



Bill Graves
President and Chief Executive Officer

November 15, 2011

The Honorable Cass Sunstein
Administrator, Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

VIA Facsimile - 202-395-6102 & VIA Email

Dear Administrator Sunstein:

I appreciated the time you spent in early October to meet with me and other ATA representatives to discuss the truck driver hours of service (HOS) rules. With OIRA currently reviewing FMCSA's draft final rule it is very important to bring to your attention new truck safety data published by FMCSA since we met.

In late October, FMCSA posted final 2009 truck safety performance data on its website. This data, in terms of both numbers and rates, is **overwhelmingly positive**, is a clear indication how well trucking is performing while operating under the current HOS rules, and **further demonstrates FMCSA has no evidence of a safety problem with the current rules**. This data is the latest available from FMCSA and DOT, and is attached for you to consider as you decide whether FMCSA and DOT have any legitimate reason to issue a new rule with significant public policy changes.

Also, in follow up to our discussion on the **restart** issue, below are "findings" and "recommendations" from the single, two-phase laboratory and simulator-based study that FMCSA and DOT suggest is enough 'science' to justify a restart policy change. An objective read makes clear that this single study is insufficient to justify a policy change.

Findings and Recommendations Phase I - Washington State University Restart Research

- *"The key finding of this laboratory research study was that the 34-hour restart provision in the HOS regulations governing property-carrying CMV drivers was sufficiently effective (even, perhaps, unnecessary) for maintaining optimal performance in subjects randomized to a daytime wake/work schedule, but was insufficiently effective—and perhaps even detrimental—for maintaining performance in subjects randomized to a nighttime wake/work schedule."*
- *"...the driving simulator findings should be interpreted as indicating basal capability for driving rather than actual driving performance in the real world."*
- *"...validation of the study findings in a sample of drivers in a real-world field study (such as that currently being sponsored by the FMCSA in conjunction with Transport Canada) is important."*
- *"Further research is needed to compare the "worst case" and "best case" schedules in terms of real world driving performance, safety and cost." (bolding emphasis added)*

Findings and Recommendations Phase II - Washington State University Restart Research

- *"...with regard to maintaining performance in subjects assigned to a nighttime wake/work schedule, restart break containing two biological nights constituted an improvement over the presently mandated 34-hour duration for the restart provision... However, the restart break was not universally as effective at maintaining*

Good stuff.



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performance for subjects assigned to a nighttime wake/work schedule as was the presently mandated 34- hour restart break for subjects assigned to a daytime wake/work schedule. ”

- *“...two biological nights for the restart break represented an improvement over 34 hours for nighttime wake/work schedules, but would be excessively inefficient for daytime wake/work schedules...”*
- *“Further research is needed to study the effectiveness of the restart break in terms of real-world driving performance, safety, and cost.” (bolding emphasis added)*


In both phases, the simulator-based finding is that the **current 34 hour restart is sufficient for daytime drivers and not sufficient for nighttime drivers**. More importantly, however, in both phases it is abundantly clear that the researchers strongly believe that field study research is needed to determine what real world driving performance, safety and cost implications of such a policy change would be.

In supporting the State Department’s recent decision to further study alternative routes for the Keystone XL pipeline, President Obama said in a statement on Thursday, Nov. 10, *“I support the State Department’s announcement today regarding the need to seek additional information about the Keystone XL Pipeline proposal. Because this permit decision could affect the health and safety of the American people as well as the environment, and because a number of concerns have been raised through a public process, we should take the time to ensure that all questions are properly addressed and all the potential impacts are properly understood. The final decision should be guided by an open, transparent process that is informed by the best available science and the voices of the American people.”*

Many restart questions have been raised by professional drivers, motor carriers, and the researchers themselves, and neither FMCSA nor DOT know the potential safety and cost impacts of the proposed restart policy change. Critical highway safety policy decisions by our government deserve no less scrutiny and understanding by government policymakers and the public than environmental and energy decisions.

ATA represents the voice of the American trucking industry and we respectfully request you to task FMCSA to conduct the real-world field study twice urged by the Washington State University researchers. A field study -- something that FMCSA regularly conducts on other issues -- would provide safety, driving performance, and cost data on which an informed restart policy decision could properly be made. Without it, there is no basis for a change.

Thanks again for the time you recently spent discussing these critically important HOS rule issues with ATA.

Sincerely,

Bill Graves

CC: USDOT Secretary Ray LaHood
FMCSA Administrator Anne Ferro

Enclosures:

1. FMCSA’s 2009 Large Truck Crash Overview
2. ATA Summary and Key Findings of Research Used to Justify Proposed Changes to 34-Hour Restart Provision
3. President Obama’s November 10, 2011 Keystone XL Pipeline Announcement (<http://www.whitehouse.gov/the-press-office/2011/11/10/statement-president-state-departments-keystone-xl-pipeline-announcement>)