



**CONFERENCE: AGRICULTURAL AND FOOD TRANSPORTERS**

CHAIR Mike Miller, Miller Trucking, Ltd. La Crosse, KS 785-222-3170  
VICE CHAIR Brian Hitchcock, MBH Trucking, LLC. Webberville, MI 517-521-2124  
ATA STAFF Jon Samson, Executive Director 703-838-7955

**AGENDA**

**Meeting Date: Monday, May 16th**  
**Time: 8:00 – 9:15 AM**  
**Place: Scottsdale, AZ**

1. Welcome & Self- Introductions
2. Antitrust Guideline Review
3. AFTC Business Meeting
  - a) Approval of minutes from fall board meeting
4. Issue Updates
  - a) Supply chain efforts
    - i. November House Ag Committee hearing
    - ii. Ocean shipping reform act (OSRA) – Eisen update
    - iii. Presentations, radio/tv and press interviews
    - iv. Working closely with USDA and FDA
  - b) Highway/Infrastructure bill
    - i. Hill overview (Will Sehestedt)
    - ii. HAULS Act – only includes 150 on back end
      1. Clarifying start date
    - iii. Drive Safe Pilot Project
5. New or Other Business
  - a) Speed limiter request for information
  - b) TMC funded refrigerated trailer technology study
  - c) Cross border vax mandate – SCOTUS win
  - d) ELDT

Adjourn Meeting

## **American Trucking Associations ANTITRUST GUIDELINES**

All ATA meetings are held in strict compliance with federal and state antitrust laws and ATA's antitrust compliance policies, which prohibit exchanging information among competitors about purchase or sales prices, refusals to deal with customers or suppliers, dividing up markets or customers, tying the sale of one product to another, and other topics that might infringe upon antitrust regulations.

**For the Diesel Fuel Strategies Workshop, June 19, 2008, the following specific additional guidelines apply:**

- No discussion about fuel surcharges, including the need for them, possible methodologies to calculate them, or specific levels.
- No discussion about prices to be charged to shippers or other customers, relating to fuel or otherwise.
- No discussion about specific suppliers of fuel or operators of truck stops.
- No discussion of specific companies' plans for responding to higher fuel costs. General ideas about strategies may be discussed.
- No agreement or invitations to agree on any of these topics.

These rules apply not only in the general sessions, but also during informal discussions in hallways and at lunch or coffee breaks. ATA staff will monitor the meeting, but for the protection of all attendees it is vital that everyone keep these rules in mind throughout the workshop.

To minimize the possibility of antitrust problems, the following guidelines should be followed at all meetings of ATA boards and committees and all ATA-sponsored conventions, trade shows, training seminars, best-practices discussions, conferences, colloquiums, and task force and working group sessions.

### **Procedures for Meetings**

1. Meetings should be held only when there are proper items of substance to be discussed which justify a meeting.
2. In advance of every meeting, a notice of meeting, along with an agenda, should be sent to each member of the group. The agenda should be specific and such broad topics as "marketing practices" should be avoided. An ATA Law Department attorney must review all agendas before they are sent to meeting participants.
3. Participants at the meeting should adhere strictly to the agenda. In general, subjects not included on the agenda should not be considered at the meeting.
4. If a member brings up a subject of doubtful legality for discussion at a meeting, he or she should be told immediately the subject is not a proper one for discussion. The ATA staff representative or any member present who is aware of the legal implications of a discussion of the subject should attempt to halt the discussion. If the subjects of prices, costs, or other competitive practices are raised by others at the meeting, you must disassociate yourself unequivocally from the discussion. If necessary, you must leave or halt the meeting.
5. Minutes of all meetings should be kept by ATA. An ATA Law Department attorney should review draft meeting minutes before they are distributed to meeting participants. Minutes should summarize accurately the actions taken at meetings, if any. Minutes should not contain comments made by particular meeting participants because of the potential for incompleteness or inaccuracy in attempting to report precise remarks.
6. An ATA attorney or other staff member should attend all meetings. During any discussion between meeting participants that occur outside the formal meeting, the guidelines contained in the next section – "Topics to Avoid at Meetings" – must be followed.

(over)

7. Members should not be coerced in any way into taking part in ATA activities.
8. It is essential that members cooperate with ATA counsel, particularly when counsel has ruled adversely about a particular activity or topic of discussion.

### **Topics to Avoid at Meetings**

The following topics are some of the main ones that should not be discussed at meetings attended by ATA members or staff, including meetings or other gatherings sponsored by organizations independent of ATA:

1. Current or future prices of competitors.
2. Matters related to prices, such as discounts, credit terms, profit levels, or volume of production or service.
3. Wage and salary rates, equipment prices, or other actual costs of individual companies, since these costs are an element of price.
4. Dividing up, allocating, or rationalizing markets, bids, geographic areas, types of business, or customers among competitors.
5. Refusals to deal with suppliers, customers, or other competitors. For example, if a group of motor carriers were to agree to boycott a supplier of diesel fuel for the purpose of forcing that supplier to lower its prices, such an agreement could run afoul of the antitrust laws. Critiques of supplier products or customer practices can also raise the danger of being construed as an unlawful group boycott, and should be conducted only after consultation with counsel. Such discussions may be permissible where efficiencies will be achieved through the exchange of ideas and where precautions are taken to avoid the inference of an agreement to deal with suppliers or customers only on certain terms.

### **“Best Practices” Discussions**

The following guidelines should be applied to any “best practices” discussion:

1. All industry practices discussed should involve an attempt to reduce costs or realize some other efficiency. Discussions should be limited to what is reasonably necessary to accomplish these legitimate goals.
2. As in other areas of ATA activity, price and other competitively sensitive terms of trade should not be discussed in the “best practices” context. Specific present or future competitive plans and strategies of individual companies should not be discussed. Nor should specific customer information or specific companies’ costs.
3. In discussing “best practices,” no agreement should be reached to use a particular practice, to deal with suppliers or customers on particular terms, or to exclude a member or other competitor for using a different practice.
4. To the extent possible, technical personnel of member companies, rather than marketing personnel, should be used to conduct “best practices” discussions.
5. Prior to a “best practices” discussion, an agenda should be prepared and reviewed by counsel. Minutes should be kept of all meetings at which “best practices” are discussed. Should questions arise about the propriety of a “best practices” discussion, the discussion should be discontinued until counsel can be consulted.

