



Make Trucking Great Again Association

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Dear Sir or Madam:

DATE 9/26/2022

Federal Motor Carrier Safety Administration

1200 New Jersey Avenue SE

Washington, DC 20590- 0001

On behalf of the Make Trucking Great Again Association ("MTGAA"), please accept this letter as a petition to amend the Hours of Service 34-hour reset for drivers.

MTGAA has the following concerns and therefore proposes to reform the Hours of Service of Drivers, specifically the 34-hour reset, pending further studies regarding the effect the exemption will have on road safety, as well as uphold a fair and reasonable regulation for the truckers' community.

**First**, the Hours-of-Service Final Rule (December 27, 2011) sole goal is to reduce excessively long work hours that increase the risk of fatigue-related crashes and long-term health problems for drivers.<sup>1</sup> However, FMCSA's data and statistics regarding 2011-2019 CMV facts recorded that only a small portion of less than 2% large truck crashes showed driver impairment,

specifically fatigue, as one of the contributing factors that caused the road accident. On the other hand, an average of 96% large truck crashes recorded no driver impairment-related factors.<sup>2</sup> A summary of this 9-year recorded data is presented below:

Large Trucks Fatal Crashes Factor	2011 <sup>3</sup>	2012 <sup>4</sup>	2013 <sup>4</sup>	2014 <sup>4</sup>	2015 <sup>5</sup>	2016 <sup>5</sup>	2017 <sup>6</sup>	2016 <sup>6</sup>	2019 <sup>6</sup>
Impairment (asleep or fatigue)	1.8%	1.7%	1.4%	1.8%	1.4%	1.7%	1.3%	1.3%	1.4%
No Driver Impairment-Related Factors Recorded	95.9%	96.0%	96.1%	96.1%	96.7%	96.2%	95.6%	95.4%	95.3%

Based on the facts presented, driver impairment is not a significant factor in large truck crashes. Moreover, it is cited in the Hours of Service of Drivers, Final Rule, that the lowest percentage recorded before the Final Rule was 1.4% in 2001 followed by 1.5% in 2002, 2004 and 2006:<sup>7</sup>

*The lowest rate occurred before the rule (1.4 percent in 2001) followed by 1.5 percent in 2002, 2004, and 2006, before and after the rule.*

<sup>1</sup> See Final Rule, Supplementary Information § I.

<sup>2</sup> <https://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts>

<sup>3</sup> <https://www.fmcsa.dot.gov/safety/research-and-analysis/large-truck-and-bus-crash-facts-2010>

<sup>4</sup> <https://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2014>

<sup>5</sup> <https://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2016>

<sup>6</sup> <https://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2019>

<sup>7</sup> See Final Rule, Supplementary Information § IV.

Therefore, we can conclude that 9 years after the Final Rule, only 2 years resulted in a lower percentage of large truck fatal crashes caused by fatigue, with a mere difference of 0.1%.

Moreover, despite the insignificant changes in the number of large truck fatalities caused by fatigue, the survey conducted by National Highway Traffic Safety Administration shows that the number of large trucks involved in fatal and injury crashes continued to increase.<sup>8</sup>

The table below shows the number of large trucks involved in fatal and injury crashes from 2011, the year that the Drivers Hours of Service Final Rule was implemented.

**Large Trucks Involved in Fatal and Injury Crashes, and Involvement Rates, 2011–2020**

Year	Number of Large Trucks Involved	Number of Large Trucks Registered	Involvement Rate per 100,000 Registered Large Trucks	Large-Truck VMT (millions)	Involvement Rate per 100 Million Large-Truck VMT
<b>Fatal Crashes</b>					
2011	3,633	10,270,693	35.37	267,594	1.36
2012	3,825	10,659,380	35.88	269,207	1.42
2013	3,921	10,597,356	37.00	275,017	1.43
2014	3,749	10,905,956	34.38	279,132	1.34
2015	4,075	11,203,184	36.37	279,844	1.46
2016	4,562	11,498,561	39.67	287,895	1.58
2017	4,805	12,229,216	39.29	297,593	1.61
2018	4,909	13,233,910	37.09	304,864	1.61
2019	5,033	13,085,643	38.46	300,050	1.68
2020	4,842	13,479,382	35.92	302,141	1.60
<b>Injury Crashes</b>					
2011	62,534	10,270,693	609	267,594	23
2012	76,621	10,659,380	719	269,207	28
2013	73,089	10,597,356	690	275,017	27
2014	88,473	10,905,956	811	279,132	32
2015	87,307	11,203,184	779	279,844	31
2016 <sup>†</sup>	102,080	11,498,561	888	287,895	35
2017 <sup>†</sup>	106,733	12,229,216	873	297,593	36
2018 <sup>†</sup>	112,253	13,233,910	848	304,864	37
2019 <sup>†</sup>	118,527	13,085,643	906	300,050	40
2020 <sup>†</sup>	106,902	13,479,382	793	302,141	35

