

Congress of the United States  
U.S. House of Representatives  
Committee on Small Business  
2361 Rayburn House Office Building  
Washington, DC 20515-6315

## Memorandum

TO: Members, House Small Business Subcommittee on Investigations, Oversight and Regulations  
FROM: Chairman Mike Coffman  
DATE: June 10, 2011  
RE: Hearing: "Do Not Enter: How Proposed Hours of Service Trucking Rules are a Dead End for Small Businesses."

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At 10:00 AM on June 14, 2011, in room 2360 of the Rayburn Building, the House Small Business Subcommittee on Investigations, Oversight and Regulations will hold a hearing entitled, "**Do Not Enter: How Proposed Hours of Service Trucking Rules are a Dead End for Small Businesses.**" The purpose of this hearing is to explore the Federal Motor Carrier Safety Administration's proposed rule on Hours of Service and discuss how this proposed regulation would harm small businesses by reducing allowed duty times for non-passenger carrying trucks, hindering the ability for owner-operators and other small businesses to deliver goods nationwide.

Witnesses:

**Mr. Paul James**, President of Rex Oil Company, from Denver, CO, representing the Petroleum Marketers Association of America

**Mr. James Burg**, Owner of James Burg Trucking, from Warren, MI, representing the American Trucking Association

**Mr. J.D. Morrissette**, President, Interstate Van Line Operations, Inc., from Springfield, VA, representing the American Moving and Storage Association

**Mr. Rusty Rader**, Co-Owner of J.J. Kennedy, Inc., from Fombell, PA, representing the National Ready Mix Concrete Association

## **BACKGROUND**

Generally, government regulations have a significant economic effect on small businesses. According to a 2010 report released by the Office of Chief Counsel for Advocacy at the Small Business Administration, small businesses bear a large monetary burden as a result of federal regulations. It indicated, “[a]s of 2008, small businesses face an annual regulatory cost of \$10,585 per employee, which is 36 percent higher than the regulatory cost facing large firms (defined as firms with 500 or more employees).”<sup>1</sup>

This hearing will explore the Federal Motor Carrier Safety Administration’s proposed rule<sup>2</sup> on Hours of Service for non-passenger carrying trucks, which would reduce the hours that these motor carriers<sup>3</sup> are able to carry out their duties, as well as require mandatory break periods and introduce more stringent restart times. This regulation is significant because it would result in higher overhead costs for many small businesses that rely on motor carriers to deliver their goods nationwide, while also posing significant difficulties for small business trucking operations by reducing the hours they are able to work, thus reducing their income.

## **HOURS OF SERVICE**

Hours of Service (HOS) regulations are meant to place limits on when and how long truck drivers can be on duty to reduce the likelihood of fatigue-related accidents. These regulations are developed and enforced by the Federal Motor Carrier Safety Administration (FMCSA) at the Department of Transportation<sup>4</sup> pursuant to 49 U.S.C. §31502 and apply to trucks or truck-tractors with a trailer that:

- is involved in interstate commerce and weighs (including loads) 10,001 pounds or more;
- is involved in interstate commerce and has a gross vehicle weight rating or gross combination weight rating of 10,001 pounds; or
- is involved in interstate or intrastate commerce and is transporting hazardous materials in a quantity requiring the placement of hazard placards.<sup>5</sup>

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<sup>1</sup> Nicole V. Crain and W. Mark Crain, “The Impact of Regulatory Costs on Small Firms,” U.S. Small Business Administration, September 2010.

<sup>2</sup> 75 Fed. Reg. 82170-82198

<sup>3</sup> While the Department of Transportation is examining hours of service for several modes of transport, this hearing will focus on non-passenger carrying trucks.

<sup>4</sup> Hours of Service regulations are found in Part 395 of the Federal Motor Carrier Safety Regulations.

<sup>5</sup> “Interstate Truck Driver’s Guide to Hours of Service,” from the Federal Motor Carrier Safety Administration, available at <http://www.fmcsa.dot.gov/rules-regulations/truck/driver/hos/fmcsa-guide-to-hos.PDF>.

