

extent possible without incurring additional expenses or delays.

**ADDRESSES:** (1) *Public Hearing:* The public hearing will be held at the following location: *Washington, DC:* Washington Plaza Hotel, Ten Thomas Circle, Washington, DC 20005.

(2) *Extension of Comment Period:* Comments related to Docket No. FRA-2009-0032, may be submitted by any of the following methods:

- *Fax:* 1-202-493-2251;
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590;
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- Electronically through the Federal eRulemaking Portal, <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name, docket name, and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to U.S. Department of Transportation, Docket Operations, M-30, 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.

**FOR FURTHER INFORMATION CONTACT:** Ron Ries, Office of Safety, FRA, 1200 New Jersey Ave. SE., RRS-23, Mail Stop 25, Washington, DC 20590 (Telephone 202-493-6299), or Zeb Schorr, Trial Attorney, Office of Chief Counsel, FRA, 1200 New Jersey Ave., SE., Mail Stop 10, Washington, DC 20590 (Telephone 202-493-6072).

**SUPPLEMENTARY INFORMATION:** FRA has received written comments submitted by interested parties related to various parts of the NPRM and written requests for a hearing regarding the NPRM. FRA is holding a public hearing to permit the exchange of information and concerns regarding FRA's proposed rule. The public hearing is meant to allow interested parties to fully develop and

articulate the issues and concerns they have with the NPRM so that these concerns can be fully addressed in any final rule that is developed. Interested parties are invited to present oral statements and proffer evidence at the hearing. The hearing will be informal and will be conducted by a representative designated by FRA in accordance with FRA's Rules of Practice (49 CFR 211.25). The hearing will be a non-adversarial proceeding; as such, there will be no cross-examination of persons presenting statements or proffering evidence. An FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make a brief rebuttal will be given the opportunity to do so in the same order in which the initial statements were made. Additional procedures, as necessary for the conduct of the hearing, will be announced at the hearing.

On February 22, 2010, the comment period for the NPRM will reopen for fourteen (14) days so that FRA can make the public hearing transcript available for review and comment by the general public, interested parties can provide additional comments and documents related to the NPRM, and interested parties can provide responses to matters that arise at the public hearing.

#### Public Participation Procedures

Any person wishing to participate in the public hearing should notify the FRA's Docket Clerk by mail, Michelle Silva, Office of Chief Counsel, FRA, 1200 New Jersey Ave. SE., Room W31-109, Washington, DC 20590, or e-mail ([Michelle.Silva@dot.gov](mailto:Michelle.Silva@dot.gov)), or at the fax number 202-493-6068, at least five (5) working days prior to the date of the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address and other contact information. FRA reserves the right to limit participation in the hearing by persons who fail to provide such notification.

#### Privacy Act

FRA wishes to inform all potential commenters that anyone is able to search the electronic form of all comments received into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000

(65 FR 19477-78) or you may visit <http://www.regulations.gov/search/footer/privacyanduse.jsp>.

Issued in Washington, DC, on January 11, 2010.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development, Federal Railroad Administration.*

[FR Doc. 2010-684 Filed 1-14-10; 8:45 am]

**BILLING CODE 4910-06-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 public listening session (in addition to those identified in a Federal Register notice on January 5, 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 Davenport, Iowa area. 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 Thursday, January 28, 2010, in Davenport, Iowa. It will begin at 1 p.m. local time and end at 9 p.m., or earlier, if all participants wishing to express their views have done so.

**ADDRESSES:** The January 28 meeting will be held in Davenport, Iowa, at the Comfort Inn Hotel and Suites, 8300 Northwest Boulevard, Davenport, Iowa 52806 (563-324-8300).

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

online 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 online 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 online.

*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 special accommodations for this listening session, 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 January 20, 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, [mcpstd@dot.gov](mailto:mcpstd@dot.gov).

## 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). FMCSA announces a fourth public listening session to solicit 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.

This listening session will be held within walking distance of the Flying J Travel Plaza, 8200 Northwest Boulevard near the intersection of Interstate Highway 80 at Exit 292, Davenport, Iowa 52806 (563-386-7710).

### 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 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: January 13, 2010.

**Larry W. Minor,**

*Associate Administrator for Policy and Program Development.*

[FR Doc. 2010-826 Filed 1-13-10; 4:15 pm]

**BILLING CODE 4910-EX-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622**

[Docket No. 090225243-91127-01]

RIN 0648-AX67

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 31**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS issues this proposed rule to implement Amendment 31 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) prepared by the Gulf of Mexico Fishery Management Council (Council). This proposed rule would implement restrictions applicable to the bottom longline component of the reef fish fishery in the exclusive economic zone (EEZ) of the eastern Gulf of Mexico (Gulf). The proposed restrictions would include a bottom longline endorsement requirement, a seasonal closed area, and a limitation on the number of hooks that could be possessed and fished. The intent of the proposed rule is to balance the continued operation of the bottom longline component of the reef fish fishery in the eastern Gulf while maintaining adequate protective measures for sea turtles.

**DATES:** Written comments must be received on or before March 1, 2010.

**ADDRESSES:** You may submit comments on the proposed rule, identified by "0648-AX67" by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>.

- Fax: 727-824-5308; Attention: Cynthia Meyer.

- Mail: Cynthia Meyer, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701-5505.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2008-0310" in the keyword search, then select "Send a Comment or Submission." NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of Amendment 31, which include a draft environmental impact statement (DEIS), an initial regulatory flexibility analysis (IRFA), and a regulatory impact review may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813-348-1630; fax 813-348-1711; e-mail [gulfcouncil@gulfcouncil.org](mailto:gulfcouncil@gulfcouncil.org); or may be downloaded from the Council's website at <http://www.gulfcouncil.org/>.

Written comments regarding the burden-hour estimate or other aspects of the collection-of-information requirement contained in this proposed rule may be submitted to Richard Malinowski, Southeast Regional Office, NMFS, and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Cynthia Meyer, telephone: 727-824-5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

**Background**

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities, including fishery-related activities in the Gulf and along the Atlantic seaboard. Under the Endangered Species Act (ESA) and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the ESA of 1973. The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

In September 2008, NMFS released a report analyzing sea turtle takes in the reef fish fishery as documented through an observer program. Subsequently updated in April 2009, the report indicated that the number of hardshell sea turtle takes by the bottom longline component of the Gulf reef fish fishery had exceeded the incidental take estimates specified in a 2005 Biological Opinion. Therefore, action was needed to provide protection for threatened loggerhead sea turtles in compliance with ESA.

To address this issue in the short-term while the Council developed a long-term management strategy, NMFS published an emergency rule effective May 18, 2009. The emergency rule prohibited longline fishing for reef fish in the eastern Gulf shoreward of a line approximating the 50-fathom depth contour, and prohibited all longline fishing in the eastern Gulf after the deep-water grouper and tilefish commercial quotas were filled.

On October 16, 2009, NMFS published a rule, under the authority of the ESA, to replace the emergency rule. The rule prohibits bottom longline fishing in the eastern Gulf shoreward of a line approximating the 35-fathom (64-m) contour with a restriction of 1,000 hooks per vessel with no more than 750 hooks rigged for fishing or fished at any given time. The intended effect of the rulemaking is to maintain protective measures for loggerhead sea turtles as well as to maintain a viable bottom longline fleet pending the