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May 23, 2011

Docket Management Facility
U.S. Department of Transportation
1200 New Jersey Avenue, S.E.
West Building, Ground Floor
Room W12-140
Washington, DC 20590
Submitted via www.regulations.gov

Re: FMCSA Notice of Proposed Rulemaking on Electronic On-Board Recorders and Hours of Service Supporting Documents; Docket No. FMCSA-2010-0167

Dear Docket Clerk:

These comments are filed in response to the U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration's (FMCSA's) Notice of Proposed Rulemaking (NPRM) published in the February 1, 2011 *Federal Register*.

The Truckload Carriers Association (TCA), with offices at 555 East Braddock Road, Alexandria, VA 22314 is the only national trade association whose sole focus is the truckload segment of the trucking industry. TCA represents dry van, refrigerated, flatbed and intermodal container carriers operating in the 48 contiguous states as well as Alaska, Mexico and Canada. As a major part of an industry that has hundreds of thousands of companies within the U.S. operating millions of power units, TCA and its trucking company members are vitally interested in the DOT's objectives and strategies to improve highway safety and the potential impact these objectives and strategies could eventually have on our operations. Accordingly, and as this relates to the critical issue of electronic on-board recorders (EOBRs), TCA has commented on a number of EOBR-related proposals in the past and is extremely interested in submitting comments regarding the current proposal.

TCA fully supports FMCSA's initiative to mandate EOBRs for all motor carriers for compliance with the hours of service (HOS) regulations. TCA's support is based on the conviction that compliance is of the utmost importance for our industry and EOBRs make complying with HOS regulations more efficient than the paper log system.

TCA's support of an EOBR mandate such as the one proposed in the February 2011 NPRM is based on our motor carrier members' desire to comply with federal regulations. As such, TCA believes that all motor carriers subject to the HOS regulations should be required to install the equipment by the same date. As EOBRs have the potential to significantly increase motor carrier compliance with HOS regulations, a mandate that did not apply simultaneously to all carriers required to operate under HOS regulations would put those carriers to which it did not initially apply at a competitive advantage over those to which it did. Carrier size or HOS-violation history notwithstanding, TCA encourages FMCSA to promulgate a final rule that would require compliance at the same time for the entire affected motor carrier population.

TCA further believes that EOBRs should be used only for HOS compliance. As some EOBRs can collect data unrelated to a driver's HOS, TCA finds that in any EOBR rulemaking, FMCSA should specify that a carrier is not required review or maintain any EOBR-generated data that is not directly linked to HOS compliance. TCA's support of FMCSA's current EOBR proposal is contingent upon the agency's stated interest in increasing compliance with HOS regulations. Although FMCSA did not address issues related to the collection of hard braking, engine revolutions per minute, speed, or other driving occurrence-data in this rulemaking, TCA is nevertheless wary of requiring any such use of EOBRs. Any EOBR-generated data the agency requires carriers to maintain should be directly related to drivers' HOS records and no other incident an EOBR may have the capability to record.

As businesses operating on razor thin profit margins in an industry still working to emerge from the recession, TCA and its motor carrier members urge FMCSA to mitigate the financial burden of any new regulations including the current EOBR proposal. Because of the significant cost to purchase and install EOBRs, FMCSA should work with the necessary legislative bodies to provide financial relief to carriers that install EOBRs. TCA recognizes FMCSA's efforts in the past to encourage the installation of EOBRs by providing relief from certain record keeping requirements for those motor carriers that voluntarily adopt EOBRs. While such relief is helpful, the cost of EOBRs remains high and direct monetary incentives would help alleviate some of the financial burden faced by carriers. H.R. 1706, a bill introduced in the U.S. House of Representatives offers such an incentive to qualifying commercial motor vehicle safety systems. Currently, EOBRs are not included on the list of qualifying equipment. FMCSA should take the necessary steps to secure EOBRs as safety equipment which would qualify for the tax credit under H.R. 1706 or any similar bill subsequently passed into law.

Presently there are a wide variety of EOBRs that meet the requirements set forth in §395.16. Although FMCSA did not suggest substantial changes to this section, TCA would like to underscore the importance of flexibility with regard to the type of devices which qualify as EOBRs. From cell phone applications to stand-alone devices, EOBRs range significantly in

capability and price. The ability of carriers and drivers to select the type of device which best meets their needs and budgets is critical. As long as the device meets the necessary requirements to record a driver's duty status accurately as specified in §395.16, the device should be permitted to be used. Further, TCA finds the requirements of section 395.16 sufficient and urges FMCSA to retain them.

In conclusion, TCA strongly supports the current proposal but has reservations about where such a proposal may eventually lead. TCA firmly believes that EOBRs can be incredibly useful tools for HOS compliance. TCA generally opposes any application of EOBRs beyond HOS compliance. Further, we find that as tools for compliance, EOBRs should be mandated simultaneously for all carriers. The current specifications for qualifying EOBRs as set forth in §395.16 are sufficient and should not be altered. Lastly, in order to assist with compliance, financial incentives should be offered for carriers who adopt EOBRs. We wish to thank FMCSA for the opportunity to comment on this important rulemaking.

Sincerely,



Chris Burruss
President