

AMERICAN TRUCKING ASSOCIATIONS



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May 22, 1998

Ms. Victoria Wassmer
Desk Officer for FHWA
Office of Information and Regulatory Affairs
Office of Management and Budget
Room 10235
New Executive Office Building
Washington, DC 20503

Re: Hours of Service of Drivers; Supporting Documents
Docket No. FHWA-98-3706 - 9

Office of Management and Budget Collection of Information
2125-0016

DEPT. OF TRANSPORTATION
DOCKET SECTION
98 MAY 27 AM 11:33

Dear Sir or Madam:

The American Trucking Associations, Inc. (ATA), with offices located at 2200 Mill Road, Alexandria, Virginia 22314, is the national trade association of the trucking industry. Through our affiliated trucking associations located in every state and the District of Columbia, and their more than 30,000 motor carrier members, fourteen affiliated conferences, and other organizations, the ATA federation represents every type and class of motor carrier operation in the country, both for-hire and private.

ATA files this letter on behalf of the federation in response to the Federal Register Notice of Proposed Rulemaking (NPRM), April 20, 1998 Volume 63, No. 75; Department of Transportation, Federal Highway Administration (FHWA) regarding Hours of Service of Drivers; Supporting Documents. Specifically, this letter will address the issues raised in the section of the NPRM titled: **New Information Collection Proposal.**

ATA is deeply concerned that FHWA has substantially understated the recordkeeping burden associated with its proposal to revise the supporting documents rule. As discussed in more detail below, FHWA has unreasonably assumed that the rule will impose essentially no additional burden on most motor carriers. This is demonstrably wrong.

FHWA states that this proposed rule would require motor carriers to develop and implement an effective self-monitoring system that audits supporting documents and compares them to records of duty status (RODS). If carriers do not implement a self-monitoring system, FHWA would require motor carriers to "obtain and retain every (emphasis added) document that the carriers or their drivers generate or receive in the normal course of business that would accurately support their beginning, intermediate, and ending times of each driver's daily trips in interstate commerce." (63 Fed Reg. 19464). These documents would have to contain the driver's name or vehicle number and reasonably reliable references to date, time, and location in order to corroborate the information on the RODS.

In analyzing the paperwork burden which would be produced by the proposed rule, FHWA asserts that every document that is generated and received by a motor carrier or commercial motor vehicle driver during the normal course of business is used or retained by the motor carrier "for usual and customary purposes" and therefore, should not be considered to be a burden for purposes of 5 CFR 1320.3(b). This assumption is wrong because regardless of the method used to verify RODS, motor carriers will be required to: 1) amend current documentation; (2) create new documentation; (3) retain more records for longer periods of time than is currently customary; and (4) generally overhaul their present systems in order for them to comply with the requirement to document beginning, intermediate, and ending times.

Every motor carrier or driver-generated document that indicates time and placement of the driver is not used for "usual and customary purposes." Certain companies generate internal documents for tracking the progress of drivers during the day, but these documents are only accurate to a point. They do not pinpoint the driver's location. For instance, some internal reports used for dispatching are only accurate to the time a driver actually reports to the dispatcher. This may be within minutes or hours of actual arrival or departure times at a delivery or pick-up point. The lack of precision with such records is caused by a number of factors including a driver's inability to leave the vehicle and reach a telephone or the complete lack of a telephone at the delivery or pick-up point. While these "dispatch logs" are an important tool for the dispatcher, they are not records that could be utilized, in their present form, to verify RODS. Therefore, although it is a record used by the motor carrier for "customary purposes, " FHWA may take the position that the company would have to modify the form and the way it is used in order for the dispatch record to be utilized for RODS verification purposes.

Because of the nature and intent of this record, it is doubtful that the motor carrier retains this particular document for any period of time longer than for the purpose of assisting the dispatcher in vehicle and load assignment. Moreover, it is

very likely that carriers are unable to modify these, or similar records, to capture and retain all of the proposed information. But, more onerous is the inference in the proposed rule that, if a motor carrier decides to forgo the self-verification system, the carrier would be forced to collect every possible record and retain them for a period of six months, regardless of their intended useful life.