**If you have questions, please call the ATA Law Department at (703) 838-1865.**



## REPORT OF THE AGRICULTURAL AND FOOD TRANSPORTERS CONFERENCE OF AMERICAN TRUCKING ASSOCIATIONS

CHAIRMAN: Mike Miller, Miller Trucking, Ltd. La Crosse, KS 785-222-3170  
VICE CHAIRMAN: Brian Hitchcock, MBH Trucking, LLC. Webberville, MI 517-521-2124 (absent)  
ATA STAFF LIASON: Jon Samson, Executive Director 703-838-7955

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The Board met in Nashville, TN on October 25, 2021. Chairman Mike Miller presided over the meeting. The meeting was called to order and anti-trust guidelines were reviewed. Conference members, guests and ATA staff introduced themselves. A quorum having been established, the minutes from the Spring Board meeting were approved. The committee proceeded with the remainder of its agenda.

**Hill and Agency Outreach** – With the change in Administration and addition of new Congressional members, AFTC continues to be busy meeting with new faces to ensure our issues are conveyed, an education effort that takes place after a large election shift.

**HOS** – With the extension of the FMCSA emergency declaration, there was some confusion within the livestock industry on how this declaration works with HOS ag exemption. Clarification was made that if you were indeed operating under an emergency, then the use of the ED was applicable, however you still needed to keep a log book. Conversely, if you are operating under the HOS ag exemption, keeping a log book is not required.

AFTC continues to put pressure on FMCSA to accept a few additional tweaks to the ag commodity definition. We are hopeful that post Joshie confirmation will give us that opportunity.

**Ag Container Issue** – An update was provided focusing on the work AFTC and IMCC have been doing with the ag industry on pressuring FMC to act on the current export conditions at the western ports. Congressional letters continue to be sent to FMC requesting they take action ensuring ag exports have the proper container capacity needed. The issue has been compounded with the supply chain woes and the major back-ups at several ports, including LA/LB. Eisen provided a brief update on the proposed Garamendi language working to assist in the above backlog and container issue.

**Highway/Infrastructure Bill** – Will Sehestedt gave a Hill update on the BIF, reconciliation and the impending debt ceiling. He notes that all three of these large bills continue to be attached due to the political infighting within the democrat party. The DRIVE Safe pilot project has been included, as well as a portion of the HAULS Act, the 150 air miles at the delivery point. Following passage, we hope to work closely with FFA to promote the pilot program.

**Other Issues** – Resulting from the recent TMC meeting, they chose to fund a study to look at technology in the refrigerated trailer space. Several of our members are engaged with the study, and I am hoping to use the results to better understand the impact FSMA/STF has had on the industry over the last few years.

Having exhausted the time available, the chairman entertained a motion to adjourn at 5:30 pm.

Respectfully submitted,  
Jon Samson  
AFTC Executive Director



## Calendar

## Hearings

# The Immediate Challenges to our Nation's Food Supply Chain

Wednesday, November 3, 2021 | 10:00 AM Washington

Tags: [Full Committee](#)

## LIVE STREAM



**The Immediate Challenges to our Nation's Food Supply Chain**

House Agriculture Committee

[http](#)



Wednesday, November 3, 2021 -- 10:00 AM EDT

Hybrid Hearing

Washington, D.C.

Full Committee on Agriculture

**RE: “The Immediate Challenges to our Nation’s Food Supply Chain”****WITNESS LIST**

**Mr. Jon Schwalls**, Executive Officer, Southern Valley Fruit and Vegetable, Inc., on behalf of Georgia Fruit and Vegetable Growers Association, Norman Park, GA

**Mr. Ed Cinco**, Director of Purchasing, Schwebel's Baking Company, on behalf of the American Bakers Association, Youngstown, OH

**Mr. Greg Ferrara**, President and Chief Executive Officer, National Grocers Association, Washington, D.C.

**Mr. Mike Durkin**, President and Chief Executive Officer, Leprino Foods Company, on behalf of International Dairy Foods Association, Denver, CO

**Mr. Jon Samson**, Vice President of Conferences and Executive Director, Agricultural & Food Transporters Conference, American Trucking Association, Arlington, VA

**Mr. Rod Wells**, Chief Supply Chain Officer, GROWMARK, Inc., on behalf of the Agricultural Retailers Association, Bloomington, IL

[All additional information on this hearing can be found here.](#)

## Upcoming Events

There are no upcoming scheduled hearings or markups.

## Subcommittees





One Hundred Seventeenth Congress  
U.S. House of Representatives

November 17, 2021

The Honorable Marty Walsh  
Secretary  
U.S. Department of Labor  
200 Constitution Ave. NW  
Washington, DC 20210

Dear Secretary Walsh,

We write to request your immediate attention to the ongoing supply chain issues and labor shortage faced by trucking companies. Trucking has emerged as one of the two most critical bottlenecks in the persistent freight backlog, the other being long delays at loading docks and seaport terminals. A truck driver shortage in the United States coupled with a global economy emerging from the pandemic, has resulted in an uneven economic recovery for millions of American families. Unless we exhaust every possible avenue in which to address this crisis, we risk worsening supply constraints for manufacturers and rising prices on consumer goods.

Data from the Bureau of Labor Statistics showed that in the height of the COVID-19 pandemic, the trucking industry lost six percent of its pre-pandemic labor force of 1.52 million workers.<sup>1</sup> As of October, the industry recovered about 65,000 of those lost jobs but remains short of effectively meeting supply chain demands. To address these concerns, we urge the Employment and Training Administration (ETA) within the Department of Labor (DOL) to prioritize Workforce Innovation and Opportunity Act (WIOA) grant applicants looking to become truck drivers. As you know, WIOA provides access to job training for dislocated workers, low-income individuals & out-of-work youth. DOL data released in December 2020 on WIOA Dislocated Worker and Adult Worker Programs, showed that more than 21,900 workers received training to drive trucks and other heavy tractor-trailers.<sup>2</sup> More importantly, WIOA program funding was available for truck drivers to pay for some or all of their truck driving school tuition.

