
Statement of

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Before the

**COMMITTEE ON TRANSPORTATION & INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS & TRANSIT
U.S. HOUSE OF REPRESENTATIVES**

Regarding

*THE IMPACTS OF THE DOT'S COMMERCIAL DRIVER
HOURS-OF-SERVICE REGULATIONS*

JUNE 18, 2013

On behalf of



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Good morning Chairman Petri, Ranking Member DeFazio, and distinguished members of the Subcommittee. Thank you for inviting me to testify on matters of importance to our nation's truck drivers and the tens of thousands of small business trucking professionals who are members of the Owner-Operator Independent Drivers Association (OOIDA).

My name is Ed Stocklin and I am from Wauna, Washington, a small town between Bremerton and Tacoma. I have approximately 35 years of experience in the trucking industry, starting out after my service in Vietnam. During that time, I have seen all sides of this industry and have hauled almost every imaginable kind of freight, including general cargo in a van trailer, logs off the landing sites in forests across the Pacific Northwest, and the over-dimension permitted loads that I haul today largely in trips across the country. I have had my own interstate operating authority and operated my own independent trucking company since 2006. Over my career I have driven well over two million miles.

As you are likely aware, OOIDA is the national trade association representing the interests of independent owner-operators and professional drivers on all issues that affect small-business truckers. The more than 150,000 members of OOIDA are small-business men and women in all 50 states who collectively own and operate more than 200,000 individual heavy-duty trucks.

The majority of the trucking community in this country is made up of small businesses, as more than 93 percent of all motor carriers have less than 20 trucks in their fleet and 78 percent of carriers have fleets of just five or fewer trucks. In fact, one-truck motor carriers represent nearly half of the total number of motor carriers operating in the United States. It is estimated that OOIDA members and their small business trucking peers collectively move around 40 percent of the freight moved by truck nationally each year.

I am here today on behalf of OOIDA and my fellow professional drivers. Before discussing the Federal Motor Carrier Safety Administration (FMCSA)'s proposed changes to the current hours-of-service (HOS) regulations and the impact they would have on small business trucking, I want to highlight OOIDA's approach to highway safety and some areas where our organization feels the energies of this Subcommittee and the regulatory agencies should be focused as we work to continue to improve safety out on our nation's highways.

OOIDA's members have a unique perspective when it comes to highway safety. The average OOIDA member has been making a living behind the wheel of a tractor trailer for around a quarter of a century and has more than two million miles of accident-free driving under their belt. To put that in perspective, the average passenger car driver would need to drive for almost 150 years to reach that level of experience out on the highway.

OOIDA strongly feels that the key to highway safety is ensuring there is a safe and knowledgeable driver behind the wheel of every tractor-trailer on the highway. To see why this is so important, one only has to review safety data from recent years which showed a considerable drop in truck-involved fatality accidents during 2008 and 2009 when the economy

faced significant challenges. This time period saw a significant reduction in the number of truckers out on the road, with largely experienced drivers sticking through the rough patch. With the improvement in the economy, we have seen both an increase in new entry-level drivers on the road as well as an increase in truck-involved fatality accidents.

Despite the important role played by a safe and knowledgeable driver, the attention of regulations from the Department of Transportation across the past several years and administrations has largely been focused on increasing restrictions on drivers and adding costs to trucking companies through mandated technologies. These costs and restrictions hit small carriers the hardest, despite the clear economic incentive that small truckers like myself have to drive safely: if we get in an accident, regardless of fault, it is our truck that is in the shop, we have to pay out of pocket to get it fixed, and we will not be out there hauling freight and earning money until it is fixed. The downtime alone can mean bankruptcy for owner-operators.

That is why OOIDA is so focused on ensuring that long-overdue entry-level driver training requirements are addressed in short order, especially for the long-haul segment of the industry. This Subcommittee and its partner on the other side of the Capitol included important language in MAP-21 calling on the Department of Transportation to complete an entry-level driver training rule. OOIDA is actively engaged in that process and other activities here in Washington on addressing driver training and we encourage the Department and the members of this Subcommittee to pay special focus to ensure new long-haul tractor-trailer drivers get the safety skills they need at the beginning of their trucking career instead of working to address safety challenges through supposed technology solutions and other costly mandates and regulations that can never compensate for an untrained or undertrained driver.

