

Comments of  
Safer Hauling and Infrastructure Protection (SHIP) Coalition  
to the  
Federal Motor Carrier Safety Administration,  
United States Department of Transportation  
Regarding  
Docket No. FMCSA-2020-0098,  
Hours of Service of Drivers;  
Pilot Program to Allow Commercial Drivers to Pause Their 14-Hour Driving Window  
October 26, 2020

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Introduction and Overview

The Safer Hauling and Infrastructure Protection (SHIP) Coalition is supportive of the pilot program proposal that is the subject of this docket.<sup>1</sup> The SHIP Coalition recommends that the Federal Motor Carrier Safety Administration (FMCSA) proceed to implement such a pilot program promptly, so that the collection of useful safety data can commence.

The SHIP Coalition is a joint effort of more than 80 of the nation's most prominent companies and trade associations, engaged in manufacturing, agribusiness, and other business. SHIP Coalition members directly or indirectly sustain millions of American jobs and move freight by both truck and rail. The SHIP Coalition is deeply committed to transportation safety and the protection of infrastructure and has emerged as a leading voice in developing a more modern, safe, and environmentally-friendly trucking and transportation system.

In this docket the FMCSA has proposed that participants in the proposed pilot program would, during their participation, be able to vary in a specified way from the current rule that "all driving by drivers of property-carrying commercial motor vehicles (CMVs) be completed within 14 hours of coming on duty."<sup>2</sup> Specifically, during this "Split Duty Period Pilot Program," participating drivers would have an option – "to pause their 14-hour on-duty period ... with one off-duty period of no less than 30 minutes and no more than 3 hours."<sup>3</sup> Drivers would still be required to have 10 consecutive hours off duty at the end of the on-duty period and be subject to cumulative driving time limits.<sup>4</sup>

Discussion

The ability to stop driving while pausing the 14-hour duty period would allow a driver to get rest when needed without being penalized by losing some of the 14 hours in the duty period. This could also allow a driver to better utilize the 14-hour period and avoid periods of congestion on the road or to better coordinate driving with periods to pick up or drop off cargo. When this split duty period approach was proposed in an earlier docket, comments filed included both supportive views and concerns. Concerns noted included the potential impact on the driver's circadian rhythm and that the paused time could extend the time drivers spend in detention, time that may not be restful.

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<sup>1</sup> The Federal Motor Carrier Safety Administration (FMCSA) published a notice describing and requesting comment on the proposed pilot program at 85 Federal Register 55061 *et seq.* (September 3, 2020).

<sup>2</sup> 85 Federal Register at 55061.

<sup>3</sup> Id. at 55061.

<sup>4</sup> Id. at 55063.

As to the pros and cons, the SHIP Coalition (“we” or “our”) agrees with FMCSA that “an opportunity for a single off-duty pause in the 14-hour driving window could provide flexibility for drivers without compromising safety.”<sup>5</sup> Accordingly, we recommend that FMCSA and USDOT promptly implement the pilot program, so that data can be collected that could be used in deciding whether to authorize a split duty period on a permanent basis.

While the specifics of a proposed pilot program always will matter, the SHIP Coalition is a strong supporter of the pilot program approach and believes that pilot programs can demonstrate the ability to maintain or enhance safety while also providing enhanced efficiency, reduced emissions or other benefits. Pilot programs provide a way to authorize certain activity on an interim basis and, from that authorization, develop data that otherwise might be unobtainable. With such data, any decision on a permanent authorization for a split duty period can be made on a more informed basis.

So, it is important to gather data by proceeding to implement the proposed split duty period pilot program. To the extent that a comment to this docket opposes proceeding with the pilot program, that comment would shut down the development of data that would result from the pilot program. The case for the split duty period is a good one and FMCSA should not be swayed by comments to deny it a chance to operate. Only proceeding with implementation would develop real world data – data that could point to an opportunity to improve safety.

As to the specific terms of the proposed pilot program, we ask FMCSA to run the pilot program for a long enough time period so that the results would be respected as a basis for a permanent split duty period authorization, if the results so warrant. If the pilot program is too short, or involves too few drivers, some may regard the pilot program results as not providing sufficient basis for a rule change to authorize a split duty period rule, regardless of favorable results. Statute limits FMCSA’s pilot program authority to programs of three years in length. See 49 USC 31315(c). So, clearly, Congress has suggested that a pilot program that runs for 3 or approaching 3 years would be of sufficient duration.

Finally, FMCSA should make a final decision and move to commence implementation of the pilot program promptly. The subject matter of this proposed pilot program was an issue in an earlier but recent docket, so review of the comments may not require much time, enabling prompt implementation.

### Conclusion

The SHIP Coalition is supportive of the proposed pilot program that is the subject of this docket, as set forth above. The SHIP Coalition thanks FMCSA for its consideration and asks that further action by FMCSA on the subject matter addressed in this docket be in accord with these comments.

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<sup>5</sup> Id. at 55062.