivers received reimbursement from carriers when they hired a lumper.

## **CHAPTER IV THIRD-PARTY LOADING/UNLOADING FIRMS**

### **Introduction**

A third-party loading/unloading firm is defined as an independent business firm that specializes in contracting to provide loading and/or unloading services. The use of these third-party firms to load/unload may help resolve some of the problems related to using self-employed or independent laborers such as potential tax liability, workers' compensation claims, liability for product and personal injuries, and the need for constant supervision by the user. Third-party firms, which pay all appropriate taxes including withholding taxes from all employees and provide workers' compensation and liability insurance, contribute to the possible solution of these lumping-related problems. These third-party firms may be utilized to avoid difficulties involving non-payment of taxes and situations involving injuries and damage of equipment or product.

The two basic objectives of this chapter are

- to examine the nature of the third-party loading/unloading firm industry, and
- to uncover user perspectives on third-party loading/unloading firms.

The first objective will be based on a survey of third-party loading/unloading firms and an in-depth analysis of selected aspects of their operations. The second objective will be based on responses to questions regarding third-party loading/unloading firms taken from the previously mentioned motor carrier, shipper, receiver, and driver surveys.

In order to examine this unique industry of third-party loading/unloading firms, a survey instrument was designed by the research team. Executives responding to the general motor carrier survey identified approximately 140 third-party loading/unloading firms. The research team was able to sample 52 third-party loading/unloading firms, which were sent surveys in order to gather information on their characteristics and operations. Thirteen responses (25 percent) were usable and five responses were discarded because the firms did not provide loading/unloading services. Out of the 13 surveys, ten (77 percent) were answered by top management, two (15 percent) were answered by middle management, and one (eight percent) was answered by lower-level management. Because only 13 responses were received, the findings must be treated carefully and should not be viewed as necessarily reflecting the entire population of loading/unloading firms. Appendix C contains a copy of the third party loading/unloading firm survey, and Appendix B discusses the manner in which the sample was generated.

Follow-up telephone interviews were conducted to obtain more specific information on each firm's operations. Eight out of the 13 third-party loading/unloading firms participated in the phone survey, answering questions such as why some firms have 100 percent employees but others had independent contractors. The follow-up questions used in the phone survey are listed in Appendix C.

The remainder of this chapter is divided into five sections: (1) the nature of the third-party firm industry, (2) the nature and characteristics of third-party firms, (3) third-party firms' self-reported benefits and problems, (4) user perspectives on third-party loading/unloading firms, and (5) chapter summary and conclusions.

## **Nature of Third-Party Industry**

### ***Industry and Market Structure***

***Overall size and importance.*** Although the total number of third-party loading/unloading firms was not determined by this study, the research methodology employed suggests at least 50 such firms. Survey responses from carriers, shippers, receivers, and drivers suggest the possibility of a larger number.

The locations of the 13 third-party loading/unloading firm respondents were geographically dispersed across the nation. The firms, based in 11 states, operated in at least 18 states and at over 140 facilities.<sup>12</sup> Only one firm was based in a state in which it did not operate. Table IV-1 lists the different states in which these firms operated, the number of firms that operated within each state, and the number of facilities served in each state. Figure IV-1 depicts the states served by the responding third-party firms.

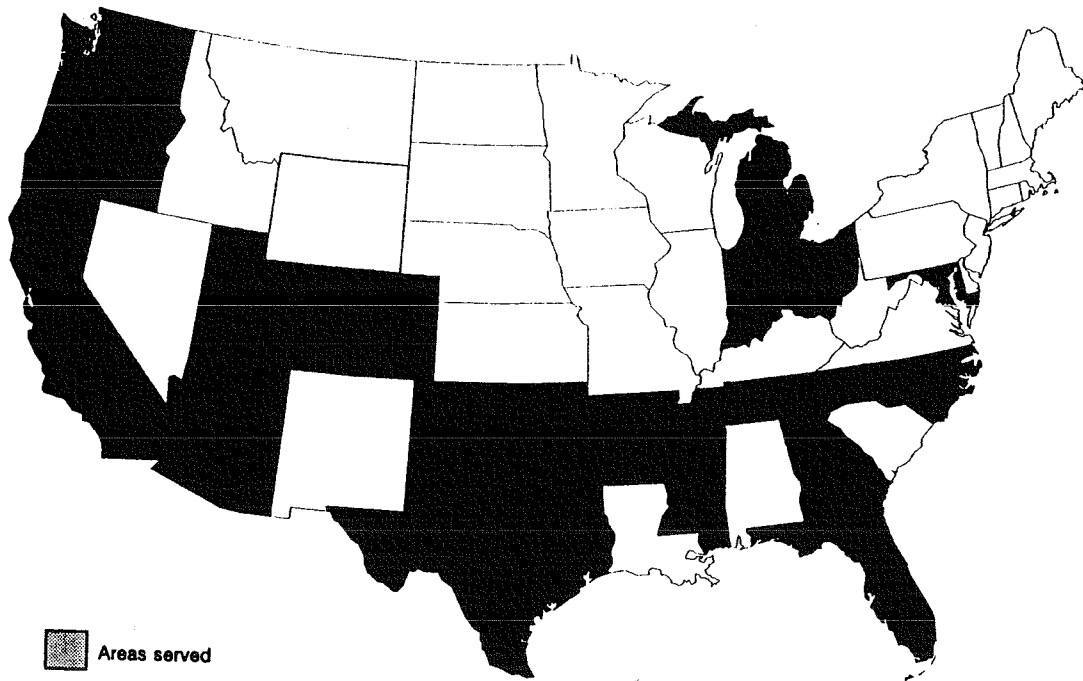
Seven out of 12 responding third-party loading/unloading firms indicated that they were aware of other third-party loading/unloading firms. Some third-party firms, however, thought that they were the only ones providing loading/unloading services anywhere in the country and that their idea of having an organized firm of loading/unloading laborers was unique. One respondent to the follow-up survey indicated that this may be due to the limited area in which some loading/unloading firms operate. If a third-party firm operates in only one city where it is the sole provider of loading/unloading services, it may simply not have been exposed to other third-party loading/unloading firms.

***Nature of industry and corporate structure.*** The third-party firm survey data suggested that for the most part the third-party loading/unloading firm industry is new. Beginning operating dates for firms ranged from 1975 to 1992 and averaged around 1988. The years these firms began providing loading/unloading services, however, ranged from as recently as 1985 to as late as 1992, and averaged around

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<sup>12</sup> Some respondents did not indicate how many facilities they serve in each city; therefore, one facility was designated for each city listed. Thus, the actual number of facilities served in each state may be larger.

**Figure IV-1. Areas Served by Responding Third-Party Unloading Firms**



1989. Thus, according to the survey data, the third party loading/unloading firm industry appears to be only about seven years old. However, the review of the legal history of lumping practices revealed a 1966 court case involving a trucking company that indicated that a third-party loading/unloading firm was in existence from at least 1955 to 1960. Thus, it appears that the third-party loading/unloading firm industry is more than 35 years old.

Information from the follow-up questions indicated that most (five out of eight of the responding firms) third-party loading/unloading firms' management personnel started out as independent lumpers or loading/unloading personnel, either for a specific truckline or for a specific receiver. Some of these loading/unloading operations were set up as firms due to the receivers' increasing requirements or preferences for the use of loading/unloading laborers who had workers' compensation and/or liability insurance. Others were set up as firms in order to more effectively market the use of their loading/unloading services to specific receivers. Additionally, two out of eight firms' management personnel had close working relationships with the receivers for which they ended up providing loading/unloading services. Thus, it appears that in order to set up a third-party loading/unloading firm, it helps if management of the firm has a close relationship with at least one of the parties involved with loading/unloading so that it has a base of companies to which it can potentially provide services.

**Table IV-1. Locations Served By Third-Party  
Loading/Unloading Firm Respondents**

State	# of Firms	# of Facilities
Arizona	2	3 <sup>1</sup>
Arkansas	1	1
California	2	9
Colorado	3	52 <sup>1</sup>
Florida	1	1
Georgia	2	6 <sup>1</sup>
Indiana	1	1
Maryland	1	1
Michigan	1	1 <sup>1</sup>
Mississippi	1	1
North Carolina	1	4
Ohio	1	3
Oklahoma	1	2
Oregon	2	5 <sup>1</sup>
Tennessee	1	12
Texas	1	22
Utah	4	13 <sup>1</sup>
Washington	2	3 <sup>1</sup>
18 States	28 <sup>2</sup>	140 facilities

<sup>1</sup> Indicates that the number of facilities served may actually be greater in this state.

<sup>2</sup> Totals to more than 13 because one firm may have a presence in more than one state.

Obstacles that third-party loading/unloading firms encountered in setting up operations included operational problems such as dispatching and coordinating the movement of people to load/unload, dealing with fluctuating workloads and the resulting waiting times, working with insurance companies, facing tax issues and the resulting high cost due to switching to employees from independent contractors, and dealing with and maintaining workers' compensation. Other obstacles included receivers who were unwilling to stand behind a loading/unloading service and resistance from unions. In addition, management personnel of two firms suggested that their race made starting up the operations and collecting receivables from motor carriers more difficult.



The time it took third-party loading/unloading firms to become profitable ranged from one month to one and a half years. Most third-party loading/unloading firms, however, were profitable within one year. One firm indicated that when it began operating it had no problem earning a profit; the profit obstacle came when the firm switched from using independent contractors to company employees.

The 11 responding third-party loading/unloading firms' total annual operating revenues from all operations ranged from \$42,000 to \$2,000,000 and averaged \$968,000. These firms' annual operating revenues from loading/unloading operations, however, ranged from \$42,000 to \$1,800,000, averaging \$697,000. The thirteen firms' loading/unloading revenues as a percent of their total revenues ranged from 13 percent to 100 percent with an average of 80 percent. Three out of 13 third-party loading/unloading firms were stand alone loading/unloading operations. Nine out of 13 respondents listed loading/unloading as their firm's primary business operation. Furthermore, loading/unloading was determined to be the primary business for 12 out of the 13 respondents on the basis of reported revenue.

As noted above, loading/unloading was not the only service provided by many of the third-party loading/unloading firms surveyed. Other services were brokerage, consulting, temporary employees, warehousing, and other. All 13 respondents provided loading/unloading, six provided warehousing, six provided temporary employees, four provided consulting services, and two provided brokerage services. Three out of thirteen also listed a service under "Other," which included commissioned agent, cartage, and pallet repair/commercial cleaning.

The number of loading/unloading laborers of individual firms ranged from 11 to 880, with a mean of 110 and a median of 45. In addition, the number of administrative personnel associated with loading/unloading activities ranged from 2 to 132 for the 13 responding firms, with a mean of eight and a median of five.

Information about advantages of providing services in addition to loading/unloading was sought from the respondents to the follow-up phone survey. At least one third-party loading/unloading firm that provided services in addition to loading/unloading indicated that there were competitive advantages in doing so. When a firm is providing one service for a motor carrier, shipper, or receiver and already has a working relationship with them, it's much easier to add loading/unloading to the list of services provided. In addition, at least one firm indicated that there were cost advantages in providing services in addition to loading/unloading. This is due to the fact that once the loading/unloading firm is in place, it has a fixed cost base (e.g., insurance cost) from which to operate. Additional services can be offered at little extra cost, making the firm's overhead go up only slightly.

Eleven out of 13 third-party loading/unloading firm respondents indicated that they operated under the business structure of a corporation, while only two out of 13 indicated that they operated under the business structure of a single proprietorship. All six of the loading/unloading firms involved in the phone interviews which operated as a corporation indicated that they were set up as corporations in order to

insulate shareholders from potential legal liability. Additional reasons given for being set up as corporations included insurance-related issues, tax laws, and users' convenience.

Six out of 12 responding firms indicated that they did not have any branch offices, with the remaining six firms having up to five branch offices. The average third-party loading/unloading firm has one branch office. Three out of five responding loading/unloading firms which had branch offices operated their branch offices as independent corporate entities. On average, each main office and/or branch office serves a mean of at least five facilities, while the median number of facilities served is at least four.<sup>13</sup>

The operation of franchises by third-party loading/unloading firms seems to be rare. Twelve out of 13 respondents indicated that they did not operate franchises that provide loading/unloading services. Only one firm indicated that it operated any franchises. However, in the follow-up phone interview of this third party loading/unloading firm, it was discovered that the firm no longer had any franchise operations due to two main reasons: (1) the need for close supervision of the franchise operation and (2) unprofitability. In this case, the benefits of franchising did not outweigh the cost of providing the service because the royalty received from franchises did not cover the cost of operation and the competition with self-employed lumpers. At first this third-party loading/unloading firm thought that providing loading/unloading services on a national scale would work, but it found out that the customer prefers to deal with a local entity. Another third-party firm, however, is interested in franchising, and another one actually is planning to offer franchises in the future. The latter loading/unloading firm is in communication with a trucking company interested in buying a franchise from them.

## **Nature/Characteristics of Third-Party Firms**

### ***Personnel Characteristics***

**General.** Each third-party loading/unloading firm is unique in terms of the specific ways it operates and in its individual characteristics. A major difference between third-party loading/unloading firms is how they consider their laborers—as either employees or independent contractors. Seven out of 13 responding firms indicated that they had 100 percent employees, while two had 100 percent independent contractors. The remaining four firms had a combination of both company employees and independent contractors.

Reasons why third-party loading/unloading firms considered their loading/unloading laborers as employees or as independent contractors were discussed during the follow-up phone interview. Of these third-party firms participating in the phone

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<sup>13</sup> These estimates may be low due to some firms not indicating how many facilities they served in each city. Unless the number of facilities was indicated, each city was designated with one facility. The actual number of facilities served could be much higher.

interview, four out of eight operated with 100 percent employees, one operated with 100 percent independent contractors, and three operated with both independent contractors and employees. Reasons most firms gave for operating with 100 percent employees were based on the issue of the legality of using independent contractors. One firm suggested that legally, a third-party loading/unloading firm cannot be set up with independent contractors when the company directs the laborers as to how to load and unload. Another company had a certified public accountant research independent contractors according to IRS rules and determined that since the company supervised the laborers on how to load and unload, the company should be set up with employees to avoid future problems with the IRS. Because of the involvement of a state department of revenue in one firm's use of independent contractors, one company switched from using independent contractors to employees. This company indicated that the advantage of operating with independent contractors was that it could make more profit. With 100 percent employees, unemployment taxes for the company were 11 percent of payroll, while workers' compensation taxes were 14 percent of payroll.

One third-party firm that operated with both independent contractors and employees started out with 100 percent independent contractors. Operating with both employees and independent contractors, instead of only employees, decreased tax and payroll costs, which improved the company's net income. Because of the IRS's involvement, however, the company now uses independent contractors for only those locations where subsequent IRS cases have deemed the workers to be independent contractors, and employees for the remaining locations. Eventually the company plans to operate with 100 percent employees. Another firm that had both independent contractors and employees used the independent contractors to handle the loading/unloading overflow. The disadvantage for this company was that it had to pay independent contractors more than employees. The independent contractors negotiated a price with the third-party firm which was sometimes \$20-\$50 per load higher than employee wages. The company's customers, however, were given the same price, regardless of whether an independent contractor or company employee provided the loading/unloading service.

As indicated, the IRS's involvement with third-party loading/unloading firms may impact the way third-party firms operate. The follow-up phone interviews revealed that four of the eight respondents had been contacted by the IRS in the form of audits. At least two firms also indicated that the IRS had examined their firms' treatment of independent contractors versus employees. One firm indicated that although it had not been contacted by the IRS, it had contacted the IRS regarding self-employed lumpers in some locations, their non-payment of taxes, and general discussion regarding the use of independent lumpers versus third-party loading/unloading firms.

Third-party loading/unloading firms used a number of methods to recruit their loading/unloading laborers. The most common method of recruitment, used by 11 out of 13 loading/unloading firms, was through employee references. In addition, six firms recruited workers through advertising in local or regional newspapers, while three used employment agency referrals, and one advertised in college newspapers.

Six out of 13 respondents indicated other ways in which they recruited loading/unloading laborers, including unemployment/job service, temporary agency, word of mouth, friends/family, posted notices, and fliers.

Most of the third-party loading/unloading firm respondents did not hire individuals other than U.S. citizens to provide loading/unloading services. Ten out of 13 respondents indicated that their firms did not hire non-U.S. citizens, and one respondent did not know if his firm hired non-U.S. citizens. The two that did hire non-U.S. citizens to provide loading/unloading services, however, required these laborers to complete Department of Justice form I-9 for employment eligibility verification when they were hired, as mandated by law.

Some loading/unloading firms had prerequisites for employment, such as a certain level of education, while others did not. Five out of 13 third-party loading/unloading firms required a certain level of education for employment. Four of these firms required a high school education, while the other firm required its applicants to pass an aptitude test. None of the third-party loading/unloading firms, however, required potential loading/unloading laborers to have previous experience in loading/unloading. Nine out of the 13 responding loading/unloading firms indicated that they had other requirements for employment. Most of the requirements listed were related to either basic education, experience in a related area, issues related to the applicant's background, and/or physical condition.

The ethnicity of loading/unloading laborers who worked for third-party loading/unloading firms varied. The majority of some firms' workers were made up of people from a particular ethnic group, while others had diverse laborers in terms of their ethnic backgrounds. At seven out of 13 third-party firms most of the loading/unloading laborers were Caucasians, while at four other firms most of the laborers were African-Americans. The primary ethnicity of the work force at one of the remaining two firms was Hispanic, with 49 percent of its loading/unloading laborers being Hispanic. The ethnic distribution at the last firm was equally distributed between Caucasian, African American, Hispanic, and Asian workers.

Ten out of 12 responding third-party loading/unloading firms indicated that former dock/warehouse employees were one source of their laborers. Eight out of 12 indicated that former independent lumpers were a source of their work force. College students were a source of laborers for eight out of 12 third-party firms. Seven out of 12 used temporary employees, three out of 12 used off-duty dock/warehouse employees, and one out of 12 used government employment agency applicants. Two of the 12 firms listed a source of laborers under "Other," which included walk-ins and work release programs.

The amount and the units in which third-party firms paid their loading/unloading laborers varied. The responding third-party loading/unloading firms paid their laborers in four different ways: by a percentage of revenue per truck (indicated by

one firm), by hundred pound units or CWT (indicated by one firm),<sup>14</sup> by the hour (indicated by five firms), or by the truckload (indicated by seven firms). In addition, at least one firm had a set amount it paid its loading/unloading laborers up to a certain number of cases; after that they had a pay scale according to the number of cases loaded/unloaded. An average was calculated of the low, high, and average listed by third-party firms as the amount the firms paid their loading/unloading laborers. The average lows were \$0.15/CWT, \$5.90/hour, and \$29.50/truckload. The average highs were \$0.17/CWT, \$8.90/hour, and \$90.00/truckload. The averages of each average payment listed were \$7.00/hour and \$48.00/truckload.

All but two of the third-party loading/unloading firms varied the pay among their laborers. The variation in pay earned by loading/unloading laborers was due to such factors as experience with the loading/unloading firm, handling and physical characteristics of the load, and means of negotiation (by contract or by cash).

Incentive pay was offered by seven out of 13 third-party loading/unloading firms. These firms' incentive pay mechanisms included team and safety incentives, more money for faster loading/unloading, more money the more loads that were loaded/unloaded, more money for truckloads that were more difficult to load/unload, money off the top of cash loads obtained in addition to contracted service, and pay based on a computer controlled multi-level pay system.

Loading/unloading laborers working for third-party loading/unloading firms had relatively high turnover rates. The annual turnover of loading/unloading laborers for these 13 firms ranged between 0 percent and 700 percent per year. The mean turnover rate was 94 percent, while the median turnover rate was 50 percent. Turnover of loading/unloading laborers for these companies was mainly due to the nature of the job itself, the potential to make more money as an independent lumper, and the fluctuating workloads.

*Specific issues associated with independent contractors.* This section will address those third-party loading/unloading firms that considered their loading/unloading workers as independent contractors. Therefore, the information in this section applies only to six out of the 13 respondents. Three issues were explored relative to the use of independent contractors: workers' compensation coverage, IRS 1099 forms, and training.

Only one-half of these third-party loading/unloading firms maintained workers' compensation insurance for their loading/unloading independent contractors. One of the loading/unloading firms that indicated that it maintained applicable workers' compensation did so through the use of a temporary service. Thus, the loading/unloading firm itself did not pay for workers' compensation insurance, but the independent contractors were covered by workers compensation through the temporary service.

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<sup>14</sup> One firm indicated the lowest and highest amounts it paid its loading/unloading laborers in terms of CWT and the average amount it paid its laborers in terms of truckloads.

Only one third-party loading/unloading firm did not issue IRS form 1099-MISC (miscellaneous income) to its loading/unloading independent contractors. This firm did not issue IRS form 1099 to its independent contractors because the temporary service did, as the loading/unloading laborers in this case were employees of the temporary service.

Four out of six third-party loading/unloading firm respondents indicated that they provided some type of training for their loading/unloading independent contractors. Three of the five respondents provided training related to manual loading/unloading, three provided training related to palletization procedures, and three provided training related to safety. In addition, one firm provided training related to mechanical loading/unloading and one firm provided customer relations training. The remaining firm had new hires work with an experienced worker for three days along with a supervisor.

The four companies providing any type of training for their independent contractors may be creating legal problems for themselves. According to the IRS, in general, independent contractors are described as not being controlled, directed, or supervised by the user. In this case, providing training could be classified as directing, controlling, or supervising. Chapter VI contains more information on the issue of independent contractors versus employees.

***Specific issues associated with company employees.*** This section will deal only with those third-party loading/unloading firms that considered their loading/unloading workers as employees. Therefore, the information in this section applies to 11 out of the 13 respondents. Seven issues were explored relative to the use of company employees: benefits provided, taxes withheld, additional taxes paid, training provided, the percent of part-time employees, the use of overtime, and unions.

Four out of 11 third-party loading/unloading firm respondents did not provide any benefits to their loading/unloading employees. On the other hand, five provided vacation, four provided medical benefits, three provided dental benefits, three provided sick leave, and one provided pension benefits. Four out of the 11 firms listed benefits under "Other" including holiday pay, personal leave, unpaid leave option, and in process—workers' compensation, medical, and burial.

All of the third-party loading/unloading firms that had employees withheld money from their loading/unloading employees for at least some taxes. All 11 firms withheld Federal Insurance Contributions Act (FICA), social security and medicare taxes, and state personal income taxes, 10 withheld federal personal income, and three withheld state workers' compensation.

Six out of 11 third-party loading/unloading firms indicated they paid additional taxes on behalf of their loading/unloading employees, but did not withhold money from them to pay these taxes. Three out of 11 paid workers' compensation, one paid workers' compensation and unemployment, one paid federal and state unemployment, and one paid employer FICA, Federal Unemployment Tax Act (FUTA), and State Unemployment Tax Act (SUTA) taxes in addition to the taxes

paid through withholding money from its loading/unloading employees. Thus, most of the third-party loading/unloading firm respondents paid their employees' applicable taxes.

Employees of third-party loading/unloading firms also received various types of training. All third-party loading/unloading firm respondents indicated that they provided training related to manual loading/unloading for their employees. In addition, nine out of 10 provided training related to palletization procedures, nine provided safety training, seven provided training related to mechanical loading/unloading, and seven provided customer relations training. The remaining firm had new hires work with an experienced worker for three days along with a supervisor. Additional training listed in the "Other" section included cleaning, pallet repair, inventory sheets, stock put-away, OSHA regular training schedule, and on-the-job training. In general, and as expected, employees working for third-party loading/unloading firms received more training than did independent contractors.

One out of nine third-party loading/unloading firms had 100 percent part-time employees, while three firms had 100 percent full-time employees. The remaining seven firms had at least some part-time employees. The mean percentage of part-time employees per firm was 28 percent, while the median was 19 percent. Overtime was allowed at eight out of the nine loading/unloading responding firms.

Only one firm out of 11 had an employer-employee relationship where its loading/unloading employees were governed by a union contract. The union contract in this case was with the Teamsters.

### *Marketing and Operating Characteristics*

Third-party loading/unloading firms also differed in respect to the nature and cost of providing loading/unloading services. The aspects of loading/unloading services examined here include the type and amounts of commodities handled, the location and price of services, and the efficiency and promotion of services.

The number of truckloads loaded and unloaded by individual third-party loading/unloading firms varied widely. Eight out of 13 loading/unloading firms unloaded more truckloads than they loaded, three loaded and unloaded the same amount of truckloads, and the remaining two firms loaded more truckloads than they unloaded. The approximate number of truckloads loaded/unloaded by these third-party firms last year ranged from 0 to 6,240 truckloads loaded and from 1,050 to 57,500 truckloads unloaded. The mean number of truckloads loaded by the thirteen firms last year was 3,110, with a median of 3,500 truckloads loaded. The mean number of truckloads unloaded by the firms last year was 9,370, with a median of 4,000 truckloads unloaded. As one would expect, third-party loading/unloading firms are used to unload more truckloads than they are used to load truckloads.

Firms were asked to indicate the percentage of their total truckloads they loaded/unloaded in each of the following commodity categories: general freight (other than foodstuffs), non-refrigerated foodstuffs (other than fresh produce),

refrigerated or frozen foodstuffs (other than fresh produce), fresh produce, and other. Commodities loaded/unloaded by the average third-party loading/unloading firm consisted of 32 percent refrigerated or frozen foodstuffs, 26 percent general freight, 18 percent non-refrigerated foodstuffs, 16 percent tires, and 8 percent fresh produce. Not surprisingly, the commodity group most likely to be loaded/unloaded by third-party loading/unloading firms was refrigerated or frozen foodstuffs (other than fresh produce). Because refrigerated or frozen foods may spoil easily, they must be loaded/unloaded fairly quickly and efficiently; therefore, lumpers or third-party loading/unloading firms are frequently used to handle these types of commodities. Interestingly, 100 percent of the commodities loaded/unloaded by two of the 13 firms were tires.

Third-party loading/unloading firms may provide services at shippers' facilities, receivers' facilities, and/or their own facilities. Twelve out of 13 firms provided loading/unloading services at the receiver's facility, six provided services at the shipper's facility, and four provided services at the firm's own facility.

Customers were charged by the responding firms in at least three different ways: by CWT (indicated by one firm),<sup>15</sup> by the hour (indicated by two firms), or by the truckload (indicated by 11 firms). An average was calculated of the low, high, and average listed by third-party firms as the amount the firms charged for loading/unloading services. The average lows were \$0.26/CWT, \$8.50/hour, and \$39.60/truckload. The average highs were \$0.31/CWT, \$9.40/hour, and \$120.60/truckload. The averages of each average charge listed were \$9.00/hour and \$71.00/truckload.

For the six firms which answered both the question about their amount paid to loading/unloading laborers and the question about their amount charged to customers in terms of fees per truckload, the revenue per truckload minus workers' pay was determined. After paying worker salaries, these six firms received between \$14 to \$35 in net revenue per truckload.

Fifteen characteristics/conditions of the loading/unloading situation were listed on the survey instrument, and the respondents were asked to indicate whether these conditions had any effect on their firm's average loading/unloading charges. As can be seen from Table IV-2, in general, most of the characteristics/conditions of the loading/unloading situation had no effect on third-party firms' average loading/unloading charges. Substantial effects on the charge, represented by either an increase or decrease in charges for at least 50 percent of the responding firms, were due to only three conditions. Two of these, when many units of product per truckload were to be loaded/unloaded, and when the shipment required repalletization or sorting, tended to increase the average charge. On the other hand, when the customer committed a large volume of business at the loading/unloading site, third-party firms tended to decrease their charge.

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<sup>15</sup> One firm indicated the lowest and highest amounts it charges for services in terms of CWT and the average amount it charges in terms of truckloads.



An idea of the efficiency of loading/unloading services can be gained by examining approximately how long, on average, it took the responding third-party firms' laborers to load/unload three different types of loads: floorloads, unitized loads that were mechanically loaded/unloaded, and unitized loads which required repalletization or sorting. Floorloads took twelve third-party firms from two to six hours to load/unload, averaging 3.2 hours. The number of workers normally used to load/unload a floorload ranged from one to three workers, averaging 1.4 workers. For 11 third-party firms, the average time required to load or unload unitized, mechanically loaded/unloaded loads was 1.4 hours, with 1.2 workers on each load. Unitized, repalletized, or sorted loads took eleven third-party firms on average 2.4 hours to load/unload. The number of workers normally used to load or unload a unitized, repalletized, or sorted load averaged 1.5 workers for the 11 firms.

**Table IV-2. The Effect Of Characteristics/Conditions on Third-Party Loading/Unloading Firms' Average Loading/Unloading Charges**

<b>Characteristic/Condition</b>	<b>Decreases</b>	<b>No Effect</b>	<b>Increases</b>
Commodity to be loaded/unloaded is of high value	0	11/13	2/13
Commodity to be loaded/unloaded is floor loaded	0	7/13	6/13
Commodity to be loaded/unloaded is perishable	0	11/12	1/12
Many units of product per truckload are to be loaded/unloaded	0	5/13	8/13
High demand for loading/unloading services at the site	0	9/13	4/13
More than one worker is required at the loading/unloading site	0	9/13	4/13
Other lumpers are available to load/unload at the site	1/12	10/12	1/12
Customer commits large volume of business at the site	7/13	6/13	0
Customer regularly uses your firm's loading/unloading services	5/12	6/12	1/12
Shipment requires the use of motorized equipment (forklift, etc.)	3/13	9/13	1/13
Shipment requires repalletization or sorting	0	6/13	7/13
Shipment arrives later than scheduled appointment	0	10/13	3/13
Loading/unloading is performed on a weekend or holiday	0	10/13	3/13
Loading/unloading is performed near the facility's closing time	0	13/13	0
The area or region of the country served is the east or west coast	0	12/13	1/13

A number of promotional methods were used by the third-party firms to market their loading/unloading services. Ten out of 13 respondents used customer endorsements to market their loading/unloading services, eight used cold calls (by phone) to local operating facilities, seven used personal visits to company headquarters, four used cold calls (by phone) to company headquarters, and one used magazine advertisements. In addition, one third-party firm used no promotional methods, while another firm used only a temporary service to market its loading/unloading service.

#### *Nature of Arrangements with Customers*

A final way in which third-party loading/unloading firms differed was by the nature of their business arrangements with customers. This issue includes the number and type of customers, the nature of customer payment and billing, the degree of exclusivity in and ease of providing service, and the provision of liability insurance.

The 13 third-party loading/unloading firm respondents had prearranged contracts for providing loading/unloading services with anywhere from two to 96 different companies, with a mean of 22.2 companies and a median of seven companies. The number of companies with which the third-party loading/unloading firms had prearranged contracts was in addition to the potentially numerous companies with which the third-party firms had "spot-market" or one-time agreements to provide loading/unloading services.

These third-party firms had contractual agreements with shippers, receivers, motor carriers, and brokers. Five out of 13 third-party loading/unloading firms had 100 percent of their prearranged contracts with motor carriers, while the remaining eight firms had their prearranged contracts with more than one party. Six out of 13 contracted with shippers, six contracted with receivers, 10 contracted with motor carriers, and three contracted with brokers. The average third-party loading/unloading firm's breakdown of companies with which it had prearranged contracts was 18 percent shippers, 14 percent receivers, 62 percent motor carriers, and six percent brokers.

Eleven out of 13 respondents indicated that the companies which paid for their firm's loading/unloading services were the same companies which arranged for these services. On the other hand, one third-party firm indicated that motor carriers paid the cost of loading/unloading, while the shipper or receiver was the one that arranged for its firm's services. All of the responding third-party loading/unloading firms indicated that they offered account billing rather than cash transactions to at least one party.

Nine out of 13 firms had contracts or arrangements with shippers or receivers guaranteeing that their firm would be the exclusive provider of lumpers at the loading/unloading site(s). Out of the eight firms involved in the phone interviews, five had contracts or arrangements with shippers/receivers guaranteeing that their firm would be the exclusive provider of lumpers at the loading/unloading site(s).

The follow-up telephone interviews indicated that most of the third-party loading/unloading firms have had direct competition with other third-party loading/unloading firms in getting a contract with a customer. Low bidding was indicated by two respondents as a resulting problem with third-party firm competition.

Six out of nine applicable respondents indicated that although their firm contracted with motor carriers to perform loading/unloading services, their firm had been unable to load or unload at least once because the shipper/receiver would not allow it. It is important to note that three third-party firms not having this problem served only one facility or facilities owned by the same shipper or receiver.

Four out of the eight third-party firms responding to the follow-up phone interviews indicated that they had been unable to load/unload at a shipper's/receiver's facility because the shipper/receiver would not allow it. Two firms indicated that the reasons for not being able to load/unload at the facility were because either the facility was unionized or it was the job of the facility's employees to load/unload. One firm indicated that a facility's personnel hassled their workers about loading/unloading at the facility, and another indicated that the firm's workers had been unable to load/unload at facilities in at least three different cities. These cases illustrated the scenario where the receiver owns the property and thus has the right to say who can come on their property to load/unload. The receiver could not legally force the driver to unload or force him/her to use certain lumpers, but it could limit the driver's options to the extent that, in this company's opinion, it was really coercion.

The survey results indicate that reasonably good communications exist between the third-party firm and the motor carrier and drivers in cases where the third-party firm contracts with the shipper or receiver. Five out of 11 respondents indicated that when their firm had been hired by a shipper or receiver to load/unload, motor carriers and drivers serving that facility were "always" notified in advance that their firm's personnel would load/unload. Likewise, three out of 10 indicated that motor carriers and drivers were "often" notified in advance. However, two out of 10 indicated that when their firm had been hired by a shipper or receiver to load/unload, motor carriers and drivers serving that facility were only "sometimes" notified in advance that their firm's personnel would load/unload. One firm didn't know how often motor carriers and drivers were notified in advance.

