



## **DEPARTMENT OF TRANSPORTATION**

### **Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2025-0194]**

#### **Hours of Service of Drivers; Pilot Program to Allow Commercial Drivers to Pause Their 14-Hour Driving Window**

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

**ACTION:** Notice of proposed pilot program; request for comments.

**SUMMARY:** FMCSA proposes a pilot program allowing temporary regulatory relief from the Agency’s hours-of-service (HOS) requirement that all driving by drivers of property-carrying commercial motor vehicles (CMVs) be completed within 14 hours after coming on duty. During the proposed pilot program, known as the “Split Duty Period Pilot Program,” participating CMV drivers would have the option to extend their 14-hour “driving window” by taking one off-duty, sleeper berth, or on-duty/not driving period (taken at the location of a pick-up or delivery of cargo), including what is sometimes called “detention time”, of no less than 30 minutes and no more than 3 hours.

Participation would be limited to approximately 256 commercial driver’s license (CDL) holders who meet the eligibility criteria specified for participation. Because the program would be applicable only to the rules for drivers of property-carrying CMVs, drivers of passenger-carrying CMVs would not be eligible for participation. This pilot program would examine whether such flexibility achieves a level of safety that is equivalent to, or greater than, the level of safety that would be achieved through compliance with the current regulations. FMCSA believes that the exemption covered by the proposed pilot program provides the flexibility to take extra rest, avoid driving during traffic congestion,

and mitigate the impacts of unreasonable “detention times,” thereby improving the working conditions of America’s truck drivers.

**DATES:** Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by Docket Number FMCSA-2025-0194 using any of the following methods:

- Federal eRulemaking Portal: Go to <https://www.regulations.gov/docket/FMCSA-2025-0194/document>. Follow the online instructions for submitting comments.
- Mail: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001.
- Hand Delivery or Courier: Dockets Operations, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.
- Fax: (202) 493-2251.

**FOR FURTHER INFORMATION CONTACT:** Dr. Samuel R. White, Applied Research Division, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001; Samuel.White@dot.gov; (202) 875-1029. If you have questions on viewing or submitting material to the docket, call Dockets Operations at (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Public Participation and Request for Comments**

**A. Submitting Comments**

If you submit a comment, please include the docket number for this notice (FMCSA-2025-0194), indicate the specific section of this document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2025-0194/document>, click on this notice, click “Comment,” and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

FMCSA will consider all comments and material received during the comment period.

### **Confidential Business Information (CBI)**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to the notice, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as “PROPIN” to indicate it contains proprietary information. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket of the NPRM. Submissions containing CBI should be sent to Brian Dahlin, Chief, Regulatory

Evaluation Division, Office of Policy, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590-0001 or via email at [brian.g.dahlin@dot.gov](mailto:brian.g.dahlin@dot.gov). At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this rulemaking.

## **B. Viewing Comments and Documents**

To view any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2025-0194/document> and choose the document to review. To view comments, click this notice, then click “Browse Comments.” If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.

## **C. Privacy**

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, including any personal information the commenter provides, to [www.regulations.gov](https://www.regulations.gov) as described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>. The comments are posted without edits and are searchable by the name of the submitter.

## **II. Legal Basis**

FMCSA has authority under 49 U.S.C. 31315(c) to conduct pilot programs. These programs are research studies where one or more temporary exemptions are granted to a person or class of persons subject to certain Federal Motor Carrier Safety Regulations

(FMCSRs), to allow for the testing of innovative alternatives to those regulations (49 U.S.C. 31315(c)(1); see also 49 C.F.R. 381.400). FMCSA must publish in the *Federal Register* a detailed description of each pilot program, including the exemptions being considered, and provide such notice and an opportunity for public comment before the effective date of the program. The Agency is required to ensure that the safety measures in its pilot programs are designed to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be achieved through compliance with the current regulations. Pilot programs are limited to not more than 3 years from the start date (49 U.S.C. 31315(c)(2)). The requirements in 49 CFR part 395 – Hours of Service of Drivers, are eligible for pilot program exemptions. (49 CFR 381.400(f)(8)).

At the conclusion of each pilot program, FMCSA must submit a report to Congress concerning the findings, conclusions, and recommendations, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety, and improve compliance with the FMCSRs (49 U.S.C. 31315(c)(5)).