Sources: FARS 2011–2019 Final File, 2020 ARF; NASS GES 2011–2015; CRSS 2016–2020; VMT and Registered Vehicles - Federal Highway Administration  
<sup>†</sup>CRSS estimates and NASS GES estimates are not comparable due to different sample designs. Refer to end of document for more information about CRSS.

When Congress suspended the 34-hour reset, FMCSA also conducted a field study to determine if the regulation should go back into effect. In March 2017, FMCSA published the result of the study concluding that the 34-hour reset provided no real safety benefit.<sup>9</sup>

Furthermore, another exploratory study of hours of service and its safety impact on motorists were made by Jason R Anderson, Jeffrey D Ogden, William A Cunningham, and Christine Schubert-Kabban. The research cited that:

*The new regulation set forth in July 2013, was supposed to lessen fatigue and thus reduce accidents caused by truck drivers. The current HOS regulation was in place for approximately 16 months, producing enough*

*data for a statistical analysis of its effects on truck driver safety. This research found that by comparing truck driving safety data prior to the change in July of 2013 (the unlimited restart provision) to truck driving safety data during the enactment of the 1 restart per 168-h restriction and 1 a.m. to 5 a.m. provision that **the percent of accidents caused by truck drivers did not decrease**. Furthermore, this research found that **the HOS changes implemented on July 1, 2013, have not led to a significant change in accidents involved and caused by truck drivers**. These results suggest that other factors appear to be linked to motorists' safety, rather than the updated HOS regulation.*<sup>10</sup>

Many drivers reacted negatively to the vast and constant changes over the years, especially the safe drivers who kept a clean driving record for decades. But still, most truckers followed all rulemakings, although external factors out of their hands caused 96% of the crashes. Studies were starting to question whether FMCSA's hours of service rulemaking for truckers has improved safety. Andrew Balthrop, study co-author and research associate at UA, said in a press release.

*"Drivers have reacted in ways the FMCSA has not fully anticipated, and these behaviors should be accounted for as the FMCSA revisits their hours-of-service policies,"*<sup>11</sup>

<sup>8</sup><https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813286>

<sup>9</sup><https://www.ccjdigital.com/business/article/14938821/34-hour-restart-regs-suspended-since-2014-officially-buried-by-fmcsa#:~:text=recaptcha%20error%20occurred.-,34%2Dhour%20restart%20regs%2C%20suspended%20since,2014%2C%20officially%20buried%20by%20FMCSA&text=The%20limitations%20for%20truck%20drivers,Carrier%20Safety%20Administration%20on%20Thursday.>

<sup>10</sup>[https://www.researchgate.net/publication/309660777\\_An\\_exploratory\\_study\\_of\\_hours\\_of\\_service\\_and\\_its\\_safety\\_impact\\_on\\_motorists](https://www.researchgate.net/publication/309660777_An_exploratory_study_of_hours_of_service_and_its_safety_impact_on_motorists)

<sup>11</sup><https://www.govinfo.gov/content/pkg/CHRG-113hrg85596/html/CHRG-113hrg85596.htm>

<sup>12</sup><https://www.federalregister.gov/documents/2020/06/01/2020-11469/hours-of-service-of-drivers>

**Second**, The HOS Final Rule document cited:

*"In September 2010, ATA submitted data to the HOS docket based on analyses of duty time for drivers. In the first sample, ATA looked at records for 3 months for over 118,000 drivers, mostly from the truckload sector; the data indicated that drivers were averaging 43.6 hours on duty in 7*

days. In a smaller data set (149 drivers and records for 1 month), ATA reported that the drivers averaged 57.5 hours on duty in 8 days (which is the equivalent to 50.3 hours in 7 days)."<sup>12</sup>

This analysis can't conclude that most drivers are not affected by the provision or that drivers don't prefer higher cycle hours. Instead, it concludes that the drivers were trying to comply with the HOS rules. Limited cycle hours were already enforced way back in 1938.

Moreover, the reliability of the analysis was not measured and considered before concluding about the impact on drivers. If we look closely at the study, the process of selecting the sample was undefined.

