

the amount to be transferred. The form must be approved by the applicable State Department of Transportation and concurred on by the correlating FHWA Division Office.

*Respondents:* 50 State Transportation Departments, the District of Columbia, and Puerto Rico.

*Frequency:* As Needed.

*Estimated Average Burden per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* It is estimated that a total of 600 responses will be received annually, which would equal a total annual burden of 300 hours.

*Electronic Access:* Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>, 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: January 23, 2007.

**James R. Kabel,**

Chief, Management Programs and Analysis Division.

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BILLING CODE 4910-22-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

### Federal Motor Carrier Safety Administration

[Docket No. NHTSA-2007-26851]

### Motor Vehicle and Carrier Safety Standards

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice; Request for comments.

**SUMMARY:** NHTSA and FMCSA solicit comments on separate, but similar petitions for rulemaking from the American Trucking Associations (ATA) and Road Safe America and a group of nine motor carriers, to require devices that would limit the speed of certain trucks and to prohibit owners and operators from adjusting the speed limiting devices. The agencies are soliciting public comments to supplement a review of the material presented by the petitioners, along with an evaluation of data or other relevant information the agencies may already

have, in conducting a technical review of the petitions. After considering the technical review, and taking into account appropriate factors, the NHTSA Administrator will make a decision whether to grant or deny either or both of these petitions.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them not later than March 27, 2007.

**ADDRESSES:** You may submit your comments in writing to: Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

You may call the Docket at 202-366-9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday, except for Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Mr. George Soodoo or Mr. Samuel Daniel of the National Highway Traffic Safety Administration at (202) 366-2720 or by FAX at (202) 366-7002, or Mr. Mike Huntley of the Federal Motor Carrier Safety Administration at (202) 366-4009 or by FAX at (202) 366-8842.

You may send mail to either of these officials in care of their respective agencies at 400 Seventh St., SW., Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

#### Background

*American Trucking Associations (ATA) Petition.* On October 20, 2006, the ATA submitted a petition to NHTSA, pursuant to 49 CFR 552.3, to initiate a rulemaking to amend the Federal Motor Vehicle Safety Standards (FMVSS) to require vehicle manufacturers to install a device limiting the speed of trucks with a Gross Vehicle Weight Rating (GVWR) of greater than 26,000 pounds to no more than 68 miles per hour (mph). Concurrently, the ATA petitioned FMCSA, pursuant to 49 CFR 389.31, to initiate a rulemaking to amend the Federal Motor Carrier Safety Regulations (FMCSR) to prohibit owners and operators from adjusting the speed limiting devices in affected vehicles in a way that enables the vehicles to exceed a speed of 68 mph.

The ATA contends that reducing speed-related crashes involving trucks is critical to the safety mission of both

NHTSA and FMCSA, and that these new requirements are necessary in order to reduce the number and severity of crashes involving large trucks. ATA's petition states:

A lack of focus on speed as a causal or significant contributing factor in crashes involving large trucks represents a significant gap in the federal government's truck safety strategy. While much of the federal truck safety budget has focused on ensuring the safe condition of equipment, on driver fatigue, and on prevention of impaired driving, it is clear from the research that speeding is a more significant factor in crashes involving trucks than any of the factors that currently receive the largest proportion of agency attention and resources.

The "Justification" section of ATA's petition also states:

ATA analyzed five years of fatal truck-involved crash data. We found that in 20 percent of truck-involved crashes where speeding on the part of the truck driver was cited as a factor in the crash, and the truck's speed was recorded, the speed of the truck exceeded 68 mph. However, because the truck's speed is reported by investigating officers in only about half of truck-involved fatal crashes, it is impossible to determine the actual number of potential crashes that might be avoided by limiting top truck speed to 68 mph. However, reasonable assumptions can be made and ATA believes the number of fatal crashes that could be avoided is significant.

