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Docket Management Facility
U.S. Department of Transportation
400 Seventh Street SW.
Nassif Building, Room PL-401
Washington, DC 20590-0001

**Supplemental Comments on Notice of Proposed Rulemaking; Request for Comments;
Hours of Service of Drivers; 70 FR 3339, Jan. 24, 2005;
Docket No. FMCSA-2004-19608; formerly FMCSA-1997-2350**

FMCSA has haphazardly provided only abstracts in Docket No. FMCSA-2004-19608 for a number of the studies that the agency cites in the Notice of Proposed Rulemaking, 70 Fed. Reg. 3339 (Jan. 24, 2005), referring to copyright protection concerns. FMCSA may not base any final rulemaking on materials not made publicly available and open to public scrutiny and comment.

We have identified 23 studies in Docket No. FMCSA-2004-19608, each of which was cited by FMCSA in its Notice of Proposed Rulemaking, 70 Fed. Reg. 3339 (Jan. 24, 2005), for which FMCSA has made only abstracts available:

Van Ouwerkerk, F. (1988) Quality of Life and Social Costs; Working Conditions (FMCSA-2004-19608-74);

Roehrs, T., Zorick, F., & Roth, T. (1994) Transient and Short-Term Insomnia (FMCSA-2004-19608-90);

Aronson K.J., Howe G.R., Carpenter, M., Fair M.E. (1999) Surveillance of Potential Associations Between Occupations and Causes of Death in Canada, 1965-91 (FMCSA-2004-19608-93);

Boffetta, P., & Silverman, D.T. (2001) A Meta-Analysis of Bladder Cancer and Diesel Exhaust Exposure (FMCSA-2004-19608-95);

Dinges D.F. et al. (1997) Cumulative Sleepiness, Mood Disturbance, and Psychomotor Vigilance Performance Decrements During a Week of Sleep Restricted to 4-5 Hours Per Night (FMCSA-2004-19608-96);

Hannerz, H. & Tuchsén F. (2001) Hospital Admissions among Male Drivers in Denmark (FMCSA-2004-19608-97);

Pilcher J.J., Huffcutt A.I. (1996) Effects of Sleep Deprivation on Performance: A Meta-Analysis (FMCSA-2004-19608-98);

Pope, M.H., Magnusson, M. Wilder D.G. (1998) Low Back Pain and Whole Body Vibration (FMCSA-2004-19608-99);

Seshagiri B. (1998) Occupational Noise Exposure of Operators of Heavy Trucks, Seshagiri, B., Occupational Safety and Health and Fire Prevention Division, Human Resources Development (FMCSA-2004-19608-100);

Spiegel K., Leproult R., and Cauter E.V. (1999) Impact of Sleep Debt on Metabolic and Endocrine Function (FMCSA-2004-19608-101);

Rutenfranz J., Knauth P., Colquhoun W.P. (1976) Hours of Work and Shiftwork (FMCSA-2004-19608-135);

Van Den Heever D.J., Roets F.J. (1996) Noise Exposure of Truck Drivers: A Comparative Study (FMCSA-2004-19608-137);

Hansen E.S. (1993) A Follow-Up Study on the Mortality of Truck Drivers (FMCSA-2004-19608-138);

Lipsett M. and Campleman S. (1999) Occupational Exposure to Diesel Exhaust and Lung Cancer: A Meta-Analysis (FMCSA-2004-19608-139);

Stoynev A.G., Minkova N.K. (1997) Circadian Rhythms of Arterial Pressure, Heart Rate and Oral Temperature in Truck Drivers (FMCSA-2004-19608-140);

Palmer K.T., Griffin M.J., Bendall H., Pannett B., Coggon D. (2000) Prevalence and Pattern of Occupational Exposure to Whole Body Vibration in Great Britain: Findings from a National Survey (FMCSA-2004-19608-142);

Jensen M.V., Tuchsén F., Orhede E. (1996) Prolapsed Cervical Intervertebral Disc in Male Professional Drivers in Denmark, 1981-1990: A Longitudinal Study of Hospitalizations (FMCSA-2004-19608-144);

Hakkola M., Honkasalo M.L., Pulkkinen P. (1997) Changes in Neuropsychological Symptoms and Moods among Tanker Drivers Exposed to Gasoline During a Work Week (FMCSA-2004-19608-145);

Mitler M.M., Miller, J.C., Lipsitz J.J., Walsh J.K., Wylie C.D. (1997) The Sleep of Long-Haul Truck Drivers (FMCSA-2004-19608-146);

Bunn W.B., Slavin T.J., Lapin C.A. (2002) What is New in Diesel Emissions? (FMCSA-2004-19608-147);

Bonnet M.H. (1994) Sleep Deprivation (FMCSA-2004-19608-173);

Dinges D.F. and Kribbs N.B. (1991) Performing While Sleepy: Effects of Experimentally-Induced Sleepiness (FMCSA-2004-19608-176); and

Akerstedt, T. (1991) Sleepiness at Work: Effects of Irregular Wake Hours (FMCSA-2004-19608-252).

We note that five of these studies are available in the old hours-of-service docket (FMCSA-1997-2350). These five studies are Dinges et al. (1997); Rutenfranz et al. (1976); Mitler et al. (1997); Dinges et al. (1991); and Akerstedt (1991). Indeed, the old hours-of-service docket made available to the public dozens, if not hundreds, of copyrighted studies and papers. Moreover, it appears that the old docket has actually been modified to substitute an abstract for Van Ouwerkerk, F. (1988) (FMCSA-1997-2350-779) for the excerpt from that paper that was originally part of that docket.

Public Citizen made note of the abstracts in its comments on the hours-of-service NPRM, submitted to Docket No. FMCSA-2004-19608 on March 10, 2005.¹ We also called the person FMCSA notes, at 70 Fed. Reg. 3340, as the contact for further information on the NPRM and he promised to have someone get back to us on the issue, but no one has contacted us. In addition, Public Citizen has sent staff to visit the Docket Management System's (DMS) reading room, Room PL-401 on the plaza level of the Department of Transportation's Nassif Building, 400 Seventh Street, SW, Washington, DC, to check the online docket contents with available physical copies of the documents in the docket, but we were told that DMS no longer retains or makes available physical copies of docket documents.

Sincerely,

Laura MacCleery
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Regulatory Affairs, Public Citizen

¹ Comments from Public Citizen, Docket No. FMCSA-2004-19608-1861, Documents Dated March 10, 2005.