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Docket Management Facility M-30
U.S. Department of Transportation
West Building, Ground Floor, Room W12-140
1200 New Jersey Avenue, SE
Washington, DC 20590-0001

Re: Docket No. FMCSA-2004-19608

The Reusable Industrial Packaging Association (RIPA) is the U.S.-based trade association for businesses involved in the reconditioning, manufacturing, reuse and recycling of industrial containers such as steel and plastic drums. RIPA's membership accounts for the vast majority of the container reconditioning industry. The business of container reconditioning depends on significant truck and trailer capacity to collect and haul empty and emptied containers. Most RIPA members operate a company-owned fleet of trucks and trailers, and employ drivers with hazmat endorsements for their CDLs. In total, RIPA member companies operate several hundred tractors and several thousand trailers across the U.S.

These comments are offered in response to FMCSA's December 29, 2010 Proposed Rule that would amend the agency's Hours of Service Regulations (75 Fed. Reg. 82170).

Background

Most drivers working for RIPA member companies operate on a daily "return-home" basis. Few drivers among RIPA's member companies engage in what could be called "long haul" operations (i.e., more than 500 miles). Also, few RIPA drivers routinely or even occasionally use overnight hours to drive. Thus, these comments focus mainly on FMCSA's proposal as it relates to the type of driving RIPA members typically conduct. In particular, three of FMCSA's proposed changes are addressed here.

Proposed 1-Hour Off-Duty / 13-Hour On-Duty

FMCSA is proposing to require 1 hour of off-duty time during the 14-hour "driving window" (i.e., the 14 hours left for scheduling work after the mandatory 10 hours off-duty). Again, FMCSA should consider allowing drivers that do not drive overnight the option to remain on duty for 14 hours (provided driving time is limited to the 11-hour period discussed below). According to data cited by FMCSA, more than 95% of tonnage transported by private carriers is hauled less than 250 miles. Drivers that return home daily and/or who do not drive overnight can engage in regular sleep cycles and can safely be on duty for a 14-hour period. Requiring a significant number of operators to go

off duty for an hour each time they take on a 14-hour work day represents an enormous cost. Additionally, 14-hour work days may be rare among many businesses that employ drivers subject to these rules. A driver that only occasionally takes on a 14-hour day would be able to manage demands for sleep and rest without the proposed 1-hour off-duty requirement.

Proposed 10-Hour Driving Limit

FMCSA's proposal to shorten the driving time within the proposed 13-hour on-duty period from 11 to 10 hours would have significant negative impacts on RIPA's member companies. Many drivers in the industry operate in urban and suburban environments. Traffic delays are always a major concern. Therefore, we urge FMCSA to retain the 11-hour driving time, at least for those drivers that do not drive overnight. A reduction to 10 hours for drivers returning home (or to another fixed location) each night will come at a substantial cost in lost productivity, with no real safety benefit. RIPA appreciates FMCSA's concern that the risk of fatigue related incidents may increase in the 11th hour. However, drivers who routinely are off duty during night hours can mitigate any increased risk with regular sleep cycles. The agency should consider seriously a bifurcated standard for those companies operating locally or regionally and those that haul long distances and conduct driving overnight. Finally, RIPA suggests that there be an option for a driver to extend the driving period one hour when the driver is within an hour of home base as the driving time expires. A night at home is always preferable for sleep compared to a night in a hotel.

Proposed New "Restart" Provision

Finally, FMCSA is proposing a change to the "restart" requirement whereby, under existing rules, drivers who work the maximum of 60 hours in 7 days (or 70 hours in 8 days) are able to "restart the clock" after 34 consecutive hours off duty. The change FMCSA is proposing would stipulate that the 34-hour period must include two night time periods from midnight to 6 am. Depending on exactly when a driver last went off duty, the restart period could run to 48 hours rather than 34 hours.

RIPA agrees that restart is more an issue for drivers who routinely or frequently drive during overnight hours. For other drivers, however, the change would not seem necessary insofar as their shifts end in the afternoon or early evening. Here, as elsewhere, the agency should consider bifurcated standards, with some requirements tailored for the relatively small percentage of drivers deliberately using overnight hours as their preferred schedule.

Conclusion

RIPA notes that, according to U.S. DOT, fatality and injury rates per 100 million truck miles have decreased steadily every year since the 2003 hours of service rules went into effect. Also, according to FMCSA, the percentage of truck crashes that are the result of driver fatigue has remained around 2 percent or less. RIPA suggests, then, that current rules are working to drive down incident rates and that current rules should be given more time to achieve further reductions. In the event new rules are forthcoming, they should be tailored to address the specific pattern of driving that exists with long-haul and overnight transport.