

should be the existing regulation. This baseline can then be compared against reasonable alternatives.

Thus, the first alternative was to take no action, keeping the current rules. The other three alternatives are referred to as the PATT alternative, the ATA alternative, and the FMCSA staff alternative. The RIA, however, compares the costs and benefits of the alternatives relative to two distinct baselines.

Much of the RIA shows the effects of the PATT, ATA, and FMCSA-staff alternatives relative to the current rules *under the assumption of 100 percent compliance with the current regulations and each alternative*. This approach ensures that the full effects of the alternatives' provisions on costs and benefits are captured. On the other hand, because there have been studies that have shown that drivers do not always comply with the existing rules, OMB requested that FMCSA also assess the differences that would appear if motor carriers and drivers improved current compliance levels and achieved 100 percent compliance. Thus, the alternatives are also shown relative to a baseline in which the current rules are in effect, but there is a certain degree of non-compliance. The University of Michigan Trucking Industry Program (UMTIP) provided the FMCSA with customized statistical outputs for particular subsets of an UMTIP driver survey that the FMCSA analyzed to estimate the percent of non-compliance with the existing regulations. These subsets were designed to match, as closely as possible and where appropriate, the industry segments reflecting the most relevant profiles in the RIA. The FMCSA found that approximately 8 percent of long-haul driver hours exceed the current daily and weekly limits of § 395.3.

The FMCSA did not analyze alternatives for passenger carrier transportation. As stated above, the FMCSA was persuaded by the comments that it does not have enough data to indicate a problem in the motorcoach industry segment. This RIA only analyzes carriers using CMVs to transport (1) goods or (2) crews and equipment to places where they are needed to provide services of one kind or another. This would include service trucks belonging to telephone and electric utility companies; trucks of a variety of types of service contractors—plumbers, electricians, roofers, landscapers, etc.; trucks taking crews and equipment to construction sites, including mobile cranes; dump trucks; trash trucks; beverage, bakery, and

snack food distributors' trucks and other like vehicles.

The FMCSA distinguishes two distinct baselines by referring to the current rules with 100 percent compliance as "Current-100 percent," and the current rules with existing estimated compliance levels as the "Status Quo" scenario.

The NPRM analyzed five alternatives, in many commenters' view incompletely, that could have required comprehensive changes to the motor carrier industry, with possibly significant implications for the national economy. The agency considered all of the alternatives suggested by commenters. Some had to be eliminated to provide a manageable number for evaluation under Executive Order 12866. The agency chose three alternatives that were both feasible and could potentially be effective at reducing fatigue-related incidents and increase driver alertness.

#### *The Baseline*

The baseline, current rule provides that no driver may drive:

- (1) More than 10 hours following 8 consecutive hours off duty;
- (2) For any period after having been on duty 15 hours following 8 consecutive hours off duty; and
- (3) For any period after—
  - (a) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or
  - (b) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

This current rule allows drivers to have work/rest cycles as short as 18-hours, if the drivers maximize driving time and rest the minimum 8 consecutive hours. The 18-hour cycle provides a potential 6-hour backward rotation that inverts drivers' schedules on cross county trips. Such schedules allow a driver to begin driving during the day on the first day, but on subsequent days allow the driver to drive at night, and then during the day, and then at night again. This alternating day-and-night driving has been proven to be detrimental to a driver's sleep thereby increasing the risk that the driver will cause a crash.

#### *PATT Alternative*

The first alternative selected by the FMCSA for detailed safety and economic analysis was that suggested by PATT. The PATT alternative provides that no driver may drive:

- (1) More than 10 cumulative hours following 12 consecutive hours off duty;
- (2) For any period after having been on duty 12 consecutive hours after first beginning on-duty status following 12 consecutive hours off duty;
- (3) More than 50 cumulative hours over the last 6 consecutive 24-hour periods plus the current 24-hour period; and
- (4) For any period after having been on duty 60 hours over the last 6 consecutive 24-hour periods plus the current 24-hour period.

The PATT alternative allows drivers to have regularly recurring work/rest cycles of 24 hours. The 12-hour on duty, 12-hour off duty cycle would provide drivers with two more off-duty hours than the FMCSA staff alternative for meals, personal errands, and to contact family and friends. Many long-haul drivers commented that they do not need these additional hours during a trip because commuting, doing personal errands and socializing are mainly home-based activities. This type of rule, like the NPRM, would require drivers to waste off-duty time (in their view) in a location where there is little for them to do.

This alternative had the possibility for sharply reducing fatigue-related incidents, but it was also likely to reduce motor carrier productivity and increase transportation costs by increasing the need for more drivers.

#### *ATA Alternative*

The second alternative selected by the FMCSA for detailed analysis was the ATA proposal. It was not clear whether this alternative would reduce fatigue-related incidents, as ATA claimed, but it would almost certainly increase productivity and provide cheaper transportation.

The ATA alternative provides that no driver may be on-duty:

- (1) More than 14 cumulative hours with up to 16 cumulative hours twice per 7-day period following 10 consecutive hours off duty;
- (2) More than 70 hours over the last 7 24-hour periods (ending with the last completed 24-hour period); and
- (3) More than 140 hours over the last 14 24-hour periods, with no more than 84 hours allowed in one of the 7 24-hour periods, if followed by a 34-hour off-duty period, and no more than 56 hours in the remaining 7 24-hour periods.

The ATA alternative allows drivers to have regularly recurring work/rest cycles of at least 24 hours. The 14-hour on duty cycle provides drivers with the opportunity to drive the entire 14 hours. It also allows the driver to drive after