

**Statement before the US Senate Committee
on Commerce, Science, and Transportation,
Subcommittee on Surface Transportation
and Merchant Marine Infrastructure, Safety,
and Security**

**Requiring electronic on-board recorders
in large trucks**

Anne T. McCartt

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**INSURANCE INSTITUTE
FOR HIGHWAY SAFETY**

1005 NORTH GLEBE ROAD ARLINGTON, VA 22201

PHONE 703/247-1500 FAX 703/247-1678

www.iihs.org

The Insurance Institute for Highway Safety is a nonprofit research and communications organization that identifies ways to reduce the deaths, injuries, and property damage on our nation's highways. We are sponsored by US automobile insurers. Thank you for allowing me an opportunity to testify on this critical safety issue.

The Federal Motor Carrier Safety Administration and its predecessor agencies have refused to protect the American public by addressing in a meaningful way the serious problem of truck driver fatigue. The agency's recent decision to increase truck drivers' permissible daily and weekly driving hours plus its failure to enforce work rules demonstrate indifference to public safety. Because it does not require electronic recorders in all large trucks and will affect only a tiny proportion of carriers, the proposed rule, if finalized, will be a travesty.

Efforts to improve enforcement of hours-of-service rules for truck drivers span more than 3 decades. In 1971 federal legislation was introduced to require all commercial trucks and buses manufactured after January 1974 to be equipped with tachographs to record driving time. The legislation was not enacted, and to this day the system for enforcing hours-of-service rules is inadequate. I refer the committee to the detailed chronology on rulemaking that is attached to my testimony.

On October 1, 1986, the Institute petitioned the Bureau of Motor Carrier Safety to require automatic on-board recording devices to be installed and used in all heavy trucks. This petition was denied, and during the intervening 20 years an estimated 16,030 people died in crashes involving fatigued truckers. This toll includes 11,750 passenger vehicle occupants; 2,257 occupants of large trucks; and 2,023 motorcyclists, bicyclists, pedestrians, and others on the road. By failing to take meaningful and readily available steps to address truck driver fatigue, the Federal Motor Carrier Safety Administration and its predecessor agencies share responsibility for these deaths.

By all accounts the current system of manually recorded logbooks is a joke. In the electronic age there is no excuse for refusing to require devices in trucks to improve the enforcement of what are lax restrictions on the amount of time truck drivers can spend behind the wheel. It is doubtful that anyone can argue with a straight face that a tractor-trailer driver spending 11 hours behind the wheel is good for safety.

Since 1986 our Institute has submitted 4 additional petitions and 19 comments calling for an on-board recorder requirement for all large trucks. We have provided more than 200 pages documenting the failed paper-based system of enforcement of the hours-of-service rules and the affordability of electronic on-board recorders. Instead of considering these and other objective research findings, the agency has given weight to evidence that is biased and lacking in scientific merit.

For one brief period in 2000 the agency did appear to take its safety title seriously, proposing to require recorders in all large trucks. However, this requirement was removed from the final rule that was effective January 4, 2004. When it vacated the rule in July 2004, the US Court of Appeals for the District of Columbia questioned the rationality of the decision, chastising the agency for its "one-sided and passive" regulatory approach to the issue of recorders and noting that the agency had not taken the "seemingly obvious step of testing existing [recorders] on the road" (*Public Citizen v. FMCSA*, 374 F.3d 1209, 1222 (D.C. Cir. 2004)). The Federal Motor Carrier Safety Administration still has not tested existing on-board recorders and, with little justification, has drafted a rule that would affect only a tiny percentage of motor carriers. The proposal represents the most minimal action the agency could have taken in response to the court.

In requiring on-board recorders for only a miniscule proportion of carriers, the agency assumes there are only a few problem carriers and drivers. This is contradicted by Institute research indicating that 20-25 percent of long-distance truck drivers violate work rules. In 2005, 1 in 5 drivers reported falling asleep at the wheel during the previous month, an increase from 13 percent in 2003 before the work rule change. The research further indicates an association between work rule violations and dozing at the wheel. Unless on-board recorders are required, compliance officers must rely on paper logbooks and related documentation that can be falsified easily. So identifying even this tiny proportion of egregious violators will be problematic.

The proposed rule fails to account for the large increase in trucks equipped with recorders. About 45 percent of long-distance truck drivers said in 2005 that their trucks had recorders, up from about 18 percent in 2003 and about 38 percent in 2004. However, only 10 percent or fewer of the truckers who reported having on-board recorders said they were using them in lieu of paper logbooks to show compliance with work rules. This indicates the need for on-board recorders to overcome noncompliance.

The excuse that the technology is not there yet simply does not stand up to scrutiny. We can download 20,000 songs to our iPods. Worldwide we sent 161 billion gigabytes of digital information last year. Our government sends astronauts to space for months at a time. In-vehicle technologies can parallel park without driver input. Many large truck rigs have expensive, multifunction entertainment systems. Is it really possible that the government cannot figure out how to get devices in trucks to record when they are being driven? It is no longer credible to argue that the devices are too expensive or burdensome for widespread use. It is past time for research, pilot studies, or government/industry cooperative ventures. It is time for action.