Communications among the parties were somewhat better when the third-party firm was hired by the motor carrier. Seven out of 13 third-party loading/unloading firms indicated that when they had been hired by a motor carrier to load/unload, shippers/receivers at the facilities being served were "always" notified in advance that their firm's personnel would load/unload. Likewise, two out of 13 indicated that shippers/receivers were "often" notified in advance. However, two out of 13 indicated that when their firm had been hired by a motor carrier to load/unload, shippers/receivers at the facilities being served were only "sometimes" notified in advance that their firm's personnel would load/unload. In addition, one firm out of 13 indicated that shippers/receivers were "rarely" notified in advance.

Most of the third-party loading/unloading firms maintained liability insurance to cover freight and equipment claims filed against them. Ten out of 13 loading/unloading firms maintained liability insurance to cover freight and equipment claims. One of three firms which did not use temporary service employees as its independent contractors. Thus, this firm's liability insurance may have been covered by the temporary service.

### **Third-Party Loading/Unloading Firms' Self-Reported Benefits and Problems**

The third-party firms' possible contribution to resolving some of the lumping-related problems is what makes third-party loading/unloading firms an attractive option for motor carriers, drivers, and other users of laborers to load/unload trucks. This is illustrated in part through the third-party loading/unloading responding firms' identification of the benefits which accrue to users of third-party firms.

#### ***Benefits***

The responding third-party loading/unloading firms indicated a wide range of customer benefits a customer receives when using their firms to load/unload rather than self-employed or independent lumpers. In general, the following perceived benefits may be gained by using a third-party loading/unloading firm:

- The loading/unloading laborers' taxes are paid by the third-party firm, thus eliminating the user from any tax liability;
- Workers' compensation is provided for the loading/unloading laborers; thus in the event of personal injury to the laborer, he/she is covered by the third-party loading/unloading firm;
- Liability insurance is provided; thus in the event of damage to equipment or injury to dock personnel, the third-party loading/unloading firm will cover the cost;
- Quality, on time, dependable, and accountable service is provided by trained, drug-free, professional loading/unloading laborers;
- Loading/unloading fees remain constant; thus the user will know what its loading/unloading costs are before the driver gets to his/her destination;
- Account billing is provided by the third-party loading/unloading firm; thus the driver does not have to carry cash to pay the loading/unloading laborers;
- Hassle-free loading/unloading service is provided with only one contact person required to set up the service; and
- Driver/warehouse supervision of the loading/unloading laborers is eliminated; thus, the driver is able to rest or sleep and the dock workers can go on to other work.

### ***Problems***

Eleven responding third-party loading/unloading firms indicated a wide range of problems their firms have experienced in providing loading/unloading services. However, in general, the following problems may be encountered by a typical third-party loading/unloading firm in providing services:

- The lack of acceptance of third-party loading/unloading firms by some shippers, receivers, and motor carriers. (This results from their failure to distinguish third-party loading/unloading firms from independent lumpers and/or the fact that they do not see the additional benefits third-party loading/unloading firms provide compared with independent laborers);
- Competition from independent laborers who do not pay taxes, carry workers compensation, or liability insurance;
- Fluctuating workloads and backed-up docks;
- Lack of customer fit and satisfactory service;
- Drivers misrepresenting charges, trucking companies withholding payments, and warehouses making wrong counts and not recognizing damaged product when notified;
- Union pressure; and
- Lack of clear communications from the warehouse/trucking companies.

### **User Perspectives on Third-Party Loading/Unloading Firms**

Thus far, this chapter has explored the responses and opinions of third-party loading/unloading firms. In addition, responses and opinions of the users (i.e., motor carriers, shippers, receivers, and drivers) regarding the benefits and problems associated with the operations of third-party loading/unloading firms were explored.

Each of the surveys (motor carrier, shipper, receiver, and driver) contained two or more questions specifically relating to the use of third-party loading/unloading firms. Two of these questions, which were answered only by those firms that had used or had been exposed to third-party loading/unloading firms, were comparable across three of the surveys: the motor carrier, shipper, and receiver. One question inquired about the relative cost or fee per load in using a third-party firm rather than a self-employed or independent lumper. The other question asked the respondents to rate the importance of a given list of possible reasons why their firm decided to use a third-party firm rather than an individual lumper. In addition, one series of questions regarding the treatment of third-party loading/unloading firms versus individual lumpers was comparable across shippers and receivers. The responses to these questions are compared later, but first each perspective (motor carrier, shipper, receiver, and driver) will be examined individually.

### ***The Carrier Perspective***

Motor carriers were asked about their use of third-party firms, the names and locations of third-party firms, the cost of using third-party firms relative to the cost of using independent lumpers, and reasons for using third-party firms. In addition, motor carriers indicated how the availability of third-party loading/unloading firms affected the frequency of lumping. Fifty-three percent (220 out of 418) of motor carrier respondents indicated that they had utilized a third-party loading/unloading firm at some time. In addition, 43 percent (91 out of 214) of these motor carriers believed that the cost per load in using a third-party firm rather than an independent lumper is higher, 37 percent (80 out of 214) believed the cost is approximately the same, and 20 percent (43 out of 214) believed the cost is lower. From the given list of the possible reasons why these motor carrier firms decided to use a third-party firm rather than an individual lumper, the ones that motor carriers considered important (giving 4 or 5 on a 5 point scale, with 5 being most important), are listed in Table IV-3.

In addition, 83 other reasons why these motor carrier firms decided to use a third-party firm rather than an individual lumper were written in by 75 motor carrier respondents. These additional reasons listed most often are presented in Table IV-4.

A final motor carrier view of third-party loading/unloading firms concerns the impact of the availability of third-party firms on the frequency of lumping. Approximately 50 percent (193 out of 385) of the motor carrier respondents indicated that the availability of third-party loading/unloading firms "increases" the frequency of lumping. Forty-four percent (171 out of 385) on the other hand, believe that their availability has "no effect" on the frequency of lumping, while the remaining six percent (21 out of 385) believe that their availability "decreases" the frequency of lumping.

**Table IV-3. Reasons For Third-Party Firm Use:  
The Motor Carrier Perspective**

<b>Importance</b>	<b>Reason</b>	<b>Percent of Respondents<sup>1</sup></b>
1.	Reduction in loading/unloading time	61.6%
2.	Reduction of driver harassment	60.5%
3.	Standardization of loading/unloading fees	52.8%
4.	Reduction of personal injury liability	48.3%
5.	Reduction in loss and damage	39.2%
6.	Removal of tax liability	38.1%
7.	Reduction in record keeping	24.1%

<sup>1</sup> Indicates the percentage of respondents perceiving the reason to be either "Important" or "Very Important" (*i.e.*, either "4" or "5") on the 5 point scale.

Motor carrier respondents were broken down into three groups based on size (Class I, Class II, Class III), commodities hauled (general freight, refrigerated products,

agricultural commodities), and type of operation (common, contract, exempt). Appendix D contains definitions of these terms. The subgroup responses to all of the motor carrier questions related to third-party loading/unloading firms were tested for statistically significant differences. Only three differences were found to be statistically significant at the five percent level. The differences between responses of Class I, Class II, and Class III motor carriers were found to be statistically significant for the question, "Have you ever utilized a third-party firm?" Sixty-five percent (120 out of 185) of Class I carriers had utilized a third-party firm, compared with 47 percent (68 out of 144) of Class II carriers and 36 percent (29 out of 80) Class III carriers.

Another statistically significant difference was found between responses of general freight carriers and carriers of refrigerated commodities for the same question. Fifty percent (90 out of 180) of general freight carriers had utilized a third-party firm, compared with 66 percent (72 out of 110) of carriers of refrigerated products.

**Table IV-4. Additional Reasons For Third-Party Firm Use:  
The Motor Carrier Perspective**

Importance	Additional Reason	Number of Respondents Listing
1.	Required or forced by the shipper/receiver to use	40
2.	Availability of third-party firm or individual lumpers	14
3.	Driver benefit (less fatigue, more hours of service)	6
4.	Quicker loading/unloading (decreased delay)	3
5.	Missed loading/unloading appointment	2
6.	Reliability of third-party firm	2
7.	Convenience of third-party firm	2
8.	Better relationship with receiver/dock workers	2
9.	Lower cost	2

***The Shipper Perspective***

Shippers were asked questions regarding their use of third-party firms, the names and locations of third-party firms, the cost of using third-party firms relative to the cost of using independent lumpers, and reasons for using third-party firms. In addition, shippers were asked questions related to the treatment of third-party loading/unloading firms versus independent lumpers. Fifty-five percent (73 out of 133) of shipper respondents indicated that third-party loading/unloading firms were used to load/unload an average of six percent of their for-hire outbound truckload shipments. Fifty percent (9 out of 18) of these shippers believed that the cost per load in using a third-party loading/unloading firm rather than an individual lumper is approximately the same. On the other hand, 28 percent (5 out of 18) believe the cost is higher and 11 percent (2 out of 18) believe it is much higher. Eleven percent (two out of 18) believe the cost of using a third-party firm is lower than using an

individual lumper. From the given list of the possible reasons why these shipper firms decided to use a third-party firm rather than an individual lumper, the ones that shippers considered important (giving a 4 or 5 on a 5 point scale, with 5 being most important), are listed in Table IV-5.

Shipper respondents were broken down into three groups, based on type of product shipped: large food manufacturers, general shippers, and produce shippers. Appendix D contains definitions of these terms. No differences in responses among the subgroups were found to be statistically significant at the five percent level.

**Table IV-5. Reasons For Third-Party Firm Use:  
The Shipper Perspective**

Importance	Reason	Percent of Respondents <sup>1</sup>
1.	Reduction in loss and damage	61.5%
2.	Standardization of loading/unloading fees	53.8%
3.	Reduction in loading time	46.2%
4.	Reduction of driver harassment	46.2%
5.	Reduction in record keeping	42.9%
6.	Reduction of personal injury liability	42.9%
7.	Removal of tax liability	15.4%

<sup>1</sup> Indicates the percentage of respondents perceiving the reason to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale.

***The Receiver Perspective***

Receivers were also asked questions regarding the use of third-party firms, names and locations of third-party firms, the cost of using third-party firms relative to the cost of using independent lumpers, reasons for using third-party firms, and the treatment of third-party loading/unloading firms versus independent lumpers. In addition, the receiver respondents only were asked which parties (shipper, carrier, or their firm) used the services of third-party lumping firms at their firm's facilities. Forty-three percent (30 out of 70) of receiver respondents indicated that third-party loading/unloading firm laborers were available at their facilities to perform unloading services. Also, 67 percent (20 out of 30) of responding receivers indicated that third-party loading/unloading firms were utilized by carriers, 63 percent (19 out of 30) indicated that they were utilized by their firm, and 47 percent (14 out of 30) indicated that they were utilized by shippers.

Forty-four percent (11 out of 25) of the responding receivers believe that the cost per load in using a third-party lumping firm is about the same as the cost of using an independent lumper. On the other hand, 28 percent (seven out of 25) believe the cost is lower and 12 percent (three out of 25) believe it is higher. Sixteen percent (four out of 25) did not know the relative cost of using a third-party firm compared with using an individual lumper. From the given list of the possible reasons why these receivers



decided to use a third-party firm rather than an independent lumper, the ones that receivers considered important (giving a 4 or 5 on a 5 point scale, with 5 being most important), are listed in Table IV-6.

**Table IV-6. Reasons For Third-Party Firm Use:  
The Receiver Perspective**

<b>Importance</b>	<b>Reason</b>	<b>Percent of Respondents<sup>1</sup></b>
1.	Reduction of personal injury liability	86.4%
2.	Standardization of unloading fees	52.4%
3.	Reduction in loss and damage	47.6%
4.	Reduction in unloading time	47.6%
5.	Removal of tax liability	45.5%
6.	Reduction of driver harassment	38.1%
7.	Reduction in record keeping	36.4%

<sup>1</sup> Indicates the percentage of respondents perceiving the reason to be either "Important" or "Very Important" (*i.e.*, either "4" or "5") on the 5 point scale.

Regarding the set of questions related to the treatment of third-party loading/unloading firms versus individual lumpers, a comparison of responses revealed differences (10 percent or greater) for two out of the 10 questions. First, 90 percent (60 out of 67) of receiver respondents indicated that they allow independent lumpers to unload trailers at their firm's facilities, while 79 percent (33 out of 42) indicated that they allow third-party firms to do the same. Second, 81 percent (54/67) of receiver respondents indicated that they allow carriers to provide their own individual lumpers, while 70 percent (27 out of 39) indicated that they allow carriers to provide their own third-party firms lumpers.

In general, it appears that receivers are more likely to allow independent lumpers, whether they are on their own or brought in with carriers, rather than third-party firm laborers, to unload trailers at their firms' facilities. One third-party firm suggested that some receivers might be reluctant to use third-party firms because it would eliminate their collection of rebates.

Receiver respondents were broken down into three groups, based on type of receiver: discount/department store, non-warehouse receiver, and warehouse. See Appendix D for definitions of these terms. The group responses to all of the receiver questions related to third-party loading/unloading firms were tested for statistically significant differences. No differences among the subgroups with respect to the responses related to the utilization of third-party firms were found to be statistically significant at the five percent level.

### ***The Driver Perspective***

Drivers were asked only two questions regarding third-party firms, one regarding their use of third-party firms, and the other regarding their preference in using a third-party lumping firm instead of an individual lumper. Fifty-seven percent (149 out of 262) of driver respondents indicated that during the past year they had used a laborer provided by a third-party loading/unloading firm. In 1992, when drivers who used third-party loading/unloading firms were given a choice, 31 percent (51 out of 164) “sometimes” used a lumper provided by a third-party firm instead of a self-employed lumper, 29 percent (48 out of 164) “seldom” used a third-party firm lumper, and 10 percent (17 out of 164) “never” used a third-party firm lumper. On the other hand, 18 percent (30 out of 164) “often” used a third-party lumper when given a choice and 11 percent (18 out of 164) “always” used a third-party lumper when given a choice. In summary, drivers appear to have evenly mixed views about which type of lumper (independent or third-party firm) was preferred when given a choice.

### ***Comparisons of Group Responses: Carriers, Shippers, and Receivers***

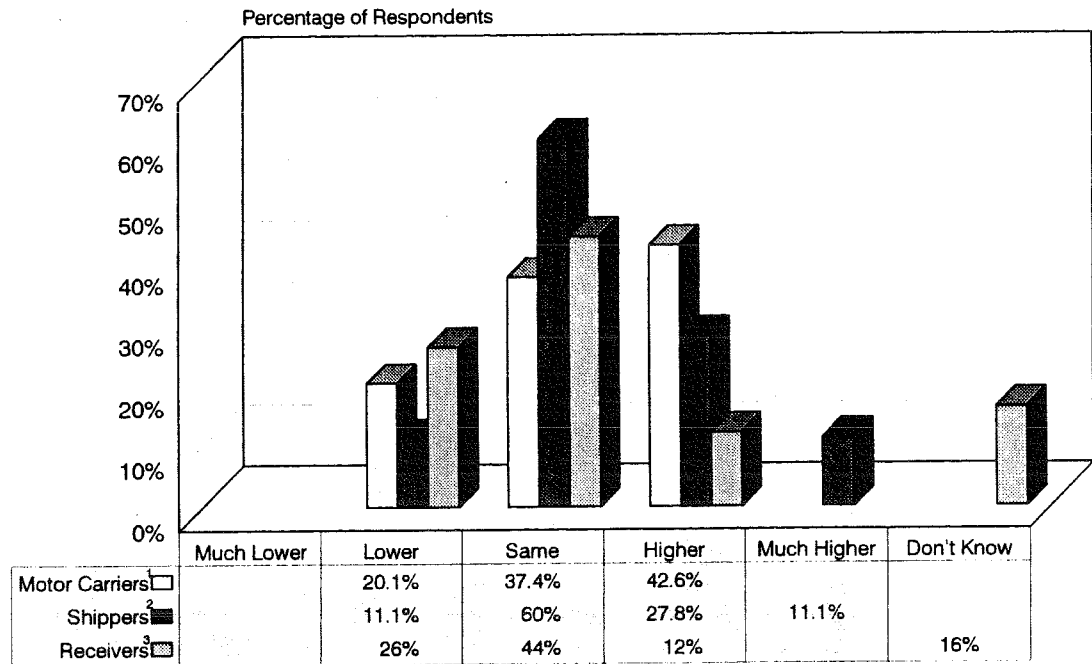
The figures on the following pages illustrate the comparisons among carriers, shippers and receivers with respect to comparable questions asked on the three different surveys. Figure IV-2 illustrates the differences in how motor carriers, shippers, and receivers view the comparative cost per load in using a third-party loading/unloading firm rather than an independent lumper. The largest percentage of shippers and receivers believe the cost of using a third-party firm is approximately the same per load as using an individual lumper, while the largest percentage of motor carriers believe the cost is comparably higher. In addition, a relatively higher percentage of motor carriers and shippers indicated a higher cost per load for third-party firm use than receivers.

As illustrated by Figure IV-3, differences may be detected between parties by how they rated the importance of possible reasons for using a third-party lumping firm rather than an individual lumper. In general, the following tendencies may be inferred from these differences:

- Motor carriers believe the reduction in unloading time is relatively more important than do shippers and receivers.
- Shippers believe the reduction in loss and damage is relatively more important than do motor carriers and receivers.
- Motor carriers believe the reduction in record keeping is relatively less important than do shippers and receivers.
- Motor carriers believe the reduction of driver harassment is relatively more important than do shippers and receivers.
- Receivers believe the reduction of personal injury liability is relatively much more important than do motor carriers and shippers.

- Shippers believe the removal of tax liability is relatively less important than do motor carriers and receivers.
- All parties (motor carriers, shippers, and receivers) place approximately the same importance on the standardization of unloading fees.

**Figure IV-2. Comparative Cost Per Load:  
Third-Party Firm Versus Individual Lumper**



<sup>1</sup> Motor carriers were given the choices—Lower, Same, or Higher;

<sup>2</sup> Shippers were given the choices—Much Lower, Lower, Same, Higher, or Much Higher;

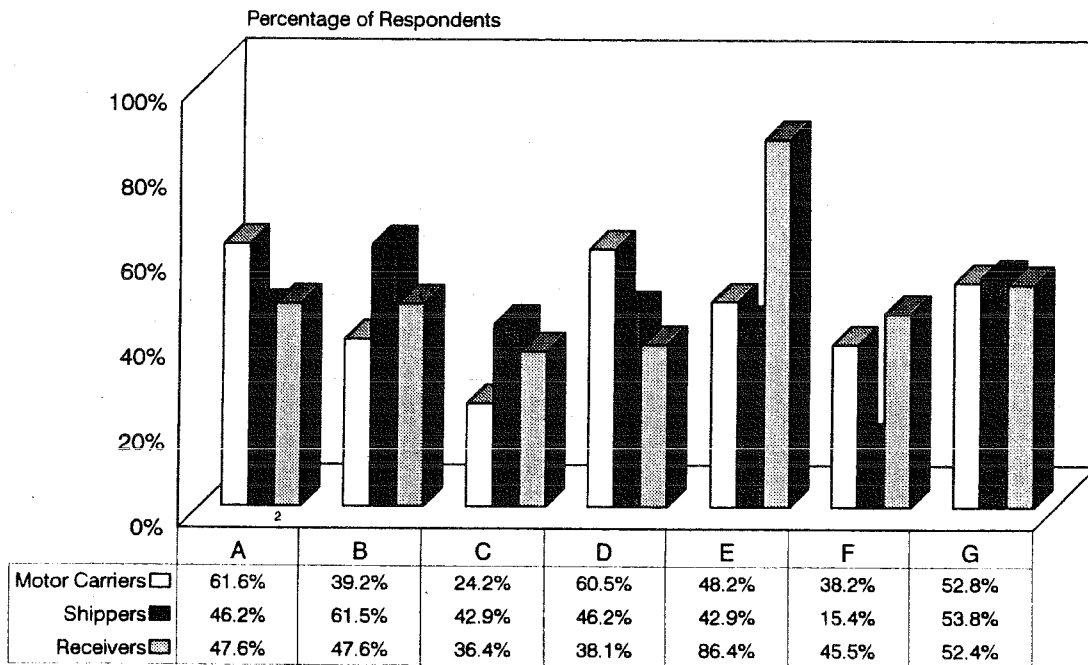
<sup>3</sup> Receivers were given the choices—Lower, Much Lower, Lower, Same, Higher, Much Higher, or Don't Know.

As illustrated by Figure IV-4, a number of differences were detected between shippers and receivers regarding their treatment of third-party firms versus individual lumpers. In general, the following points are suggested regarding these differences:

- Receivers are more likely to allow individual and third-party firm lumpers to load/unload trailers on their firm's facilities than are shippers.
- Receivers are more likely to train third-party firm lumpers to use their firm's handling equipment than are shippers.
- Shippers are more likely to allow individual and third-party lumpers to use their own handling equipment than are receivers.
- Shippers are more likely to arrange for individual and third-party firm lumpers to be available on their firm's facilities than are receivers.

- Receivers are more likely to allow individual and third-party firm lumpers to be on their firm's facilities while not working than are shippers.
- Receivers are more likely to control third-party firms' lumping fees at the dock than are shippers.
- Receivers are more likely to supervise the loading/unloading of freight by individual and third-party lumpers than are shippers.
- Receivers are more likely to allow carriers to provide their own individual lumpers and more likely to allow carriers to provide their own third-party firm lumpers than are shippers.

**Figure IV-3. Reasons for Third-Party Firm Use Considered Important <sup>1</sup>**

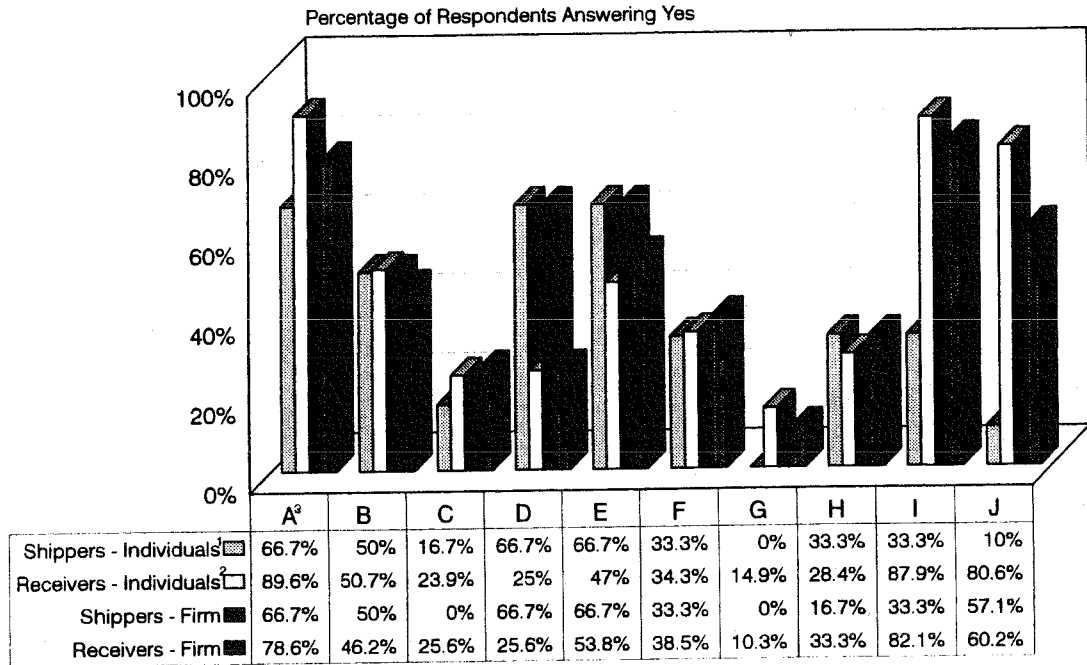


<sup>1</sup> Represents responses 4 or 5 on a 1-5 point scale, with 4 and 5 being more than moderately important

**Reasons for Using Third-Party Firm Considered Important**

- <sup>2</sup>A = Reduction in unloading time
- B = Reduction in loss and damage
- C = Reduction in record keeping
- D = Reduction of driver harassment
- E = Reduction of personal injury liability
- F = Removal of tax liability
- G = Standardization of unloading fees moderately important.

**Figure IV-4. Treatment of Third-Party Firms versus Individual Lumpers**



<sup>1</sup> Individual refers to the treatment of individual lumpers.

<sup>2</sup> Firm refers to the treatment of third-party firms.

**In general, does your firm**

- <sup>3</sup>A = Allow lumpers to unload trailers at your firm's facilities?
- B = Allow lumpers to use your firm's handling equipment?
- C = Train lumpers to use your firm's handling equipment?
- D = Allow lumpers to use their own handling equipment?
- E = Arrange for lumpers to be available at your firm's facilities?
- F = Provide an approved or recommended list of lumpers?
- G = Allow lumpers on your firm's facilities when not working?
- H = Control lumping fees at your firm's dock?
- I = Supervise the unloading of freight by lumpers?
- J = Allow carriers to provide their own lumpers?

**Conclusions and Implications**

**Conclusions**

For the purposes of this study, a third-party loading/unloading firm is defined as an independent business firm that specializes in contracting to provide loading and/or unloading services. A special study was made of these third-party firms because of their potential in mitigating, if not eliminating, some of the problems commonly associated with the use of self-employed, independent lumpers. For example, potential carrier, shipper, receiver, or owner-operator liability under federal, state, and workers' compensation laws may be resolved when using lumping services provided by a third-party loading/unloading firm. If these firms can compete on the

basis of price and service with self-employed lumpers, the use of third-party firms will become an attractive option for motor carriers, shippers, and receivers.

Third-party loading/unloading firms were surveyed along with users of these firms to gain a better understanding of how third-party firms are structured and operated, and how their services are perceived by users. Due to the small number of usable third-party loading/unloading firm surveys which were returned, and the lack of precise information on how large the third-party loading/unloading firm industry is, the findings should be viewed as illustrative but should not be generalized to the population of all third-party loading/unloading firms.

#### ***Key Findings with Respect to the Industry and Market Structure***

***Number of third-party firms.*** The number of third-party firms is larger than what anecdotal evidence suggests, with at least 50 loading/unloading firms and conceivably many more given the responses by receivers and drivers. Interestingly, some third-party firms believe their services are unique and are unaware of other similar firms.

- The responding third-party firms are located throughout the United States with responding firms operating in 18 states and serving at least 140 facilities.

***Third-party industry is new.*** Although the concept of a third-party loading/unloading firm is older than suggested by anecdotal evidence, for the most part, the third-party loading/unloading firm industry is new.

***Industry of small firms.*** The third-party loading/unloading industry is comprised mostly of small firms. The average third-party firm has revenue of about \$700,000 from loading/unloading operations and 40 loading/unloading laborers. Substantial variation in firm size is suggested by the range in the number of laborers, which was from 11 to more than 800.

***Other services offered.*** Most third-party loading/unloading firms offer services in addition to loading/unloading. Approximately half of the firms provided warehousing, half provided temporary employees, one-third provided consulting, and one-fifth provided brokerage. However, loading/unloading services were the primary business for all but one of the respondents.

***Corporate legal form.*** Most third-party firms operate as corporations, while only a couple of firms operate as single proprietorships. Those operating as corporations may do so in order to insulate shareholders from potential legal liability.

#### ***Key Findings with Respect to the Nature/Characteristics of Firms***

***Worker classification and issues.*** Some third-party firms use 100 percent employees, others use 100 percent independent contractors, and others use a mix of both. Those using 100 percent employees may do so because of legal concerns about using independent contractors, although these firms may earn less profit. There appears to

be a move toward using company employees instead of independent contractors because of legal concerns.

- Among the most common sources of third-party firms' laborers were either former dock/warehouse employees, former independent lumpers, college students, or temporary employees.
- The average compensation third-party loading/unloading firm laborers received ranged from \$29.50 and \$90.00 per truckload, with the overall average less than \$50 per truckload.
- Annual turnover of loading/unloading personnel was high, with the range from no turnover to 700 percent. The median turnover rate was 50 percent.

**Commodities handled.** The commodity group most likely to be loaded/unloaded by a third-party firm was refrigerated or frozen foodstuffs. Interestingly, however, two of the third-party respondents handled 100 percent tires.

**Location of service.** Almost all third-party firms provide loading/unloading services at receivers' facilities, while about half serve shippers' facilities, and a third provide loading/unloading services at their own facilities.

**Charge for service.** The average third-party loading/unloading firm would most likely charge between \$40 to \$121 per truckload, with the overall average \$71.

**Nature of contracts.** Many of the firms have prearranged contracts, ranging from two to 96 companies (the median is seven companies). Nearly two-thirds of these prearranged contracts are with motor carriers, while the remaining contracts are split about evenly between shippers and receivers.

- Potential difficulties exist when third-party firms enter into exclusive contractual arrangements with receivers, shippers, and motor carriers. For example, a conflict may arise when carrier X, with an exclusive contractual arrangement with third-party firm A, arrives at a receiver's facility that has an exclusive contractual arrangement with third-party firm B.

#### ***Key Findings with Respect to Third-Party Loading/Unloading Firms' Self-Reported Benefits and Problems***

**Major benefits.** Among the major self-reported perceived benefits reported were the payment of worker taxes, workers' compensation, and liability insurance by the third-party firm. In addition, consistent loading/unloading fees, account billing, and elimination of driver supervision were indicated.

**Major problems .** Among the major problems experienced by third-party firms were the lack of acceptance and unfair competition.

- Lack of acceptance of third-party loading/unloading firms by motor carriers, shippers, and receivers, due in large part to their refusal to distinguish the services provided by third-party firms from services provided by self-employed, independent lumpers, reduces the market potential for third-party firms.
- Competition from self-employed individual lumpers, who do not pay taxes, carry workers' compensation, or liability insurance, makes it difficult for the third-party firm to make a profit.

***Key Findings with Respect to User Perspectives on Third-Party Loading/Unloading Firms***

**Cost.** The largest percentage of shippers and receivers believe the cost of using a third-party firm is approximately the same per load as using an individual lumper, while the largest percentage of motor carriers believe the cost is higher. In addition, a relatively higher percentage of motor carriers and shippers than receivers indicated a higher cost per load for third-party firm use.

**Reasons for use.** Reasons for using third-party loading/unloading firms vary among carriers, shippers, and receivers. Motor carriers ranked the reduction in loading/unloading time and reduction of driver harassment as the two most important reasons. In addition, approximately 20 percent of carrier respondents wrote in that they used third-party firms because they were forced by the shipper or receiver to do so. Both shippers and receivers included standardization of loading/unloading fees in the two most important reasons, but shippers added reduction in loss and damage, while receivers added the reduction of personal injury liability.

***Implications***

This industry analysis of third-party loading/unloading firms has found that motor carriers, shippers, receivers, and drivers, as well as third-party firms, view the use of third-party loading/unloading firms as producing both benefits and problems. The possible benefits of using third-party loading/unloading firms, such as reduced legal and personal injury liability, reduced driver harassment, and standardization of loading/unloading fees, create an incentive for motor carriers, shippers, and receivers to use this type of loading/unloading service. As is the case in any decision to outsource an activity to another firm, the decision to select a particular loading/unloading firm should follow a careful study of its structure (i.e., the relationship of the third-party firm with its workers) and service record.



## CHAPTER V

### EVALUATION OF LUMPING PRACTICES: BENEFITS AND PROBLEMS

#### Introduction

Among the basic tasks of any trucking operation are the loading and unloading of vehicles and trailers. In truckload (TL) operations, these loading/unloading tasks may be performed by a variety of parties including drivers, shipper or receiver personnel, and lumpers. Based on the results of the motor carrier survey, it is estimated that the driver ultimately loads approximately 21 percent and unloads 43 percent of the truckloads transported annually, with the remainder by other parties.

While driver loading/unloading generally is regarded as part of the service provided by package carriers and less-than-truckload (LTL) operators, a commonly held view in the motor carrier industry is that drivers in TL operations should be responsible only for the line haul movement and excluded from loading/unloading tasks. To gain greater insight regarding this view, one question in the motor carrier survey asked respondents to rate the importance on a 5 point scale (1 = Not Important, 5 = Very Important) of a set of possible problems associated with driver loading and unloading. The overall results are presented in Table V-1.

**Table V-1. Problems Associated with Driver Loading and Unloading**

Possible Problems	$\mu^1$	Percent <sup>2</sup>
Increases driver fatigue	4.4	85
Reduces driver on-duty time available for driving	4.3	83
Adversely affects driver morale	4.2	79
Increases driver injuries	4.2	77
Increases actual loading/unloading time	4.0	71
Reduces revenues from inefficient equipment utilization	4.0	69
Decreases carrier's ability to retain and recruit drivers	3.9	66

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the problem to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale.

The greatest potential problems relate to increased driver fatigue (85 percent), reduced on-duty time available for driving (83 percent), adverse effects on driver morale (79 percent), and increased driver injuries (77 percent). Viewed as somewhat

less important problems associated with driver loading and unloading were increased loading/unloading time (71 percent), reduced revenues from inefficient equipment utilization (69 percent), and decreased carrier ability to retain and recruit drivers (66 percent).

One way of alleviating these problems is to have a party other than the driver perform the loading/unloading tasks. A major alternative involves the use of lumpers. In fact, approximately 72 percent of respondents to the motor carrier survey indicated hiring lumpers during 1992. In addition, approximately 55 percent of respondents perceived an "increase" or "significant increase" since 1980 in the percent of truckloads for which lumpers were used.

The remainder of this chapter will be divided into four parts. The first two sections will examine benefits and problems associated with lumping practices from the perspectives of carriers, shippers, receivers, and drivers. The third section will focus on the special case of involuntary lumping and its possible causes as identified in the motor carrier and driver surveys. These were the only surveys that addressed, in a comprehensive manner, the issue of involuntary lumping. (Appendix C contains copies of the survey instruments from which the information on these perspectives was taken. Appendix B indicates the sampling methodology.) Finally, the summary and conclusion will be presented.

