

**Excerpt from American Trucking Associations Comments to the August 22, 2019 Notice of Proposed Rulemaking: DOCKET # FMCSA-2018-0248; 84 Fed. Reg. at 44,190.
Submitted October 21, 2019**

SUMMARY OF ATA'S POSITION

As the trucking industry adjusts to FMCSA's December 2017 requirement that motor carriers install Electronic Logging Devices (ELDs), various segments say new flexibilities are needed for operators of commercial motor vehicles (CMVs) to better comply with HOS requirements. While HOS regulations are designed to provide the framework for the safe and efficient movement of goods, greater flexibility would let drivers adjust to changing road conditions, change routes during periods of severe traffic congestion, and more efficiently manage their operations. ATA applauds the Agency for listening to these concerns, and expeditiously publishing a NPRM to propose changes to current requirements.

As the Agency advances its plan, ATA reiterates that new flexibilities should be based on sound evidence and sufficient data to demonstrate that they "will create a level of safety that is equivalent to or greater than the level of safety that currently exists."¹ There are undoubtedly many ideas as to how HOS regulations should be structured. However, these ideas, no matter how well intentioned, should be implemented only if there is sufficient data to substantiate direct and quantifiable benefits to safety. FMCSA should not consider changes to current regulations that lack the proper data and science to support measurable safety benefits.

While some of the proposals within the NPRM appear, at face value, to improve highway safety, the Agency must consider how the unintended consequences of this rule may affect various segments of the trucking industry. ATA believes it is uniquely qualified to comment on these matters, as its broad membership includes carriers from every segment of trucking, including but not limited to agriculture, food, hazardous materials, and intermodal transportation. Nearly 80% of ATA's membership is comprised of small carriers, further reflecting the industry's full diversity.

ATA is encouraged by FMCSA's pursuit of new flexibilities in HOS regulations. Based on ATA's meetings with FMCSA, our membership knows the Agency is working in good faith to modernize and reform current standards. In brief, ATA offers the following specific comments on the Agency's proposal.

- **Short-Haul Operations:** ATA supports an expansion of the short-haul exemption with a requirement that motor carriers operating in this expanded radius utilize an electronic device to capture drivers' start, end, and total drive times. Drivers who use the existing short-haul exception should remain exempt from the records of duty status (RODS) requirements. ATA adamantly opposes changes to the current provision that would not require drivers to begin and end their work day at the same work-reporting location.

¹ 49 C.F.R. §381.310 (c)(5).

- **Adverse Driving Conditions:** FMCSA should define what constitutes “adverse driving conditions” to clarify when a driver is permitted to use this exception. The current definition and corresponding guidance creates confusion with drivers, motor carriers, and enforcement personnel—thereby discouraging its use even in circumstances where it was intended to apply.
- **30-Minute Break:** ATA supports proposed changes to the 30-minute break requirement, allowing drivers to take this period in an on-duty, not driving status. Additionally, ATA supports the proposed changes requiring a driver to take a break after 8 consecutive hours of driving time, rather than 8 hours of on-duty time.
- **Sleeper Berth Time:** ATA supports the proposed changes allowing a driver to spend either 7 or 8 hours in the sleeper berth and a separate 2 or 3 hours off-duty or in the sleeper berth to obtain the equivalent of 10 consecutive hours of off-duty time. FMCSA should complete a field pilot program and only propose further flexibility if the results demonstrate that additional splits would not harm driver performance or road safety.
- **Split-Duty Period:** ATA broadly supports the Agency’s proposed changes to the 14-hour on-duty clock. Allowing property-carrying CMV drivers to temporarily “pause” operations could enable new efficiencies and flexibilities for our drivers and motor carriers. However, the Agency must first examine how the proposed changes may or may not affect driver detention times and sleep cycles.