

December 31, 2007

Department of Health and Human Services  
Room 434E  
200 Independence Ave., SW  
Washington, DC 20201

*Via e-mail to:* [panfluvaccine@hhs.gov](mailto:panfluvaccine@hhs.gov)

Re: Draft Guidance on Allocating and Targeting Pandemic Influenza Vaccine

The American Trucking Associations, Inc. (ATA) is pleased to submit comments in response to the Department of Health and Human Services' (HHS) *Draft Guidance on Allocating and Targeting Pandemic Influenza Vaccine*.<sup>1</sup> As the national representative of the trucking industry, ATA is interested in all matters that affect the ability of the trucking industry to continue to deliver the nation's freight.<sup>2</sup> As such, ATA is specifically interested in the HHS plan for administering and distributing an influenza vaccine in the case of a pandemic outbreak.

Upon the outbreak of an influenza pandemic, the trucking industry must be able to continue to deliver critical materials throughout the affected area, including food, gasoline, and other essential commodities.<sup>3</sup> The trucking industry will also play a critical role in the response and the treatment of victims. Ensuring trucking's continued capability to deliver commodities is especially important at the outset of a severe or moderate pandemic based on the Pandemic Severity Index (PSI). The draft Guidance places transportation workers in the Tier 3 segment of vaccine priority in the case of a severe pandemic (PSI 4 or 5) and does not prioritize transportation worker vaccines during a moderate or less severe pandemic (PSI 3 and 1 or 2, respectively). The failure to prioritize vaccines for transportation workers is a significant oversight that will have adverse repercussions for the entire Nation. Unless otherwise noted, these comments refer to HHS' guidance for a severe pandemic.

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<sup>1</sup> See 72 *Federal Register* 61886 (November 1, 2007), requesting comments on the *Draft Guidance on Allocating and Targeting Pandemic Influenza Vaccine*, <http://www.pandemicflu.gov/vaccine/prioritization.html> (hereinafter "Guidance.")

<sup>2</sup> ATA is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Directly and through its affiliated organizations, ATA encompasses over 37,000 companies and every type and class of motor carrier operation.

<sup>3</sup> See American Trucking Associations, *When Trucks Stop* (July 14, 2006), highlighting the importance of maintaining the trucking industry's ability to deliver critical commodities during a crisis, attached hereto as Appendix A. (Hereinafter "When Trucks Stop.")

HHS has stated that a principal objective of the vaccination program is to “protect those who maintain essential community services.”<sup>4</sup> ATA believes that the Guidance represents a good framework for positioning the U.S. to respond to a pandemic and to maintain the base-line functions of the U.S. economy and to stabilize social order; however, certain improvements are required to accomplish the stated objectives. Specifically, to better help the government respond to a pandemic, HHS should classify transportation workers in Vaccine Priority Tier 2 in light of:

- the nation’s dependence upon an uninterrupted supply of essential commodities and the critical role truck drivers play in their delivery;
- the first responder role played by truck drivers in the response to a pandemic;
- the licensing and endorsement issues in the motor carrier sector that create economic bottlenecks that could severely negatively impact the nation’s ability to respond and recover from a pandemic;
- the essential interdependencies and dependencies on the transportation sector in the critical infrastructure sectors selected for early vaccination based on the National Infrastructure Advisory Council’s (NIAC) report *Prioritization of Critical Infrastructure for a Pandemic Outbreak in the United States*; and
- capacity issues due to a driver shortage that will be exacerbated an influenza outbreak.

In addition to elevating the vaccination priority for transportation workers during a severe pandemic, transportation workers’ vaccinations also should remain a Tier 2 priority during moderate or less severe pandemic outbreaks. General motor carrier service during a pandemic and specific participation in pandemic response will be crucial to both the efficacy of the response and the maintenance of economic well-being and social order.

### **Drivers as first-responders:**

During a pandemic influenza outbreak, motor carriers will play a critical role in facilitating the medical response and maintaining essential services to continue providing a baseline standard of living and social order. Motor carriers will be relied upon to transport needed medical supplies to hospitals, food and water to replenish grocery store shelves, fuel to service stations, and critical supplies to maintain cross-sector functioning in areas where influenza infection inhibits the ability of local agencies to respond. When considering which essential workers in critical infrastructure sectors to cover, the draft guidance states:

It should be emphasized that the primary objective of vaccinating persons in critical infrastructure sectors is *not* to reduce absenteeism generally, through an incremental reduction in pandemic illness afforded by vaccination. Rather, vaccination is targeted to protect workers with critical skills, experience, or licensure status whose absence would

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<sup>4</sup> Guidance at 3.

create bottlenecks or collapse of critical functions, and to protect workers who are at especially high occupational risk.<sup>5</sup>

Especially important in this role will be commercial drivers who hold special endorsements, permits, or operate specialized equipment necessary to transport essential hazardous materials and to operate tank trucks that carry fuel. These drivers, a smaller and more specialized portion of the overall commercial driver population will be especially important to carry regulated products such as pharmaceuticals and other medical supplies. Drivers for refrigerated trucks, or reefers, also will be in essential to transport pharmaceutical, medical, and food shipments. Reefers will also play a role in storing bodies before burial. Other regulatory regimes exist for types of cargo carried, which are administered by the Department of Transportation, the Department of Homeland Security, the Drug Enforcement Agency, the Department of Energy, the Department of Defense, and others. Because of the differing regulatory and licensure requirements for operating tanks, reefers, and other specialized trailers, in addition to carrying various forms of cargo, drivers authorized to perform these critical functions will be in short supply.