While there is no official timeframe for receiving an approved WIOA grant application, the waiting period for applicants—including those with experience driving long haul trucks or planning to obtain a commercial driver's license (CDL)—can last several weeks, if not months. As such, we urge you to work with One-Stop career centers across the nation to a) shorten the initial 'Core' phase of the WIOA grant application process, b) expedite the 'Intensive' phase of the application requiring case workers to prepare, assess and approve an applicant's employment plan, and when appropriate, c) prioritize the 'Training' phase to increase the number of available truck drivers. With turnover rates for large, long haul truckers reaching the 90 percent mark and

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<sup>1</sup> U.S. Bureau of Labor Statistics, Producer Price Index by Industry: Truck Transportation [PCU484484]. Retrieved from FRED, Federal Reserve Bank of St. Louis; <https://fred.stlouisfed.org/series/PCU484484>, November 4, 2021.

<sup>2</sup> U.S. Department of Labor (DOL). (2020). *PY 2019 WIOA and Wagner-Peyser Data Book*. U.S. DOL, Employment and Training Administration (ETA). Accessed: November 4, 2021.

the lag time for training and onboarding new drivers lasting several months, it is critically important DOL enact these measures as soon as possible.

The world economy has been able to flourish because of hard-working truck drivers. From medical supplies to the transport of food and agricultural commodities, the trucking industry has played a vital role in elevating our standard of living. If it weren't for the industry, most of the country's businesses would be unable to operate today. Putting forward data-driven policies to improve the quality of life and flexibility for drivers, the trucking industry's most vital asset, is important for lowering turnover rates among those workers and attracting a new generation to the workforce.

We remain observant of the steps you and the Biden Administration have taken to address the ongoing supply chain disruptions thus far, and hope this temporary policy is adopted. Thank you for your attention to this urgent matter.

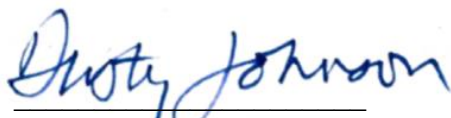
Sincerely,



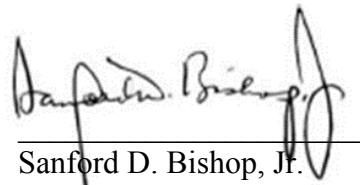
David Scott  
Member of Congress



Frank D. Lucas  
Member of Congress



Dusty Johnson  
Member of Congress



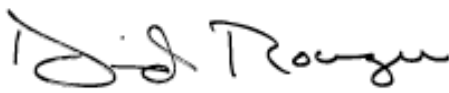
Sanford D. Bishop, Jr.  
Member of Congress