## **Benefits Associated with Lumping**

### ***General Discussion***

Given the fact that loading and unloading tasks must be performed, there exist situations involving motor carriers, shippers, receivers, and drivers in which lumpers may clearly provide a beneficial service. For example, if the carrier has legal responsibility for loading/unloading and the driver is either unwilling or unable to perform these tasks. Likewise, carriers may not want to expose their drivers to greater risk of injury and fatigue from loading/unloading, and therefore, encourage use of lumpers. Similarly, shippers or receivers may not want to hire permanent employees to perform loading and unloading tasks when lumpers are viewed as a lower cost option. Using lumpers also shifts the costs from fixed to variable, thereby enhancing the flexibility by facilitating the expansion and contraction of the amount of labor as needed.

Using a series of survey instruments, each party was asked to assess the importance of benefits associated with using lumpers. The findings are summarized below.

### ***Summary Findings***

***Carrier perspectives.*** The motor carrier respondents rated the importance of a set of possible benefits associated with using lumpers on a 5-point scale (1 = Not Important, 5 = Very Important). Table V-2 presents these results based on the percentage of respondents indicating the benefit to be either "Important" or "Very Important" on the 5 point scale.

**Table V-2. Carrier Perspectives: Benefits Associated with Lumping**

Possible Benefits	$\mu^1$	Percent <sup>2</sup>
Reduces driver fatigue	4.2	77
Reduces risk of driver injury from loading and unloading	4.0	70
Increases carrier efficiency by decreasing loading and unloading time	3.6	60
Increases carrier's ability to retain and recruit drivers	3.6	59
Improves relationships with shippers/receivers	3.2	44

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the benefit to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale.

By far the two most important benefits perceived by carriers were (1) a reduction in driver fatigue (77 percent) and (2) a reduction in the risk of driver injury from loading/unloading (70 percent). Other benefits perceived as less important included increased carrier efficiency by decreasing loading and unloading time (60 percent) and increased carrier ability to retain and recruit drivers (59 percent), with the least importance assigned to improved relations with shippers/receivers (44 percent).

**Shipper perspectives.** Shippers perceived (1) improved relations with receivers/customers and (2) reduced loading time during periods of normal demand as the two most important benefits. Using the same 5 point scale previously described in the carrier section, these benefits were rated as being "Important" or "Very Important" by 44 percent and 35 percent of the respondents, respectively. As shown in Table V-3, no other benefit received as high as a 30 percent rating.

These included increased ability of firms to meet peak period demands (29 percent), reduced employee overtime (28 percent), reduced risk of injury to company personnel from loading (25 percent), and reductions in the permanent dock work force (25 percent). Rated as the least important benefits were facilitating loading of late arrivals (23 percent) and improved relations with for-hire carriers (22 percent).

**Receiver perspectives.** Receivers perceived the most important benefits to be (1) increased ability to meet peak period unloading demands (75 percent of the respondents rated the benefit as either "Important" or "Very Important" on the 5 point scale), (2) reduced unloading times during periods of normal demand (67 percent), and (3) facilitating floor load conversions to in-house pallet configurations (67 percent). As indicated in Table V-4, no other benefit received as high as a 60 percent rating.

**Table V-3. Shipper Perspectives:  
Benefits Associated with Lumping**

Possible Benefits	$\mu^1$	Percent <sup>2</sup>
Improves relationships with receivers/customers	2.9	44
Reduces loading time during normal demand times	2.6	35
Increases firm's ability to meet peak period loading demands	2.5	29
Reduces employee overtime	2.4	28
Reduces risk of injury to company personnel from loading	2.5	25
Reduces permanent dock work force	2.3	25
Facilitates loading of late arrivals	2.3	23
Improves relationships with for-hire carriers	2.3	22

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the benefit to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale.

**Table V-4. Receiver Perspectives:  
Benefits Associated with Lumping**

Possible Benefits	$\mu^1$	Percent <sup>2</sup>
Increases firm's ability to meet peak period unloading demands	4.0	75
Reduces unloading time during normal demand times	3.9	68
Facilitates floor load conversion to in-house pallet configurations	3.9	67
Reduces employee overtime	3.4	57
Reduces risk of injury to company personnel from unloading	3.4	54
Facilitates unloading of late deliveries	3.3	50
Reduces permanent dock work force	3.2	46
Improves relationships with for-hire carriers	2.7	27
Improves relationships with vendors/shippers	2.6	23

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the benefit to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale.

Among the more important of these remaining benefits were reduced employee overtime (57 percent), reduced risk of injury to company personnel from unloading (54 percent), facilitation of unloading of late deliveries (50 percent), and reductions in the permanent dock work force (46 percent). Finally, improved relationships with for-hire carriers and improved relationships with vendors/shippers were viewed as least important, with ratings of 27 percent and 23 percent, respectively.

**Driver perspectives.** Due to the fact that the driver survey was administered on-site at three truck stop locations, the survey design was simplified somewhat to facilitate responses within a much shorter time frame. For example, rather than using the 5 point rating scale used in the mail surveys, drivers were presented with a list of possible reasons for using lumpers and were asked to simply check (√) any and all that applied. The results appear in Table V-5.

Drivers identified the most important reasons for using lumpers as (1) being in need of rest and (2) in order to get unloaded faster. These were identified by 81 percent and 71 percent of the respondents, respectively. No other reason was cited by as many as 50 percent of the respondents.

Among the additional reasons for using lumpers were that the type of freight was too physically demanding to load or unload (46 percent), being able to get reimbursed by the carrier, shipper, or receiver (43 percent), and that the shipper or receiver required the use of a lumper (40 percent). According to drivers, the least important reasons cited for using lumpers was that loading and unloading was not part of the driver's

**Table V-5. Driver Perspectives: Reasons for Using Lumpers**

Reasons	Percent <sup>1</sup>
You were too tired (i.e., in need of rest)	81
In order to get unloaded faster (lumper helped you unload so you can get to the next reload)	71
The type of freight made loading or unloading too physically demanding to load or unload	46
You were able to get reimbursed by carrier, shipper, or receiver	43
Shipper or receiver required the use of a lumper	40
Unloading/loading was not part of the driver's job	28
Late arrival (lumper helped to get unloaded before closing or end of appointment slot)	10

<sup>1</sup> Identifies the percentage of driver respondents (N=290) indicating the reason for using lumpers. Respondents could indicate more than one reason.

job (28 percent), and late arrivals necessitated lumper help to unload before closing (10 percent).

### ***Relative Importance of Lumping Benefits***

Because the survey instruments were designed to identify the benefits unique to specific parties (i.e., carriers, shippers, receivers, or drivers), it generally was not possible to directly compare importance ratings. The closest and most valid comparisons involved shippers and receivers. Asked to rate a highly similar set of possible benefits associated with lumping, shippers consistently assigned less importance to benefits than did receivers. This can be explained in part by the fact that lumpers were much less likely to be involved in loading as compared to unloading operations. Only nine percent of shippers indicated that lumpers were involved in loading operations, while 62 percent of receivers indicated lumper involvement in unloading operations.

### ***Analysis by Subgroups***

To gain further insight into the benefits and problems associated with lumping, each of the major parties sampled (motor carriers, drivers, shippers, and receivers) was further segmented into subgroups for statistical analysis. For example, motor carrier respondents were segmented by size of carrier, type of product carried, and type of operation. In contrast, drivers were grouped into three categories: company employee drivers, owner operators, and leased drivers. The receiver respondents were segmented into three subgroups: public warehouses, non-warehouse receivers associated with the food industry, and discount/department stores involved with merchandise. Finally, shippers were subdivided into three categories: large food manufacturers, product growers and shippers, and general shippers belonging to the National Industrial Transportation League (NITL). Appendix D contains definitions of each of these subgroups.

As a general rule, relatively few statistically significant differences were found involving the driver, shipper, and receiver subgroups. In contrast, by far the greatest number of significant differences were found with respect to carrier segmentations. As such, any discussion of segmentation results in the remaining sections of this chapter will focus only on the carrier subgroups.

***Carrier subgroups.*** As mentioned previously, carriers were segmented by size of carrier, type of product carried, and type of operation. With respect to size, the carriers were categorized into three subgroups: Class I, Class II, and Class III. Based on type of product carried, the subgroups were general freight carriers, carriers of refrigerated products, and carriers of agricultural commodities. With respect to type of operation, the subgroups of common, contract, and exempt carriers were used.

Table V-6 shows the perceived benefits associated with lumping based on carrier size. All of the statistically significant differences involve Class III carriers. In all cases these smaller carriers perceived less benefits than perceived by either Class I or Class II carriers. One possible explanation is that a much smaller percentage of Class

III carriers used lumpers (56 percent) than did either Class I (81 percent) or Class II (74 percent) carriers.

**Table V-6. Perceived Benefits by Size of Carrier**

Benefits	Class		
	I	II	III
Increases carrier efficiency by decreasing loading/unloading time	3.8	3.6	3.4 <sup>1, 2</sup>
Increases carrier's ability to retain and recruit drivers	3.8	3.7	3.3 <sup>2</sup>
Improves relationships with shippers/receivers	3.4	3.2	3.0 <sup>NS</sup>
Reduces risk of driver injury from loading/unloading	4.0	4.1	3.7 <sup>3</sup>
Reduces driver fatigue	4.3	4.2	3.9 <sup>2</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of Class I and Class III carriers is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of Class II and Class III carriers is statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.

Table V-7 presents perceived benefits of lumping by type of product carried. Virtually all of the significant differences involved carriers of agricultural commodities. These carriers also perceived fewer benefits than did either the general freight or refrigerated product carriers. As was true for the Class III carriers, one possible explanation is that a much smaller percentage of agricultural commodities carriers were likely to use lumpers (46 percent) than were either general freight (64 percent) or refrigerated product carriers (90 percent).

Lastly, Table V-8 illustrates the perceived benefits associated with lumping based on type of carrier operation. Most of the statistically significant differences found involved the exempt carriers. Similarly, exempt carriers tended to perceive less benefits than was true for either the common or contract carriers.

**Table V-7. Perceived Benefits by Type of Product Carried**

<b>Benefits</b>	<b>General Freight</b>	<b>Refrigerated Products</b>	<b>Agricultural Commodities</b>
Increases carrier efficiency by decreasing loading/unloading time	3.6	3.8	3.1 <sup>1, 3</sup>
Increases carrier's ability to retain and recruit drivers	3.6	3.7	3.1 <sup>2, 3</sup>
Improves relationships with shippers/receivers	3.1	3.4	2.6 <sup>2, 3</sup>
Reduces risk of driver injury from loading/unloading	3.9	4.0	3.5 <sup>3</sup>
Reduces driver fatigue	4.1	4.3	3.9 <sup>2, 3</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of general freight and agricultural commodities carriers is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of refrigerated products and agricultural commodities carriers is statistically significant at the 5 percent level of confidence.

**Table V-8. Perceived Benefits by Type of Carrier Operation**

<b>Benefits</b>	<b>Common</b>	<b>Contract</b>	<b>Exempt</b>
Increases carrier efficiency by decreasing loading/unloading time	3.4	3.8	3.2 <sup>1, 2, 3</sup>
Increases carrier's ability to retain and recruit drivers	3.2	3.9	3.2 <sup>2, 3</sup>
Improves relationships with shippers/receivers	3.0	3.3	2.9 <sup>NS</sup>
Reduces risk of driver injury from loading/unloading	3.7	4.0	3.5 <sup>2, 3</sup>
Reduces driver fatigue	3.9	4.3	3.7 <sup>2, 3</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of common and contract carriers is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of contract and exempt carriers is statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.



## **Problems Associated with Lumping**

### ***General Discussion***

Just as the various parties perceive definite benefits associated with lumping, so do they perceive the existence of problems. This section examines these problems. One problem area relates to costs and, specifically, the high costs and variations in the cost of hiring lumpers.

Another problem area of more recent and increasing importance relates to liability. For example, this might relate to exposure to tax liability or exposure to liability due to injury to the lumper. A third problem area relates to operations and the fact that carriers and drivers face increased waiting time to load and unload if lumpers are not used. Added to this is the problem of forced or involuntary use of lumpers when not needed.

To measure the importance of these problems and others, each of the major parties was asked in a portion of their questionnaire to identify the major problems faced with respect to lumping. Summaries of the findings for each party are presented in the following paragraphs.

### ***Summary Findings***

***Carrier perspectives.*** Carriers identified the major problems associated with lumping as (1) the high cost of hiring lumpers, (2) increased waiting time to load/unload if lumpers are not used, (3) shipper/receiver reimbursement to the carrier is not sufficient, (4) forced use of lumpers when not needed, and (5) variations in the cost of hiring lumpers. As indicated in Table V-9, each of these problems was cited as "Important" or "Very Important" on a 5 point scale by 75 percent or more of respondents. No other problem received as high as a 70 percent rating.

Among the additional problems cited were the following: collusion between shipper/receiver and lumper (68 percent), exposure to liability due to injury to lumpers (64 percent), driver must pay lumpers cash (63 percent), harassment of drivers (63 percent), exposure to tax liability (62 percent), lost business due to refusal to use lumpers (59 percent), and increased loss and damage claims (52 percent). Identified as the least important problems associated with lumping were collusion between driver and lumper (49 percent), record keeping required when using lumpers (44 percent), and the unavailability of lumpers when needed (43 percent).

**Table V-9. Carrier Perspectives: Problems Associated with Lumping**

Possible Problems	$\mu^1$	Percent <sup>2</sup>
High cost of hiring lumpers	4.5	87
Increased waiting time to load/unload if lumpers aren't used	4.4	85
Shipper/receiver reimbursement to carrier not sufficient	4.3	81
Forced use of lumpers when not needed	4.2	80
Variations in cost of hiring lumpers (no standard price)	4.1	75
Collusion between shipper/receiver and lumper	4.0	68
Exposure to liability due to injury to lumper	3.8	64
Harassment of driver	3.8	63
Driver must carry cash to pay lumpers	3.8	63
Exposure to tax liability	3.8	62
Lost business due to refusal to use lumpers	3.7	59
Increased loss and damage claims	3.6	52
Collusion between driver and lumper	3.4	49
Record keeping required when using lumpers	3.3	44
Unavailability of lumpers when needed	3.2	43

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the problem to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale.

**Shipper perspectives.** Shippers concurred with carriers by identifying the (1) high cost of hiring lumpers and (2) forced use of lumpers when not needed as being the most important problems associated with lumping. Each of these problems was cited as "Important" or "Very Important" by 70 percent of the respondents. As shown in Table V-10, no other problem received as high as a 60 percent rating.

Additional problems included inability to monitor lumper activity at the unloading site (57 percent), exposure to liability due to injury to the lumper (56 percent), variations in the cost of hiring lumpers (54 percent), increase in loss and damage (50 percent), exposure to tax liability (49 percent), and collusion between lumper and driver at the unloading site (49 percent). Cited as the least important problems were record keeping required when using lumpers (43 percent) and the unavailability of lumpers when needed (41 percent).

**Table V-10. Shipper Perspectives: Problems Associated with Lumping**

Possible Problems	$\mu$ <sup>1</sup>	Percent <sup>2</sup>
High cost of hiring lumpers	3.9	70
Forced use of lumpers when not needed	3.9	70
Inability to monitor lumper activity at the unloading site	3.6	57
Exposure to liability due to injury to lumper	3.4	56
Variations in cost of hiring lumpers (no standard price)	3.5	54
Increase in loss and damage	3.5	50
Collusion between lumper and driver at the unloading site	3.3	49
Exposure to tax liability	3.2	49
Conflict with your firm's employees	3.1	46
Record keeping required when using lumpers	3.1	43
Unavailability of lumpers when needed	3.1	41

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the problem to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale

**Receiver perspectives.** Receivers differed noticeably from carriers and shippers by identifying the major problems as (1) exposure to liability due to injury to lumpers (62 percent of the respondents rated the problem as either "Important" or "Very Important"), (2) increase in loss and damage (44 percent), and (3) unavailability of lumpers when needed (44 percent). As revealed in Table V-11, no other problem received as high as a 40 percent rating.

Among the additional problems cited were exposure to tax liability (38 percent), variations in the cost of hiring lumpers (35 percent), high cost of hiring lumpers (34 percent), conflict with your firm's employees (34 percent), and inability to monitor lumper activities (33 percent). Identified as the least important problem facing receivers was the record keeping required when using lumpers (25 percent).

**Table V-11. Receiver Perspectives: Problems Associated with Lumping**

Possible Problems	$\mu^1$	Percent <sup>2</sup>
Exposure to liability due to injury to lumper	3.6	62
Increase in loss and damage	3.0	44
Unavailability of lumpers when needed	3.0	44
Exposure to tax liability	2.8	38
Variations in cost of hiring lumpers (no standard price)	2.6	35
High cost of hiring lumpers	2.7	34
Conflict with your firm's employees	2.7	34
Inability to monitor lumper activities	2.7	33
Record keeping required when using lumpers	2.4	25

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the problem to be either "Important" or "Very Important" (i.e., either "4" or "5") on the 5 point scale.

**Driver perspectives.** As previously discussed in the section on benefits, the survey instrument for drivers was different from mail surveys to other parties to facilitate responses "on site" at truck stop locations. In the case of problems, drivers were presented with a list of possible reasons for not using lumpers and were asked to check any and all that might apply. The overall results appear in Table V-12.

Drivers identified the major reasons for not using lumpers as (1) the cost of lumpers exceeds carrier reimbursement (identified by 64 percent of respondents), (2) risks associated with carrying cash to pay lumpers (37 percent), and (3) the driver wants the additional income from any loading/unloading allowance (31 percent). No other problem was cited by as many as 25 percent of respondents. Among these less important problems were increased damage claims (22 percent), increased claims for shortages (22 percent), and increased record keeping (16 percent).

Drivers also were asked to identify the geographical regions within the United States in which they experienced the greatest frequency of lumping-related problems during the past year. In response, approximately 30 percent of drivers indicated that the frequency of lumping problems was the "same" throughout the United States.

In terms of specific regions, drivers indicated that they experienced the greatest frequency of lumping-related problems in areas roughly defined as the Middle Atlantic (34 percent) and Midwest states (31 percent) and to a somewhat lesser extent on the West Coast (23 percent) and in the South Atlantic states (21 percent). No other area was identified by more than 15 percent of driver respondents. It should be noted that drivers were permitted to identify more than one geographical area in their

**Table V-12. Driver Perspectives: Reasons for Not Using Lumpers**

Reasons	Percent <sup>1</sup>
Cost of lumpers exceeds carrier reimbursement to you	64
Risks associated with carrying cash to pay lumpers	37
You want additional income from loading/unloading allowance	31
Increases claims for shortage	22
Increases damage claims	22
Increases record keeping	16

<sup>1</sup> Identifies the percentage of driver respondents (N=290) indicating the reason for not using lumpers. Respondents could indicate more than one reason.

responses.

***Relative Importance of Lumping Problems***

Asked to rate a highly similar set of problems associated with lumping, receivers (with few exceptions) consistently attached less importance to problems than did shippers. This is a rather clear indication that receivers tend to view lumping as being less problematic than do shippers. Likewise, to the extent comparability existed, carrier respondents tended to attach greater importance to lumping-related problems than did either shipper or receiver respondents. Moreover, carriers attached high importance to a greater number of problems than was true for the other parties. These findings appear to indicate that carriers generally perceive lumping problems as being more serious than do shippers or receivers.

***Analysis by Subgroups***

As was the case for benefits, analyses were based on carrier segmentations involving size, commodity carried, and operations with respect to the problems associated with lumping. Table V-13 shows perceived problems based on carrier size. Most of the significant differences involved Class III carriers. Likewise, these smaller carriers attached less importance to lumping problems than is true for either Class I or Class II carriers. As was true for benefits, this may, at least in part, be explained by less use of lumpers by Class III carriers than either Class I or Class II carriers.

Table V-14 presents perceived problems based on commodity hauled. As was true for benefits, virtually all of the significant differences involved carriers of agricultural commodities. In general, these carriers tended to attach less importance to problems of lumping than either of the other subgroups.

Finally, Table V-15 illustrates problems associated with lumping based on carrier operations. In general, relatively few statistically significant differences were found. Most of the differences found involved comparisons of common with contract carriers.

**Table V-13. Perceived Problems by Size of Carrier**

Benefits	Class		
	I	II	III
Collusion between driver and lumper	3.5	3.6	3.1 <sup>1, 2, 3</sup>
Collusion between shipper/receiver and lumper	4.1	4.0	3.6 <sup>2, 3</sup>
High cost of hiring lumpers	4.6	4.6	4.2 <sup>2, 3</sup>
Variations in cost of hiring lumpers (no standard price)	4.2	4.3	3.8 <sup>2, 3</sup>
Shipper/receiver reimbursement to carrier not sufficient	4.4	4.5	3.9 <sup>2, 3</sup>
Driver must carry cash to pay lumpers	3.6	4.0	3.8 <sup>4</sup>
Exposure to tax liability	3.7	3.9	3.7 <sup>NS</sup>
Exposure to liability due to injury to lumper	3.8	3.9	3.6 <sup>NS</sup>
Increased loss and damage claims	3.6	3.6	3.5 <sup>NS</sup>
Harassment of driver	3.9	3.9	3.6 <sup>NS</sup>
Forced use of lumpers when not needed	4.3	4.3	4.0 <sup>NS</sup>
Increased waiting time to load/unload if lumpers are not used	4.4	4.6	4.2 <sup>3</sup>
Lost business due to refusal to use lumpers	3.6	3.5	3.5 <sup>NS</sup>
Record keeping required when using lumpers	3.3	3.5	3.0 <sup>3</sup>
Unavailability of lumpers when needed	3.3	3.4	3.1 <sup>NS</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of Class I and Class III carriers is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of Class II and Class III carriers is statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the means of Class I and Class II carriers is statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.

**Table V-14. Perceived Problems by Type of Product Carried**

<b>Problems</b>	<b>General Freight</b>	<b>Refrigerated Products</b>	<b>Agricultural Commodities</b>
Collusion between driver and lumper	3.4	3.4	3.0 <sup>1, NS</sup>
Collusion between shipper/receiver and lumper	4.0	4.0	3.3 <sup>2, 3</sup>
High cost of hiring lumpers	4.4	4.7	4.3 <sup>NS</sup>
Variations in cost of hiring lumpers (no standard price)	4.1	4.2	3.9 <sup>NS</sup>
Shipper/receiver reimbursement to carrier not sufficient	4.2	4.4	3.9 <sup>3</sup>
Driver must carry cash to pay lumpers	3.7	3.7	3.8 <sup>NS</sup>
Exposure to tax liability	3.8	3.7	3.7 <sup>NS</sup>
Exposure to liability due to injury to lumper	3.7	3.8	3.7 <sup>NS</sup>
Increased loss and damage claims	3.5	3.5	3.4 <sup>NS</sup>
Harassment of driver	3.7	3.9	3.6 <sup>NS</sup>
Forced use of lumpers when not needed	4.2	4.4	3.8 <sup>2, 3</sup>
Increased waiting time to load/ unload if lumpers are not used	4.4	4.5	4.0 <sup>3</sup>
Lost business due to refusal to use lumpers	3.6	3.8	3.2 <sup>NS</sup>
Record keeping required when using lumpers	3.2	3.3	3.3 <sup>NS</sup>
Unavailability of lumpers when needed	3.3	3.3	3.2 <sup>NS</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of general freight and agricultural commodities carriers is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of refrigerated product and agricultural commodities carriers is statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.

**Table V-15. Perceived Problems by Type of Carrier Operation**

<b>Problems</b>	<b>Common</b>	<b>Contract</b>	<b>Exempt</b>
Collusion between driver and lumper	3.2	3.5	2.9 <sup>1, 3</sup>
Collusion between shipper/receiver and lumper	3.7	4.1	3.4 <sup>3</sup>
High cost of hiring lumpers	4.2	4.6	4.4 <sup>4</sup>
Variations in cost of hiring lumpers (no standard price)	4.0	4.2	3.9 <sup>NS</sup>
Shipper/receiver reimbursement to carrier not sufficient	4.0	4.4	4.1 <sup>4</sup>
Driver must carry cash to pay lumpers	3.7	3.8	3.6 <sup>NS</sup>
Exposure to tax liability	3.8	3.8	3.6 <sup>NS</sup>
Exposure to liability due to injury to lumper	3.7	3.9	3.5 <sup>NS</sup>
Increased loss and damage claims	3.5	3.6	3.4 <sup>NS</sup>
Harassment of driver	3.7	3.9	3.5 <sup>NS</sup>
Forced use of lumpers when not needed	4.1	4.3	4.1 <sup>NS</sup>
Increased waiting time to load/ unload if lumpers are not used	4.2	4.6	4.2 <sup>4</sup>
Lost business due to refusal to use lumpers	3.5	3.7	3.5 <sup>NS</sup>
Record keeping required when using lumpers	3.1	3.4	3.3 <sup>NS</sup>
Unavailability of lumpers when needed	3.1	3.4	2.9 <sup>NS</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of common and exempt carriers is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of contract and exempt carriers is statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the means of common and contract carriers is statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.

## **The Special Case of Involuntary Lumping: Carrier and Driver Perspectives**

### ***General Discussion***

This part of the chapter will focus on the special case of involuntary lumping and its possible causes as identified in the motor carrier and driver surveys. As mentioned previously, these were the only surveys that addressed in a comprehensive fashion the issue of involuntary lumping. The rationale for this is that carriers and drivers are the parties most directly affected by involuntary lumping activities and that



enactment of the illegal lumping provisions in the Motor Carrier Act of 1980 were aimed specifically at protecting them from abuses. The relevant provisions of the Motor Carrier Act of 1980 pertaining to illegal lumping activities previously were presented in Figure II-1 in Chapter II. It is important to note that involuntary lumping as described in this section is not necessarily the same as illegal lumping under the Motor Carrier Act of 1980. For example, involuntary lumping may refer to instances when the carrier or driver was required by the shipper or receiver to use a lumper. However, this does not indicate the amount of illegal lumping under the act because if the shipper or receiver provided and paid for the lumper or reimbursed the carrier for using the lumper, the practice would be considered legal. In contrast, if the driver or carrier is required to use a lumper and the shipper or receiver did not provide and pay for the lumper nor reimburse the carrier for using a lumper, the practice would be considered illegal under the 1980 Motor Carrier Act provisions.

### ***Frequency and Importance***

Motor carriers were asked to estimate the extent to which they used lumping services and the amount of these services they perceived to be involuntary. The overall results indicate that the forced use of lumpers is not an infrequent event. For example, the motor carrier respondents indicated that 21 percent of all truckloads involved the use of lumpers on an involuntary basis. In other words, involuntary lumping was involved in approximately one out of every five truckloads of carriers using lumpers during 1992.

Similarly, drivers were asked to indicate how often they were required by shippers or receivers to use and pay for a lumper without being compensated for it. These situations most likely would represent cases of illegal lumping under the Motor Carrier Act of 1980. Drivers indicated that for floor loads involving the use of lumpers, approximately 29 percent of the time they were either "often" (12 percent) or "always" (17 percent) required to use and pay for lumpers without being compensated for it. Drivers also indicated that when lumpers were used to breakdown or repalletize loads, approximately 25 percent of the time they were either "often" (nine percent) or "always" (16 percent) required to use and pay for lumpers without being compensated for it.

Finally, a question on both the carrier and shipper surveys asked respondents to rate the importance of involuntary lumping as a problem associated with lumping on a 5 point scale ranging from 1 = Not Important to 5 = Very Important. Results indicated that involuntary or forced use of lumpers is viewed by carrier and shipper respondents as an important problem. Carriers and shippers indicated that "forced use of lumpers when not needed" was rated as an "Important" or "Very Important" problem by 80 percent and 70 percent of the respondents, respectively.

### ***Major Causes of Involuntary Lumping***

Both motor carriers and drivers were asked to identify the possible causes of involuntary lumping. In the case of motor carriers, respondents were asked to rate the importance of a set of possible causes on a 5 point scale (1 = Not Important, 3 =

Moderately Important, and 5 = Very Important). Findings indicated that carrier respondents perceived the following as being the most important causes of involuntary lumping: (1) lack of ICC enforcement, (2) market power favors shippers/receivers, and (3) unrealistic loading/unloading schedules at shipper/receiver facilities. Each of these reasons was cited as being either “Important” or “Very Important” by at least 66 percent of the respondents. As shown in Table V-16, no other cause received higher than a 60 percent rating.

Among these less important causes cited for involuntary lumping were that the responsibility to load/unload is not communicated between shipper and receiver, and the fact that the responsibility to load/unload is not specified. These causes were rated as being “Important” or “Very Important” by 60 percent and 54 percent of the carrier respondents, respectively.

**Table V-16. Carrier Perspectives: Causes of Involuntary Lumping**

Possible Causes	$\mu$ <sup>1</sup>	Percent <sup>2</sup>
Lack of ICC enforcement	4.2	75
Market power favors shippers/receivers	4.1	73
Unrealistic loading/unloading schedules at shipper/receiver facilities	3.9	66
Responsibility to load/unload is not communicated between shipper and receiver	3.7	60
Responsibility to load/unload is not specified	3.6	54

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, and 5 = Very Important.

<sup>2</sup> Indicates the percentage of respondents perceiving the cause to be either “Important” or “Very Important” (i.e., either “4” or “5”) on the 5 point scale.

In the case of drivers, respondents were presented with a set of possible reasons for involuntary lumping and asked to simply identify any and all they believed to be applicable. The results are presented in Table V-17.

Drivers identified the most important reason for involuntary lumping as (1) a general attitude of shippers, receivers, or carriers that exploits truck drivers and (2) the lack of ICC enforcement. Both of these reasons were mentioned by approximately 72 percent of the drivers. No other reason was mentioned by more than 45 percent of respondents. Among these less important reasons for involuntary lumping was a scheme to provide extra income to the employees of shippers or receivers (mentioned by 45 percent of drivers), unrealistic loading/ unloading schedules at the shipper or receiver facility (35 percent), union labor rules at shipper or receiver facility (31 percent), and greater bargaining power of shipper or receiver (27 percent).

**Table V-17. Driver Perspectives: Reasons for Involuntary Lumping**

Possible Reasons	Percent <sup>1</sup>
A general attitude of shippers, receivers, or carriers that exploits truck drivers	73
Lack of ICC enforcement	72
A scheme to provide extra income to the employees of shipper or receiver	45
Unrealistic loading/unloading schedules at shipper/receiver facilities	35
Union labor rules at shipper or receiver facility	31
Greater bargaining power of shipper or receiver	27

<sup>1</sup> Identifies the percentage of respondents indicating the reason for involuntary lumping. Respondents could indicate more than one reason.

***Involuntary Lumping: Additional Views***

Carriers and drivers also were asked a number of open-end questions dealing with the problem of involuntary lumping. These open-end, or relatively unstructured, questions permitted the respondents to answer using their own words and opinions rather than being given a limited set of answers of which to rate the importance or with which to indicate their agreement ( *i.e.*, close-end questions).

In the case of drivers, one question asked them to “describe any methods used by shippers or receivers to force you to use and pay for a lumper without compensating you for it.” Results indicated that the most common methods reportedly being used to force drivers to use lumpers include (1) delaying unloading if a lumper is not used, (2) not being allowed to unload without hiring a lumper, (3) restricting the time permitted to unload, (4) requiring the load to be broken down or repalletized, and (5) permitting lumper use of handling equipment, but requiring the driver to hand unload.

Drivers also were asked, “How did you respond to these situations ( *i.e.*, involuntary or forced lumping)?” Approximately 55 percent of the drivers responding to this question reported that their most common response to dealing with situations involving coercion is to simply “hire the lumper.” No other response was mentioned by more than 10 percent of respondents. These included “getting mad or complaining” (10 percent) and “calling their company or dispatcher for instructions” (five percent).

It is interesting to note that, based on the methods reportedly used to force drivers to use a lumper, the nature of involuntary lumping has changed since the passage of the Motor Carrier Act of 1980. In general, driver comments support the view that the nature of involuntary lumping has changed from “physical coercion” (based on threats of violence) to a more subtle “economic coercion” (based on the consequences of waiting time, etc.).

Finally, motor carriers were asked several questions that attempted to identify and assess carrier responses and efforts to deal with the problem of involuntary lumping. One question asked, "In general, how successful were these attempts?" Given the options of "Not Successful," "Moderately Successful," or "Very Successful," 43 percent of the carriers indicated they were not successful, 37 percent reported being moderately successful, and only 20 percent reported being very successful. This is a clear indication that motor carriers continue to seek successful approaches to dealing with the problem of involuntary lumping.

A subsequent analysis was made of the attempts being undertaken by respondents who reported they were "very successful" in dealing with the problem of involuntary lumping. This analysis found that by far the most successful attempts related to what might be described as shipper/receiver avoidance. That is, accounts, traffic lines, or facilities in which forced lumping occurred would be avoided. This approach was mentioned by approximately 60 percent of the carrier respondents who indicated they were "very successful" in dealing with involuntary lumping. No other approach or attempt was mentioned by as many as 10 percent of respondents.

#### *Analysis by Subgroups*

As was the case for the benefits and problems associated with lumping, analyses of carrier subgroups were undertaken to identify the major causes of involuntary lumping. Table V-18 presents the analysis based on carrier size. In general, Class III carriers assign less importance to causes of involuntary lumping than do the other subgroups. Again, this may reflect differences in usage (i.e., less usage).

