Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, at (202) 385–2395, or via email: *shannon.watson@dot.gov.* For information concerning the HOS rules, contact Mr. Tom Yager, Chief, Driver and Carrier Operations Division, (202) 366–4325, *mcpsd@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request For Comments

A. Submitting Comments

If you submit a comment, please include the docket number for this ANPRM (Docket No. FMCSA–2018–0248), indicate the specific section of this document to which each section applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2018–0248, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period for the ANPRM. Late comments will be considered to the extent practicable.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is customarily not made available to the public by the submitter. Under the Freedom of Information Act, CBI is eligible for protection from public disclosure. If you have CBI that is relevant or responsive to the ANPRM and associated listening sessions, it is important that you clearly designate the submitted comments as CBI. Accordingly, please mark each page of your submission as ''confidential'' or ''CBI.'' Submissions designated as CBI and meeting the definition noted above will not be placed in the public docket for the ANPRM and associated listening sessions. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory Analysis Division, 1200 New Jersey Avenue SE, Washington, DC 20590, or via email: *brian.dahlin@dot.gov.* Any commentary that FMCSA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

FMCSA will consider all comments and material received during the comment period for the ANPRM.

B. Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2018–0248, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On August 21, 2018, FMCSA issued an ANPRM concerning potential changes to its hours-of-service rules. The ANPRM indicated the Agency is considering changes in four areas of the HOS rules: The short-haul HOS limit [49 CFR 395.1(e)(1)(ii)(A)]; the HOS exception for adverse driving conditions [§ 395.1(b)(1)]; the 30-minute rest break provision [§ 395.3(a)(3)(ii)]; and the split-sleeper berth rule to allow drivers to split their required time in the sleeper berth [§ 395.1(g)(1)(i)(A) and (ii)(A)]. In addition, the Agency requested public comment on petitions for rulemaking from the Owner-Operator Independent Drivers Association (OOIDA) and TruckerNation.org (TruckerNation). The ANPRM provides an opportunity for additional discussion of each of these topics. The listening session will provide interested persons to share their views on these topics with representatives of the Agency. The Agency encourages ELD vendors to participate to address potential implementation issues should changes to the HOS rules be made.

III. Meeting Participation

The listening session is open to the public. Speakers' remarks will be limited to 10 minutes each. The public may submit material to the FMCSA staff at each session for inclusion in the public docket, FMCSA–2018–0248. The session will be webcast live in its entirety, providing the opportunity for remote participation via the internet. For information on participating in the live webcast, please go to *www.fmcsa.dot.gov.*

IV. Questions for Discussion During the Listening Session

In preparing their comments, meeting participants should consider the questions posed in the ANPRM about the current HOS requirements. Answers to these questions should be based upon the experience of the participants and any data or information they can share with FMCSA.

Issued on: August 21, 2018.

Cathy F. Gautreaux,

Deputy Administrator.

[FR Doc. 2018–18380 Filed 8–21–18; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2018–0248]

RIN 2126–AC19

Hours of Service of Drivers

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

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The introduction of electronic logging devices and their ability to accurately record compliance with hours-of-service (HOS) regulations for drivers of commercial motor vehicles (CMVs) have prompted numerous requests from Congress and the public for FMCSA to consider revising certain

HOS provisions. To address these requests, FMCSA seeks public input in four specific areas in which the Agency is considering changes: The short-haul HOS limit; the HOS exception for adverse driving conditions; the 30-minute rest break provision; and the sleeper berth rule to allow drivers to split their required time in the sleeper berth. In addition, the Agency seeks public comment on petitions for rulemaking from the Owner-Operator Independent Drivers Association (OOIDA) and TruckerNation.org (TruckerNation). OOIDA petitioned the Agency to amend the HOS rules to allow drivers to take a rest break once per 14-hour duty period for up to three consecutive hours if the driver is off-duty. OOIDA's petition also requests that the Agency eliminate the 30-minute rest break requirement which the Agency had identified as an area of consideration for rulemaking. TruckerNation petitioned the Agency to revise the prohibition against driving after the 14th hour of the beginning of the work shift, allow drivers to use multiple off-duty periods of three hours or longer in lieu of having 10 consecutive hours off-duty, and eliminate the 30-minute rest break requirement.

DATES: Comments on this ANPRM must be received on or before September 24, 2018.