Lucy McBath  
Member of Congress



Glenn "GT" Thompson  
Member of Congress



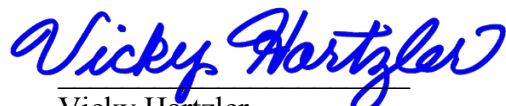
David Rouzer  
Member of Congress



Carolyn Bourdeaux  
Member of Congress

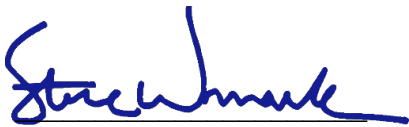


Josh Gottheimer  
Member of Congress



Vicky Hartzler  
Member of Congress





Steve Womack  
Member of Congress



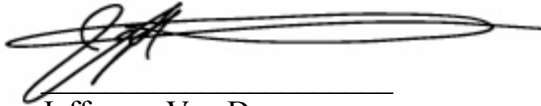
Ed Case  
Member of Congress



Stephanie I. Bice  
Member of Congress



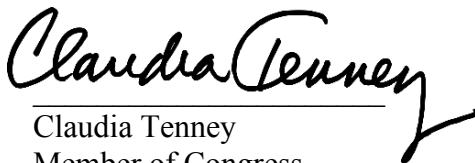
Jimmy Panetta  
Member of Congress



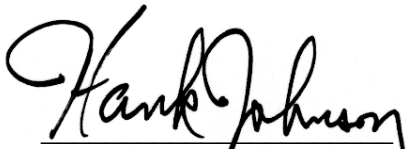
Jefferson Van Drew  
Member of Congress



Josh Harder  
Member of Congress



Claudia Tenney  
Member of Congress



Henry C. "Hank" Johnson, Jr.  
Member of Congress



Angie Craig  
Member of Congress



David G. Valadao  
Member of Congress



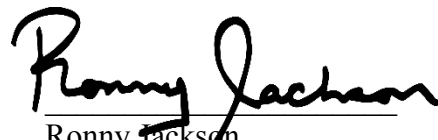
J. Luis Correa  
Member of Congress



Glenn Grothman  
Member of Congress



Jim Costa  
Member of Congress



Ronny Jackson  
Member of Congress



Al Lawson, Jr.  
Member of Congress



Young Kim  
Member of Congress



Brad R. Wenstrup, D.P.M.  
Member of Congress



André Carson  
Member of Congress



Billy Long  
Member of Congress



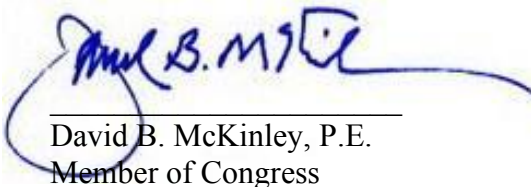
Jim Cooper  
Member of Congress



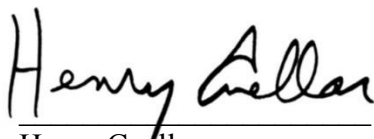
Kat Cammack  
Member of Congress



Deborah K. Ross  
Member of Congress



David B. McKinley, P.E.  
Member of Congress



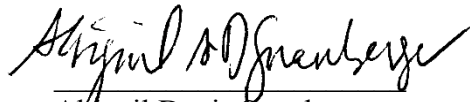
Henry Cuellar  
Member of Congress



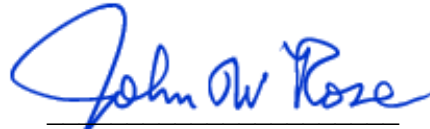
Tom O'Halleran  
Member of Congress



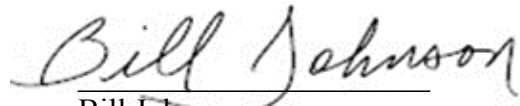
Gus M. Bilirakis  
Member of Congress



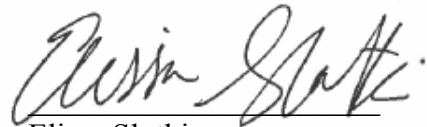
Abigail Davis Spanberger  
Member of Congress



John Rose  
Member of Congress



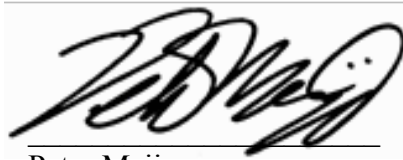
Bill Johnson  
Member of Congress



Elissa Slotkin  
Member of Congress



Kim Schrier, M.D.  
Member of Congress



Peter Meijer  
Member of Congress



Austin Scott  
Member of Congress



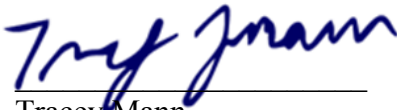
Ron Kind  
Member of Congress



Mikie Sherrill  
Member of Congress



Randy Feenstra  
Member of Congress



Tracey Mann  
Member of Congress




Jahana Hayes  
Member of Congress



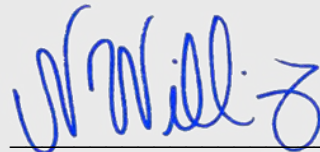
Charlie Crist  
Member of Congress




Pat Fallon  
Member of Congress



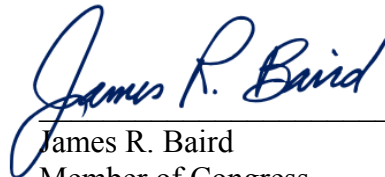
Troy Balderson  
Member of Congress



Nikema Williams  
Member of Congress



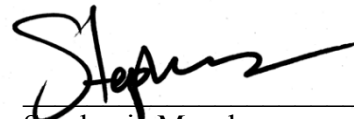
Jared Golden  
Member of Congress



James R. Baird  
Member of Congress



Burgess Owens  
Member of Congress



Stephanie Murphy  
Member of Congress



Maria Elvira Salazar  
Member of Congress



Ashley Hinson  
Member of Congress



Bob Gibbs  
Member of Congress



Mike Thompson  
Member of Congress

## **Ocean Shipping Reform Act of 2022 (Klobuchar-Thune)**

Senators Klobuchar and Thune are working to introduce the Senate companion to the *Ocean Shipping Reform Act of 2021*, led in the House by Reps. Garamendi (D-CA) and Johnson (R-SD), along with Senators Baldwin and Hoeven. The bill aims to level the playing field for American exporters by making it harder for ocean carriers to unreasonably refuse goods ready to export at ports. The bill also gives the Federal Maritime Commission (FMC) greater rulemaking authority to prevent harmful and discriminatory practices by carriers and requires carriers to report how many empty containers they are transporting. In addition, the bill directs the FMC to set rules on what fees carriers can reasonably charge shippers.

**Problem:** Agricultural exports have been particularly hard hit by increased costs and transportation challenges.

- Over the last two years, agricultural exporters have lost 22 percent of sales.<sup>1</sup>
- Meanwhile, ocean carriers have reported record profits from the increased demand for imported goods and higher price for container shipments.<sup>2</sup>
- Reports highlight agricultural exports sitting at ports while ocean carriers return to Asia with empty containers.<sup>3</sup> Between July and December of 2020, carriers rejected at least \$1.3 billion in U.S. agricultural exports.<sup>4</sup>

**The Senate version of the *Ocean Shipping Reform Act of 2021* would:**

- Require ocean carriers or marine terminal operators to certify that any late fees—known in maritime parlance as “detention and demurrage” charges—comply with federal regulations or face penalties.
- Shift burden of proof regarding the reasonableness of “detention or demurrage” charges from the invoiced party to the ocean carrier or marine terminal operator that issues the charge.
- Prohibit ocean carriers from declining opportunities for U.S. exports unreasonably, as determined by the FMC in new required rulemaking.
- Require ocean common carriers to report to the FMC how many empty containers they are transporting.
- Authorizes the FMC to self-initiate investigations of ocean common carrier’s business practices and apply enforcement measures, as appropriate.
- Establishes new authority for the FMC to register shipping exchanges.

**The following provisions in the House version are not included in the Senate version:**

- Requiring ocean carriers to adhere to minimum service standards that meet the public interest, reflecting best practices in the global shipping industry.
- Prohibiting carriers from failing to furnish or cause a contractor to fail to furnish the facilities and instrumentalities needed to perform the transportation services.
- Explicit prohibition of carriers from declining export booking.
- Allowing third parties to intervene in FMC action against ocean carriers alleging anticompetitive conduct.

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<sup>1</sup><https://www.businessinsider.com/shipping-crisis-american-farm-exports-hit-containers-leave-california-empty-2021-11>.

<sup>2</sup><https://www.bloomberg.com/news/articles/2021-12-01/maersk-heading-for-record-profits-gives-80-million-to-employees>

<sup>3</sup><https://www.mprnews.org/story/2021/09/23/shipping-disruptions-slow-minnesota-crop-exports-increase-food-costs>.