**Table V-18. Causes of Involuntary Lumping by Size of Carrier**

Benefits	Class		
	I	II	III
Market power favors shippers/receivers	4.3	4.1	3.8 <sup>1,2</sup>
Lack of ICC enforcement	4.2	4.3	3.8 <sup>2,3</sup>
Responsibility to load/unload is not specified	3.4	3.8	3.6 <sup>4</sup>
Responsibility to load/unload is not communicated between shipper and receiver	3.6	3.9	3.6 <sup>NS</sup>
Unrealistic loading/unloading schedules at shipper/receiver facilities	3.8	4.0	3.7 <sup>NS</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of Class I and Class III carriers is statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of Class II and Class III carriers is statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the means of Class I and Class II carriers is statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.

Table V-19 illustrates the causes of lumping as perceived by carriers hauling different commodities. The most significant differences involved carriers of agricultural commodities. Likewise, these carriers generally attached less importance to these causes than did other subgroups.

**Table V-19. Causes of Involuntary Lumping by Type of Product Carried**

Causes	General Freight	Refrigerated Products	Agricultural Commodities
Market power favors shippers/receivers	4.0	4.3	3.5 <sup>1, 2, 3</sup>
Lack of ICC enforcement	4.1	4.3	3.5 <sup>2, 3</sup>
Responsibility to load/unload is not specified	3.5	3.5	3.4 <sup>NS</sup>
Responsibility to load/unload is not communicated between shipper and receiver	3.7	3.8	3.5 <sup>NS</sup>
Unrealistic loading/unloading schedules at shipper/receiver facilities	3.8	4.0	3.4 <sup>3</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of general freight and agricultural commodities carriers was statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of refrigerated products and agricultural commodities carriers was statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the means of general freight and refrigerated product carriers was statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.

Finally, Table V-20 presents an analysis of causes by type of carrier operation. In general, significant differences involved exempt carriers and highlighted their tendency to attach less importance to the causes of involuntary lumping.

**Table V-20. Causes of Involuntary Lumping by Type of Carrier Operation**

Causes	Common	Contract	Exempt
Market power favors shippers/receivers	3.9	4.2	3.6 <sup>1, 3</sup>
Lack of ICC enforcement	3.8	4.3	3.9 <sup>4</sup>
Responsibility to load/unload is not specified	3.4	3.7	3.3 <sup>NS</sup>
Responsibility to load/unload is not communicated between shipper and receiver	3.5	3.8	3.1
Unrealistic loading/unloading schedules at shipper/receiver facilities	3.8	3.8	3.7 <sup>NS</sup>

<sup>1</sup> Indicates the arithmetic mean on a 5 point scale where 1 = Not Important, 3 = Moderately Important, 5 = Very Important.

<sup>2</sup> The difference between the means of common and exempt carriers was statistically significant at the 5 percent level of confidence.

<sup>3</sup> The difference between the means of contract and exempt carriers was statistically significant at the 5 percent level of confidence.

<sup>4</sup> The difference between the means of the common and exempt carriers was statistically significant at the 5 percent level of confidence.

<sup>NS</sup> No statistically significant differences were found.

## Summary and Conclusions

To fully and fairly evaluate the services provided by lumpers, perspectives of all the different groups using or allowing the use of lumpers were systematically sought in a series of survey instruments. These surveys attempted to identify the importance of benefits and problems associated with lumpers and lumping practices. In addition, views were sought on the problem of involuntary lumping.

### *Key Findings with Respect to Perceived Benefits*

**Carrier benefits.** Motor carriers viewed (1) reduced driver fatigue and (2) reduced risk of driver injury from loading and unloading as the two most important benefits. These benefits were rated as being “Important” or “Very Important” by 77 percent and 70 percent of the respondents, respectively.

**Shipper benefits.** Shippers perceived (1) improved relations with receivers/customers and (2) reduced loading time during periods of normal demand as the two most important benefits. These benefits were rated as being “Important” or “Very Important” by 44 percent and 35 percent of the respondents, respectively.

**Receiver benefits.** Receivers perceived the most important benefits to be (1) increased ability to meet peak period unloading demands (75 percent of the respondents rated the benefits as either “Important” or “Very Important”), (2) reduced unloading times during periods of normal demand (67 percent), and (3) facilitating floor load conversions to in-house pallet configurations (67 percent).

***Driver benefits.*** Drivers identified the most important reasons for using lumpers as (1) to get some rest and (2) to get unloaded faster. These were identified by 81 percent and 71 percent of the respondents, respectively.

***Relative importance of lumping benefits .*** Shippers tended to consistently assign less importance to a similar set of possible benefits than did receivers.

***Key Findings with Respect to Perceived Problems***

***Carrier problems.*** Carriers identified the major problems as (1) the high cost of hiring lumpers, (2) increased waiting time to load/unload if lumpers are not used, (3) shipper/receiver reimbursement to carrier is not sufficient, (4) forced use of lumpers when not needed, and (5) variations in the cost of hiring lumpers. Each of these problems was cited as “Important” or “Very Important” by 75 percent or more of respondents.

***Shipper problems.*** Shippers concurred with carriers by identifying the (1) high cost of hiring lumpers and (2) forced use of lumpers when not needed as being the most important problems associated with lumping. Each of these problems was cited as “Important” or “Very Important” by 70 percent of the respondents.

***Receiver problems.*** Receivers differed significantly from carriers and shippers by identifying the major problems as (1) exposure to liability due to injury to lumpers (62 percent of the respondents rated the problem as either “Important” or “Very Important”), (2) increase in loss and damage (44 percent), and (3) unavailability of lumpers when needed (44 percent).

***Driver problems.*** Drivers identified the major reasons for not using lumpers as (1) cost of lumpers exceeds carrier reimbursement (identified by 64 percent of the respondents), (2) risks associated with carrying cash to pay lumpers (37 percent), and (3) driver wants additional income from loading/unloading allowance (31 percent).

- Approximately 30 percent of drivers indicated that the frequency of lumping problems was the same throughout the United States.
- In terms of specific regions, drivers indicated that they experienced the greatest frequency of lumping-related problems in areas roughly defined as the Middle Atlantic (34 percent) and Midwest states (31 percent) and to a somewhat lesser extent on the West Coast (23 percent) and in the South Atlantic states (21 percent).

***Relative importance of lumping problems.***

- Receivers view lumping as being less problematic than do shippers. Receivers, with few exceptions, consistently attached less importance to a similar set of problems than did shippers.
- In general, carriers tend to view lumping problems as being more important than do either shippers or receivers.

***Key Findings with Respect to Problem of Involuntary Lumping***

***Forced use of lumpers is not an infrequent event.*** In 1992, for those carriers using lumpers, approximately one out of five truckloads involved the involuntary use of lumpers.

***Involuntary lumping is an important problem.*** Involuntary or forced use of lumpers is viewed by both carrier and shipper respondents as an important problem. Carriers and shippers indicated that "forced use of lumpers when not needed" was rated as an "Important" or "Very Important" problem by 80 percent and 70 percent of the respondents, respectively.

***Major causes of involuntary lumping.***

- Motor carriers indicated the following as being the most important causes of involuntary lumping: (1) lack of ICC enforcement, (2) market power favors shippers/receivers, and (3) unrealistic loading/unloading schedules at shipper/receiver facilities. Each of these reasons was cited as being either "Important" or "Very Important" by at least 66 percent of the respondents.
- Drivers indicated the most important reasons for involuntary lumping as (1) a general attitude of shippers, receivers, or carriers that exploits truck drivers and (2) the lack of ICC enforcement. Both of these reasons were mentioned by about 72 percent of the drivers.

***Nature of involuntary lumping has changed.*** In general, driver comments support the view that the nature of involuntary lumping has changed from "physical coercion" (based on the threats of violence) to a more subtle "economic coercion" (based on consequences of waiting time, etc.).

- The most common methods reportedly being used to force drivers to use lumpers include (1) delaying unloading if a lumper is not used, (2) not being allowed to unload without hiring a lumper, (3) not being allowed sufficient time to unload, (4) requiring the load to be broken down or repalletized, and (5) permitting lumper use of handling equipment, but requiring the driver to hand unload.
- Drivers report that their most common response (by over 50 percent of the drivers) to dealing with situations involving coercion is to simply "hire the lumper."

***Motor carriers continue to seek successful approaches to deal with the problem.*** Of the carriers attempting to deal with the problem of involuntary lumping, approximately half viewed these efforts as unsuccessful while only 20 percent perceived these efforts as being very successful. As a general rule, the most successful attempts related to what can be described as shipper/receiver avoidance.



That is, carriers attempted to avoid shipper and receiver facilities where the incidence of involuntary lumping was greatest.



## **CHAPTER VI**

### **WORKER CLASSIFICATION ISSUES: NATURE AND IMPORTANCE**

#### **Introduction**

This chapter will focus on the classification of lumpers either as employees or independent contractors for the purpose of employment taxation. Included is an analysis of worker classification law, an examination of IRS efforts to reclassify workers as employees instead of independent contractors, the extent to which shippers, receivers, and carriers are aware of possible tax consequences of using lumpers, and efforts these parties have taken to reduce their risk of having lumpers classified as employees.

#### **Worker Classification Law**

When one individual performs compensatory services for another, he or she does so either as an employee or as an independent contractor. There are substantial monetary benefits which accrue to the one that hires another to perform services as an independent contractor. For example, the hiring party is not required to withhold federal and state (where applicable) income taxes; pay Federal Unemployment Tax Act (FUTA) and state unemployment taxes, Federal Insurance Contributions Act (FICA) taxes, and workers' compensation premiums; or incur the cost of related quarterly and annual reports. Other avoidable costs may include fringe benefits often received by employees such as medical, dental, and pension programs, paid vacation, and sick leave, plus attendant administrative costs.

Even though the economic stakes are high, determination of the legal status of a worker as an employee or as an independent contractor is complicated and depends on a number of factors. The importance of these factors varies according to the particular facts involved. When doubts exist over the proper classification of a worker, the IRS is usually the first to investigate, followed by state government agencies and the U.S. Department of Labor's Wage and Hour Division.

Disputes arising over the classification of a worker as an independent contractor are resolved by the IRS and the courts according to statutory direction. An employee, for federal taxation purposes, is defined by U.S.C. §3123(d) (2) as "any individual who, under the usual common law rules applicable in determining the employer-employee relationship has the status of an employee." Thus, the IRS and courts must use the common law rules of agency to determine if the putative employer exercises sufficient control or has the right to control the actions of the worker to a degree that an employer-employee relationship exists.

The relevant IRS regulations that elaborate on the §3121(d)(2) directive are 26 C.F.R. §31.3121(d)-1(c) and §31.3306(i)-1(d), which provide in part:

Generally such relationship exists when the person for whom services are performed has the right to control and direct the individual who performs the services, not only as to the result to be accomplished by the work but also as to the details and means by which that result is accomplished. That is, an employee is subject to the will and control of the employer not only as to what shall be done but how it shall be done. In this connection, it is not necessary that the employer actually direct or control the manner in which the services are performed; it is sufficient if he has the right to do so. In general, if an individual is subject to the control or direction of another merely as to the result to be accomplished by the work and not as to the means and methods for accomplishing the result, he is an independent contractor.

The quoted regulations are not a workable test complete in themselves but represent a general summary of common law principles “intended as an initial guide for the determination” of the issue of whether an employer-employee relationship exists. *Breaux and Daigle, Inc. v. U.S.*, 900 F.2d 49,51 (5th Cir. 1990); *U.S. v. Webb, Inc.*, 397 U.S. 179,194 (1970).

IRS Revenue ruling 87-41, 1987-1 C.B. 296, 289-99 sets forth 20 common law factors to be used in determining the status of a worker either as an employee or as an independent contractor. As a background analysis of the 20 factors, the ruling states:

As an aid to determining whether an individual is an employee under the common law rules, twenty factors or elements have been identified as indicating whether sufficient control is present to establish an employer-employee relationship. The twenty factors have been developed based on an examination of cases and rulings considering whether an individual is an employee. The degree of importance of each factor varies depending on the occupation and the factual context in which the services are performed. The twenty factors are designed only as guides for determining whether an individual is an employee; special scrutiny is required in applying the twenty factors to assure that formalistic aspects of an arrangement designed to achieve a particular status do not obscure the substance of the arrangement (that is, whether the person or persons for whom the services are performed exercise sufficient control over the individual for the individual to be classified as an employee).

The 20 factors set forth in Revenue ruling 87-41 are summarized in Table VI-1.

When courts are involved in resolving a worker classification issue either as a trier of fact or in providing instructions to a jury, they often rely on factors in addition to the 20 factors found in Revenue Ruling 87-41. Thus, there exist more common law factors that impact on the employee-independent contractor classification issue than the 20 listed by the IRS. The following are factors relied on by courts in determining worker classification issues in addition to the IRS 20 factors.

In *Fox Jr. v. U.S.*, 74-1 USTC ¶9460 (1974), the U.S. District Court, Dist. of Del., included in its instructions to the jury the following factors to be considered in deciding whether certain “unloaders” were employees of the plaintiff trucking firm or were instead independent contractors.

Another factor is the intention of the parties and their beliefs as to the relationship. If you should find that the plaintiff, or his drivers, and the unloaders intended an employer-employee relationship or believed that such a relationship existed between them, then such a finding by you would indicate an employer-employee relationship. The absence of such an intention or belief would support a finding that the unloaders were independent contractors and not employees.

Still another factor for consideration is the skill required. If the unloaders’ job required skill, this would tend to show that they were independent contractors. On the other hand, if the unloaders’ job required little or no skill, this would tend to show that they were employees.

Another factor to consider is the custom in the trade. To the extent that you can find from the evidence that the custom in the trade points to the fact that other trucklines do or do not consider these unloaders as employees, that is a factor which you may consider in arriving at a finding of whether an employer-employee relationship existed in this case.

Another factor is whether or not a distinct occupation or recognized trade or calling is involved. If you should find that the unloaders in this case are in a recognized trade or calling, then such a finding would indicate that the unloaders were independent contractors and not employees. The absence of such a finding by you of a distinct occupation or a recognized trade or calling would, on the other hand, indicate an employer-employee relationship.

The jury in this case returned a verdict that the unloaders were independent contractors.

**Table VI-1. The Twenty Factors Compiled by the IRS  
to Indicate the Existence of an Employer-Employee Relationship**

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1. **INSTRUCTIONS:** A worker who is required to comply with an employer's instructions as to when, where, and how work is to be performed is ordinarily an employee.
  2. **TRAINING:** Requiring a worker to undergo training by an employer to perform services in a particular method or manner is an indication that the worker is an employee.
  3. **INTEGRATION:** Integration of a worker's services into the employer's business operations indicates the existence of an employer-employee relationship.
  4. **SERVICES RENDERED PERSONALLY:** A worker personally performing services for the employer is evidence that the worker is an employee.
  5. **HIRING, SUPERVISING, AND PAYING ASSISTANTS:** If a worker is allowed to hire, supervise, and pay any needed assistants to perform services for the employer, that is indicative of an employer-independent contractor relationship.
  6. **CONTINUING RELATIONSHIP:** A continuing relationship between a worker and an employer is evidence that the worker is an employee.
  7. **SET HOURS OF WORK:** Requiring a worker to perform services according to set hours is indicative of an employer-employee relationship.
  8. **FULL TIME REQUIRED:** If a worker must devote substantially full time to the performance of services for the employer, then that is an indication that the worker is an employee.
  9. **DOING WORK ON EMPLOYER'S PREMISES:** If the work is performed on the employer's premises, that factor suggests a worker is an employee, especially if the work could be done elsewhere.
  10. **ORDER OR SEQUENCE SET:** If a worker must perform services in the order or sequence required by the employer, that fact suggests that the worker is an employee.
  11. **ORAL OR WRITTEN REPORTS:** A requirement that a worker must submit regular or written reports to the employer indicates that the worker is an employee.
  12. **PAYMENT BY HOUR, WEEK, MONTH:** Payment by the hour, week, or month generally points to an employer-employee relationship.
  13. **PAYMENT OF BUSINESS AND/OR TRAVELING EXPENSES:** If the employer ordinarily pays a worker's business and/or traveling expenses, the worker is generally an employee.
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**Table VI-1 (continued) The Twenty Factors Compiled by the IRS to Indicate the Existence of an Employer-Employee Relationship**

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14. **FURNISHING OF TOOLS AND MATERIALS:** The fact that the employer furnishes a worker significant tools, materials, and other equipment required to perform work tends to show the existence of an employer-employee relationship.
  15. **SIGNIFICANT INVESTMENT:** The lack of investment by a worker in facilities used to perform the services tends to indicate that the worker is an employee.
  16. **REALIZATION OF PROFIT OR LOSS:** A worker who can realize a profit or loss resulting from his or her services is generally an independent contractor.
  17. **WORKING FOR MORE THAN ONE FIRM AT A TIME:** When a worker performs services for more than one employer during the same general time period and retains that right, then a worker is usually an independent contractor. However, a worker may be an employee of multiple employers.
  18. **MAKING SERVICE AVAILABLE TO GENERAL PUBLIC:** A worker making his or her services available to the general public on a consistent basis indicates he or she is an independent contractor.
  19. **RIGHT TO DISCHARGE:** If the employer retains the right to discharge a worker, that factor tends to indicate a worker is an employee. However, if a worker cannot be fired so long as he or she provides services that meet contract specifications, then the relationship tends to be that of employer-independent contractor.
  20. **RIGHT TO TERMINATE:** The right of a worker to cease performing services for an employer at any time without incurring liability is evidence that a worker is an employee.
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Source: Revenue Ruling 87-41, 1987-1 C.B. 296.

The following was included as one of several instructions given to the jury by the U.S. District Court, Dist. of N. H. in *Bean & Sons Co. v. U.S.*, 75-2 USTC ¶9772 (1975), which was a case involving the classification of unloaders as either employees or independent contractors of the plaintiff trucking firm.

Now, another factor to be considered on the question of control is the feasibility and the practicability of the plaintiff through its drivers, getting the necessary information for Social Security and withholding taxes and the practicability and feasibility of actually collecting such taxes. Or, to put it another way, could the plaintiff control the unloaders sufficiently so as to obtain the necessary tax information from them and/or to collect the money from them.

The jury in this case returned a verdict that the unloaders were independent contractors.

In *Jobbers Warehouse Co., Inc. v. U.S.*, 78-1 USTC ¶9359 (1977), the U.S. District Court, Dist. of S. D., instructed the jury regarding the feasibility of the plaintiff trucking firm or its drivers to collect taxes from loaders and unloaders.

You are instructed that in considering whether Congress, in enacting the employment taxes in question, intended to make them applicable to a situation of the kind disclosed by the evidence in this case, you may take into account any practical difficulties presented to the plaintiff in collecting taxes from the loaders and unloaders. In this contention, you may consider the administrative difficulties, if any, presented to the plaintiff in obtaining W-4 forms from large numbers of unloaders and in having its drivers perform payroll functions and deduct Social Security and income taxes from each payment by each driver to each unloader.

The jury in this case found that the loaders and unloaders were independent contractors.

In *Lanigan Storage & Van Company v. U.S.*, 389 F.2d 337 (1968), the Court of Appeals (6th Circuit) affirmed the decision of the U.S. District Court, Dist. of Tenn., wherein it was found that individuals who loaded and unloaded plaintiff's trucks were independent contractors. In addition to other factors, the Court of Appeals at pp. 341-342 considered it important that the plaintiff's drivers "must hire out the loading and unloading phase of their operation to 'gypsy chasers'," that plaintiff's drivers "did not carry a payroll," the loaders and unloaders got "none of the fringe benefits that today almost universally attend" an employer-employee arrangement, and there "was no collective bargaining."

If a person for whom services are rendered has the right to change the requirement of the job, the location of the job site, or the number of hours worked, that right is indicative of an employer-employee relationship. *Weatherly v. U.S.*, 77-2 USTC ¶9745 (1977), U.S. District Court, Dist. of Pa.

Based on the preceding cited cases, there are at least eight, if not more, factors in addition to the 20 set forth in Revenue Ruling 87-41 that courts have considered in determining whether a worker has the status of employee or independent contractor. These eight factors are:

- Intentions and beliefs of the parties involved as to the nature of the work relationship.
- Skill requirements needed by the worker to perform the assigned task.
- Custom in the trade regarding what others consider to be the status of workers under the same or similar circumstances.



- Whether the workers are engaged in a recognized trade or distinct occupation.
- Feasibility and practicability of the one for whom services are being provided to obtain necessary tax information and to actually collect taxes from workers.
- Nature of fringe benefits, if any, received by the workers.
- The extent the one for whom the services are provided is forced to engage the services of a worker due to circumstances beyond his or her control, including coercion.
- The right of the one for whom the services will be provided to change job requirements, location of the job site, or number of hours worked.

In reaching their decisions, courts stress that no single common law factor is controlling and that each case must be decided according to its own particular facts. *Mav Freight Serv., Inc. v. U.S.*, 462 F. Supp. 503, 507 (1978); *Bartels v. Birmingham*, 332 U.S. 126 (1947).

The following is a brief examination of a few leading cases that found truck loaders and unloaders to be either independent contractors or employees.

*Bonney Motor Express, Incorporated v. U.S.*, 206 F. Supp. 22 (1962) found that loaders and unloaders of trucks, referred to as "gypsy chasers," are independent contractors under common law agency principles. At page 30, the court summarized its conclusions as follows:

Analyzing these various tests, step-by-step, the conclusion is reached that only with respect to two factors does the Government prevail. The skill required is conclusive; that the work to be done was a part of plaintiff's business is apparent; that no investment is required is admitted; and the opportunity for profit is *de minimis*. But as to the remaining tests it is clear that plaintiff must prevail. Considering the factual situation as a whole, we agree with Congressman Gearhart that Congress did not intend 'gypsy chasers to have more employers than a dog has fleas.' Not unmindful of the difficulties presented to the taxing authorities in collecting taxes from 'gypsy chasers,' it is never-the-less apparent that this class of workmen was never intended, according to common law rules, to have 400 separate employers during each year.

*Lanigan*, supra, is also a case where truck unloaders were held to be independent contractors. The court emphasized the lack of permanency of the relationship between the carrier and the unloaders by stating on page 342:

We have noted that the factors of 'control' and 'skill' point toward 'independent contractor' status for the 'gypsy chasers.' It is also obvious that

the relationship here involved manifestly lacks the permanency characteristic of an employer-employee arrangement. We find this factor to be more than a little relevant to our ultimate determination here.

*McGuire v. U.S.*, 349 F.2d 644 (1965), is a case where truck unloaders called “swampers” were found to be employees of the carrier. In reaching its decision the court, on page 646, focused on what it perceived to be the carrier’s right to control the unloaders even though little actual control was exerted.

The nature of the unloaders’ work is such that little supervision is necessary. Because unloaders are paid by the job rather than on a time basis, it is to their advantage to work rapidly and efficiently. Rapid and efficient handling is taxpayer’s only interest in the unloaders’ work. The record discloses that taxpayer’s drivers did on occasion reprimand unloaders for careless handling of cargoes. The absence of need to control should not be confused with the absence of right to control.

It can be logically argued that the court’s reasoning in *McGuire* is strained and convoluted, since the drivers, in fact, did not exercise control over the unloaders, which is evidence of a lack of right to control. “The absence of any evidence of actual control may be properly considered in determining the existence of the right to control.” *Lanigan*, supra, at p. 341 and *Bonney*, supra, at p. 28.

The fact that the unloaders in *McGuire* could increase their daily profit by working rapidly and efficiently is indicative of an independent contractor, whereas a typical employee works a set number of hours per day for a set hourly wage regardless of variations in work rate or efficiency. If the mere fact that a worker performs his or her task rapidly and efficiently is dispositive of the employee-independent contractor issue, then many independent contractors will be classified as employees simply because they do what they have been contracted to do quickly and efficiently. A significant way for an independent contractor to increase profits is to quickly and efficiently perform service contracts, thereby gaining a good reputation and making available more time for other contract work. In addition, payment by the job instead of by the hour, week, or month is indicative of an independent contractor relationship.

*Mav*, supra, is another case where truck unloaders were found to be employees of the carrier. The manner by which the carrier retained and compensated the unloaders was significant in the court’s decision. At p. 508 the court stated:

Furthermore, there was more than a transient relationship between *Mav* and the unloaders involved in this case. Unlike *Lanigan Storage & Van Co. v. United States*, supra and *Bonney Motor Express, Inc. v. United States*, supra, in which over-the-road truck drivers had contact only once or twice a year with unloaders who were held to be independent contractors, *Mav*’s owner-operators had contact with the same unloaders several times each week.

There was a permanency in Mav's relationship with its unloaders as evidenced by the method of payment of compensation, by weekly check picked up at Mav's office or mailed to the unloaders' homes. Although this was not the custom in the trade, as indicated by the unwillingness of some unloaders to work for deferred payment on Mav's trucks rather than the cash payments made by others, this was the method chosen by Mav and is consistent with an employer-employee relationship.

In evaluating the *Mav* decision it is important to note that the evidence established that, even though Mav's drivers could freely choose an unloader from many that were available, they often hired a particular unloader with whom they were familiar. In addition, Mav, as a carrier, would often arrange ahead of time to have unloaders it had previously dealt with available to unload trailers at a particular time and location.

Even though at common law a variety of factors must be considered in determining the classification of a worker and even though no single factor is controlling, an understanding of the common law rules and their application by courts is essential for any party involved in the use of lumpers. It is through an understanding of the common law rules and how the courts apply them that shippers, receivers, and motor carriers can formulate policies and procedures designed to lessen the possibility of an IRS or court finding that lumpers are their employees. *United States v. Silk*, 331 U.S. 704 (1947) was one of the first cases involving the classification of unloaders of carrier equipment for federal tax purposes. An analysis of *Silk* is helpful in understanding the evolution of the common law standard currently applied by courts in deciding employee-independent contractor issues as well as assessing the importance of the case as precedent in the classification of lumpers.

The *Silk* decision actually embraced two cases joined together for review by the U.S. Supreme Court. The central issue of both cases was whether truckers who owned their own equipment and operated it under contract with Albert Silk, a retail coal distributor, and Greyvan Lines, Inc., an authorized carrier under the Motor Carrier Act of 1935, and certain individuals who unloaded coal from rail cars for Silk were employees under the Social Security Act of 1935. The Court held that the truckers were independent contractors and that the coal unloaders were employees. In reaching its decision, the Court noted that the Social Security Act's definition of the terms "employment" and "employee" were general, and thus, must be "construed to accomplish the purposes of the legislation."

The standard employed by the Court in *Silk* to determine who were employees for purposes of the Social Security Act was the same standard previously adopted by the court to define employees under the National Labor Relations Act of 1935. The Court then concluded that employees were workers, who were such "as a matter of economic reality." In applying the economic reality test the Court found that the coal unloaders used by Silk were employees primarily because Silk had the right to control all necessary supervision of their tasks and they worked in the course of his business. Therefore, the Court concluded that the "economic reality" of the entire relationship between Silk and the unloaders was that of employer-employee. On the

other hand, the Court found that the truckers used by Silk and Greyvan were independent contractors because of the business risks undertaken by them, the limited control exercised over them, and their opportunity for profit by using sound management.

Justice Rutledge dissented in part from the majority's decision in *Silk*. In his partial dissent he stated:

Here the District Courts and the Circuit Courts of Appeals determined the cases largely if not indeed exclusively by applying the so-called 'common law control' test as the criterion. This was clearly wrong, in view of the Court's present ruling.

Justice Rutledge's dissent raises the implication that if the Court had exclusively applied the common law test in deciding the status of the coal unloaders, as had been done by the lower courts, its decision may have been different from that reached by applying the economic reality test.

The Court's adoption of the broad-liberal definition of "employee" was quickly responded to by Congress with the Social Security Act being amended in 1948 so that determination of an employee's status would be according to the traditional common law standards of agency.<sup>16</sup> While *Silk* does refer to some common law factors of agency, its value as precedent in support of a finding that lumpers are employees is questionable.

Shippers and receivers should not assume that all classification cases will result in findings that lumpers are either independent contractors or employees of motor carriers. *Krobin Refrigerated Xpress, Inc. v. U.S.*, 78-2 USTC ¶9809 (1978), is a case where truck unloaders were found to be independent contractors. However, in reaching its decision the court stated:

"Most relevant indicia tend to show that gypsy chasers are more likely to be independent contractors *or employees of receivers rather than of plaintiff*" (emphasis added).

### **IRS Worker Classification Efforts**

A review of court cases establishes that the IRS has been involved in worker classification efforts for several decades past and that these efforts have included classification issues involving workers who load and unload trucks.

According to the IRS, concerted efforts to ferret out worker misclassification errors began during the early 1970s. These efforts were temporarily curbed by what is known as the "safe haven rules" of Section 530 of the Revenue Act of 1978, which

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<sup>16</sup> See, *United States v. Thorson*, 282 F.2d 157, 158-62 for an in-depth analysis of Congress' reaction to the "economic reality test" enunciated in *Silk*.

was initially an interim measure that was later made permanent by Section 269(c) of the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA). For a brief explanation of Section 530, see Table VI-2.

### **Table VI-2. Section 530 "Safe Haven Rules"**

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Section 530 of the Revenue Act of 1978 provides that an employer may treat a worker for federal tax purposes as an independent contractor if the employer has:

- a. at all times since January 1, 1978, not treated any worker holding a position substantially the same as the position of the worker at issue as an employee,
- b. has not treated the worker at issue as an employee at any time,
- c. has filed all required federal tax returns for the worker consistent with the worker being an independent contractor, and
- d. has a reasonable basis for not treating the worker at issue as an employee.

The "reasonable basis" requirement of paragraph "d" above can be met by an employer reasonably relying on any one of the following:

1. Judicial precedent, published rulings, technical advice with respect to the employer-taxpayer, or a letter ruling to the employer-taxpayer,
  2. A past IRS audit of the employer-taxpayer in which there was no employment tax assessment attributable to the treatment of individuals holding positions substantially the same as that of the worker at issue, or
  3. Long-standing recognized practice of a significant segment of the industry in which the worker was engaged.
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If an employer-taxpayer cannot meet any of the above described three "safe havens," the employer-taxpayer may still demonstrate, in some other manner, a reasonable basis for not treating the worker at issue as an employee. This reasonable basis test is to be liberally construed in favor of the employer-taxpayer.

In 1987, the IRS renewed its temporarily stalled high priority audit campaign to find worker misclassification offenders. An "R.O.E." test program was commenced. R.O.E. stands for Revenue Officer Examiners to distinguish them from regular revenue agents. Their primary function is to address the worker classification issue. For fiscal year 1994, there will be about 300 R.O.E.s operating in the field.<sup>17</sup>

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<sup>17</sup> Obtained from the IRS.

It is the position of the IRS that worker misclassifications, whether intentional or not, have resulted in significant lost tax revenues. Based on data collected in 1984, the IRS estimated that for 1989 about \$1.56 billion in tax revenues were lost because of worker misclassifications.<sup>18</sup>

It appears that the use of workers classified as independent contractors by employers is widespread. According to the U.S. Small Business Administration, about five million workers are classified by employers as independent contractors, and 31 percent of all employers, which is more than two million firms, use workers they classify as independent contractors.<sup>19</sup> Also, according to a recent General Accounting Office report, IRS independent contractor audits have been fairly successful in finding worker classification errors, with about 38 percent of firms audited having at least one worker reclassified as an employee.<sup>20</sup>

When a firm undergoes an IRS audit challenging the classification status of a worker, the firm will be successful only if it can establish that the worker is an independent contractor according to the common law rules of agency or can obtain relief under the Section 530 safe haven rules. Either will usually involve long and costly litigation.

If a firm is unsuccessful in having a worker classified as an independent contractor, it can be assessed all back withholding, FICA and FUTA taxes, interest, and a 100 percent penalty. The penalty is assessed whether the erroneous classification was intentional or innocent. This can be costly or even crippling if several workers are involved over a period of years. For example, according to a benefits consultant, a firm that paid a worker \$15,000 as a misclassified independent contractor would owe the IRS about \$6,480 in back taxes, interest, and penalty.<sup>21</sup>

All indications show that the worker classification issue will not abate but will be pursued by the IRS as a high priority matter. Any firm that uses workers under the assumption that they are independent contractors should consider taking steps to limit possible exposure to tax liability due to worker misclassification. A step in the right direction would be conducting a self-audit, followed by the implementation of a comprehensive program to reduce exposure to possible tax liability.

### **Awareness of and Efforts to Limit Tax Liability Exposure**

As indicated in Chapter III, the use of lumpers in the loading and unloading of motor carrier equipment is pervasive throughout the sector of the trucking industry that transports general freight, refrigerated products, and agricultural commodities in

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18 Virginia M. Gibson, "Unraveling the Mystery of Independent Contractors," *HR Focus* (Vol. 69, May 1992), 23.

19 Ibid.

20 Larry Reynolds, "IRS Defines Employees—Well Sort of," *HR Focus* (Vol. 69, February 1992), 1-2.

21 Ibid.

truckload quantities. Nearly 72 percent of responding carriers hired lumpers during 1992, with about 50 percent of the loads handled by these carriers involving the use of lumpers. Since 1980, 55 percent of carrier respondents have experienced an increase in the use of lumpers, with nearly one-half of this group characterizing the increased use as "significant." The results from the driver survey indicate the use of lumpers by carriers is common throughout all regions of the continental United States.

Even though the use of lumpers is substantial in the transportation of truckload quantities of general freight, refrigerated products, and agricultural commodities, responses to several survey questions by shippers, receivers, and carriers strongly suggest that they do not consider tax liability exposure to be a very important problem associated with lumping. Shippers and receivers were asked to rate the importance of 11 possible problems associated with the use of lumpers. "Exposure to tax liability" was found to rank eighth in importance by shippers and fourth by receivers. Similarly, motor carriers rated "exposure to tax liability" tenth in importance out of 15 possible problems associated with lumpers. Overall, shippers, receivers, and carriers perceived exposure to tax liability as being no more than of "moderate importance."

Exposure to tax liability arising from the use of lumpers should be a high priority concern for motor carriers if for no other reason than the fact that the IRS had focused on that group in pursuing worker classification audits. Also, there are significant reasons why possible exposure to tax liability should be a priority concern for shippers and receivers who either permit the use of lumpers at their facilities or actually hire lumpers.

