



A bold voice for transportation workers

October 10, 2018

Mr. Thomas Yager,
Chief, Driver and Carrier Operations Division
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

**RE: Hours of Service of Drivers
Docket No: FMCSA-2018-0248**

Dear Mr. Yager,

On behalf of the Transportation Trades Department, AFL-CIO (TTD), I am pleased to provide comments on FMCSA's advance notice of proposed rulemaking (ANPRM) concerning hours of service (HOS) regulations for drivers. TTD consists of 32 affiliate unions representing workers in all modes of transportation, including those covered by FMCSA's HOS regulations.¹ For reasons discussed below, we urge FMCSA to maintain current HOS protections, and to reject efforts to eliminate the 30-minute rest break requirement or to weaken HOS protections for passenger carrying CMV drivers.

In the notice, FMCSA solicits comment on potential changes to several HOS-related requirements, generally concerning property-carrying commercial motor vehicles (CMVs). FMCSA states that it is undertaking these considerations due to comments it has received, including public feedback, petitions for rulemaking from the Owner-Operator Independent Drivers Association and TruckerNation, and a letter from a group of U.S. Senators. FMCSA specifically seeks comment on the economic and safety costs and benefits of such changes.

¹ Attached is a complete list of TTD's 32 affiliate unions.

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Larry I. Willis, President / Greg Regan, Secretary-Treasurer



Broadly speaking, TTD asserts its continued strong support for robust HOS protections for drivers. Beginning with rules promulgated by the Interstate Commerce Commission (ICC) in 1938, the federal government has recognized for decades the necessity of placing limits on how long an operator can drive safely. At the core of this recognition is the understanding that fatigue is one of the greatest threats to safe CMV operations on the nation's roadways. Current evidence supports this ongoing concern – FMCSA's Large Truck Crash Causation Study found that approximately 13% of all accidents involving at least one large truck and resulted in a fatality or injury were caused by fatigue, far outpacing accidents caused by drug and alcohol use, illegal maneuvers, and driver distraction. Research has even shown that prolonged periods of sleeplessness can impair drivers in a similar manner to alcohol intoxication.

For this reason, it is imperative that any determination FMCSA makes does not result in increased fatigue for drivers. Any reform to HOS requirements must achieve a level of safety equivalent to, or greater than, the level that would be achieved absent such changes. Proposals to amend or eliminate regulations that are made solely in order to generate greater profit lack the basis to be seriously considered by FMCSA. We urge FMCSA to not proceed with any change that is likely to increase driver fatigue and put all drivers and passengers on U.S. roadways at risk.

In particular, we express our concern with proposals to eliminate the 30-minute rest break. When FMCSA mandated the rest break in a 2011 final rule, it cited persuasive evidence that this requirement promoted safety. FMCSA wrote that “[the studies] demonstrate that breaks reduce the risk of crashes after the break, findings that are consistent with research on the impact of breaks on accident risks in other industrial sectors” and that “[t]he inclusion of any break was found to reduce the risk of a crash”. We believe there has not been compelling evidence presented to refute these demonstrated safety benefits and that the requirement should not be eliminated.

TTD also notes that entities who have recently sought to skirt the rule via petition have failed to demonstrate a convincing safety argument. We previously opposed a petition to eliminate the break for tank truck drivers (Docket No. FMCSA–2017–0270), and despite FMCSA's decision we firmly believe that the petitioner failed to prove that the exemption was necessary and maintained safety. A similar petition was also filed by an entity who argued that their difficulty in hiring drivers, an issue materially unrelated to safety, necessitated an exemption (Docket No. FMCSA–2018–0246). In both cases, the petitioner's request hinged on profit interests, and failed to demonstrate that safety would be maintained, and fatigue mitigated.

To directly address one of FMCSA's questions, we are highly skeptical of relying on employers to devise schemes to provide rest in the absence of the 30-minute requirement. The plethora of petitions filed with FMCSA to waive this requirement, and the repeated mischaracterization of off-duty time (non-driving) as inherently restful show that employers will continue to push drivers to the absolute limit permitted by regulation, and must not be relied on to mitigate fatigue of their own accord.

Finally, while much of the ANPRM discusses HOS regulations as they apply to trucking and other property-carrying CMV operations, we expect that commenters may also argue against current hours of service requirements for passenger-carrying CMVs, such as intercity bus service. We

strongly urge FMCSA to reject any such request. NTSB previously has found that fatigue issues may be even more pronounced in this sector, reporting that fatigue was responsible in a staggering 38% of the fatalities involving motor coaches, far outpacing other causes.

This concerning figure is driven by factors such as poor enforcement of HOS for intercity bus operations and low wages which prompt drivers to seek outside employment during times they should be resting. The consequences are clear – 50 people die and 1,000 are injured every year in intercity bus accidents. Given the dire state of exhausted driving in the passenger CMV industry, the importance of strong HOS protections for these drivers cannot be understated. FMCSA must not heed any request to weaken these requirements.

We thank FMCSA for the opportunity to comment on this notice, and look forward to working with the agency on this rulemaking and other hours of service issues in the future.

Sincerely,

A handwritten signature in cursive script that reads "Larry I. Willis".

Larry I. Willis
President