

Statement of:

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On behalf of:

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Before the:

**HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS
SUBCOMMITTEE ON INVESTIGATIONS,
OVERSIGHT AND REGULATIONS**

***Do Not Enter: How Proposed Hours of Service Trucking
Rules are a Dead End for Small Businesses***

Tuesday, June 14, 2011

Introduction



Statement of The American Trucking Associations on Hours of Service

Chairman Coffman, Ranking Member Altmire, and members of the Subcommittee, my name is James Burg and I am the President of James Burg Trucking Company, a small business located in Warren, Michigan. I started James Burg Trucking Company in 1984 at the age of 19 with one truck. We now operate 75 trucks and employ 80 people. I personally hold a commercial driver's license and have driven over 1.3 million miles.

I am testifying today on behalf of the American Trucking Associations (ATA). ATA is the national trade association for the trucking industry and is a federation of affiliated State trucking associations, conferences, and organizations that together have more than 37,000 motor carrier members representing every type and class of motor carrier in the country. Thank you for the opportunity to testify.

Mr. Chairman, today I will speak about the Federal Motor Carrier Safety Administration's (FMCSA) proposed changes to the hours of service (HOS) regulations. These changes, if finalized, would have a profoundly negative impact on small businesses, would restrict productivity, and would result in greater congestion and increased emissions. These impacts are significant since there are some 500,000 trucking companies in the United States and 99 percent of these companies are small businesses.

These proposed changes come at a time when the pool of qualified drivers has shrunk, the cost of purchasing equipment and maintaining new equipment has risen, and general operating costs have been climbing. If these proposed hours of service rules are finalized, I will need to add additional trucks and drivers - and their corresponding expenses - simply to counter the loss in productivity. By my estimates, we would need to increase our retained earnings by between 20 and 25% just to maintain our current level of financial stability.

Not only would these changes profoundly impact small trucking companies but other small businesses as well. The resulting loss in productivity would likely be felt by small business shippers, manufacturers, and retailers in the form of increased costs. In addition, the proposed rules would complicate the scheduling of pick-ups and deliveries and inexplicably complicate logistics networks and supply chains in ways that would further hamper the growth of small businesses.

I strongly support ATA's position with respect to the proposed rules. My company and all of ATA's member companies believe FMCSA should abandon its proposed rule and retain the current HOS regulations. This belief is founded upon the following primary tenets:

- The safety record of the trucking industry has improved dramatically while operating under the current HOS rules. Regulatory compliance has also substantially improved. Hence, these proposed changes are unjustified.
- The changes proposed by FMCSA would cause enormous productivity losses in the trucking industry. The Agency's previously estimated that changes like the ones proposed would cost society over \$2 billion annually.



Statement of The American Trucking Associations on Hours of Service

- These productivity losses would disproportionately impact small businesses since 99% of the trucking industry is comprised of them.¹
- The changes proposed by FMCSA would have virtually no benefit in terms of reducing fatigue-related truck crashes and, in fact, would create other types of truck safety concerns such as promoting aggressive driving and increasing the number of trucks on the road during peak hours of congestion. FMCSA's own cost benefit analysis acknowledges that the safety benefits of the proposed rules would not outweigh the economic costs.
- Only by adding creative, questionable "health-related" benefits, does the proposal pass the cost/benefit test. However, FMCSA's attempt to justify its proposal by including driver health benefits lacks basis. As explained below, the Agency has misinterpreted and misapplied the sleep duration/mortality risk studies it relies upon. Hence, there is simply no scientific support for the health benefits the Agency has claimed would result from its proposal.
- Many other elements of the Agency's cost/benefit analysis are fundamentally flawed. An independent review of this analysis by Edgeworth Economics found that the Agency made numerous crucial errors in its analysis that render its conclusions erroneous.

I. Changes are Unjustified - Positive Safety Impact of the Current Regulations

Truck safety has improved to unprecedented levels since 2003 when the basic framework for the current hours of service regulations was first published. The numbers of truck-related injuries and fatalities have both dropped more than 30% to their lowest levels in recorded history.

