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As Trucking Rules Are Eased, a Debate on Safety Intensifies

By [STEPHEN LABATON](#)

WASHINGTON, Dec. 2 — As Dorris Edwards slowed for traffic near Kingdom City, Mo., on her way home from a Thanksgiving trip in 2004, an 18-wheeler slammed into her Jeep Cherokee.

The truck crushed the sport-utility vehicle and shoved it down an embankment off Interstate 70. Ms. Edwards, 62, was killed.

The truck driver accepted blame for the accident, and Ms. Edwards's family filed a lawsuit against the driver and the trucking company.

In the course of pursuing its case, the family broached a larger issue: whether the Bush administration's decision to reject tighter industry regulation and instead reduce what officials viewed as cumbersome rules permitted a poorly trained trucker to stay behind the wheel, alone, instead of resting after a long day of driving.

After intense lobbying by the politically powerful trucking industry, regulators a year earlier had rejected proposals to tighten drivers' hours and instead did the opposite, relaxing the rules on how long truckers could be on the road. That allowed the driver who hit Ms. Edwards to work in the cab nearly 12 hours, 8 of them driving nonstop, which he later acknowledged had tired him.

Government officials had also turned down repeated requests from insurers and safety groups for more rigorous training for new drivers. The driver in the fatal accident was a rookie on his first cross-country trip; his instructor, a 22-year-old with just a year of trucking experience, had been sleeping in a berth behind the cab much of the way.

Federal officials, while declining to comment about the Edwards accident, have dismissed the assertion that deregulation has reduced safety and have maintained that in fact it has helped, though the Edwards family and many other victims of accidents have come to the opposite conclusion.

In loosening the standards, the Federal Motor Carrier Safety Administration was fulfilling President Bush's broader pledge to free industry of what it considered cumbersome rules. In the last six years, the White House has embarked on the boldest strategy of deregulation in more than a generation. Largely unchecked by the Republican-led Congress, federal agencies, often led by former industry officials, have methodically reduced what they see as inefficient, outdated regulations and have delayed enforcement of others. The Bush administration says those efforts have produced huge savings for businesses and consumers.

Those actions, though, have provoked fierce debate about their benefits and risks. The federal government's oversight of the trucking industry is a case study of deregulation, as well as the difficulty of determining an exact calculus of its consequences. Though Ms. Edwards's family and the industry disagree on whether the

motor carrier agency's actions contributed to her death, her accident illuminates crucial issues in regulating America's most treacherous industry, as measured by overall deaths and injuries from truck accidents.

The loosened standards, supporters say, have made it faster and cheaper to move goods across the country. They also say the changes promote safety; without longer work hours, the industry would be forced to put more drivers with little experience behind the wheel. Regulators and industry officials point out that the death toll of truck-related accidents — about 5,000 annually — has not increased, while the fatality rate, the number of deaths per miles traveled, has continued a long decline. The number of annual injuries has also been dropping slowly, falling to 114,000 last year.

“This administration has done a good job, and the agency has done a good job, in advancing safety issues in a manner that takes into account all the important factors of our industry,” said the top lobbyist for the American Trucking Associations, Timothy P. Lynch.

But advocates of tighter rules say the administration's record of loosening standards endangers motorists. The fatality rate for truck-related accidents remains nearly double that involving only cars, safety and insurance groups say. They note that weakening the rules has reversed a course set by the Clinton administration and has resulted in the federal government repeatedly missing its own targets for reducing the death rate.

“It is a frustrating disappointment that has led to a tragic era,” said David F. Snyder, an assistant general counsel at the American Insurance Association who follows the trucking industry closely. “The losses continue to pile up at a high rate. There has been a huge missed opportunity.”

An Industry's Influence

In decisions that had the support of the White House, the motor carrier agency has eased the rules on truckers' work hours, rejected proposals for electronic monitoring to combat widespread cheating on drivers' logs and resisted calls for more rigorous driver training.

While applauded by the industry, those decisions have been subject to withering criticism by federal appeals court panels in Washington who say they ignore government safety studies and put the industry's economic interests ahead of public safety.

To advance its agenda, the Bush administration has installed industry officials in influential posts.