While it is true that the majority of shippers surveyed do not use lumpers to load outbound for-hire truckload shipments, nine percent of the shippers had lumpers involved in the loading process during 1992. Twenty-nine percent of these shippers' outbound truckload shipments were loaded by lumpers, and 21.5 percent of the truckloads were loaded by lumpers actually hired by the shippers. To varying degrees, shippers who have lumpers involved in the loading of motor carrier equipment (1) allow lumpers to use their handling equipment, (2) train lumpers in the use of handling equipment, (3) arrange for the availability of lumpers at their facilities, (4) provide an approved or recommended list of lumpers, (5) control the amount of lumping fees, and (6) supervise the loading of freight by lumpers.

Sixty-one percent of the 109 responding receivers had lumpers involved in unloading their for-hire inbound truckload shipments during 1992. Nearly 46 percent of their inbound truckloads were unloaded by lumpers hired by receivers. As in the case with shippers, receivers who have lumpers involved in the unloading of inbound truckloads, to varying degrees, (1) allow lumpers to use the handling equipment, (2) train lumpers to use their handling equipment, (3) arrange for the availability of lumpers, (4) provide an approved or recommended list of lumpers, (5) control lumping fees, and (6) supervise the unloading of freight by lumpers.

The relationship between many shippers and receivers, on the one-hand, and lumpers on the other, incorporates several factors relied on by the IRS and courts in finding that an employer-employee relationship exists. Furnishing a worker with tools (freight handling equipment), providing a worker with training, controlling the amount of worker pay and thereby eliminating the risk of profit and loss, and supervising the manner by which freight is loaded or unloaded are direct factors supporting the employer-employee relationship. Also, arranging for the availability of workers according to an approved list is a strong control factor over the activities of a worker, supporting the conclusion that the worker can be discharged and therefore is an employee. It is realistic to conclude that some shippers and receivers deal with lumpers in such a manner that the lumpers are subject to their will and control not only as to the task to be done but also as to the manner of performing the task.

## **Conclusion**

Shippers, receivers, and motor carriers involved in the use of lumpers need to be aware of possible tax liability exposure arising from the classification of lumpers as their employees. In evaluating their lumping relationships, shippers, receivers, and motor carriers should minimally consider the following factors.

***Employee for federal tax purposes.*** A worker is an employee for federal employment tax purposes if he or she has the status of an employee under the usual common law rules used to determine the existence of an employer-employee relationship. An employee is subject to an employer's will and control not only as to what shall be done but also as to how it shall be done.

***Classification of workers difficult.*** Determining whether a worker is an employee or an independent contractor is not a simple matter. IRS Revenue Ruling 87-41 lists 20 common law factors to be considered in determining the status of a worker. The courts have developed several additional factors for consideration, such as custom of the trade, feasibility and practicability of obtaining from workers needed tax information, intentions of the parties to the work relationship, and whether the workers are engaged in a recognized trade or occupation.

***Increased efforts by IRS.*** The IRS has targeted worker misclassification as a priority area with increasing audit efforts. This is because of estimated substantial yearly losses in federal tax revenues due to the misclassification of workers as independent contractors. Survey results clearly indicate that certain shippers, receivers, and motor carriers have been involved with lumpers in a manner that the IRS and courts might interpret as an employer-employee relationship.

***Tax liability not seen as important.*** Shippers, receivers, and motor carriers, although aware of possible exposure to tax liability arising from the use of lumpers, do not consider this possible liability to be as important as other perceived problems associated with the use of lumpers. Shippers, receivers, and motor carriers rated the possible exposure to tax liability as being of no more than moderate importance. In



general, shippers, receivers, and motor carriers have not given any indication of taking formal steps to reduce exposure to possible tax liability in the use of lumpers. Shippers, receivers, and motor carriers should consider undertaking an internal audit of their lumper relationships, the results to be used as core data for development and implementation of a formal program designed to reduce tax liability exposure when using lumpers.



## **CHAPTER VII**

### **CONCLUSION: RECOMMENDED INITIATIVES**

#### **Introduction**

The use of lumpers is, to a large extent, the result of making a decision to contract out or to outsource the loading or unloading activity. This study found that motor carriers, shippers, receivers, drivers, and other parties view lumpers and lumping services as producing both major benefits and problems. In general, lumping services appear to provide an important logistical function by providing a mechanism for meeting the needs of shippers, receivers, and carriers in performing a necessary function of logistics—loading and unloading of carrier equipment. Furthermore, lumping services provide an alternative for hand loading or unloading by drivers so that they can meet time-sensitive schedules and reduce their exposure to injury as well as fatigue. As a result, lumpers provide social benefits by increasing the safety of the trucking industry and all who share the highways.

At the same time, the findings of this study confirmed the existence of problems associated with lumping as identified in the anecdotal evidence and documented additional problems based on data collected in the study. The evidence collected in this research effort suggests that lumping practices considered illegal under the Interstate Commerce Act as amended by the Motor Carrier Act of 1980 still exist to some degree. Study findings also suggest an emerging problem of tax exposure for users of lumpers due to recently increased efforts by the IRS and state agencies to tap additional tax revenue sources through reclassification of workers. The evidence also strongly suggests that lumping markets do not always work efficiently or fairly because of economic and other factors that restrict supply or artificially increase demand. Economic coercion, no matter how subtle or whether unintentionally created, places the buyer of lumping services at a disadvantage.

The initiatives outlined below could eliminate or mitigate some problems associated with lumping while recognizing and maintaining the legitimate and important role lumpers play in the logistics supply chain for food and other products. These initiatives range from those that can be developed and implemented by individual firms to those requiring policy changes through legislation. These initiatives should not be viewed individually or collectively as capable of solving all problems associated with lumping; rather, they provide a starting point for possible improvements.

#### **Individual Firm Initiatives**

##### ***Initiative #1 — Undertake Internal Audit of Tax and Liability Exposure***

This initiative addresses the tax liability problem associated with the use of lumpers and liability arising from lumper negligence. Carriers, shippers, and receivers using

lumpers should undertake an internal audit of their procedures and relationships with lumpers to determine if the IRS or some other agency might classify these lumpers as their employees. The audit could be internal or external. If external, the firm should hire an outside person or firm with the requisite expertise. If internal, attendance at seminars addressing proper audit techniques is recommended. The audit should examine the firm's possible exposure to tax liability as well as personal injury and property damage liability. Corrective action should be taken if warranted.

Carriers, shippers, and receivers would benefit from this initiative by the resulting reduction in exposure to tax liability and personal injury and property damage liability. The costs associated with this initiative would be hiring an outside expert or attending a seminar, as well as the increased internal administrative costs.

***Initiative #2 — Use Third-Party Loading/Unloading Firms***

Carriers, shippers, and receivers using lumpers should consider the use of third-party loading/unloading firms to reduce some of the problems and liabilities associated with lumping. The decision to select a particular firm should follow a careful study of its structure (i.e., the relationship of the third-party firm with its workers) and service record.

The use of a third-party loading/unloading firm may address a number of the problems associated with lumping, including (1) the exposure to tax and other liabilities when using self-employed lumpers, (2) the uncertainty and variation of loading/unloading fees charged by lumpers, (3) driver harassment to use lumpers at loading and unloading facilities, and (4) the need for drivers to carry cash to pay lumpers. The cost of using a third-party firm may be higher than using independent lumpers, however, and additional administrative costs would be necessary.

***Initiative #3 — Improve Selection and Retention Decisions***

Shipper/receiver/carrier selection and retention of business relationships should be based on total supply chain costs including all direct and indirect costs associated with using lumpers. Each party needs to develop a costing methodology and a decision criterion to indicate if and when serving a particular customer or using a particular carrier becomes unprofitable because of the need to use lumpers or the inefficiencies created by refusing to use lumpers. For example, this methodology could be used by carriers for screening potential customers and eliminating shippers that are not profitable to the carrier.

This initiative addresses a number of problems for the particular carrier, including the problems related to the high cost of using lumpers. To the degree that a large number of carriers use this methodology, markets where lumping is not working efficiently would be avoided, which would tend to increase transportation rates. To the degree that these higher rates will affect the shipper or receiver, an incentive will be created for the shipper or receiver to correct these problems and reduce its overall shipping costs.

Costs associated with this initiative would include developing a costing methodology by the use of internal or external expertise, the risk of the carrier losing an account with a shipper or receiver that has overall profitability, and the risk of the shipper/receiver losing a good carrier.

***Initiative #4 — Use Tri-Party Negotiations and Communications***

Miscommunications among the parties regarding the responsibility to load or unload was revealed in this research project. Furthermore, the data indicated that when the responsibility to load or unload is unclear, the amount of lumping usually increases. The potential for the use of unitized shipments to solve some of the problems associated with lumping is also reduced by the lack of effective communications between the shipper and receiver with respect to pallet configurations. The carrier plays a pivotal role as a communications link between the shipper and receiver with respect to this unitization issue. Therefore, carriers, shippers, and receivers need to improve their communications with each other.

One step in that direction is to involve the shipper, receiver, and carrier in both the communication and negotiation process at the same time. Tri-party negotiations would benefit the parties involved by clearly establishing loading/unloading responsibilities, which should result in operating efficiencies. Costs associated with these negotiations would be the organizational costs, subsequent costs of attending meetings, and the risk associated with possibly divulging proprietary information.

**Industry Initiatives**

***Initiative #1 — Develop a Lumper Information System***

To address the issues associated with lumper availability and service, motor carriers, owner-operators, shippers, or receivers, through their trade associations or in conjunction with a private vendor, could develop an information system. This would identify legitimate third-party loading/unloading firms for users of lumping services and would provide information on the current rates for the basic types of services performed. Included in this system could be a "lumping hot-line" that would provide users with information on locations where lumping problems may exist.

This initiative would enhance the effectiveness of the Individual Firm Initiatives, which suggested using third-party loading/unloading firms. The lumping market would work better if all of the parties had access to complete and timely information.

Costs associated with this initiative would be development of the system and user fees.

***Initiative #2 — Develop a Third-Party Loading/Unloading Firm Certification Program***

A possible extension of the previous initiative would be the development of a certification program. Again, the industries' trade associations or a private vendor could develop a review process, a training program, and other mechanisms to provide

the users some assurance that they won't be exposed to tax and other liabilities. This certification program would benefit all users of lumping services and enhance the overall professionalism of the lumping industry.

Costs associated with this initiative would be the development of the certification program, increased administrative costs, and a probable certification cost for third-party firms. If the costs of certification are prohibitive, this initiative could carry the potential for restraining the entry of legitimate third-party firms.

### ***Initiative #3 — Develop Educational Programs***

In order for motor carriers, shippers, receivers, and owner-operators to make informed decisions concerning lumping, they must have access to information on lumping problems and benefits as well as methods to better balance these two. To achieve this information exchange, motor carriers, shippers, receivers, or owner-operators, through their trade associations, could develop programs that would educate industry members about lumping issues. For example, seminars on how to conduct tax liability audits and develop costing methodology could be offered. In addition, information packets regarding lumping issues could be assembled and made available to the various parties.

Costs associated with this initiative would be the development and administrative costs of the seminars and information packets, which would ultimately be borne by the industry members, and the direct cost to the industry members for attending the seminars.

### ***Initiative #4 — Establish an Inter-Industry Standing Committee on Lumping***

To capitalize on the momentum created by this study while maintaining a strong focus on lumping issues and creating a "watch-dog" organization to monitor lumping activities, trade associations representing shippers, receivers, carriers, owner-operators, and other parties could develop a standing committee on lumping. This committee would serve as a mechanism for discussing lumping problems that arise, developing relevant research agendas, and lobbying for government initiatives that address lumping problems.

The major costs associated with this initiative would be organizational and operational costs.

### ***Initiative #5 — Develop a Third-Party Loading/Unloading Trade Association***

To facilitate use of third-party firms and capitalize on their benefits, a third-party loading/unloading firm trade association could be developed to provide buyers of loading and unloading services with better information about the availability and nature of existing loading/unloading firms. Services that this association might provide include matching service providers with users, consulting individuals on how to establish third-party firms, educational services, and lobbying efforts.

An association could benefit the members by providing recognition and enhancing the professionalism of third-party firms, and arranging pre-scheduled loads. Users of

third-party firms could benefit by having better information regarding services and availability of third-party firms.

The major costs associated with this initiative would be organizational and operational costs.

### **Government Initiatives**

#### ***Initiative #1 — Increase Enforcement of Existing Laws***

To address illegal lumping practices still found in some instances, a new rulemaking or a reopening of the Congressionally mandated study of lumping issues in 1981–82 (Ex Parte 410) could be instituted to look at the lumping issue again to determine the effectiveness of the current statutory provisions and the reasons why they might not be adequate. Ample time has now elapsed to fully realize the impact of deregulation on the motor carrier industry regarding the extent and nature of lumping abuses, as well as the impacts of changes in logistical practices such as JIT systems on lumping.

This initiative would not, however, address the problems associated with tax liability exposure. If increased enforcement is found necessary, funding must be sought and approved by Congress.

Costs associated with this initiative would include the ICC's costs of reopening the case, the participants' costs in the form of legal fees, and any administrative expenses.

#### ***Initiative #2 — Declare Lumpers as Independent Contractors***

To address the many issues related to the IRS employment classification of lumpers, some legislative action may be required to clearly define their status. For example, real estate agents and direct sellers now are identified specifically by law as independent contractors. Also, Congress has previously rejected an IRS request that lumpers be declared as employees. If motor carriers, shippers, receivers, and other parties support a proposal that lumpers be declared independent contractors, the chances for legislative change would be enhanced.

This initiative would eliminate exposure to tax liability based on lumpers being classified as employees. However, it would not necessarily eliminate the problems associated with coercive lumping.

The major costs associated with this initiative would include the organizational expense and efforts of involving all parties in presenting a unified position to Congress, plus any lobbying costs.

#### ***Initiative #3 — Urge Congressional Action Regarding a “Shipper Load, Receiver Unload” Policy***

To address the problems associated with lumping for motor carriers and drivers, governmental action could be taken to eliminate motor carrier and driver involvement in loading and unloading processes. This initiative, applied to truckload shipments

only, involves what may be referred to as driver “no touch” loads. It has broad support among drivers and many motor carrier executives and addresses a number of the problems associated with lumping. Before such a policy should be legislated, however, a comprehensive study should be undertaken to fully investigate all potential impacts on carriers, shippers, receivers, and other affected parties.

Such a policy, if shown to be feasible, would tend to reduce, and perhaps eliminate, forced or coercive lumping involving motor carriers because instances of coerced lumping would be more easily identified. The problem of effectively monitoring and regulating illegal lumping activities would be reduced and exposure to tax liability would be eliminated for carriers, but not for shippers and receivers. There would also be benefits to society through improved transportation safety as a result of reduced driver fatigue and injury.

This initiative would not eliminate the beneficial aspects of lumping services, whether provided by individuals or third-party loading/unloading firms. Rather, increased loading/unloading efficiency is a possible benefit of this initiative. However, unless shippers and receivers develop efficient methods of loading/unloading carrier equipment, carriers may be forced to consider reinstating detention rules and seek ICC enforcement.

The success of this initiative would depend on the level of enforcement the ICC or another designated agency is able to provide.

Costs associated with this initiative would include the organizational expense and efforts of involving all parties in presenting a unified position to Congress, plus any lobbying costs. Loading/unloading costs would increase for shippers and receivers, but would be partially offset by reduced transportation rates and increased handling efficiencies.



**APPENDIX A**  
**LOADING AND UNLOADING PRACTICES**  
**RELATED TO LUMPING:**  
**STATUS AND IMPLICATIONS FOR MOTOR CARRIERS,**  
**SHIPPERS, AND OTHER PARTIES**

**Focus Group Meeting Summary**

**August 18, 1993**  
**8:30 AM – 4:00 PM**  
**Ames, IA**  
**Holiday Inn Gateway Center**

**Introduction**

On August 18, 1993, the research team held a focus group meeting in Ames, Iowa on the topic, "Defining and Developing Successful Relationships in the Use of Lumping Services." The purpose of this meeting was to gather additional insight on relationships involving lumping through an interactive discussion with professionals representing the parties affected by and/or interested in lumping practices. More specifically, information was obtained on how the participants defined a successful relationship involving lumping and how they viewed the process of developing and managing a successful business relationship.

The following list of participants includes shippers, motor carriers, a receiver, a company employee driver, an owner-operator, a transportation broker, an independent lumper, a third-party loading/unloading firm, and members of the research team.

**Dr. Ben Allen**  
*Iowa State University*

**Mr. Frank Maestri**  
*Willis Shaw Express*

**Mr. Don An**  
*Worldway Corporation*

**Dr. Dick Poist**  
*Iowa State University*

**Mr. Tim Athey**  
*Worldway Corporation*

**Mr. Jim Ricks**  
*America's Road Team*

**Mr. Jack Blanshan**  
*Iowa State University*

**Mr. John Sczerba**  
*Quaker Oats*

**Mr. Barry Butzow**  
*C.H. Robinson*

**Mr. Bob Sturgeon**  
*Barr-Nunn Transportation Co.*

**Mr. Ralph Jacobson**  
*Owner Operator*

**Ms. Carol Thompson**  
*Iowa State University*

**Mr. Russ Jahn**  
*Fleming Companies, Inc.*

**Mr. Jason Urban**  
*Independent Lumper*

**Ms. Michelle Livingstone**  
*Kraft General Foods*

**Mr. Ted Winter**  
*Minnesota State Legislature*

The participants were sent a number of questions and issues to review before the focus group meeting was held. To more efficiently use the participants' time at the focus group meeting, this list of questions was condensed into the following "Focus Group Talking Points" for discussion.

### **Issues of "Defining a Successful Relationship"**

1. Which parties do you include in your definition of a relationship? Do you include all members of the arrangement or only those who are directly connected to you in the arrangement? Do you believe that it is possible to have an integrated system including *all* of the parties involved in getting the product from the shipper to the receiver (as opposed to a series or group of relationships among subsets of the parties involved)?
2. What do you expect out of a successful relationship? What are the prerequisites of a successful relationship? What are some warning signs that an emerging relationship may not be successful?
3. Do you attempt to create formal or informal agreements? Do you ever enter into agreements knowing there are pre-existing or likely problems? Do you establish mechanisms by which you can resolve conflicts if and when they arise? What are these mechanisms?
4. Lumping is essentially an outsourcing of the loading or unloading function. This outsourcing creates another party in the arrangement to transport goods between shipper and receiver. Is this outsourcing necessary? Why or why not?

### **Issues of "Process of Developing and Managing a Successful Business Relationship"**

1. A. What is the typical process that you or your firm uses in establishing a relationship involving the loading/unloading of trucks or lumping? With whom do you start the process?
- B. Have you been involved in a multi-party (i.e., more than two parties involved) negotiation? If you have, what was the outcome? Who initiated the negotiation? In general, what are the barriers or obstacles to developing successful relationships?

2. A. Do you believe there is a market solution (without government intervention) to the problems related to loading/unloading and lumping? If so, what conditions would be necessary to achieve a market solution?
  - B. Is there a role for the government to play in helping shape these relationships? For example, is government intervention needed to balance the economic power among the parties involved in the relationship? Do you see any agencies other than the ICC that might help shape a successful relationship? IRS? DOT?
3. The use of pallets has been viewed as solving some of the loading/unloading problems, but the use of different pallet sizes limits the positive impacts of pallet use. What changes are necessary to make the pallet solution feasible? Could slipsheets serve as a solution?

### **Summary of Key Discussion Points**

The focus group meeting first addressed questions related to defining a successful relationship and then considered questions related to the process of developing and managing a successful business relationship. Dick Poist was the facilitator for the session on the first group of issues. Ben Allen served as facilitator for the session on the second group of issues. Key points raised in the discussion related to each issue are presented in this section.

#### **Session One: "Defining a Successful Relationship"**

##### *Discussion focus*

Which parties do you include in your definition of a relationship? Do you include all members of the arrangement or only those who are directly connected to you in the arrangement? Do you believe that it is possible to have an integrated system including all of the parties involved in getting the product from the shipper to the receiver (as opposed to a series or group of relationships among subsets of the parties involved)?

##### *Key Points of Discussion*

- One participant indicated that all of his company's relationships were primarily with carriers. The shipper noted that his firm had not done a good job in terms of working with customers.
- Another participant indicated that his firm had a little broader base of relationships. Its relationships include those with distribution centers and trucking companies, and also brokers and selected shippers.
- In general, the relationships focus on functional responsibilities. No effort is made by any of the parties to have an integrated relationship.

- The traditional concept of a relationship is that it involves relationships among three parties—the shipper, carrier, and receiver. The problem is that the relationships are very heavily weighted toward two parties that impact on all three parties. For example, the shipper-receiver relationship is done outside the scope of the carrier, the carrier-shipper relationship is sometimes done outside the scope of the receiver, and the carrier-receiver part of the relationship is done outside the scope of the shipper involved. Thus, for the most part, relationships are essentially between two parties, not three.
- Major shippers are starting focus groups where they're meeting with receivers and trying to resolve issues surrounding the buying function, physical distribution issues, and other issues.
- Relationships are not limited to only members of the supply chain. Inside the firm there are relationships among the account executive, customer service, manager, warehouse personnel, and logistics and transportation personnel. From a carrier perspective, there are operations personnel, dispatchers, and drivers. From a receiver perspective, there are relationships among buyers, receiving personnel, and warehouse personnel.
- One participant indicated that one of the largest challenges is to have a multi-party relationship with more than two parties.
- One concern is a lack of systems to identify problems. Costs are not broken out and communication is inadequate. Problems must be identified and quantified before they can be solved.
- Efficient Consumer Response, the logistical system being adopted in the grocery industry that emphasizes customer service and minimum inventory, holds some promise to address the lumping problem. Part of the concept is getting at problems through cross-functional activity. Partnerships and alliances are forming.
- The basic logistics relationship involves three partners—the carrier, shipper, and receiver. Each has a responsibility to make the relationship work. Furthermore, each of these parties has responsibilities to make other relationships work (e.g., carriers have the responsibility to have a good relationship with drivers and owner-operators).
- One carrier noted that carriers are not trying to eliminate their responsibility for loading or unloading. The effort is to determine if there is a better way to perform this function. The current system does not work very well.
- Much can be done within organizations to improve the flow of communications. One shipper indicated that its transportation group

rarely has contact with its sales group. This same shipper thought tri-party agreements are not very far off because they are necessary to good business practices.

- Throwing money at the problem (e.g., shippers paying the lumping fees charged to truckers) is a short-term solution. It is not the long-term solution.
- The more parties involved in the process, the more complex it becomes and the more difficult it is to manage.

### ***Discussion Focus***

What do you expect out of a successful relationship? What are the prerequisites of a successful relationship? What are some warning signs that an emerging relationship may not be successful?

### ***Key Points of Discussion***

- One participant indicated that open, honest communication channels would probably be one of the top prerequisites. By having open and clear channels of communication, unforeseen and unnecessary costs in the system are removed.
- Before one can have a successful business relationship, the responsibilities between the players who are participating in the arrangement must be clearly defined.
- The requirements of the relationships must be identified and measured.
- Benefits must be mutual.
- People in the chain must be willing to share information.
- The firm must develop performance measures and inform everyone of these measures. The only way to deal with sales and marketing, especially in the case of one shipper, is through increased sophistication and being able to communicate the problems in dollars and cents.
- Under the terms “commitment” and “communication,” a wide range of other issues are contained including honesty, dedication to problem solving, and trouble shooting.
- Businesses, including independent lumpers, treat their long-term customers better. An independent lumper dealing with a tired driver or an older driver or someone with a problem may take advantage of the situation and is not likely to serve him or her again.
- One participant indicated that he would use a lumper listed by the receiver. The people in the warehouse will know these lumpers and have a relationship with them.

- Despite the fact that lumpers have a relationship with the warehouse personnel, they still have the mindset of price gouging and controlling the dock. In addition, there remains the liability issue.
- The receiver becomes more and more an integral part of the lumping process because the receiver will help select the lumpers that are available, and the lumpers are selected to meet the specifications of the receiver, not the carrier.
- The ability of the third-party loading/unloading firm to directly bill the carrier was viewed as a key advantage of this type of arrangement over the independent lumpers who deal in cash. Not only will it eliminate problems associated with carrying cash to pay lumpers but will increase the awareness of the lumping situation.
- The low cost lumpers in a particular facility are thought to have been removed from these facilities for whatever reason so that only the more costly ones remain.
- One basic problem is the lack of communication and knowledge of what commodities (and types of commodities) are on the truck. The driver does not know what is on the truck, so the lumper is forced to estimate very roughly the amount of work involved. Another participant noted that the receiver should know what is on the truck.

### ***Discussion Focus***

Do you attempt to create formal or informal agreements? Do you ever enter into agreements knowing there are pre-existing or likely problems? Do you establish mechanisms by which you can resolve conflicts if and when they arise? What are these mechanisms?

### ***Key Points of Discussion***

- One participant noted that his firm is trying to simplify the process of loading and unloading. This might include the use of third-party loading/unloading firms. This participant noted that his firm continually monitors what happens in the different unloading environments so that some knowledge of the unloading requirements and the prices of lumpers are known by the carrier and its drivers before they arrive at the facility.
- One participant noted that the shipper needs to meet with the receiver to find out what the receiver's warehousing and materials handling requirements are at its various facilities served by the shipper. The shipper needs to know the size, shape, and configuration of the shipments required by the receiver to make their operations more effective and efficient.

- One problem with the market solution approach is that not all parties are playing on a level playing field. Some lumpers do not pay taxes, and they compete with lumping services that pay the required taxes. The IRS probably will step in to resolve some of these problems.

### ***Discussion Focus***

Is there a role for the government to play in helping shape these relationships? For example, is government intervention needed to balance the economic power among the parties involved in the relationship? Do you see any agencies other than the ICC that might help shape a successful relationship? IRS? DOT?

### ***Key Points of Discussion***

- One role of government might be to declare the driver/carrier not to be liable for workers' compensation, unemployment compensation, or any other kind of responsibility for the lumper. The government can help the situation by clarifying whose employee the lumper is.
- The law states that it is illegal to coerce or force the driver to unload or to use a lumper. The problem is determining when coercion exists. For example, at some facilities the driver is given the option of using a lumper but must unload within a certain period of time. If that time is exceeded, a \$20 per hour fee is charged to the user of the dock. In a sense, these are reverse detention charges.
- The "shipper load, receiver unload" option was discussed in the context of government intervention in the process. It was noted that the question of whose employee the lumper is would be clarified under this option. Many shippers currently load all of the shipments. One view was that this option would be the most simplistic but also would be the most expensive. The reason for the increased cost is that the cost per hour for receivers' personnel is \$17–20 per hour plus benefits. The fact that railroads require the receivers to unload was noted. It was also noted that this lack of service by railroads is one of the reasons for the dramatic decline of food items being shipped by rail.
- Another participant noted that the "shipper load, receiver unload" option might not be needed if the labor now involved in the loading and unloading process could be better managed. Currently these labor costs are determined by hundreds and thousands of people. The ability of the carrier to manage this part of its cost is remote. One option that might address the issue of better management of labor is the use of third-party loading/unloading firms.
- Another participant opposed the "shipper load, receiver unload" because it is not cost effective. Furthermore, the use of third-party loading/unloading firms is not an effective option because of the

- One firm apparently had been involved in meetings with all of the parties, but the meetings had been in reaction to a problem. What is really needed is to be proactive in holding these meetings. The sales area is not always well informed about operations. Sales persons tend to tell customers that they can do certain things even though they are not sure what the capabilities of operations are.
- One problem is that sales departments do not want operations to speak directly to the customer—they might cause the firm to lose the sale. Sales people feel that they should have primary contact with the customer. Logistics and transportation have been shielded from the customer for many years.
- The CHEP pallet program was noted as one program in which an effort was made to bring shippers, receivers, and carriers together for the use of CHEP pallets.
- The receivers have similar problems when the purchasing staff and the distribution staff do not work together very closely. Each group has its own performance standards.

#### *Discussion Focus*

Do you believe there is a market solution without government intervention to the problems related to loading/unloading and lumping? If so, what conditions would be necessary to achieve a market solution?

#### *Key Points of Discussion*

- The government should be involved in business as little as possible, and thus a market solution is preferable to one imposed by government. Laws now exist to address the issue, but the ICC is not able to enforce them. If we pass new laws, why do we think they would be enforced?
- The threat of additional government action might be needed to provide the impetus for the parties affected to take actions to solve the problems.
- Hours of service regulations are likely to be more strictly enforced or altered, which is related to the loading and unloading of vehicles. The IRS is very likely to enhance their efforts to collect tax money from parties employing lumpers. Unless the parties involved can address all of these issues, the government (not just the ICC) will be involved.
- Market solutions are preferable to government solutions. The market forces are working to solve the problem now. As people get more informed about how things are done and how they should be done, the market will be even more effective in reaching solutions.
- The problems will not be solved by broad market forces but by the actions taken by the shipper, carrier, and receiver involved in the activity.



## **Session Two: “Process of Developing and Managing a Successful Business Relationship”**

### ***Discussion Focus***

What is the typical process that you or your firm uses in establishing a relationship involving the loading/unloading of trucks or lumping? With whom do you start the process?

### ***Key Points of Discussion***

- One participant indicated that the expectation is that loading and unloading is a carrier responsibility unless the carrier has been relieved through some sort of a negotiated contract with the shipper.
- Driver managers, or dispatchers, work directly with the drivers, who actually decide whether or not it is appropriate to hire a lumper.
- One participant indicated that his firm has a driver performance department that is responsible for the driver’s total performance. The head of this department is responsible for establishing relationships (with independent lumpers, third-party loading/unloading firms) to handle loading and unloading problems.
- The party that controls the transportation typically starts the process of establishing the relationships involved in the loading/unloading of trucks.
- If the type of load and the type of loading/unloading situation are known, the carrier can factor these into the price of the service. Problems are created when the carrier has multiple destinations and has little knowledge about most of these destinations. In addition, the carrier is forced to have a large number of drivers negotiating its lumper fees.

### ***Discussion Focus***

Have you been involved in a multi-party (i.e., more than two parties involved) negotiation? If you have, what was the outcome? Who initiated the negotiation? In general, what are the barriers or obstacles to developing successful relationships?

### ***Key Points of Discussion***

- Multi-party negotiations seemed to be more prevalent in rail transportation, particularly intermodal transportation.
- One participant noted his firm’s involvement in many partnership relationships with shippers in which numerous meetings were held to formalize the relationships. Not one of these meetings involved receivers. This participant had never been in a session in which three parties were involved.

- One participant noted that it is impossible from a logistics standpoint to unitize the shipments in the way in which receiving points want to receive them. Because of a number of factors, including product proliferation, this is the reality of distribution in the nineties.
- One shipper noted that transportation costs are very important in its business. Thus, if this firm attempted to ship everything in the manner the receiver wanted, the cost per hundredweight would jump dramatically. The possible decrease in loading/unloading costs would be more than offset by the increase in the basic transportation costs. The shipper attempts to optimize its cost structure and then puts the burden on the carrier to perform. The receiver is also helped by not having more trucks involved in the same amount of freight, which could congest its receiving facilities.
- One participant asked how the parties can get more creative relationships so that the interests of all of the parties can be sorted at once.
- One participant noted that it is important to look at the length of haul because an \$80 dollar lumping fee as a percent of the total cost of a 300–400 mile trip would be more important than in the case of an \$80 fee and a 2,500 mile trip.
- One participant noted that, so far, the discussion had assumed a traditional distribution network where everything goes through a distribution center. What happens if the stores are served directly, which is now a much more common practice? One shipper noted that it is much more involved now in direct store deliveries.
- One participant noted that his firm has used performance measures in its contracts to help resolve possible problems. However, this participant noted that despite these performance clauses, problems do arise and they are resolved by particular persons, likely the driver, who is given the burden to resolve the problems.
- One participant noted that his firm addresses and resolves problems with its business partners in an ad hoc fashion.

***Discussion Focus***

Lumping is essentially an outsourcing of the loading or unloading function. This outsourcing creates another party in the arrangement to transport goods between shipper and receiver. Is this outsourcing necessary? Why or why not?

Time did not permit a discussion of this issue.

fragmented nature of the industry. The industry consists of small businesses and many shipping destinations.

- The possibility that the government would step in to protect the parties too small to protect themselves was noted. Solutions from the private sector must be developed to avoid action by the government.
- Another view was that the problem was primarily with the receiver, and thus a requirement that the receiver unload would address many of the problems. If the receiver had the responsibility to unload, it would make adjustments that would make for more efficient unloading.
- The issue of why shippers were able to load while receivers cannot despite similar wage rates was raised. Additional discussion of this issue led to the point that the shipper would still end up with the costs, since the receiver would demand that the items be shipped in a receiver determined fashion.
- Selective partnershiping, not government or standardization, was viewed as the best solution by one participant.
- The impact of the loading/unloading problem and the problems associated with lumping have also increased the driver shortage.

#### ***Discussion Focus***

The use of pallets has been viewed as solving some of the loading/unloading problems, but the use of different pallet sizes limits the positive impacts of pallet use. What changes are necessary to make the pallet solution feasible? Could slipsheets serve as a solution?

#### ***Key Points of Discussion***

- The prevalent use of GMA 40" by 48" pallets was noted. They have been used in the grocery industry for years. The different products and the different packages that are used make it difficult to have total standardization. If there is a marketing advantage to have a certain size or configured package, it will be used.
- One problem is that there is no true supply chain but a number of many small profit/cost centers that are watching their profits. There also are many personal issues.
- The discussion about standardization led to the issue of which parties should have been added to the list participating in the focus group. A key person involved in loading/unloading and lumper issues is the dispatcher. Other key players include top management in the sales and marketing department, who are very critical to lumping. From the receiver's perspective, the merchandising personnel should be involved. Another group identified was the front line personnel of the receiver warehouses.

