

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to Delaware's amendment to Regulation 1146, the Electric Generating Unit Multi-Pollutant Regulation, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: December 17, 2009.

**James W. Newsom,**

*Acting Regional Administrator, Region III.*

[FR Doc. E9-31278 Filed 1-4-10; 8:45 am]

**BILLING CODE 6560-50-P**

---

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 395

[Docket No. FMCSA-2004-19608]

RIN 2126-AB26

#### Hours of Service

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

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

**SUMMARY:** FMCSA announces that it will hold three public listening sessions to solicit comments and information on

potential hours-of-service (HOS) regulations. Specifically, the Agency wants to know what factors, issues, and data it should be aware of as it prepares to issue a notice of proposed rulemaking (NPRM) on HOS requirements for property-carrying commercial motor vehicle (CMV) drivers. The sessions will be held in the Washington, DC area, Los Angeles, and Dallas. The listening sessions will allow interested persons to present comments, views, and relevant research on revisions FMCSA should consider in its forthcoming rulemaking. All comments will be transcribed and placed in the rulemaking docket for the FMCSA's consideration.

**DATES:** The first listening session will be January 19, 2010, in Arlington, VA (near Washington, DC). Subsequent listening sessions will be January 22, 2010, in Dallas Fort Worth Airport, TX; and January 25, 2010, in Los Angeles, CA. All listening sessions will begin at 9 a.m. local time and end at 5 p.m., or earlier, if all participants wishing to express their views have done so.

**ADDRESSES:** The January 19th meeting will be held at the Doubletree Hotel Crystal City National Airport (Commonwealth Ballroom), 300 Army Navy Drive, Arlington, VA 22202-2891 (1-703-416-4100).

The January 22th meeting will be held in Dallas at the Hyatt Regency DFW, International Parkway, P.O. Box 619014, DFW Airport, Texas, USA 75261 (1-972-453-1234).

The January 25th meeting will be held in Los Angeles at the Doubletree LAX (Pacific Ballroom), 1985 East Grand Ave., El Segundo, California, USA 90245-5015 (1-310-322-0999).

You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA-2004-19608 using any of the following methods.

- **Federal eRulemaking Portal:** Go to <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., 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

<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 <http://www.regulations.gov> at any time or 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., 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 special accommodations for any of these HOS listening sessions, such as sign language interpretation, contact Mr. David Miller, Regulatory Development Division, (202) 366-5370 or at [FMCSAregs@dot.gov](mailto:FMCSAregs@dot.gov), by Monday, January 11, 2010, to allow us to arrange for such services. There is no guarantee that interpreter services requested on short notice can be provided.

For information concerning the hours-of-service rules, contact Mr. Tom Yager, Chief, Driver and Carrier Operations Division, (202) 366-4325, [mcpds@dot.gov](mailto:mcpds@dot.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 26, 2009, Public Citizen, *et al.* (Petitioners) and FMCSA entered into a settlement agreement under which Petitioners' petition for judicial review of the November 19, 2008 Final Rule on drivers' hours of service will be held in abeyance pending the publication of an NPRM. The settlement agreement states that FMCSA will submit the draft NPRM to the Office of Management and Budget (OMB) within nine months, and publish a Final Rule within 21 months, of the date of the

settlement agreement. The current rule will remain in effect during the rulemaking proceedings.

As described above, FMCSA is holding three public listening sessions across the country to solicit comments and information on potential revisions to the HOS rule. The Agency will provide further opportunity for public comment when the NPRM is published.

## II. Meeting Participation

The listening sessions are 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-2004-19608.

## III. Questions for Discussion During the Listening Sessions

In preparing their comments, meeting participants should consider the following questions about possible alternatives to the current HOS requirements. These scenarios are merely set forth for discussion; FMCSA will not necessarily include them in an NPRM but would request similar information and data in an NPRM. Answers to these questions should be based upon the experience of the participants and any data or information they can share with FMCSA.

