



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

C/O: Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, SE  
Room W64-232  
Washington, DC 20590

February 2, 2010

The Honorable Anne S. Ferro  
Administrator  
Federal Motor Carrier Safety Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Dear Administrator Ferro:

The Motor Carrier Safety Advisory Committee (MCSAC) accepted Task 10-01 at the September 2009 meeting. Workgroup 10-01 was created to address this Task to provide information, concepts, and ideas to the Federal Motor Carrier Safety Administration (FMCSA) relating to the hours-of-service (HOS) requirements for drivers of property-carrying vehicles.

The Workgroup met in person December 7 – 9, 2009, and February 1 – 2, 2010; both meetings were public meetings. The Workgroup discussed the Task at the December 2009 meeting, and approved the enclosed final report at the February 2010 meeting. The final report identifies the following broad categories of issues to be considered by the FMCSA staff in the short, medium, and long-term (as defined at the end of the report) when the staff is developing HOS requirements:

- Research and data
- Economics
- Enforcement and compliance
- Technology
- Driver health and training
- Other ideas

I submit the enclosed report, which details the issues under each of the above categories, as recommendations to FMCSA for consideration.

Sincerely,

//signed//

David R. Parker  
Chair  
Motor Carrier Safety Advisory Committee

Enclosure

**Motor Carrier Safety Advisory Committee (MCSAC)  
Task 10-01**

**What is most important for the Federal Motor Carrier Administration (FMCSA) to consider or keep in mind as it reviews the Hours-of-Service (HOS) rule?**

- **Given assumptions** (items MCSAC assumes FMCSA will consider when reviewing the rule, among others):
  - The rule should be simple, enforceable, and measurable.
  - A guiding principle should be how driver health relates to the safety of the public.
  - Consider expert opinion.
  - Consider all available data.
  - Consider feedback from the HOS listening sessions.
  - Consider the appropriateness (implementation vs. enforcement) of a one-size-fits-all approach.
  - Consider the shortage of available rest locations.
  - Consider the failure of academic theories to occur in reality.
  - Consider total cost to industry.
  - Look beyond HOS to address fatigue (e.g., fatigue risk management programs, sleep disorder screening).
  - Reach out to all stakeholders for input; this will decrease the likelihood of legal challenges and increase the longevity of the rule.
  - The Agency's mandated mission is safety. Safety, not profit/productivity, should be considered first and foremost.
  - An HOS rulemaking will require additional resources (i.e., FMCSA should seek additional funds to implement HOS in 2012).
  - Pursuit through regulation and/or legislation of "electronic logging device systems" (defined below) for all Commercial Motor Vehicles (CMVs).

- **Research/Data**

- Short Term*

- Consider all available valid research on all impacts (e.g., health), including new research performed since the 2008 HOS rule. Additionally, consider a review of studies that were not considered under the previous rulemakings (e.g., shift work studies and epidemiological research findings that are related to driver health and HOS). Consistently apply criteria to accept or reject research. Transparency of research (e.g., funding support) should be a priority.
    - Consider each incremental hour on duty and its effect on driver fatigue, beginning with the first hour. Determine whether there is a fatigue breakpoint (a point in time after which performance declines). If so, determine the breakpoint.
    - Consider driving schedules in light of circadian rhythm research and crash rates by time of day while balancing the effects on the general public. For example, trucks in Italy are restricted to driving certain times of day in urban areas.
    - Examine industry safety performance data under the current rule (e.g., crash data, fatalities, injuries, compliance-related data, exposure data).
    - Consider existing data on the total cost to society of all fatigue-CMV crashes (not just fatal injury) (e.g., economic paralysis of section of city/state to clear a CMV crash; medical care for those seriously injured without insurance; lost productivity; fuel costs; air pollution; costs to families of persons injured).

- Consider current practices, research, and technologies within other transportation modes and industries regarding fatigue. For example, the rail and aviation industries have comprehensive programs for fatigue management (i.e., they are broader than only HOS). FMCSA may be able to apply similar thinking to motor carriers, where appropriate.
- Review existing research on activity monitors (e.g., accelerometers) to determine whether and how they may be applied to HOS. Consider their use as a disincentive.
- Consider international approaches to HOS, including those of Canada, the European Union (EU), Australia, and Japan. For example, EU requires electronic logging devices with well-educated enforcement. Also, in Canada drivers may “borrow” driving time from the following day while meeting a weekly average.
- Consider allowing more flexibility with respect to rest breaks and driving time, including, but not limited to, sleeper berth rest breaks.
- Consider assessing a one-size-fits-all approach for the following:
  - Sleeper berth truckers vs. non-sleeper berth truckers who may return home
  - Local drivers vs. long-haul drivers
  - Team drivers vs. solo drivers

#### *Medium Term*

- Consider the impact of time off task (e.g., time management programs, training).
- Consider prior and upcoming studies presenting data that correlates sleep apnea and fatigue-related crashes.
- Consider harmonization of HOS with Canada at the border, with a focus on safety.