### **III. Background**

#### ***HOS Rulemaking – Pause to the 14-Hour Window***

On August 22, 2019, FMCSA published a notice of proposed rulemaking (NPRM) concerning drivers' HOS which proposed certain amendments to provide greater flexibility for drivers, without adversely affecting safety (84 FR 44190). As part of that rulemaking, FMCSA proposed that a single off-duty period of between 30 minutes and 3 consecutive hours could be excluded from the 14-hour "driving window," provided the driver complies with the existing requirement to take 10 consecutive hours off-duty before beginning driving. The Agency explained that a single pause of up to 3 hours would provide significantly more flexibility than is allowed under the current rules. The

pause would have allowed drivers to take an off-duty break without concerns of exhausting their available hours under the 14-hour “driving window.” This would also have allowed them to get additional rest or avoid traffic congestion.

#### ***FMCSA Decision to Exclude the Pause from the Final Rule***

After reviewing the public comments to the NPRM, the Agency decided not to include the pause to the 14-hour “driving window” in the final rule (85 FR 33396, June 1, 2020). Although FMCSA explained that it continued to believe that an opportunity for a single off-duty pause in the 14-hour “driving window” could provide flexibility for drivers without compromising safety, many commenters believed that drivers would be pressured by carriers, shippers, or receivers to use the break for reasons other than accommodating their own rest or schedule. These comments suggested that the pause could have unintended consequences that were not adequately evaluated in the development of the NPRM.

#### ***Previous FMCSA Proposal to Conduct a Split Duty Period Pilot Program***

To further evaluate the outcomes of a split duty period, the Agency later proposed a pilot program which would have examined the level of safety of extending the 14-hour “driving window” after a 30-minute to 3-hour off-duty period (85 FR 55061, Sept. 3, 2020). Due to changes in programmatic priorities over time, FMCSA ultimately did not initiate the pilot program. Since then, drivers have continued to encounter various scenarios in which they might have benefited from the flexibility to extend the 14-hour “driving window,” including encountering unreasonably long periods of “detention time” when waiting to load or unload. The previously proposed pilot program, however, would not have allowed on-duty time of any type to count toward a “pause,” even if that program had been completed.

#### ***FMCSA’s Proposal to Conduct a New Split Duty Period Pilot Program***

The pilot program FMCSA is currently proposing is designed, among other purposes, to allow drivers to use up to 3 hours of off duty, sleeper berth, or on-duty/not driving time (provided it is taken at the location of cargo delivery or pickup) to extend their 14-hour “driving window.” The goal of this pilot program’s exemption is to safely and flexibly give drivers more control over their work schedule.

FMCSA acknowledges, as noted by comments received in response to the 2019 HOS NPRM, that the potential benefits of increased flexibility could be undermined if the pause is used by carriers, shippers, or receivers for purposes other than the productivity and safety of drivers, e.g., to justify existing or further delays in loading or unloading. During the proposed pilot program, FMCSA plans to track the type of duty status participating drivers use to extend their 14-hour “driving window,” which will assist the Agency in estimating the extent to which “detention time” occurs, as well as its potential effects on driver fatigue and safety performance metrics, compared to pauses taken under other circumstances. During the proposed pilot program, FMCSA would also actively monitor and watch for any indication that shippers, receivers, or employing motor carriers are inappropriately influencing or misusing a driver’s ability to determine how and when to utilize the flexibility provided by the exemption. In addition to potentially providing relief from “detention time,” the Agency believes that a pause (off-duty, sleeper berth, or on-duty/not driving time [provided it is taken at the location of a cargo delivery or pickup]) of up to 3 consecutive hours during a work shift may enable drivers to avoid congestion. The subsequent driving time would then be more productive, as drivers may have a greater opportunity to travel at the posted speed limits rather than at lower speeds through heavy traffic and congestion. It may also reduce the pressure to drive above the posted speed limits because of concerns related to the 14-hour “driving window.” In addition, drivers would have greater flexibility to take a rest break (off-duty or sleeper berth time) to reduce the likelihood of experiencing fatigue while driving.

Drivers would continue to take 10 consecutive hours off-duty at the end of the duty period, meaning that they could in fact get more overall hours of rest under the proposed pilot program than without it, despite the potential to extend the 14-hour “driving window” on individual days. In addition, this exemption would have no direct impact on any applicable requirements covered by § 395.3(a)(3) or (b), except that a pause taken in accordance with the exemption may serve as the “interruption” required by § 395.3(a)(3)(ii), provided that it has a duration of at least 30 minutes and otherwise complies with the requirements of that paragraph.