The Professional Truck Driver's Perspective on Hours-of-Service Rules

To fully comprehend a truck driver's standpoint on the hours-of-service regulations, it is necessary to look back on past hours-of-service (HOS) regulations, how the trucking industry is structured, and how truckers are compensated. Finally, it is important to highlight the significant and varied pressures on a truck driver's day.

A major element of these initial HOS rules and generally all subsequent approaches to HOS regulation has been a balance between ensuring a well-rested driver and providing that driver with the flexibility to operate profitably within the everyday challenges of their workday. Truckers are normally paid by how many miles they drive, hence the saying "if the wheels aren't turning you aren't earning." While there is certainly compensation-based pressure to drive as many miles as possible during the day, there are also other factors that pressure drivers, from the potential of fines by shippers for missing a delivery window to constant contact from your carrier's dispatcher pushing you to drive just a little further, even if you are fatigued or tired.

Under the current HOS regulations, truckers may drive a maximum of 11 hours a day within a 14-hour “on-duty” window. The remaining 10 hours of a 24-hour day is to be reserved for resting during a consecutive time period. For the vast majority of truckers, the time spent “on-duty, not driving” is often, or sometimes always, uncompensated. There are general and administrative functions that are required of drivers such as completing paperwork, fueling, performing or undergoing safety inspections, and general maintenance that require daily on-duty uncompensated time that counts against their 14-hour on-duty clock. To some extent, truckers can predict and control those administrative duties, but there are many other activities that occur regularly that are also uncompensated yet highly unpredictable.

For that reason, flexibility for a truck driver is critical, as one small thing can have a significant impact on our schedule and quickly turn a profitable load into one that costs us money if we do not make the right decisions. Flexibility does not mean, however, that truckers drive when they are tired or without sufficient rest. Instead flexibility means giving me, the professional truck driver, the ability to drive or take rest when I am best able to get the rest I need and when I am best positioned to operate my truck safely and efficiently.

What are some of those unpredictable factors that can impact a schedule? Most of us can think of several without much effort: an accident, a breakdown, unscheduled construction, or bad weather that forces me to pull off the highway. Further, for a trucker there are many other factors and challenges that can impact our day and our ability to operate both profitably and safely.

One of the most significant challenges we face as truckers is the prospect of waiting at a shipper or receiver for hours after our scheduled appointment to load or unload. This detention time is usually uncompensated throughout the industry, especially for small carriers like me who do not have the major negotiating power of large fleets. Considering that most truckers are paid on a per-mile basis and that detention time is generally uncompensated, shippers and receivers have little incentive to make more efficient use of drivers’ time. Further, our time waiting cuts into our available time on-duty, directly reducing the amount of time we are able to drive.

While sitting through congestion, accidents, and construction naturally impact my driving time, the majority of experienced truckers understand the benefits of avoiding these situations all together. Most of us will plan our trips through major cities to avoid rush hour traffic, not only because it improves our timing, but also because it significantly reduces the likelihood that we will be in an accident because there will be fewer passenger cars on the road. Just ask your staff how many of them wait around in the office an extra hour or so in the evenings to let traffic die down so their commute is shorter and less stressful. Flexibility in HOS rules is a key factor in ensuring that professional drivers are able to make these safety-focused decisions.

Most importantly, experienced truckers recognize the safety benefits of following not just the HOS rules, but also their own body when it comes to ensuring they are alert and refreshed while

driving. HOS regulations should ensure that drivers are not penalized if they take a break whenever or for whatever length of time they need during their driving day to get needed rest. One driver may need several breaks of varying lengths distributed throughout the driving window, another may need multiple breaks later in the driving window, and yet another may need only one daily break for a meal. Moreover, any particular driver's needs may change from day to day, depending upon weather, traffic congestion, other driving conditions, time spent waiting to load and unload, and personal business that must be dealt with on any given day. As noted above, stress is common place within our world as truck drivers, and stress is a major contributing factor to fatigue. Compliance with regulations should not cause even more stress among truckers.

