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Before the

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Docket No. FHWA - 98 - 3706

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HOURS of SERVICE of DRIVERS; SUPPORTING DOCUMENTS

Comments of the

TRUCKLOAD CARRIERS ASSOCIATION

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The Truckload Carriers Association ("TCA" or "Association", formerly known as the Interstate Truckload Carriers Conference or "ITCC") submits the following comments in response to the referenced notice of proposed rulemaking, which appears at 63 Fed. Reg. 19457 (April 20, 1998), issued by the Federal Highway Administration ("FHWA"). In this notice proposing to amend its hours of service recordkeeping requirements, FHWA solicits comment on options intended to simplify and facilitate the supporting document auditing process.

TCA and its individual members have previously commented in proceedings proposing to revise FHWA's Hours of Service regulations, the underlying regulations that are sought to be enforced through a supporting document scheme. TCA has also regularly participated in FHWA's ongoing zero-base regulatory review initiatives. While FHWA's proposal here attempts to comply with its mandate, contained in Section 113 of the Hazardous Materials Transportation Authorization Act of 1994 ("Act"), to amend the recordkeeping requirements, TCA is not convinced that the proposal satisfactorily resolves the known deficiencies in reconciling records of drivers' hours of duty status, and believes the proposal presents a disincentive to the voluntary investment in new technology, upon which FHWA bases its proposal. Moreover, the proposal's provision allowing inspection of motor carrier records not identified in a carrier's system, or where the system is judged to be ineffective, has caused many of TCA's members to consider removing their currently-installed advanced technology systems from their vehicles, which is contrary to the carriers', and to the FHWA's, objectives.

I. IDENTITY OF COMMENTOR

TCA is the only national trade association representing the irregular-route truckload segment of the motor carrier industry. The Association represents more than 900 members, including dry van, refrigerated, flatbed, and dump trailer carriers domiciled in the 48 contiguous states and serving those states, Alaska, Mexican states, and the Canadian provinces. The truckload segment of the motor carrier industry operates more than 200,000 tractors and 400,000 trailers which are operated by more than 350,000 competent, qualified commercial motor vehicle operators, the vast majority of

whom are subject to FHWA's hours of service regulations and are consequently required to complete daily records of duty status (sometimes referred to herein as "logs").

Moreover, the motor carriers for which these drivers work or to which they are contracted have by and large undertaken significant financial and resource investments, such as, for example, log auditing computer software and additional log auditors, to audit their drivers' logs to ascertain that the drivers are in fact complying with the hours of service regulations. The large number of drivers employed in or contracted to the motor carrier industry, and their daily exposure to FHWA jurisdiction, enforcement, and penalties, invests in our members a keen understanding of the value inherent in a simple, fair, and equitable log reconciliation program. Under the current auditing program or any future supporting document scheme, however, the industry's overriding considerations are increased highway safety and safety awareness; improved driver alertness; and simplified and fairer enforcement of auditing programs that does not create a disincentive to the investment in new technology.

II. FHWA SHOULD HOLD THIS PROCEEDING IN ABEYANCE

The instant proceeding is inextricably intertwined with regulations that govern the number of hours a driver may drive. In fact, the supporting document proposal is merely a ministerial adjunct to the more substantive hours of service proceeding. As FHWA readily concedes, it will likely incorporate this (supporting document) notice of proposed rulemaking, or any final rule resulting therefrom, into the anticipated notice of proposed rulemaking that is expected to review *in toto* a variety of fatigue-related issues, including hours of service of drivers. 63 Fed. Reg. 19457 (April 20, 1998). The Secretary was

directed to issue the proposed rulemaking addressing fatigue-related issues in Section 216 of the ICC Termination Act of 1995, Pub.L. 104 - 88, 109 Stat. 803.

