Summary of American Trucking Associations' Position on Hours-of-Service

Prepared for HOS Listening Sessions
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1. Opening

- The current HOS rules should be retained. The current rules are based on a decade of extensive research and analysis. Additionally, the government now has **extensive data** and information from several years of real-world, operational trucking experience. In the very real world of trucking, highway safety has improved in the past 6 years under these rules.

- The rules are an effective and balanced approach to promote driver alertness. FMCSA also made adjustments that minimized the economic costs of the rules without compromising highway safety, driver health, or the industry's productivity. The Agency has struck a pretty good balance.

- Safety concerns hypothesized by trucking industry critics and those groups opposed to the current rules (e.g., daily use of the 11 hours of drive time, massive weekly driving time) have simply failed to occur in the real world. In January 2009, in a comprehensive response to these organizations, FMCSA strongly refuted these hypotheses with data and rational explanations. Absent new data, these predictions must continue to be rejected by FMCSA and DOT and should, in no way, be a basis for any proposed changes. In rulemaking and in litigation, FMCSA and DOT have said repeatedly that facts, not perception, must support the rules.

2. Important Statistics

A. Fatigue Is a Small Contributor to Serious Crashes

- The Trucks Involved in Fatal Accident (TIFA) database shows that on average, fatigue-related fatal crashes are historically between 1.5 and 2.0 percent of all fatal crashes. However, nearly everyone acknowledges that this fatigue-related range is understated, so one needs to look at the Large Truck Crash Causation Study (LTCCS) for more insight.

- Data for two-vehicle crashes in the LTCCS (the largest percentage of crashes studied) shows large truck driver fatigue was an associated factor in 7.5% of the events and passenger vehicle driver fatigue (not addressed by these rules) was a factor in 14.7% of the crashes.

- These two databases provide the best data available regarding the role of fatigue in causing the crashes, and put a range on the size of the problem between 1.5 and 7.5 %.

- More important than this range, however, is when fatigue-related crashes occur in a driver's shift. For the years 2003-2007, the TIFA database shows that a large majority of the fatigue-related crashes occur in the first 8 hours of driving.

B. Truck Safety and Compliance Has Improved Since the New HOS Rules Have Been in Effect

- Since the new HOS rules took effect in 2004, billions of commercial motor vehicle driver hours have been recorded and hundreds of billions of miles have been traveled by trucks.

- Between 2004-2008, trucking industry safety performance has substantially improved:
  - The number of truck-involved fatalities declined from 5,212 to 4,229 (19%).
  - The number of truck occupant fatalities declined from 803 to 677 (16%)
  - The number of truck-involved injuries declined from 114,000 to 90,000 (21%).

  In addition to these highway safety improvements, according to the U.S. Bureau of Labor Statistics, the occupational injury and illness recordable incidence rate for truck transportation decreased from 6.1 in 2004 to 5.2 in 2008 (15%).

- HOS compliance has also improved. According to FMCSA's website, between 2006 and 2008:

- ❖ The number of driving time violations decreased 22% and Out-of-Service (OOS) decreased 16%.
- ❖ The number of on-duty limit violations decreased 19% and OOS decreased 8%.
- ❖ The number of workweek limit violations decreased 8% and OOS decreased 9%.
- ❖ The number of restart violations decreased 6% and OOS decreased 26%.

- ➢ And, 2009 Commercial Vehicle Safety Alliance Roadcheck data showed the highest ever overall driver compliance rate — 95.7 percent. This was a 20.4 percent improvement over 2008 totals.

3. 11 Hour Drive Time Provides Operational Flexibility and A Cushion for Unexpected Circumstances - Focusing on It Misses the Point

- ➢ Though not used routinely, the 11th hour provides an operational cushion for handling unforeseen circumstances (traffic congestion, weather issues, loading or unloading delays, etc.)

- ➢ For LTL carriers, the 11th hour allow more efficient scheduling allowing for operational savings and allowing some linehaul drivers to return home daily (i.e., meet and turn operations)

- ➢ It's critical for FMCSA to recognize that time on task—or in this case, driving time--is not a primary contributor to fatigue. The number of waking hours, the circadian rhythm, the length and quality of a person's sleep, and individual differences and susceptibility to fatigue have a greater influence on human alertness and fatigue. Therefore, focusing on driving hours (that is, 11 vs. 10) is misplaced emphasis.