Before Mr. Bush entered the White House, he selected Duane W. Acklie, a leading political fund-raiser and chairman of the American Trucking Associations, and Walter B. McCormick Jr., the group's president, to serve on the Bush-Cheney transition team on transportation matters.

Mr. Bush then appointed Michael P. Jackson, a former top official at the trucking associations, as deputy secretary of the Department of Transportation. To lead the Federal Motor Carrier Safety Administration, the president picked Joseph M. Clapp, the former chairman of Roadway, a trucking company, and the leader of an industry foundation that sponsored research claiming fatigue was not a factor in truck accidents, a conclusion at odds with government and academic studies.

And David S. Addington, a former trucking industry official who led an earlier fight against tougher driving

limits, became legal counsel and later chief of staff to Vice President [Dick Cheney](#), an advocate of easing government regulations.

In addition to supplying prominent administration officials, the trucking industry has provided some of the Republican party's most important fund-raisers. From 2000 to 2006, the industry directed more than \$14 million in campaign contributions to [Republicans](#). Its donations and lobbying fees — about \$37 million from 2000 to 2005 — led to rules that have saved what industry officials estimate are billions of dollars in expenses linked to tougher regulations.

But to the families of accident victims, the motor carrier agency has failed to fulfill a promise to significantly reduce fatalities, exacting a tragic personal price.

"They are not getting much done in Washington," said Daphne Izer of Maine, who founded Parents Against Tired Truckers in 1994 after a Wal-Mart driver fell asleep at the wheel of his rig, killing her son and three other teenagers in the car with him. "As a result, more people will continue to die."

Federal regulators disagree with that assessment of their performance. "We have made significant progress, yet much work remains to achieve our vision," said David H. Hugel, the new deputy administrator of the Federal Motor Carrier Safety Administration. "Our challenges also are increasing because our nation maintains the most extensive and complex transportation system in the world, and that system and number of people who use it continues to grow."

The federal government began overseeing the trucking industry in the 1930s, setting rates, limiting competition and regulating safety practices. From the start, companies won important concessions from Washington, including exemptions from minimum wage and other labor laws. The industry also resisted efforts to impose tougher safety standards, saying it could police itself.

In 1937, the first driving hour limits were set. Truckers were allowed drive up to 10 continuous hours but were required to rest for a minimum of 8 hours. The remaining six hours could be used for other work activities, like loading, or for breaks or meals. Truckers could drive up to 60 hours over 7 consecutive days, or 70 hours over 8 days. To enforce those rules, the government required drivers to keep logs.

Repeated efforts over the years to tighten the rules were blocked, often as a result of vigorous industry lobbying.

Trucking companies have long argued that tougher standards are not necessary to promote safety, and that they would cause devastating economic pressures. Profit margins in the industry are thin, particularly after economic deregulation in 1980 prompted competition. Long hours and low pay for drivers have led to high turnover, and carriers struggle to find replacements. Those conditions, safety experts say, have contributed to widespread safety problems.

The practice of falsifying driver hours is an open secret in the industry; truckers routinely refer to their logs as "comic books." Fines are small. The federal motor carrier agency does not have the staff to monitor closely 700,000 businesses and almost eight million trucks.

Timothy L. Unrine, a 41-year-old driver from Virginia, said in a recent interview that he was taught to

conceal excessive driving hours during training last January by his former employer, Boyd Brothers Transportation of Birmingham, Ala. Mr. Unrine said his orientation instructor told his class that government inspectors were allowed to examine a monthly logbook if it was bound. But if the staples were removed, the log was considered “loose leaf” and inspectors could require an examination of only those pages from the most recent seven days, Mr. Unrine said the drivers were told.

Company officials advised drivers to use fuel credit cards that recorded only the date, not the time, of the fuel stop, he said.

Mr. Unrine added that the company pushed him to work longer hours than permitted, and that his logbooks were “adjusted” many times to make it appear he was within the limits. Several times, when he told a dispatcher he was too tired to make another trip, he said, he was ordered to do so after just a few hours’ sleep.

“I never felt safe driving under these conditions,” said Mr. Unrine, who left Boyd last June because of a legal dispute over medical bills from a fall. “I talked to many drivers on the fuel islands, truck stops and rest areas. Logbooks are so fake; it scares me that there aren’t more accidents on the road.”