For instance, between 2003 and 2009:²

- The number of truck-involved fatalities declined from 5,036 to 3,380 (33%)
- The number of truck occupant fatalities declined from 726 to 503 (31%)
- The number of truck-involved injuries declined from 122,000 to 74,000 (39%)

In the notice of proposed rulemaking on this issue, the FMCSA suggested that these improvements could be attributed to the economic downturn. Presumably, the agency claims that the slow economy has resulted in reduced activity and corresponding exposure to crashes. However, this claim is without merit since in this same period truck mileage did not decline.

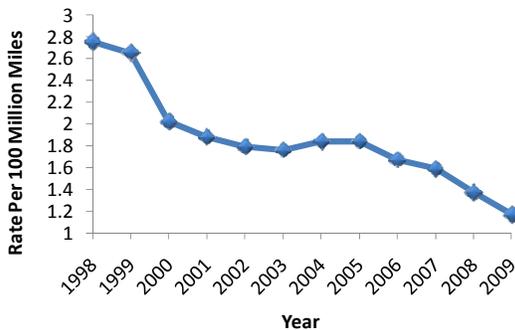
Since the number of crashes, injuries, and fatalities dropped as mileage increased, the rate of these events per mile has dropped as well. In other words, safety has improved despite the additional exposure.

¹ Notice of Proposed Rulemaking *Electronic On-Board Recorders and Hours of Service Supporting Documents*, FMCSA, 76 Federal Register at 5544.

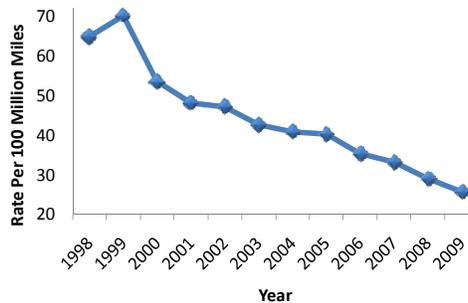
² National Highway Traffic Safety Administration, "Traffic Safety Facts - Large Trucks Factsheets 2004 – 2009."



Large Truck Fatality and Injury Rates 1998 - 2009



Large Truck Fatality Rate Per 100 Million Vehicle Miles Traveled 1998-2008



Large Truck Injury Rate Per 100 Million Vehicle Miles Traveled 1998-2008

Also, data FMCSA developed in the context of its new safety monitoring and measurement program - *Compliance, Safety, Accountability (CSA)* - confirms that the current rules promote safety. Specifically, a preliminary analysis conducted on behalf of FMCSA by the University of Michigan Transportation Research Institute (UMTRI) demonstrates a very strong correlation between compliance with the current hours of service rules and crash rates. In other words, carriers who carefully comply with the current rules consistently have low crash rates; carriers that deviate from these rules have higher crash rates. Though perhaps not a cause and effect relationship, the correlation is very strong.

Not only has safety improved since the framework of the current rules was first implemented, but the rate of compliance with the regulations has improved measurably as well. For instance, during the period of 2006-2010 the states completed more roadside safety inspections than ever before. Even so, as more enforcement effort was expended to monitor the safety of motor carriers in this period, fewer hours of service violations were identified. According to FMCSA's website, between 2006 and 2010:³

- The number of driving time violations decreased 31%
- The number of on-duty limit violations decreased 29%

All of these elements together lead to the reasonable conclusion that changes to the current HOS rules are unjustified.

II. Objections To The Proposed Reduction in Driving Time

ATA members strongly object to FMCSA's preference to reduce driving time from 11 to 10 hours per duty day. As explained below, and as the agency has repeatedly found in prior rulemakings, such a reduction would be ineffective in reducing fatigue-related crashes, and may actually increase crash risk. This change would also reduce productivity, driver pay, and competition in rural markets. Eliminating use of the 11th

³ Federal Motor Carrier Safety Administration, "Roadside Inspection Out-Of-Service Rates," Analysis and Information Online, <http://ai.fmcsa.dot.gov/> (2011).