The ATA stated in its petition that reducing the speed of trucks will likely reduce both the number and severity of crashes, although ATA did not quantify injury or fatality reduction benefits. The ATA also stated that the reduced number of crashes, resulting from the lower speed for trucks, will reduce congestion costs when considering the lost productivity that occurs when vehicles have been disabled in a crash or delayed at a crash site.

According to the ATA, there will be little or no cost increase for trucks and truck tractors associated with the speed limiting devices since they are already installed on these vehicles during manufacture. Also, the ATA contends that the cost to carriers for the increase in time required to complete a delivery will be off-set by savings in fuel consumption, fewer crashes, and less equipment wear.

The ATA petition may be accessed on-line through the Department of Transportation's Docket Management System at the following Web address: <http://dms.dot.gov>, at the docket number cited in the heading of this document.

*Road Safe America Petition.* On September 8, 2006, Road Safe America, a public safety interest group, and a group of nine motor carriers<sup>1</sup> petitioned FMCSA to amend the FMCSRs to require (1) Electronic speed

<sup>1</sup> The nine motor carriers who cosigned the Road Safe America petition are Schneider National, Inc., C.R. England, Inc., H.O. Wolding, Inc., ATS Intermodal, LLC, Dart Transit Company, J.B. Hunt Transport, Inc., U.S. Xpress, Inc., Covenant Transport, Inc., and Jet Express, Inc.

governors on all trucks with a GVWR over 26,000 pounds, (2) that these electronic speed governors be set at not more than 68 mph, and (3) that all trucks manufactured after 1990 be equipped with such electronic speed governors. The Road Safe America petition stated that the proposal to limit truck speed to 68 mph would reduce the number of truck collisions and save lives. According to Road Safe America, limiting truck speed to 68 mph will have an immediate and uniform impact with little or no detrimental effect on the lawful operation of commercial motor vehicles (CMV).

The Road Safe America petition states:

Sixty eight miles per hour is the correct maximum speed setting. This is the speed setting promoted by the American Trucking Associations. It allows truck traffic to maintain flow without reaching dangerously high speeds. It is estimated that over 50% of commercial trucks in operation today are voluntarily governed through the engine electronic control modules at speeds not exceeding 70 mph. Many companies, including the motor carrier Petitioners, have adopted speed governing policies at or below 65 mph. No studies suggest that the adoption of speed governed limitations below 70 mph have in any way detracted from truck safety. On the contrary, it has been the experience of those Petitioners that governed speed in this range reduces accident frequency.

It is noted that NHTSA, and not FMCSA, is the agency within the Department of Transportation (DOT) that is responsible for developing and issuing FMVSSs that establish the minimum safety requirements that every new motor vehicle sold in the United States must meet. If, as a result of the ATA and Road Safe America petitions, a rulemaking proceeding is conducted that ultimately establishes requirements to equip trucks with electronic speed governors as requested, FMCSA would initiate a rulemaking proceeding to amend the FMCSRs as necessary to ensure that trucks are equipped and maintained with a speed governor meeting the requirements specified in the applicable FMVSS.

As the ATA and Road Safe America petitions address substantively identical issues, and given that NHTSA has been delegated the authority to both (1) Establish regulations for newly manufactured motor vehicles, and (2) if deemed appropriate, require existing CMV to be retrofitted with equipment if such equipment is based upon or similar to an FMVSS, the Road Safe America petition has been placed in the same docket as the ATA petition. NHTSA and FMCSA will work together to address both petitions concurrently.

#### Large Truck Crash Data

In general, the number of large trucks (GVWR greater than 10,000 pounds)

involved in fatal and injury crashes has remained relatively steady from 1995 to 2005, and the corresponding involvement rates (rate per 100,000 registered vehicles and rate per 100 million vehicle miles traveled), have steadily decreased during that time period. In the latest data available, the vehicle involvement rates for large trucks involved in fatal crashes in 2004 were near the record lows established in 2002, and the vehicle involvement rates for large trucks involved in injury crashes established new lows by a significant margin.