Certain types of trucking present unique challenges from the perspective of the trucker. Take, for instance, the over-dimension work that I do. The movement of every single load that I haul is not only restricted by HOS and other federal regulations, but also by permits issued by states and localities. Many of these permits severely restrict when and where I am able to operate, holding me to daylight-only operations only on certain highways. There are safety reasons behind these restrictions, but a misalignment between the permit restrictions and federal HOS rules often times put me in between a rock and a hard place when it comes to maintaining the profitability of loads. This is where flexibility within HOS rules becomes important to me, especially as it pertains to my total driving time for the week and when I can restart my duty cycle.

Other situations also require flexibility. Many shippers, especially those that operate factories or distribution centers that demand "just-in-time" deliveries, demand that deliveries are made in the evening, so many truckers operate overnight to meet the demands of these shippers. A good example of this from my area of trucking is the delivery of steel and pre-cast bridge components to construction sites. Just a few miles down the road is the Wilson Bridge, and during the construction of that project almost all deliveries were conducted overnight to reduce the impact on traffic. Other truckers, especially those who do cross-country operations, prefer to drive at night because of less traffic, fewer safety risks from passenger vehicles, and more predictable travel times.

Trucking is a very diverse industry, with many different types of operations and countless demands on those operations. A significant part of our efforts as professional drivers to balance all of these demands while ensuring that we operate our vehicle rested and alert are HOS rules that permit us some level of flexibility as part of our operations. A huge part of that flexibility is ensuring that we are not penalized on the backend for making the decision to stop because we do need a rest, because we want to avoid traffic or another hazard, or because we were delayed at a shipper or receiver.

One major area of concern for OOIDA and truckers is the pressure that the continuous clock associated with current HOS driving window places on drivers. The non-stoppable 14-hour clock not only is a major reduction in the flexibility that we need to maximize the safety and

efficiency of our operations, but it also forces us as truckers to be constantly pushing ahead to ensure we fit our driving for the day into this block of time. Further, the 2005 rule's decision to eliminate the long-standing split sleeper birth rule further restricts and reduces flexibility and adds additional pressure on truckers to push through what may be metaphorically a square peg into a round hole.

Because of their limiting impact on driver flexibility, OOIDA has long supported efforts to reexamine these changes from 2005 by allowing drivers the ability to: 1) break up their 14-hour driving window with short breaks on their terms that do not count against the driver's available driving time; 2) the opportunity to extend the driving window beyond 14 hours while still ensuring the driver obtains sufficient rest; and 3) the return of the pre-2005 split sleeper birth rule.

The Importance of the 34-Hour Restart

The Final Rule's most significant change comes in revisions to the 34-hour restart provision. Under current regulations, truckers are able to restart their duty cycle anytime they need to simply by taking 34 hours off-duty.

According to OOIDA members, the 34-hour restart provision is generally used by drivers who spend long periods on the road to complete their deliveries so they are able to return home and get the best possible rest and restorative sleep. The restart period is not typically used by drivers at home, a reality shown by FMCSA in its *HOS Field Survey*, which found that "most drivers typically take more than 34 hours off duty."

Under the Final Rule, while the 34-hour restart provision is maintained, its use by truckers is significantly restricted. The restart can only be used once every 168 hour/7-day period, and the period must include two consecutive "overnight" periods where the trucker is off duty between 1:00 am and 5:00 am. This is a significant reduction in the flexibility of the HOS rules, and this reduction in flexibility will have a significant impact on the ability of myself and other truckers like me to balance out the demands of our work in a way that best maintains safe, efficient, and profitable operations.

