



Opening Statement
Chairman Richard Hanna
Subcommittee on Contracting and Workforce
Hearing: “WRONG WAY: The Impact of FMCSA’s Hours of Service Regulation on Small
Businesses”
November 21, 2013

The hearing is called to order

I would like to thank today’s witnesses for appearing before the Committee today to discuss the effects of the Federal Motor Carrier Safety Administration’s recently enacted Hours of Service regulations on small businesses. Before I read the rest of my statement, I would also like to acknowledge FMCSA Administrator Anne Ferro for appearing before the Committee today. Administrator Ferro, thank you for your attendance.

On July 1, 2013, the FMCSA enacted its new rule for Hours of Service for Commercial Drivers. Among the rule’s many provisions, the revised 34-hour restart requirements have caused the most damage to the integrity of the rulemaking process and our nation’s economy, particularly small businesses.

Small businesses are greatly affected by changes to trucking hours of service. Whether it is a small carrier transporting goods along the West Coast or a local grocery store awaiting a delivery shipment, when truckers are slowed, small businesses suffer. The Small Business Committee is deeply concerned about the impact of these new regulations on small businesses.

The Moving Ahead for Progress in the 21st Century Act (MAP-21) legally required the FMCSA to conduct a statistically-valid field study on the then-proposed 34-hour restart provisions that measured the effects of the proposed rule on both large and small trucking operators. This study was due to Congress by September 30, 2013. It has not yet been received.

Under the MAP-21 provisions, Congressional intent was to have the study completed *before* the enactment of the new rule. However, even with the field study unfinished, FMCSA finalized and enacted these untested, new Hours of Service regulations.

Since July, small businesses, workers, and consumers across America have raised serious concerns that the restrictive 34-hour restart provisions of the rule went into effect without being backed by solid data, research, or a representative sample of the trucking industry.

While the FMCSA found that the rule would cost truckers less than one percent of revenue per year and impact less than 15 percent of commercial drivers, the trucking industry

estimates that the Hours of Service rule would, in reality, cost \$376 million annually to its sector alone. By any measure, this is a large sum of money and costs jobs.

In fact, the latest American Transportation Research Institute survey of commercial drivers found that nearly 70 percent have lost pay since the enactment of the new restart provisions. The survey also found that 80 percent of carriers are experiencing a loss in productivity.

The trucking industry is a key link in our small business supply chain. Not only are many trucking companies small business, but also nearly every type of small business in our country—food, logging, cement, retail, apparel—depends on efficient, on-time, and reliable trucking to sell, move, or use their goods.

Most disturbingly, there is a case to be made that the rule does not only cause economic harm, but may also make our nation's roads less safe.

In the past, when a driver completed their 60- or 70-hour work week, he or she would need to spend 34 hours not driving to reset their work-week clock to zero hours. Now, that restart time must include drivers resting for two consecutive periods between 1 a.m. and 5 a.m.

The new rule, therefore, compels truckers to stop driving by 7 p.m., at the earliest, in order to take the most advantage of the restart and begin driving again at 5 a.m. two days later. Commercial motor vehicle drivers often drive at night, both as a matter of preference and necessity. The FMCSA is, in effect, pushing truckers onto the road at earlier times in the day, during the morning and evening commute and school rush hour, prompting safety concerns.

I look forward to hearing more about how the new Hours of Service rules have adversely affected small businesses across America, and again want to express the Committee's appreciation to Administrator Ferro and the other witnesses for their appearance today.

I now yield to Ranking Member Meng for her opening statement.