Specifically, in 2005, 442,000 large trucks (GVWR greater than 10,000 pounds) were involved in traffic crashes in the United States, of which 4,932 were involved in fatal crashes. A total of 5,212 people died (12 percent of all the traffic fatalities reported in 2005), and an additional 114,000 were injured in those crashes. In 2005, large trucks accounted for 8 percent of all vehicles involved in fatal crashes and 4 percent of all vehicles involved in injury and property-damage-only crashes. In 2004, large trucks accounted for 3 percent of all registered vehicles and 8 percent of total vehicle miles traveled (2005 registered vehicle and vehicle miles traveled data are not available).

No motor vehicle crash database in the U.S. focuses on the causes of, or the factors related to, large truck crashes. The primary national traffic safety databases all contain descriptive data primarily collected from police crash reports. NHTSA's Fatality Analysis Reporting System (FARS) includes descriptive data on vehicles, drivers, roadways, and environmental conditions collected from police reports, emergency medical service reports, hospital records, and coroner's reports.<sup>2</sup> The Trucks Involved in Fatal Accidents (TIFA) database from the University of Michigan Transportation Research Institute supplements FARS data with additional data from interviews with police, drivers, and motor carriers. NHTSA's General Estimates System (GES) is a probability-based, nationally representative sample of all police-reported fatal, injury, and property-damage-only crashes, which collects descriptive data based exclusively on police crash reports. FMCSA's Motor Carrier Management Information System includes a limited amount of descriptive data on all trucks and buses involved in fatal, injury, or tow-away crashes, reported by the States from their police

reports, and is used primarily for enforcement purposes.

With respect to the issue of speed in large truck crashes, the 2004 FARS data indicate that "driving too fast for conditions or in excess of the posted speed limit" was listed as a driver-related factor in 8.1 percent of all fatal crashes involving large trucks (505 of 4,799 total crashes). According to the 2004 FARS data, driving too fast for conditions or in excess of the posted speed limit trailed only "not in lane" (noted in 10.5 percent of all fatal crashes) in the list of truck driver-related factors recorded in fatal large truck crashes. Importantly, driver-related factors were only recorded in 39.4 percent of the large truck fatal crashes in the 2004 FARS data; no driver-related factors were recorded in the remaining 60.6 percent of large truck fatal crashes.

Given the shortcomings regarding the causes of, or the factors related to, large truck crashes as described above, the Motor Carrier Safety Improvement Act of 1999 (MCSIA), P.L. 106-159, mandated a study to determine the causes of, and contributing factors to, crashes involving CMVs. In response, FMCSA and NHTSA conducted a multiyear, nationwide study that contains the same type of descriptive data as the primary national traffic safety databases described above, but also focuses on pre-crash factors such as driver fatigue and distraction, vehicle condition, weather, and roadway problems. As a result, the Large-Truck Crash Causation Study (LTCCS) is a comprehensive national examination of all factors related to causation in large truck crashes.<sup>3</sup>

A nationally representative sample of large-truck fatal and injury crashes was investigated during 2001 to 2003, at 24 sites in 17 States. Each crash involved at least one large truck and resulted in at least one fatality or injury. Data were collected on up to 1,000 elements in each crash. The total sample involved 967 crashes, which included 1,127 large trucks, 959 non-truck motor vehicles, 251 fatalities, and 1,408 injuries.

The data collected by the LTCCS provide detailed descriptions about the crash environment (i.e., weather, road conditions, lighting conditions), vehicles involved in the crash (i.e., vehicle type, weight, cargo type, brakes, air bag status), and drivers (i.e., driving record, fatigue, sleep patterns, restraint use), as well as information about passengers and nonmotorists involved in the large-truck crashes. Key factors

<sup>2</sup> FARS data may be accessed at <http://www-fars.nhtsa.dot.gov/>.