Statement of The American Trucking Associations on Hours of Service

hour would be cost-prohibitive, as the agency's data and historical findings have confirmed.

FMCSA's preference for a 10-hour driving time limit is without statistical basis and is inconsistent with past statements and findings by the agency. It is puzzling how FMCSA could completely reverse course on this issue after having repeatedly studied the use of the 11th hour and rendered findings on the resulting costs and benefits of potentially reducing driving time. These findings are well documented in statements the agency made in rulemakings it conducted over the past eight years. Here are some examples:

"The operational and scheduling flexibility of an 11-hour limit, even when it is not utilized fully, is both economically and socially valuable. According to drivers who commented to the docket, the 11-hour limit in the 2003 rule enables them to get home more often, when the 10-hour limit would leave them stranded at roadside, out of hours. It also allows them to get home without pushing quite as hard as they might be tempted to do under a 10-hour limit."⁴

"...as a result of the 2003 rule, the 11th hour serves primarily to reduce the stress of trying to complete a run by the end of the 10th hour. With an extra hour of driving time, drivers are able to relax a bit and perhaps drive less aggressively."⁵

"...eliminating the 11th hour is unlikely to be cost effective under any reasonable set of circumstances."⁶

Moreover, the basis for reducing driving time seems to be grounded in the erroneous assumption that the 11th hour is used extensively by a majority of motor carriers and drivers as a means to maximize productivity. However, in the past the agency concluded that such is not the case and that extensive use of 11th hour is logistically impossible because of vagaries in the operating environment (e.g., waiting for loads, loading and unloading, traffic, etc.).⁷ After extensive review, the agency went on to say that drivers use 11th hour not to maximize driving time, but for operational flexibility.⁸

Though the agency might be tempted to consider simply eliminating the 11th hour because it is not used extensively, it must realize that doing so would not simply impact the trips where it *is* used, but those trips where it *might* be used. Absent the ability to potentially use part of the 11th hour when needed, many runs that are usually completed in 10 hours cannot be routinely attempted. The risk of a violation and the corresponding consequences, which are severe, is simply too great. In short, eliminating the 11th hour would only serve to render certain routes impractical or would pressure drivers to make runs in tighter time constraints.

Finally, a reduction in driving time could ultimately increase crash risk. In effect, since more trucks and drivers would be needed to carry the same amount of freight, more drivers would experience a first hour of driving each day. Carriers consistently report that

⁴ 70 Federal Register at 49981

⁵ Ibid at 50011

⁶ 73 Fed. Reg. 69567

⁷ 73 Federal Register at 69570

⁸ 73 Federal Register at 69570



Statement of The American Trucking Associations on Hours of Service

this is the hour of a driver's shift when he/she is most crash prone. Ironically, it is also most likely to occur between 6 a.m. and 9 a.m. when there is greater traffic congestion and, according to recently released FMCSA research, drivers are more likely to be drowsy.⁹

III. Objections to the Proposed Restart Restrictions

ATA members also strongly object to the proposed restriction on the restart provision. Today, a driver's weekly allowable on-duty time restarts after 34 consecutive hours off-duty. FMCSA has proposed changing the restart to require a driver to have two consecutive nights off between the hours of midnight and 6 a.m. Depending on when a driver gets off duty, the period to restart the clock would be between 34 and 60 hours.

Such a restriction would have numerous harmful effects on productivity and safety. In addition, it is unnecessary given the agency's prior finding that a period of at least 34 consecutive off-duty hours is sufficient to obtain needed rest and that the provision is not used by the industry to maximize working hours. Finally, as discussed below, it is premature and inappropriate to use the study and findings that FMCSA relies upon to propose these changes.

