



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

The Inspector General

Office of the Inspector General
Washington, D.C. 20590

May 5, 1998

The Honorable John McCain,
Chairman
Committee on Commerce, Science and Transportation
United States Senate
Senate Dirksen 508
Washington, DC 20510

Dear Senator McCain:

As the House and Senate Conferees consider the ISTEA reauthorization legislation, we wish to raise serious concerns about a possible amendment which would ban government safety investigators from using records generated through satellite technology, such as Global Positioning Systems (GPS), during the course of their safety investigations. Due to the compelling interest of public safety, we urge that the legislation not include a ban or otherwise limit the use of such records by safety investigators.

We note that Chairman Hall of the National Transportation Safety Board has raised a similar set of safety concerns in his letter to you dated May 1, 1998. It is of vital importance that safety investigators have access to highly accurate data necessary to enforce the hours-of-service regulations.

Background

The House passed bill currently contains a requirement for an independent assessment of government access to data produced by electronic systems for motor carrier regulatory enforcement. Such data includes records generated through the use of advanced satellite technology. Motor carriers use this technology to dispatch and track the location of their truck fleets and improve the efficiency of their operations. By using satellite technology, for example, motor carriers can determine the precise location of a customer's cargo through records showing the time and location of their drivers and the status of shipments they are carrying.

Earlier versions of the House bill had contained a two-year moratorium on the use of such records by Federal, State and Local safety investigators. That provision was not adopted in the final bill. We understand that the motor carrier industry continues to seek such a moratorium in order to promote the use of satellite technology among motor carriers. Their argument is that motor carriers will not avail themselves of this technology as long as safety investigators have the potential to use these satellite tracking records to conduct inspections.

Public Safety Implications

As you are aware, driver fatigue is a serious threat to public safety. With respect to commercial truck drivers, Department of Transportation regulations establish strict hours-of-service requirements designed to ensure that drivers are rested when operating their commercial vehicles. To ensure that the hours-of-service requirements are followed, the drivers and the motor carriers maintain driver daily logs, which contemporaneously reflect the dates and number of hours a driver is behind the wheel.

The Federal Highway Administration's Office of Motor Carrier Safety (OMC) inspects these records during the course of their safety investigations and will bring regulatory enforcement action against a motor carrier for violations of the hours-of-service regulations. In the course of investigating such violations, OMC examines the driver logs and checks the accuracy of those logs against records generated by third parties, such as fuel receipts and manifests, maintained by the motor carrier. The use of satellite tracking records during the course of such investigations significantly enhances OMC's ability to determine the accuracy of driver logs, and thus greatly contributes to OMC's enforcement of the hours-of-service regulations. For example, we are aware of an OMC investigation of one nationwide motor carrier in which the use of GPS records indicated serious discrepancies in nearly one-third of the records examined, resulting in OMC citing the motor carrier for 124 instances and a fine of tens of thousands of dollars.

We note that Jim Hall, Chairman, National Transportation Safety Board (NTSB), has also commented on the House bill's proposed requirement for an independent assessment on the use of electronic records for motor carrier regulatory enforcement. By letter dated May 1, 1998, in response to questions from Committee staff, Chairman Hall identified automatic information recording devices as a safety issue on the NTSB's "Most Wanted" list. Chairman Hall's letter notes that the NTSB issued a safety recommendation in 1990 to "Require automated/tamper-proof recording devices, such as tacographs or computerized logs, to identify commercial truck drivers who exceed hours-of-service regulations." Chairman Hall's letter underscores the importance of the hours-of-

service regulations to public safety and the important role of advanced technology in regulatory enforcement.

Criminal Investigations

The falsification of driver daily logs has also resulted in criminal prosecutions of motor carriers. During the last 18 months, we have initiated more than 40 criminal investigations involving motor carrier operations that require their drivers to violate the hours-of-service requirements and intentionally falsify their driver logs to conceal these violations. There is a significant economic incentive for unscrupulous motor carriers to force their drivers to violate the hours-of-service regulations. Such unscrupulous operators are willing to risk, as a cost of doing business, OMC regulatory fines which may ultimately be levied against the carrier some day, if the carrier is inspected and caught by OMC. To date, criminal investigations by the Office of Inspector General, in cooperation with OMC, have resulted in 27 Federal indictments with 17 convictions achieved. In addition to incarceration of the company owners and criminal fines, Federal Courts have recognized the serious public safety implications of these offenses by barring convicted motor carriers from operating for substantial periods of time.

Office of Motor Carrier Safety Policy

In order to balance its enforcement efforts and the interest of the motor carrier industry in promoting the use of GPS technology, OMC has already established a clear policy for its safety investigators on the use of satellite records in their investigations. This policy ensures that responsible motor carriers using electronic tracking systems are not placed at a disadvantage from those who do not use such systems. Indeed, OMC safety investigators may only request access to satellite records where motor carriers have: (1) a history of crashes, safety violations and roadside out-of-service orders, (2) no effective safety management system in place, and (3) cannot demonstrate compliance with hours-of-service requirements. This policy adequately addresses the interests of the industry, while also leaving OMC with access to such records if necessary.

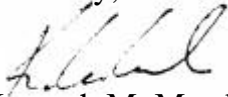
Conclusion

A prohibition on government access to satellite tracking records maintained by motor carriers will impede the government's ability to enforce important public safety regulations, and tend to shield unscrupulous operators from full regulatory enforcement. OMC's current policy adequately addresses the concerns of industry while retaining the government's access to satellite records in the interest of public safety.

For the forgoing reasons, we urge that the legislation not include a ban or place further limitations on safety investigators' access to such records. If you, or your staff, have any further questions on this important issue, please do not hesitate to contact me on (202)-366-1959, or Raymond J. DeCarli, the Deputy Inspector General, on (202) 366-6767.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Mead", written in a cursive style.

Kenneth M. Mead
Inspector General