#### *Long Term*

- Consider determining what is known and unknown about fatigue. Consider research addressing the following questions: How big of a problem is fatigue? How do time awake, time of day, and time on task contribute to a crash?
- Consider determining a measurable definition of fatigue and associated levels of impairment.
- Data collection at the state level should be improved. There is a need for data on fatigue-related crashes. This data can be captured by law enforcement after crashes. Consider research addressing the following questions: When did the crash occur within the duty period? Is there enough data to support changing the HOS rule? Are the right questions being asked?
- Consider enhancing § 391.41 to include sleep disorders.
- Consider evaluating the concept of multiple duty statuses (driving, loading/unloading, etc.) that have different effects on fatigue.
- Assess the concept of work units; drivers accumulate units that dictate when breaks are required.

### • **Economics**

#### *Short Term*

- Consider the economic environment and its effect on drivers and HOS.
- Consider the entire chain of responsibility (e.g., shippers, receivers, brokers) and the pressure they put on drivers. Detention pay may be an incentive for shippers/receivers to schedule.
- Consider the impact of delaying a truck or driver.

*Long Term*

- Consider the payment of drivers. (Drivers are exempt from overtime provisions of the Fair Labor Standards Act.)
  - Consider the impact of paying drivers by the mile.
  - Consider paying truckers for all of their time.
  - Consider how the EU pays drivers.
  - Consider an appropriate minimum wage for CMV drivers.

- **Enforcement and Compliance**

*Short Term*

- Consider appropriate incentives or disincentives. Consider a reward system (e.g., certification, reduced inspections [see Customs and Border Patrol Customs-Trade Partnership Against Terrorism (C-TPAT) initiative], Comprehensive Safety Analysis (CSA) 2010 credit, more payment for less hours, recognition, etc.) for best practices (e.g., x years with no crashes, x accident-free miles, etc.). Incentives should be driver-specific. Carriers may be able to promote or market the reward.
- Consider including supporting document provisions consistent with existing statutory requirements (trip receipts, bills of lading, gate records, lodging, etc.) and/or in conjunction with electronic logging requirements.
- Consider consistency and uniformity via the Motor Carrier Safety Assistance Program (MCSAP) requirements among law enforcement officers during the roadside inspection process (i.e., proper and consistent application of the rule). This could be achieved by adequate training, oversight, and simplicity of the rule itself.
- If the rule changes, consider reasonable and appropriate phase-in time for industry and enforcement to allow for training, revision of documents, purchase of equipment, etc.

*Long Term*

- Consider an appropriate electronic logging device approach with standardized interfaces (i.e., simple standard form of data presentation at roadside check).

- **Technology**

*Short Term*

- Consider the following elements for inclusion in the definition of “electronic logging device system:”
  - Tamper resistance, including hardened devices integrally synchronized with the vehicle, secure unique national driver ID, secure portable driver data records, verifiable independent certification, secure and controlled processes for the product life cycle from design through installation and support
  - Interoperability with universal, baseline requirements
  - Law enforcement interface standard

*Long Term*

- Consider a new comprehensive study on the use of activity monitors and other technologies in CMVs and their potential impact on driver health.
- Consider exploring and promoting technologies to accurately measure fatigue.

- **Driver Health and Training**

*Short Term*

- Consider how the overall conditions under which drivers are expected to perform and resulting forced behaviors (e.g., time on duty, time on duty while not driving, availability of rest stops, cab environment, idling laws, availability of healthy food) impact driver health (e.g., stress, diabetes, cardiovascular issues, mental health).
  - Assess whether splitting driving hours would create a healthier environment for drivers.
- Consider enhanced uniform training for all drivers and entire supply chain (including sleep, stress, impacts on driving, economics, wellness, etc.).

- **Other ideas**

- The sleeper berth provision is confusing and difficult to comply with – it should be simplified.
- Consider how the entire chain of responsibility may affect driver fatigue.

Short Term: July 2010 (NPRM)

Medium Term: 21 months (Final Rule)

Long Term: Beyond Final Rule