

**BEFORE THE  
U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

**DOCKET NO. FMCSA-1998-3706**

**SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING  
HOURS OF SERVICE OF DRIVERS; SUPPORTING DOCUMENTS**

**COMMENTS OF THE AMERICAN BUS ASSOCIATION**

The American Bus Association ("ABA") represents over 3,600 members; of those, approximately 850 member companies are bus operators, offering a variety of bus services:

- regular route intercity service between fixed points on set schedules;
- charter service, where a group of passengers (such as a company or organization) purchases all of the seats on a bus for exclusive use on a particular trip;
- tour service, which usually includes stops for sightseeing and recreational purposes;
- commuter bus services, generally from the suburbs into urban areas; and
- special operations, which are scheduled services to enhance public transportation systems (such as bus service from a city to an airport), or which may be connected with a special event or attraction at the destination.

The rest of ABA's members include representatives of the travel and tourism industry, and the manufacturers and suppliers of products and services used by the bus industry. The intercity bus industry carries over 774 million passengers a year with a safety record that is unparalleled on the highways.

As the national trade association of the intercity bus industry, ABA is submitting the following comments to Docket No. FMCSA-1998-3706 in which the FMCSA requests

comments on potential amendments to its regulations regarding supporting documents to support the hours-of-service regulations.

**The proposal is vague, unrealistic, and will not enhance safety**

The proposal puts forth a requirement that ALL records generated in the course of business that could be used as a supporting document relating to hours of service compliance be retained, filed and available for review. This is simply unrealistic in that it could be argued that almost every document having to do with the operation of motorcoach services has some tie to driver hours of service. Simply put, it could be argued that virtually all documents generated by a company will relate in some manner to their core mission, moving people or freight, and therefore to the hours-of-service rules. For example, would a note from a sales person to the maintenance department asking what particular time a lift-equipped motorcoach will be available on a given day be considered a supporting document under this rule? Also, is it strictly necessary for a driver to retain, and a carrier file, a lunch-counter receipt from a truck stop where a fuel receipt generated at the same location and time is already being retained? Further, would redundant copies of scanned documents, receipts, or company generated spread sheets (floppy discs, hard drives, etc.) also need to be retained, even though the originals may be available? The current wording of the proposal would seem to indicate yes to all, even though they may be redundant or of little consequence to hours-of-service compliance.

Even though FMCSA has created a definition of “supporting documents” and cited numerous examples, the rule still makes it clear that all “supporting” documents must be retained. To retain such a plethora of documents under such vague criteria will be burdensome and costly to motor carriers and drivers alike. As a result, the proposal does not meet the basic requirements of the Hazardous Materials Transportation Authorization Act of 1994 (HMTAA) upon which the rule is based. The HMTAA states specifically: “in prescribing the regulations, the Secretary of Transportation shall ensure that compliance can be achieved at a cost that is reasonable to drivers and motor carriers.”

**The proposal, as written, will have a negative affect on the application of new and innovative technologies.**

FMCSA has always encouraged new and innovative technologies to improve carrier efficiency and safety compliance. We believe that this rule will discourage, not encourage, the use of these technologies given the additional recordkeeping burdens and potential liability contained in the proposed rulemaking. After all, a primary reason for a motor carrier to use new, innovative technologies such as electronic-on-board recorders is to reduce paperwork compliance. This rule would seem to negate much of the benefit gained by the use of these technologies by requiring redundant paperwork to support the electronic record.

In sum, required documentation should be sufficient for a carrier to perform self-audits and also to provide clear evidence of compliance, nothing more, nothing less. Any additional documentation should be left up to the carrier's discretion. We respectfully submit that this proposal seems only to change the burden of proof from the FMCSA to the motor carrier without any safety benefit.

As you know, the intercity bus industry is extremely safe. According to the University of Michigan Transportation Research Institute's report entitled "*Over-the-Road Bus Accidents in the United States, 1995-1999*," NHTSA's Fatal Accident Reporting System shows only 1 fatigue related fatality every 2.5 years in the intercity bus industry.

This number, combined with an hours-of-service violation rate that is usually one-third that of trucks, we can categorically state that additional documentation for motor carriers is unnecessary, and will not improve highway safety.

Sincerely yours,

Peter J. Pantuso  
President and CEO