The hours of service rules are the very foundation of the supporting document rule, which deals with the verification and reconciliation of drivers' hours of service compliance. As FHWA recognizes, the hours of service rules were first issued in the late 1930's, and have been changed very little since then. TCA's comments in FHWA's pending Hours of Service of Drivers proceeding, Docket No. MC – 96 – 28, describes much of what is already known to FHWA about its hours of service rules: that they were premised on outmoded and incorrect notions as to what causes driver fatigue; that compliance with the extant hours of service regulations actually causes fatigue; that the Department of Transportation's own Driver Fatigue and Alertness Study validates the need for hours of service reform; and that drivers at FHWA-sponsored Driver Listening Sessions around the country in 1997 uniformly voiced the need for hours of service reform, because "one size" of hours of service regulations does not fit all drivers. In view of the collective plea from the motor carrier industry and its drivers for relief from the hours of service regulations; the well-grounded arguments that change needs to be based upon sound science; the notion that fatigue is governed by how well one rests, not by how long one works; and FHWA's own recognition that the hours of service rules need to be changed, it appears that FHWA has incorrectly and imprudently reversed its regulatory priorities by proposing to first address the ministerial recordkeeping aspects of a substantive rule which itself is the subject of a pending advance notice of proposed rulemaking, public comments for which have already been received. The desirability of

addressing the substantive hours of service rule first is particularly clear in view of FHWA's own concession that the two proceedings are likely to be incorporated. The current hours of service rules reflect depression-era thinking on the number of hours a driver may drive, while the instant proceeding contemplates adopting high-technology methods of reconciling rules that admittedly are out of touch with today's industry and regulatory needs. TCA respectfully suggests that FHWA hold this proceeding in abeyance until after it resolves the hours of service proceeding, after which the manner and means of addressing compliance with new hours of service rules can more properly and timely be addressed.

Notwithstanding the foregoing, and without prejudice or limitation thereto, TCA offers the following observations on the instant proposal.

III. THE PROPOSED SELF MONITORING SYSTEM IS FOUNDED UPON INACCURATE ASSUMPTIONS

A. FHWA Impermissibly Broadened Its Statutory Authority.

The term "supporting document" carries a variety of definitions which must be reconciled. The applicable regulation refers it as an adjunct to a driver's record of duty status. See 49 CFR 395.8(k)(1). The FHWA defines it as "the records of the motor carrier which are maintained in the ordinary course of business and used by the motor carrier to verify the information recorded on the driver's record of duty status." (underscoring supplied). See FHWA's Regulatory Guidance at 62 Fed. Reg. 16425 (April 4, 1997). While the regulatory guidance suggests that supporting

documents may include other records “which the motor carrier maintains and can be used” to verify information on a driver’s log, it also recognizes that such other records might not be used by a carrier for verification purposes. Id.

Importantly, the term is defined in the Act, the source of FHWA’s authority for this proceeding, as “any document that is generated or received by a motor carrier or commercial motor vehicle driver in the normal course of business that could be used, as produced or with additional identifying information, to verify the accuracy of a driver’s record of duty status.” (underscoring supplied). Pub.L. 103-3 11, 108 Stat. 1673. While FHWA claims that it proposes to adopt the statutory definition of “supporting document”, its proposal wholly ignores the Act’s definition in proposing a self-monitoring system, clearly the cornerstone of FHWA’s proposal. Instead of allowing a self-monitoring system using documents that, as produced or with additional identifying information, can be used to reconcile drivers’ logs, FHWA proposes a requirement that motor carriers’ self-monitoring systems be capable of verifying the accuracy of the beginning, intermediate, and ending times of each working day on each trip, as well as beginning, ending, and intermediate mileage for each trip. Not only does the proposal exceed the statutory authorization, it exceeds the scope of the current regulation and it exceeds the scope of FHWA’s own interpretation of the term. Moreover, it exceeds the capability of document production in the industry. The proposal impermissibly leaves no room for a carrier’s use of documents that, as provided for by statute and with additional verifying information, can verify the accuracy of a driver’s log. In fact, the inability of a carrier to produce documents that contain such an exacting level of time and mileage detail

precludes its use of a self-monitoring system as an option under this proposal and relegates the carrier to the fallback requirement of possessing and retaining all supporting documents that could have been obtained on any given trip, regardless of whether the carrier actually obtained them. The potential for abuse by auditors claiming that a particular document should have been issued to document any particular transaction, albeit *de minimis*, and possibly prejudicing the outcome of a carrier's audit as a result of its nonpossession of any such document, is frightening.

B. Documentation Is Not Reliable.

The misapprehension of FHWA's proposal is founded upon its mistaken "[belief] that most trips produce, or could with relative ease produce, a document to verify the time and place of the driver and mileage of the vehicle at the beginning and completion of each work day." FHWA couldn't be further afield about the character, accuracy, and availability of information on documents in use in the motor carrier industry.

