

withdraw its proposal and reissue its provisions piecemeal starting with the most beneficial—the 24-hour cycle.

Overnite Transportation Company (Overnite), one of the nation's largest LTL carriers, strongly objected to the inference it drew from the proposal that the 24-hour cycle had to remain constant throughout the workweek. It stated the nature of LTL operations would never conform to a uniform 24-hour schedule. If a driver takes a 6-hour run at 8 a.m. after 10 consecutive hours off, he should not have to remain off duty 18 hours until 8 a.m. the next day. He should be able to go on duty after 10 consecutive hours off, and let the daily and weekly duty-time maximums control.

AAA Cooper Transportation found the 24-hour work/rest cycle as a positive step to improve drivers' sleep possibilities.

#### *Driver Associations*

The OOIDA submitted an alternative proposal that gave due deference to a 24-hour work/rest cycle. The OOIDA, however, specifically rejected any notion that its proposal would require adherence to a fixed starting time each day.

The IBT and most owner-operators and other small to medium-sized truckload carriers comments did not comment specifically on the 24-hour work/rest cycle.

#### *Special Operations*

The American Road and Transportation Builders Association (ARTBA) would use 24 hours as a base. The ARTBA's alternative proposal for a "construction industry driver" and the associated daily driving and on-duty time limits within a 24-hour period drew support from the AGC and the National Ready-Mixed Concrete Association (NRMCA).

#### *Shippers*

The National Industrial Transportation League supported a 24-hour work/rest cycle but did not provide any detail or statistics.

#### *Safety Advocacy Groups*

On the issue of the 24-hour work/rest cycle, safety advocacy groups joined with others from the public sector and scientific community to express strong support of the agency's position.

The AHAS, CRASH, and PATT commended the agency for proposing a 24-hour work/rest cycle, which they believe is supported by an enormous body of research over many years.

The NSC commended the DOT for addressing this contentious issue which

has not been fundamentally analyzed in over 60 years, and stated that the agency had done the fundamental research necessary to take it on. The NSC believed the research was strong enough to make the conclusion about reverting to a 24-hour cycle, and strongly supported that part of proposal.

The National Institute for Occupational Safety and Health (NIOSH) of the Department of Health and Human Services agreed that most provisions of the proposed rules would produce positive safety outcomes. It recommended limiting driving within a 24-hour work/rest cycle.

#### **FMCSA Response**

There is general agreement on the concept of a 24-hour work/rest cycle and the scientific support for it. The FMCSA agrees with the general concept of ATA's statement that increasing the amount of off-duty time (from 8 to 10 hours) and having a 14-hour on-duty period promotes driver scheduling which would move the regulations closer to the body's 24-hour clock. The FMCSA believes that the strict 24-hour work/rest cycle would be ideal from a scientific viewpoint, but it is simply not practical and too inflexible to require of the industry. A strict 24-hour work/rest cycle would cause unavoidable impacts to motor carrier operations that the agency cannot justify from a safety or economic standpoint.

A requirement that all on-duty time including driving must occur within the 24-hour period creates the flexibility problems that carriers identified in their comments. Each of the options analyzed in the NPRM prevents the operational flexibility the industry desired. Most of the recommendations made by industry commenters to the NPRM, did not include a strict 24-hour period; operational flexibility was given higher priority.

Moving towards a 24-hour work/rest cycle without requiring a rigid starting time could achieve safety benefits while causing less productivity disruptions to motor carrier operations than adopting the strict 24-hour work/rest cycle the NPRM and PATT proposed.

The PATT and ATA alternatives incorporated a 24-hour work-rest cycle. The FMCSA staff also developed an alternative that incorporated a 24-hour work-rest cycle to provide a more operationally feasible alternative for analysis.

The FMCSA has decided to move towards a 24-hour work/rest cycle containing an extended consecutive-hour off-duty period within which drivers can obtain necessary daily sleep. Logically, off-duty time must always be

referred to in terms of the minimum, while on-duty time will continue to be referred to in terms of the maximum.

The FMCSA is selecting its staff alternative incorporating a 24-hour work-rest cycle and a 21-hour drive-rest cycle for the final rule because it provides the most favorable combination of reduced fatigue-related incidents, increased driver alertness, and other safety benefits along with minimal costs to society.

#### **Daily Off-Duty Time**

##### *Industry Comments*

The proposal provided three different consecutive off-duty periods to obtain the same 7 to 8 hours of sleep: 10 consecutive hours off-duty for Types 1 and 2; 9 consecutive hours off-duty for Types 3 and 5; and 12 consecutive hours off-duty for Type 4.

As discussed above, the ATA had earlier submitted recommendations to the DOT in December 1999 while the draft NPRM was being reviewed at OMB before publication. The ATA championed the concept of a 10-hour off-duty period and 14-hour on-duty period of the 24-hour cycle.

The Pennsylvania Motor Truck Association (PMTA), in supporting ATA's alternative proposal for 10 hours off, commented that there was enough time in the day for drivers to rest if necessary while maintaining a productive schedule. It also observed that the FMCSA's proposed rules do not enable drivers to take advantage of downtime at loading docks.

The California Trucking Association (CTA) believes a 10-hour off-duty period is potentially effective.

Tom Carrigan, the director of corporate safety for the Martz Group, testified that in the early days of his career as a Greyhound driver, he could recall reporting to work fully rested and well within legal limits, yet so fatigued that he wondered how he would manage to get out of the terminal, let alone complete his trip. He stated Greyhound provided its drivers with 10 hours of off-duty time between trips and faithfully abided by all of the HOS limitations, yet Mr. Carrigan claimed Greyhound had no control over its drivers' activities while away from work. There were many other occasions when Mr. Carrigan was provided 24 hours or more of off-duty time yet reported for his next trip in a fatigued state due to faulty time management on his part.

##### *Private Carriers of Freight*

The NPTC recommended an alternative extending the required daily