ADDRESSES: You may submit comments identified by Docket Number FMCSA–2018–0248 using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online 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., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.
- *Submissions Containing Confidential Business Information (CBI):* Mr. Brian Dahlin, Chief, Regulatory Evaluation Division, 1200 New Jersey Avenue SE, Washington, DC 20590.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments, including collection of information comments for the Office of Information and Regulatory Affairs, OMB.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–4325.

If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION: This ANPRM is organized as follows:

I. Public Participation and Request for Comments
A. Submitting Comments
B. Viewing Comments and Documents
C. Privacy Act
D. Public Meeting
II. Abbreviations and Acronyms
III. Legal Basis for the Rulemaking
IV. Background
A. Short-Haul Operations
B. Adverse Driving Conditions
C. 30-Minute Break
D. Split-Sleeper Berth
V. Comments Sought

I. Public Participation and Request for Comments

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FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments. Late comments will be considered to the extent practicable. FMCSA may issue a proposed rule at any time after the close of the comment period.

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14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Abbreviations and Acronyms

CMV Commercial motor vehicle
DOT Department of Transportation
ELD Electronic logging device
FR Federal Register
HOS Hours of service
U.S.C. United States Code

III. Legal Basis for the Rulemaking

This ANPRM is based on the authority of the Motor Carrier Act of 1935 and the Motor Carrier Safety Act of 1984 (1984 Act). The Motor Carrier Act of 1935 provides that ''The Secretary of Transportation may prescribe requirements for (1) qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and, (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation.'' (49 U.S.C. 31502(b)).

The HOS regulations discussed below concern the ''maximum hours of service of employees of . . . a motor carrier'' (49 U.S.C. 31502(b)(1)) and the ''maximum hours of service of employees of . . . a motor private carrier[.]'' (49 U.S.C. 31502(b)(2)). The adoption and enforcement of such rules were specifically authorized by the Motor Carrier Act of 1935. This ANPRM rests in part on that authority.

The 1984 Act provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary of Transportation to ''prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles.'' Although this authority is very broad, the 1984 Act also includes specific requirements: ''At a minimum, the regulations shall ensure that (1) commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely . . .; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators[.]'' (49 U.S.C. 31136(a)).

This ANPRM is also based on the authority of the 1984 Act, specifically section 31136(a)(2) and, less directly, sections 31136(a)(3) and (4). To the extent section 31136(a)(1) focuses on the mechanical condition of CMVs, that subject is not included in this rulemaking. However, as the phrase ''operated safely'' in paragraph (a)(1) also addresses safe driving practices, this proposed rule also addresses that mandate.

Before prescribing any regulations, FMCSA must also consider their ''costs and benefits'' (49 U.S.C. 31136(c)(2)(A) and 31502(d)). The Agency seeks information on those factors in this ANPRM.

IV. Background

Executive Order (E.O.) 13771, Reducing Regulation and Controlling Regulatory Costs, issued on January 30, 2017, directs executive agencies of the Federal government to ''manage the costs associated with the governmental imposition of private expenditures required to comply with Federal regulations.'' (82 FR 9339). E.O. 13777, Enforcing the Regulatory Reform Agenda, issued on February 24, 2017, sets forth regulatory reform initiatives and policies to ''alleviate unnecessary regulatory burdens placed on the American people.'' [82 FR 12285]. In accordance with those Presidential directives and based upon its experience and expertise, FMCSA reviewed the driver HOS regulations and, as explained below, seeks information in the following four areas to determine if revisions may alleviate unnecessary regulatory burdens while maintaining CMV driver and motor carrier safety, as well as the safety of the public. On May 17, 2018 Administrator Martinez received a letter signed by 30 Senators expressing support for greater flexibility within hours of service regulations. In addition, numerous pieces of legislation were proposed or introduced in both chambers of Congress to address reforming current regulations.

Briefly, the HOS rules limit CMV drivers to 11 hours of driving time within a 14-hour window after coming on duty following 10 consecutive hours off duty (except that drivers who use sleeper berths may combine 2 hours of off-duty time with 8 consecutive hours in the sleeper berth). Drivers must take at least 30 minutes off duty no later than 8 hours after coming on duty if they wish to continue driving after the 8th hour. Drivers must record their on- and off-duty time in records of duty status (RODS)—previously captured in paper ''logs'' but today (with some exceptions) through electronic logging devices (ELDs). Drivers may not drive after having accumulated 60 hours of on-duty time in 7 consecutive days, or 70 hours in 8 days, but they may restart the 60/70-hour ''clock'' by taking 34 consecutive hours off duty.

