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June 19, 1998

The Honorable Kenneth R. Wykle
Administrator
Federal Highway Administration
U.S. Department of Transportation
400 Seventh Street, S.W.
Washington, DC 20590

Hours of Service of Drivers; Supporting Documents
49 CFR Parts 390 and 395
Notice of Proposed Rulemaking
Docket No. FHWA-98-3706 - 36

Dear Mr. Wykle:

The Insurance Institute for Highway Safety supports the Federal Highway Administration (FHWA) proposal to require motor carriers either to maintain an auditing system for verification of drivers' hours of service and logbooks or to keep all documents that could be used to check logbooks. This proposal responds to a mandate included in the Hazardous Materials Transportation Authorization Act of 1994. Although the proposal is less stringent than authorized by the Act, it is an important first step in improving truck driver and motor carrier compliance with hours-of-service rules. Any weakening of the proposed rule would contravene the intent of the Act. Some changes to improve the rule are suggested below.

Why the Proposed Rule is Needed

The most compelling reason for effective enforcement of hours-of-service limits is that long driving hours are related to increased truck crash risk (National Transportation Safety Board, 1995; Saccomanno et al., 1995; Frith, 1994; Summala and Mikkola, 1994; Lin et al., 1993, 1994; Kaneko and Jovanis, 1992; Jones and Stein, 1989; Campbell, 1988; Harris, 1978; Mackie and Miller, 1978). In addition, other research has found an association between violating hours-of-service rules and falling asleep at the wheel (Braver et al., 1992; McCartt et al., 1997).

The proposed rule is necessary because both motor carriers and drivers have clear economic incentives to carry more loads per unit of time, which results in frequent violations of the hours-of-service regulations (McCartt et al., 1997; Beilock, 1995; Beilock and Capelle, 1987; Braver et al., 1992; Hertz, 1991; Ouellet, 1994). Estimates of the percentage of commercial truck drivers violating the rules range from about 50 to 75 percent (McCartt et al., 1997; Hertz, 1991; Braver et al., 1992). This evidence contradicts FHWA's statement that "most motor

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carriers and drivers are . . . complying with the HOS [hours-of-service] regulations" (63 FR 19459).

The existing system of enforcing hours-of-service rules is grossly deficient and must be strengthened. Written logbooks are easy to falsify (Insurance Institute for Highway Safety, 1995). According to a 1992 Institute truck driver survey, fewer than 20 percent of drivers thought logbooks reflect the actual hours most drivers work (Braver et al., 1992). Drivers commonly refer to their logbooks as joke books or comic books (Ryder, 1991; Condra, 1990).

Responsible motor carriers whose drivers comply with hours-of-service rules may be at a competitive disadvantage compared with motor carriers who tolerate or even expect violations of driving hour limits. The proposed rule will provide economic benefits for motor carriers who already adhere to driving hour limits and should push other carriers to join their ranks.

An additional benefit of this proposal is that it promotes the use of superior paperless systems, including onboard computers and global positioning systems, for tracking driver hours. These systems reliably indicate when trucks are being driven and save record-keeping time for both drivers and motor carriers. On-board computers cost as little as \$1,000 per truck, are tamper-resistant, identify who is driving, and can be readily accessible to officials at state inspection stations (Insurance Institute for Highway Safety, 1995). Both on-board computers and global positioning systems are becoming common because they have many advantages for fleets, apart from monitoring adherence to hours-of-service rules (Leavitt, 1998).

Recommended Changes to Proposed Rule

Compliance reviews should be thorough. In the preamble to the proposal, FHWA recognizes that its inspectors need to examine records beyond those specified by individual motor carriers in their self-monitoring systems in order to determine whether these systems are effectively verifying the accuracy of drivers' hours of service. However, the agency also says that "enforcement personnel need not demand access to additional records" if the self-monitoring system is "effective on its face" (63 FR 19461).

The rule should state that FHWA personnel routinely will look at other motor carrier records not used in self-monitoring systems to determine if these systems are effective (see paragraph below concerning exceptions for tamper-resistant records). Although the potential for falsified records will be reduced if this proposal becomes a final rule, some abuses still could occur if the supporting documents are falsified. This is particularly true because the proposed self-monitoring systems do not have to use all the documents routinely available to motor carriers to verify their drivers' hours of service.

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Tamper-resistant records. The Institute supports FHWA's efforts to provide motor carriers an incentive to use electronic means, such as on-board computers or global positioning systems, for self-monitoring. Because such electronic records are more tamper-resistant, the Institute believes inspectors should not need to go beyond those records, which should lessen the compliance burden on those motor carriers that choose to base self-monitoring systems on electronic data.

Among those motor carriers that base their self-monitoring systems on non-electronic documents, public safety would best be served by requiring them to keep all relevant supporting records that could be used to verify their systems, whether electronic or not, for six months.

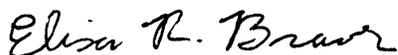
Disallowing participation in self-monitoring systems.

The purpose of self-monitoring systems is to reduce hours-of-service violations. The results of roadside inspections provide indicators of compliance with driving hour limits, although they fail to find most such violations (McKane, 1994). FHWA should exclude motor carriers with repeated hours-of-service violations from the self-monitoring program. Instead they should be required to collect and retain all supporting documents that could be used to verify hours of service.

Summary of Comments

FHWA's proposed rule to improve monitoring of compliance with hours-of-service rules is necessary and should be finalized as quickly as possible. This proposal should be viewed as a first step toward better enforcement of hours-of-service regulations, because falsification of documents relating to driving hours can occur even after the rule is implemented. The proposed rule should be changed as follows to address this problem: 1) FHWA routinely should examine motor carrier records not used in self-monitoring systems to determine if these systems truly are effective, and 2) motor carriers should keep all relevant records that could be used to verify hours of service for six months. However, those motor carriers basing their self-monitoring systems on tamper-resistant electronic data should be exempt from a requirement to retain all relevant supporting documents. Future changes in the rule may be necessary if widespread driving hour violations continue.

Sincerely,



Elisa R. Braver, Ph.D.
Senior Research Analyst

cc: Docket Clerk, Docket No. FHWA-98-3706

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