

**STATEMENT OF
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**BEFORE THE SENATE COMMERCE, SCIENCE, AND TRANSPORTATION
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT
MARINE INFRASTRUCTURE, SAFETY, AND SECURITY
May 1, 2007**

INTRODUCTION

Chairman Lautenberg, Ranking Member Smith, and Members of the Subcommittee, thank you for inviting me today to discuss the Federal Motor Carrier Safety Administration's (FMCSA's) proposed rulemaking concerning Electronic On-Board Recorders (EOBRs) and our efforts to reduce the number of fatigue-related crashes involving commercial motor vehicle (CMV) drivers. I am pleased to describe to you what FMCSA has proposed to improve the safety performance of motor carriers with severe patterns of hours-of-service (HOS) violations, and to promote the voluntary use of EOBRs in the motor carrier industry. However, as FMCSA is now analyzing all the comments received on the proposal, we have not made any decisions about the next step in the rulemaking. Any future decisions concerning the rulemaking will be based on our analysis of the comments and data submitted to the docket.

These days, the transportation community must confront many important issues. Even as priorities change and transportation needs evolve, safety on our roads must remain paramount to all other priorities. Perhaps the most important influence on improving future road safety rests with technology. By strategically integrating smart technologies like EOBRs, we will improve safety in the motor carrier industry.

For many years, the transportation community has focused on fighting driver fatigue as a way to make our roads safer. Earlier this year, we took another step toward reducing the number of these crashes by proposing the mandatory use of EOBRs by carriers with the worst levels of compliance with the HOS rules. This action will force these carriers to provide their drivers with adequate opportunities to obtain the proper amount of rest before getting behind the wheel.

BACKGROUND

Initially prompted by a desire to improve efficiency, the motor carrier industry began looking to automated methods for recording drivers' duty status more than 20 years ago. In the late 1980s, we implemented the first rule allowing the use of automatic on-board recording devices (AOBRDs). Still in effect today, the rule provides straightforward performance requirements for these devices to ensure they are tamper-resistant and capture enough information to monitor drivers' time behind the wheel.

The existing design standard must permit duty status to be updated only when the vehicle is at rest, unless the driver is registering the crossing of a State boundary. The on-board recorder and support systems must be tamper resistant "to the maximum extent practicable." The device must provide a visual or an audible warning to the driver if it ceases to function. Any sensor failures and edited data must be identified in the Records of Duty Status, more commonly known as log books, printed from the device. Finally, the on-board recorder must be maintained and recalibrated according to the manufacturer's specifications, drivers must be adequately trained in the proper operation of the device, and the motor carrier must maintain a second (backup) copy of electronic HOS files in a separate location.

At the time the current rule was issued, the technology to allow on-board recorders to transmit data wirelessly between the CMV and the motor carrier's base of operations did not exist on a widespread commercial basis. Today's technologies allow for real-time transmission of a vehicle's location and other operational information. These technologies enable a motor carrier to know at any point in time where a vehicle is, whether it is on its assigned route, and when it reaches its destination. These same technologies can also be used to record and transmit the driver's HOS information. FMCSA calls these current-generation recording devices electronic on-board recorders or EOBRs. By exploiting the power of these technologies, a motor carrier can improve not only its scheduling of vehicles and drivers but its asset management and customer service. These developments in technology and communications require that FMCSA revise the current, narrowly defined on-board recorder regulations.

MAY 2000 PROPOSAL TO REQUIRE EOBRs

Since 2000, the Federal Motor Carrier Safety Administration has been exploring the EOBR issue further – including whether these devices should be mandatory – and analyzing proper design, use, costs, and benefits. In May 2000, FMCSA proposed requiring the use of on-board recorders for long-haul and regional carriers based on data indicating: 1) a higher percentage of crashes involving these carriers; and 2) non-compliance with the HOS regulations, particularly by some segments of the long-haul industry. The proposal was part of the Agency's comprehensive rulemaking on HOS of CMV drivers.

After reviewing the public comments to the rulemaking docket and considering data concerning the potential costs and benefits of the proposal to mandate AOBRDs, the Agency decided that mandating the use of on-board recorders was not appropriate at that time. However, the Agency determined there was a need to further explore the potential of this technology for helping to ensure that motor carriers and drivers comply with the HOS rule. To this end, the Agency conducted research on EOBRs and other technologies, and considered the feasibility of providing incentives for their voluntary use. Key research factors included: 1) the ability to identify the individual driver; 2) tamper resistance; 3) the ability to produce records for audit; 4) the ability of roadside enforcement to quickly and easily access the HOS information; 5) the level of protection afforded other personal, operational, or proprietary information; 6) cost; and 7) driver acceptability. The research included a literature and technology review that was completed in March 2005, and a study

focusing on a range of data collection and information management topics, including location referencing methods, completed in August 2005.

INITIATION OF NEW RULEMAKING IN 2004

On September 1, 2004, FMCSA published an Advance Notice of Proposed Rulemaking (ANPRM) requesting public comment on the issue of technical specifications for EOBRs, and whether the use of such devices should be required for the entire motor carrier industry, certain segments of the industry, or whether use of the devices should remain voluntary. During 2005, we analyzed the comments to the ANPRM and prepared a proposal for a new EOBR rule that takes those comments into consideration.

JANUARY 2007 PROPOSAL

In January 2007, FMCSA proposed a comprehensive rule intended to increase the use of EOBRs within the motor carrier industry and to improve HOS compliance. The approach contains three components: 1) a new performance-oriented standard for EOBR technology; 2) the use of EOBRs to remediate regulatory noncompliance; and 3) incentives to promote EOBR use. FMCSA believes this approach strikes an appropriate balance between promoting highway safety and Executive Order requirements to evaluate the societal costs and benefits of all significant rulemakings. In addition to requesting comments through the Federal Register notice, the Agency held three listening sessions in Washington, DC, Phoenix, AZ, and Chicago, IL.