A. Short-Haul Operations

Under 49 CFR 395.1(e)(1)(ii)(A), drivers do not have to prepare RODS or use an ELD if they meet certain conditions, including a return to their work reporting location and release from work within 12 consecutive hours. Drivers operating under this provision therefore have a 12-hour window in which to drive up to 11 total hours. Other truck (though not bus) drivers have a 14-hour window in which to drive up to 11 total hours. [49 CFR 395.3(a)(2)–(3)].

B. Adverse Driving Conditions

The current rule in § 395.1(b)(1) allows 2 additional hours of driving time under adverse conditions, which are defined in § 395.2 as ''snow, sleet, fog, other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun.'' Although the rule allows up to 13 hours of driving time under adverse conditions, instead of the normal 11 hours, it does not provide a corresponding extension of the 14-hour driving window to 16 hours.

C. 30-Minute Break

Under 49 CFR 395.3(a)(3)(ii), except for drivers who qualify for either of the short-haul exceptions in § 395.1(e)(1) or (2), driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes. (The 30-minute break rule does not apply to drivers who operate CMVs within a 100 air-mile radius of their normal work-reporting location and return to that location within 12 hours, as authorized by § 395.1(e)(1), or to drivers who do not need a Commercial Driver's License (CDL), operate within a 150 air-mile radius of their work reporting location, and meet certain other requirements, as authorized by § 395.1(e)(2)).

D. Split Sleeper Berth Time

There are special HOS rules for CMV drivers who operate vehicles equipped with a sleeper-berth. In essence, these rules allow a sleeper-berth user to divide the minimum 10 hours off-duty into an equivalent two separate periods. Drivers who use sleeper berths, as defined in § 393.76, must take at least 8 consecutive hours of the 10-hour off-duty period in the sleeper berth as required by § 395.1(g)(1)(ii)(A)(1). In

addition to the 8- through 10-hour sleeper-berth period, in order to acquire additional driving time the driver using the sleeper berth exception must, either earlier or later in the duty period, have a separate period of at least 2 hours off-duty, which may be in the sleeper berth if desired. It does not matter which rest period is taken first. After the second required rest period is completed, the driver will have a new point on the clock from which to calculate hours available.

The Agency also announced a proposal on ''Pilot Program To Allow Commercial Drivers To Split Sleeper Berth Time'' on June 6, 2017 (82 FR 26232). This program, planned for Fall 2018, would monitor a limited number of commercial drivers with CDLs and who regularly use a sleeper berth to accumulate their required 10 hours of non-duty work status. During the pilot program, participating drivers would have the option to split their sleeper berth time into two periods, each of which must be at least 2 hours long. Driver metrics would be collected for the duration of the study, and participants' safety performance and fatigue levels will be analyzed. Additional information on the pilot program, including the timeline, can be found at: *https://www.fmcsa.dot.gov/research-and-analysis/research/flexible-sleeper-berth-pilot-program.*

E. OOIDA Petition for Rulemaking

On February 13, 2018, OOIDA petitioned FMCSA to amend the HOS rules to allow drivers to take a rest break once per 14-hour duty period for up to 3 consecutive hours if the driver is off-duty. OOIDA explained that the rest break would effectively stop the 14-hour clock. It would also extend to the 17th hour after coming on duty (instead of the current 14th hour) the latest time a driver could drive after coming on duty. However, drivers would still be limited to 11 hours of driving time and required to have at least 10 consecutive hours off duty before the start of the next work shift.

OOIDA's petition also included a request that the Agency eliminate the 30-minute rest break requirement. The organization explained that there are many operational situations where the 30-minute rest break requires drivers to stop when they do not feel tired.

A copy of OOIDA's petition is included in the docket referenced at the beginning of this ANPRM.

F. TruckerNation.org (TruckerNation) Petition for Rulemaking

On May 10, 2018, TruckerNation petitioned the Agency to revise the prohibition against driving after the 14th hour after the beginning of the work shift. As an alternative, the organization requested that the Agency prohibit driving after the driver has accumulated 14-hours of on-duty time.

In addition, TruckerNation requested that FMCSA allow drivers to use multiple off-duty periods of three hours or longer in lieu of having 10 consecutive hours off-duty, and eliminate the 30-minute rest break requirement.