With regard to safety impacts, the Agency notes that the proposed pilot program would not affect current limits on on-duty and/or driving hours. Any on-duty/not driving time (taken at the location of a cargo delivery or pickup) used to extend the driver’s 14-hour “driving window” under this pilot program’s exemption would continue to count against the 60/70-hour on-duty time limits in a 7 or 8-day period (respectively). However, any off duty or sleeper berth time used to extend the driver’s 14-hour “driving window” under this pilot program’s exemption would not count against the 60/70-hour rule. In addition, drivers would still be required to have 10 consecutive hours off-duty or in the sleeper berth at the end of their shift and continue to be limited under the 60/70-hour rule.

### ***Applicable Regulations***

Under 49 CFR 395.3(a)(2), a driver of a property-carrying CMV may drive only during a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty. The driver may not drive after the end of the 14-consecutive-hour period without first taking 10 consecutive hours off duty or in the sleeper berth (including the option to take the “equivalent of at least 10 consecutive hours off-duty” as referenced in § 395.1(g)(1)(i)(E)).

### ***Relevant Research***



FMCSA will conduct additional research during the refinement of the pilot program design. The Agency believes that the proposal for this pilot program is supported by “The Impact of Driving, Non-Driving Work, and Rest Breaks on Driving Performance in Commercial Motor Vehicle Operations.”<sup>1</sup> That study showed that the safety critical event (SCE) rate increased modestly with increasing work and driving hours, up to a 14-hour “window”, but also that breaks can be used to counteract the negative effects of time-on-task. The results from the break analyses indicated that significant safety benefits can be afforded when drivers take breaks from driving. However, this study data cannot be extrapolated to determine the potential impact of including up to a 3-hour pause in the 14-hour “driving window.” After completion of a thorough review and refinement, any additional relevant information will be included in subsequent *Federal Register* notices (such as those related to an information collection request (ICR) prior to initiation of the pilot program.

#### **IV. Pilot Program Requirements**

Specific requirements for pilot programs are found in 49 U.S.C. 31315(c) and subparts D and E of 49 CFR part 381. A pilot program is a study in which participants are given exemptions from one or more provisions of the FMCSRs for up to 3 years to gather data to evaluate alternatives or innovative approaches to regulations, while ensuring that an equivalent level of safety is maintained.

A pilot program must include the following elements in each pilot program plan:

- (A) A scheduled life of each pilot program of not more than 3 years.
- (B) A specific data collection and safety analysis plan that identifies a method for comparison.
- (C) A reasonable number of participants necessary to yield statistically valid findings.

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<sup>1</sup> Blanco, M., Hanowski, R., Olson, R., Morgan, J., Soccolich, S., Wu, S.C., & Guo, F. (2011).

(D) An oversight plan to ensure that participants comply with the terms and conditions of participation.

(E) Adequate countermeasures to protect the health and safety of study participants and the general public.

(F) A plan to inform State partners and the public about the pilot program and to identify approved participants to safety compliance and enforcement personnel and to the public.

At the conclusion of each pilot program, FMCSA reports to Congress the findings and conclusions of the program and any recommendations it considers appropriate, including suggested amendments to laws and regulations that would enhance motor carrier, CMV, and driver safety and improve compliance with the FMCSRs (§ 381.520, see also 49 U.S.C. 31315(c)(5)).

#### ***Scheduled Life of Pilot Program***

The pilot program will take approximately 34 months (up to 36 months) to complete in its entirety.

#### ***Specific Data Collection and Safety Analysis Plan***

As detailed in this notice, the data collection portion of the pilot program will be 4 months per participating driver. Of that time, for each driver, 1 month will involve the collection of data while the driver operates under “baseline” conditions (i.e., according to the current regulations). The remaining 3 months of the data collection period will consist of operations under the exemption.

