

- 395.13 Drivers declared out of service.
395.15 Automatic on-board recording devices.

Rulemaking analysis and notices

Preamble Table of Abbreviations

The following are abbreviations of terms used as well as abbreviations of commenters' names in the preamble.

ANPRM—Advance Notice of Proposed Rulemaking
AHAS—Advocates for Highway and Auto Safety
AAA—American Automobile Association
ABA—American Bus Association
ACOEM—American College of Occupational and Environmental Medicine
AMSA—American Moving and Storage Association
ARTBA—American Road and Transportation Builders Association
ARA—Agricultural Retailers Association
ATC—Agricultural Transporters Conference
ATA—American Trucking Associations, Inc.
AGC—Associated General Contractors
AAR—Association of American Railroads
CTA—California Trucking Association
CRASH—Citizens for Reliable and Safe Highways
CDL—Commercial Driver's License
CVSA—Commercial Vehicle Safety Alliance
CFI—Contract Freight, Inc.
DLTLCA—Distribution and Less-than-Truckload (LTL) Carriers Association
DOL—U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division.
DOT—Department of Transportation
FARS—Fatality Analysis Reporting System
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FMCSA—Federal Motor Carrier Safety Administration
FMCSR—Federal Motor Carrier Safety Regulations
FRA—Forest Resources Association
GES—General Estimates System
GRP—Gross Regional Product
IME—Institute of Makers of Explosives
IIHS—Insurance Institute for Highway Safety
IBA—International Bakers Association
IBT—International Brotherhood of Teamsters
IC—Collection of information
ICC—Interstate Commerce Commission
ICCTA—Interstate Commerce Commission Termination Act
IVI—Intelligent Vehicle Initiative
Landstar—Landstar System, Inc.
LTL—Less Than Truckload
LCM—Logistics Cost Model
MCMIS—Motor Carrier Management Information System
MFCA—Motor Freight Carriers Association
NAICS—North American Industry Classification System
NASTC—National Association of Small Trucking Companies
NASS—National Automotive Sampling System
NERA—National Economic Research Association
NHS—National Highway System Designation Act of 1995
NHTSA—National Highway Traffic Safety Administration

NITL—National Industrial Transportation League
NIOSH—National Institute for Occupational Safety and Health
NPTC—National Private Truck Council
NRMCA—National Ready-Mixed Concrete Association
NSC—National Safety Council
NSTA—National School Transportation Association
NSF—National Sleep Foundation
NPRM—Notice of Proposed Rulemaking
OODA—Owner Operators Independent Drivers Association
PATT—Parents Against Tired Truckers
PMTA—Pennsylvania Motor Truck Association
PMAA—Petroleum Marketers Association of America
RIA—Regulatory Impact Analysis and Small Business Analysis for HOS Options, December, 2002
RODS—Records of Duty Status
RSP—Regulatory Studies Program, Mercatus Center, George Mason University
TL—Truck Load
UMA—United Motorcoach Association
UMTIP—University of Michigan Trucking Industry Program
VMT—Vehicles Miles Traveled
Watkins—Watkins Motor Lines, Inc.

Statutory Requirement

Section 408 of the ICC Termination Act (Pub. L. 104–88, December 29, 1995, 109 Stat. 803, 958) (ICCTA) requires rulemaking to increase driver alertness and reduce fatigue-related incidents.

Agency Determination

When Congress created FMCSA, it provided that, “[i]n carrying out its duties the Administration shall consider the assignment and maintenance of safety as the highest priority * * *” [49 U.S.C. 113(b)]. As indicated above, Sec. 408 of the ICCTA directed the agency—then part of the Federal Highway Administration (FHWA)—to begin rulemaking dealing with a variety of fatigue-related safety issues, including “8 hours of continuous sleep after 10 hours of driving, loading and unloading operations, automated and tamper-proof recording devices, rest and recovery cycles, fatigue and stress in longer combination vehicles, fitness for duty, and other appropriate regulatory and enforcement countermeasures for reducing fatigue-related incidents and increasing driver alertness) * * *” [109 Stat. 958]. The agency’s statutory focus on safety and the specific mandate of Sec. 408 both demand that this rulemaking improve commercial motor vehicle (CMV) safety. While recognizing the primacy of its safety mission, the agency must comply with a variety of statutes and executive orders requiring detailed analysis of the cost of regulations and consideration of their

impact on regulated entities and other segments of society.

The FMCSA analyzed three alternative regulatory proposals in depth. Compared to the *status quo*, which includes a degree of non-compliance with the current HOS rules, the option proposed by the American Trucking Associations (ATA), would have marginally reduced fatigue-related fatalities and somewhat increased the cost of regulatory compliance. This results in a negative cost/benefit ratio. The option suggested by Parents Against Tired Truckers (PATT) would have reduced fatalities far more than the ATA option, but would have generated significant increases in compliance and operational expenses. This results in a cost/benefit ratio far more negative than the ATA option.

The third alternative was proposed by the FMCSA staff. The analysis shows that this option would save many more lives than the ATA alternative, though not quite as many as the PATT option. While it would cost more than the ATA option, it would be much cheaper than the PATT alternative. The net result is a cost/benefit ratio slightly more negative than the ATA option but not nearly as negative as the PATT option.

The FMCSA has adopted the third alternative for this final rule. The rule represents a substantial improvement in addressing driver fatigue over the current regulation. Among other things, it increases required time off duty from 8 to 10 consecutive hours; prohibits driving after the end of the 14th hour after the driver began work; allows an increase in driving time from 10 to 11 hours; and allows drivers to restart the 60- or 70-hour clock after taking 34 hours off duty. Together, these provisions (and others discussed in detail below) are expected to reduce the effect of cumulative fatigue and prevent many of the accidents and fatalities to which fatigue is a contributing factor. Because the agency’s statutory priority is safety, we have adopted a rule that is marginally more expensive than the ATA option but which will reduce fatigue-related accidents and fatalities more substantially than that option. The FMCSA believes that the rule represents the best combination of safety improvements and cost containment that can realistically be achieved.

Advance Notice of Proposed Rulemaking

On November 5, 1996, the FHWA published an advance notice of proposed rulemaking (ANPRM) for this ICCTA proceeding (61 FR 57252). The FHWA received and transcribed comments at six nationwide public