



United States General Accounting Office
Washington, DC 20548

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May 9, 2003

The Honorable John McCain
Chairman
The Honorable Ernest F. Hollings
Ranking Minority Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Don Young
Chairman
The Honorable James L. Oberstar
Ranking Minority Member
Committee on Transportation and Infrastructure
House of Representatives

Subject: *Department of Transportation, Federal Motor Carrier Safety Administration: Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA), entitled "Hours of Service of Drivers; Driver Rest and Sleep for Safe Operations" (RIN: 2126-AA23). We received the rule on April 28, 2003. It was published in the Federal Register as a final rule on April 28, 2003. 68 Fed. Reg. 22456.

The final rule revises FMCSA's regulations to require motor carriers of property to provide drivers with better opportunities to obtain sleep, and thereby reduce the incidence of crashes attributed in whole or in part to drivers operating commercial motor vehicles while drowsy, tired, or fatigued. The final rule (1) increases the required time off duty from 8 to 10 consecutive hours, (2) prohibits driving after the end of the 14th hour after the driver began work, (3) allows an increase in driving time from 10 to 11 hours, and (4) allows drivers to restart the 60- or 70-hour clock after taking 34 hours off duty.

Enclosed is our assessment of the FMCSA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the FMCSA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Michael Gryszkowiec, Managing Director, Physical Infrastructure. Mr. Gryszkowiec can be reached at (202) 512-2834.

Sincerely yours,

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Suzanne O'Malley
FMCSA Regulations Officer
Department of Transportation

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF TRANSPORTATION,
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
ENTITLED
"HOURS OF SERVICE OF DRIVERS; DRIVER REST AND SLEEP
FOR SAFE OPERATIONS"
(RIN: 2126-AA23)

(i) Cost-benefit analysis

FMCSA estimates the final rule would cost \$1.3 billion per year and a net benefit of \$1.1 billion per year relative to the current rules with full compliance.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

Following the conduct of a Final Regulatory Flexibility Analysis, FMCSA has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule will impose an unfunded mandate on the private sector of more than \$100 million in any one year. Therefore, FMCSA has prepared the required written statement that addresses each of the elements required by the Act, including a discussion of the alternatives considered.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures contained in 5 U.S.C. 553. On May 2, 2000, FMCSA published a Notice of Proposed Rulemaking in the Federal Register. 65 Fed. Reg. 25540. In response, FMCSA received more than 53,750 comments on the proposed rule and discusses them in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The

rule affects a previously approved collection entitled “Record of Duty Status” (OMB Control No. 2126-0001). FMCSA has submitted the revised collection with the new title of “Hours of Service of Drivers Regulations” to OMB with a newly computed annual burden estimate for approval.

Statutory authorization for the rule

The final rule is issued pursuant to the authority contained in section 408 of the ICC Termination Act (Pub. L. 104-88, December 29, 1995, 109 Stat. 803, 958).

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

The FMCSA has determined that the final rule does not have a substantial direct effect on states, nor would it limit the policymaking discretion of the states. The final rule does not preempt any state law or regulation.