Top management from receivers and shippers also was considered to be important to resolve this problem. Food brokers should also be included as participants.

- One participant noted that from the overall perspective of a large shipper or receiver, the cost implications of solving these lumping related problems represent a very small percentage of overall distribution costs.
- Several participants noted that educating people about this issue is very important. This education could best be provided through trade associations. It was also noted that associations have looked at this before. It was suggested that this is to move the associations ahead on this issue. The problem should be clearly defined and possible solutions identified and presented to associations for some type of action.
- Concrete and accurate information is needed so that industry members not close to the issue can understand the nature and scope of the problem. The issue should be framed as an economic issue, not as a bleeding heart issue.
- The issue of whether the problems associated with loading/unloading and lumping are the result of either a systems failure or the behavior of selected parties involved in the supply chain was discussed. Most believed the problems arose mainly from systems failures, including lack of communication among firms in the supply chain and within firms involved in the supply chain. For example, motor carriers tend to communicate only with the shipper with which it has the account and not at all with the receiver that is the destination of the load. Customer service calls are hardly ever made to the receiver because the freight movement is controlled by the shipper. In addition, instructions by the shipper frequently are not read by the receiver, and the receiving instructions of the receiver are not read by the shipper.
- One participant noted that the receiver has power over everybody. The receiver dictates the configurations and other dimensions of the delivery. Other participants agreed that the receiver has more power, and some noted that the driver has the least amount of power of all the participants. To the degree that the driver can quit and quickly find another driving job, however, may indicate that the driver is not the weakest party in the chain.

### **Conclusion: Points of Consensus**

The focus group meeting concluded with a discussion of the participants' points of consensus. Possible points of consensus were brought up by the research team and discussed by the participants. The following is a list of the confirmed points of consensus.

- The problems associated with loading and unloading practices as they relate to lumping are real and meaningful.
- A market solution is strongly preferred over one that depends upon government regulation.
- A three-party, integrated approach should be taken instead of a two-party approach currently used.
- Improved communication is needed among members of the supply chain (both upstream and downstream) and within firms participating in the chain.
- The use of third-party loading/unloading firms has the potential of solving some of the typical problems associated with using lumpers.
- One of the prerequisites identified as being key to a successful relationship—i.e., clearly articulated expectations of all parties, which are communicated to and understood by all participating parties—would help solve many of the problems associated with loading and unloading of trucks and with using lumpers.



## APPENDIX B

### LOADING AND UNLOADING PRACTICES RELATED TO LUMPING: STATUS AND IMPLICATIONS FOR MOTOR CARRIERS, SHIPPERS, AND OTHER PARTIES

#### Survey and Sampling Methodology

A total of six survey instruments were developed and disseminated in an effort to generate a database that would provide more accurate and meaningful information on the current nature and extent of lumping and its associated problems and benefits.

**MOTOR CARRIER—GENERAL SURVEY:** Sent to 1,682 Class I, Class II, and Class III truckload motor carriers of general freight, refrigerated products, and agricultural commodities. Number of usable responses, 576; response rate, 34 percent.

**MOTOR CARRIER—TAX-RELATED ISSUE SURVEY:** Sent to 414 Class I, Class II, and Class III motor carriers included in the larger sample of 1,682 listed above. Number of usable responses, 165; response rate, 39 percent.

**SHIPPER SURVEY:** Sent to 485 shippers falling into three categories: general shippers, large food manufacturers, and produce growers. Number of usable responses, 133; response rate, 27 percent.

**THIRD-PARTY LOADING/UNLOADING FIRM SURVEY:** Sent to the 52 third-party loading/unloading firms identified by motor carriers responding to the motor carrier general survey. Number of usable responses, 13; response rate, 25 percent.

**RECEIVER SURVEY:** Sent to 617 firms, including general and refrigerated warehouses, wholesale and retail grocery firms, and department/discount/wholesale stores. Number of usable responses, 111; response rate, 18 percent.

**DRIVER SURVEY:** Distributed to 311 drivers at three truck stop locations along the Iowa portions of major regional and national trucking corridors. Surveys were distributed only to truckload drivers, including both owner-operators and company employee drivers. Number of usable responses, 290; response rate, 93 percent.

#### Motor Carrier—General Survey Sample

A telephone survey was conducted in December 1992 to determine what types of commodity carriers were involved in using lumpers. A list of 19 commodity groupings, or carrier codes, was obtained from Transportation Technical Services in

Fredericksburg, Virginia. The 19 carrier codes were as follows: Agricultural Commodity, Armored, Building Materials, Bulk Commodity, Cement Hauler, Forest Product, General Freight, Hazardous Product, Heavy Hauling, Household Goods, Mobile Homes, Motor Vehicle, Package, Petroleum Product, Refrigerated Liquid, Refrigerated Solid (Products), Tank Truck, Tow Truck, and Horse Carrier.

The 1993 National Motor Carrier Directory (NMCD) was used to gather our sample for the phone survey. The contents of the NMCD are based on data completed by Transportation Technical Services, Inc. Information on each company is based on a combination of direct carrier responses, annual reports filed with the Interstate Commerce Commission or state public utility commissions, and federal Department of Transportation data.

The commodity category with the greatest number of motor carrier firms to be included in our sample was General Freight, with 48 motor carriers. Thus, the total number of pages in the NMCD, 1271, was divided by 48, equalling 26.479. Therefore, on every 26<sup>th</sup> page in the NMCD, *one* motor carrier was sought that fell in *each* of the above 19 categories. After one search through the NMCD was completed, an adequate number of firms for some categories was not yet found. Therefore, firms were randomly selected from the NMCD until a substantial sample of motor carriers was found for each category.

Each of the motor carriers in the sample was telephoned using prepared talking scripts and information pages. One script was used for General Freight carriers, which captured input on both truckload and less-than-truckload operations, and another script was used for all other commodity categories. General carrier information was confirmed regarding commodities hauled, whether the firm was a truckload or less-than-truckload carrier, and the respondent's title, as well as specific questions regarding the firm's loading and unloading practices. Questions were asked about both driver and lumper loading and unloading.

When four or more motor carriers within a commodity category reported an involvement in lumping practices, the entire category was deemed as lumping involved, and no more calls were made to motor carriers in that particular category. Motor carriers in five commodity categories were found to be involved in lumping practices, including Agricultural Commodity, Building Materials, General Freight, Household Goods, and Refrigerated Products. However, the concentration for the remainder of the study was on only three commodity categories of lumping: Agricultural Commodity, General Freight, and Refrigerated Products. The Building Materials category generated insufficient evidence to indicate a pervasive issue in this category. Although the Household Goods category also appeared to be involved in lumping practices, it was excluded from further study because the purchasers of household goods transport are individual consumers rather than firms.

It was also determined that less-than-truckload (LTL) firms are virtually excluded from lumping practices, and within the Agricultural Commodity category, lumping is not involved when transporting livestock or grain. The research team recognizes that



in certain specific instances, lumping practices may occur in other commodity groups, and with LTL freight depending on one's definition of an LTL shipment. However, it appears from our phone survey that the most pervasive lumping practices occur within the Agricultural Commodity, General Freight, and Refrigerated Solid categories.

In January 1993 the motor carrier survey entitled "Loading & Unloading Practices Related to Lumping: A National Survey of Motor Carriers" was prepared and pre-tested by executives of several motor carrier firms. The survey sample was gathered from Transportation Technical Service's NMCD. TTS first provided the breakdown of Class I, Class II, and Class III motor carriers within the three commodity categories upon which the study concentrated: Agricultural Commodity, General Freight and Refrigerated Solid.

All of the Class I and Class II carriers were considered for further sample breakdown. Due to the large number of Class III carriers in each commodity category, however, only a random sample of the Class III carriers were considered. Class I, II, and III carriers were analyzed according to the procedure. All intrastate carriers were removed from the sample because existing lumping laws only pertain to interstate carriage. Carriers for which no revenue was specified were also eliminated in order to get a more accurate class-specific sample. Finally, in the Agricultural Commodity category, all livestock and grain primary commodity carriers were deleted from the sample. In addition, limited resources required that the sample be further reduced (using random sampling) in some areas.

The following table illustrates the total motor carrier sample break down by commodity and class. As shown, a total of 1,797 motor carrier surveys were distributed. This number was later adjusted to take into account the number of nonapplicable responses (LTL carriers, bulk carriers) that were returned and the number of surveys which were nondeliverable by mail. The adjusted total sample sent out was 1,682.

	Class I	Class II	Class III	Total
Agricultural Commodity	59	150	190	399
General Freight	515	213	206	934
Refrigerated Solid	140	162	142	444
Task Force	20	0	0	20
<b>Total</b>	<b>734</b>	<b>525</b>	<b>538</b>	<b>1,797</b>

### **Motor Carrier—Tax-Related Issue Survey Sample**

In April 1993 the IRS Issues survey entitled “IRS Issues Related to Lumping Practices: *Confidential Survey of Motor Carriers*” was prepared and pre-tested by executives of several motor carrier firms. The sample was based on the previous Class I, Class II, and Class III motor carrier survey sample after it had been adjusted to exclude intrastate carriers, carriers for which no revenue was specified, and livestock and grain carriers. The sample size was reduced (using random sampling) due to limited resources.

A total of 418 motor carrier surveys were sent out to 171 Class I, 122 Class II, and 125 Class III carriers. This number was later adjusted to take into account the number of surveys that were nondeliverable by mail. The adjusted total sample sent out was 414.

### **Shipper Survey Sample**

In June 1993 the shipper survey entitled “Loading and Unloading Practices Related to Lumping: A National Survey of Shippers” was prepared and pre-tested by several shippers. The shipper sample was taken from three data sources: a list from the Food Shippers of America, Inc., the 1992 Produce Marketing Association’s Membership Directory, and a membership list from the National Industrial Transportation League (NITL). NITL members were surveyed in order to capture the nature and extent of lumping practices for shippers of general freight, while Food Shippers of America, Inc. members were surveyed to capture the same for shippers of food products, and the members of the Produce Marketing Association (PMA) were surveyed to capture the same for shippers of produce. The sample was reduced in some areas (using random sampling) due to limited resources.

A total of 485 shipper surveys were sent out, including 52 to the members of the Food Shippers of America, Inc., 242 to the members of the Produce Marketing Association, and 191 to NITL members.

### **Third-Party Loading/Unloading Firm Survey Sample**

Also in June 1993 the third-party firm survey entitled “Third Party Loading/Unloading Firms: A National Survey” was prepared and pre-tested by several third-party loading/unloading firms. Approximately 140 third-party loading/unloading firms were identified by executives on the survey of motor carriers. The research team was able to determine the phone numbers and locations of 52 of those firms. These 52 firms made up the total sample of third-party loading/unloading firms that were sent surveys in order to gather information on their characteristics and operations.

A follow-up case study of the third-party loading/unloading firm industry was also done. All thirteen loading/unloading firm respondents indicated that the research team could contact them in the future for further information/clarification regarding

their loading/unloading practices. Because the number of usable responses was low, a number of follow-up questions were prepared, sent out to the firms, and asked through phone interviews. The follow-up questions delved into more specific information on why each firm operated the way it did. Eight out of the thirteen third-party loading/unloading firms were reached by phone and asked the applicable follow-up questions.

### **Receiver Survey Sample**

In July, 1993, the receiver survey entitled "Loading and Unloading Practices Related to Lumping: A National Survey of Receivers" was prepared and pre-tested by several receivers. The receiver sample was taken from five data sources: the 1993 American Public Warehouse Register, the 1993 International Directory of Public Refrigerated Warehouses, the 1992 Produce Marketing Association's Membership Directory, CSG Information Services' 1993 Directory of Department Stores, and lists included in the June 1993 issue of the Discount Merchandiser. These sources were used to capture the nature and extent of lumping practices for nine types of receivers: General Public Warehouses (taken from the American Public Warehouse Register), Refrigerated Warehouses (taken from the 1993 International Director of Public Refrigerated Warehouses), Supermarkets (taken from the Produce Marketing Association (PMA) Membership Directory), Produce Wholesalers (taken from the PMA Membership Directory), Service Wholesalers (taken from the PMA Membership Directory), Miscellaneous Receivers that are combinations of the previous three types (taken from the Produce Marketing Association Membership Directory), Department Stores (taken from the Directory of Department Stores), Discount Stores (taken from the Discount Merchandiser) and Wholesale Clubs (taken from the Discount Merchandiser). The sample was reduced in some areas (using random sampling) due to limited resources.

A total of 617 receiver surveys were sent out, including 124 General Public Warehouses, 104 Refrigerated Warehouses, 136 Supermarkets, 71 Produce Wholesalers, 34 Service Wholesalers, 45 Miscellaneous Receivers, 50 Department Stores, 45 Discount Stores, and eight Wholesale Clubs.

### **Driver Survey Sample**

In August 1993 the driver survey entitled "Loading and Unloading Practices Related to Lumping: A National Survey of Drivers" was prepared and pre-tested by several drivers. Surveys were then distributed to drivers at three truck stops located in Iowa: the Bosselman-Harter Truck Plaza on Interstate 80 near Des Moines, the Bar-B Travel Plaza on Interstates 80 and 35 near Des Moines, and the Elk Run Truck Plaza near Waterloo, Iowa. The Bosselman-Harter and Bar-B truck stops were chosen essentially for their strategic locations. The truck stops lie near the mid-point of the I-80 corridor, which is a key east-west route across the United States and, as such, should yield a high population of truckload motor carrier drivers. The Elk Run truck stop also was chosen because it lies just east of Waterloo, at a point where U.S. 20

and I-380 traverse identical routes. It is also located very close to a pork processing plant. Thus, the truck stop yields an adequate population of en route traffic as well as those drivers who have dropped their trailers at the pork processing plant.

The driver surveys were distributed both mid-week and Saturday evenings. Mid-week evenings were selected because most freight moves at night and most drivers will be away from home on the road. Since most drivers like to combine meals, fuel stops, and showers, a 4:00 p.m. to 10:00 p.m. time period was thought to insure a high population of drivers. Saturday evenings were also selected in order to yield high populations because of the above factors, and also due to the high presence of coast-to-coast drivers.

A total of 311 driver surveys were distributed in August 1993, including 75 at the Bosselman-Harter Truck Plaza on August 3, 65 at the Bar-B Travel Plaza on August 4, 44 at the Elk Run Truck Plaza on August 5, 63 at the Bosselman-Harter Truck Plaza on August 7, and 64 at the Bar-B Travel Plaza on August 7.

## **APPENDIX C**

### **LOADING AND UNLOADING PRACTICES RELATED TO LUMPING: STATUS AND IMPLICATIONS FOR MOTOR CARRIERS, SHIPPERS, AND OTHER PARTIES**

#### **Survey Instruments**

**LOADING & UNLOADING PRACTICES RELATED TO LUMPING:  
A NATIONAL SURVEY OF MOTOR CARRIERS**

**CONFIDENTIAL SURVEY**

**RESPONDENT INFORMATION**

Your job title or position? \_\_\_\_\_

*Please answer the following questions based upon 1992 operations or the most recent year for which you have information. If you are uncertain as to the exact response to a specific question, please use your best judgement or approximation in answering. If your firm has only less-than-truckload operations, please discontinue and return the survey in the enclosed postage-paid envelope.*

**Part I. CARRIER INFORMATION**

1. What was your firm's annual operating revenue from carrier operations?

- Less than \$1 million
- \$1 million but less than \$5 million
- \$5 million but less than \$25 million
- \$25 million but less than \$100 million
- \$100 million but less than \$500 million
- \$500 million or more

2. What percent of your firm's revenue was derived from the following?

Truckload operations	_____ %
Less-than-truckload operations	_____ %
<b>Total</b>	<b>100 %</b>

*If your firm has both truckload and less-than-truckload operations, please answer the remaining questions for your truckload operations only. Questions referring to truckloads should be answered to include regulated common carrier, contract carrier, and exempt carrier operations.*

3. What is your average length of haul? \_\_\_\_\_ Miles

4. Which one of the following best described your firm's primary operational coverage?

- National
- Regional
- Intrastate
- Other, please specify: \_\_\_\_\_

5. Indicate the percent breakdown of your drivers between the following.

Company employees:	_____ %
Owner operators:	_____ %
<b>Total</b>	<b>100 %</b>

6. What is the approximate number of truckloads transported annually by your motor carrier firm?

\_\_\_\_\_ Truckloads per year

7. What percent of your truckloads (indicated in question 6), were represented by each type of the following operations?

Common carrier:	_____ %
Contract carrier:	_____ %
Exempt Carrier:	_____ %
<b>Total</b>	<b>100 %</b>

8. What percent of your truckloads represented the following types of freight?

General freight	_____ %
Refrigerated Products	_____ %
Agricultural Commodity	_____ %
Other, please specify: _____	_____ %
<b>Total</b>	<b>100 %</b>

9. What percent of your truckloads represented the following?

Non-unitized shipments:	_____ %
Unitized shipments (i.e., using pallets, slipsheets, bins, or containers):	_____ %
Combination of unitized and non-unitized shipments:	_____ %
<b>Total</b>	<b>100 %</b>

**Part II. LOADING AND UNLOADING INFORMATION**

*This part of the survey contains general questions regarding loading and unloading operations. Questions about specific lumping practices are addressed in the next section.*

1. Please estimate the percent of truckloads for which the following parties were clearly responsible for loading or unloading according to tariffs or contracts (including exempt).

	<u>Loading</u>	<u>Unloading</u>
Carrier was clearly responsible:	_____ %	_____ %
Shipper/receiver was clearly responsible:	_____ %	_____ %
Responsibility was unclear/undefined:	_____ %	_____ %
<b>Total</b>	<b>100 %</b>	<b>100 %</b>

2. State the reason(s) why the responsibility for loading/unloading might be unclear or undefined.

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3. Estimate the percent of truckloads transported annually by your firm whereby the driver ultimately loaded or unloaded regardless of who had the specific responsibility to do so.

Loaded \_\_\_\_\_ %                      Unloaded \_\_\_\_\_ %

4. Which area of your motor carrier firm is most responsible for negotiating rates? (*Please check only one.*)

- Sales (Marketing)  
 Operations  
 Top Management  
 Other, please specify: \_\_\_\_\_

5. Does your firm provide separate payment to the driver for loading/unloading?

\_\_\_\_\_ Yes                      \_\_\_\_\_ No

If yes, what is your average payment (e.g. per cwt., per 1,000 lbs., or per truckload) for loading/unloading?

\$ \_\_\_\_\_ per \_\_\_\_\_



6. Indicate the change within the last five years in the percent of your firm's truckloads involving unitized shipments.

- Significant increase
- Increase
- No appreciable change
- Decrease
- Significant decrease

### **Part III. LUMPING INFORMATION**

*For purposes of this survey, lumping is defined as the loading and unloading of carrier equipment by individuals or firms acting as independent contractors that specialize in providing such services. This lumping process can be either voluntary or involuntary (coerced or forced).*

*Remember, if you are uncertain as to the exact response to a specific question, please use your best judgement or approximation in answering.*

1. Did your firm hire lumpers last year?

\_\_\_\_\_ Yes                      \_\_\_\_\_ No

*If yes, proceed with the questionnaire.*

*If no, please go to Part IV and answer those questions relevant to your firm's experience.*

2. What percent of your total truckloads hauled annually involved your firm using lumpers?

<u>Voluntary</u> use of lumpers	_____ %
<u>Involuntary</u> use of lumpers	_____ %
No lumpers hired	_____ %
<b>Total</b>	<b>100 %</b>

3. For truckloads in which lumpers were used, what percent were used at the following sites?

Loading site <u>only</u> :	_____ %
Unloading site <u>only</u> :	_____ %
<u>Both</u> the loading and unloading sites:	_____ %
<b>Total</b>	<b>100 %</b>

4. What percent of your unitized truckloads (i.e., using pallets, slipsheets, bins, or containers) and non-unitized truckloads involved using lumpers?

	<u>Unitized</u>	<u>Non-Unitized</u>
Lumpers were used:	_____ %	_____ %
No lumpers used:	_____ %	_____ %
<b>Total</b>	<b>100 %</b>	<b>100 %</b>

5. Indicate the change since 1980 in the percent of your firm's truckloads for which lumpers are used.

- Significant increase
- Increase
- No appreciable change
- Decrease
- Significant decrease

6. What was the average amount your firm paid to lumpers per truckload last year? \$ \_\_\_\_\_

7. Your firm's individual lumping fees ranged from a high of \$ \_\_\_\_\_ to a low of \$ \_\_\_\_\_ per truckload.

8. If your firm's lumping fees exceed your loading/unloading allowances to drivers, what actions are taken? (*Check any that apply.*)

- Increase your tariff rates
- Directly bill or charge back to shipper/receiver
- Decline the traffic
- Allow driver to absorb the extra cost
- Other, please specify: \_\_\_\_\_

9. In the context of your operations, identify the commodities for which lumping most frequently occurs. (*Please prioritize; 1. = most frequent.*)

1. \_\_\_\_\_ 2. \_\_\_\_\_ 3. \_\_\_\_\_

10. In the context of your operations, where does lumping most likely occur? (*Please check only one.*)

- In virtually all markets
- In most markets
- In some markets
- In very few markets

11. Please indicate the types of facilities at which lumping was most prevalent. (Check all that apply.)

- Private warehouse of the shipper
- Private warehouse of the receiver
- Public warehouse or distribution center
- Airport facilities
- Water Port facilities
- Other, please specify: \_\_\_\_\_

12. In your opinion, how do the following factors affect the frequency of lumping? (Check one blank after each factor.)

	Decreases	No effect	Increases
Appointment only pickup/delivery times:	_____	_____	_____
Availability of 3rd party loading/unloading firms:	_____	_____	_____
Shipper/receiver uses Just-In-Time scheduling:	_____	_____	_____
Broker arranges load/transportation:	_____	_____	_____
Commodity is exempt:	_____	_____	_____
Driver belongs to union:	_____	_____	_____
Driver is female:	_____	_____	_____
Driver is greater than 50 yrs. old:	_____	_____	_____
Driver is reimbursed for lumping fees which exceed loading/unloading allowances:	_____	_____	_____
Owner/operators are used, rather than company drivers:	_____	_____	_____
Size of carrier is large:	_____	_____	_____
Size of shipper/receiver is large:	_____	_____	_____
Loading/Unloading facility is large:	_____	_____	_____
Region served is East or West coast:	_____	_____	_____
Responsibility for loading/unloading is unclear:	_____	_____	_____
Store door delivery is used:	_____	_____	_____
Other, please specify:	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

*For the purposes of questions 13-16, a third party firm is defined as an independent business firm that contracts for the providing of loading and unloading services.*

13. Have you ever utilized a third party firm?

\_\_\_\_\_ Yes                      \_\_\_\_\_ No

*If yes, please answer questions 14-16.*

*If no, go to Part IV of the questionnaire.*

14. List the names of any third party firms that you have used or you are aware of, and in what cities they are located.

**Third Party Firm:**

**City:**

_____	_____
_____	_____
_____	_____

15. In general, the cost per load in using a third party lumping firm rather than an individual lumper is:  
(Check one.)

Higher                       Approximately the same                       Lower

16. Rate the importance of each of the following possible reasons why your firm decided to use a third party firm rather than an individual lumper. (Please circle one number after each factor; 1 = not important, 3 = moderately important, 5 = very important.)

	(Not Important)	2	3	(Very Important)	5
Reduction in loading/unloading time:	1	2	3	4	5
Reduction in loss and damage:	1	2	3	4	5
Reduction in record keeping:	1	2	3	4	5
Reduction of driver harassment:	1	2	3	4	5
Reduction of personal injury liability:	1	2	3	4	5
Removal of tax liability:	1	2	3	4	5
Standardization of loading/unloading fees:	1	2	3	4	5
Other, please specify:					
_____	1	2	3	4	5
_____	1	2	3	4	5

**Part IV. PROBLEMS AND BENEFITS**

*For the following three questions, use a rating scale between 1 and 5 with 1 = not important, 3 = moderately important, and 5 = very important. (Circle one number after each possible benefit.)*

1. Rate the importance to your firm of each of the following possible problems associated with driver loading and unloading.

	(Not Important)			(Very Important)	
Reduces revenues from inefficient equipment utilization:	1	2	3	4	5
Reduces driver on-duty time available for driving:	1	2	3	4	5
Decreases carrier's ability to retain and recruit drivers:	1	2	3	4	5
Increases driver fatigue:	1	2	3	4	5
Increases driver injuries:	1	2	3	4	5
Adversely affects driver morale:	1	2	3	4	5
Increases actual loading/unloading time:	1	2	3	4	5
Other problems ( <i>specify and rate</i> ):					
_____	1	2	3	4	5
_____	1	2	3	4	5



2. Rate the importance to your firm of each of the following possible benefits associated with using lumpers.

	(Not Important)			(Very Important)	
Increases carrier efficiency by decreasing loading and unloading time:	1	2	3	4	5
Increases carrier's ability to retain and recruit drivers:	1	2	3	4	5
Improves relationships with shippers/receivers:	1	2	3	4	5
Reduces risk of driver injury from loading and unloading:	1	2	3	4	5
Reduces driver fatigue:	1	2	3	4	5
Other benefits ( <i>specify and rate</i> ):					
_____	1	2	3	4	5
_____	1	2	3	4	5

3. Rate the importance to your firm of each of the following possible problems associated with using lumpers.

	(Not Important)			(Very Important)	
Collusion between driver & lumper:	1	2	3	4	5
Collusion between shipper/receiver & lumper:	1	2	3	4	5
High cost of hiring lumpers:	1	2	3	4	5
Variations in cost of hiring lumpers (no standard price):	1	2	3	4	5
Shipper/receiver reimbursement to carrier not sufficient:	1	2	3	4	5
Driver must carry cash to pay lumpers:	1	2	3	4	5
Exposure to tax liability:	1	2	3	4	5
Exposure to liability due to injury to lumper:	1	2	3	4	5
Increased loss and damage claims:	1	2	3	4	5
Harassment of driver:	1	2	3	4	5
Forced use of lumpers when not needed:	1	2	3	4	5
Increased waiting time to load/unload if lumpers are not used:	1	2	3	4	5
Lost business due to refusal to use lumpers:	1	2	3	4	5
Record keeping required when using lumpers:	1	2	3	4	5
Unavailability of lumpers when needed:	1	2	3	4	5
Other problems ( <i>specify and rate</i> ):					
_____	1	2	3	4	5
_____	1	2	3	4	5

4. Of those problems identified above, please indicate the one which you consider to be most important.

\_\_\_\_\_

Questions 5 and 6 deal with the specialized case of involuntary (coerced or forced) lumping.

5. Rate the importance of each of the following possible causes of involuntary lumping. (Please circle **one** number after each possible cause using a rating scale between 1 and 5 with 1 = not important, 3 = moderately important, 5 = very important.)

	(Not Important)			(Very Important)	
Market power favors shippers/receivers:	1	2	3	4	5
Lack of ICC enforcement:	1	2	3	4	5
Responsibility to load/unload is not specified:	1	2	3	4	5
Responsibility to load/unload is not communicated between shipper and receiver:	1	2	3	4	5
Unrealistic loading/unloading schedules at shipper/receiver facilities:	1	2	3	4	5
Other (Please specify):	1	2	3	4	5
_____	1	2	3	4	5
_____	1	2	3	4	5

6. What attempts has your company made to deal with the problem of involuntary (coerced or forced) lumping? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

In general, how successful were these attempts?

- Not successful       Moderately successful       Very successful

*Note: If you would like a copy of the survey results, please provide your name and address below or attach a business card.*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Thank you for your assistance.**

**IRS Issues Related To Lumping Practices:  
Confidential Survey of Motor Carriers**

Dear Motor Carrier Executive:

This confidential survey is being distributed as part of the study of loading and unloading practices related to lumping which is being conducted by Iowa State University in conjunction with the American Trucking Associations Foundation. Your responses will be kept in absolute confidence by the research team.

Please answer all questions to the best of your ability. Please return the survey in the postage-paid envelope or FAX to (515)294-6060. Summary results will be provided upon request. If you have any questions about the survey, please call one of the principal investigators of the research project--Ben Allen or Dick Poist at (515)294-3659. Thank you for your assistance!

1. What was your firm's annual operating revenue from carrier operations last year?  

<input type="checkbox"/> Less than \$1 million	<input type="checkbox"/> \$25 million but less than \$100 million
<input type="checkbox"/> \$1 million but less than \$5 million	<input type="checkbox"/> \$100 million but less than \$500 million
<input type="checkbox"/> \$5 million but less than \$25 million	<input type="checkbox"/> \$500 million or more
  
2. To what extent did your firm use lumpers last year?  

<input type="checkbox"/> Never	<input type="checkbox"/> Rarely	<input type="checkbox"/> Sometimes	<input type="checkbox"/> Often	<input type="checkbox"/> Always	<input type="checkbox"/> Do not know
--------------------------------	---------------------------------	------------------------------------	--------------------------------	---------------------------------	--------------------------------------
  
3. Has your company been contacted by the Internal Revenue Service (IRS) regarding the independent contractor status of lumpers?  

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------
  
4. a) Have you been officially directed by the IRS to complete the IRS Form SS-8 requesting responses to the *20 common law questions* specifically concerning lumpers?  

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

b) If yes, please indicate the date your firm was contacted. \_\_\_\_\_
  
5. To your knowledge, have any lumpers been classified by the IRS as employees of your firm?  

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------
  
6. a) As a result of the IRS's interest in the independent contractor status of lumpers, are you contemplating a change in your current practice of using lumpers?  

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

b) If yes, please indicate the nature of these changes. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
7. Does your firm authorize owner-operators and/or company employee drivers to use lumpers?  

Owner-operators	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Company employee drivers	<input type="checkbox"/> Yes	<input type="checkbox"/> No



8. a) Does your firm provide separate payment to the owner-operator for lumping costs?  
 Yes  No
- b) If no, please explain. \_\_\_\_\_  
 \_\_\_\_\_
9. a) If your company utilizes both owner-operator and employee drivers, do your company policies regarding the use of lumpers differ between employee drivers and owner-operators?  
 Yes  No
- b) If yes, please explain. \_\_\_\_\_  
 \_\_\_\_\_

*For the following questions, please answer only in the context of your company employee drivers. If you do not have company employee drivers, please go to question 18 on page 3.*

10. What percent of lumping services are arranged by the following parties?
- |  |              |
|--|--------------|
| Arranged by carrier                                  | _____ %      |
| Arranged by driver                                   | _____ %      |
| Arranged by shipper or receiver                      | _____ %      |
| Arranged by third-party provider of lumping services | _____ %      |
| Other, please specify: _____                         | _____ %      |
| <b>Total</b>   | <b>100 %</b> |
11. Estimate the percent of time lumpers are controlled by the following parties during loading/unloading.
- |  |              |
|--|--------------|
| Controlled by driver                                   | _____ %      |
| Controlled by shipper or receiver                      | _____ %      |
| Controlled by third-party provider of lumping services | _____ %      |
| Individual lumpers not supervised                      | _____ %      |
| Other, please specify: _____                           | _____ %      |
| <b>Total</b>   | <b>100 %</b> |
12. How often do shippers/receivers permit lumpers to use their equipment for loading/unloading?  
 Never  Rarely  Sometimes  Often  Always  Do not know
13. What method of payment is used when your firm pays lumpers?
- |   |              |
|---|--------------|
| Driver pays lumper directly <i>(if other than cash, please explain below)</i> | _____ %      |
| A bill of services is sent to and paid by your Accounts Payable process       | _____ %      |
| Other, please specify: _____  | _____ %      |
| <b>Total</b>  | <b>100 %</b> |

14. When your firm uses lumpers, what percentage of the time are you reimbursed for lumping fees? \_\_\_\_\_ %

15. a) Are your drivers instructed to verify identification of the individual(s) used for lumping services?  
 Yes  No

*If yes, please answer parts b) through e) below.*

b) To what extent are your drivers able to obtain correct identification information from lumpers?

Never  Rarely  Sometimes  Often  Always  Do not know

c) If the lumper refuses to provide any identification information, is the driver still permitted to use the lumper?

Yes  No

d) Does your firm use the identification information obtained to issue the IRS Form 1099 to lumpers?

Yes  No

e) If yes, indicate the reason(s) for which you do not issue IRS Form 1099. (*Check all that apply.*)

Lack of correct identification information

Individual lumper compensation is less than \$600

Other, please explain. \_\_\_\_\_

16. At frequently served shipping/receiving facilities, to what extent does your firm use the same individual(s) as lumpers?

Never  Rarely  Sometimes  Often  Always  Do not know

17. To the extent that your firm reimburses drivers for lumping fees, do you treat the reimbursement amounts as driver compensation from which your firm withholds taxes?

Yes  No

18. a) Have you been contacted by any federal (other than the IRS), state, or local/municipal agency regarding the use of lumpers?

Yes  No

b) If yes, what is the agency's name and location?

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**Thank you for your assistance!**

# LOADING AND UNLOADING PRACTICES RELATED TO LUMPING: A NATIONAL SURVEY OF SHIPPERS

Please answer the following questions based upon your firm's for-hire outbound truckload operations in 1992 or the most recent year for which you have information. **ANSWER ALL QUESTIONS IN THE CONTEXT OF YOUR FIRM'S TOTAL FOR-HIRE OUTBOUND TRUCKLOADS, UNLESS OTHERWISE INDICATED.** If you are uncertain as to the exact response to a specific question, please use your best judgement or approximation in answering. If your firm is a corporate subsidiary, please answer the following questions in relation to your corporate subsidiary rather than to the overall parent company.