In past rulemakings, FMCSA has repeatedly supported retention of the 34 hour restart provision. For instance, in 2005 the agency said:

"In adopting the 34-hour recovery period, FMCSA has taken into account the weekly accumulation of driving and on-duty time allowed during each 7-and 8-day period, the adequacy of the 34-hour recovery, the costs versus benefits of retaining the restart, the overwhelming support of the 34-hour recovery by the transportation industry, including motor carriers and drivers, the long-term effect on driver health, and the overall safety aspects of adopting this provision."¹⁰

and in 2008 the agency said:

"This rulemaking rests on a wide-ranging body of data and comprehensive analyses..." "By adopting HOS regulations that include increased daily off-duty time...and sufficient time for two full sleep periods before restarting the 60- or 70-hour clock, the rule ensures CMVs are "operated safely" and drivers' responsibilities "do not impair their ability to operate the vehicles safely..."¹¹

Now, based on a single, tenuous, DOT-funded study¹² released just weeks before the proposed rule was published, the agency has completely reversed course on its prior conclusions. It is remarkable that FMCSA would completely discount its prior findings based on a study comprised of 13 individuals (not truck drivers) tested on simulators and

⁹ Barr, Lawrence C., C. Y. David Yang, Richard J. Hanowski, and Rebecca Olson, *Assessment of Driver Drowsiness, Distraction, and Performance in a Naturalistic Setting*, (FMCSA-RRR-11-010) Prepared for U.S. Department of Transportation Research and Special Programs Administration, February, 2011.

¹⁰ 70 Federal Register at 50017

¹¹ 73 Federal Register at 69571

¹² Van Dongen, Hans P.A., PhD, Gregory Belenky, MD, *Investigation into Motor Carrier Practices to Achieve Optimal Commercial Motor Vehicle Driver Performance: Phase I*, Prepared for the U.S. Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA-RRR-10-005) December 2010.



Statement of The American Trucking Associations on Hours of Service

evaluated in an in-residence laboratory. In short, the study is far too limited to use as the basis for major regulatory changes.

In fact, the authors of this study acknowledge that the scenarios posed in the study did not control for real world conditions typically encountered during daytime driving, such as increased traffic density.

Not surprisingly, the authors of this small, laboratory-based study said:

“Further research is needed to compare the “worst case” and “best case” schedules in terms of real-world driving performance, safety and cost.”¹³

The authors go on to say:

Although it may be inferred that the results of the present study set a lower limit for levels of impairment to be expected in the CMV driver population, validation of the study findings in a sample of drivers in a real-world field study (such as that currently being sponsored by the FMCSA in conjunction with Transport Canada) is important.¹⁴

FMCSA is very familiar with such field studies since it is currently conducting one with motorcoach drivers on similar hours of service issues. In fact, FMCSA is using these very same researchers to collect and analyze the data from this field study.

ATA also takes issue with the basic justification for limiting use of the restart. In prior rulemakings, the agency repeatedly pointed to the many benefits of the restart. But now FMCSA contradicts these claims and argues that the restart provision is being abused.

For example, in 2005 the agency said....

*As the Agency pointed out in the preamble to the 2005 rule, use of the 34-hour restart to generate routinely the very long driving and on-duty times critics fear—up to 84 hours on duty in 7 days or 98 hours in 8 days—requires an imaginary world with “nearly perfect logistics for picking up and delivering a load * * * in other words, total elimination of waiting time to load, mechanical and equipment problems, and traffic- and weather related delays.”¹⁵*

But the agency has reversed itself and now says:

“Drivers who are on the road for several weeks at a time could, therefore, work very long hours even if they cannot actually reach the maximum allowed because of delays in pick-ups and deliveries.”¹⁶

As discussed in the Regulatory Impact Analysis section below, the agency erroneously arrived at an assumption of the number of carriers/drivers that are working to the very limits of the rules. The proposal also erroneously suggests that every driver is subject to

¹³ Ibid.

¹⁴ Ibid

¹⁵ 70 Federal Register at 50022

¹⁶ 75 Federal Register at 82182



Statement of The American Trucking Associations on Hours of Service

weeklong sleep deprivation, or should be subject to the same restrictions of the few who might be.

