

PETITION FOR RULEMAKING

US DEPARTMENT OF TRANSPORTATION
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

A PETITION OF TRUCKERNATION.ORG FOR NECESSARY
FLEXIBILITY TO HOURS OF SERVICE REGULATIONS
49 CFR 395 SUBCHAPTER B

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A handwritten signature in black ink, appearing to read 'Tony Justice', is written over a light gray rectangular background.

MAY 10, 2018



TruckerNation.org is the largest grassroots, wholly social media based, trucker advocacy membership group representing the interests of truck drivers and companies across the broad commercial transportation industry. TruckerNation.org has approximately 24,000 members located all across the United States. TruckerNation.org believes the Federal Motor Carrier Safety Administration (FMCSA) has a duty to address current Hours of Service (HOS) concerns as it relates to safety and flexibility for both operators of commercial motor vehicles and the general motoring public.

Pursuant to 49 CFR 389.31, TruckerNation.org hereby petitions the FMCSA to enter formal rulemaking to review and revise current HOS regulations found in 49 CFR 395 Subchapter B. This petition is requesting that FMCSA consider revising the 14-hour consecutive on duty time as outlined in 49 CFR 395.1(b)(ii). TruckerNation.org suggests that drivers subject to HOS regulations be allowed to split the 10-hour break, as referenced in 49 CFR 395(g) and (j), as many time(s) necessary at the driver's discretion and with a minimum of 3 consecutive hours for any break time, to equal 10 total hours of break time, so long as the time is accurately logged as off-duty. Additionally, any 3-consecutive hour off duty breaks that are taken would be subtracted from driver's required 10-hour off duty break required each day. Finally, because of this built in flexibility, TruckerNation.org is suggesting that FMCSA eliminate the



currently required 30-minute break. This petition is fundamentally based on safety and flexibility.

Safety

This revision to HOS regulations would achieve a level of safety that is equivalent to, or greater than, the level of safety that is currently being achieved by complying with existing HOS regulations.

TruckerNation.org is not requesting any additional time be added to a driver's daily allotment. Additional time may impact overall safety for both drivers and the general motoring public as well as subject drivers to abusive and coercive companies. The consecutive nature of the 14-clock, and the lack of routine in an average driver's work week, "truncates any sort of rest time quite rapidly which cause drivers to suffer from a form of jet-lag on a daily basis; the equivalent of flying east from Dallas to London and then attempting to fall asleep immediately upon landing – it's almost biologically impossible to achieve without some form of pharmacological assistance".¹ The use of traditional pharmacological sleep inducing drugs cause side effects such as drowsiness, light-headedness, memory loss and poor concentration.²⁻⁴ In FMCSA's *'Regulatory Evaluation of Electronic Logging Devices and Hours of Service Supporting'* the Agency assumes that compliance with the HOS regulations will decrease crashes. FMCSA determined that there are HOS violations which can lead to driver fatigue. Driver fatigue has been



recognized as a probable cause and corresponding risk factor of crashes involving commercial vehicles.⁵ The consequences of driver fatigue whether self or industry imposed, are more common among long-haul truck drivers than other workers. Fatigue can be classified into three distinct types: physical, mental, and chronic. Many long-haul drivers face chronic partial sleep deprivation. A study of 80 long-haul drivers over a five-day period found that their electro physiologically verified sleep averaged 4.78 hours per day (and only 3.83 hours of sleep per day for those drivers on a steady night schedule)⁶. There are serious adverse health effects of this sleep deprivation that may not be immediately obvious to the driver which is the most serious of safety concerns for both the driver and general motoring public.

Flexibility

FMCSA once stated, “Using technology to improve recording of driver activity can reduce fatigue by helping carriers to prevent drivers from exceeding driving time and related on-duty time limits as well as preserving off-duty time for drivers to recover.”⁷ While this petition is not meant to address the Electronic Logging Device (ELD) Mandate, TruckerNation.org feels it necessary to highlight that drivers do not wish to be awarded with more than 14 hours of on duty time a day but only to be able to have flexibility based on their own professional assessment, which would drastically decrease the likelihood of driver fatigue and



HOS violations associated with exceeding daily allotments of drive time. The need to meet schedules imposes unique challenges on truck drivers compared to other road users; top among these is the task of balancing the need for rest with real or perceived consequences that could arise should drivers fail to maintain the externally imposed schedule demands.⁸ It is well known that economic pressure is often the reason that strongly influences or dictates how delivery schedules will be established, and this often impinges on driver health. The anxiety generated by unexpected delays that disrupt delivery schedules can further intensify if truck drivers and carrier management differ in what they regard as the cause of fatigue in truck drivers.⁹ In a situation of tight schedules, truck drivers may not feel adequately empowered to stop and rest when the onset of fatigue occurs. Allowing professional drivers to account for the externally imposed scheduling demands can quite simply decrease driver fatigue, empower drivers to command their own schedule while still meeting customer demands, and maintain or even increase overall safety.