To illustrate the impact of this change, allow me to walk you through a typical set of freight moves that I go through in my operation. The majority of my moves are cross-country, taking me from the West Coast all the way to the East Coast and back. As an over-dimensional hauler, a common load for me would be the delivery of a major piece of industrial equipment or structural element that was shipped to a West Coast port from Asia and is needed at a factory or on a construction site in the East. After delivering the load, I then make a reverse trip with another load that is needed on the West Coast and the process begins again.

The current flexibility with the 34-hour restart has been utilized by me and other cross-country drivers to accomplish two important goals: 1) it gives us the ability to get the rest we need

following our cross-country drives; and 2) it gives us the opportunity to reset our weekly duty cycle under the HOS regulations to conduct our trips in a way that minimizes the time our trucks are sitting idle simply for the sake of sitting idle.

Under the current version of the restart rule, I am still getting the necessary and required daily off-duty time to obtain the restorative sleep I need to operate refreshed and alert. The unrestricted use of the 34-hour restart period, when combined with the current off-duty rest periods, has been shown to address any “cumulative sleep deficit” that may be faced by truckers out on the road.

Impacts of New Revisions to the Restart Rule & Other Changes

The Final Rule’s changes to the use of the 34-hour restart provision will have an impact on my ability to be as flexible as necessary in my operations and will lead to me spending longer time on the road and away from home. Much of this is due to my cross-country and over-dimensional operations, but these impacts will be felt by many other truckers, especially small business truckers who tend to operate in the niche areas of the trucking industry where special demands and requirements are placed on a trucker by a shipper.

As I noted above, the majority of my loads are moved under permits, which include additional restrictions on top of current HOS regulations. These constraints and the demands that customers place on my operations make the current unrestricted use of the 34-hour restart rule an important tool in my ability to efficiently operate.

By limiting the use of the restart period and by requiring the restart period to include two consecutive “overnight” periods, the changes included in the Final Rule will add additional and burdensome restrictions on my operations. Often my operations go beyond simply driving, and I must play an active role in loading and unloading the vehicle, time that is today and will continue to be recorded as on-duty time. This combination of on-duty time and permit-restricted driving hours often leads to me hitting the total duty-cycle hours limit before I am able to complete my trip. Under the current use of the restart period, I am able to take my restart at times that best match my need for rest with the demands of my schedule.

Under the Final Rule’s revision to the restart period, again in combination with non-driving/on-duty tasks and permit restrictions, I will now be faced with the prospect of taking my restart period as part of an extended off-duty layover away from home, which is exactly the problem that the original 34-hour restart provision was designed to help address. Additionally, in some situations it may be beneficial to me to take multiple 34-hour restarts during the course of a seven day period. Amazingly, the Final Rule actually prevents me from having more than one of these off-duty periods in a week, despite the fact that previous versions of HOS regulations have increased off-duty time.

Another challenge presented by the Final Rule’s changes to the restart provision is the requirement that the period include two “overnight” periods from between 1:00 am and 5:00 am.

The 34 hours that a trucker takes off for their restart period is now no longer of their choosing. This will present significant problems to those truckers who operate overnight due to customer demands or operational preferences.

Further, according to the Final Rule, the 1:00 am to 5:00 am period is based upon the time at the trucker's home terminal and not in the area they are currently operating. Calling the West Coast home, this means that when I am on the East Coast, my restart periods will need to include two consecutive periods between 4:00 am and 8:00 am, and a driver based on the East Coast will need to include two periods between 10:00 pm and 2:00 am when they are on the West Coast. These changes will not only place restrictions on our operations, but they will also exacerbate the challenge all truckers face in finding a safe and secure parking location for the evening and enforcement, especially on the roadside, will see additional complications.

What does this mean to truckers? As noted above, small business truckers are paying costs whether or not our truck is moving. Take insurance as an example. I am already paying a significant amount in insurance premiums based upon my operations, yet those do not go into a holding pattern when I am sitting idle. Another example unique to my work as a specialized hauler is the pilot car team that is often required as part of my permits. While pilot cars have recently been in the news due to the I-5 bridge collapse, I can say that these folks do important work, especially in areas where clearances are not adequately marked. Common practice within the trucking industry is for the trucker to pay the pilot car team. When I am idle, so are they, but, I still need to pay them. These economic realities are not reflected in the final rule.