Likely Harm of Restart Restrictions

Due to the proposed nighttime rest requirement, the majority of drivers who take a restart will, on any given day, conclude their restart periods and be eligible to drive at the same time - 6 a.m. Naturally, this could trigger a surge in truck traffic that will exacerbate morning rush hour and congestion. Subsequently, travel delays will increase which – while heightening frustration – will undoubtedly reduce productivity. For truck drivers this delay will be especially frustrating since it will exacerbate the impact of the reduction in driving and working hours imposed by the other components of this proposal.

The nighttime rest restriction will also have environmental and safety impacts. Increased congestion during the morning rush hour will lead to greater emissions by all motorists. Further, truck drivers trapped in rest areas for extended periods (up to 54 hours) will – at times – need to idle in order to run passenger compartment and cargo compartment climate control systems. Finally, the increased congestion will lead to greater vehicle interaction which will likely trigger an increase in crashes.

The productivity loss resulting from the proposed 34-hour restart restrictions, coupled with the other proposed changes, would trigger the need for additional drivers. As the

agency aptly pointed out in 2007, this need would result in an additional crashes and congestion.

Motor carriers that need more drivers to compensate for reduced driving time may not be able to find them, and even if new drivers are located, their inexperience may cause additional crashes and offset gains made in highway safety since 2003.Disruptions in the supply chain caused by truckers' inability immediately to comply with a new HOS rule, to say nothing of an increase in crashes and congestion associated with 106,000 inexperienced drivers hired to satisfy a new HOS rule, would be contrary to the public interest, especially when the economy is already fragile...¹⁷

Complexity of Proposed Restart

In addition to being unnecessary and unjustified, the proposed restart restrictions are complex and – to a degree – unenforceable. In effect, drivers and carrier safety managers will need to determine that at least 168 hours have passed since the beginning of the driver's last restart period and that the restart period included two nighttime rest periods. Similarly, law enforcement officers will need to verify when the driver claims to have taken the restart and that all of the conditions have been met.

¹⁷ 72 Federal Register at 71268



IV. ATA's Objections to the Proposed Rest Break Requirements

ATA believes it is inappropriate and unnecessary to require drivers to take rest breaks of a prescribed duration at specific times as proposed by FMCSA. As we will discuss below, drivers frequently take such breaks under the current rules, but simply cannot log them as off-duty time. Also, taking rest breaks is impractical for drivers of certain types of freight.

Moreover, ATA is puzzled by FMCSA's attempt to mandate rest breaks for commercial motor vehicle drivers. Intuitively, the agency (and government in general) should act only when there is evidence of a problem. However, in this instance there is little or no evidence that drivers are not taking breaks during the course of the workday. In fact, the agency has pointed out (in the subject NPRM) that only a relatively small percentage of drivers operate each day without taking breaks.¹⁸ If that is the case, regulating that breaks *must* be taken and *when* they must be taken only serves to further restrict drivers and reduce flexibility/productivity.

It appears FMCSA has simply proposing rest breaks as a means to shorten the maximum workday by an hour for reasons related to the agency's justification of the proposed rules in the cost-benefit analysis.

V. Objections to the Proposed On-Duty Time Restrictions

For the first time FMCSA is proposing not only to prohibit drivers from driving when they reach their duty time limits, but that they stop working at that time as well. As FMCSA's role is to protect highway safety, ATA believes it is inappropriate to prohibit drivers from completing other duties at the end of their shifts since highway safety will not be threatened. In other words, since drivers won't be driving while potentially tired, there is no need to restrict their activities.

The reduction in flexibility presented by this component of the proposed rules is troubling for several reasons. First, absent the ability to complete non-driving activities at the end of their shifts (e.g., paperwork), drivers may feel pressured to reach destinations more quickly. This scenario adds to driver stress and may threaten highway safety. Second, some drivers may find themselves stranded at shippers and consignees, but unable to move to a location where they can safely and legally rest. For instance, a driver who is at the end of his 13th hour, has available driving time, and who chooses to utilize the 16 hour provision, may find himself stranded at a loading dock due to loading/unloading delays.