Conclusion

TruckerNation.org firmly believes that a revision to current HOS regulations which would allow for a split in the 10-hour break as many time(s) necessary at the driver's discretion and with a minimum of 3 consecutive hours for any break time, to equal 10 total hours of break time, so long as the time is accurately logged as off-duty. Additionally,



any 3-consecutive hour off duty breaks that are taken would be subtracted from driver's required 10-hour off duty break required each day. Finally, because of this built in flexibility, TruckerNation.org is suggesting that FMCSA eliminate the currently required 30-minute break.

- **NOTE:** Appendix A, found below, outlines 2 different logging scenarios on graph grids which shows how this petition could be applied in the commercial transportation industry for drivers who are subject to HOS regulations found in 49 CFR 395 Subchapter B. Either of these scenarios could be applied to situations that drivers face every day. These situations may include, but are not limited to, the following:
 - Adverse weather conditions;
 - Driver fatigue;
 - Traffic congestion;
 - Illness;
 - Mechanical/equipment failure;
 - Loading/delivery delays; and
 - Personal driver preference.

Appendix A

DRIVER'S DAILY LOG
(24 HOURS)

5 / 10 / 18
(Month) / (Day) / (Year)

Original - File at home terminal
Duplicate - Driver retains in his/her possession for eight days

650 miles
Total Miles Driving Today

ABC Trucking, LLC
Name of Carrier or Carriers
Anywhere, USA
Main Office Address

T1/TR 2
Truck/Tractor and Trailer Numbers or License Plate(s) / State (show each unit)

I certify these entries are true and correct:
John Doe
Driver's Full Signature

Co-Driver's Name

	MID-NIGHT	1	2	3	4	5	6	7	8	9	10	11	NOON	1	2	3	4	5	6	7	8	9	10	11	TOTAL HOURS	
1. OFF DUTY																									13	
2. SLEEPER BERTH																										
3. DRIVING																										8
4. ON DUTY (NOT DRIVING)																										3

REMARKS

Shipping Documents: **B/L**

B/L or Manifest No. or **Titan/Produce**

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USE TIME STANDARD AT HOME TERMINAL

Figure 1. 1-3 hour break and 2-5 hour breaks to equal 13 total off duty hours for a duty period



DRIVER'S DAILY LOG

(24 HOURS)

5 / 1 / 18
(Month) / (Day) / (Year)

Original - File at home terminal
Duplicate - Driver retains in his/her possession for eight days

ABC Trucking, LLC

Name of Carrier or Carriers
Anywhere, USA

400 miles

Total Miles Driving Today

T1/TR 2

Truck/Tractor and Trailer Numbers or
License Plate(s) / State (show each unit)

I certify these entries are true and correct:

John Doe

Driver's Full Signature

Co-Driver's Name

	MID-NIGHT											TOTAL HOURS
	1	2	3	4	5	6	7	8	9	10	11	
1. OFF DUTY	[Red line indicating off-duty periods: 11:00-1:00, 4:00-7:00, 9:00-11:00]											17
2. SLEEPER BERTH	[Vertical tick marks]											
3. DRIVING	[Vertical tick marks]											6
4. ON DUTY (NOT DRIVING)	[Vertical tick marks]											1
REMARKS	[Vertical tick marks]											

Loading Begins
Loading Ends

SHIPPING DOCUMENTS:

B/L

B/L or Manifest No.
or **Titan/Produce**

Shipper & Commodity

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Enter name of place you reported and where released from work and when and where each change of duty occurred.

USE TIME STANDARD AT HOME TERMINAL

Figure 2. 2-3 hour breaks and 1-11 hour break to equal 17 total off duty hours for a duty period

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1. Dean Croke, *Why the 14-hour clock is the most dangerous of them all*, FreightWaves.com (2018)
 2. Australian Medicines Handbook. Psychotropic drugs. Adelaide, SA: Australian Medicines Handbook Pty Ltd, 2014 (Updated January 2015). [Online] (accessed 10 March 2015).
 3. Sleep Health Foundation. Sleeping tablets. Sydney, NSW: Sleep Health Foundation, 2011 (Updated November 2014). [Online] (accessed 10 March 2015).
 4. NHS Choices. Insomnia - Treatment. England, UK: NHS England, 2013. [Online] (accessed 10 March 2015).
 5. National Transportation Safety Board. (1995). Factors that affect fatigue in heavy truck accidents. Analysis. Safety study NTSB/SS-95/01 (January), Washington, D.C. National Transportation Safety Board.
 6. Mitler M, Miller J, Lipsitz J, Walsh J, Wylie D (1997): The sleep of long-haul truck drivers. *New England Journal of Medicine*, .337, 755-761.
 7. Ibid, pg. 7.
 8. Hanowski, R. J., Wierwille, W.W., Garness, S.A., & Dingus, T. A. (1998). Impact of local short haul operations on driver fatigue. Federal Motor Carrier Safety Administration.
 9. Arnold, P.K., Hartley, L.R., Cony, A., Hochstadt, D., Penna, F., Freyer, A.M. (1997). Hours of work, and perceptions of fatigue among truck drivers. *Accident Analysis and Prevention*, 29, 471-477.