

**OPENING REMARKS, AS DELIVERED,  
OF FMCSA ADMINISTRATOR ANNE S. FERRO**

**BEFORE THE HOUSE COMMITTEE ON SMALL BUSINESS  
SUBCOMMITTEE ON CONTRACTING AND WORKFORCE**

***The Effects of the New Hours of Service Regulations on Small Business***

**NOVEMBER 21, 2013**

Chairman Hanna, Ranking Member Meng, and Members of the Subcommittee – thank you for inviting me to discuss the impacts on small businesses of the hours-of-service rule.

The top priority of the Federal Motor Carrier Safety Administration is Safety - reducing fatalities and injuries due to large truck and bus crashes. According to the National Traffic Highway Safety Administration, in 2012, nearly 4,000 people were killed in large truck crashes for an increase of almost 4 percent from 2011.

Truck drivers work some of the toughest and longest hours of anyone, and in some of the most difficult conditions possible. It is a demanding and underappreciated job. Our changes to the hours of service rules will help truck drivers avoid long term health problems that can be caused by these demanding schedules and will help prevent an estimated 1,400 crashes, 560 injuries, and save 19 lives a year by reducing the risk of fatigue related crashes. These 19 lives could be your daughter's kindergarten class, your son's little league team or your own extended family.

This rule was initiated by a Congressional requirement in the 1995 ICC Termination Act. After a series of lawsuits, FMCSA developed the current rule through solid data and an unprecedented level of transparency, soliciting feedback from thousands of stakeholders including small business owners, drivers, shippers, safety advocates, law enforcement and trucking companies. Recently, the DC Circuit Court largely upheld the rule.

Critics have focused their attention on the change we made to the “34 hour restart” provision. A “restart” allows a driver to work more than the maximum limits of 60 hours in 7 days or 70 hours in 8 days. Our rule limits the restart to once a week, which reduces a driver’s work week to 70 hours *on average*. A “restart” is voluntary and only a small percentage of drivers drive the hours necessary to ever need a restart.

DOT began examining the possibility of a restart as early as 1998 when we first assembled an Expert Panel to review the sleep science associated with excessively long work periods.

Prior to 2003, no “restart” provision existed, meaning many drivers found themselves a long way from home waiting to have the hours to be able to drive again. The 1998 Panel recommended “a continuous recovery time of sufficient length to include at least two midnight to 6 a.m. uninterrupted time periods.”

In other words, the WSU study at issue today confirmed over a decade of sleep research related to the effects of fatigue on CMV operation. But we still sought public input on the WSU study and the public convinced us that

we could further shorten the rest period from 1 to 5 am with no loss in safety.

Many critics want us to return to the restart provision implemented in 2003. This is the same restart that the Courts criticized when they threw out the 2003 rule. It is the same restart that had one - and only one - study justifying it: a study conducted by the American Trucking Associations funded by a Congressional earmark. That study was a lab study with fewer participants than the 2-phase WSU study.

This rule will help save the trucking industry and the nation as a whole an estimated \$87 billion a year and prevent the irreversible consequences suffered by families involved in truck crashes.

In fact, even ATA's own research is failing to show significant impacts with the new rule. The only data they have produced shows that drivers' schedules hardly changed after it went into effect. With no change in schedules, economic impacts would be minimal, if any.

Bringing the restart research full circle, I am happy to report that my Agency is working diligently to complete the MAP-21 required field study to verify the WSU findings. The data collection is complete and I look forward to sharing our findings once our review is complete.

In closing, I want to draw on my recent experiences during a recent two-day road trip with Leo Wilkins, a professional owner operator. My time with this remarkable small-business owner helped me better understand the challenges truck drivers face and to experience first-hand what the Agency's

safety rules mean in a driver's daily life. I also saw how the shipper and receiver drive the un-predictability that plagues the trucking industry. Exempt from the Fair Labor Standards, for more than seven decades, truck drivers by and large are paid by the mile, and the hours a driver might spend waiting for a load could cost that driver a day's pay.

Driver pay and extreme loading dock delays have a significant impact on drivers' ability to be efficient, professional, and safe. In short, uncompensated delays force drivers to press legal and physical limits to capture a day's pay. The logistics industry gets this time free on the backs of the drivers and small businesses. Uncompensated detention time needs your attention, because what makes the job better, often makes the job safer.

Keeping people safe is not a choice – it must be achieved with a mix of effective programs and enforcement that sets a level playing field where companies that put safety first are not competing against those that push limits or cut corners. Saving lives is FMCSA's fundamental mission and our solemn obligation to the public. Again, thank you for inviting me to speak today. I look forward to answering your questions.

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