Another change within the Final Rule that is important to highlight is the 30 minute break requirement. The requirement that this break be taken within the first eight hours of a driving period adds additional rigidity to the trucker's schedule. As noted above, the vast majority of drivers gain real value from breaks, but only when those breaks are taken on their terms and within the demands of their driving day. This is especially true for me as an over-dimensional hauler since I am not able to just pull over along the side of the road or into any rest area available. I am restricted on my routes and as noted before restricted on when I operate.

It is important to go back and discuss more the difference between how a trucker sees these rule changes and how a shipper sees them. While an individual trucker will see significant changes, especially if they operate cross-country like me, shippers are largely insulated from these changes. They will not be adjusting their just-in-time demands or eliminating the current and very common practice of fining truckers who are late for a delivery appointment hundreds of dollars. If anything, they will approach these HOS changes as an opportunity to place even greater stress and pressure on the truck driver because the margin for error is even smaller.

And that takes us back to the important issue of flexibility within the regulations. As this Subcommittee has examined in the past, today's truck drivers are under significant pressures, from the shipping community, from carriers, from the regulatory and enforcement community,

and from the general day-to-day challenges of living a life on the road. I can say with one-hundred percent certainty that the pressures I face today are the most I have faced in my entire career in trucking. The majority of these challenges are operational, and while they have not been created by the changes to the HOS regulations included in the Final Rule, the reduced flexibility afforded under it makes them more difficult for me as a trucker to deal with.

While the Department is taking steps to examine more fully these every-day issues for truckers, especially the detention issue, their full impact is not reflected as part of the December 2011 Final Rule. OOIDA looks forward to working with Administrator Ferro and her team as they continue to examine the detention issue, especially in light of language included by the House and Senate transportation committees as part of MAP-21 that addresses coercion of drivers by carriers and shippers. That said, we urge the Department to at the very least stay implementation of these new rules until the pending court decision is finalized.

Conclusion

Throughout the Department's HOS rulemaking process, which OOIDA recognizes was brought about due to court actions, we have held that to meaningfully improve highway safety, any changes would need to include all aspects of a truckers' workday that affect their ability to drive safely. This includes loading and unloading times, split sleeper berth for team operations, and the ability to interrupt the 14-hour day for needed rest periods. Further, changes must not be made to the 11-hour driving limit, as this time is critical not only for truckers to operate profitably, but also the time is needed for truckers to address needs like ensuring they have a safe place to park for their required rest period.

While the Department's Final Rule does not change the 11-hour driving limit, the rule misses clear opportunities to provide needed flexibility for truckers as they work to balance out the demands of their work day, especially situations that are out of their control such as when they are detained by shippers or when traffic or other problems impact their day. Further, while the Final Rule does include some minor changes to treatment of split sleeper berth operations for team drivers, it does not provide drivers the ability to break up their driving day in a way that meaningfully lessens fatigue.

Of greatest impact to truckers, the Final Rule adds new restrictions onto the 34-hour restart period that will significantly reduce the flexibility provided to truckers under current HOS rules. Today's 34-hour restart provision is an important tool for many truckers, especially cross-country truckers like myself, as we work to be flexible as necessary in our operations. Further, this change will lead to many truckers spending substantially longer time on the road and away from home. What it will not mean is that we will suddenly become more rested and more aware during our time behind the wheel. If anything, this reduction of flexibility, when combined with the demands of the road and the constant pressure of the 14-hour driving clock, will lead to greater stress put on truckers as we work to do our jobs safely, efficiently, and professionally.

As a small business trucker, the success of my business is predicated on me operating safely. Highway safety begins not with restrictions on driver flexibility or costly technology mandates, but instead with ensuring a safe and knowledgeable driver behind the wheel of every truck on the road. This is a goal that OOIDA and its members are passionate about and will continue to be our highest safety priority moving forward.

Thank you for the opportunity to testify and thank you for holding today's hearing to highlight these important issues.