- ➢ The driving hours early in the shift, and what transpired prior to these hours, contributes more to fatigue-related crashes than driving time.

- ➢ In other words, FMCSA should address actual risk and not relative risk when considering rules or programs aimed at promoting driver alertness. FMCSA must resist the temptation to propose 'feel good' solutions that are not supported by data or science, and that will have little or no impact on driver alertness.

4. The 34 Hour Restart Provision Benefits Safety and Is Highly Valued by Professional Truck Drivers

- ➢ As stated by FMCSA in a January 2009 letter to a number of organizations critical of this provision, as well as in prior Agency publications, "the longer hypothetical hours in driving and duty schedules" envisioned by critics of the 34 hour restart *"requires an imaginary world with nearly perfect logistics for picking up and delivering a load"*. ATA could not have said this any better.

- ➢ A recent American Transportation Research Institute study on the impact of the new hours of service rules also found that the restart provision was the most preferred feature of the rules by drivers.

- ➢ As FMCSA has stated in prior Agency publications, the *"evidence available indicates that drivers value the 34-hour restart because it gives them more, not less, rest and time off duty, including more time at home, than the pre-2003 rule…"* Information ATA has received from its members clearly indicates that drivers use the restart provision to take extended off-duty periods, typically more than 34 consecutive hours, and typically at home.

- ➢ The bottom line—professional truck drivers use the restart responsibly, they value it and it should be retained as is because it is working as intended.

5. The HOS Rules Have Resulted In Greater Efficiency

- ➢ The operational flexibility provided under the current rules has produced significant societal benefits, which has lead to the betterment of driver's lifestyles (including increased net earnings for some drivers), savings to motor carriers, shippers and, most importantly, U.S. consumers.

- As recently as two years ago, FMCSA's analysis found that reducing the 11-hour driving limit and eliminating or drastically changing the 34-hour restart would result in $2.2 billion in additional annual costs to the nation's economy.

6. New Rules Would Require Major Industry Investments…And For What Reason?

- Since 2004, the industry has invested tens of millions of dollars in people and systems to assure compliance with the HOS rules. For an industry as large and diverse as trucking (600,000 companies, >3.4 million drivers, >7.5 million employees, etc.), these costs are real and are significant. Motor carriers have made operational changes, redesigned terminal networks, physically moved drivers and have integrated these changes into essential business activity. If the rules change again, these industry investments will be huge stranded costs.

- Additionally, shippers had to make significant changes to their operations in order to accommodate compliance with, and to reflect changes resulting from these regulations. The 14-hour on-duty limit produced better cooperation between trucking companies and their shipper customers in performing loading and unloading operations more expeditiously.

- The new rules have provided incentives for both trucking companies and shippers to reduce waiting times for drivers at the loading and unloading docks.

7. Flexibility in Sleeper Berth Usage & Rest Periods Would Benefit Drivers

- Changes to the sleeper berth provision are needed. The current sleeper-berth rule is too restrictive by constraining drivers to one option—split sleeper-berth rest segments into two periods, one of which must be eight hours.

- Greater flexibility for both solo and team drivers, who utilize sleeper berths, and would improve motor carrier safety and promote driver health. Documented sleeper berth use would promote safety and health by:

  - Encouraging naps.
  - Promoting shorter continuous driving periods.
  - Advancing a more "circadian friendly" approach.
  - Helping to reduce highway congestion.
  - And increasing operational flexibility.

- New research (Circadian International's 2007 study and Washington State University's 2008 research report) on split sleeper berth use and driver performance establishes sufficient justification for FMCSA to consider a more flexible sleeper berth provision for solo and team drivers operating sleeper berth equipped trucks.

8. Closing

- Based on FMCSA's exhaustive work and analyses over the past decade, and based on the industry's continuing highway safety improvements, the current rules should be retained, with one exception. FMCSA should give serious consideration to encouraging circadian friendly sleep and naps by providing flexibility in the sleeper berth provision.
- Significant motor carrier operational benefits have also occurred as a result of the implementation of the majority of the provisions, and these advancements need to be retained to assure efficient and safe movement of the nation's freight by trucks.
- To better address the true causes of fatigue in transportation, FMCSA should focus its resources on (1) sleep disorder awareness, training and screening, (2) promoting the use of Fatigue Risk Management Programs, (3) increasing the availability of truck parking on important freight corridors, and (4) partnering with the trucking and shipping communities to develop an educational process that identifies for drivers the location of available truck parking.