<sup>3</sup> The LTCCS data can be downloaded at <http://ai.fmcsa.dot.gov/lcccs/>.

that led to the crash were recorded to assist researchers in measuring associations between certain crash types and the events that led to the crashes.

The coding of the events surrounding the crash begins with the "critical event," "critical reason" for the critical event, and "associated factors" present. Associated factors include any of approximately 1,000 conditions or circumstances present at the time of the crash, and were selected from a broad range of factors thought to contribute to crash risk. Specifically with respect to the issue of speed, "traveling too fast for conditions" was the second-most coded associated factor in all truck crashes, having been coded in 22.9 percent of all crashes.

The LTCCS contains a large amount of descriptive data, and additional analysis must be conducted in order to identify specific crash risk factors. The LTCCS has been made electronically available to the public so that organizations and individuals will have access to it in order to conduct analyses that are of special interest to them. NHTSA and FMCSA believe that analysis of these data by government agencies, universities, private groups, and individuals will increase the total truck crash factors knowledge base.

#### **Report to Congress on Commercial Motor Vehicle Speed Control Devices**

Section 9108 of the Truck and Bus Regulatory Reform Act of 1988, Public Law 101-690, dated November 18, 1988, required:

"The Secretary shall conduct a study on whether or not devices which control the speed of commercial motor vehicles enhance safe operation of such vehicles \* \* \* (and) \* \* \* not later than thirty months after the date of enactment of this Act, \* \* \* shall submit to Congress a report on the results of the study \* \* \* together with recommendations \* \* \* on whether or not to make the use of speed control devices mandatory for commercial motor vehicles."

In response, NHTSA published a Report to Congress titled "Commercial Motor Vehicle Speed Control Safety," (DOT HS 807 725; May 10, 1991).<sup>4</sup> This report reviewed the problem of heavy vehicle speeding (in particular, at speeds greater than 65 mph) and speeding-related crash involvements. The report described and assessed devices available to control truck speed, and addressed the mandatory use of speed control devices by heavy trucks. The report found that, by all measures of crash involvement, speeding was not a significant factor in the crashes

involving single-unit trucks. Thus, most of the report addressed combination-unit trucks, which present a more complex picture.

The report found that non-detectable radar studies show that highway speed limit compliance by combination-unit trucks was poor, but better than that of passenger vehicles. In that study, most trucks that were speeding traveled at just over the posted speed limit. Crash statistics indicated that speeding was generally less involved in combination-unit truck crashes than it was in passenger vehicle crashes. The report described devices available to control truck speed, and ways that they were applied in commercial fleet settings. The report was supportive of fleet applications of speed-monitoring and speed-limiting devices, but concluded that there was not sufficient justification to consider requiring all heavy trucks to be so equipped. Problem size statistics suggested that the number of target crashes was low, e.g., approximately 30 fatal crash involvements per year for combination-unit trucks. This small crash problem size, together with uncertainties regarding the potential for crash reduction, suggested that the benefits of mandatory speed limitation were questionable.

The report also noted that an important caveat related to all speeding-related crash statistics cited in the report was that the categorization "speeding-related" or "high-speed related" did not necessarily assure that speeding was the primary cause of the crash or any resulting fatalities. Virtually all crashes involve multiple contributing factors. The elimination of any one factor—e.g., high speed—may or may not prevent the crash. Thus, the speeding-related and high-speed-related crashes identified in the report should actually be viewed as potential target crashes for speed control devices. Although speed control devices (if not tampered with) are likely to reduce the highway speeds of those trucks that do speed, their effectiveness in preventing and/or reducing the severity of these potential target crashes is unknown.

