

**BEFORE THE
UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

HOURS OF SERVICE OF DRIVERS
DOCKET NO. FMCSA-2004-19608

March 2, 2011

**COMMENTS OF
WISCONSIN MOTOR CARRIERS ASSOCIATION**

The Wisconsin Motor Carriers Association is a non-profit trade association representing the interests of businesses utilizing commercial motor vehicles in commerce within and through Wisconsin. Our organization was established in 1940 and currently represents more than 1,100 members. It consists of both private and for hire short haul and long haul motor carriers that transport general commodities in both truckload and less than truckload quantities. We also have divisions within our membership for fleets dedicated to the transportation of household goods, wrecked and disabled motor vehicles by tow truck and milk in bulk in tank trucks. We also have divisions for businesses engaged in the transportation of passengers by motor coach and warehouse services.

Upon issue of the Notice of Proposed Rulemaking on December 29, 2010, we informed our members of the specifics of the rule and asked to receive comments as to their concerns as to how the rule would impact their business operations. From the comments received at those meetings, we wish to express the following concerns about the rule on behalf of our members.

We note with some concern FMCSA's comment in the proposed rule at page 82175 under V. Agency Goals, A. Safety – Fatigue stating:

“A fundamental purpose of the HOS regulations is to reduce crash risk in order to improve safety, and as elaborated at length, the Agency has concluded that the proposed rules will have significant safety benefits. Ideally, the Agency would have data to measure crash risk along all of the dimensions for which regulations are proposed. Because the Agency has not been able to gather such data, it has based its analysis, in significant part, on the share of crashes that are fatigue coded.”

FMCSA goes on to explain that using such data is problematic, concludes data are not as complete as they (FMCSA) would like them to be, yet justifies such data to make a sweeping changes in the HOS rule supposedly to limit to the *“extent possible, the likelihood that drivers will be fatigued....”*

It's difficult for us to understand the necessity of changing the current rules based on such supposition. Given the following data which is not “supposition”, it would appear the current rules have worked well relative to improving highway safety and HOS compliance since the last HOS rule changes in 2004.

From 2004 to 2008:

- The number of truck-involved crash fatalities has declined 16%.
- The number of truck-involved crash injuries has declined 26%.
- The reduction in truck-involved crash injuries over this period has been far greater than the reduction in car crash injuries. *Source: Large Truck and Bus Crash Facts 2008: FMCSA-RRA-10-043, March 2010.*

Compliance with the HOS regulations has also improved. According to FMCSA's website, between 2006 (earliest year available) and 2009:

- The number of driving time violations decreased 29% and Out-of-Service (OOS) violations decreased 23%.
- The number of on-duty limit violations decreased 26% and OOS violations decreased 14%.
- The number of workweek limit violations and OOS violations both decreased 20%.
- The number of 34-hour restart violations decreased 41% and OOS violations decreased 63%.

Source: Federal Motor Carrier Safety Administration, Analysis and Information On-line, <http://ai.fmcsa.dot.gov/> 2010.

The National Highway Safety Administration says –

“There was a 20-percent reduction in fatalities in crashes involving large trucks from 4,245 in 2008 down to 3,380 in 2009.”

Note: This is the lowest number of annual truck related fatalities in recorded Department of Transportation history and represents a 33 percent decrease in fatalities since the improved hours-of-service regulations first became effective in January 2004.

“The largest percentage reduction of people killed was among large-truck occupants (26%) compared to any other vehicle category, followed by motorcyclists with a 16-percent reduction.”

Source: August 2010 NHTSA Traffic Safety Facts – Highlights of 2009 Motor Vehicle Crashes

From FMCSA's Statement Before The U.S. Senate Subcommittee On Surface Transportation and Merchant Marine Infrastructure, Safety, And Security, April 28, 2010.

"Even with the continued growth in commercial vehicle traffic, the most recent data available show that our Nation's highways experienced their lowest number of fatalities (4,525 in 2008) from crashes involving large trucks and buses since fatal crash data collection began in 1975."

"Fatalities from large truck or bus crashes have dropped for three years in a row, a decline of 15 percent from 2006 to 2008."

"Safety improvements have been realized not only in terms of fatal crashes, but also in injury crashes. In 2008, 113,000 people were injured in crashes involving large trucks and buses, the lowest number of persons injured in these crashes since 1988, the first year of injury crash data collection."

This rule change will have a major impact on motor carriers, their drivers, and the shipping community and could have a negative effect on highway safety, the environment and a struggling economy.

- The reduction in driving time and working hours will result in a need for more trucks and drivers to operate them. Given the impending driver shortage, most will have less driving experience which will likely have a negative impact on highway safety.
- Drivers will work fewer hours, thus make less in wages and at a time when they and their families are already struggling in a slowly recovering economy.
- From what we have heard from our members, trucking productivity will suffer with less capacity to haul freight. Transportation rates are likely to increase substantially.
- Critical components of the nation's distribution network will be disrupted. Existing routes and distribution centers have been designed around the current Hours of Service rules.
- More trucks having less flexibility for night time operations will result in more congestion during the daytime.
- More trucks and the resulting increased congestion will result in more emissions having a negative impact on the environment.

Given the apparent lack of data by FMCSA's own admission to justify its proposal for sweeping changes to the HOS provisions as opposed to the consistently improving highway safety record as evidenced by the reliable statistical evidence, we have great difficulty in finding a need to change the HOS provisions as proposed. There does not appear to be any evidence that highway safety will be improved by the changes and such changes could have a negative impact. We are reasonably sure the changes will have a negative impact on the industry's productivity and on a truck driver's ability to earn a decent living.

Respectfully submitted,

WISCONSIN MOTOR CARRIERS ASSOCIATION

A handwritten signature in black ink, appearing to read "Thomas A. Howells, Jr.", written in a cursive style.

Thomas A. Howells, Jr.
President