Explaining the Exon-Packwood amendment to the Act, former Senator J. James Exon (R-NE) explained that supporting documents can help corroborate the date, time, and location of a driver, or serve as evidence to disprove the accuracy of log book entries. "Of course," he admonished, "the time, date, and location on a receipt, phone bill, or toll stub is only as accurate as the accuracy of the issuer." 140 Cong. Rec. S 11324 (daily ed. August 11, 1994).

Senator Exon's statement is as true today as it was then. Toll receipts are notoriously inaccurate, some being stamped hours before they are given to drivers. Other examples are incorrectly-dated receipts given to drivers for any number of transactions, when they are given, or remembered to be taken, at all. Meal receipts often contain only date and amount of purchase, and other receipts that purport to fix a driver to a location and time are at best only approximations. None of these receipts are capable of placing a driver at the beginning, middle, or end of his workday, and none contain mileage information. A related problem lies with the driver, who often estimates location based upon available information. An example is a driver who goes off duty at a rest area and uses the last road sign as an estimation of the town where the rest area is, but that road sign may be 30 or more miles from where the town actually is located. Obviously no receipt will be able to reconcile that driver's location.

C. Existing Documentation Does Not Contain The Level of Detail That FHWA Assumes Exists.

TCA conducted a survey of its 660 motor carrier members to determine what documents are used to reconcile drivers logs. Of the 33 examples of supporting documents identified in FHWA's regulatory guidance, TCA's survey identified 32 types of records, and asked whether these records were used to verify log compliance, and whether they always, sometimes, or never contain time of day or mileage information. The responses of one hundred ninety carriers reveals that very few of the documents ~~always contain time of day or mileage information.~~ u m e n t s o n l y "sometimes" contain time of day or mileage information (but not both). Moreover, the

documents that for many respondents always contain the desired information, such as accident or incident reports; overweight/oversize violations; and traffic citations; are generated infrequently, and cannot reliably be used to reconcile a driver's log. Specific examples of documents that only sometimes contain time of day information include: bills of lading; fuel billing statements and receipts; freight bills; delivery receipts; gate receipts; dispatch records; and toll receipts. Most of the documents identified never contain mileage information, though only dispatch records, fuel billing statements and receipts, inspection reports, traffic citations, payroll records, accident and incident reports, and computer engine performance reports were identified by more than ten respondents as always containing mileage information. Clearly the assumption by FHWA that most trips produce documentation that can verify the time and place of the driver and mileage of the vehicle at the beginning, middle, and completion of each work day is unfounded and incorrect for the overwhelming majority of truckload carriers. Moreover, FHWA assumes, also mistakenly, that each driver or vehicle generates daily documentation that allows reconciliation of logs. For many drivers and for many trips, this is untrue. It is not uncommon for drivers to drive for several days without entering or receiving a receipt for the use of a toll road. Many trips require more than one day of driving time, so drivers do not ordinarily commence a new dispatch every day. Not all drivers purchase fuel each day, or obtain cash advances every day, or receive signed bills of lading or delivery receipts every day, or submit over/short/damage reports every day. There are very few documents that reliably and routinely can be used to reconcile a driver's location with the time of day. Most records, whether they reflect time of day or mileage information, are usable only when or if produced, but are not reliably generated

on a daily basis such that they can be confidently used to reconcile a driver's hours of service compliance.

Carriers were asked in TCA's survey whether the time of day and mileage information for each trip, thought by FHWA to be readily available, could be captured, and what it would cost to capture it. The survey respondents for the most part felt the information could be captured, and thought that doing so would require significant programming changes to their computers and, if applicable, to their satellite tracking systems. It would also require changes in the way their operating departments function. As to the estimated cost to make the changes that would allow the information to be captured, the responses included "prohibitive", "absolutely ridiculous", "too damn much", and "more than we make". While many carriers offered frightening estimates in terms of overall cost, annual maintenance cost, and per-truck or per-driver cost, their estimated cost means nothing without an understanding of their size of operations and amount of equipment operated. It is clear that no one has a firm understanding of what it might cost to change their systems and operations to capture the information that FHWA assumes is so readily available.

IV. THE PROPOSED SELF COMPLIANCE SYSTEM WILL PRESERVE INEQUITIES

It is gratifying to read in the proposal that FHWA believes most motor carriers and drivers are meeting their responsibility to conduct safe operations by complying with the hours of service regulations. 63 Fed. Reg. 19459. It is even more satisfying to learn that FHWA believes responsible motor carriers have already developed self-compliance

or self-monitoring systems and have such systems in place, and are successfully monitoring and enforcing the regulations. Id. Carriers have spent years developing their self-monitoring systems, and have turned down many blind alleys in their collective attempt to make highway safety and zero regulatory violations their highest priority.