Historically, trucks have been used to carry the vast bulk of relief supplies to areas affected by natural disaster in the U.S. As the NIAC report notes, in a pandemic, there will be no single locus for disaster relief. Instead supplies must come from disparate areas and be carried to those where influenza strikes. While the trucking industry has traditionally played a central role in transporting relief supplies, in the absence of immediate access to vaccines, drivers will not be willing to enter an infected area, thereby precluding the trucking industry from responding adequately to the pandemic. This issue will apply in moderate as well as severe pandemics.

Finally, early vaccination of truck drivers will help prevent the spread of pandemic influenza. The nature of the trucking industry is to transport freight from one area to another. These operations require close contact with numerous individuals throughout the supply chain. This required interaction with other parties coupled with job-related travel renders a driver not only more susceptible to contracting influenza but also to becoming a potentially dangerous vector to spread the pandemic to a new locality. Earlier vaccination will alleviate risks to drivers and to the general population.

### **Transportation needs of all Critical Infrastructure:**

The nation's critical infrastructure is an interconnected network of physical assets, people, and businesses that keep the essential functions and social order of the U.S. economy and society in motion. As the Department of Homeland Security's Critical Infrastructure Partnership Advisory Council has acknowledged, sectors are not autonomous units but operate in concert with and in support of each other. All sectors have an interconnection with the transportation sector. The NIAC report recognized this reality and recommended prioritizing members of each of the various modes of transportation in the highest tier for critical infrastructure protection.<sup>6</sup>

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<sup>5</sup> Guidance at 5-6.

<sup>6</sup> In this case, the first tier of critical infrastructure protection refers to the draft guidance's Tier 2. See National Infrastructure Advisory Council, *Prioritization of Critical Infrastructure for a Pandemic Outbreak in the United*

These include 16,983 aviation workers, 22,387 maritime workers, 5,000 public transportation workers, 30,815 railroad workers, and 25,000 motor vehicle workers. The NIAC report concludes, “The sector believes all these workers are critical due to their expertise, experience, and licensure. The sector cannot readily substitute or replace them during a pandemic, and their absence would severely jeopardize the sector’s ability to sustain their most critical functions at the most critical sites.”<sup>7</sup> Because of these interconnections, prioritizing some critical infrastructure sectors above others will not be an effective influenza countermeasure. For instance, without coal, chlorine, and other commodity deliveries, the energy and water purification sectors will be unable to function.

Attached as an appendix to these comments is the publication *When Trucks Stop, America Stops*, produced by the ATA. This publication describes the negative and immediate effects on localities that would occur should truck service become disrupted for an extended period of time. Although a pandemic will not result in a total loss of service, examples from this publication are illustrative to the essential role that the motor carrier sector plays in maintaining basic quality of life. Below is a list of various sectors and the ill-effects they will experience without essential truck deliveries:

#### Healthcare:

- Medical supplies will begin to run short in the first 24 hours.
- Hospitals will run out of basic supplies such as syringes and catheters within hours.
- Radiopharmaceuticals will deteriorate and become unusable within hours.
- Hospitals will run short of oxygen supplies within one week.

#### Water purification:

- Within 2-3 days essentials such as bottled water will disappear from major retailers’ shelves.
- Within 2 weeks the nation’s clean water supply will run dry as trucks are unable to bring chlorine to water purification plants.
- Within 4 weeks the nation will run dry of clean water. As a result, gastrointestinal illness will increase, further taxing the already burdened healthcare system.

#### Food and Agricultural:

- Food shortages will begin within one day.
- Shortages will escalate within 2-3 days as consumers panic and hoard goods.

#### Financial Services:

- ATMs will run out of cash and banks will be unable to process cash transactions within 2-3 days.

#### Fuel:

- Service stations will begin running out of fuel in the first 24 hours.

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*States – Final Report and Recommendations by the Council*, pp. 110-117 (January 16, 2007) (hereinafter the “NIAC Report”).

<sup>7</sup> NIAC Report at 117.

- Within one day fuel availability will dwindle and prices will skyrocket.
- Within 2-3 days, service stations will run out of fuel.
- Within 2-3 days, cities will lack fuel to collect garbage. Trash will begin piling up, further increasing the risk of disease.

