

INSURANCE INSTITUTE FOR HIGHWAY SAFETY

September 23, 2005

The Honorable Annette M. Sandberg
Administrator
Federal Motor Carrier Safety Administration
400 Seventh Street S.W.
Nassif Building, Room PL - 401
Washington, D.C. 20590-0001

Hours of Service of Drivers; Final Rule
49 CFR PARTS 385,390 and 395
Docket No. FMCSA-2004-19608, formerly FMCSA-1997-2350

Dear Ms. Sandberg:

The Insurance Institute for Highway Safety (IIHS) petitions for reconsideration of the final rule, issued on August 25, 2005 by the Federal Motor Carrier Safety Administration (FMCSA), governing hours of service for drivers of commercial motor vehicles. This rule does nothing to reduce truck driver fatigue and nothing to enhance enforcement of hours-of-service regulations.

Truck driver fatigue is a known factor in crashes. This fatigue results from truckers' arduous work schedules. Numerous studies have found increased crash risk among drivers operating large trucks for more than 8-10 hours (e.g., Jones and Stein, 1987, 1989; Lin et al., 1993, 1994). As directed by Congress and in keeping with FMCSA's mandate to consider safety as the highest priority, the goal of hours-of-service rulemaking is to reduce truck driver fatigue and fatigue-related crashes. In pursuit of this goal, FMCSA issued a rule that substantially increases daily and weekly driving limits. This is illogical and without scientific basis (IIHS 2000b, 2005).

FMCSA left intact the key provisions of the rule issued on April 28, 2003. Yet FMCSA did not provide a shred of credible evidence that safety has been enhanced since that rule took effect January 4, 2004. Rather, FMCSA ignored evidence submitted by IIHS on March 10, 2005 (IIHS, 2005, Appendix A) indicating that safety has been degraded. A survey of truck drivers before and after the rule change found that daily and weekly work hours increased substantially after the rule change. The survey also reported that fatigued driving and dozing at the wheel increased slightly. FMCSA claimed to lack details about the survey (70 FR 50003). However, the report submitted by IIHS (IIHS, 2005) provided a detailed account of the survey methods and survey findings, including tests of statistical significance.

Annette M. Sandberg
September 23, 2005
Page 2

Efforts to reform the work rule are meaningless without effective enforcement. The IIHS survey of drivers (IIHS, 2005) documented the persistent inadequacies of the paper-based system of enforcement. Reported violations of the work rule and falsifications of logbooks were commonplace and occurred at least as frequently in 2004, after the rule change, as in 2003, even though work limits were loosened. FMCSA's failure to correct the deficient enforcement system is particularly egregious, given that technology to solve the problem has been available for decades. Our recent survey of drivers indicates a substantial and significant increase in trucks equipped with global positioning systems from 2003 to 2004, and trucks with electronic onboard recorders doubled. However, fewer than 1 in 10 drivers with recorders used them to report compliance with the work rule.

In 1995 IIHS, joined by a number of other safety organizations, petitioned the U.S. Department of Transportation to require onboard recorders to increase compliance with the hours-of-service rule (IIHS, 1995). Even before this petition, we had submitted three prior ones (IIHS, 1986, 1987, 1989) and repeatedly documented the detrimental safety effects of truck drivers' long driving hours, widespread noncompliance with the hours-of-service rule, and availability of affordable tamper-resistant onboard recorders (e.g., IIHS 1995, 2000a, 2000b, 2004). In light of all this evidence, FMCSA's failure to require onboard recorders is indefensible.

FMCSA has given weight to evidence that is biased and lacking in scientific merit while ignoring objective research findings from IIHS and others. As a result, FMCSA has missed yet another opportunity to reduce the problem of truck driver fatigue. The agency should live up to its safety mission by reconsidering this rule.

Sincerely,

A handwritten signature in black ink, appearing to read "Adrian K. Lund", is written over a vertical red line.

Adrian K. Lund, Ph.D.
Chief Operating Officer

cc: Docket Clerk, Docket No. FMCSA-2004-19608

References

Insurance Institute for Highway Safety. 1986. Petition to require automatic on-board recording devices for motor carriers. Submitted to the Bureau of Motor Carrier Safety, October 1. Washington, DC: U.S. Department of Transportation.

Insurance Institute for Highway Safety. 1987. Petition for reconsideration to require on-board recording devices for motor carriers. Submitted to the Bureau of Motor Carrier Safety, February 25. Washington, DC: U.S. Department of Transportation.

Insurance Institute for Highway Safety. 1989. Petition to require automatic on-board recording devices for motor carriers transporting hazardous materials. Submitted to the Federal Highway Administration, December 20. Washington, DC: U.S. Department of Transportation.

Insurance Institute for Highway Safety. 1995. Petition to require electronic on-board recording devices for motor carriers. Submitted to the Federal Highway Administration, August 3. Washington, DC: U.S. Department of Transportation.

Insurance Institute for Highway Safety. 2000a. Comment to the Federal Motor Carrier Safety Administration concerning the hours-of-service notice of proposed rulemaking and the availability of inexpensive automated recording devices that meet the agency's proposed specifications. Docket Document no. FMCSA-1997-2350-20062, December 15. Washington, DC: U.S. Department of Transportation.

Insurance Institute for Highway Safety. 2000b. Comment to the Federal Motor Carrier Safety Administration concerning the hours-of-service notice of proposed rulemaking. Docket Document no. FMCSA-1997-2350-20062, August 4. Washington, DC: U.S. Department of Transportation.

Insurance Institute for Highway Safety. 2004. Comment to the Federal Motor Carrier Safety Administration concerning electronic on-board recorders for hours-of-service compliance. Docket Document no. FMCSA-2004-18940, December 8. Washington, DC: U.S. Department of Transportation.

Insurance Institute for Highway Safety. 2005. Comment to the Federal Motor Carrier Safety Administration concerning its notice of proposed

Annette M. Sandberg
September 23, 2005
Page 4

rulemaking on truck drivers' hours of service. Docket no. FMCSA-2004-19608, March 10. Washington, DC: U.S. Department of Transportation.

Jones, I.S. and Stein, H.S. 1987. Effect of driver hours of service on tractor-trailer crash involvement. Arlington, VA: Insurance Institute for Highway Safety.

Jones, I.S. and Stein, H.S. 1989. Defective equipment and tractor-trailer crash involvement. *Accident Analysis and Prevention* 21:469-81.

Lin, T.D.; Jovanis, P.P.; and Yang, C.Z. 1993. Modeling the safety of truck driver service hours using time-dependent logistic regression. *Transportation Research Record* 1407:1-10. Washington, DC: Transportation Research Board.

Lin, T.D.; Jovanis, P.P.; and Yang, C.Z. 1994. Time of day models of motor carrier accident risk. *Transportation Research Record* 1467:1-8. Washington, DC: Transportation Research Board.