

May 5, 2010

Via regulations.gov

Mr. Bivan R. Patnaik
Chief, Regulatory Development Division
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Re: Docket No. FMCSA-2009-0354
Direct Final Rulemaking Procedures

Dear Mr. Bivan:

The American Trucking Associations (ATA)¹ submits these comments on the Federal Motor Carrier Safety Administration's (FMCSA) notice of proposed rulemaking (NPRM) on direct final rulemaking procedures.² ATA conditionally supports this proposal since it will provide a more efficient means to conduct non-controversial rulemakings when the standard rulemaking procedures are unnecessary or impractical.

ATA's support of this proposal is conditioned on retention of the provision that the direct final rule would be withdrawn upon receipt of any adverse comments. Naturally, we are concerned that the determination as to whether or not a rule is controversial can sometimes be subjective. Accordingly, it is appropriate to include a provision to withdraw the direct final rule upon the finding by any party that the rule is controversial.

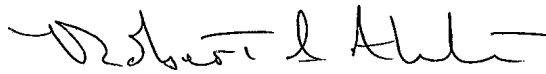
We also agree with the FMCSA's statement in the NPRM that the agency will be incented to make careful determinations as to whether a rule is controversial. In effect, FMCSA will likely be very careful to use this process only for the most non-controversial of rules since it will be undesirable to spend the additional time and resources to ultimately withdraw the rule and republish it for comment. Given this systemic incentive and the protections afforded stakeholders to declare a rule controversial (by simply filing an adverse comment), these direct to final rule procedures seem fair and appropriate.

¹ ATA is a federation of motor carriers, state trucking associations, and national trucking conferences that promotes and protects the interests of the trucking industry. Directly, and through its affiliated organizations, ATA represents more than 37,000 motor carriers of every size, type, and class in the U.S., Canada and Mexico.

² See 75 *Federal Register* 12720-12722 (March 17, 2010).

Thank you for considering ATA's comments on this proposal. If you have any questions with respect to these comments, please contact the undersigned at 703-838-8852 or rabbott@trucking.org.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert S. Abbott". The signature is written in a cursive style with a prominent initial "R" and a long horizontal stroke at the end.

Robert S. Abbott
Vice President
Safety Policy
American Trucking Associations