Richard Bailey, the chief operating officer at Boyd Brothers, and Wayne Fiquett, the company’s vice president for safety, disputed Mr. Unrine’s claims. They said that drivers might have been instructed to keep only seven days of log entries, but denied that they were encouraged to violate the rules.

“Nobody here will tell someone to do something unsafe,” Mr. Fiquett said. “If a driver is tired or over his hours, the system will not allow that driver to continue driving.”

In 1995, Congress directed regulators to study truck driver fatigue and its safety consequences and to consider new rules. But the agency then charged with truck safety, the Federal Highway Administration, never did so. Two years later, the Clinton administration vowed to cut the annual death toll of truck-related accidents in half within a decade. In 1999, Congress created the Federal Motor Carrier Safety Administration in response to what lawmakers considered ineffectual regulation and high casualties.

A year later, the agency proposed tighter service hour rules. They would allow long-haul drivers to work a maximum of 12 hours a day, and require them to take 10-hour breaks between shifts. They also required installation of electronic devices to replace driver logs.

Advocates of tighter standards said the rules did not go far enough, while the industry said cutting driver hours could raise costs by \$19 billion over a decade, five times more than government estimates. Action stalled when trucking lobbyists inserted language into a spending bill that forced the motor carrier agency to delay action until after the presidential election that November.

Rewriting the Rules

Industry leaders overwhelmingly supported the candidacy of [George W. Bush](#), confident that his administration would be friendlier than one led by his opponent, [Al Gore](#). On the campaign trail, Mr. Bush accused his Democratic rival of wanting to expand government, while Mr. Bush repeatedly expressed his desire to reduce federal regulations.

During the 2000 election cycle, trucking executives and political action committees gave more than \$4.3 million in donations to the Republicans and less than \$1 million to [Democrats](#), according to the Center for Responsive Politics, a nonpartisan research organization.

In the months before and after the election, a leading industry figure in the campaign against tighter driving rules was Mr. Acklie, who became chairman of the American Trucking Associations in the fall of 2000. A longtime Bush family friend and Republican fund-raiser, he led one of nation's largest trucking companies, Crete Carrier, based in Nebraska. Mr. Acklie, who stepped down from the post about a year after his appointment, did not return telephone calls seeking comment.

Another important advocate was Mr. Addington, then general counsel to the Trucking Associations. In August 2000, when two top transportation officials complained in a press release about the industry's "raw use of political power," he demanded that they be investigated for possibly violating a federal law that prohibits officials from lobbying and issuing propaganda. In January 2001, he joined Mr. Cheney's office, where he is now chief of staff. Lea Anne McBride, the vice president's spokeswoman, said Mr. Addington had not been involved in issues related to his trucking activities.

Other industry officials also joined the administration. Mr. Jackson, a former colleague of Mr. Acklie and Mr. Addington at the trucking group, became the No. 2 official at the Transportation Department, which oversees the industry. Mr. Clapp, the former head of Roadway trucking, took over the motor carrier agency and soon became involved in rewriting the rules.

The insurance industry and safety groups provided studies showing a high percentage of accidents were caused by tired truck drivers. But after the Trucking Associations produced a study concluding that only 2 percent of accidents were caused by fatigued truckers, while more than 80 percent were caused by passenger cars, the agency decided to loosen the hourly restrictions.

In April 2003, the agency issued rules that increased the maximum driving hours to 77 from 60 over 7 consecutive days and to 88 hours from 70 over 8 consecutive days. It capped daily work hours at 14, which included driving as well as waiting for loading and unloading. The agency also decided not to require truck companies to install electronic monitoring devices.

The agency said the new rules would modestly decrease the number of fatalities by increasing the required time off for drivers, to 10 hours from 8. A year later, the agency set training standards for new drivers: 10 hours of training, none of it on the road.

Congress has provided little scrutiny of the trucking standards.