In 1995, after 33 years without changes to HOS rules, the Interstate Commerce Commission Termination Act<sup>6</sup> required the Federal Highway Administration (FHWA) to address fatigue-related motor carrier safety issues. As a result of this Act, FHWA issued an Advance Notice of Proposed Rulemaking (ANPRM)<sup>7</sup> to review research studies on HOS-related issues. Several years later, FMCSA began developing its HOS rules,<sup>8</sup> eventually resulting in a rule addressing property-carrying drivers, which permits a driver to drive not more than 11 hours in a 14 consecutive-hour time period, following 10 consecutive hours off duty.<sup>9</sup> Additionally, the 2003 rule permits the driver's 7-or 8-day maximum duty limit to be "reset" following 34 consecutive hours off duty.

Below is a chart comparing the primary changes in Hours of Service rules from the introduction of rules in 1939 through the current rule:

**Comparison of Hours-Of-Service Times<sup>10</sup>**

	<b>1939</b>	<b>1962</b>	<b>2003</b>	<b>2005</b>	<b>2007-2008</b>
<b>Driving</b>	10 hours	10 hours	11 hours	11 hours	11 hours
<b>Duty Period</b>	24 consecutive hours from duty start time	15-hour driving window, extendable by breaks	14-hour driving window, not extendable by breaks	14-hour driving window, not extendable by breaks	14-hour driving window, not extendable by breaks
<b>Off-duty</b>	8 hours	8 hours	10 hours	10 hours	10 hours
<b>7/8 Day Limits</b>	60/70 hours in 7/8 days	60/70 hours in 7/8 days	60/70 hours in 7/8 days	60/70 hours in 7/8 days	60/70 hours in 7/8 days
<b>Restart of 60/70 Hour Period</b>	None	None	34-hour restart	34-hour restart	34-hour restart
<b>Sleeper Berth</b>	2 undefined periods totaling 8 hours	2 periods totaling 8 or more hours; each a minimum of 2 hours	2 periods totaling 10 or more hours; each a minimum of 2 hours.	2 periods totaling 10 or more hours; one at least 8 consecutive hours; other at least 2 off	2 periods totaling 10 or more hours; one at least 8 consecutive hours; other at least 2 off duty

<sup>6</sup> Pub. L. No. 104-88

<sup>7</sup> 61 Fed. Reg. 57251

<sup>8</sup> On May 2, 2000, FMCSA issued a Notice of Proposed Rulemaking that would have created five different classes of drivers with HOS limits specifically tailored to each separate industry. Over 53,000 comments were received, primarily opposed to the complexity and difficulty in determining which rules would apply to drivers who hauled different materials. See 65 Fed. Reg. 25540

<sup>9</sup> The Hours of Service Rule was published in April 2003 and was implemented beginning in January 2004. For more information, see 68 Fed. Reg. 22456-22517 (April 28, 2003).

<sup>10</sup> The 1962 rules remain in effect for passenger-carrying commercial motor vehicles.

				duty or sleeper	or sleeper
<b>Time period reference</b>	24 hour period from duty start time	Hours accumulated following 8 hours off duty	Hours accumulated following 10 hours off duty	Hours accumulated following 10 hours off duty	Hours accumulated following 10 hours off duty

Source: Federal Motor Carrier Safety Administration

Although litigation was initiated in the D. C. Circuit Court of Appeals after the 2003 HOS rule was published, [by Public Citizen and other safety advocates]<sup>11</sup> these rules have gone largely unchanged in practice since that time. The Court did not vacate previous rules due to policy implications, rather noting that the Department of Transportation (DoT) did not address the statutorily mandated analysis on driver safety in the 2003 rule,<sup>12</sup> as well as making procedural errors in the rulemaking process in 2005 by not satisfying the Administrative Procedure Act requirements to explain its reasoning and provide an opportunity for notice and comment on portions of the regulatory evaluation.<sup>13</sup> Maintaining their decision to pursue a rule which was “based on an exhaustive scientific review and designed to ensure truck drivers get the necessary rest to perform safe operations and the quality of life they deserve,”<sup>14</sup> FMCSA published a new final rule on November 19, 2008, which retained the 2005 rules, including the 11 hour driving limit and 34 hour restart provisions. This rule became effective on January 19, 2009.

