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FHWA-97-2213-4

Office of the Chief Counsel
Federal Highway Administration
HCC-10, room 4232
400 Seventh Street, S.W.
Washington D.C. 20590

RE: Comments, FHWA Docket No. MC-93-34

In order to gain a clear understanding of the substance and position expressed in the comments submitted, a brief background of Consolidated Safety Services, Inc. (CSS) Passenger Carrier Inspection program, conducted on behalf of the Military Traffic Management Command (MTMC) is provided.

CSS was awarded the Department of Defense Contract No. MDA903-90-C-0218 to conduct passenger carrier inspections for motor carriers under contract with MTMC.
In the performance of the contract, two types of inspections are conducted. One is a Facility, Terminal, and Equipment (FTE) inspection, and the other is a Standards of Safety Services, (SSS) inspection. The FTE inspection is compatible with FHWA's Compliance Review, and the SSS inspection is similar to a road side inspection, which follows the North American Uniform Out-Of-Service Criteria.

Contract to date, CSS has conducted over 1,000 FTE and SSS inspections, involving the physical inspection of over 6,000 commercial motor vehicles. In the course of these inspections, CSS's Transportation Specialists have seen a wide variety of sleeper berth configurations, few of which appear to afford adequate rest for a driver to assume any driving responsibilities.

For clarity, CSS will comment on the questions,in order as listed in the Federal Register. Additional concerns will be addressed following the comments.

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QUESTIONS

1. Should existing sleeper berth regulations be amended to account for design differences between motorcoaches and trucks? If so, what changes should be made and why?

CSS does not believe that current regulations should be altered. It is apparent that they were constructed and designed to establish criteria for the truck tractor and as such should remain the same. However, the regulations should be noted as specific requirements for **truck tractors,** not motorcoaches. Results and/or regulations established as a result of the submitted comments and possible future studies, should be motorcoach-specific.

With **FHWA's** program designed to simplify regulations, thereby increasing comprehension and subsequent compliance, there is a definite need to provide "Sleeper Berth Regulations" for the passenger carrier industry. Also, the vehicle configuration and senitivity of the transported cargo further substantiates this need for clarity.

The transporting of human cargo, in our opinion, is just as critical as the movement of Hazardous Materials, and deserves the same attention and guidance.

2. What is the current extent of sleeper berth usage within the motorcoach industry?

MTMC is probably one of, if not the largest single user of for-hire passenger carriers in the nation. MTMC recognized early the safety concern surrounding the use of sleeper berths on motorcoaches. As such, the Military Bus Agreement (MBA), which specifies contractual requirements between MTMC and a contracted carrier, prohibits their use. Should a military charter require a second driver, he/she must be pre-positioned to allow time for adequate rest.

The only use of sleeper berths found during CSS Inspections has been in violation of the carrier's contract with MTMC. Subsequently, CSS does not have a definitive answer to the question. However, during FTE Inspections, **CSS's** Transportation Specialists question each motor carrier as to their policies and procedures for long charters. Most carriers indicate that they pre-position a second driver should one be required. The primary reason is that reduced seating capacity is lost revenue.

There are some instances where carriers, depending on the type of charter, will provide a make shift sleeper berth when seating capacity is not jeopardized. However, from our observations this is on a limited basis.

Our observations and inspections have indicated a wide use of "cushioning" a second driver, who in most cases will try to obtain rest while sitting in a single seat. This practice is common, as it involves the loss of only one seat for the motor carrier, and not several as would be the case with a passenger compartment sleeper berth. CSS has seen enough instances where this practice is misused, indicate that a problem exist. As such, the use of

sleeper berths (from CSS's observations) is limited, but the misuse of cushion time is not.

3. How many motorcoaches have been manufactured with sleeper berths as part of their origiil equipment? How and where are these sleeper berths installed? How many comply with 393.76? How many do not.

CSS has seen only one sleeper berth which has been installed by a manufacturer (unknown), therefore we cannot comment.

4. How many motorcoaches have been retrofitted with sleeper berths? How and where are these sleeper berths installed? How many comply with 393.76? How many do not?

CSS has seen a variety of configurations, however, many are home made solutions to providing a driver adequate rest via the "sleeper berth". Each motor carrier has made use of whatever space is convenient and accessible. Examples are as follows:

1. Plywood platforms which have been suspended overhead by "chains" behind the driver's seat. In most cases the overhead luggage rack has been altered to allow for the suspended sleeping accommodations.

2. Prefabricated metal frame which fits around and in conjunction with the very last "bench" seat in the motorcoach. This allows for a plywood base with which to support a mattress.

3. In motorcoaches designed with two rows of seats which face each other, the portable table is removed and a plywood base is suspended between the two rows of seats providing a base to place a mattress.

4. The owner of one unit inspected had installed a sleeper berth cubicle inside the first luggage compartment under the bus. This unit had a two way communication system, and was equipped with air conditioning and a ventilation system. Additionally, there was an exit above the compartment thereby allowing the occupant of the sleeper berth to exit into the passenger area of the motorcoach.

