

and other sponsors of the industry alternative stated that their support for a 14-on duty, 10-off duty work/rest cycle is a "substantial positive change" for which they should receive some compensation to offset productivity losses. That compensation would be in the form of more daily driving hours, potentially making 14 consecutive hours of driving legal. In the context of "pay-by-the-mile" incentives, that possibility looms large, although the industry sponsors were confident that the exigencies of the working day would impose a natural 12-hour driving limit.

Support for this alternative from the rest of the for-hire industry was fractional. Aside from the small truckload carriers, there was a fairly broad consensus in favor of retaining the current limits on driving time, subject to greater flexibility in usage. Imposing a 10-hour driving limit in a 24-hour period would have a substantial impact on small truckload carriers. They are presently permitted to drive up to 16 hours in a 24-hour period under a 10-hours-on duty/8-hours-off duty rotation. If limiting actual driving to eleven hours is a legitimate safety measure, it would not seem equitable to allow exceptions simply because drivers could make more money under more liberal rules. On the other hand, if most drivers operate safely under current rules, it would seem inequitable to subject them to more stringent regulations that would cut into their earning capacity or disrupt their life.

The FMCSA has decided to continue the distinction between driving time and on-duty time. The comments, particularly from safety groups, adamantly opposed allowing as much as 12 hours of driving time. Because the FMCSA believes that a reasonable person could find that the last hour of a driver's duty tour would be expected to be driving time that comes near the end of a 13- or 14-hour workday, the FMCSA is persuaded that 11 hours is a more reasonable limit. Within the limits of a tour of duty usually lasting no more than 14 hours, the FMCSA believes there is little doubt that modern CMVs can be driven safely up to 11 hours, particularly because rest breaks can be expected to naturally occur during the course of that tour.

Weekly or Longer Cycle

General Concept

The scientific basis for proposing weekly restrictions is the finding from research studies that sleep debt from multiple periods of insufficient (poor quality or insufficient quantity) sleep is the major cause of cumulative fatigue.

The recommended countermeasure is a recovery period during which restorative sleep may be obtained and the "sleep debt" repaid. The concept of a weekly recovery period was presented in the NPRM in the definition of workweek, *i.e.*, "any fixed and regularly recurring period of seven consecutive workdays," and in the number of hours required to be off-duty before beginning the next workweek.

The comments raised concerns over the agency's proposal for a "workweek," starting with the definition, which many thought confusing. In some segments of the industry the concept of a Monday to Friday workweek is alien. The language of the definition ("fixed * * * workweek") did appear to give these carriers cause for alarm, which the agency acknowledged during the hearings and roundtable discussions. A more logical definition of "workweek" might have been "the workdays between extended off-duty periods," although how the term might be used in regulatory context is not clear. The recovery period or "weekend" requirement will be discussed elsewhere in this document.

ATA Recommendation

The ATA recommendation would limit drivers to 70 hours on duty in a 7-day period (with no distinction between driving and other on-duty time). It would provide a minimum recovery period of 34 hours, which would serve as a restart provision. The ATA recommendation also provides an averaging option of 140 hours on duty in 14 days. Under this option, according to the petitioners, a driver could accumulate 84 hours on duty in the first seven days before a 34-hour recovery period would be required. A driver taking advantage of this option would then be limited to 56 hours on duty over the remaining 5½ days.

Other Industry Comments

The alternative proposal of the NPTC would simply maintain the present 60-hours-in-seven-days or 70-hours-in-eight-days limitations.

OOIDA's proposal would place no limits on cumulative time beyond the daily restrictions.

Large truckload carriers generally supported the industry alternative of limiting on-duty time to 70 hours in 7 days with provision for a 34-hour restart. They also supported the 14-day averaging option.

J.B. Hunt supported the proposed 12-hour work limit in a 24-hour workday, but with no cap on the length of the workweek, reasoning that drivers would get ample opportunity for restorative

sleep every day and sleep deprivation should not be an issue. If a cap were necessary, Hunt would implement a limit of 140 on-duty hours in 14 days with a 36-hour restart period. The 36-hour off-duty break would have to be taken during or at the conclusion of 14-day period, which then would start another 14-day period. This means a driver could average 10 hours of work a day, but could extend to 12 hours of work, as circumstances required.

Landstar commented that it fully supports using 24-hour and 7-day work/rest cycles, but found provisions in the proposal that do not make sense from either a safety or practical aspect. It recommended a limitation of 70 hours driving in a 7-day period, followed by 24 hours off duty, which would actually be an 8-day week.

The State trucking associations collaborated in the ATA alternative and therefore must be considered to have supported it.

PMTA noted that the loss of the 70 hours in 8 days provision under the existing rules will cause major schedule disruptions and reduce productivity by 15 percent.

CTA commented that a maximum 60-hour workweek is too restrictive. It will aggravate the driver shortage, place more inexperienced drivers in more trucks on the road, reduce drivers' incomes, and severely harm the economy.

The unionized LTL carriers demurred on this issue, apparently reflecting the position of the MFCA that they were content with the present rules and saw no reason for change.

Many LTL carriers joined in support of the ATA recommendation co-sponsored by the DLTLC.

Con-Way promoted the industry alternative with the averaging option of 140 hours over 14 days and a 34-hour restart.

Overnite, however, took a more conventional position: On-duty time should be limited to 62 hours in a 7-day period. That would simply be a conversion of the present restriction of 70 hours in 8 days, or productivity neutral.

The small truckload carriers represented by NASTC adhered to a philosophy that drivers should have the opportunity to drive during the "week" and be home on weekends with their families. Therefore, they recommended the present limit of 70-hours in 8 days be retained. They further recommended an exception, which would allow drivers returning home to continue at a 10-hours-on and 8-hours-off pace until he reaches his destination. So long as the drivers maintained that pace on