A "hard-stop" at the end of the driving window has other negative implications as well. For instance, the last function every driver completes at the end of his or her shift is the post-trip vehicle inspection. Prohibiting a driver from working at the end of the window will undoubtedly mean that some drivers will feel rushed and, as a result, will do incomplete vehicle inspections. Further, there are instances when working beyond the end of the driving window is simply necessary.

¹⁸ 75 Federal Register 82180



VI. Flaws in FMCSA's Regulatory Impact Analysis (RIA)

As detailed below, an independent review of FMCSA's Regulatory Impact Analysis found that the agency had substantially underestimated the costs and overstated the benefits of the proposed rule. After correcting for errors, the report concluded that rather than *benefitting* society, FMCSA's proposal will *cost* society \$320 million dollars annually. In addition, according to an author whose research was used to justify the benefits of the proposal, FMCSA misused his research and the study cannot be used to quantify benefits as the agency has done.

Summary of Problems with the RIA

On February 16, 2011, ATA filed in the HOS docket a review of the RIA prepared by an independent, third party consulting firm, Edgeworth Economics. In short, the report concluded that FMCSA vastly overstated the benefits and underestimated the costs associated with Option 2 in the RIA. Below is a summary of report's main conclusions.¹⁹

1. FMCSA misused data from the 2005 and 2007 Field Surveys by failing to consider that carriers sampled in those surveys, particularly those chosen for compliance reviews due to poor safety/compliance performance, may drive more intensely than other carriers. Also, FMCSA assumed, inappropriately, that drivers who were measured by the surveys to be out of compliance with current HOS rules would fully comply with the new, more restrictive rules.
2. FMCSA abandoned its logistics model (used in previous RIAs) and instead estimated costs using a series of assumptions based only on the agency's "judgment and knowledge of the industry."
3. FMCSA overstated the role of driver fatigue in crashes. The agency relied on the Large Truck Crash Causation Study (LTCCS) finding that 13 percent of crashes studied had driver fatigue listed as an "associated factor." This figure is almost double the 7-percent estimate of fatigue used in the 2007 RIA. Additionally, FMCSA treated the LTCCS's "associated factor" coding as an indication that fatigue was the "cause" of that crash. This treatment contradicts the LTCCS report itself which says that no judgment is made as to whether any associated factor is related to the reason for a particular crash, just that the factor was present.
4. In previous RIAs and in public comments related to those analyses, FMCSA repeatedly asserted that the current rules provide sufficient flexibility for drivers to eliminate any concern about fatigue caused by accumulation of on-duty time (as opposed to "acute" fatigue caused by a long tour on a particular day). FMCSA has now reversed its position and estimated substantial crash-reduction benefits associated with reducing weekly work time.
5. FMCSA calculated the cost of crashes by long-haul drivers using an assumption of 434,000 crashes per year. However, the annual number of crashes by truck drivers has fallen substantially - to 286,000 in 2009.

¹⁹ *Review of FMCSA's Regulatory Impact Analysis for the 2010-2011 Hours of Service Rule*; Edgeworth Economics; February 2011, pp 21-22.



Statement of The American Trucking Associations on Hours of Service

6. FMCSA erroneously claimed that small reductions in work time will translate into increased sleep and, as a result, improve driver health. This error stems primarily from two flawed assumptions. First, the claim that small reductions in work will result in proportional increases in sleep contradicts the NPRM which states that “the Agency has no basis for estimating the extent to which drivers who have an extra hour a day or hours per week off duty will use that time to exercise and sleep.” Second, FMCSA attributes reductions in mortality to very small changes in sleep levels for drivers who already obtain a “normal” amount of sleep (e.g., 6-8 hours). Further, the agency ignores the conclusions of sleep researchers cited in the RIA, who state that “there is no evidence that sleeping habitually between 6 and 8 [hours] per day in an adult is associated with harm and long term health consequences.”