Details of the data collection plan for this pilot program are subject to change based on comments to the notice and further review by analysts. Proposed information to be collected from each participating motor carrier and driver before the pilot program begins (i.e., during the application phase) are discussed in Section VIII of this notice. Following a pre-study briefing, participants would receive a smartphone provided by

FMCSA's research services contractor installed with data collection apps necessary for the research (e.g., fatigue measurement apps, survey apps, etc.). These devices would not include any additional automated data collection applications that collect and record information without the driver's consent. Drivers would also receive a wrist actigraphy device (i.e., "smartwatch"). FMCSA proposes the collection of the following information:

- Records of duty status prepared using an electronic logging device, to evaluate participants' use of the split duty period exemption/optional pause.
- Roadside inspection data and crash records.
- Wrist actigraphy data, to evaluate total sleep time, time of day sleep was taken, and sleep quality, e.g., sleep latency and intermittent wakefulness.
- Psychomotor Vigilance Test (PVT) data, to evaluate drivers' behavioral alertness/effects of fatigue, based on reaction times. For this study, drivers would be required to complete daily iterations of a brief PVT, a 3-minute behavioral alertness test which measures drivers' alertness levels by timing their reactions to visual stimuli.
- Subjective sleepiness ratings, using the Karolinska Sleepiness Scale (KSS),<sup>2</sup> to measure drivers' perceptions of their fatigue levels.
- Survey data (e.g., driver pre-and-post study surveys to provide contextual information).
- Other information necessary to complete the analyses may be collected through the participating motor carrier. Every effort will be made to reduce the burden on the motor carrier in collecting and reporting this data.

The "method of comparison" for the "safety analysis plan" will vary depending on the data, but may include *t*-tests,  $\chi^2$  tests, other inferential/descriptive statistics, and/or

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<sup>2</sup> The KSS is a nine-point Likert-type scale ranging from "extremely alert" to "extremely sleepy" and has been widely used in the literature as a subjective assessment of alertness.

qualitative analyses to include case narratives (e.g., for crash events). To make effective comparisons between drivers operating in compliance with the current regulations and drivers operating under the conditions of the exemption, the study has been structured as a *within subjects* research design, which will compare data for the same drivers operating under both conditions.

### ***Reasonable Number of Participants Necessary to Yield Statistically Valid Findings***

FMCSA is not aware of any past research which might inform estimates of effect size for the pilot program described in this notice. Therefore, preliminary statistical power analyses were performed in an effort to estimate ranges of required sample sizes given practically significant effect sizes. For example, given an effect size  $d_z$  of 0.25,  $\alpha$  error probability = 0.05, and statistical power of  $(1 - \beta) = 0.95$ , for a  $t$ -test examining the difference between dependent means (as is the case for a within-subjects research design), we estimate the total required sample size to be 175.

To control for an unknown effect size (i.e.,  $d_z$ ) which may be smaller than estimated in the previous paragraph, we explored how increasing the sample size could be balanced against slightly decreased statistical power (e.g., 0.80) to increase the chances of detecting smaller effects using the same type of statistical tests. Based on those additional analyses, we selected an increased target sample size of 256 drivers. This number is advantageous in that it provides a moderately improved probability of detecting “small” effect sizes relative to a sample size of 175, while providing adaptability to changes in research needs that might arise going forward (e.g., a change to a mixed design vs the present plan to utilize a within subjects design).

### ***Oversight Plan to Ensure that Participants Comply with the Terms and Conditions of Participation***

Eligibility criteria for participation in the proposed pilot program are covered in section VII of this notice.

To ensure that drivers and motor carriers continue to meet these criteria, that the use of the exemption is according to the terms and conditions covered in this notice, and that drivers and motor carriers continue to provide the agreed-upon data, the following oversight plan, or a variation of it, will be used:

- 1) Carriers' SMS data, including out-of-service rates and other performance parameters, will be reviewed on a monthly basis during the data collection portion of the pilot program.
- 2) Carriers' crash records, including any crashes involving participating drivers, will be reviewed at frequency of not less than every two days during the data collection portion of the pilot program.
- 3) Carriers' Motor Carrier Management Information System data, including licensing and insurance data, will be reviewed at a frequency of not less than every three days during the data collection portion of the pilot program.
- 4) Incoming data, including, for example, actigraph records and records of duty status prepared using an electronic logging device, will be reviewed daily to weekly, depending on the element being reviewed.

***Adequate countermeasures to protect the health and safety of study participants and the general public.***

FMCSA believes that the same measures which would be used to verify motor carrier/driver compliance with the terms and conditions of the pilot program represent adequate countermeasures to protect the health and safety of study participants and the general public.