## Part I: RESPONDENT AND COMPANY INFORMATION

1. List your job title or position. \_\_\_\_\_
  
2. What was your firm's (or subsidiary's) annual revenue last year?
 

<input type="checkbox"/> Less than \$10 million	<input type="checkbox"/> \$100 million but less than \$500 million
<input type="checkbox"/> \$10 million but less than \$25 million	<input type="checkbox"/> \$500 million but less than \$1 billion
<input type="checkbox"/> \$25 million but less than \$100 million	<input type="checkbox"/> \$1 billion or more
  
3. The primary business of your firm is:
 

<input type="checkbox"/> Manufacturing (Durables)	<input type="checkbox"/> Retailing
<input type="checkbox"/> Manufacturing (Non-Durables)	<input type="checkbox"/> Other, please specify: _____
<input type="checkbox"/> Wholesaling	
  
4. Indicate the general nature of your company's product line. \_\_\_\_\_

## Part II: LOADING AND UNLOADING INFORMATION

### NATURE AND AMOUNT OF OUTBOUND SHIPMENTS TO RECEIVERS/CUSTOMERS

1. Approximate your firm's total number of outbound truckload shipments (including both for-hire and private) last year. \_\_\_\_\_ Truckloads
  
2. What percent of the above outbound truckload shipments were transported by for-hire carriers last year?  
\_\_\_\_\_ %  
*If your firm uses private carriage only, please go to question 5 on page 8.*
  
3. What percent of your firm's for-hire outbound truckload shipments consist of food products? \_\_\_\_\_ %
  
4. What percent of your firm's for-hire outbound truckload shipments are unitized (e.g. pallets, slipsheets, bins, or containers)? \_\_\_\_\_ %

**LOADING OF VEHICLES AT YOUR FIRM'S FACILITIES**

5. Estimate the percent of your firm's for-hire outbound truckload shipments for which the following parties are legally responsible for loading.

Carrier is responsible:	_____ %
Your firm is responsible:	_____ %
Receiver/Customer is responsible:	_____ %
Responsibility is unclear or undefined:	_____ %
<b>Total</b>	<b>100 %</b>

6. If you indicated the legal responsibility for loading is unclear or undefined, identify the reason(s). (*Check all that apply.*)

- |  |   |
|--|---|
| <input type="checkbox"/> Communication failure by the broker                               | <input type="checkbox"/> Terms negotiated between your firm & receiver/customer differ from carrier tariffs/contracts |
| <input type="checkbox"/> Communication failure between your firm and the receiver/customer | <input type="checkbox"/> Unknown  |
| <input type="checkbox"/> Not indicated by the carrier's tariff                             | <input type="checkbox"/> Other, please specify: _____   |
| <input type="checkbox"/> Not part of contract negotiations with the carrier                |   |

**UNLOADING OF VEHICLES AT RECEIVER/CUSTOMER FACILITIES**

**Communications Between Your Firm and For-Hire Carriers**

7. Estimate the percent of your firm's for-hire outbound truckload shipments for which the following parties are legally responsible for unloading.

Carrier is responsible:	_____ %
Your firm is responsible:	_____ %
Receiver/Customer is responsible:	_____ %
Responsibility is unclear or undefined:	_____ %
<b>Total</b>	<b>100 %</b>

8. If you indicated the legal responsibility for unloading is unclear or undefined, identify the reason(s). (*Check all that apply.*)

- |  |   |
|--|---|
| <input type="checkbox"/> Communication failure by the broker                               | <input type="checkbox"/> Terms negotiated between your firm & receiver/customer differ from carrier tariffs/contracts |
| <input type="checkbox"/> Communication failure between your firm and the receiver/customer | <input type="checkbox"/> Unknown  |
| <input type="checkbox"/> Not indicated by the carrier's tariff                             | <input type="checkbox"/> Other, please specify: _____   |
| <input type="checkbox"/> Not part of contract negotiations with the carrier                |   |

9. How frequently does your firm negotiate with for-hire carriers regarding which party has responsibility for unloading for-hire outbound truckload shipments?

- Never     Rarely     Sometimes     Often     Always

10. Which area of your firm has the greatest responsibility for negotiating transportation services with for-hire carriers for its outbound truckload shipments? (Please check only one.)

- |  |   |
|--|---|
| <input type="checkbox"/> Sales (Marketing) | <input type="checkbox"/> Traffic Management     |
| <input type="checkbox"/> Purchasing        | <input type="checkbox"/> Other, please specify: |
| <input type="checkbox"/> Top Management    | _____   |

11. a) For what percent of for-hire outbound truckload shipments do carriers refuse to accept their legal or negotiated responsibility for unloading? \_\_\_\_\_ %

b) If carriers refuse to unload, what percent of time does your firm take over this responsibility? \_\_\_\_\_ %

**Communications Between Your Firm and Receivers/Customers**

12. How frequently does your firm negotiate with receivers/customers regarding which party has responsibility for unloading for-hire outbound truckload shipments?

- Never     Rarely     Sometimes     Often     Always

13. If the responsibility for unloading is negotiated with the receiver/customer, how often does your firm communicate to the for-hire carrier which party is responsible for unloading?

- Never     Rarely     Sometimes     Often     Always     N/A, responsibility not negotiated

14. Which area of your firm has the greatest responsibility for negotiating transportation arrangements with receivers/customers for its for-hire outbound truckload shipments? (Please check only one.)

- |  |   |
|--|---|
| <input type="checkbox"/> Sales (Marketing) | <input type="checkbox"/> Traffic Management     |
| <input type="checkbox"/> Purchasing        | <input type="checkbox"/> Other, please specify: |
| <input type="checkbox"/> Top Management    | _____   |

15. When your firm's for-hire outbound truckload shipments are unitized (e.g. pallets, slipsheets, bins, or containers), how often does your firm make the size and dimensions of the unit compatible with the receiving and storage requirements of receivers/customers?

- Never     Rarely     Sometimes     Often     Always     Unknown     N/A, shipments not unitized

16. a) For what percent of for-hire outbound truckload shipments do receivers/customers refuse to accept their legal or negotiated responsibility for unloading? \_\_\_\_\_ %

b) If receivers/customers refuse to unload, what percent of time does your firm take over this responsibility? \_\_\_\_\_ %

**ALLOWANCES**

17. Did your firm offer receivers/customers an unloading allowance last year?
- Yes  
 No *If no, go to question 21 on page 4.*
18. a) What percent of the receivers/customers who were offered this unloading allowance took advantage of it? \_\_\_\_\_ %
- b) Approximately how many truckloads were moved under this unloading allowance? \_\_\_\_\_ Truckloads
19. How successful were unloading allowances in reducing your firm's loading/unloading problems?
- Not successful       Moderately successful       Very successful
20. Briefly explain why unloading allowances were successful or unsuccessful in dealing with your firm's loading/unloading problems.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
21. Did your firm offer receivers/customers a transportation allowance to pick-up goods at your facilities last year?
- Yes  
 No *If no, go to Part III of the questionnaire, on page 5.*
22. a) What percent of the receivers/customers who were offered this transportation allowance took advantage of it? \_\_\_\_\_ %
- b) Approximately how many truckloads were moved under this transportation allowance?  
\_\_\_\_\_ Truckloads
23. How successful were transportation allowances in reducing your firm's loading/unloading problems?
- Not successful       Moderately successful       Very successful
24. Briefly explain why transportation allowances were successful or unsuccessful in dealing with your firm's loading/unloading problems.
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

## Part III: LUMPING INFORMATION

For purposes of this survey, lumping is defined as the loading and unloading of carrier equipment by individuals or third party lumping firms acting as independent contractors that specialize in providing such services. A third party lumping firm is defined as an independent business firm that contracts for providing laborers to load and/or unload. The lumping process can be either voluntary or involuntary (coerced or forced).

If lumpers (individuals or third party lumping firms) were not involved in the loading or unloading of your firm's for-hire outbound truckload shipments last year, please go to question 5 on page 8.

### LUMPING AT THE LOADING SITE

1. Were lumpers (individuals or third party lumping firms) involved in the loading of your firm's for-hire outbound truckload shipments last year?
  - Yes
  - No *If no, please go to question 6 on page 6.*
  
2. What percent of your firm's for-hire outbound truckload shipments were loaded by lumpers last year? \_\_\_\_\_ %
  
3. Of your firm's for-hire outbound truckload shipments which were loaded by lumpers, what percent were hired by the following parties?
 

Your firm:	_____ %
Carriers:	_____ %
Other, please specify: _____	_____ %
Total	100 %
  
4. If hired by your firm to load, lumpers' fees ranged from a low of \$ \_\_\_\_\_ to a high of \$ \_\_\_\_\_ per truckload. The average your firm paid for lumping services is: \$ \_\_\_\_\_ per truckload.
  
5. Please answer this question in the context of using individual lumpers and/or third party lumping firms.
 

	Individual Lumpers		Third Party Lumping Firms	
	Yes	No	Yes	No
<u>In general, does your firm:</u>				
a) Allow lumpers to load trailers on your firm's facilities?	—	—	—	—
b) Allow lumpers to use your firm's handling equipment?	—	—	—	—
c) Train lumpers to use your firm's handling equipment?	—	—	—	—
d) Allow lumpers to use their own handling equipment?	—	—	—	—
e) Arrange for lumpers to be available on your firm's facilities?	—	—	—	—
f) Provide an approved or recommended list of lumpers?	—	—	—	—
g) Allow lumpers on your firm's facilities while not working?	—	—	—	—
h) Control lumping fees at your firm's dock?	—	—	—	—
i) Supervise the loading of freight by lumpers?	—	—	—	—
j) Allow carriers to provide their own lumpers?	—	—	—	—

**LUMPING AT THE UNLOADING SITE**

6. Were lumpers (individuals or third party lumping firms) involved in the **unloading** of your firm's **for-hire outbound truckload** shipments last year?

Yes

No  Unknown *If you answered no or unknown, please go to question 13 on page 6.*

7. How frequently were lumpers (individuals or third party firms) hired by your firm to unload at your receivers'/customers' facilities last year?

Never  Rarely  Sometimes  Often  Always

8. If hired by your firm to unload, lumpers' fees ranged from a low of \$ \_\_\_\_\_ to a high of \$ \_\_\_\_\_ per truckload. The average your firm paid for lumping services would be: \$ \_\_\_\_\_ per truckload.

9. How frequently does your firm reimburse for-hire carriers for hiring lumpers at receivers'/customers' facilities?

Never  Rarely  Sometimes  Often  Always

10. Under what circumstances does your firm not reimburse for-hire carriers for hiring lumpers to unload?

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11. How frequently has your firm received complaints from for-hire carriers/drivers regarding involuntary or forced hiring of lumpers at receivers'/customers' facilities?

Never  Rarely  Sometimes  Often  Always

12. How frequently does your firm reimburse for-hire carriers for involuntary or forced hiring of lumpers to unload?

Never  Rarely  Sometimes  Often  Always

**THIRD PARTY LUMPING FIRMS**

*For the purposes of questions 13-16, a third party lumping firm is defined as an independent business firm that contracts for providing laborers to load and/or unload.*

13. For what percent of your firm's for-hire outbound truckload shipments were third party lumping firm(s) utilized to load/unload last year? \_\_\_\_\_ %

*If your firm hasn't used a third party lumping firm, go to Part IV of the questionnaire, on page 7.*



14. Please indicate on the back of this page the names and locations (city & state) of any third party lumping firms which your firm is aware of or has ever used.

15. In general, the fee per load when using a third party lumping firm rather than an individual lumper is: (Check one.)

- Much lower     Lower     Approximately the same     Higher     Much higher

16. Rate the importance of each of the following possible reasons why your firm decided to use a third party lumping firm rather than an individual lumper. (Please circle one number after each factor; 1 = not important, 3 = moderately important, 5 = very important.)

	Not Important				Very Important
Reduction in loading time:	1	2	3	4	5
Reduction in loss and damage:	1	2	3	4	5
Reduction in record keeping:	1	2	3	4	5
Reduction of driver harassment:	1	2	3	4	5
Reduction of personal injury liability:	1	2	3	4	5
Removal of tax liability:	1	2	3	4	5
Standardization of loading/unloading fees:	1	2	3	4	5
Other, please specify:					
_____	1	2	3	4	5
_____	1	2	3	4	5

### Part IV: PROBLEMS AND BENEFITS RELATED TO LUMPING

For the following two questions, use a rating scale between 1 and 5 with 1 = not important, 3 = moderately important, and 5 = very important. (Circle one number after each possible benefit and problem.)

1. Rate the importance to your firm of each of the following possible benefits associated with using lumpers.

	Not Important				Very Important
Improves relationships with for-hire carriers:	1	2	3	4	5
Improves relationships with receivers/customers:	1	2	3	4	5
Reduces loading time during normal demand times:	1	2	3	4	5
Reduces risk of injury to company personnel from loading:	1	2	3	4	5
Increases firm's ability to meet peak period loading demands:	1	2	3	4	5
Facilitates loading of late arrivals:	1	2	3	4	5
Reduces employee overtime:	1	2	3	4	5
Reduces permanent dock work force:	1	2	3	4	5
Other benefits (specify and rate):					
_____	1	2	3	4	5
_____	1	2	3	4	5

2. Rate the importance to your firm of each of the following possible problems associated with using lumpers.

	Not Important				Very Important
High cost of hiring lumpers:	1	2	3	4	5
Variations in cost of hiring lumpers (no standard price):	1	2	3	4	5
Exposure to tax liability:	1	2	3	4	5
Exposure to liability due to injury to lumper:	1	2	3	4	5
Increase in loss and damage:	1	2	3	4	5
Conflict with your firm's employees:	1	2	3	4	5
Collusion between lumper & driver at the unloading site:	1	2	3	4	5
Inability to monitor lumper activity at the unloading site:	1	2	3	4	5
Forced use of lumpers when not needed:	1	2	3	4	5
Record keeping required when using lumpers:	1	2	3	4	5
Unavailability of lumpers when needed:	1	2	3	4	5
Other problems ( <i>specify and rate</i> ):					
_____	1	2	3	4	5
_____	1	2	3	4	5

3. Indicate one benefit and one problem from the previous lists which you consider to be the most important.

Most important benefit: \_\_\_\_\_

Most important problem: \_\_\_\_\_

4. a) Has your firm attempted to alleviate the lumping problem you listed as most important in question 3?

Yes                       No

b) If yes, please explain.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

c) In general, how successful were these attempts?

Not successful     Moderately successful     Very successful     Unknown

5. Please answer this question in the context of your firm's use of **private carriage** (if any).

a) If your firm used its own private carriage to deliver to receivers/customers last year, were lumpers used to unload?

Yes                       No

b) If your firm incurred lumping problems in the use of its private carriage, briefly indicate the nature of those problems.

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c) If your firm used both for-hire carriers and its own private carriage to deliver to receivers/customers, describe the incidence of lumping-related problems per hundred truckload shipments using private carriage as compared to for-hire carriage.

Much less    Less    Approximately the same    Greater    Much greater    Unknown

6. a) How frequently has your firm been contacted by carriers or receivers/customers when disagreements arise at the receivers'/customers' unloading facilities regarding the responsibility for unloading?

Never    Rarely    Sometimes    Often    Always

b) If you answered other than Never, what actions did your firm take, if any, to resolve these disagreements?

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c) In general, how successful were these actions?

Not successful    Moderately successful    Very successful    Unknown

Note: *If you would like a copy of the survey results, provide your name and address below, or attach a business card.*

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**Thank you for your assistance.**

**THIRD PARTY LOADING/UNLOADING FIRMS:  
A NATIONAL SURVEY**

**CONFIDENTIAL SURVEY**

Your job title or position? \_\_\_\_\_

*Please answer the following questions based upon your firm's 1992 operations or the most recent year for which you have information. ANSWER ALL QUESTIONS BASED UPON YOUR FIRM'S TOTAL LOADING/UNLOADING OPERATIONS (INCLUDING ALL BRANCH AND/OR FRANCHISE OPERATIONS).*

*For the purposes of this questionnaire, a third party loading/unloading firm is defined as an independent business firm that contracts for providing loading and/or unloading services. If you are uncertain as to the exact response to a specific question, please use your best judgement or approximation in answering. If you have any additional information (pamphlets, documents, comments) you would like to provide regarding your firm, please enclose it with this survey in the postage-paid envelope.*

**Part I: GENERAL INFORMATION**

1. a) Which of the following services does your firm provide? (Check all that apply.)

- |  |   |
|--|---|
| <input type="checkbox"/> Loading/Unloading | <input type="checkbox"/> Temporary Employees          |
| <input type="checkbox"/> Brokerage         | <input type="checkbox"/> Warehousing                  |
| <input type="checkbox"/> Consulting        | <input type="checkbox"/> Other, please specify: _____ |

b) If you checked more than one of the above boxes, indicate your firm's primary business operation.

\_\_\_\_\_

*If your firm does not provide loading/unloading services, please discontinue and return the questionnaire in the enclosed postage-paid envelope.*

2. What year did your firm begin operation? \_\_\_\_\_

3. What year did your firm begin providing loading/unloading services? \_\_\_\_\_

4. What was your firm's total annual operating revenue from all operations last year? \$ \_\_\_\_\_

5. What was your firm's annual operating revenue from loading/unloading operations last year? \$ \_\_\_\_\_

6. What business structure does your firm operate under? (Check only one.)

- Single Proprietorship     Partnership     Corporation

7. In addition to your firm's main office, how many branch offices and/or franchises that provide loading/unloading services does your firm operate?

\_\_\_\_\_ Branch Offices    Are these branch offices independent corporate entities?     Yes     No  
 \_\_\_\_\_ Franchises

8. Indicate where your firm and/or its franchises provides loading/unloading services. (Indicate with an "X" those locations served by a franchise.)

<u>City</u>	<u>State</u>	<u>Number of facilities served</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____

Please write any additional locations on the back of this page.

## Part II: LOADING/UNLOADING PERSONNEL INFORMATION

1. Approximately how many individuals (total of all locations) are involved in providing your firm's loading/unloading services?

\_\_\_\_\_ Loading/Unloading Laborers                      \_\_\_\_\_ Loading/Unloading Administrative Personnel

2. What percent of your firm's loading/unloading laborers does your firm consider employees or independent contractors?

Employees:                      \_\_\_\_\_ %  
 Independent Contractors:    \_\_\_\_\_ %  
**Total**                                      **100 %**

3. Which of the following methods does your firm use to recruit its loading/unloading laborers? (Check all that apply.)

- Local or regional newspapers                       Employee references  
 College newspapers                                       Employment agency referrals  
 Other, please specify: \_\_\_\_\_

4. a) Does your firm ever hire individuals other than U.S. citizens to provide loading/unloading services?

Yes                       No                       Don't Know

b) If yes, does your firm require its loading/unloading laborers to complete Department of Justice form I-9 (employment eligibility verification) when hired?

Yes                       No

5. a) Does your firm require a certain level of education as a prerequisite for employment?

Yes  No

b) If yes, what level is required? \_\_\_\_\_

6. Does your firm require previous experience in loading/unloading as a prerequisite for employment?

Yes  No

7. If your firm has other requirements for employment, please describe.

\_\_\_\_\_  
\_\_\_\_\_

8. Approximately what percent of your firm's loading/unloading laborers are made up of the following?

Caucasians	_____ %
African Americans	_____ %
Hispanics	_____ %
Asians	_____ %
Other, please specify: _____	_____ %
<b>Total</b>	<b>100 %</b>

9. Which of the following categories describes the source(s) of your firm's loading/unloading laborers? (*Check all that apply.*)

<input type="checkbox"/> Former independent lumpers	<input type="checkbox"/> College students
<input type="checkbox"/> Former dock/warehouse employees	<input type="checkbox"/> Government employment agency applicants
<input type="checkbox"/> Off-duty dock/warehouse employees	<input type="checkbox"/> Temporary employees
<input type="checkbox"/> Other, please specify: _____	

10. a) Do your firm's loading/unloading laborers perform duties other than loading and unloading?

Yes  No

b) If yes, what other duties do they perform for your firm? \_\_\_\_\_

11. a) The amount in units (e.g. per truckload, per cwt, per 1,000 lbs., or per hour) your firm pays its loading/unloading laborers ranges from a **low** of \$ \_\_\_\_\_ to a **high** of \$ \_\_\_\_\_ per \_\_\_\_\_. The **average** your firm pays is: \$ \_\_\_\_\_ per \_\_\_\_\_.

b) Please explain the variation (if any) in pay. \_\_\_\_\_  
\_\_\_\_\_

12. a) Does your firm offer incentive pay to its loading/unloading laborers to encourage productivity?  
 Yes                       No

b) If yes, briefly describe. \_\_\_\_\_  
\_\_\_\_\_

13. a) Estimate your firm's annual turnover of loading/unloading laborers. \_\_\_\_\_ % per year

b) Indicate the primary reasons for your firm's rate of turnover. \_\_\_\_\_  
\_\_\_\_\_

*Answer questions 14-16 only for those loading/unloading laborers your firm considers independent contractors.*

14. Does your firm maintain workers compensation insurance for its loading/unloading independent contractors?  
 Yes                       No

15. Does your firm issue IRS form 1099-MISC (miscellaneous income) to its loading/unloading independent contractors?  
 Yes                       No

16. Which of the following types of training does your firm provide its loading/unloading independent contractors?  
(Check all that apply.)

<input type="checkbox"/> Manual loading/unloading	<input type="checkbox"/> Safety
<input type="checkbox"/> Mechanical loading/unloading	<input type="checkbox"/> Customer relations
<input type="checkbox"/> Palletization procedures	<input type="checkbox"/> None
<input type="checkbox"/> Other, please specify: _____	

*Answer questions 17-23 only for those loading/unloading laborers your firm considers employees.*

17. Which of the following benefits does your firm provide its loading/unloading employees? (Check all that apply.)

<input type="checkbox"/> Medical	<input type="checkbox"/> Vacation
<input type="checkbox"/> Dental	<input type="checkbox"/> Pension
<input type="checkbox"/> Sick leave	<input type="checkbox"/> None
<input type="checkbox"/> Other, please specify: _____	

18. Which of the following taxes does your firm withhold from its loading/unloading employees? (Check all that apply.)

- |  |   |
|--|---|
| <input type="checkbox"/> Federal Personal Income           | <input type="checkbox"/> State Workers Compensation   |
| <input type="checkbox"/> FICA (Social Security & Medicare) | <input type="checkbox"/> None                         |
| <input type="checkbox"/> State Personal Income             | <input type="checkbox"/> Other, please specify: _____ |

19. Describe any additional taxes your firm pays on behalf of your loading/unloading employees, but does not withhold.

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20. Which of the following types of training does your firm provide its loading/unloading employees? (Check all that apply.)

- |   |   |
|---|---|
| <input type="checkbox"/> Manual loading/unloading     | <input type="checkbox"/> Safety             |
| <input type="checkbox"/> Mechanical loading/unloading | <input type="checkbox"/> Customer relations |
| <input type="checkbox"/> Palletization procedures     | <input type="checkbox"/> None               |
| <input type="checkbox"/> Other, please specify: _____ |   |

21. What percent of your firm's loading/unloading employees work part-time? \_\_\_\_\_ %

22. Are your firm's loading/unloading employees allowed to work overtime?

- Yes                       No

23. a) Are your firm's employer-employee relationships with loading/unloading employees governed by a union contract?

- Yes                       No

b) If yes, please specify the union. \_\_\_\_\_

### **Part III: OPERATING INFORMATION**

1. Approximate the number of truckloads your firm loaded and unloaded last year.

\_\_\_\_\_ Truckloads Loaded                      \_\_\_\_\_ Truckloads Unloaded



2. What percentage of the total truckloads your firm loaded and unloaded are made up of the following types of freight?

General Freight (other than foodstuffs):	_____	%
Non-refrigerated Foodstuffs (other than fresh produce):	_____	%
Refrigerated or Frozen Foodstuffs (other than fresh produce):	_____	%
Fresh Produce:	_____	%
Other, please specify: _____	_____	%
<b>Total</b>		<b>100 %</b>

3. The amount your firm charges (e.g. per truckload, per cwt, per 1,000 lbs., or per hour) for loading/unloading services ranges from a low of \$ \_\_\_\_\_ to a high of \$ \_\_\_\_\_ per \_\_\_\_\_. The average your firm charges for its loading/unloading services is: \$ \_\_\_\_\_ per \_\_\_\_\_.

4. How do the following characteristics or conditions of the loading/unloading situation affect your firm's average loading/unloading charge, specified in question 3? (Check only one answer per row.)

	Decreases	No effect	Increases
Commodity to be loaded/unloaded is of high value:	_____	_____	_____
Commodity to be loaded/unloaded is floorloaded:	_____	_____	_____
Commodity to be loaded/unloaded is perishable:	_____	_____	_____
Many units of product per truckload are to be loaded/unloaded:	_____	_____	_____
High demand for loading/unloading services at the site:	_____	_____	_____
More than one worker is required at the loading/unloading site:	_____	_____	_____
Other lumpers are available to load/unload at the site:	_____	_____	_____
Customer commits large volume of business at the site:	_____	_____	_____
Customer regularly uses your firm's loading/unloading services:	_____	_____	_____
Shipment requires the use of motorized equipment (forklift, etc.):	_____	_____	_____
Shipment requires re-palletization or sorting:	_____	_____	_____
Shipment arrives later than scheduled appointment:	_____	_____	_____
Loading/unloading is performed on a weekend or holiday:	_____	_____	_____
Loading/unloading is performed near the facility's closing time:	_____	_____	_____
The area or region of the country served is the east or west coast:	_____	_____	_____
Other, please specify: _____	_____	_____	_____
_____	_____	_____	_____

5. Approximately how long, on average, does it take your firm's laborers to load/unload the following truckloads?

	Hour(s)	No. of Workers Normally Used
Floorloaded:	_____	_____
Unitized (mechanically loaded/unloaded):	_____	_____
Unitized (requiring re-palletization or sorting):	_____	_____

6. Which of the following promotional methods are used by your firm to market its loading/unloading services? (Check all that apply.)

- |  |  |
|--|--|
| <input type="checkbox"/> Newspaper advertisements                            | <input type="checkbox"/> Cold calls (by phone) to company headquarters |
| <input type="checkbox"/> Magazine advertisements                             | <input type="checkbox"/> Personal visits to company headquarters       |
| <input type="checkbox"/> Customer endorsements                               | <input type="checkbox"/> Other, please specify: _____                  |
| <input type="checkbox"/> Cold calls (by phone) to local operating facilities |  |

7. a) With how many different companies did your firm have prearranged contracts for providing loading/unloading services last year? \_\_\_\_\_ Companies

b) What percentage of these companies were represented by the following?

Shippers:	_____ %
Receivers:	_____ %
Motor Carriers:	_____ %
Brokers:	_____ %
Other, please specify: _____	_____ %
<b>Total</b>	<b>100 %</b>

8. a) Are the companies which pay for your firm's loading/unloading services the same companies which arrange for these services?

- Yes                       No

b) If no, explain any problems this creates. \_\_\_\_\_  
\_\_\_\_\_

9. For which of the following parties does your firm offer account billing rather than cash transactions? (Check all that apply.)

- Shippers     Receivers     Motor Carriers     Brokers     N/A, no account billing offered

10. Does your firm have contracts or arrangements with shippers/receivers guaranteeing that your firm will be the exclusive provider of lumpers at the loading/unloading site(s)?

- Yes                       No

11. If your firm contracts with motor carriers to perform loading/unloading services, has your firm ever been unable to load/unload because the shipper/receiver would not allow it?

- Yes                       No                       N/A (Not Applicable)

12. If your firm has been hired by a shipper or receiver to load/unload, how often are motor carriers/drivers serving that facility notified in advance that your firm's personnel will load/unload?

- Never    Rarely    Sometimes    Often    Always    Don't Know    N/A

13. If your firm has been hired by a motor carrier to load/unload, how often are shippers/receivers at the facilities being served notified in advance that your firm's personnel will load/unload?

- Never    Rarely    Sometimes    Often    Always    Don't Know    N/A

14. Does your firm maintain liability insurance to cover freight and equipment claims filed against your firm?

- Yes    No

15. At which of the following locations does your firm provide its loading/unloading services? (Check all that apply.)

- Shipper's facility    Receiver's facility    Your firm's own facility

16. Describe the benefits a customer receives when using your firm to load/unload rather than independent casual lumpers.

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17. Describe any problems your firm has experienced in providing third party loading/unloading services.

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18. a) Are you aware of any other third party loading/unloading firms?

Yes  No

b) If yes, indicate the firm(s) name and location (city and state) on the back of this page.

19. Describe any major problems associated with other third party loading/unloading firms or with the third party loading/unloading industry in general.

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20. a) May I contact you in the future for additional information or clarification regarding your firm's loading/unloading services?

Yes  No

b) If yes, please provide your name, address and phone number below or attach a business card.

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21. a) Would you like a copy of the survey results?

Yes  No

b) If yes, please provide your name, address and phone number below or attach a business card.

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Thank you for your assistance.

THIRD PARTY LOADING/UNLOADING FIRMS  
FOLLOW-UP SURVEY QUESTIONSTHIRD PARTY LOADING/UNLOADING FIRMS:  
FOLLOW-UP SURVEY QUESTIONS

1. How and why did your firm get started in the third party loading/unloading business?
2. Why does your firm provide services in addition to loading/unloading? What advantages/disadvantages are there from providing services in addition to loading/unloading? --or-- Why does your firm provide only loading/unloading services? What advantages/disadvantages are there from having a stand alone loading/unloading business, as opposed to providing services in addition to loading/unloading?
3. Why does your firm operate as a corporation? What advantages/disadvantages are there from operating as a corporation? --or-- Why does your firm operate as a single proprietorship? What advantages/disadvantages are there from operating as a single proprietorship?
4. Why are your firm's branch offices independent corporate entities? What advantages/disadvantages are there from operating your firm's branch offices as independent corporate entities? --or-- Why does your firm franchise its operations? What advantages/disadvantages are there from franchising your firm's operations?
5. Why are your firm's laborers independent contractors as opposed to company employees? What are the advantages/disadvantages of having 100% independent contractors? --or-- Why are your firm's laborers company employees as opposed to independent contractors? What are the advantages/disadvantages of having 100% company employees? --or-- Why does your firm have both independent contractors and company employees? What are the advantages/disadvantages of having both independent contractors and company employees?
6. What happens when a third party loading/unloading firm contracts with a motor carrier and goes to a shipping/receiving location which has a contract with a different third party? Who ends up doing the loading/unloading? What problems does this create? How can these problems be resolved?
7. To your knowledge, are there or could there be problems associated with illegal aliens working for third party loading/unloading firms?
8. What problems, if any, has your company had in terms of being the exclusive provider of lumpers at the loading/unloading site(s)? --or-- Since your firm is not the exclusive provider of lumpers at the loading/unloading site(s), what kind of competition do you have in terms of other loading/unloading firms or independent lumpers? What kinds of problems does this create?
9. In what instances has the shipper/receiver not allowed your firm to load/unload?
10. Do problems occur when motor carriers/drivers serving the receiver's facility are not notified in advance that your firm is loading/unloading at that facility?

11. Have you ever been contacted by the IRS? What was the nature of that contact?
12. What do you think about the idea of an organization to help buyers of this service to have better (complete and accurate) information about what third party loading/unloading firms are out there and how each of them operate in order to determine what they're buying?
13. Do you have anything else you'd like to add or comment on?

# LOADING & UNLOADING PRACTICES RELATED TO LUMPING: A NATIONAL SURVEY OF RECEIVERS

Please answer the following questions based upon your firm's for-hire inbound truckload operations in 1992 or the most recent year for which you have information. **ANSWER ALL QUESTIONS IN THE CONTEXT OF YOUR FIRM'S TOTAL FOR-HIRE INBOUND TRUCKLOADS ONLY, UNLESS OTHERWISE INDICATED.** If you are uncertain as to the exact response to a specific question, please use your best judgement or approximation in answering. If your firm is a corporate subsidiary, please answer the following questions in relation to all of your corporate subsidiary receiving facilities rather than to the overall parent company.

## Part I: RESPONDENT & COMPANY INFORMATION

1. List your job title or position. \_\_\_\_\_
2. What was your firm's (or subsidiary's) annual revenue last year?  

<input type="checkbox"/> Less than \$10 million	<input type="checkbox"/> \$100 million but less than \$500 million
<input type="checkbox"/> \$10 million but less than \$25 million	<input type="checkbox"/> \$500 million but less than \$1 billion
<input type="checkbox"/> \$25 million but less than \$100 million	<input type="checkbox"/> \$1 billion or more
3. The primary business of your firm is:  

<input type="checkbox"/> Manufacturing (Durables)	<input type="checkbox"/> Public Warehousing
<input type="checkbox"/> Manufacturing (Non-Durables)	<input type="checkbox"/> Retailing
<input type="checkbox"/> Wholesaling	<input type="checkbox"/> Other, please specify: _____
4. Indicate the nature of your company's product line. \_\_\_\_\_

## Part II: INBOUND SHIPMENTS AND UNLOADING INFORMATION

### NATURE AND AMOUNT OF INBOUND SHIPMENTS TO YOUR FIRM

1. Approximate your firm's total number of inbound truckload shipments (including both for-hire and private) last year. \_\_\_\_\_ Truckloads
2. What percent of the above inbound truckload shipments were transported by for-hire carriers? \_\_\_\_\_ %  
*If your firm uses private carriage only, please go to question 5 on page 8.*
3. What percent of your firm's for-hire inbound truckload shipments consisted of food products? \_\_\_\_\_ %
4. a) What percent of your firm's for-hire inbound truckload shipments were unitized (e.g. pallets, slipsheets, bins, or containers)? \_\_\_\_\_ %

- b) What percent of these unitized shipments required breakdown/repallization? \_\_\_\_\_ %
- c) Who performed these breakdown/repallization tasks? (Check all that apply.)
- Driver  Lumper hired by driver or shipper  
 Lumper hired by your firm  Your firm's dock personnel

**COMMUNICATION BETWEEN YOUR FIRM AND OTHER PARTIES**

5. How frequently does your firm negotiate with carriers regarding which party has responsibility for unloading your firm's for-hire inbound truckload shipments?