It was stated that the selected sample of 118,000 drivers is mostly from the truckload sector, meaning it is a non-probability sample. We don't know if all other sectors became part of the sample. Therefore, the report can't represent the whole population of truckers.

Furthermore, more other conclusions made in support of the 34-hour reset that were cited in the Hours-of-Service Final Rule, Discussion of Comments, won't be generalizable to all CMV drivers, including:

*"Industry claims that the 2-night requirement for drivers would affect nighttime deliveries and increase congestion are also unsupported. **Given ATA's data**, the substantial majority of drivers do not need the restart and would not be subject to the requirement."*<sup>12</sup>

*"The rule will reduce maximum weekly driving time by no more than 5 percent for the few drivers who drive longer hours."*<sup>12</sup>

<sup>12</sup><https://www.federalregister.gov/documents/2020/06/01/2020-11469/hours-of-service-of-drivers>

**Third**, Research has indicated that the new rule has increased drivers' dissatisfaction during a time when there is a driver shortage and led to no changes in safety performance. Such outcomes call into question the justification for the rule.

According to Medical News Today in a 2022 article about the causes and treatment of fatigue, officials recommend 7-8 hours of sleep in every 24-hour period. Thus, the 10-hour break after a 14-hour shift should be enough to treat fatigue. <sup>13</sup>

Moreover, according to the same article fatigue is caused by too many reasons such as medications, mental health issues, heart conditions, and many more. If we narrow it down to sleep problems, irregular work shifts can cause fatigue.

*"The following sleep factors can also lead to fatigue:*

- *working late*

- *working shifts*
- *jet lag*
- *sleep apnea*
- *narcolepsy*
- *insomnia*
- *reflux esophagitis”*

Taken as a whole, the rule reduces driver flexibility. This tradeoff will undoubtedly affect drivers as weather delays and the uncertainty associated with loading and unloading often require them to be highly adaptable. By requiring mandatory breaks and two consecutive nights at home, operators will be less able to tailor their schedules to the constantly changing factors that they confront each week.

ATA did a field study where 106 drivers were participating. The analysis incorporated into the rule development is that 19 lives per year are expected to be saved by this rule. The sample is so small that you will not know whether the rule has any effect or not.<sup>14</sup>

The study did not take into account the fact that truckers are now forced into rush hour traffic because they are taking them off of the highway at the times when they can drive with no traffic.

<sup>13</sup><https://www.medicalnewstoday.com/articles/248002>

<sup>14</sup><https://www.federalregister.gov/documents/2020/06/01/2020-11469/hours-of-service-of-drivers>

**Fourth**, truckers are paid by the mile, and when you are limiting them, they are not able to actually produce and generate revenue for those families. Drivers are forced to run on empty miles to make it back home for their 34-hour restart. There are going to be some real impacts especially today with the fuel price hike.

*“80 percent of motor carriers surveyed had experienced productivity loss since the new rules went into effect, and 67 percent of drivers report decreases in pay since the rules took effect. Drivers' wages for all over-the-road drivers fell by a total of 1.6 billion to 3.9 billion in annualized loss.”<sup>15</sup>*

<sup>15</sup><https://www.govinfo.gov/content/pkg/CHRG-113hhrg85596/html/CHRG-113hhrg85596.htm>

MTGAA fully supports and understands the importance of hours of service, but we also believe there is always room for improvement. Therefore, we recommend reforming the 34-hour reset, which appeared to have caused a significant impact on the truckers:

- Productivity gets compromised.
- Delivery schedules are affected.
- Drivers get stuck on the road with 2-days unpaid hours.
- Lesser time with their families.
- More empty miles.

Now that the trucking industry is facing a big impact caused by the unexpected fuel price hike. MTGAA suggests two options:

1. Remove the mandatory 34-hour restart.
2. Provide a longer cycle that will allow drivers a 14-day period of driving and spend the 34-hour restart in their home terminals.

MTGAA suggests revisiting the HOS policy, specifically the 34-hour reset to create a better trucking community where no truckers would feel deprived of their needs without sacrificing the people's safety, a community of drivers who can provide for their families and at the same time spend more time in their homes.

References:

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<https://www.fmcsa.dot.gov/safety/data-and-statistics/large-truck-and-bus-crash-facts-2019>

<https://www.researchgate.net/publication/309660777> An exploratory study of hours of service and its safety impact on motorists

<https://www.medicalnewstoday.com/articles/248002>

Thank you for your time in considering our concerns regarding the hours-of-service exemption application.



Sincerely,  
"CJ" Sergey Karman

President, Make Trucking Great Again Association