### A. Rest and On-Duty Time

1. Would mandatory short rest periods during the work day improve driver alertness in the operation of a CMV? How long should these rest periods be? At what point in the duty cycle or drive-time would short rest periods provide the greatest benefit? What are the unintended consequences if these short rest periods are mandatory? Should the on-duty period be extended to allow for mandatory rest periods?

2. If rest or other breaks from driving improve alertness, could a driver who chooses to take specified minimum breaks be given scheduling flexibility—the ability to borrow an hour from another driving day once a week, for example—if that flexibility would not increase safety risks or adversely impact driver health?

3. How many hours per day and per week would be safe and healthy for a truck driver to work?

4. Would an hours-of-service rule that allows drivers to drive an hour less when driving overnight improve driver alertness and improve safety? Are there any adverse consequences that could arise from the implementation of a separate night time hours of service regulation?

### B. Restart to the 60- and 70-Hour Rule

1. Is a 34-consecutive-hour off-duty period long enough to provide restorative sleep regardless of the number of hours worked prior to the restart? Is the answer different for a driver working a night or irregular schedule?

2. What would be the impact of mandating two overnight off-duty periods, e.g., from midnight to 6 a.m., as a component of a restart period? Would such a rule present additional enforcement challenges?

3. How is the current restart provision being used by drivers? Do drivers restart their calculations after 34 consecutive hours or do drivers take longer periods of time for the restart?

### C. Sleeper Berth Use

1. If sleeper-berth time were split into two periods, what is the minimum time in each period necessary to provide restorative sleep?

2. Could the 14-hour on-duty limitation be extended by the amount of some additional sleeper-berth time without detrimental effect on highway safety? What would be the appropriate length of such a limited sleeper-berth rest period?

### D. Loading and Unloading Time

1. What effect has the fixed 14-hour driving "window" had on the time drivers spend waiting to load or unload? Have shippers and receivers changed their practices to reduce the amount of time drivers spend waiting to load or unload?

### E. General

1. Are there aspects of the current rule that do not increase safety risks or adversely impact driver health and that should be preserved?

Issued on: December 29, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-31194 Filed 1-4-10; 8:45 am]

BILLING CODE 4910-EX-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R9-ES-2009-0084]

[90100-1660-1FLA B6]

[RIN 1018-AW39]

### Endangered and Threatened Wildlife and Plants; Listing Six Foreign Birds as Endangered Throughout Their Range

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, propose to list the following six foreign species found on islands in French Polynesia and in Europe, Southeast Asia, and Africa: Cantabrian capercaillie (*Tetrao urogallus cantabricus*); Marquesan Imperial Pigeon (*Ducula galeata*); the Eiao Polynesian warbler (*Acrocephalus percernis aquilonis*), previously referred to as (*Acrocephalus mendanae aquilonis*); greater adjutant (*Leptoptilos dubius*); Jerdon's courser (*Rhinoptilus bitorquatus*); and slender-billed curlew (*Numenius tenuirostris*) as endangered, pursuant to the Endangered Species Act of 1973, as amended. This proposal, if made final, would extend the Act's protection to these species. We seek data and comments from the public on this proposed rule.

**DATES:** To ensure that we are able to consider your comment on this proposed rulemaking action, we will accept comments received or postmarked on or before March 8, 2010. We must receive requests for public hearings, in writing, at the address shown in the **FOR FURTHER INFORMATION CONTACT** section by February 19, 2010.

**ADDRESSES:** You may submit comments by one of the following methods:

\* *Electronically:* Go to the *Federal eRulemaking Portal*: <http://www.regulations.gov>. In the Keyword box, enter Docket No. **FWS-R9-ES-2009-0084**, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen under the **Document Type** heading, click on the **Proposed Rules** link to locate this document. You may submit a comment by clicking on "**Send a Comment or Submission.**"

\* *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: **FWS-R9-ES-2009-0084**; Division of Policy and Directives Management; U.S. Fish and Wildlife