The promulgation of the 2008 HOS rule prompted safety advocates to once again file court papers to challenge the latest publication of the rule, citing that longer service hours in addition to outside stresses, including delivery deadlines encourage unsafe driving practices.<sup>15</sup> This case

<sup>11</sup> In 2004, the Court issued an opinion that the 2003 HOS rule was arbitrary and capricious because the Agency failed to consider the impact of the rule on driver health. Other cases were filed to review the 2005 final rule, culminating in the consolidation of cases, which included roughly 17 parties as litigants, interveners and amicus. As a result of the FMCSA 2008 Final Rule, Public Citizen et. al., submitted a petition for reconsideration, which resulted in the American Trucking Association filing to intervene in the matter. Congress directed that the 2003 rules would remain in effect until the effective date of a new final rule addressing the issues raised by the Court or September 30, 2005, whichever came first. See, Pub. L. 108-310

<sup>12</sup> *Public Citizen et. al. v. FMCSA*, 374 F.3d 1209

<sup>13</sup> *OOIDA v. FMCSA*, 494 F.3d 188

<sup>14</sup> News Release provided by the U.S. Department of Transportation regarding the 2008 Hours of Service Rule, from the Federal Motor Carrier Safety Administration website (November 18, 2008). Available at <http://www.fmcsa.dot.gov/about/news/news-releases/2008/111808.htm>.

<sup>15</sup> See, “Initial Brief for Petitioners,” from the Public Citizen website. Available at <http://www.citizen.org/documents/HOS%203rd%20Round%20Appellees%20Initial%20Brief%202008-08-27%20No%20Exhibits.pdf>

ultimately resulted in a settlement agreement in October 2009<sup>16</sup> to hold the Petition for Review in abeyance pending publication of a new HOS Notice of Proposed Rulemaking that essentially required DoT and FMCSA to ‘review and reconsider’ its HOS rules.<sup>17</sup> This agreement did not, however, require FMCSA to make any additional changes to the HOS rule.

### **Effectiveness of the Current Hours of Service Rule**

Though public safety advocates have initiated litigation on HOS citing safety concerns, there has been a distinct decline in large truck-related crashes since the 2003 rule was implemented, including a reduction of fatal crashes by over 33 percent and a decrease of crashes resulting in injury by roughly 39 percent in the years that data is available, even as the vehicle miles traveled (VMT) have increased by roughly 7 billion miles over the same period.<sup>18</sup>

Notwithstanding the demonstrable success of the 2003 HOS rule, FMCSA deviated from its previous position and proposed different, more complex, and restrictive HOS rules that would effectively take control away from experienced drivers and small business owners (see chart below) by reducing daily driving and working time and instituting mandatory rest periods.

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<sup>16</sup> In a petition filed on March 9, 2009 in the U.S. Court of Appeals for the District of Columbia Circuit, Public Citizen, along with Advocates for Highway and Auto Safety, the Truck Safety Coalition, and the International Brotherhood of Teamsters, asked the court for the third time to review the final hours-of-service rule issued by FMCSA. This petition sought review of the HOS regulation issued by FMCSA on November 13, 2008 and published in the Federal Register on November 19, 2008. The 2008 regulations were similar to the 2003 and 2005 rules promulgated by FMCSA. For more information, see “*Public Citizen, et al. v. Federal Motor Carrier Safety Administration Joint Motion of Petitioners and Respondent to Hold Case in Abeyance Pending the Issuance of a New Notice of Proposed Rulemaking*,” U.S. District of Columbia Circuit Court of Appeals Case No 09-1094 from the Public Citizen website. Available at <http://www.citizen.org/documents/HOS%20Joint%20Motion%20to%20Hold%20in%20Abeyance.pdf>.

<sup>17</sup> According to the agreement, FMCSA was to publish an HOS Notice of Proposed Rulemaking within 9 months and a Final Rule within 21 months of the agreement. On December 29, 2010 FMCSA published its Notice of Proposed Rulemaking on HOS [75 Fed. Reg. 82170]. On May 9, 2011, FMCSA published a notice that four additional research studies had been added to the docket for consideration in this rulemaking with a comment period ending June 8, 2011 [76 FR 26681]. This notice also indicated that FMCSA would not be able to meet the July 26, 2011 deadline for publishing a final rule.

<sup>18</sup> To be clear, these are accidents that involve large trucks, and did not assign blame to trucks in the incidents; furthermore, data from the National Highway Traffic Safety Administration are current to the year 2009. See “Traffic Safety Facts -2009 Data,” from the National Highway Traffic Safety Administration at the U.S. Department of Transportation, Publication# DOT HS 811 388, Washington, DC, 2011.

