

UMTRI studies, ATA considered 942 to be the proper baseline number for multi-vehicle, fatal-to-non-truck-occupant crashes and 800 the proper number for single-vehicle, fatal-to-truck-occupant crashes. The baseline fatality number should be between 200 and 240, instead of FMCSA's base of 755;

(3) FMCSA used effectiveness assumptions which ATA contends could not be viewed as reasonable or even possible. ATA contended the agency stated the proposal would be 5 percent effective with Type 3, 4 and 5 drivers. ATA claimed the agency included no cost figures for this category, saying that for the majority of drivers in compliance with existing rules the costs would be minimal. ATA objected, finding the two assumptions inconsistent; and

(4) FMCSA ignored the best available compliance information. The agency relied on three different surveys to support its contention that a "significant percentage" of drivers violate the HOS regulations. ATA claimed FMCSA has data from thousands of compliance reviews that it totally ignored. Instead of asking for data and analysis from the public on an array of issues, FMCSA ought to analyze the best compliance data available "its own completed compliance reviews."

Many of the industry comments about overstated benefits could be summed up in the comments of the Minnesota Trucking Association: "The proposal will not have the intended safety benefits because DOT failed to consider the law of unintended consequences:

(1) DOT failed to account for the accident exposure from over 48,000 new trucks needed to move the same amount of freight;

(2) The proposed rules would cause greater congestion in urban areas both from the greater number of trucks, and more trucks shifted from nighttime hours due to the mandatory 'weekends'; and

(3) The proposed rules would cause a dramatic increase in the number of young, inexperienced drivers on the road creating even greater risks of accidents."

Safety Advocacy Groups

The IIHS disputed the figure of 49,000 new drivers as too many because it does not account for efficiencies and old drivers returning for better working conditions.

AHAS criticized the agency's economic analysis because it failed to measure proposed rules against the existing rules, "as most agencies do." AHAS agreed with the FMCSA's finding that the contribution of fatigue to

crashes has been undervalued and cited the Australian parliament's massive report finding that 20 to 30 percent of road accidents involve driver fatigue. One cannot rely on police reporting because police are unable to detect or infer fatigue as a triggering factor.

CRASH observed: "Trucking deregulation, a booming economy and the concepts of "just in time deliveries" and "rolling warehouses" have produced a deadly trend in the commercial trucking industry." Truck drivers are exploited by pressuring them to speed and drive over the legal HOS limits. CRASH stated that NHTSA and NTSB have documented that driver fatigue is a major factor in 15 to 40 percent of all big truck crashes.

PATT argued that truck drivers provide labor for which they are not adequately remunerated, that such labor is a major contributor to fatigue and that such labor practices have continued too long without resolution. It stated the basic rule in the industry should be: "Shippers count, load, and seal—drivers drive—receivers count and unload."

The CVSA stated that the proposal relied too heavily on relative exposure rather than on relative risk, which appeared to them to be the same across all types of operations.

The NSC claimed that the NHTSA data attributing 2 to 5 percent of accidents to driver fatigue is more reliable, and that the FMCSA's estimate of 755 fatalities is inflated. Until the agency completes fundamental accident analysis studies, NSC believes the agency must rely on FARS; therefore, it must stay with no more than 5 percent or 250 fatalities. It recommended an external panel of experts to establish a lower and upper bound of the fatigue problem, in which the NSC would be glad to participate. It also recommended a cost/benefit analysis similar to the one prepared by Booz, Allen & Hamilton, Inc. for the FHWA on May 28, 1981.

FMCSA Response

Although it appears that the agency underestimated costs in its economic analysis, it is also clear that industry overestimated costs in its comments. The ATA instruction to carriers responding to its survey was to compare drivers' logs in actual operation with what they think could be done under proposed rules. The comments from individual carriers indicated that some followed the ATA instructions, but many others merely assumed that every driver was presently using all available hours. Other comments make it clear that this was not the case. Stating that a reduction in allowable duty hours from 15 to 12 represents a 20 percent

loss in productivity when drivers rarely work the 15 hours, is a clear overstatement.

The examples offered throughout the comments, moreover, generally presented worst case scenarios. In nearly every case when a carrier stated it could not complete a run under the proposed rules, it also stated it would have to add a truck and driver to continue that run. Otherwise, it would lose the business. Rarely was there any attempt to reconcile operations or schedules with the proposed rules, or to suggest minimal changes that could make them work. For example, an LTL carrier reported that its drivers double as dock workers. They normally drive up to five hours from a hub to a terminal, load or unload for two to five hours, and then drive back to the hub in up to five hours. The carrier believed it would have to hire twice as many drivers and make them stay overnight at the terminal, because it could not complete those runs under the proposed rules. No mention was made of relieving the driver of loading/unloading responsibilities; shortening the time the driver has to spend loading or unloading by providing some help at the terminal; or otherwise adjusting operations at the terminal so that the driver is not detained as long, rather than literally doubling the number of drivers.

The case for the truckload segment, particularly the small, irregular-route carriers, is more problematic, especially if the sleeper berth provision in the proposal were not adjusted. J.B. Hunt computed the basic productivity loss from the proposal to be two percent by comparing the average allowable workweek (seven days) under the existing rule (61.25 hours) with that proposed (60 hours), but it also found a much greater loss from the lack of flexibility. Although further examination of the impact of flexible alternatives on the operations of large truckload carriers would have to be done, much of this greater loss could apparently be mitigated.

NASTC, representing small carriers, based its analysis of lost productivity on a comparison of a daily range of operation. It stated that under the present rule a driver could drive up to 15 hours in any given 24-hour period, giving him a daily range of 750 miles. This could only be accomplished under full exploitation of an alternating 10-hours-driving, 8-hours-off schedule. Under the proposed rule, NASTC stated the same driver's daily range would be reduced to 600 miles. Projecting the NASTC driver's schedule over longer periods of time, the average difference