There is no way to estimate the number of these types of sleeper berths used as the ones noted in items (1) through (3) are not permanent and can be removed should circumstance warrant. In most cases these types of sleeper berths are not routinely used, and are hastily installed should their use be required.

In any case, none of these types of sleeper berths meet current requirements. That which comes closest, is the one described in item (4).

5. **Do after-market changes, such as cutting holes in the floor or modifying the cargo compartment, affect the structural integrity of the motorcoach?**

CSS does not posses the knowledge to comment.

6. **The FHWA notes that if a driver sleeper berth is located within the baggage area and occupied while the motorcoach is in operation, the occupant could be vulnerable to a side impact collision. Are special requirements needed to ensure the occupant's safety?**

CSS agrees there should be additional side protection for the luggage doors should a sleeper berth be located in the forward luggage compartment. Technology is currently available that could be applied and provide the needed protection. Additionally, considering the location, there would need to be consideration of the following:

1. A communication system with the driver of the motor vehicle.

2. An additional exit for emergencies.

3. An approved ventilation system to ensure an adequate air supply.

4. Alternative source or backup for emergency lighting.

5. Warning system to alert the occupant of the sleeper berth that he/she must exit immediately.

6. Regulations requiring a fire extinguisher to be accessible by the occupant of the sleeper berth.

7. Heating and coolant system controllable by the occupant of the sleeper berth.

7. **If a driver sleeper berth is located in the baggage area of a motorcoach, should its location be restricted (e.g., only the forward-most portion of the baggage area)? If the sleeper berth is used while the vehicle is in operation, would having the sleeper berth near the rear of the motorcoach subject persons occupying the berth to excessive heat, noise, or exhaust?**

While vehicle configuration will ultimately dictate the actual location of a "baggage area" sleeper berth, it should be placed as forward as possible to minimize the concerns of heat, noise and exhaust.

8. **The current requirements of 393.76 for a direct and ready means of exit from the sleeper berth into the driver's seat or compartment may be design-restrictive for motorcoahes. Should the exit requirements allow a ready means of exit into the passenger compartment of the motorcoach instead of the driver's seat or compartment?**

For safety, it is imperative that the primary exit provided for the occupant of the sleeper berth be as close as possible to the driver's compartment. However, the design features of most motorcoaches would allow for the exit to be just rearward of the "Standee Notification" line. Consideration could be given to placing the "Standee Line" further back to allow for the placement of an adequate exit for the occupant of the sleeper berth into the proximity of the driver's compartment.

9. Would separate motorcoach sleeper berth regulations enhance motorcoach safety or benefit the motorcoach industry? If yes, how?

It has been CSS's experience from conducting over 1,000 compliance reviews for the DOD, that when regulations are written which cover specifics actions, they are more readily understood, resulting in greater compliance. Thus there would be benefit to having "Sleeper Berth" regulations specifically written for the motorcoach industry.

Further, under FHWA's program of Zero Base Review to simplify regulations, separate regulations which consider the vehicle configuration of the motorcoach should be strongly considered. Current regulations have resulted in the motorcoach industry improvising, resulting in less then desirable substitutes for sleeper berths.

CSS has seen on many occasions, a driver who will sleep in a passenger seat, and record this time as "sleeper berth" when it was clear there was no provision for one on the motor coach. Without clearly defined parameters for sleeper berths on motorcoaches, this unsafe practice will continue without any effective means to enforce or monitor. Additionally, the misunderstanding of the requirements of "cushion time" will continue, and again result in serious safety concerns regarding driver fatigue.

If the motorcoach industry was provided guidelines which clearly defines the parameters for a regulation sleeper berth, they could thereby increase their charter distance without having to pre-position drivers. This would be considerable savings to the industry, as well as increase safety.

CONCLUSION

Having clearly defined regulations for sleeper berth configuration on motorcoaches would provide both state and federal inspectors guidelines by which to monitor and enforce their use and the misuse of cushion time.

Generally, passenger carriers have always been considered a safety conscious industry, considering the cargo being transported. In most cases this is true. However, CSS has seen a segment of the industry which deserves greater scrutiny by FHWA.

CSS provides analysis of the inspection results semi-annually to MTMC. One of the continuing conclusions found with each analysis, is the higher failure rates of their contracted passenger carriers with a motor vehicle inventory of one (1) to fifteen (15) units.

Our most recent MTMC analysis revealed only a 15 percent failure rate nationwide for FTE Inspections, regardless of inventory size. However, every inspection failure recorded during the last analysis was associated with a motor carrier having a vehicle inventory was 15 motor vehicles or less. The point remains that the smaller carrier will, in most cases, cut comers due to their limited resources. This results in the misuse or abuse of regulations, as well as sleeper berths of substandard quality. If this was a small segment of the industry, the concerns would not be as significant. However, sixty six percent (66%) of the 76 motor carriers inspected during our last analysis period fell into the category of small carrier (vehicle inventory of 15 units or less).

The passenger carrier industry should be provided specific guidelines, considering the uniqueness of their industry, just as has been given the transporters of Hazardous Materials.

Sincerely,

Robert A. Watkins
Director, Transportation Safety Division