

PATT, NSC, and NIOSH all concurred with the proposal limiting duty time to 12 hours in each 24 hours.

### FMCSA Response

The environment in which motor carriers and their drivers operate is significantly different from the environment in which they operated in 1938. The CMVs and highways they operate on are dramatically improved, making the driving task, while still a demanding one, considerably less arduous than was the case then. The FMCSA believes there can be little doubt that fatigue directly attributable to the exertion required to operate the modern CMV is less of a factor now. Society has learned a lot about the science of sleep since 1938 and understands the more relevant issue is how long the driver can be awake and "at work", and still be allowed to drive, before safety is significantly compromised.

After reviewing the research, comments, and RIA, the FMCSA is convinced that 14 hours after the beginning of a duty tour is long enough for most drivers, given the significantly increasing degradation of performance which occurs in the later stages of a work shift.

The FMCSA found that restricting those drivers who return to the normal work reporting location at the end of every shift has the unintended consequence of requiring a significant increase in new drivers. These new drivers would increase both costs and crashes. The analyses showed that by allowing these short-haul drivers the flexibility to work up to 16 hours one day in a week would reduce the number of additional drivers needed for the staff alternative. This flexibility would result in cost savings of nearly \$500 million and safety benefits of nearly \$10 million.

The FMCSA believes this 14-hour limit for most drivers, and 16-hour limit for short-haul drivers once a week, is materially better from a safety standpoint than the current rule. A driver under the current rule could conceivably still be allowed to return to the wheel several hours after the 15-hour limit has passed (because "off duty" breaks that can extend the workday). The limit, however, is not so restrictive as to impose an unreasonable burden on productivity.

In conducting its RIA, the FMCSA made sure it included analysis of private carriers' operating schedules in view of the NPTC claims. The RIA, however, has justified the cost to reduce the number of available off-duty hours to 14 hours after the driver begins work.

The FMCSA does not believe 16 hours every day, as supported by the ARTBA, AGC, and NRMCA, would reduce fatigue-related incidents and increase driver alertness as these commenters contend.

AHAS correctly cited studies showing that performance begins to degrade after the 8th hour on duty and increases geometrically during the 10th and 11th hours. The agency's RIA, however, demonstrated that the FMCSA staff alternative produces substantial net safety benefits compared to the current rule, despite allowing up to 11 hours of driving, because it also requires 10 hours off duty, instead of 8, and reduces the backward rotation of drivers' sleep/wake schedules. See the discussion above under the FMCSA Response to the Daily Off-Duty Time.

In reviewing the recommendations made by commenters to the NPRM, the FMCSA found the PATT, ATA, and its staff-developed alternatives the most feasible. The PATT alternative would set on-duty time at 12 consecutive hours. The ATA alternative would allow a driver to be on duty 14 cumulative hours with up to 16 cumulative hours twice per 7-day period. The FMCSA alternative would set on-duty time at 14 consecutive hours once the duty tour begins for long-haul and short-haul drivers, while short-haul drivers would have the opportunity to work up to 16 consecutive hours one day per week.

The FMCSA has chosen to promulgate its staff alternative because it provides the best combination of safety and compliance costs.

### Daily Driving Time

#### Industry Comments

The CTA believes the workday should include a 14-hour work period and strongly argued for preservation of intrastate exemptions allowing drivers transporting farm products to drive 12 hours in a 16-hour day.

#### Private Carriers of Freight

The NPTC recommended adopting a daily driving limit of 12 hours within a 15-hour on-duty limit.

The IBA supported a 14-hour productivity time with flexibility to extend it twice a week by one to two hours under "certain" (undefined) circumstances.

#### Truckload Carriers

Schneider National agreed with the ATA recommendation to change from the current 10-hour driving rule to a 14-hour on-duty rule "to implement regulations that make sense for the industry, drivers, and the public."

J.B. Hunt also supported changing the work/rest cycle to 14 hours on duty and 10 hours off duty instead of the current cycle, but it also favored the proposed 12-hour work limit in 24-hour workday. J.B. Hunt believed this would enable a driver to average 10 hours of work a day, extending to 12 hours of work as circumstance demands. Hunt observed that the biggest negative impact comes from the rigidity of the FMCSA proposal.

#### LTL Carriers

Overnite recommended a maximum of up to 10 hours driving.

Con-Way recommended 14 hours on duty with no distinction between driving and non-driving time.

#### Driver Associations

The OOIDA recommended no restrictions on daily driving time, which OOIDA believes should be left to the discretion of the driver.

#### Special Operations

The ARTBA would limit driving time to 12 hours in a single 24-hour day and 72 hours in seven days, and it drew support from the AGC and NRMCA.

#### Safety Advocacy Groups

AHAS stated that "[FMCSA] has reversed its own policy stance of record on the dangers of driving more than 10 consecutive hours." AHAS pointed to the FHWA's November 1990, *Report to Congress On Commercial Driver Hours of Service*, where the agency openly endorsed research findings about the adverse effects of longer continuous driving times and of cumulative fatigue over several consecutive days of driving. AHAS argued that this report acknowledged that "[t]he risk of accidents appears to increase with the number of hours driven." With regard to the current 10-hour driving limit, AHAS argued the agency had asserted in 1990 that "this requirement is consistent with the research finding that the potential for accidents rises as the hours of driving increase and the driver is more likely to become fatigued." AHAS stated that the FHWA report also "favorably cites the [IHHS'] 1987 study by Jones and Stein, [*Effects of Driver Hours of Service on Tractor-Trailer Crash Involvement*], showing "that driving in excess of 8 hours may be associated with a significantly increased risk of crash involvement. This reported increase in relative risk confirmed other findings [citing Mackie and Miller, *Effects of HOS Regularity of Schedules, and Cargo Loading on Truck and Bus Driver Fatigue*, 1978]." AHAS quoted the FHWA report: "Research indicates that