TruckerNation believes the requested changes to the HOS requirements would achieve a level of safety that is equivalent to, or greater than, the level of safety that is provided by the current regulations.

A copy of TruckerNation's petition is included in the docket referenced at the beginning of this ANPRM.

V. Comments Sought

The Agency specifically seeks comments and data from the public in response to this ANPRM. We request that commenters address their comments specifically to the enumerated list of issues below, and number their comments to correspond to each issue. FMCSA anticipates that some of the information and data sought may include confidential business information. These comments should be filed in accordance with the requirements of 49 CFR 389.9 *Treatment of confidential business information* and the instructions under the subheading *Confidential Business Information,* under the headings **ADDRESSES** and Public Participation and Request for Comments.

1. Short-haul operations.

a. Do you have any data to show that extending the 12-hour period for the short-haul exception to the RODS/ELD requirements to 14 hours would change the safety performance of carriers using the short-haul provision?

b. How specifically would a 14-hour period change your driver or carrier operations as compared to 12 hours?

c. What would the incremental change be for your operations/business if the exemption was changed to 14 hours? For example, would your operations expand or would your drivers/carriers move from non-exempt status to exempt status. What would be the economic impacts of that incremental change?

2. Adverse driving conditions.

a. Is there adequate flexibility in the existing adverse driving conditions exception?

b. How often do you currently utilize the adverse driving conditions exception?

c. What are the economic impact of the current exception on your driver or carrier operation?

d. Should the definition of adverse driving conditions be changed?

e. Should the adverse driving exception apply to the 14-hour work day window, not just the 11-hour driving limit?

f. How would the above changes affect the economic costs and benefits, and the impacts on safety and fatigue of the adverse driving conditions exception?

3. 30-minute break.

a. If the 30-minute rest break rule did not exist, would drivers obtain adequate rest breaks throughout a daily driving period to relieve fatigue?

b. Are there alternatives to the 30-minute rest break that would provide additional flexibility to drivers while achieving the safety benefits goal of the current 30-minute break?

c. If a rest break is retained, should it be taken off-duty or on-duty while the driver is not driving?

d. How does the 30-minute rest break impact the efficiency of operations from a driver's or a carrier's perspective?

e. How would your suggestions impact the costs and benefits of the 30-minute break?

4. Split-sleeper berth.

a. FMCSA has announced a proposed flexible sleeper berth pilot program. Beyond the information that will be collected in the pilot program, do you have any information that would support changing the current requirements?

b. Are there alternatives that would make the sleeper berth options more effective or less costly?

c. How often do you use the sleeper berth option currently; how would this change with your suggested regulatory alternatives?

d. What cost impacts and safety benefits would result from different split sleeper berth options?

5. OOIDA Petition.

a. What specifically would change about your driver/carrier operations by extending the 14-hour driving window?

b. Is there a likely increase in safety risk from extending the 14-hour driving window? For example, would altering the current rule allowing 14 hours on duty and 10 hours off duty interfere with drivers' circadian rhythm? Could driver health be affected?

c. Would a potential increase in safety risk be lessened by the requirement that all the additional time beyond 14 hours must be off-duty time?

d. Would allowing OOIDA's request for an extended break during the work day improve safety by allowing drivers to increase the total amount of off-duty

time during and immediately following the work from 10 hours and 30 minutes to 13 hours, without reducing the maximum driving time available within 14-hour window?

e. Are there other flexibilities or other non-safety benefits that could be realized if the 14-hour window is extended?

6. TruckerNation Petition.

a. Is there a likely increase in safety risk from eliminating the consecutive 14-hour driving window? For example, would the absence of a limit on the length of the work shift—the time between the driver coming on duty after accumulating the minimum of 10 hours off-duty and the driver being prohibited from driving—combined with splitting the required 10 consecutive hours off-duty into a number of segments, interfere with drivers' circadian rhythm? Could driver health be affected? Please provide data on the costs and benefits of this approach.

b. Are there other flexibilities or other non-safety benefits that could be realized if the 14-hour window is eliminated?

Issued under authority delegated in 49 CFR 1.87 on: August 21, 2018.

Raymond P. Martinez,

Administrator.

[FR Doc. 2018–18379 Filed 8–21–18; 4:15 pm]

BILLING CODE 4910–EX–P