**FMCSA HOURS-OF-SERVICE RULEMAKING, RIN 2126-AB-26**  
**Primary Changes Proposed for Property-Carrying Drivers**

<b>PROVISION</b>	<b>CURRENT RULE</b>	<b>PROPOSED RULE</b>	<b>NOTES</b>
<b>"DAILY" DUTY PERIOD</b>			
<b>Off-duty period</b>	10 consecutive hours	No change	
<b>"Driving Window"</b>	For most drivers, <b>14 consecutive hours</b> (may continue on-duty/not driving after 14 hours);  "Regional" allowed <b>one 16-hr. period "weekly"</b> but release from duty required after 16 hrs;  Non-CDL within 150 miles allowed <b>two 16-hr. periods "weekly"</b> (may continue on-duty/not driving after 16 hours).	<i>For all property-carrying CMV drivers(unless excepted):</i>  <b>14 consecutive hours with release from duty required</b> at end of driving window;  <b>16 consecutive hours no more than twice "weekly" with release from duty required</b> at end of driving window.	<u>Any on-duty time</u> after 14th hour constitutes use of a 16-hr. period.
<b>Max. on-duty within driving window</b>	Normally <b>14 hrs; 16 hours once per week</b> for "regional" drivers; <b>16 hours twice per week</b> for non-CDL within 150 miles.	<b>13 hours</b>	Proposal not applicable to non-CDL 150 mile short-haul drivers. 13 hours during 14- or 16-hour driving windows for others.
<b>Max. driving within driving window</b>	<b>11 hours</b>	<b>10 or 11 hours (Both being considered)</b>	
<b>Limit on consecutive hours of driving</b>	<b>None</b>	May drive only if it has been <b>7 hours or less since last off-duty period of at least 30 minutes</b>	Proposal not applicable to non-CDL 150 mile short-haul drivers.
<b>"WEEKLY" DUTY PERIOD</b>			
<b>Max. on-duty hours</b>	60 hours in 7 days/ 70 hours in 8 days	No change	
<b>"Restart"</b>	<b>34 consecutive hours</b>	<b>See "limits on restarts" below.</b>	
<b>Limits on Restarts</b>	<b>None</b>	(1) Must include <b>two periods between</b>	Driver must designate the

		Midnight-6 a.m.; (2) May <b>only be used once per week.</b>	period being used as a restart
SLEEPER BERTH			
<b>When used as substitute for 10 consecutive hours off duty</b>	Two periods: One at least 8 consecutive hours in SB; other at least 2 hours SB or off-duty. The shorter period does NOT extend the driving window.	Continue 8/2 hour periods, but apply same new driving, on-duty, and duty-period limits as proposed for non-SB drivers.	
DEFINITION OF ON-DUTY TIME			
<b>On-duty time</b>	Includes <b>any</b> time in CMV except sleeper-berth.	<b>Does not include any time resting in a parked CMV. In moving CMV, does not include up to 2 hours in passenger seat immediately before or after 8 consecutive hours in sleeper-berth.</b>	Also applies to passenger-carrying drivers.
OILFIELD EXEMPTION			
<b>Oilfield exemption</b>	"Waiting time" for certain drivers at oilfields (which is off-duty but does extend 14-hr duty period) must be recorded and available to FMCSA, but <b>no method or details are specified</b> for the recordkeeping.	"Waiting time" for certain drivers at oilfields <b>must be shown on RODS or electronic equivalent as off duty and identified by annotations</b> in "remarks" or a separate line added to "grid."	

Source: Federal Motor Carrier Safety Administration

FMCSA acknowledged flaws in the data supporting the change in “the rule,” admitting that the “design of HOS rules raises conceptual and empirical challenges. The impact of such rules on CMV safety is difficult to separate from the many other factors that affect heavy-vehicle crashes.”<sup>19</sup> The proposed rule also notes that there has been no decline in highway safety since the 2003 rule was implemented, but also fails to accept that current HOS rules have played a role in the reduction of crashes.<sup>20</sup>

The FMCSA Regulatory Impact Analysis also utilized new methodologies to project net benefits of the rule as compared to the 2003, 2005, and 2008 rules. Their analysis calculates the cost of

<sup>19</sup> 75 Fed. Reg. 82171 (December 29, 2010).