FMCSA's NPRM proposes amending the safety regulations to incorporate new performance standards for EOBRs installed in CMVs manufactured on or after 2 years from the effective date of a final rule. EOBRs meeting FMCSA's current requirements and voluntarily installed in CMVs manufactured before the rule's effective date may continue to be used for the remainder of the service life of those CMVs.

The technical standards element of the proposed rule would help motor carriers and safety compliance officials by providing them with clearly-defined information, presented and stored in a standardized way. These standards would provide a "benchmark" for EOBR system developers to use in designing their systems and for motor carriers to use in comparing the features and performance of different systems. The standards would also enable motor carriers to select the devices that are most appropriate for different types of operations, knowing that the data from the different systems will be recorded, stored, and secured in consistent ways. This portion of the rule would require EOBRs to record basic information needed to track a driver's HOS compliance, including: identity of the driver, duty status, date, time, and location of the commercial vehicle, and distance traveled. Additionally, it would add a new requirement to use Global Positioning System technology or other location tracking systems to automatically identify the location of the vehicle, which further reduces the likelihood of falsification of HOS information.

Our proposed technical specifications would improve dramatically the ease and convenience of using these devices as a safety tool. First, there would be standard display

of specific data fields. Regardless of location or which manufacturer's device is being used, every read-out and display would be in a similar format. Additionally, the technology would have to support the ability to transfer the data – either by hard wire or wireless transmission. Updating the technology standards will allow us to make the best use of modern and efficient communications. Uniformity will help drivers and law enforcement know how to use these devices regardless of manufacturer or model.

The rule further proposes that motor carriers with a history of serious noncompliance with the HOS rules would be subject to mandatory installation of EOBRs meeting the new performance standards. If FMCSA determined, based on HOS records reviewed during each of two compliance reviews (CRs) conducted within a 2-year period, that a motor carrier had a 10 percent or greater violation rate ("pattern violation") for certain HOS regulations, FMCSA would issue the carrier an EOBR remedial directive. The motor carrier would be required to install EOBRs in all of its CMVs regardless of their date of manufacture unless the carrier had equipped its vehicles already with AOBRDs meeting the Agency's current requirements and could demonstrate to FMCSA that its drivers understand how to use the devices.

Finally, FMCSA would encourage industry-wide use of EOBRs by providing the following incentives for motor carriers that voluntarily use EOBRs in their CMVs: (1) revising its compliance review procedures to permit examination of a random sample of drivers' records of duty status; and (2) providing relief from HOS supporting documents requirements, provided certain conditions were satisfied.

RATIONALE FOR LIMITING THE MANDATE

In all our enforcement activities, FMCSA focuses on those companies that are most likely to be a safety hazard on the road. Based on its safety research, FMCSA believes that motor carriers whose drivers routinely exceed HOS limits have an increased probability of involvement in fatigue-related crashes and therefore present a disproportionately high risk to highway safety. Based on the Agency's analysis of its Motor Carrier Management Information System data from CRs conducted on motor carriers operating in interstate commerce, carriers to which a remedial directive would apply under this proposal have crash rates that are 87 percent higher than the overall industry average. Currently, carriers with high crash rates and high driver HOS violation rates top our priority list for CRs and are targeted at the roadside for increased inspections.

Under this proposed rule, only those truck companies with a history of serious HOS violations would be required to install EOBRs in all of their commercial vehicles. Within the first two years of the rule's enforcement, we estimate that 930 carriers with 17,500 drivers would fall under this requirement.

FMCSA recognizes the views of many in the highway safety community and the general public about mandating EOBRs. However, there are several million CMVs on America's roads today. Our estimated costs for mandating EOBRs on every vehicle in the fleet greatly exceeded the estimated benefits at the time we published the April 2003 Final Rule

on drivers' HOS. Therefore, we focused on finding other ways to get more of these units on CMVs without creating an unreasonable burden with a government mandate. Consequently, we proposed a risk-based approach to target this technology where it is likely to have the most benefits for the driving public.

DRIVER BEHAVIOR

While EOBR technology is at our disposal, we must always remember that it is just another tool to ensure safe driver behavior. Drivers must also follow the HOS rules that protect them and protect those with whom they share the road. In 2003 and again in 2005, FMCSA revised its HOS regulations to require motor carriers of property to provide drivers with better opportunities to obtain sleep and thereby reduce the incidence of crashes attributed in whole or in part to drivers operating CMVs while drowsy, tired, or fatigued. These rulemakings were necessary because FMCSA estimated that a portion of truck drivers involved in large truck crashes each year is fatigued. Specifically, the results from our March 2006 Report to Congress on the Large Truck Crash Causation Study indicate that 13 percent of the large truck drivers involved in study crashes were believed to be fatigued. FMCSA estimates that, when adhered to fully, the changes to the HOS rules will save lives each year as a result of giving drivers an increased incremental amount of time to obtain rest and sleep. EOBRs will monitor non-complying motor carriers for compliance with these important rules.

CONCLUSION

Motor carriers have been allowed to use on-board recorders to document drivers' HOS for approximately 20 years. While the current level of on-board recorder use is limited and many believe that nothing short of an industry-wide mandate will improve safety, the information we had available at the time we published our NPRM did not support an industry-wide mandate. We have received strong feedback to our NPRM and have begun the process of reviewing each of the comments to the docket to determine the most appropriate steps to take in following up on the January 2007 proposal.

Thank you for the opportunity to appear before you today. I look forward to working with this Committee and the transportation community to ensure a safe transportation system for the citizens of the United States. I would be happy to answer any questions you may have.