In the meantime, fatigue-related deaths continue. In Lake Butler, Florida, on January 26, 2006, a trucker who had been awake for 34 hours except for a short nap rammed his tractor-trailer into the back of a van stopped behind a school bus. In the ensuing inferno all 7 children in the van, ages 20 months to 15 years, were killed. Upon hearing of the tragedy, their grandfather suffered a fatal heart attack. The driver of the school bus and 3 children were seriously injured. Highway Patrol officers said there was no evidence that the trucker braked, and there did not appear to be any reason why the truck driver could not have seen the van and bus stopping. Many such tragedies occur each year because truck drivers, like this one, exceed the hours-of-service regulations.

The proposed rule does nothing that will prevent future tragedies like this. The Federal Motor Carrier Safety Administration, with the word "safety" in its name, must require electronic recorders in all trucks if it is to put real teeth in hours-of-service rules and finally begin to curb the deadly problem of fatigued truck drivers.

Regulating truck driver fatigue: a chronology of delay

Hours-of-service and logbook regulations are inextricably related. The following chronology documents many initiatives that have been made over the past three decades to address the driver fatigue problem by improving the hours-of-service regulations and introducing on-board recorder technology that is objective and that does not rely on self reporting by the regulated industry.

1971 – To address the issue of truck speeds and fatigued truck drivers, the Bus and Truck Safety Act of 1971 (HR 10267) is introduced to require all commercial trucks and buses to be equipped with tachographs to record driving speed and miles traveled.

1976 – The Bureau of Motor Carrier Safety requests public comment on hours-of-service regulations to address the problem of fatigue-related crashes.

1986 – The Insurance Institute for Highway Safety petitions the Bureau of Motor Carrier Safety to require heavy-duty truckers to install and use automatic on-board devices to record driving times and speeds. This petition is denied.

1987 – After denying the 1986 petition to require on-board recorders, the Federal Highway Administration reverses its decision and publishes a notice seeking more information.

1987 – The Insurance Institute for Highway Safety research shows that driving more than 8 hours increases the risk of large truck crashes.

1988 – Citing the Insurance Institute for Highway Safety's petition for reconsideration on on-board recorders, the Federal Highway Administration proposes to allow on-board recorders in lieu of the handwritten log.

1988 – Congress passes the Truck and Bus Safety and Regulatory Reform Act requiring the Bureau of Motor Carrier Safety to begin rulemaking on improved compliance with hours-of-service regulations, including consideration of on-board recorders.

1989 – The Congressional Office of Technology Assessment issues a report citing a wide array of immediate and long-term governmental and industry actions that could reduce the truck crash problem. Requiring on-board recorders is among the recommendations.

1989 – The Insurance Institute for Highway Safety petitions the Federal Highway Administration to require on-board recorders in motor carriers transporting hazardous materials.

1990 – The National Transportation Safety Board recommends issuance of a federal rule to require on-board recorders to monitor the hours of service of truck drivers.

1992 – A survey by the Insurance Institute for Highway Safety indicates that the majority of long-distance truckers violate work-hour rules.

1992 – The Federal Highway Administration proposes to increase the hours commercial vehicle drivers are permitted to drive.

1995 – The Insurance Institute for Highway Safety and five other safety groups petition the Federal Highway Administration to require on-board recorders.

1996 – Directed by Congress in 1995 to reassess hours-of-service rules, the Federal Highway Administration again considers relaxing the rule, relying on a driver fatigue study by the agency and American Trucking Associations. Both the Insurance Institute for Highway Safety and a panel assembled by the agency identified numerous weaknesses in the study.

2000 – The newly created Federal Motor Carrier Safety Administration announces a proposal intended to reduce the problem of fatigue by requiring longer off-duty time for truckers and mandatory electronic recorders.

2003 – The Federal Motor Carrier Safety Administration announces a rule that increases the mandatory daily rest period by 2 hours, allows drivers to stay on the road for an extra hour, and introduces a restart provision to increase allowable driving hours within a 7- or 8-day period. The rule does not require on-board recorders, despite proposing to require them.

2004 – The US Court of Appeals for the District of Columbia dismisses the Federal Motor Carrier Safety Administration's action as being "arbitrary and capricious." The court specifically cited the agency's attempted justification for backing off from its proposal to require on-board recorders. The agency's attempt reflects "questionable rationality," the court said, adding that it "cannot fathom ... why the agency has not even taken the seemingly obvious step of testing existing [recorders] on the road" to see if they should be required in all truck rigs. *Public Citizen v. FMCSA*, 374 F.3d 1209 (D.C. Cir. 2004).

2004 – Although the Federal Motor Carrier Safety Administration has permitted some carriers to use recorders instead of paper logs since 1985, the agency issues an advanced notice of proposed rulemaking seeking public comment on dozens of questions. This further delays mandating the use of recorders by all carriers.

2005 – The Insurance Institute for Highway Safety surveys find that the federal rule addressing truck drivers' work hours is not stopping truckers from driving with too little rest. The American Trucking Associations announces its conditional support for on-board recorders.

2005 – The Federal Motor Carrier Safety Administration issues a revised hours-of-service rule very similar to the one the court rejected in 2004. Public Citizen and others immediately sue to overturn the rule.

2007 – The Federal Motor Carrier Safety Administration issues a proposed rule to require on-board recorders for a miniscule proportion of truckers.