

date of submission to the Crossing Inventory all records referred to in paragraphs (a) and (b) of this section. Records required to be kept under this subpart shall be made available to FRA as provided by 49 U.S.C. 20107.

#### § 234.409 Electronic recordkeeping.

(a) If a railroad subject to this subpart maintains records required by this subpart in electronic format in lieu of paper, the system for keeping the electronic records must meet all of the following conditions:

(1) The railroad adequately limits and controls accessibility to the records retained in its electronic database system and identifies those individuals who have such access;

(2) The railroad has a terminal at the office where the railroad's reporting officer conducts his or her official business and at each location designated by the railroad as having a copy of any record required to be retained by this subpart that is accessible for inspection and photocopying;

(3) Each such terminal has a computer and either a facsimile machine or a printer connected to a computer to retrieve and produce information in a usable format for immediate review by FRA representatives;

(4) The railroad has a designated representative who is authorized to authenticate retrieved information from the electronic system as a true and accurate copy of the electronically kept record; and

(5) The railroad provides FRA representatives with immediate access to the record(s) for inspection and copying during normal business hours and provides a printout of such record(s) upon request.

(b) If a record required by this subpart is in the form of an electronic record kept by an electronic recordkeeping system that does not comply with paragraph (a) of this section, then the record must be kept on paper in accordance with the recordkeeping requirements contained in § 234.407.

Issued in Washington, DC, on October 12, 2012.

**Karen J. Hedlund,**

*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 395

[Docket No. FMCSA-2011-0373]

#### Hours of Service of Drivers

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of public listening session.

**SUMMARY:** FMCSA announces that it will hold a public listening session to solicit information, concepts, ideas, and information on hours-of-service (HOS) requirements for drivers of passenger-carrying commercial motor vehicles (CMVs). Specifically, the Agency would like to know what factors, issues, and data it should consider as it determines preliminarily whether the HOS regulations applicable to these drivers need to be changed to decrease the risk of fatigue-related crashes. The session, which will be held in Santa Barbara, CA, will allow interested persons to present comments, views, and relevant new research that FMCSA should consider in drafting a Notice of Proposed Rulemaking (NPRM). All comments will be transcribed and placed in the docket for FMCSA's consideration. The entire day's proceedings will be webcast.

**DATES:** The listening session will be held on Tuesday, October 30, 2012, in Santa Barbara, CA. The listening session will be held from 1:15 p.m. until 5:30 p.m., LT, or earlier, if all participants wishing to express their views have done so.

**ADDRESSES:** The October 30, 2012, meeting will be held at the Fess Parker's Doubletree Resort, 633 East Cabrillo Blvd., Santa Barbara, CA 93103. The hotel telephone number is 1-805-884-8511.

*Internet Address for Live Webcast.* FMCSA will post specific information on how to participate via the Internet on the FMCSA Web site at <http://www.fmcsa.dot.gov/rules-regulations/topics/hos/HOS-Listening-Sessions.aspx>.

You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2011-0373 using any of the following methods:

- *Federal eRulemaking Portal:* Go to [www.regulations.gov](http://www.regulations.gov). Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building

Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Hand Delivery or Courier:* West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

- *Fax:* 1-202-493-2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to [www.regulations.gov](http://www.regulations.gov), including any personal information included in a comment. Please see the Privacy Act heading below.

*Docket:* For access to the docket to read background documents or comments, go to [www.regulations.gov](http://www.regulations.gov) at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

*Privacy Act:* Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf>.

**FOR FURTHER INFORMATION CONTACT:** For information concerning the listening session or the live webcast, please contact Ms. Shannon L. Watson, Senior Advisor for Policy, FMCSA, (202) 385-2395.

If you need sign language assistance to participate in this HOS listening session, contact Ms. Watson by Thursday, October 18, 2012, to allow us to arrange for such services. There is no guarantee that interpreter services requested on short notice can be provided.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The HOS requirements for motorcoach operators have not been substantially revised in several decades.

The FMCSA did not include changes to the motorcoach HOS requirements in its April 2003 final rule and subsequent revisions concerning HOS requirements for truck drivers because the Agency did not have enough data and information on motorcoach operations to form the basis of a rulemaking notice. Motorcoach operations differ significantly from trucking operations and the information upon which the Agency relied for its truck drivers' rule did not address the unique fatigue issues associated with the scheduling and operating practices of the motorcoach industry.

The current HOS rules for passenger-carrying operations allow up to 10 hours of driving time following 8 consecutive hours off duty. Driving is prohibited after the operator has accumulated 15 hours of on-duty time following 8 consecutive hours off duty (15-hour rule). The 15-hour window may be extended by off-duty periods, unlike the 14-hour window for drivers of property-carrying vehicles.

With regard to weekly limitations, drivers of passenger-carrying vehicles are subject to a 60- or 70-hour rule but, unlike drivers of property-carrying vehicles, they may not restart their calculations after 34 consecutive hours off duty. At this time, the Agency is moving toward developing a proposal to revise the regulations for hours-of-

service for drivers of passenger-carrying CMVs.

## II. Meeting Participation and Information FMCSA Seeks From the Public

The listening session is open to the public. Speakers' remarks will be limited to 5 minutes each. The public may submit material to the FMCSA staff at the session for inclusion in the public docket, FMCSA-2011-0373.

The Agency seeks data and answers relating to the following issues and questions. The comments sought below may be submitted in written form at the session and summarized verbally, if desired.

1. *Driving Time.* FMCSA is seeking additional studies or data that examine in greater detail the fatigue and safety differences associated with different driving times.

2. *Duty Time/Driving Window.* FMCSA is soliciting information on patterns of work for night drivers.

3. *Time-On-Task (TOT) Function.* The Agency seeks comment on whether its approach to estimating its TOT function is reasonable given the lack of good exposure data. The Agency is interested in any suggestions for improving its approach for estimating TOT effects, especially information on where it might obtain better data on exposure and other driver characteristics that would enable it to improve its

estimation of how or whether crash risk varies over successive hours of daily driving.

4. *Cumulative Fatigue.* The Agency seeks comment on whether its methodology for evaluating cumulative fatigue and its impact on driving performance is reasonable. The Agency also welcomes further information on the effects of cumulative fatigue, particularly in the form of scientific studies or data that would allow better evaluation of cumulative fatigue and its impact on workplace safety, driver safety performance, and productivity.

## III. Alternative Media Broadcasts During and Immediately After the Listening Session on October 30, 2012

FMCSA will webcast the listening session on the Internet. Specific information on how to participate via the Internet and the telephone access number will be on the FMCSA Web site at <http://www.fmcsa.dot.gov/rules-regulations/topics/hos/HOS-Listening-Sessions.aspx>.

FMCSA will docket the transcripts of the webcast and a separate transcription of the listening session that will be prepared by an official court reporter.

Issued on: October 11, 2012.

**Larry W. Minor,**

*Associate Administrator for Policy.*

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