In addition, FMCSA would reserve the right to remove any motor carrier or driver from the pilot program for reasons related to, but not limited to, the failure to meet all program requirements or a determination of increased safety concerns. (see 49 U.S.C. 31315(c)(3)). FMCSA would additionally reserve the right to terminate the pilot

program at any time such as if there is evidence of increased safety risk resulting from the use of the exemption to extend the 14-hour “driving window.” (see 49 U.S.C. 31315(c)(4)).

***Plan to inform State partners and the public about the pilot program and to identify approved participants to safety compliance and enforcement personnel and to the public.***

FMCSA plans to inform State partners about the program through a variety of means, including e-mail announcement, announcement on the FMCSA website, and discussion of the program at events frequently attended by representatives of State partner agencies.

FMCSA will identify approved participants to safety compliance and enforcement personnel via document provided to each participant that must be carried by the driver during the data collection portion of the pilot program which identifies them as an approved participant. In addition, FMCSA will provide a list of participating motor carriers and drivers to State and Federal enforcement officials via FMCSA’s Query Central system. Query Central is a non-public system accessible to State and Federal enforcement officials. Separately, FMCSA would provide a list of participating motor carriers (but not participating drivers) on its public website.

## **V. Structure of the Pilot Program**

The proposed pilot program would test whether and how pausing the 14-hour “driving window” by an amount equal to the length of a single off-duty, sleeper berth, or on-duty/not driving period (taken at the location of a pick-up or delivery of cargo) of between 30 minutes and 3 hours, affects safety performance, sleepiness, and metrics related to driver fatigue. To make this comparison, FMCSA would collect data from drivers participating in a repeated measures study, including a 1-month period during which drivers would operate in compliance with the current regulatory requirements, and

a separate 3-month period during which the same drivers would be issued an exemption from current HOS regulations to allow them to pause their 14-hour “driving window,” as previously described.

FMCSA proposes collecting data from approximately 256 CDL drivers operating in various locations in the United States for small, medium, and large motor carriers, as well as independent owner-operators, who would have applied and been accepted for participation in the pilot program.

Based on preliminary statistical power analyses, FMCSA believes that this sample is of a sufficient size to detect statistical differences having moderately small effect sizes between drivers utilizing the optional “pause” and drivers operating under current regulations. The Agency notes, however, that some of the variables proposed for data collection represent infrequent events – e.g., crashes. It is anticipated that such cases will contribute to meaningful qualitative, if not quantitative, analyses.

Subject to the outcomes of recruitment efforts, voluntary withdrawal of participants from the pilot program, and other types of attrition, FMCSA may need to recruit more than 256 drivers to collect a full 4 months of data from 256 individuals. In addition, the same factors may result in data collection activities for the study lasting longer than 4 months overall, despite the collection of only 4 months of data from individual drivers. In conducting statistical analyses, FMCSA will take measures to ensure that covarying factors, e.g., seasonal variations in crash rates, are accounted for to the extent practicable.

Safety performance would be evaluated through a review of inspection records (e.g., HOS and unsafe driving violations) and crash data. Depending on feedback received in response to this notice, FMCSA may request voluntary transfer of external-facing camera footage to gather information about crashes and other SCEs, as well as telematics data, to gather information about driving events (e.g., harsh braking).

Subjective assessments of sleepiness/fatigue will be performed regularly. Sleep quality and duration will be estimated through actigraph data. The effects of driver fatigue will be measured through regular administration of the psychomotor vigilance task.

Participating carriers meeting the eligibility criteria, as described later in this notice, would be permitted to refer their drivers for participation. Drivers would be enrolled in the pilot program contingent upon approval from the employing motor carrier, as applicable. Owner operators who independently operate a motor carrier would self-certify accordingly.

## **VI. Management of the Pilot Program**

FMCSA has designated a project manager for the pilot program. FMCSA would develop the applications, agreements, and forms to be used by interested carriers and potential study group members. Participating carriers would be announced publicly.

Eligibility requirements and procedural matters are discussed in Sections VII and VIII of this notice.