The document presents only the primary effects of a truck traffic disruption. Furthermore, it is impossible to delve into the traffic bottlenecks anticipated as some cities and counties close roads to non-local traffic as a response measure. As the document concludes, “Secondary effects must be considered as well, such as the inability to maintain telecommunications service, reduced law enforcement [capability], increased crime, increased illness and injury, higher death rates, and likely, civil unrest.”<sup>8</sup>

### **Commercial Driver Shortage:**

Currently the draft Guidance includes commercial drivers in the third tier of vaccination priorities due to “personnel” redundancy issues.<sup>9</sup> This assertion reflects a lack of understanding of the economic and regulatory regimes that underpin the transportation industry. In May 2005, ATA commissioned a study on the driver shortage issue, which concluded that the trucking industry faced a driver shortage of 20,000 drivers that would increase to 111,000 drivers by 2014.<sup>10</sup> Despite HHS’ assumed fungibility of drivers, the trucking industry is already stretched beyond capacity. Given the increased requirements for transporting supplies such as vaccines and antivirals that may be classified as hazardous materials or regulated by the Drug Enforcement Agency, severe pandemic absenteeism rates assumed in the draft guidance would cripple the motor carrier industry and severely inhibit the U.S.’s ability to effectively respond to a pandemic.

The draft Guidance recommends that the Tier 3 critical infrastructure workers can take other measures to protect against influenza such as, “alternate work schedules, teleworking, and reducing in-person meetings and other contacts in the workplace.”<sup>11</sup> Many of these social distancing measures are already present in the motor carrier industry. Drivers receive dispatches via radio or telephone and are already distanced from their co-workers; however, a driver must physically interact with shippers and consignees when receiving and delivering loads as well as when he or she makes stops to eat and refuel. Alternate work schedules are impossible for truck drivers, who must ensure that critical supplies are delivered expeditiously and must obtain signatures from consignees upon delivery. The inability to alter schedules combined with the need to interact with shippers and consignees highlights the need for vaccination in the sector.

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<sup>8</sup> *When Trucks Stop, America Stops* at 9.

<sup>9</sup> Guidance at 13.

<sup>10</sup> See Global Insight, *The U.S. Truck Driver Shortage: Analysis and Forecasts* (May 2005) ([www.truckline.com/NR/rdonlyres/E2E789CF-F308-463F-8831-0F7E283A0218/0/ATADriverShortageStudy05.pdf](http://www.truckline.com/NR/rdonlyres/E2E789CF-F308-463F-8831-0F7E283A0218/0/ATADriverShortageStudy05.pdf).)

<sup>11</sup> Guidance at 13.

## Conclusion:

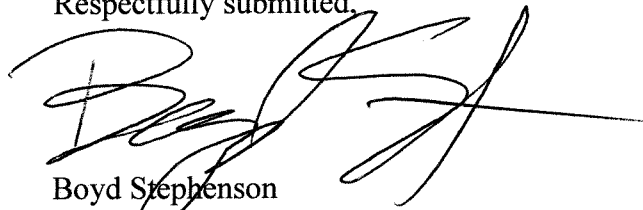
HHS also held consultative sessions in North Carolina and Wisconsin after developing the draft Guidance. After inviting members of the public to participate and educating them about the realities of dealing with a pandemic outbreak, the attendees were asked to work together to affirm or edit the draft guidance. Members of the public in both venues strongly recommended that essential Transportation workers be moved into the Tier 2 designation due to the paramount importance of maintaining an adequate food and pharmaceutical supply across the nation. These sessions also reflect the reality that although HHS and State/local health authorities can prioritize the shipment of medical supplies, they will be useless without shipments of food and water to complement them. Given the time that HHS spent educating these groups before asking for community buy-in and approval, the Department should be responsive to the advice it solicited.

Commercial drivers will be needed to carry relief supplies into areas of high infestation at the risk of their own health. The motor carrier industry provides an essential link to the support of other critical infrastructure functions already identified by HHS as being essential to a functioning society. Finally, HHS has incorrectly assumed a driver surplus that does not, in fact, exist. Due to regulatory and specialized equipment requirements on carrying certain loads and an already squeezed workforce, an incidence of pandemic influenza could severely impact the trucking industry's ability to effectively aid in a national response. Trucks and transportation will play an invaluable role in speedily delivering requisite medicine, food, fuel and other necessary supplies. For these reasons, ATA recommends that HHS:

- Move transportation workers from Tier 3 to Tier 2 and reclassify them as essential to both pandemic response and to the maintenance of economic well-being and social order; and
- Classify transportation workers as Tier 2 Vaccination Priorities in a moderate (PSI 3) pandemic outbreak in addition to severe (PSI 4&5) one.

ATA and its members look forward to collaborating with HHS and its inter-agency working group towards a response plan that most effectively allows the U.S. to minimize and mitigate the effects of pandemic influenza. Thank you for considering ATA's concerns on this issue. Should you have any questions related to these issues, please contact the undersigned at 703-838-7982 or [bstephenson@trucking.org](mailto:bstephenson@trucking.org).

Respectfully submitted,



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