

not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive 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 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 rule 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 18, 2010.

**Judith A. Enck,**

*Regional Administrator, Region 2.*

[FR Doc. 2010-4306 Filed 3-1-10; 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 session.

**SUMMARY:** FMCSA announces that it will hold a fifth public listening session (in addition to the four sessions held in January 2010) 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. This session will be held in the Louisville, Kentucky area in conjunction with the Mid-America Trucking Show. The listening session 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:** This listening session will be held on Friday, March 26, 2010, in Louisville, Kentucky. It will begin at 10 a.m. local time and end at 6 p.m., or earlier, if all participants wishing to express their views have done so.

**ADDRESSES:** The listening session will be held at the Mid-America Trucking Show at the Kentucky Exposition Center, South Wing Room B101, 937 Phillips Lane, Louisville, Kentucky 40209-1331. The Kentucky Exposition Center may be contacted at (502) 367-5000 for directions. Each person attending may attend the trucking show and the listening session free of charge, if they pre-register online with the Mid-America Trucking Show organizer at <http://truckingshow.com/attendee/attendee-registration>. Attendees pre-registering must print out their

confirmation page after registering and present it at the Kentucky Exposition Center door to be admitted free. Otherwise, admission to the trucking show on March 26 will be \$5.00.

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 to 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 FDMS 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 information concerning the hours-of-service rules, contact Mr. Tom Yager, Chief, Driver and Carrier Operations

Division, (202) 366-4325, [mcpsd@dot.gov](mailto:mcpsd@dot.gov).

For sign language interpretation services, contact the Regulatory Development Division at (202) 366-5370 or [FMCSAregs@dot.gov](mailto:FMCSAregs@dot.gov), by March 17, 2010, to allow us to arrange for such services. There is no guarantee that interpreter services requested on short notice can be provided.

#### SUPPLEMENTARY INFORMATION:

### I. Background

On October 26, 2009, Public Citizen, *et al.* (Petitioners) and FMCSA entered into a settlement agreement under which the parties agreed to seek to hold Petitioners' petition for judicial review of the November 19, 2008 Final Rule on drivers' hours of service 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.

On January 5, 2010, FMCSA announced its plans to hold three public listening sessions concerning the HOS rulemaking (75 FR 285). On January 15, 2010, FMCSA announced its plans to hold a fourth public listening session (75 FR 2467). FMCSA now announces a fifth public listening session to solicit additional written and/or oral 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

This 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-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 nighttime 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: February 24, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-4293 Filed 3-1-10; 8:45 am]

**BILLING CODE 4910-EX-P**

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS-R8-ES-2010-0008]

[MO 92210-0-0008-B2]

[RIN 1018-AX07]

#### Endangered and Threatened Wildlife and Plants; Listing the Flat-Tailed Horned Lizard as Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Reinstatement of proposed rule, reopening of comment period, and notice of public hearings.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), notify the public of the reinstatement of our November 29, 1993, proposed rule to list the flat-tailed horned lizard (*Phrynosoma mcallii*) as threatened under the Endangered Species Act of 1973, as amended (Act). We also announce the reopening of a public comment period on the 1993 proposed rule and the scheduling of public hearings. This action will provide all interested parties with an additional opportunity to provide information and submit comments on the 1993 proposed rule.

**DATES:** *Written comments:* To ensure consideration of your comments, we must receive them on or before May 3, 2010.

*Public Hearings:* The public hearings will take place on March 23, 2010, from 1 p.m. to 3 p.m. and from 6 p.m. to 8 p.m. at University of California, Riverside (UCR) Palm Desert Graduate Center, 75-080 Frank Sinatra Drive,