## **VII. Eligibility Criteria to Participate**

### **A. Motor Carriers**

The Agency proposes that in order to qualify for participation in the pilot program, motor carriers would have to meet the following eligibility criteria:

1. Must have proper operating authority and registration;
2. Must have the minimum levels of financial responsibility, if applicable;
3. Must not be a high or moderate risk carrier, as defined in the Agency's

*Federal Register* notice titled "Notification of Changes to the Definition of a High-Risk Motor Carrier and Associated Investigation Procedures" (81 FR 11875);<sup>3</sup>

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<sup>3</sup> Available at <https://www.federalregister.gov/documents/2016/03/07/2016-04972/notification-of-changes-to-the-definition-of-a-high-risk-motor-carrier-and-associated-investigation>.



4. Must not have a Conditional or Unsatisfactory safety rating;
5. Must not have any enforcement actions within the past 3 years;<sup>4</sup>
6. Must not have a driver out of service (OOS) rate above 5.97%<sup>5</sup>; and,
7. Must not have a vehicle OOS rate above the 21.41%<sup>6</sup>.

In addition, unpaid civil penalties may be grounds to be disapproved from participating in the pilot program.

Motor carriers participating in the pilot program would also be required to meet the following requirements:

- Grant permission for drivers to participate in the Split Duty Period Pilot Program.
- Agree to comply with all pilot program procedures, which will be established and made available in written form to carrier-applicants prior to initiation of the pilot program.
- Grant permission for researchers to gather records of duty status prepared using an electronic logging device for each participating driver throughout the study duration. Records of duty status provided for this pilot program will be:
  - Transferred by the motor carrier directly to third-party researchers contracted by FMCSA.
  - Stored securely and used by the researchers contracted by FMCSA only for the purposes of research for this pilot program as described in this Federal Register notice and as approved by an Institutional Review Board.

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<sup>4</sup> Enforcement actions include, for example, federal out of service orders and/or monetary penalties issued by FMCSA to a motor carrier or driver for non-compliance.

<sup>5</sup> Lowest annual average national driver out-of-service rate for past 5 calendar years (2021 – 2025) per FMCSA's Analysis & Information website at time of this notice.

<sup>6</sup> Lowest annual average national vehicle out-of-service rate for past 5 calendar years (2021 – 2025) per FMCSA's Analysis & Information website at time of this notice.

- Described in the results section of a research report resulting from this pilot program only in an aggregate or anonymized manner.

Records of duty status provided to the researchers for this pilot program will not be:

- Transferred to FMCSA.
- Possessed by FMCSA.
- Reviewed by FMCSA.
- Used by FMCSA for enforcement actions against a motor carrier or driver for noncompliance.
- Grant permission for drivers participating in the study to operate under the split duty period exemption.

## **B. Drivers**

The Agency proposes the following eligibility criteria for drivers participating in the Split Duty Period Pilot Program. A driver would not be eligible for participation in the pilot program if, during the 2-year period immediately preceding the date of participation, the driver had his or her license suspended, revoked, cancelled, or has been disqualified for a conviction of one of the disqualifying offenses listed in § 383.51.

In addition, drivers would be required to:

- Possess a valid CDL;
- Maintain a valid medical certificate from a healthcare professional on the Agency's National Registry of Certified Medical Examiners while participating in the pilot program;
- Be employed by a motor carrier approved for participation in the pilot program or certify as an owner-operator;
- Agree to comply with the study procedures, including the use of a wearable actigraph, the completion of tests/surveys related to fatigue/sleepiness, and

the preparation of records of duty status using an electronic logging device. Records of duty status, actigraph data, and data collected using test/survey instruments will be transferred to third-party researchers contracted by FMCSA to perform the research services for the pilot program. The researchers will not transfer any of this data or information to FMCSA. It will not be used by FMCSA for the purposes of enforcement actions against a participating motor carrier or driver. It will only be used by the researchers for the research purposes described in this Federal Register notice, including to verify and characterize drivers' use of the optional pause, the effects of the pause on fatigue and driving behavior, and participants' adherence to the parameters of the pilot program. If this pilot program results in a research report, this data will only be presented in an aggregated or anonymized fashion such that an individual driver's data or identity could be determined from the information appearing in the report.

## **VIII. Process to Apply to Participate**

### **A. Motor Carriers**

- Visit the pilot program website and complete an electronic application with screening questionnaire, which will request the following details, at a minimum: name, job title, carrier information, company name, and carrier size.
- The carrier's representative must acknowledge that all driver data, to include driving/performance data (except data/records the driver must furnish the motor carrier per the FMCSRs), sleep data, and fatigue data remain confidential and will not be shared with the company.