#### **Request for Comments**

In order to supplement the information provided by ATA and Road Safe America in support of the petitions for rulemaking, and the data and relevant information that is already available to the agencies regarding speed limiters, NHTSA and FMCSA are requesting public comments on the issue presented in the petitions. NHTSA and FMCSA will use this collective information in the development of the technical review that will serve as the

basis for determining whether to grant or deny either or both of the petitions. Currently, vehicle speed limits are established by the State and local governments, and enforced by monitoring the speed of the vehicles on the highways. Specific questions are presented below:

1. NHTSA and FMCSA are aware that several motor carriers already voluntarily equip their fleets with devices that limit the maximum speed of trucks. What different types of speed-limiting technology are currently being used, and what are the costs associated with installing and maintaining these devices? Should the Federal government require that trucks with a GVWR exceeding 26,000 pounds be equipped with devices that would limit the speed of those trucks to not more than 68 mph? What has been the experience of truck fleets with the use of speed-limiting devices? What speed settings are used by these truck fleets? To what extent are these speed-limiting devices tamper resistant? How reliable are the speed limiting devices currently in use? Have there been durability or accuracy problems? Where possible, please quantify the impact on crash involvement with data comparing the crash experience (number of crashes, number of fatalities, amount of property damage, or other crash statistics) before the speed-limiting devices were installed with the crash experience after the devices were installed. Also, what has been the impact of these speed limiting devices on truck engine emissions, fuel efficiency, and tire life?

2. The 1991 Report to Congress concluded that the safety or crash reduction benefits that might be obtained from truck speed limiting devices were not sufficient to justify mandating the devices. The conclusion was based on the determination that speed-limiting devices would have no effect on vehicle speed or crash likelihood at travel speeds below their set speed (e.g., 70 mph); the vast majority of truck crashes occur on roadways with a speed limit of 65 mph or less; police crash report data indicate that very few truck crashes (about 0.2 percent) occur at estimated truck travel speeds in excess of 70 mph; and the report also concluded that speed-limiting devices can effectively limit truck speed but may not be tamper-proof. Are the data and associated findings of the 1991 Report to Congress on the same subjects still valid? Are there any other studies on the effectiveness of truck speed-limiting devices, which were conducted since the 1991 Report to Congress?

<sup>4</sup> The Report to Congress has been placed in the docket.

3. Are alternative approaches (i.e., public information and education programs, increased speed enforcement, driver licensing programs) available, and if implemented, have these alternative approaches improved highway speed limit compliance? Have these alternatives reduced the number or severity of truck crash events?

4. ATA stated in its petition that "it is impossible to determine the actual number of potential crashes that might be avoided by limiting top truck speed to 68 mph." The ATA further stated that "reasonable assumptions can be made to show that the number of crashes that could be avoided is significant." What assumptions can be made to estimate the number of potential crashes that might be avoided or mitigated by limiting truck speeds to 68 mph?

5. What impact will limiting truck speeds to 68 mph across the U.S. have on truck crash involvement (number of crashes, number of fatalities, amount of property damage, or other crash parameters)? Are there potential safety implications regarding the increased speed differentials between heavy trucks and light vehicles using the same roadways?

6. The ATA petition stated that limiting the speed of trucks to 68 mph may have a small negative impact on driver's wages in the "long-haul truck load sector." What is the anticipated "long-haul truck load sector" driver wage impact associated with limiting the speed of trucks to 68 mph and the wage impact for drivers in other sectors of the truck transportation industry? What vehicle operating cost impact would a truck speed limit of 68 mph have on companies in the truck transportation industry? The Road Safe America petition contained a proposal that speed limiters be retrofitted on all trucks manufactured after 1990. What are the cost and practicability implications of retrofitting these devices?

7. In the European Union (EU), heavy trucks with a GVWR over 26,000 pounds are regulated with speed limiting devices and limited to 90 km/h (56 mph). Are there any available data or analyses of the European experience regarding the use of speed limiting devices on trucks and their effectiveness in reducing crashes?

