

**BEFORE THE  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
UNITED STATES DEPARTMENT OF TRANSPORTATION**

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**COMMENTS OF  
THE OWNER-OPERATOR INDEPENDENT DRIVERS ASSOCIATION, INC.**

**IN RESPONSE TO  
AN INTERIM FINAL RULE  
REQUEST FOR PUBLIC COMMENT**

**[FMCSA Docket No. FMCSA-2004-19608]**

**Hours of Service of Drivers**

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**JAMES JOHNSTON  
President  
Owner-Operator Independent  
Drivers Association, Inc**

**February 15, 2008**

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FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION**

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**I. INTRODUCTION**

**A. Procedural Statement**

These comments are submitted by the Owner-Operator Independent Drivers Association, Inc. (“OOIDA” or “Association”) in response to the Interim final rule (“IFR”); request for comments published by the Federal Motor Carrier Safety Administration (“FMCSA” or “Agency”), Docket No. FMCSA-2004-19608, [FR 72, No. 241 at 71247] (December 17, 2007) related to the Agency amending the Federal Motor Carrier Safety Regulations (“FMCSRs”). This IFR would amend the FMCSRs by allowing commercial motor vehicle (“CMV”) drivers to operate up to 11 hours of driving time within a 14-hour, non-extendable window from the start of a workday, following 10 consecutive hours off-duty (11-hour limit). The interim rule will also allow motor carriers and drivers to restart calculations of the weekly on-time limits after the driver has at least 34 consecutive hours off-duty (34-hour restart).

**B. The Interest of the Owner-Operator Independent Drivers Association, Inc**

The Owner Operator Independent Drivers Association, Inc. is a not-for-profit corporation incorporated in 1973 under the laws of the State of Missouri, with its principal place of business in Grain Valley, Missouri. OOIDA is the largest international trade association representing the interests of independent owner-operators, small business motor carriers and professional drivers. The more than 161,000 members of OOIDA are professional drivers and small business men and women located in all 50

states and Canada who collectively own and operate more than 240,000 individual heavy-duty trucks and small truck fleets. One-truck motor carriers represent nearly half the total number of active motor carriers operating in the United States while approximately 96 percent of active motor carriers operate 20 or fewer trucks. The address of the Association is:

Owner-Operator Independent Drivers Association, Inc.  
P.O. Box 1000  
1 NW OOIDA Drive  
Grain Valley, Missouri 64029  
[www.oida.com](http://www.oida.com)

The Association actively promotes the views of small business truckers and professional drivers through its interaction with state and federal government agencies, legislatures, the courts, other trade associations, and private businesses to advance an equitable and safe environment for commercial drivers. OOIDA is active in all aspects of highway safety and transportation policy, and represents the position of small business truckers and professional drivers on numerous committees and in various forums on the local, state, national, and international levels. This interim rule affects all OOIDA members who operate a CMV and must comply with the FMCSA hours-of-service (“HOS”) regulations.

## **II. SUMMARY**

OOIDA supports this interim final rule. As a result of the decision made by the United States Court of Appeals for the District of Columbia in *Owner-Operator Independent Drivers Association, Inc. v. Federal Motor Carrier Safety Administration* national uniformity in rules governing HOS of motor carriers and drivers could have faced significant disruption. Additionally, significant improvement in CMV fatality rates

would be risked for specious arguments concerning the safety benefits of the 11-hour driving limit and the 34-hour restart provision.

### **III. COMMENTS OF THE ASSOCIATION**

Until the FMCSA issues a final rule on the HOS that adequately addresses the administrative procedure concerns of the Court of Appeals regarding adoption of the 11-hour limit and 34-hour restart the Agency correctly states the likelihood confusion and uneven enforcement of HOS by the various jurisdictions without this IFR. FMCSA also correctly makes the connection between the 11-hours driving permitted, the 34-hour restart provision and the lack of any negative consequences to highway safety. Additionally, both the 11-hour limit and 34-hour restart provision allow both motor carriers and drivers to achieve a level of operational flexibility necessary for our national economy.

#### **A. Uneven enforcement of hours-of-service.**

HOS enforcement is accomplished primarily by state and local law enforcement personnel- not federal enforcement officers. While FMCSA could have capitulated to the whims of opponents of the current rules any retreat would have created an unworkable patchwork of national enforcement of the HOS regulations. Opponents blithely ignore the reality of how states adopt federal regulations so officers in their jurisdiction can enforce federally mandated regulations.

#### **B. Safety benefit of 11-hour driving and 34-hour restart provision.**

The desire of opponents of the 11-hour limit and 34-hour restart to have FMCSA institute some temporary form of HOS more to their liking lacks substantive safety analysis to support their wish. Insinuating that the 11<sup>th</sup> hour of driving or utilization of

the 34 hour-restart is unsafe is a *non-sequitur*. A recently released study by Virginia Tech's Transportation Institute showed that there is no statistical difference in critical-incident risks between the 2<sup>nd</sup> and 11<sup>th</sup> hours of driving. The significant spike in rate of critical-incidents occurred in the first hour of driving. FMCSA properly acknowledges that under these HOS rules the fatality rate per 100 million vehicle miles traveled is the lowest reported in over 30 years.

#### **IV. CONCLUSION**

OOIDA has consistently supported meaningful improvements for highway safety. The 11-hour driving and 34-hour restart provision are proven by virtue of the lowest CMV fatality rate in thirty years to aid highway safety goals. With this IFR the FMCSA has properly acknowledged that connection and ensured that goods movement in the U.S. is not negatively hampered.

Respectfully submitted,

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JAMES JOHNSTON  
President  
Owner-Operator Independent  
Drivers Association, Inc.

February 15, 2008