<sup>4</sup><https://www.cnn.com/2021/01/26/shipping-carriers-rejected-us-agricultural-exports-sent-empty-containers-to-china.html>

Saturday, February 12, 9:00 A.M. – 12:00 P.M. | Washington Hilton | **Room:** Columbia 3 & 4, Terrace Level

### **Agriculture and Rural Affairs Leadership**

<b>Chair:</b>	Hon. Craig Pedersen, Supervisor, King County, Calif.
<b>Vice Chair:</b>	Hon. Alex Barnett, Judge, Harrison County, Ky.
<b>Vice Chair:</b>	Hon. Julie Ehemann, Commissioner, Shelby County, Ohio
<b>Vice Chair:</b>	Hon. Bob Fox, Commissioner, Renville County, Minn.
<b>Vice Chair:</b>	Mr. Gene Harper, County Administrator, Marion County, S.C.
<b>Vice Chair:</b>	Hon. Melissa McKinlay, Commissioner, Palm Beach County, Fla.
<b>Vice Chair:</b>	Hon. Luis Sanchez, Commissioner, Midland County, Texas
<b>Vice Chair:</b>	Hon. Jim Schmidt, Commissioner, Lincoln County, S.D.

### **Agriculture and Rural Affairs Steering Committee Meeting Agenda**

#### 9:00 AM Call to Order and Welcome

- **Hon. Craig Pedersen**, Supervisor, Kings County, Calif.

#### 9:15 AM: Update from the U.S. Department of Agriculture on Rural Development

*USDA's Rural Development subagency oversees a \$216 billion portfolio of grants and loans aimed at bolstering economic development efforts in rural communities across America. Reinstating the Senate-confirmed Undersecretary was a major priority for NACo's Agriculture and Rural Affairs Steering Committee. After months of advocacy, NACo was able to help codify the position through the 2018 Farm Bill. Join the committee to hear from the Rural Development Undersecretary and USDA's Office of Intergovernmental Affairs.*

- **Hon. Xochitl Torres-Small**, Undersecretary for Rural Development, U.S. Department of Agriculture
- **Ms. Liz Archuleta**, Director of External and Intergovernmental Affairs, U.S. Department of Agriculture

#### 9:45 AM: Bolstering our Nation's Supply Chain to Ensure Food Security

*The COVID-19 pandemic has exacerbated the existing shortfalls of the global supply chain. Across the nation, members of the agriculture community have faced dramatic delays and unprecedented challenges in getting their products to the store. Join the committee to hear how counties, producers and truckers can partner to ensure food security for all Americans.*

- **Mr. Jon Samson**, Executive Director, Agriculture and Food Transporters Conference of the American Trucking Association

#### 10:15 AM: Update from the American Farm Bureau

*The American Farm Bureau represents farmers and ranchers across the country. The American Farm Bureau's 2020 Impact Report tells the story of how the agriculture community worked across the supply chain to ensure our nation's food supply remained secure throughout the pandemic by keeping farms and ranches operating. The committee will hear the industry perspective on regulatory issues and their impacts on farmers in today's world, supply chain issues and the American Farm Bureau's policy priorities moving forward.*

- **Mr. Ryan Yates**, Managing Director, Public Policy, American Farm Bureau

#### 10:45 AM: Policy Resolutions

*Members of the Agriculture and Rural Affairs Committee will act on proposed interim resolutions, cross-jurisdictional resolutions or emergency resolutions submitted for consideration.*



2022 NACo

# LEGISLATIVE CONFERENCE

**FEBRUARY 12-16**  
WASHINGTON HILTON  
WASHINGTON, D.C.



- **Proposed Interim Resolution to Define WOTUS Regulations with Agricultural Considerations**
- **Proposed Interim Resolution to Define Conservation under the America the Beautiful Initiative**
- **Proposed Interim Resolution on H-2A Administrative Rules Reform**
- **Proposed Interim Resolution De-Politicizing Environmental Impacts of the Agriculture Industry**
- **Proposed Interim Resolution on De-mucking**
- **Emergency Resolutions**

12:00 PM: Meeting Concludes

NACo staff contact: Adam Pugh, Associate Legislative Director, [apugh@naco.org](mailto:apugh@naco.org) or 202.942.4269

January 4, 2022

Mr. Jon Samson  
V.P. of Conferences  
American Trucking Association  
Via email: [jsamson@trucking.org](mailto:jsamson@trucking.org)

Dear Mr. Samson,

As you know, American agriculture is dealing with supply chain challenges on several fronts, including those impacting our ability to export food and other agricultural products. That's why *Agri-Pulse* is hosting a webinar on Jan. 31 at 1 p.m. ET on "Digging into the ag export supply chain crisis and how to fix it." I'd like to invite you to share your perspectives on this topic during one of two panels that afternoon. The event is sponsored by the National Milk Producers Federation (NMPF) and the U.S. Dairy Export Council (USDEC).

During the ninety-minute program, event speakers will share their remarks in person at the National Press Club in Washington, D.C., while registered attendees will participate virtually. A select group of media will be invited to attend in person.

The event will start at 1 p.m. ET with opening remarks by me, followed by two panel discussions. We'd like you to speak as part of the first panel, along with two other invited speakers, including: Mike Durkin, President & CEO of Leprino Foods, and Andrew Hwang, Manager, Business Development & International Marketing with the Port of Oakland.

The show outline follows:

- ☐ Opening remarks, *Agri-Pulse* Editor Sara Wyant, 5 minutes
- ☐ Industry Supply Chain panel: Moderated by - Jaime Castaneda, NMPF, 30 minutes
- ☐ U.S. Government panel: Moderated by - Krysta Harden, USDEC, 45 minutes
- ☐ Closing comments: *Agri-Pulse* Editor Sara Wyant, 5 minutes

I look forward to hearing back on your availability to speak during this important event. Please let me know if you can participate by Jan 7.