Despite their substantial investments and recognized successes in reaching their goal, carriers are repeatedly treated unfairly by FHWA during compliance reviews at the hands of unscrupulous or overzealous auditors who doggedly overlook their credible safety programs to find minor grounds upon which to fine or penalize them. Such nonuniformity in FHWA's regional field offices has been chronicled for years, most recently brought to light in 1994 with the publication of the Federal Bar Association's Transportation Section report entitled Federal Regulation of Trucking. That report concluded that inconsistent regulatory interpretation inhibits the achievement of safety goals; that safety rating criteria are unevenly enforced and difficult to understand, thus precluding carriers from auditing their own operations; that consistent interpretation would make it easier for companies to be "good citizens"; and that inconsistent enforcement imposes an undue burden on an important industry that is integral to commerce in this country.

The report cited great diversity among the nine FHWA regions in interpreting regulations, enforcing policy determinations, and assigning safety ratings, the principal outcome of a compliance review which is in large part determined by the accuracy of a carrier's supporting documentation. The report found that:

[o]ne regional office, for example, assigned 30.9 % more unsatisfactory safety ratings than the national average in fiscal year 1993, the most recent year for which statistics are available to the public. The same region assigned 7.3 % fewer satisfactory ratings than the national average. Assignments ranged from 35.9 % fewer unsatisfactory ratings than the national average to 21.9 % more satisfactory ratings than the national average in different regions in 1993. Id. at 1.

One way to eliminate such nonuniformity and regional discrepancy would be through a centralized review system that would review for content a carrier's self-monitoring system, to offer assurance that as long as it complies with its approved program, a carrier could be reasonably confident of the outcome of its compliance review, i.e., its safety fitness rating. This is a building block of fairness, certainty, and outcome-determination that the U.S. Court of Appeals for the District of Columbia Circuit addressed when it agreed that it is unclear from FHWA's regulations the circumstances under which a carrier can expect to receive a conditional or unsatisfactory rating. MST Express v. Department of Transportation, 108 F.3d 401 (D.C. Cir. 1997).

The instant proceeding should similarly allow carriers to determine in advance whether their self-monitoring plans are trusted guidelines under which to operate, so as to eliminate the possibility of a regional enforcement officer or compliance auditor finding a carrier's self-compliance system to be deficient or ineffective. This is precisely what Congress intended when it directed the Secretary to prescribe regulations authorizing, on a case-by-case basis, motor carrier self-compliance systems (underscoring supplied). 140 Cong. Rec. S11357 (daily ed. August 11, 1994). Congress also provided that such authorization could be awarded to a group of motor carriers that meet specific conditions that may be established by regulation. This alternative would not be hardly as

objectionable as it is were it not for the consequences of operating under what could be found to be an ineffective or deficient self-monitoring plan.

FHWA's proposal sets the stage for continuing disagreements over the sufficiency of a carrier's documentation. Initially, and as discussed supra, carriers do not ordinarily generate or receive documents that can verify the time and place of the driver and mileage of the vehicle at the beginning, intermediate, and completion of each working day on each trip day.

Even with its description, in 49 CFR 395.10, of information that must be contained in a self-monitoring plan, FHWA proposes further that carriers that fail to have compliant self-monitoring systems must require every driver to obtain, and to produce to FHWA, all supporting documents from the beginning to the end of every trip. A carrier's plan could thus identify the supporting documents it uses to verify the accuracy of drivers' logs, but even such compliant carriers then run the risk that an auditor will later independently determine those documents to be insufficient for verification, and will thus judge the carrier's self-monitoring system to be ineffective. Under the proposal, an auditor can then demand all (and unrelated) supporting documentation.