<sup>20</sup> Ibid.

crashes by using outdated data sets with inflated crash figures. One example of this is FMCSA's assumption that long-haul truckers will engage in 434,000 crashes per year<sup>21</sup> – rather than the current crash rate experienced in 2009 (286,000 crashes – fault is not determined),<sup>22</sup> the year that the most current data is available, which inflates the benefits of the rule. Another example is FMCSA's use of the Large Truck Crash Causation Study (LTCCS), which cited fatigue as an 'associated factor' in 13 percent of truck crashes.<sup>23</sup> However, the data collected for the LTCCS was collected before the HOS rule was implemented, and the figure is almost double the 7 percent estimate of average fatigue risk used in the 2007 RIA.<sup>24</sup> By using outdated crash data, FMCSA has exaggerated its estimates on the net safety benefit to support the proposed rule.

FMCSA also utilized a new model for calculating carrier logistics to determine changes in productivity by using estimates based on the Agency's "judgment and knowledge of the industry."<sup>25</sup> Under these calculations, FMCSA estimated that the proposed rule would reduce productivity by 2.8 percent, rather than the 7.1 percent impact noted in the 2007 analysis<sup>26</sup> – leading to an increase in the net benefits of the rule by over \$1.5 billion annually.<sup>27</sup>

### **Effect of the Proposed Hours of Service Rule on Small Businesses**

The vast majority of the trucking community in the United States is comprised of small businesses. According to FMCSA, as of November 2009, of the 591,000 registered carriers in the United States, 99 percent<sup>28</sup> have less than 20 trucks in their fleet and 88 percent of carriers have fleets of 6 trucks or less.<sup>29</sup> According to the Bureau of Labor Statistics, the average wage of heavy and tractor-trailer truck drivers is \$37,770 annually,<sup>30</sup> which is typically based upon the distance driven, rather than an hourly wage. Furthermore, the number of professional drivers has

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<sup>21</sup> "2010-2011 Hours of Service Rule Regulatory Impact Analysis," from the Federal Motor Carrier Safety Administration at the U.S. Department of Transportation, RIN 2126-AB26 (December 20, 2010).

<sup>22</sup> Publication# DOT HS 811 388

<sup>23</sup> "Report to Congress on the Large Truck Crash Causation Study," from the Federal Motor Carrier Safety Administration at the U.S. Department of Transportation, Publication# MC-R/MC-RRA (March 2006).

<sup>24</sup> "Regulatory Impact Analysis for Hours of Service Options," From the Federal Motor Carrier Safety Administration at the U.S. Department of Transportation, FMCSA-2004-19608-2529 (December 7, 2007)

<sup>25</sup> Publication# MC-R/MC-RRA

<sup>26</sup> FMCSA-2004-19608-2529

<sup>27</sup> 2010-2011 Hours of Service Rule Regulatory Impact Analysis

<sup>28</sup> 76 Fed. Reg. 5544

<sup>29</sup> Presentation by the Federal Motor Carrier Safety Administration at the Operation Lifesaver Conference, Philadelphia, PA (April 13, 2010).

<sup>30</sup> "Occupational Employment and Wages, May 2010," from the U.S. Bureau of Labor Statistics at the U.S. Department of Labor, available at [http://www.bls.gov/oes/current/oes\\_nat.htm#53-0000](http://www.bls.gov/oes/current/oes_nat.htm#53-0000).



declined from 1,624,740 in 2005<sup>31</sup> to 1,466,740 in 2010<sup>32</sup> even though the number of vehicle miles travelled has increased by billions in the same time period.

One way this rule would harm commerce is by limiting the amount of on-duty time for drivers. While the current rule allows 14 hours on-duty time during the driving window, the new rule would allow for only 13 hours. Additionally, FMCSA is deliberating on whether to decrease the maximum allowable drive time within the driving window from 11 to 10 hours. The new HOS rule would also dictate when drivers can restart their driving periods, mandating the inclusion of two nighttime periods from midnight to 6 a.m.<sup>33</sup> This provision requires many drivers who miss the midnight deadline to extend their restarts to 48 hours or longer, which exceeds the 34-hour provision. Not only would this result in a decline in productivity of the small business driver, but it would also force small businesses reliant on interstate and intrastate transport to increase their overhead costs by seeking more drivers at a time when there is a marked shortage in the pool of qualified professional truckers.<sup>34</sup>

Another item of concern is the introduction of a required half hour rest period, removing the flexibility from the driver to determine when he or she should rest while on duty by effectively forcing a rest period before the seventh consecutive hour of driving, not taking into account the potential for driver fatigue to increase after the mandatory break rather than alleviating fatigue. Furthermore, the rest period restrictions pose additional complexity for drivers and enforcement officials.