### **B. Study Group Drivers**

- Visit the pilot program website and complete an electronic application including the following details, at a minimum: name, contact information, Medical Certification expiration date, CDL status, typical operation type (solo, team, etc.), duty reporting location, and whether they currently prepare records of duty status using an electronic logging device.
- Participate in a phone call with a member of the research team to confirm interest and eligibility.
- Identify their current employer to ensure the motor carrier is approved for participation in the pilot program (unless the individual is an independent owner operator).
- Provide written, informed consent after a briefing session on data collection techniques and methods.

## **IX. Equivalent Level of Safety**

FMCSA is unaware of any directly relevant past research regarding the use of split duty periods among commercial motor vehicle drivers in the same or similar context to the proposed pilot program – this is one of the reasons FMCSA believes the pilot program should be conducted. However, for practical purposes, the Agency presents the following straightforward arguments supporting its belief that the exemption covered by the pilot program will achieve, at minimum, an equivalent level of safety.

- 1) **Effect on Overall Duty Cycle:** Although participating drivers would be permitted to pause a given 14-hour “driving window” by up to 3 hours, most use cases the Agency explored in developing this pilot proposal resulted in very similar duty cycle outcomes over time. For example, consider the following two cycles of duty statuses repeated over time:

A (Baseline)	B (Exemption)
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Off Duty	10 Hours	Off Duty	10 Hours
Driving	8 Hours	Driving	8 Hours
On Duty	6 Hours	On Duty	6 Hours
		Driving	3 Hours

When carried out over the course of a 5-day period, both drivers reach the 70-hour/8-day limit at exactly the same time on the same day, even though the driver in example “B” may exclude 3 hours of “on-duty” time from the calculation of each of their 14-hour “driving windows.” The primary difference between the two examples, for practical purposes, is that the driver in example “B” has much more flexibility in choosing how to allocate those 70 hours than the driver in example “A.”

- 2) **Effects of a 17-Hour Window:** The Agency already permits property-carrying drivers to intermittently utilize a 16-hour “driving window” under § 395.1(o), which places no restriction on eligibility for this extension based on type of duty status used, nor does it require an additional interruption in driving time to utilize. In contrast, while the proposed “pause” could result in an up to 17-hour “driving window,” it effectively incorporates both a requirement to interrupt driving and a restriction of duty status types during the “pause” to only non-driving duty statuses. Moreover, the proposed pause would not result in a longer overall “duty window” than the maximum recommended by literature FMCSA has previously cited in support of the 14-hour “driving window.”
- 3) **Allowing On-Duty Time to Serve as a Pause:** The Agency already permits drivers to use on-duty/not driving time to serve as the required 30-minute interruption of driving time required by § 395.3(a)(3)(ii). Further, in the case of the 30-minute interruption, there is no restriction placed on the nature of any on-duty/not driving time. In contrast, the proposed pilot program would

only permit on-duty time which takes place at the location where cargo will be picked up or delivered, reflecting the intent that the option be used primarily for “detention time”, not performing other work for the motor carrier.

- 4) **Rotation of the Circadian Rhythm/Sleep Cycle:** The Agency’s current HOS rules already allow for rotation of the circadian rhythm, including in common use cases. For example, consider a driver whose goal is to use all available driving time each day while minimizing time spent not driving.

This driver would cycle through the following duty statuses:

Maximizing Driving Under Current HOS Rules	
Off Duty	10 Hours
Driving	8 Hours
Off Duty	0.5 Hours
Driving	3 Hours

This corresponds to a 21.5-hour cycle and a backward rotation of the driver’s wake time by 2.5 hours after each period of 10 consecutive hours off duty. In contrast, a driver using the maximum pause under the pilot program after each period of 10 consecutive hours off duty will have slightly more rotation—3 hours—but the directionality is forward rather than backward.

Forward rotation, in which the wake time gets later each day, is generally recognized as safer/less disruptive than backward rotation.

Besides these commonsense arguments demonstrating the high likelihood that an equivalent level of safety would be achieved, FMCSA would further support safe operations by reserving the right to remove any motor carrier or driver from the pilot program for reasons related, but not limited to, failure to meet all program requirements or a determination of increased safety concerns (see 49 U.S.C. 31315(c)(3)). FMCSA would reserve the right to terminate the pilot program at any time if, for example, there

is evidence of increased safety risk by carriers and/or drivers participating in the pilot program (see 49 U.S.C. 31315(c)(4)).