- Never  Rarely  Sometimes  Often  Always

6. a) How frequently does your firm negotiate with vendors/shippers regarding which party has responsibility for unloading your firm's for-hire inbound truckload shipments?

- Never  Rarely  Sometimes  Often  Always

b) If the responsibility for unloading is negotiated with the vendor/shipper, how often does your firm communicate to the carrier prior to shipment which party is responsible for unloading?

- Never  Rarely  Sometimes  Often  Always

7. Estimate the percent of for-hire inbound truckload shipments for which the following parties have legal or negotiated responsibility for unloading.

Carrier is responsible:	_____ %
Vendor/Shipper is responsible:	_____ %
Your firm is responsible:	_____ %
Responsibility is unclear or undefined:	_____ %
<b>Total</b>	<b>100 %</b>

8. If you indicated the unloading responsibility is unclear or undefined, identify the reason(s). (Check all that apply.)

- |   |  |
|---|--|
| <input type="checkbox"/> Communication failure by the broker                            | <input type="checkbox"/> Terms negotiated between your firm and shipper/vendor differ from carrier tariffs/contracts |
| <input type="checkbox"/> Communication failure between your firm and the vendor/shipper | <input type="checkbox"/> Unknown   |
| <input type="checkbox"/> Not indicated by the carrier's tariff                          | <input type="checkbox"/> Other, please specify: _____  |
| <input type="checkbox"/> Not part of contract negotiations with the carrier             |  |

9. Which area of your firm has the greatest responsibility for negotiating transportation services with for-hire carriers (including loading and unloading responsibilities) for its inbound truckload shipments? (Please check only one.)

- |  |   |
|--|---|
| <input type="checkbox"/> Sales (Marketing) | <input type="checkbox"/> Traffic Management                         |
| <input type="checkbox"/> Purchasing        | <input type="checkbox"/> Other, please specify: _____               |
| <input type="checkbox"/> Top Management    | <input type="checkbox"/> Does not negotiate transportation services |



10. a) For what percentage of your firm's for-hire inbound truckload shipments do carriers refuse to accept their legal or negotiated responsibility for unloading? \_\_\_\_\_ %
- b) If carriers refuse to unload, what percent of time does your firm take over this responsibility?  
\_\_\_\_\_ %

11. Which area of your firm has the greatest responsibility for negotiating transportation arrangements with vendors/shippers (including loading and unloading responsibilities) for its for-hire inbound truckload shipments?  
(Please check only one.)

- |  |   |
|--|---|
| <input type="checkbox"/> Sales (Marketing) | <input type="checkbox"/> Traffic Management                             |
| <input type="checkbox"/> Purchasing        | <input type="checkbox"/> Other, please specify: _____                   |
| <input type="checkbox"/> Top Management    | <input type="checkbox"/> Does not negotiate transportation arrangements |

12. a) For what percentage of your firm's for-hire inbound truckload shipments do vendors/shippers refuse to accept their responsibility for unloading? \_\_\_\_\_ %
- b) If vendors/shippers refuse this responsibility, what percent of time does your firm take over this duty?  
\_\_\_\_\_ %

13. When your firm requests that for-hire inbound truckload shipments be unitized (e.g., using pallets, slipsheets, bins, or containers), how often does your firm require that the size and dimensions of the unit used by the vendor/shipper be compatible with your firm's receiving and storage requirements?

- Never     Rarely     Sometimes     Often     Always     Unknown     N/A, not requested

### ALLOWANCES

14. Was your firm offered unloading allowances by vendors/shippers last year?

- Yes     No    *If no, go to question 17 on page 3.*

15. On what percentage of for-hire inbound truckload shipments did your firm take advantage of unloading allowances? \_\_\_\_\_ %

16. If your firm did not use unloading allowances when offered, explain why.

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17. Did vendors/shippers offer transportation allowances to pick-up goods at the facilities of your firm's vendors/shippers last year?

- Yes     No    *If no, go to Part III of the questionnaire, on page 4.*

18. On what percentage of for-hire inbound truckload shipments did your firm take advantage of transportation pick-up allowances? \_\_\_\_\_ %

19. If your firm did not use transportation pick-up allowances when offered, explain why.

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### Part III: LUMPING INFORMATION

*For purposes of this survey, lumping is defined as the loading and unloading of carrier equipment by self-employed individuals or third party firms acting as independent contractors that specialize in providing such services. A third party lumping firm is defined as an independent business firm that contracts for providing laborers to load and unload. The lumping process can be either voluntary or involuntary (coerced or forced).*

1. Were lumpers (self-employed individuals or third party firms) involved in the unloading of your firm's for-hire inbound truckload shipments last year?

Yes       No    *If no, please go to question 5 on page 8.*

2. What percent of your firm's for-hire inbound truckload shipments were unloaded by lumpers? \_\_\_\_\_ %

3. Of your firm's for-hire inbound truckload shipments which were unloaded by lumpers, for what percent of these loads were the lumpers hired by the following parties?

Vendor\Shipper:	_____ %
Carrier:	_____ %
Your firm:	_____ %
Other, please specify: _____	_____ %
<b>Total</b>	<b>100 %</b>

4. If hired by your firm to unload, lumpers' fees ranged from a low of \$ \_\_\_\_\_ to a high of \$ \_\_\_\_\_ per truckload. The average your firm paid for lumping services is: \$ \_\_\_\_\_ per truckload.

5. If your firm pays for the use of lumpers, what percent of time is your firm reimbursed? \_\_\_\_\_ %

6. a) On average, approximately how many lumpers are available for unloading at your firm's facilities?  
\_\_\_\_\_ Lumpers available

- b) How has the number of available lumpers changed within the last year?
- Increased                       Decreased                       No change

7. What percent of lumpers at your firm's facilities are comprised of the following?

Your firm's former employees:	_____ %
Your firm's off-duty employees:	_____ %
Self-employed individuals (other than former employees):	_____ %
Third party lumping firm personnel:	_____ %
<b>Total</b>	<b>100 %</b>

8. a) Are your firm's dock personnel members of a union?
- Yes                       No

b) If yes, what percent of lumpers serving your facilities are members of that union? \_\_\_\_\_ %

9. a) How frequently does your firm reimburse for-hire carriers if they hire lumpers at your firm's facilities?
- Never     Rarely     Sometimes     Often     Always

b) If your firm does reimburse for-hire carriers for hiring lumpers, under what circumstances does your firm not reimburse them?

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10. Please answer this question in the context of using self-employed individuals and/or third party lumping firms.

In general, does your firm:

	Individual Lumpers		Third Party Lumping Firms	
	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>
a) Allow lumpers to unload trailers at your firm's facilities?	___	___	___	___
b) Allow lumpers to use your firm's handling equipment?	___	___	___	___
c) Train lumpers to use your firm's handling equipment?	___	___	___	___
d) Allow lumpers to use their own handling equipment?	___	___	___	___
e) Arrange for lumpers to be available at your firm's facilities?	___	___	___	___
f) Provide an approved or recommended list of lumpers?	___	___	___	___
g) Allow lumpers on your firm's facilities when not working?	___	___	___	___
h) Control lumping fees at your firm's dock?	___	___	___	___
i) Supervise the unloading of freight by lumpers?	___	___	___	___
j) Allow carriers to provide their own lumpers?	___	___	___	___

**THIRD PARTY LUMPING FIRMS**

*For the purposes of questions 11-15, a third party lumping firm is defined as an independent business firm that contracts for providing laborers to load and unload.*

11. Were third party lumping firms available at your firm's facilities to perform unloading services last year?

- Yes                       No      *If no, go to question 15, on page 6.*

12. Which of the following parties utilized the services of third party lumping firms at your facilities? (*Check all that apply.*)

- Vendor/Shipper  
 Carrier  
 Your Firm  
 Other, please specify: \_\_\_\_\_

*If your firm did not utilize the services of third party lumping firms, go to question 15, on page 6.*

13. In general, the unloading fee per truckload when using a third party lumping firm rather than a self-employed individual lumper is: (*Check one.*)

- Much lower     Lower     Approximately the same     Higher     Much higher     Don't Know

14. Rate the importance of each of the following possible reasons why your firm decided to use a third party lumping firm rather than a self-employed individual lumper. (*Please circle one number after each factor; 1 = not important, 3 = moderately important, 5 = very important.*)

	Not important				Very important
Reduction in unloading time:	1	2	3	4	5
Reduction in loss and damage:	1	2	3	4	5
Reduction in record keeping:	1	2	3	4	5
Reduction of driver harassment:	1	2	3	4	5
Reduction of personal injury liability:	1	2	3	4	5
Removal of tax liability:	1	2	3	4	5
Standardization of unloading fees:	1	2	3	4	5
Other, please specify:					
_____	1	2	3	4	5
_____	1	2	3	4	5

15. Please indicate on the back of this page the names and locations (city & state) of any third party lumping firms which your firm is aware of or has ever used.

## Part IV: PROBLEMS AND BENEFITS RELATED TO LUMPING

For the following two questions, use a rating scale between 1 and 5 with 1 = not important, 3 = moderately important, and 5 = very important. (Circle one number after each possible benefit and problem.)

1. Rate the importance to your firm of each of the following possible benefits associated with using lumpers.

	Not Important				Very Important
Improves relationships with for-hire carriers:	1	2	3	4	5
Improves relationships with vendors/shippers:	1	2	3	4	5
Reduces unloading time during normal demand times:	1	2	3	4	5
Reduces risk of injury to company personnel from unloading:	1	2	3	4	5
Increases firm's ability to meet peak period unloading demands:	1	2	3	4	5
Facilitates unloading of late deliveries:	1	2	3	4	5
Facilitates floorload conversion to in-house pallet configurations:	1	2	3	4	5
Reduces employee overtime:	1	2	3	4	5
Reduces permanent dock work force:	1	2	3	4	5
Other benefits (specify and rate):	1	2	3	4	5
_____	1	2	3	4	5
_____	1	2	3	4	5

2. Rate the importance to your firm of each of the following possible problems associated with using lumpers.

	Not Important				Very Important
High cost of hiring lumpers:	1	2	3	4	5
Variations in cost of hiring lumpers (no standard price):	1	2	3	4	5
Exposure to tax liability:	1	2	3	4	5
Exposure to liability due to injury to lumper:	1	2	3	4	5
Increase in loss and damage:	1	2	3	4	5
Conflict with your firm's employees:	1	2	3	4	5
Inability to monitor lumper activities:	1	2	3	4	5
Record keeping required when using lumpers:	1	2	3	4	5
Unavailability of lumpers when needed:	1	2	3	4	5
Other problems (specify and rate):	1	2	3	4	5
_____	1	2	3	4	5
_____	1	2	3	4	5

3. Indicate one benefit and one problem from the previous lists which you consider to be the most important.

Most important benefit: \_\_\_\_\_

Most important problem: \_\_\_\_\_

4. a) Has your firm attempted to alleviate the lumping problem you listed as most important in question 3?

Yes                       No

b) If yes, please explain.

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c) In general, how successful were these attempts?

Not successful     Moderately successful     Very successful     Unknown

5. a) If your firm used its own private carriage for customer pick up from vendors/shippers last year, were lumpers used at the shippers' facilities?

Yes                       No

b) If your firm experienced lumping problems in the use of your firm's private carriage, briefly explain the nature of those problems.

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6. a) How frequently has your firm been contacted by carriers or vendors/shippers when disagreements arise at your firm's facilities regarding the responsibility for unloading?

Never     Rarely     Sometimes     Often     Always

b) If you answered other than Never, what actions did your firm take, if any, to resolve these disagreements?

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c) In general, how successful were these actions?

Not successful     Moderately successful     Very successful     Unknown

*Note: If you would like a copy of the survey results, provide your name and address on the back of this page, or attach a business card.*

*Thank you for your assistance.*

**LOADING AND UNLOADING PRACTICES RELATED TO LUMPING  
A NATIONAL SURVEY OF DRIVERS**

**CONFIDENTIAL SURVEY**

*Iowa State University is conducting a study, funded equally by the U.S. Department of Transportation and the ATA Foundation, to examine loading and unloading practices in the truckload motor carrier industry with special emphasis on the nature and extent of lumping. A critical part of this year-long study is to obtain information and opinions from the drivers and owner operators—the people directly dealing with the issues and problems associated with lumping. The following questionnaire has been developed to obtain your views. Please answer all questions to the best of your ability.*

**Part I. DEMOGRAPHICS**

1. Sex:

- Male                       Female

2. Marital Status:

- Single                       Married

3. Age:

- |                                     |                                  |
|-------------------------------------|----------------------------------|
| <input type="checkbox"/> 25 or less | <input type="checkbox"/> 40 - 49 |
| <input type="checkbox"/> 26 - 29    | <input type="checkbox"/> 50 - 59 |
| <input type="checkbox"/> 30 - 39    | <input type="checkbox"/> 60 +    |

4. Years of driving experience:

- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| <input type="checkbox"/> Less than 1 | <input type="checkbox"/> 10 - 14    |
| <input type="checkbox"/> 1 - 4       | <input type="checkbox"/> 15 - 19    |
| <input type="checkbox"/> 5 - 9       | <input type="checkbox"/> 20 or more |

5. Length of service with present carrier:

- |   |   |
|---|---|
| <input type="checkbox"/> 0 - 6 months     | <input type="checkbox"/> 3 - 5 years      |
| <input type="checkbox"/> 7 months - 1 yr. | <input type="checkbox"/> 6 - 10 years     |
| <input type="checkbox"/> 1 - 2 years      | <input type="checkbox"/> 11 years or more |

6. Which category below most appropriately describes your professional status?
- Company driver
  - Owner/operator
  - Leased employee
7. How much did you earn last year as a driver (or your net taxable income if you are an owner/operator)?
- |   |   |
|---|---|
| <input type="checkbox"/> Less than \$20,000 | <input type="checkbox"/> \$35,000- \$39,999 |
| <input type="checkbox"/> \$20,000- \$24,999 | <input type="checkbox"/> \$40,000- \$44,999 |
| <input type="checkbox"/> \$25,000- \$29,999 | <input type="checkbox"/> \$45,000- \$49,999 |
| <input type="checkbox"/> \$30,000- \$34,999 | <input type="checkbox"/> \$50,000 or more   |
8. Which categories best describe the primary types of freight you haul?
- Fresh Produce (e.g., lettuce, fruit, melons, potatoes, etc.)
  - Refrigerated Foodstuffs (e.g., meat, frozen foods, ice cream, etc.)
  - Non-Refrigerated Foodstuffs (e.g., cereal, canned goods, beverages, etc.)
  - Other Grocery-Related Products (e.g., paper, soap, pet food, etc.)
  - General Freight (other than the above categories)
  - Other, please describe: \_\_\_\_\_

## **Part II. LOADING/UNLOADING AND LUMPING EXPERIENCES**

*For purposes of this survey, lumping is defined as the loading or unloading of carrier equipment by self-employed individuals or third party lumping firms acting as independent contractors that specialize in providing such services. A third party lumping firm is defined as an independent business firm that contracts for providing laborers to load and unload carrier equipment.*

9. Which of the following best describes your attitude toward hand loading/unloading of freight?
- Really like
  - Like
  - Neutral (no feelings either way)
  - Dislike
  - Really dislike



10. How does using a lumper affect your attitude toward **hand** loading/unloading of freight?
- Greatly improves
  - Slightly improves
  - Neutral (does not affect)
  - Slightly worsens
  - Greatly worsens
  - Not applicable (have never used lumpers)
11. Indicate the amount of **hand** loading/unloading of freight you are responsible for as compared to the amount the carrier originally indicated you could expect.
- More than expected
  - Same as expected
  - Less than expected
  - Never indicated
12. How frequently have you refused loads because of prior knowledge of loading or unloading requirements that you may encounter?
- Never
  - Seldom
  - Sometimes
  - Often
  - Always
13. What was the average amount the carrier compensated you per load when you **hand** loaded/unloaded during the past year?
- \$0
  - \$1 - \$30
  - \$31 - \$40
  - \$41 - \$50
  - \$51 - \$60
  - \$61 - \$70
  - \$71 - \$80
  - \$81 - \$90
  - \$91 or more
  - Did not hand load/unload
14. What was the average amount you paid to lumpers per load when they **hand** loaded/unloaded during the past year?
- Less than \$30
  - \$31 - \$40
  - \$41 - \$50
  - \$51 - \$60
  - \$61 - \$70
  - \$71 - \$80
  - \$81 or more
  - Did not pay any lumpers last year
15. What was the average amount the carrier reimbursed you when you hired a lumper to **hand** load/unload during the past year?
- Less than \$30
  - \$31 - \$40
  - \$41 - \$50
  - \$51 - \$60
  - \$61 - \$70
  - \$71 - \$80
  - \$81 or more
  - Carrier did not reimburse you



*If you did not use lumpers during the past year, please go to question 27.*

23. Indicate the reason(s) why you used lumpers? (Check all that apply.)

- In order to get unloaded faster (lumper helped you unload so you can get to the next reload)
- The type of freight made loading or unloading too physically demanding to load or unload
- You were too tired (i.e., in need of rest)
- Shipper or receiver required the use of a lumper
- Unloading/loading was not part of the driver's job
- Late arrival (lumper helped to get unloaded before closing or end of appointment slot)
- You were able to get reimbursed by carrier, shipper or receiver
- Other, please specify: \_\_\_\_\_

*Please underline the most important reason you indicated above for using a lumper.*

24. Indicate the reason(s) why you prefer not to use lumpers? (Check all that apply.)

- Increases claims for shortage
- Increases damage claims
- Cost of lumpers exceeds carrier reimbursement to you
- Risks associated with carrying cash to pay lumpers
- You want additional income from loading/unloading allowance
- Increases record keeping
- Other, please specify: \_\_\_\_\_

*Please underline the most important reason you indicated above for preferring not to use a lumper.*

25. How do you obtain information about available lumpers? (Check all that apply.)

- List provided by shipper or receiver
- List provided by carrier
- Business cards left near pay phones or on bulletin boards
- C. B. radio solicitation from lumpers
- Lumpers at site/outside of gates
- Names or contacts obtained at the nearest truckstop
- Driver word of mouth
- Other, please specify: \_\_\_\_\_

26. In your opinion, why are shippers and receivers able to require you to use and pay for a lumper without compensating you for it? (Check all that apply.)

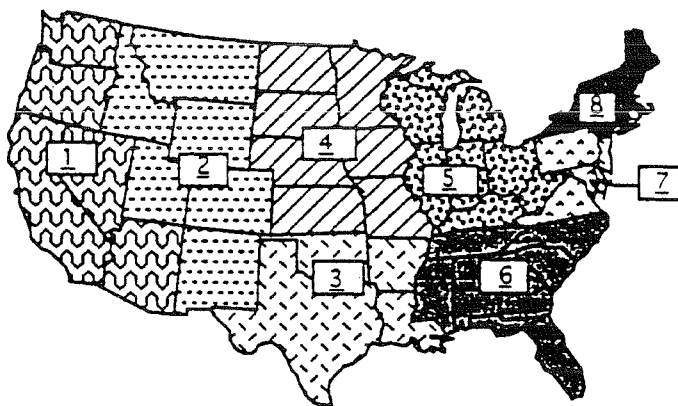
- Lack of ICC enforcement
- Greater bargaining power of shipper or receiver
- Union labor rules at shipper or receiver facility
- Unrealistic loading/unloading schedules at the shipper or receiver facility
- A scheme to provide extra income to the employees of shipper or receiver
- A general attitude of shippers, receivers, or carriers that exploits truck drivers
- Other, please specify: \_\_\_\_\_

*Please underline the most important reason you indicated above for preferring not to use a lumper.*

27. Which statement best describes the carrier's policy regarding lumpers? (Check one.)

- Shipper or receiver has responsibility to hire lumpers if needed
- Hire at my own discretion with no reimbursement from the carrier
- Hire at my own discretion with reimbursement from the carrier
- Hire according to the carrier's rules or upon obtaining the carrier's approval
- Not allowed to hire lumpers

*For questions 28 - 30, use the map provided.*



28. Which region(s) of the country did you serve during the past year? (Check all that apply.)

- Region 1     Region 2     Region 3     Region 4
- Region 5     Region 6     Region 7     Region 8

29. In which region(s) did you experience the greatest frequency of lumping-related problems during the past year?

- Region 1     Region 2     Region 3     Region 4  
 Region 5     Region 6     Region 7     Region 8  
 All the same

*If you did not use a lumper last year, please return the survey. Thank you for your assistance.*

30. In which region(s) were you most likely to use a lumper?

- Region 1     Region 2     Region 3     Region 4  
 Region 5     Region 6     Region 7     Region 8  
 All the same

31. a) Based on your experiences, please describe any methods used by shippers or receivers to force you to use and pay for a lumper without compensating you for it.

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b) How did you respond to these situations?

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**Reminder:** A third party lumping firm is defined as a company that specializes in providing lumpers for loading/unloading services. These lumpers differ from self-employed individual lumpers who work for themselves.

32. a) During the past year, have you used a lumper provided by a third party lumping firm?

- Yes     No     Don't know

b) If yes, when given a choice last year, how frequently did you use a lumper provided by a third party lumping firm to load/unload instead of a self-employed individual lumper?

- Never     Seldom     Sometimes     Often     Always

**THANK YOU FOR YOUR ASSISTANCE AND PARTICIPATION!**



**APPENDIX D**

**LOADING AND UNLOADING PRACTICES  
RELATED TO LUMPING:  
STATUS AND IMPLICATIONS FOR MOTOR CARRIERS,  
SHIPPERS, AND OTHER PARTIES**

**Research Glossary**

**Breakdown** The process of removing some of the freight from a previously stacked pallet due to height restrictions of the receiver's storage bays and/or multiple product varieties stacked on one pallet

**Class I Motor Carrier** A motor carrier earning \$5 million or more in annual revenue in 1992

**Class II Motor Carrier** A motor carrier earning between \$1 million and \$5 million annual revenue in 1992

**Class III Motor Carrier** A motor carrier earning less than \$1 million annual revenue in 1992

**General Freight Carrier** A carrier with at least half of its loads classified as general freight in 1992

**Carrier of Agricultural Commodities** A carrier with at least half of its loads classified as agricultural commodities in 1992

**Carrier of Refrigerated Products** A carrier with at least half of its loads classified as refrigerated products in 1992

**Common Carrier** A carrier having at least half of its loads moving under common carrier arrangements in 1992

**Contract Carrier** A carrier having at least 50 percent of its loads moving under contract arrangements in 1992

**Discount/Department Store** A discount or retail department store

**Exempt Carrier** A carrier having at least 50 percent of its loads involving commodities exempt from ICC regulations in 1992

**General Shipper** A firm belonging to the National Industrial Transportation League

**Large Food Manufacturer** A firm belonging to the Food Shippers of America, Inc.

**Lumping** The loading or unloading of motor carrier freight by individuals other than the employees of motor carriers, shippers, or receivers

**Non-Warehouse Receiver** A service wholesaler or firm operating supermarkets and/or mass-marketing outlets that belongs to the Produce Marketing Association

**Produce Shipper** A firm involved in the production, packing, and/or shipping of perishable products that belongs to the Produce Marketing Association

**Public Warehouse** A for-hire general or refrigerated warehouse

**Repalletization** The process of removing all freight from a previously stacked pallet and placing it on another pallet because the pallet size at the receiver's unloading facility is incompatible with the pallet size on which the product has been shipped

**Self-Employed or Independent Lumper** An unaffiliated individual who provides loading/unloading services for a fee

**Third-Party Loading/Unloading Firm** An independent business firm that specializes in contracting to provide loading and/or unloading services



## REFERENCES

- Alston, Kelly. "Loading and Unloading Problems Continue for Truckers: Lumping Trouble? Look to the Law!" *Landline*. March/April 1991, Vol. 16, No. 2, pp. 15-17.
- Bearth, Daniel P. "A Nasty, Ugly Practice." *Transport Topics*. November 11, 1991, pp. 7+.
- Bearth, Daniel P. "Here's One Way to Deal With the Lumping Problem." *Transport Topics*. September 21, 1992, p. 8.
- Bearth, Daniel P. "Law Against Coercion Does Not Yield Much Satisfaction." *Transport Topics*. November 18, 1991, p. 6.
- Bearth, Daniel P. "Lumping." *Transport Topics*. November 11, 1991, pp. 1+.
- Bearth, Daniel P. "Lumpers Organize to Create a Regular Job." *Transport Topics*. November 18, 1991, p. 7.
- Bearth, Daniel P. "Negotiating From Weakness." *Transport Topics*. November 18, 1991, pp. 6+.
- Bearth, Daniel P. "Pallets May Help Solve the Problems." *Transport Topics*. November 18, 1991, p. 7.
- Bearth, Daniel P. "Shippers May Save by Handling Own Freight." *Transport Topics*. November 18, 1991, p. 7.
- Bearth, Daniel P. "The Waiting is as Bad as the Lumping?" *Transport Topics*. November 11, 1991, p. 7.
- Bearth, Daniel P. "When Are Lumpers Employees?" *Transport Topics*. December 2, 1991, pp. 1+.
- Beilock, Richard, "Trends in the Adequacy of Trucking Services for Produce." Domestic Transportation Branch, Agricultural Marketing Service, United States Department of Agriculture. June, 1991.
- Beilock, Richard, Ronald Mahan, and George Fletcher. "Coercion and Inefficiency Unloading Produce: A Preliminary Assessment." *Southern Journal of Agriculture Economics* 19(1), 1987, p. 128.
- Beilock, Richard, and Ronald Mahan. "The Nature and Extent of Problems Related to Unloading Produce." Report prepared for the Office of Transportation, United States Department of Agriculture. March 1987.
- Beilock, Richard, and George Fletcher. "Exempt Agricultural Commodity Hauler in Florida." *Transportation Research Forum*. 1983, Vol. 24, No. 1, pp. 444-450.

- Bohman, Ray. "How to Cope With New Loading Rules." *Traffic Management*. Vol. 30, May 1991, p. 27.
- Cargile, John. "Lumping: Stranger Than Fiction." *Overdrive*. October 1987, Vol. 27 No. 10, pp. 26-28+.
- Cassidy, William B. "Fleet Fights IRS on Lumping Levy." *Transport Topics*. December 7, 1992, p. 3.
- Cassidy, William B. "Lumping Practices Cause Continuing Heartburn for Fleets." *Transport Topics*. November 9, 1992, p. 26.
- "Court Says Lumpers Not Fleet Employees." *Transport Topics*. July 20, 1992, pp. 13+.
- "Dear Shipper:" *Transport Topics*. November 18, 1991, p. 4.
- Freymler, Don H. "TL Carriers Target Driver Shortage." *Traffic World*. July 30, 1990, Vol. 223, p. 44.
- Hamilton, Dane. "Truckers May Get Aggressive as Federal Reforms Loom." *Journal of Commerce*. October 28, 1992, p. 3-B.
- "ICC Proposes Law to Curb 'Lumper' Fees." *Transport Topics*. June 19, 1978, pp. 1+.
- "Illegal Lumping: A Federal Felony." *Landline*. July/August 1981, Vol. 6, No. 4, pp. 15-17.
- Interstate Commerce Commission, "Illegal Lumping: A Federal Felony." (Washington D.C.: The Commission, 1980).
- Interstate Commerce Commission, "Report to Congress on Study of Loading and Unloading Practices in Motor Carrier of Property Industry." Ex Parte No. 410, 1982.
- Interstate Commerce Commission, "Unloading Restrictions on Meats and Packinghouse Products." June 23, 1977.
- "It Pays to Lump." *Overdrive*. October 1987, Vol. 27, No. 10, p. 31.
- "Lumping Complaints? Call ICC." *Transport Topics*. February 8, 1993, No. 3001, p. 3.
- "Lumping Issue Raises Truckers' Ire." *Packer*. July 26, 1986, p. 9A.
- "The Lumping Picture." *Transport Topics*. July 20, 1992, p. 8.
- "Lumping Problems Worse Than Ever." *Trucking 92*. April 1992, Vol. III, No. 4, pp. 34-35.

- "Lumping: What the Law Says, Plus Most-Asked Questions." *Transport Topics*. July 20, 1992, pp. 13+.
- Mahan, Ronald, and Richard Beilock. "Lumping in the Produce Industry." *Transportation Research Forum*. 1985, Vol. 26, pp. 567-572.
- Mahan, Ronald, and Richard Beilock. "Study Shows Solution to Lumping Hassle Lies with Receiver." *Transport Topics*. July 10, 1989, pp. 29+.
- Mahan, Ronald, and Richard Beilock. "Unloading Practices for Produce Revisited." *Transportation Research Forum*. 1990, Vol. 30, pp. 239-246.
- Manalytics, Inc. "A Long-Term Study of Produce Transportation." Federal Railroad Administration, U.S. Department of Transportation. 1977, Vol. 1 & 4.
- Martin, Bill. "Lumping Controversy Persists." *The Produce News*. Feb 15, 1992, pp. 7+.
- Martin, Bill. "Unloading, Lumpers, and Litigation." *Owner-Operator*. May 1992, p. 50.
- Maze, T. H. "The Value of Information in Unregulated Truck Service Markets." *Transportation Journal*. Winter 1980, pp. 57-60.
- McCullough, Patricia. "Lumpers: Drivers Wind Up on Short End of Deal." *Truckers News*. January 1992, pp. 1+.
- McCullough, Patricia. "The High Cost of Cheap Labor." *Heavy Duty Trucking*. January 1992.
- "Mississippi Trucker to Challenge IRS on Withholding Taxes for 'Lumpers'." *Journal of Commerce*. November 11, 1992, p. 3B.
- "The Moral Side of H.R. 753." *Landline*. January/February 1980, Vol. 5, No. 2, p. 25.
- Muskin, Jerold B. "MC Act Provisions on Lumping Explained." *Transport Topics*. December 9, 1991, pp. 4-5.
- O'Neill, Bill. "Unloading Proposal Makes Receivers Responsible." *Packer*. February 10, 1979.
- "The Problem of Lumping." *Landline*. May/June 1981, Vol. 6, No. 3, pp. 17, 26.
- "Regulatory Reform Bill Signed by President . . . Major Victory for Owner-Operators." *Landline*. July/August 1980, Vol. 5, No. 5, pp. 10-13+.
- Rosa, B. Joe. "Lumpers, Humpers, Swampers, Gypsy Chasers, Big Boys, and House Men!" *Landline*. June, 1989, Vol. 14, No. 3, p. 28.

- Spencer, J. Todd. "ICC Finds No 'Quick Cure' for Loading & Unloading and Contract of Haul." *Landline*. May/June 1982, Vol. 7, No. 3, p. 34.
- Spencer, J. Todd. "Loading and Unloading." *Landline*. May/June 1986, Vol. 11, No. 3, pp. 12, 15-16.
- Spencer, J. Todd. "Loading and Unloading of Motor Vehicles." *Landline*. November/December 1981, Vol. 6, No. 6, pp. 20+.
- Stalnaker, Tim. *Employer's Guide to Using Independent Contractors*. The Bureau of National Affairs, Inc., St. Louis, MO, 1993.
- Tilly, Jim. "The ICC-Lumping and the Real World." *Overdrive*. October 1987, Vol. 27, No. 10, p. 33.
- "Time to Return the Lumps in Lumpers Study." *Trucking*. 1993, pp. 42-46.
- United States Code, Congressional and Administrative News. Motor Carrier Act of 1980, House Report, 96th Congress of the United States of America Second Session. St. Paul, MN: West Publishing Co., 1980, Vol. 3, Section 15, pp. 2312-2315.
- United States Congress, "Regulatory Problems of the Independent Owner-Operator in the Nation's Trucking Industry." Committee on Small Business, U.S. House of Representatives, 1978.
- United States Congress, "Small Business Problems in the Marketing of Meat and Other Commodities," Part 2: Extortionate Meat Unloading Practices-Lumping, Committee on Small Business, U.S. House of Representatives, 1978.
- Wastler, Allen R. "USDA Finds Cost of Lumping Reflected in Shipper Bills." *Traffic World*. July 13, 1987, Vol. 211, No. 2, pp. 47-49.
- Wcykoff, D., and D. Maister. *The Owner Operator Independent Trucker*. Livingston Books, Lexington, Mass., 1975.
- Wcykoff, D. *Truck Drivers in America*. Livingston Books, Lexington, Mass., 1979.
- Will, Frederic. *Big Rig Souls*. Altwerger & Mandel Publishing Co. Inc., West Bloomfield, MI, 1992, pp. 16-17, 100-101, 124-125.
- Wilson, Keith. "Like It or Lump It." *Overdrive*. October 1987, Vol. 27, No. 10, pp. 29-30.
- Bartels v. Birmingham*, 332 U.S. 126 (1947).
- Bean & Sons Co. v. U.S.*, 75-2 USTC ¶9772 (1975).
- Bonney Motor Express, Inc. v. U.S.*, 206 F.Supp. 22 (1962).
- Breaux & Daigle, Inc. v. U.S.*, 900 F.2d 49,51 (5th Cir. 1990).

*Fox Jr. v. U.S.*, 74-1 USTC 179, 194 (1970).

*Jobbers Warehouse Co., Inc. v. U.S.*, 78-1 USTC ¶9359 (1977).

*Kroblin Refrigerated Xpress, Inc. v. U.S.*, 78-2 USTC ¶9809 (1978).

*Lanigan Storage & Van Company v. U.S.*, 389 F.2d 337 (1968).

*Max Freight Service, Inc. v. U.S.*, 462 F.Supp. 503, 507 (1978).

*McGuire v. U.S.*, 349 F.2d 644 (1965).

*U.S. v. Silk*, 331 U.S. 704 (1947).

*U.S. v. Webb, Inc.*, 397 US 179, 194 (1970).

*Weatherly v. U.S.*, 77-2 USTC ¶9745 (1977).