Best regards,



Sara R. Wyant  
Editor/Publisher



**National Pork Producers Council  
Transportation & Logistics Task Force**

November 22, 2021  
2pm – 4pm EST

**Zoom Access Information**

<https://us06web.zoom.us/j/88269648291?pwd=RExCbW1CVTJucGJ1akF0RWlMRzRqQT09>

Meeting ID: 882 6964 8291

Passcode: 639147

301 715 8592 US (Washington DC)

312 626 6799 US (Chicago)

**Agenda**

2:00 pm EST /  
1:00 pm CST

**Meeting Convenes**

**Welcome & Roll Call**

*Bob Ivey, Chair & NPPC Board Member  
Beaufort, NC*

2:15 pm EST /  
1:15 pm CST

**Immediate Challenges to our Nation's Food Supply Chains**

*Jon Samson, Executive Director,  
Agriculture & Food Transporters Conference  
American Trucking Association*

**Discussion on Current State of  
Logistic Challenges Facing US Pork Industry**

2:45 pm EST /  
1:45 pm CST

*Jim Wilkinson, National Sales Manager  
Yusen Logistics (Americas), Inc.*

3:10 pm EST /  
2:10 pm CST

*Maggie McKinley  
Logistics Manager  
Kruse Western Trade Group*

3:30 pm EST  
2:30 pm CST

*Raymond Minott  
Manager  
Sumisho Global Logistics (USA) Corp.*

3:55 pm EST  
2:55 pm CST

**Committee Discussion**

4:15 pm EST  
3:15 pm CST

**Meeting Adjourned**



## Infrastructure Investment and Jobs Act: Trucking Safety Provisions

November 15, 2021

### Background:

On November 5, 2021, Congress approved the bipartisan *Infrastructure Investment and Jobs Act* (IIJA), delivering measurable gains for the trucking industry. The bill authorizes \$477 billion in new funding over five years for surface transportation programs, including \$347.5 billion for highways—a 38% boost above levels set by the last highway reauthorization bill, the FAST Act. ATA and its members advocated tirelessly to ensure that the priorities of the trucking industry were reflected in the legislation and are pleased that many critical safety provisions are included.

### Summary of Safety Provisions:

**Automatic emergency braking.** Within two years of enactment, DOT must develop a standard that establishes performance requirements for automatic emergency braking (AEB) systems. The standard will require any newly manufactured heavy-duty CMV to be equipped with AEB. Also, within one year of enactment, DOT regulations will require that an AEB system installed in a CMV must be used at any time in which the vehicle is in operation.

**Strengthening underride guards.** Regulations will require all new trailers and semitrailers to be equipped with rear impact guards and establish periodic inspection standards for rear guards. Additional research will be conducted on rear guard effectiveness and strengthening standards as well as the feasibility, benefits, cost, and impact of installing side underride guards on new CMVs with a GVWR above 10,000 pounds.

**Apprenticeship pilot program.** Consistent with ATA's advocacy, DOT will establish a national pilot program within 60 days of enactment to allow qualified 18- to 20-year-olds to hold commercial driver's licenses and operate CMVs safely in interstate commerce. The pilot program includes many safety, training, and technology requirements to ensure apprentices drive CMVs safely across state lines.

**Distracted driving prevention.** The DOT National Priority Safety Programs will make grant funds available to any State that includes distracted driving awareness as part of the driver's license examination of the State. States that promulgate distracted driving laws may also receive grant funding under this section.

**Crash causation study.** The study will be used to determine the causes of, and contributing factors to, crashes that involve a CMV. It will be designed to help states and DOT evaluate future CMV crashes, monitor crash trends, identify contributing factors, and develop effective safety improvement policies and programs.

**Marijuana-impaired driving research.** Within two years, a public report of the Attorney General and Secretary of Health and Human Services will provide recommendations that should improve access to samples and strains of marijuana and products containing marijuana for scientific researchers. The report will also specifically address federal and regulatory barriers to conducting research on marijuana-impaired driving. Another provision of the bill directs states with legal medicinal or recreational marijuana to consider implementing programs to educate drivers on the risks associated with marijuana-impaired driving.

**Electronic logging device oversight.** Within 180 days, DOT will submit a report to Congress detailing the processes through which FMCSA reviews ELD logs, protects proprietary and personally identifiable information obtained from ELDs, and how an operator may challenge or appeal an ELD violation issued by FMCSA.

Effective February 7, 2022

# Entry-Level Driver Training

## Who is required to complete Entry Level Driver Training?



An individual who is obtaining a Class A or Class B Commercial Driver's License (CDL) for the first time



An individual who is upgrading an existing Class B CDL to a Class A CDL



An individual who is obtaining a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time

*Based on the above, individuals who obtain a Commercial Learner's Permit (CLP) on or after February 7, 2022 will be required to meet ELDT requirements.*

## TRAINING REQUIREMENTS

### Theory Instruction:



Trainees must receive an overall score of at least 80 percent during assessment. No minimum hours. Training topics include:

- Basic Operation
- Safe Operating Procedures
- Advanced Operation Procedures
- Vehicle Systems and Reporting Malfunctions
- Non-Driving Activities (e.g., Hours of Service)

### Behind the Wheel (BTW) Training:



- Actual operation of a CMV
- Takes place on a range or public road
- May not use a simulator to meet requirements
- Basic vehicle control skills and mastery of basic maneuvers
- No minimum hours; student must demonstrate proficiency through repetitive successful completion of all the required BTW skills including range and road driving.

*Theory and BTW topics are discussed in detail in Appendices A through F to 49 CFR Part 380.*

## FREQUENTLY ASKED QUESTIONS

### MINIMUM HOURS:

#### *Are there specific hours of training mandated for the theory curricula?*

No. There is no minimum number of hours that driver-trainees must spend on the theory (i.e., knowledge) portions of the curricula. The regulations prescribe specific topics for each of the five theory curricula, require the training provider to cover all topics, and require that driver-trainees demonstrate their understanding of the material by achieving an overall minimum score of 80 percent on the written (or electronic) theory assessment.

#### *Are there specific hours of behind-the-wheel (BTW) training mandated for the various curricula?*

No. The entry-level driver training (ELDT) regulations do not require a minimum number of hours for the completion of BTW training (e.g., Class A, Class B and the passenger (P) and school bus (S) endorsements). The proficient completion of the BTW portions of the various curricula is based solely on the training instructor's assessment of each driver trainee's performance of the required elements of BTW training on the range and public road. All BTW training must be conducted in a vehicle representative of the commercial driver's license (CDL) class or endorsement being sought.