8. The ATA petition stated that the enforcement costs of the 68 mph speed limit for trucks could be minimized by using an enforcement system with several features. ATA recommended use of the Safety Status Measurement System (SafeStat) to identify trucking companies with speed limit violations. SafeStat is an automated analysis

system developed for FMCSA which combines current and historical safety performance data to measure the relative safety fitness of interstate commercial motor carriers. The ATA also recommended that compliance reviews (CR) be used to ensure that companies have a maintenance program for the speed controllers, that a test for maximum vehicle speed be added to 49 CFR Part 396, that penalties for tampering with the speed control devices be high, and that drivers be required to report any problems with the speed control device during a post-trip vehicle inspection report. What would be the vehicle operating costs associated with maintenance of the speed limiting devices? What would be the cost of identifying companies with speeding truck drivers through SafeStat, CR, or some other vehicle monitoring system?

9. The ATA and Road Safe America petitions request that the top speed of trucks with a GVWR of greater than 26,000 pounds be limited to not more than 68 mph. Under the definitions in 49 CFR Part 390.5, a truck is defined as "any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property." This definition does not include motor coaches, and neither of the petitions addresses the potential applicability of the proposed requirements for speed limiters on motor coaches. However, motor coaches are considered CMVs under the definitions in 49 CFR Part 390.5, and the majority of motor coaches exceed the 26,000-pound GVWR threshold proposed in the petitions. Should the proposed amendments to require speed limiters on trucks with a GVWR of greater than 26,000 pounds be extended to apply also to motor coaches? Do any existing motor coaches utilize speed-limiting devices/technology in current operations?

#### Decision To Grant or Deny

If either or both of the petitions for rulemaking are granted, a rulemaking proceeding will be initiated in accordance with the applicable NHTSA procedures. However, it is emphasized that the granting of a petition, and the initiation of a rulemaking, does not mean that the rule in question will be issued. The decision to issue a rule will be made on the basis of all available data and information gathered in the course of the rulemaking proceeding, and an analysis of the public comments received in response to any rulemaking notices that may be published in the **Federal Register**.

**Authority:** NHTSA: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50. Motor Carrier Safety Improvement Act of 1999, Public Law 106-159, Section 101(f); FMCSA: 49 U.S.C. 31136 and 31502; delegation of authority at 49 CFR 1.73.

Issued on: January 22, 2007.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking, NHTSA.*

**Rose A. McMurray,**

*Chief Safety Officer, FMCSA.*

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**BILLING CODE 4910-59-P; 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Safety Advisory 2007-02

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of Safety Advisory; Specialized Maintenance Equipment.

**SUMMARY:** FRA is issuing Safety Advisory 2007-02 in order to provide interested parties guidance on the proper application of existing statutory and regulatory requirements concerning self-propelled specialized maintenance equipment. This document also strongly recommends that owners and operators of such equipment properly inspect the equipment and ensure that properly qualified individuals are operating and piloting the equipment while in transit.

**FOR FURTHER INFORMATION CONTACT:** Kenneth Rusk, Staff Director, Track Division (RRS-15), FRA Office of Safety Assurance and Compliance, 1120 Vermont Avenue NW., Washington, DC 20590, telephone: 202-493-6236; Ronald Newman, Staff Director, Motive Power and Equipment Division (RRS-14), FRA Office of Safety Assurance and Compliance, 1120 Vermont Avenue NW., Washington, DC 20590, *telephone:* 202-493-6241; or Michael Masci, Trial Attorney, 1120 Vermont Avenue NW., Washington, DC 20590, *telephone:* 202-493-6037.

**SUPPLEMENTARY INFORMATION:** On November 9, 2006, a rail grinder train owned and operated by Harsco Track Technologies (Harsco), a rail services contractor, derailed while in transit from Sparks, Nevada, to Bakersfield, California. The grinder train, classified as maintenance-of-way (MOW) equipment, was operating in a westward direction on a 2.2 percent descending grade on the Union Pacific Railroad (UP) Roseville Subdivision. Ten of the 13 cars in the train derailed, resulting in