



ADVOCATES
FOR HIGHWAY
AND AUTO SAFETY

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August 30, 1999

Docket No. FHWA-99-5880 - 6
U.S. DOT Dockets
400 Seventh Street, SW
Room PL-40 1
Washington, DC 20590

Hours of Service for Commercial Drivers: Exemption Application, Hulcher Services, Inc., 64 FR 41483 et seq., July 30, 1999

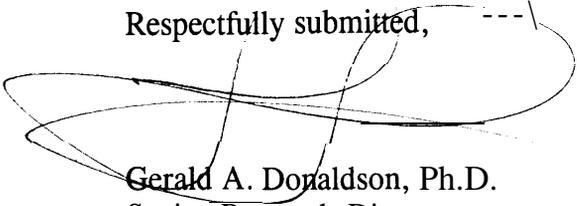
The Federal Highway Administration (FHWA) has proposed denying an application filed by Hulcher Services, Inc., for exemption from the federal maximum driving time limits for commercial motor vehicle operators. Advocates has reviewed Hulcher's arguments supporting a grant of the requested exemption and agrees with FHWA that the application is deficient on multiple grounds. Advocates also finds that the application bears the same defects in its request for alternative consideration of a 24-hour driver "clock" restart provision if Hulcher's primary exemption request is denied. In no instance does Hulcher demonstrate that its company's services consisting of emergency responses to rail incidents requires elimination of the maximum driving and on-duty hours for commercial drivers, or of the minimum off-duty period following exhaustion of available driving and total duty hours at the end of a seven- or eight-day driver tour of duty. In fact, granting either Hulcher's primary or fallback exemption request would pose a substantial threat of increased safety risks both to Hulcher's drivers and to the traveling public sharing the road with Hulcher's trucks. Advocates strongly supports a final determination by FHWA denying Hulcher's primary and derivative requests for exemptions from current federal commercial driver hours of service regulations.



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Notwithstanding Advocates' support for the agency's reasoning in this notice, Advocates objects to FHWA issuing notices requesting public comment on exemption requests which consist of predeterminations on the merits. Although Advocates is in principle opposed to exemptions from the Federal Motor Carrier Safety Standards, we nevertheless regard predeterminations provided for public comment as inequitable and inherently prejudicial. Comparable proposals from the National Highway Traffic Safety Administration, including regulatory exemption petitions, applications for findings of insignificant safety consequences for regulatory noncompliance, and applications to the Research and Special Programs Administration for exemptions from the Hazardous Materials Regulations, are published in the Federal Register for public comment without preliminary policy decisions or other agency advocacy characterization. We believe that exemption requests should be accompanied in the Federal Register and in the docket with all relevant information to assist commenters in preparation of their submissions, but without indication of the agency's draft decision on the merits.

Respectfully submitted,



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