### TRAINING PROVIDERS:

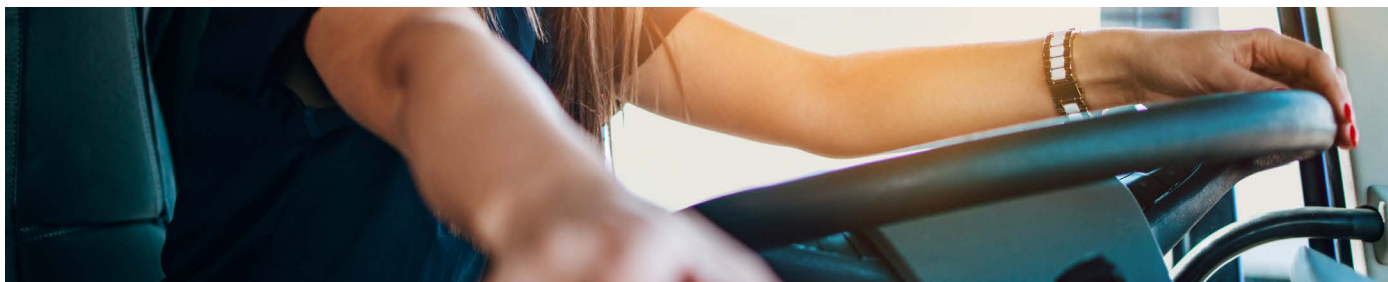
#### *Who can provide entry-level driver training?*

Training providers listed on the Training Provider Registry (TPR) are the only entities that can provide training required by the ELDT regulations. To comply with the ELDT regulations, drivers must select a training provider from those listed in the TPR.

#### *What types of entities can apply to be listed on the Training Provider Registry?*

Training schools, educational institutions, rural electric cooperatives, motor carriers, State and local governments, school districts, joint labor-management programs, owner-operators, and individuals may be listed on the TPR. Eligible providers may provide training either on a "for-hire" or "not-for-hire" basis. Other training providers that meet the eligibility requirements could be qualified to provide entry-level driver training, regardless of whether they fall within a category specifically identified in the regulations.

# Entry-Level Driver Training



## MYTH VS. FACT



**MYTH:** Motor carriers will no longer be able to offer in-house training programs.

**FACT:** Motor carriers that have provided training to entry-level drivers in the past, are able to continue training new drivers as long as they meet the requirements of a training provider listed in 49 CFR §380.703 and register online with FMCSA's Training Provider Registry.



**MYTH:** New drivers are required to pay thousands of dollars to complete the training program and will need to go to a professional truck-driving school.

**FACT:** A driver wishing to complete the ELDT program can do so by going to any entity listed on FMCSA's Training Provider Registry. This includes, motor carriers, educational institutions, rural electric cooperatives, State and local governments, school districts, joint labor-management programs, owner-operators, and individuals listed on the training provider registry. Although permissible, a driver does not need to go to a truck driver training school.



**MYTH:** Training required by the ELDT rule will take much longer to complete than what is required today.

**FACT:** There are no required minimum instruction hours for theory training. Training providers must use assessments to determine if trainees are proficient in all units of the theory curriculum. There are also no required minimum instruction hours for BTW training. Training is complete when the training provider determines that a trainee is proficient in all elements of the BTW curriculum.



**MYTH:** Most training providers will have to completely change their training programs to comply with ELDT requirements.

**FACT:** FMCSA estimates that approximately 85% of entry-level drivers already receive pre-CDL training that meets or exceeds ELDT requirements.



**MYTH:** The new ELDT rule will make it more difficult to hire new drivers and will further exacerbate supply chain challenges.

**FACT:** Establishing consistent and effective training requirements will help reduce the failure rates for the SDLA-administered skills test, thereby helping drivers to obtain CDLs more efficiently and improve the supply chain. Most training programs already meet or exceed ELDT requirements and will be able to continue training new drivers without disruption. Additionally, the TPR will make it easier for new drivers to find qualified training providers, increasing the likelihood that a prospective driver actually signs up for and completes training.



**MYTH:** Drivers who have had their CDL for years will need to complete the entire ELDT program just to add an endorsement.

**FACT:** A driver who held a CDL prior to February 7, 2022 and applies for an upgrade to a higher class of CDL or an S, P, or H endorsement for the first time after February 7, 2022 will only need to complete the required entry-level driver training for the class of CDL to which the driver is upgrading or the endorsement(s) for which the driver is applying.

**ADDITIONAL RESOURCES:** FMCSA has a website dedicated to ELDT and the Training Provider Website. This website includes frequently asked questions and information for training providers. For more information, visit [tpr.fmcsa.dot.gov](https://www.fmcsa.gov/training)

# Raising Real Wages for Truck Drivers Through Supply Chain Improvements

## — Not Favors for Trial Lawyers

*Drivers, Consumers & Safety Depend on 84 years of Bipartisan Flexibility*

*Provided to the Trucking Industry*

**ATA POSITION:** America’s truck drivers are currently seeing historic increases in real wages—almost 9% annually—in part because of the flexibility they’re given to ensure a productive supply chain. ATA supports efforts to further improve quality of life and real wage gains for drivers through increased efficiency in the supply chain, including: infrastructure investments, decreases in loading and unloading times, and more truck parking capacity nationwide. ATA also strongly supports protecting the freedom, economic opportunity, and safety benefits provided by the bipartisan, longstanding federal motor carrier exemption from government overtime mandates.

Accordingly, we *strongly* oppose ill-conceived efforts like Rep. Levin’s misnamed Guaranteeing Overtime for Trucker’s Act, which would actually guarantee no overtime whatsoever to drivers, harm consumers through a reduction in efficient supply-chain utilization, jeopardize general road safety by creating bureaucratic overlap with Hours-of-Service requirements, and simultaneously increase inflationary pressure on the economy while delivering benefits only to trial lawyers.