In a review of the FMCSA Regulatory Impact Analysis conducted by Edgeworth Economics<sup>35</sup>, it was estimated that the FMCSA proposal would result in a “net cost of \$320 million per year. That is, we find that FMCSA has overstated the net benefits of the proposed rule by about \$700 million annually and that the proposed rule would impose a net cost on society, rather than a net

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<sup>31</sup> “Occupational Employment and Wages, May 2005,” from the U.S. Bureau of Labor Statistics at the U.S. Department of Labor, available at <http://www.bls.gov/oes/2005/may/oes533032.htm>.

<sup>32</sup> Occupational Employment and Wages, May 2010

<sup>33</sup> Ibid.

<sup>34</sup> According to data provided by the Bureau of Labor Statistics at the U.S. Department of Labor, between May 2004 and May 2010 there was a decrease of 86,630 Heavy and Tractor-Trailer Truck Drivers, even as the vehicle miles traveled have increased by billions. By essentially forcing small businesses to increase the number of trucks on the road, it is conceivable that these new drivers would be inexperienced and pose safety concerns as well. See U.S. Bureau of Labor Statistics Occupational Employment Statistics, available at [http://www.bls.gov/oes/2004/may/oes\\_stru.htm](http://www.bls.gov/oes/2004/may/oes_stru.htm).

<sup>35</sup> This review was commissioned by American Trucking Associations. See “Review of FMCSA’s Regulatory Impact Analysis for the 2010-2011 Hours of Service Rule,” Edgeworth Economics 2011.

benefit as claimed by FMCSA.”<sup>36</sup> The study concluded that implementation of the proposed rule would cost the trucking industry \$2.5 billion annually.<sup>37</sup>

### **Status of the Proposed Hours of Service Rule**

As previously noted, FMCSA published a Notice of Proposed Rulemaking on December 29, 2010,<sup>38</sup> and after the initial comment period ended on March 4, 2011, FMCSA subsequently posted a notice in the May 9, 2011, Federal Register providing four supplemental studies on driver safety<sup>39</sup> with a comment closure date of June 8, 2011. The introduction of new research effectively postponed the date that the final rule will be published, which was initially July 26, 2011. To date, over 32,000 comments have been received on this docket, primarily opposed to the proposed rule.<sup>40</sup>

### **CONCLUSION**

With the stated purpose of improving safety, flexibility and understandability, FMCSA has proposed a new Hours of Service rule that reduces the daily maximum driving limit, decreases the maximum on-duty time limit, requires mandatory breaks, and changes the current 34-hour restart provision. This rule is proposed despite marked reductions in truck-related accidents since the implementation of the 2003 rule. Not only would the implementation of the proposed rule have inconclusive additional safety benefits, but would also pose an additional undue burden on small businesses that engage in the transportation of goods (by limiting drivers’ earning capacity) as well as increasing overhead costs of small businesses reliant on land transportation to hire new (and potentially inexperienced) drivers to meet their delivery needs.

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<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> The comment period ended on March 4, 2011. See 75 Fed. Reg. 82170

<sup>39</sup> Blanco, M., Hanowski, R., Olson, R., Morgan, J., Soccolich, S., Wu, S.C., and Guo, F., “The Impact of Driving, Non-Driving Work, and Rest Breaks on Driving Performance in Commercial Motor Vehicle Operations,” FMCSA, April 2011; Jovanis, J.P., Wu, K.F., and Chen, C., “Hours of Service and Driver Fatigue--Driver Characteristics Research,” FMCSA, April 2011; Sando, T., Angel, M., Mtoi, E., and Moses, R., “Analysis of the Relationship Between Operator Cumulative Driving Hours and Involvement in Preventable Collisions,” Transportation Research Board of the National Academies’ 2011 90th Annual Meeting, Paper No.: 11-4165, November 2010; and Sando, T., Mtoi, E., and Moses, R., “Potential Causes Of Driver Fatigue: A Study On Transit Bus Operators In Florida,” Transportation Research Board of the National Academies’ 2011 90<sup>th</sup> Annual Meeting, Paper No.: 11-3398, November 2010. See 76 Fed. Reg. 26681-26682

<sup>40</sup> Public Submissions on Docket ID# FMCSA-2004-19608, from the Regulations.Gov website. Available at <http://www.regulations.gov/#!docketDetail;dct=FR+PR+N+O+SR;rpp=10;po=0;D=FMCSA-2004-19608>.