Due to these errors, the report finds that the proposed rule would result in a net cost of \$320 million per year.

VII. More Appropriate Ways to Address Driver Health

ATA questions FMCSA’s implied claim that it is proposing to revise the hours of service rules out of a desire to improve driver health. To specifically address driver health issues, FMCSA has a panel of medical experts called the Medical Review Board (MRB). The MRB was chartered by Congress to “establish, review, and revise medical standards for operators of commercial motor vehicles that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely.”²⁰ In its October 5, 2006 Federal Register notice forming the MRB, FMCSA specifically stated that it would be using this advisory body to fulfill the following duties:

- *Provide FMCSA with ongoing medical expertise to shape decisions about the health and wellness of drivers including physical qualifications, medical advisory criteria and safety research;*
- *Advise FMCSA on the development of uniform driver physical qualification (medical) standards and commercial motor vehicle driver health and wellness.*²¹

To that end, the MRB started meeting in 2006 and made its first recommendation, on Diabetes Mellitus (Endocrine Disease), to the FMCSA Administrator later that year.²² Since then, the MRB has issued recommendations on 13 other conditions: Schedule II Licit Medications, Cardiovascular Disease, Seizure Disorders, Sleep Disorders, Renal Disease, Vision issues, Musculoskeletal Disease, Hearing issues, Psychiatric Disease, Substance Abuse, Stroke, Multiple Sclerosis and Parkinson’s Disease, and Traumatic Brain Injury (TBI).²³ However, FMCSA has not acted through rulemaking on any of these recommendations.

²⁰ See Public Law 109-59 § 4116.

²¹ 70 Federal Register at 57643

²² See <http://www.fmcsa.dot.gov/rules-regulations/TOPICS/mep/report/Diabetes-Commentary-prot.pdf>.

²³ See <http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm> for access to all MRB reports



Statement of The American Trucking Associations on Hours of Service

Despite Congressional direction and stated agency intent, FMCSA has instead published an NPRM proposing to restrict the hours of service in the name of driver health and wellness. Yet, at no time did FMCSA invite the MRB to weigh the health benefits of restricting the hours of service. Based upon the other driver medical and wellness issues that the MRB has examined and Congress' requirement that its membership be knowledgeable about the motor vehicle industry, this panel represents exactly the body best able to evaluate any scientific evidence the Agency might use to justify a rulemaking.

Since FMCSA has an advisory body that is chartered to examine driver health and qualification issues, ATA recommends that the Agency abandon its roundabout attempt to promote driver health and wellness through an hours of service rule. Instead, FMCSA should act on the MRB's many recommendations to improve the driver medical qualification standards. This route is the surest one to promoting driver health.

Conclusion

FMCSA's proposed changes to the hours of service rules are unnecessary and unjustified. Both safety and compliance have improved under the current regulations which have been time-tested since 2003. In contrast, FMCSA's proposal to replace these rules with an untested set of regulations leaves safety to chance.

In contrast, the productivity losses and other negative impacts of the proposed rule on small businesses are very predictable. Past estimates by DOT placed the net cost to society of similar changes at over \$2 billion annually. These effects would be disproportionately felt by companies just like mine, James Burg Trucking, since 99 percent of the trucking industry's over 700,000 motor carriers are classified as small businesses.

Making these changes is illogical not only because safety has improved under the current rules, but because FMCSA's own cost benefit analysis acknowledges that the safety benefits of the proposed rule do not outweigh the costs. Only by applying creative "driver health" benefits can the agency justify making these changes. However, the agency mischaracterized the findings of the sole study upon which it makes this tenuous claim.

Given these many reasons, the only rational and reasonable course of action is for FMCSA to abandon this proposal, retain the current hours of service regulations, and spend its resources better enforcing the current rules.