Moreover, the proposal does not require that no violations be revealed; rather, 49 CFR 395.10 allows a carrier to avoid maintaining additional documentation "[i]f the audit system can be demonstrated to be effective to verify the actual hours of service performed and the accuracy of the driver's record of duty service . . ." Thus a system

that accurately and effectively verifies that a driver has driven too many hours or has kept an inaccurate logbook should, under the proposal, pass muster as an effective self-monitoring system. Even absent this unintended result, and during a state or federal audit to determine whether the carrier operates in accordance with its self-monitoring system, FHWA explains that the carrier can be required by an auditor to produce other motor carrier records not identified in its system and which it believes are unrelated to its internal efforts to comply with the federal motor carrier safety regulations. This provision improperly invests auditors with unbridled and unprecedented access to a carrier's documents based upon the singular and erroneous (or determined!) judgment that a carrier's system is not effectively verifying its drivers' records of duty status. In fact, even without a finding that a self-monitoring system is ineffective, "[t]he reviewer may inspect other motor carrier records not identified in the motor carrier's system, to determine whether the system is effectively verifying the accuracy of the [logs]." 63 Fed. Reg. 19461. Indeed, the proposal elsewhere reserves such access only in extraordinary circumstances and apparently only for contumacious carrier conduct ("If continued problems or a pattern of [hours of service] violations, falsification, or inaccurate [records of duty] status is discovered, the FHWA reserves the right to inspect and copy any other records not identified in the motor carrier's system to gauge the ineffectiveness of the system."). Id. In fact, the responses to TCA's survey of its motor carrier members, supra, disclose that ability of an auditor to demand access to satellite records after a subjective determination that a carrier's self-monitoring system is ineffective is so offensive that many carriers are considering removing their advanced technology systems, so that information generated by them for business purposes is not

used offensively against them in log audit compliance proceedings. The carriers almost unanimously responded that FHWA should not have the ability to audit and take enforcement action against a carrier based upon evidence not in the carrier's possession, such as, for example, gate receipts.

The proposal thus fails to give carriers a secure basis upon which they may presumptively rely that they have an effective system in place. In order to give carriers some confidence that the supporting documents they have chosen for their self-monitoring plan will be honored as "effective", TCA suggests that FHWA consider giving assigned values corresponding to their accuracy, reliability, and timeliness to the range of supporting documents already identified by FHWA. As examples, a satellite tracking record might be assigned a 5 on a scale of one to five, for that document's typical accuracy, reliability, and timeliness, while a fuel billing record might be assigned a value of 3 for that document's accuracy and reliability, but somewhat diminished frequency. As long as the values of a carrier's identified documents add up to an agreed-upon total, such as 10, the carrier's self-monitoring plan should presumptively be effective, and any audit, rather than reevaluating the propriety of the self-monitoring plan, should consist of determining that the identified documents are in fact collected and reconciled against the driver's log. While carriers should have every right to expect FHWA to test their compliance against their self-monitoring plans, the result of a determination that a plan is ineffective or deficient should not be entree to more of a carrier's records, but rather a citation or a fine for the actual violations found. As FHWA conceded, it does not wish to expend scarce enforcement resources on mere

recordkeeping violations that may result from sloppy bookkeeping. Citing a carrier for violating underlying substantive regulations will no doubt be more effective than seeking access to additional records in moving a carrier toward compliance with the applicable regulations, which, it must be conceded, is the goal of all parties involved.

V. THE PROPOSAL FAILS TO CONTAIN RECORD SELECTION AND SAMPLING CRITERIA

It is expected that carriers will have their operations tested for compliance with their self-monitoring plan or, for those carriers without such a plan, for violations of the applicable regulations. The proposal fails to suggest any basis by which tests for compliance can themselves be reconciled.

Carriers often report that auditors discriminate among their records, seeking those that may more swiftly incriminate it for violations. A commonly-used example is an auditor's demand for hours-of-service logs for husband-wife teams, high-mileage drivers, and top wage-earning drivers, on the faulty theory that the only way such teams or drivers can accumulate the miles they run, and make the money they earn, is by consistently ignoring the hours of service regulations. Since a carrier's safety rating is imperiled if more than ten percent of its driver logs reflect hours of service violations, some auditors have reduced a carrier's rating after finding more than ten percent violations in a subgroup of drivers, rather than sampling additional logs to determine whether the pattern of violation is representative of the company's operations. Similarly, a finding in excess of ten percent violations at one company terminal may fail to accurately incorporate a

lesser violation rate at another terminal, also painting an unrepresentative picture of the company's safety posture.