"There has not been the kind of in-depth examination of these issues that should have occurred," said Representative James L. Oberstar of Minnesota, the ranking Democrat on the House Committee on Transportation and Infrastructure. Mr. Oberstar and others blamed the failure on the political muscle of the industry. From 2000 to 2004, the American Trucking Associations donated \$2 million to lawmakers, mostly to Republicans who served on committees with jurisdiction over trucking issues.

The courts have played a more significant role. In July 2004, a three-judge panel from the federal appeals court in Washington issued a harsh opinion in a lawsuit brought by several safety organizations over the

trucking work rules.

Judge David B. Sentelle, a conservative Republican appointed by President [Ronald Reagan](#), wrote the opinion, faulting the Federal Motor Carrier Safety Administration for “ignoring its own evidence that fatigue causes many truck accidents.”

The opinion continued, “The agency admits that studies show that crash risk increases, in the agency’s words, ‘geometrically’ after the eighth hour on duty.” The judges said they could not understand why the agency had not estimated the benefits of electronic monitoring, saying the agency’s “passive regulatory approach” probably did not comply with the law. The panel struck down the hour and service rules.

But a year later, in August 2005, the agency issued virtually identical rules, which the safety groups and the [Teamsters](#) union are again challenging in court. Oral arguments are set for Monday before another three-judge federal appeals panel here. The agency had a similar legal setback on driver training. A three-member appeals court panel called the regulation “baffling” and criticized the agency for ignoring its own studies on the need for more comprehensive training.

The agency has not responded to the court’s decision by issuing any new rules.

Meanwhile, the agency has failed, by growing margins, to meet its annual targets for lowering the death rate for truck-related accidents.

Mr. Hugel, the agency’s deputy administrator, blames increasing traffic for the agency’s inability to meet its goals. “More trucks, combined with even more passenger vehicles,” he said, “leads to more roadway congestion, increased risk and a larger number of fatalities.”

In a budget submission to Congress last February, though, the Transportation Department noted its repeated failure to cut the death rate and conceded that the agency “has difficulty demonstrating how its regulatory activities contribute to reaching its safety goal.”

Safety experts, for their part, say the numbers reflect the agency’s failings.

“The fatalities speak to the agency’s lackluster performance,” said Jacqueline S. Gillan, vice president of Advocates for Highway and Auto Safety, an alliance of consumer, health and insurance organizations. “These truck crashes happen one at a time in communities across the country and get little attention,” Ms. Gillan said. “Can you imagine what the outcry would be at the F.A.A. if we had 25 major airplane crashes a year, which is the equivalent of what is happening with trucks?”

A Family’s Lawsuit

After Ms. Edwards’s death, her only son, Steve, a professional musician in Chicago, sued the trucking company, Werner Enterprises of Omaha, and the driver involved in the accident, John L. McNeal, 36. Mr. McNeal was dismissed shortly after the accident.

Mr. McNeal said in a sworn deposition that he had been tired from driving all day from Tennessee without a break. He had been in the cab for about 12 hours, including about 8 hours at the wheel. Because he had been driving trucks professionally for only a month, he was assigned a trainer, who had slept much of the trip.

After Mr. McNeal acknowledged he was at fault, Werner Enterprises settled the lawsuit for \$2.4 million. Werner's general counsel, Richard S. Reiser, said that the company had a strong safety record and that its training program far exceeded the federal requirements. Mr. Reiser said that Mr. McNeal was in compliance with both the old and new work hour rules but acknowledged he was unfamiliar with the proposals by safety groups that would have prevented the driver from working as long as he did that day. He also said that any driver who was tired should stop, regardless of how long he had been on the road.

"The driver should be the one who says, 'If I'm tired, I should pull over,'" Mr. Reiser said.

Mr. Edwards, though, thinks responsibility for safety goes beyond individual drivers, and links his mother's death to the Bush administration's decisions against imposing tighter driving limits. "These drivers are working hard every day on the road to make a living," he said. "They are overtired and underpaid."

Mr. Edwards said his mother, who had worked at a Procter & Gamble Company factory before her weakened knees forced her to retire, had been looking forward to traveling, gardening and playing with her grandchildren.

"If there is any silver lining, it is that he hit her so hard she never saw it coming," Mr. Edwards said of the accident. "She probably was happy that she was going to be home soon."

Ron Nixon contributed reporting.

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