The dispatch log is but one example of records used by motor carriers that would have to be modified in order to verify either beginning, intermediate, or ending times for drivers. Preliminary talks with motor carriers have revealed that there are as many problems with identifying exact beginning and ending times as there are in verifying intermediate times through the use of existing company or driver-generated documents. Additionally, because of the proposed requirement to have every supporting document contain certain driver and vehicle information, time will have to be spent by the driver entering this information on current and newly designed or designated supporting documents. Because of this, ATA feels that FHWA has overlooked a large portion of the verification process by not considering modification of existing records for verification purposes. Therefore, the estimate of 949,500 burden hours for the first year, and only 17,737 for the second and subsequent years, is flawed for several reasons.

First, the estimate of 949,500 burden hours [442,000 known motor carriers X .75 (percentage of motor carriers utilizing paper logs) X 3 hours to develop] only takes into consideration development of the plan describing the self-monitoring system. As explained previously, the written plan is only part of the burden the development of new systems or the potential, substantial modification of existing documentation and systems within the company must be considered.

Second, FHWA states that, "most motor carriers choose to fulfill their responsibilities for highway safety by auditing and comparing their RODS and supporting documents to determine whether drivers have made false reports on their duty activities." This belief leads FHWA to suggest that the "time necessary to audit and compare RODS and supporting documents does not need to be included in the burden estimate." Most motor carriers do indeed collect supporting documents, such as toll and fuel receipts, roadside inspection reports, and, in some cases, pick-up and/or delivery receipts to verify RODS. However, most of these records verify some intermediate time during the course of a trip, and not beginning or ending times. As stated previously, delivery and/or pickup times can be misleading, depending on when the driver was finally able to load or unload the vehicle, obtain a signature on the paperwork, and then call in for the next assignment. This proposal would not only require carriers to attempt to develop new systems, or substantially alter existing systems, but it would also add more time to the self-auditing process. We suggest

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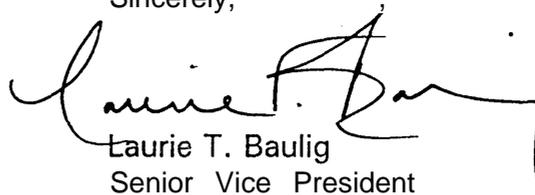
that it would, at a minimum, double the amount of time drivers currently spend collecting and recording required information on various documents and the time carriers spend implementing new auditing and verification processes.

Third, FHWA suggests that 50 percent of the written plans would have to be amended each year. Additionally, FHWA estimates that there will be an additional 1 percent of new carriers having to develop plans. Both amendment and modification are expected to place 3 burden hours on affected motor carriers. Based on these FHWA assumptions, 17,737 burden hours for subsequent years is very low. Utilizing FHWA's assumptions, this number is at least 645,660 hours $[422,000 \times .50$ (number of motor carriers estimated to require plan amendments) + $422,000 \times .01$ (number of new carriers each year that must develop a plan) $\times 3$ hours to develop/amend the plan].

ATA urges FHWA to reexamine its assumptions on the amount of time and effort needed to develop, implement, follow and maintain a self-monitoring program, as currently proposed, for RODS. And, ATA strongly suggests to OMB that FHWA's burden estimates are based on faulty assumptions causing the agency to substantially underestimate the burdens on the motor carrier industry.

ATA appreciates this opportunity to comment on this matter and will submit, in writing, further comments to the docket regarding other issues presented. Should you have any questions regarding this letter, please contact our Safety Policy Department at: 703/838-1 847.

Sincerely,


Laurie T. Baulig
Senior Vice President
Policy and Regulatory Affairs

cc: Mr. Ed Clark, Economist
Office of Information and Regulatory Affairs
Office of Management and Budget

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