In addition, data collected would be monitored by the research team. The contracted research team would be required to inform FMCSA within 24 hours after learning that a participating driver is involved in an “accident” as defined in § 390.5T. Should there be any adverse outcomes identified, FMCSA may end the pilot program early or remove a participating carrier as a measure to maintain an equivalent level of safety.

## **X. Paperwork Reduction Act**

The pilot program would require participating motor carriers to collect, maintain, and report to FMCSA certain information about their drivers who are participating in the pilot program. This would include identifying information and safety performance data for use in analyzing the drivers’ safety history. The Agency will develop forms to promote uniformity in the data collected by the pilot carriers.

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) prohibits agencies from conducting information collection (IC) activities until they analyze the need for the collection of information and how the collected data will be managed. Agencies must also analyze whether technology could be used to reduce the burden imposed on those providing the data. The Agency must estimate the time burden required to respond to the IC requirements, such as the time required to complete a particular form. The Agency submits its IC analysis and burden estimate to the Office of Management and Budget (OMB) as a formal ICR; the Agency cannot conduct the IC until OMB approves the ICR.

Because certain aspects of this pilot program—such as the content of forms and reports—have not been finalized, the Agency is not publishing possible IC burden data at this time. A separate *Federal Register* notice will be published to solicit additional comments on the ICR.

## **XI. Removal from the Program**

FMCSA would reserve the right to remove any motor carrier or driver from the pilot program for reasons related to, but not limited to, the failure to meet all program requirements or a determination of increased safety concerns (see 49 U.S.C. 31315(c)(3)). FMCSA would additionally reserve the right to terminate the pilot program at any time such as if there is evidence of increased safety risk resulting from the use of the exemption to extend the 14-hour “driving window” (see 49 U.S.C. 31315(c)(4)).

## **XII. Request for Public Comments**

FMCSA seeks information in the following areas, but responses need not be limited to these questions:

1. Are any additional safeguards needed to ensure that the pilot program provides a level of safety equivalent to that without the 14-hour “driving window” pause exemption?
2. What safeguards should be considered to ensure that employing motor carriers, shippers, and receivers do not abuse the exemption by coercing or forcing participating drivers to use it at/during times not chosen by the driver?
3. What measures should FMCSA take to disincentivize abuse of the exemption by shippers and receivers (e.g., through coercion, imposing of additional delays on participating drivers while waiting to load/unload, etc.)?
4. Are the types of data (e.g., actigraph data, psychomotor vigilance task data, records of duty status prepared using an electronic logging device, etc.) proposed for collection so burdensome to provide as a participant as to discourage participation?



5. Should team drivers be allowed to participate in the pilot program? Should there be additional considerations for team drivers?
6. What additional factors, such as driver sex, geographic location, age, operating types, or driver experience, should be considered when selecting participants to ensure a representative sample is achieved?
7. Is the estimated sample size of 256 drivers sufficient to establish reasonable statistical power? Is 1 month of baseline data and 3 months of data while operating under the exemption sufficient to capture and differences in safety performance or fatigue between the two conditions?
8. Should FMCSA consider additional metrics for measuring safety performance and/or fatigue beyond those already proposed in this notice?
9. What other potential data collection tools should FMCSA use for the pilot program in addition to actigraphs, record of duty status prepared using an electronic logging device, and phone apps assessing fatigue?
10. Do the potential safety controls offered by requiring all participating drivers to provide data for the “baseline” 1-month period prior to providing data for the 3-month “exemption” period outweigh the potential drawbacks to validity of such a design (e.g., order effects)?
11. Should FMCSA consider requesting that participating carriers grant voluntary permission for the collection of existing outward facing camera data for the purposes of capturing crash and SCE video footage (provided their decision does not affect their eligibility to participate in the pilot program)?
12. Should FMCSA consider requesting participating carriers grant voluntary permission for the collection of data from their existing telematics systems

(e.g., for driving events such as instances of harsh braking) provided their

decision does not affect their eligibility to participate in the pilot program?

In addition, FMCSA encourages motor carriers and owner operators who are interested in participating in the proposed pilot program to express this interest via public comment.

Issued under authority delegated in 49 CFR 1.87.

**Jesse Ellison,**

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