This matter has been brought to the attention of FHWA numerous times in the past. TCA made this issue a part of its comments in several proceedings, among them Docket No. MC – 96 – 18, which is still pending. The ATA Litigation Center filed a request with FHWA on February 7, 1997, seeking immediate action to correct the biased sampling methodology used by FHWA in conducting compliance reviews of motor carriers, and renewed its request on May 29, 1997. Moreover, the absence from FHWA's final safety fitness rules of any provision explaining how records will be selected for review, how many records will be reviewed, or how they will be reviewed, is an issue currently pending before the District of Columbia Circuit Court of Appeals in *American Trucking Associations, Inc., et al. v. Federal Highway Administration*, No. 974668 (D.C. Cir., filed November 10, 1997).

We urge FHWA again to consider the need for establishing criteria that will guarantee predictability and uniformity in determining how a carrier's records will be selected for review and in fixing the number of records that must be reviewed in a way that will meet statistical sampling measurements. In so doing, the industry and FHWA will have a better mutual understanding of the breadth of document production that can be expected.

VI. DRIVER RELATIONS

A. Driver Accountability.

For carriers that will not maintain self-monitoring systems FHWA proposes to require that drivers forward all supporting documents to the carrier at the same time the corresponding logs are transmitted. FHWA concedes that it does not currently require drivers to supply their carriers with supporting documents, but it inexplicably believes that such a requirement would “better motivate” drivers toward hours of service compliance and accuracy of their records of duty status. FHWA’s recitation of its belief, however, belies its further belief that “drivers have an obligation not only to comply with the [hours of service] and [record of duty status] requirements, but also to cooperate with their motor carrier employers by collecting and submitting the supporting documents needed to verify compliance with the rules.” 63 Fed. Reg. 19461 – 19462. FHWA’s proposed 395.1 O(c)(2) authorizes fines and compliance orders to be levied upon the carrier, but it contains no corresponding sanctions for failure of the initial custodian of the documents – the driver – to transmit them to the carrier. TCA suggests that a more effective way to motivate drivers towards hours of service compliance and accuracy of their logs would result from a provision allowing FHWA to sanction employee drivers directly for their failure to submit documentation that FHWA deems essential for logbook reconciliation. Drivers who are not employees have their own business justifications for retaining documents, as is discussed in the next section, and cannot be required to submit documentation to carriers. If FHWA insists on a similar provision for contractors, an acceptable alternative might allow for the provision of legible copies of documentation.

B. Driver Status.

FHWA must exercise greater caution before proposing that motor carriers that do not choose to maintain a self-monitoring system must retain all supporting documents coming into the possession of all drivers, including owner-operators and independent contractor drivers. While FHWA may not believe that such a requirement would be an undue burden on a carrier that does not otherwise provide a verification system demonstrating its safety management control, the requirement may present a challenge to the independent contractor status of those drivers providing transportation services to the carrier, and the requirement smacks of a punitive measure to be applied merely because a carrier chooses not to elect a self-monitoring plan. As to the former, FHWA must recognize that owner-operators and independent contractors are independent businesspersons in their own right, with their own individualized need for many of the records FHWA purports to require a carrier to collect and retain. Independent contractors must be in a position to demonstrate compliance with the same payments, taxes, and obligations that a carrier holding DOT authority must show. In fact, most carriers responding to TCA's survey stated that their independent contractors retain their own documents, such as toll receipts, for tax purposes. Requiring a motor carrier to collect and retain supporting documentation not only imperils a contractor's ability to respond to governmental audits into his or her own transportation enterprise, but it also prejudices the contractor's denial of employment status with the carrier he or she performs service for. In this regard, and prior to seriously considering the imposition of the proposal, FHWA would be better served by conducting additional research on the likely results of any such requirement in the employment, workers compensation, labor, and tax arenas.

VII. CONCLUSION

For the foregoing reasons, TCA requests that the FHWA hold this proceeding in abeyance until after it concludes the underlying substantive proceeding on hours of service. Without limitation or prejudice thereto, TCA suggests that FHWA revise the documentation requirements of carriers that choose to elect self-monitoring plans to eliminate any proposal to require documents containing time and mileage information, which is not currently, widely, and reliably reflected in documents generated in the ordinary course of business within the industry. FHWA should revise its proposal by announcing reliable methods by which records will be selected and sampled, and by identifying minimally acceptable documents the use of which will establish a presumptively effective self-monitoring plan. FHWA should also adopt greater employee driver accountability standards and, until additional research confirms the correctness of its position, forego its proposal to require submission of documents from contractors.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Robert G. Rothstein", written over a horizontal line.

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