**BACKGROUND:** The bipartisan Infrastructure Investment and Jobs Act (IIJA) of 2021 included a number of provisions designed to improve supply-chain efficiency, including one to analyze and disclose detention time for drivers while loading or unloading, and others to improve the quality of life of drivers more generally through infrastructure improvements. These provisions should be the top priority for the Administration and Congress to improve wages for all Americans involved. Better roads benefit drivers, shippers, and consumers alike, and more truck parking will improve the safety and efficiency of truck drivers. Unlike Rep. Levin’s bill, these provisions will lead to tangible benefits for truck drivers.

Rep. Levin’s proposed overtime mandate is a solution in search of a problem. Truck drivers make good salaries, with a mean salary of \$46,850 according to a Bureau of Labor Statistics (BLS) May 2020 report, or \$58,000 per year according to a May 2020 ATA industry survey. Recent BLS data on weekly earnings<sup>1</sup> in the long-haul trucking sector shows that driver wages are now rising at five times their historical average as fleets compete for drivers, amounting to \$59,000 annually. By comparison, median annual individual income in the United States was \$43,206 in 2020. Thus, there are millions of truck drivers making well above median income levels who have been exempt from overtime for 84 years.<sup>2</sup>

The proposal also impacts road safety. Congress made the decision that driver and public safety were of paramount importance when it created the Federal Motor Carrier Overtime Exemption in 1935 to regulate drivers’ hours and avoid conflicting rules among government agencies.<sup>3</sup> Comprehensive safety regulations, including maximum hours of service and driver qualifications, were adopted by the predecessor to the Federal Motor Carrier Safety Administration (FMCSA) in 1937.<sup>4</sup> The Supreme Court upheld this decision multiple times subsequently.<sup>5</sup>

Current FMCSA Hours-of-Service limitations<sup>6</sup> are based on substantial input from stakeholders, including scientific analyses of fatigue, which have dictated the hours limits for drivers—rather than general wage and hour

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<sup>1</sup> <https://beta.bls.gov/dataViewer/view/timeseries/CES4348412130;jsessionid=AE34706CE9F6C023880E7FE11F660D0C>.

<sup>2</sup> Notably, Congress also exempted administrative, executive and professional employees and others and that threshold is currently substantially below the median income level at \$35,568 per year.

<sup>3</sup> See Senate, 81 Cong. Rec. 7875 (1937) (“... it was the policy of the committee, in cases where regulation of hours and wages are given to other governmental agencies, to write the bill in such a way as not to conflict with such regulation .... [The exemption] would apply the same principle to truck drivers insofar as hours of labor are concerned. It is my understanding that the hours have been regulated by the Interstate Commerce Commission recently .... The committee were of the opinion ... that it was exceedingly important that the long hours of truck drivers should be regulated in the interest of public safety.”)

<sup>4</sup> *Ex Parte No. MC-2*, 3 M.C.C. 665 (1937).

<sup>5</sup> See, e.g., *Southland Gasoline Co. v. Bayley*, 319 US 44, 48-49 (1943). (“Congress evidently relied upon the Motor Carrier provisions to work out satisfactory adjustments for employees charged with the safety of operations in a business requiring fluctuating hours of employment, without the burden of additional pay for overtime....”).

<sup>6</sup> 85 Fed. Reg.33396.

mandates—for the past 84 years. Moreover, most drivers are compensated per mile or load, which *includes* an allowance for wait time. Dismantling that longstanding business practice to instead require tracking and compensation at time-and-a-half, and at a new regular rate of pay based on hours for every hour over 40 per week, would harm the millions of drivers who benefit from such provisions and require substantial modification that would likely decrease driver hours and supply chain flexibility. Notably, this loss would occur in the context of a driver shortage of almost 81,000 drivers as of October 2021.<sup>7</sup>

**IMPACT:** The passage of this bill would result in the wholesale disruption of 84 years of industry practice, where most drivers are paid by the mile or load and earn a family-sustaining wage with the built-in flexibility to effectively make their own decisions subject only to safety requirements. The trucking industry, U.S. supply chain, and American consumer in fact depend on the longstanding bipartisan decision that Congress made—and the Supreme Court has repeatedly upheld—for 84 years.

A new requirement for overtime would require the industry and its drivers to substantially alter compensation models—likely having no net change in the total compensation to drivers but allowing the plaintiffs’ bar to bring lawsuits as the industry tries to adapt to the change in a highly mobile and highly compensated workforce. This would effectively rescind the freedom and flexibility sought by drivers and replace safety as the main factor for regulating driver hours with threat of abusive lawsuits from trial lawyers. In the process, the supply chain would be damaged by the inefficiency of having to control hours beyond a safety restriction that the industry has already implemented and supports.

**SOLUTION:** ATA supports efforts to improve the resilience and efficiency of the nation’s infrastructure so that drivers can be more productive and continue to benefit from real wage gains. The recent bipartisan infrastructure law contains a number of mechanisms that will enable drivers to be more efficient in their operations without disrupting the supply chain, inflating costs for consumers, and potentially decreasing safety for everyone just for the benefit of trial lawyers.

For more information, please contact: ATA Legislative Affairs at 202-544-6245.

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<sup>7</sup> ATA Driver Shortage Report 2021 Executive Summary.FINAL\_.pdf (trucking.org); [https://www.trucking.org/sites/default/files/2021-10/ATA%20Driver%20Shortage%20Report%202021%20Executive%20Summary.FINAL\\_.pdf](https://www.trucking.org/sites/default/files/2021-10/ATA%20Driver%20Shortage%20Report%202021%20Executive%20Summary.FINAL_.pdf).





## ATA Policy on Speed Governing Updated: May 2022

**Background:** In 2007-08, ATA members developed a policy on “speed governing” for commercial vehicles based on safety, in the context of available technology and road network (speed limits, etc.). In 2016, FMCSA issued a Notice of Proposed Rulemaking (NPRM) on speed limiting devices, and proposed three possible speeds: 60, 65, and 68 mph. The 2016 NPRM shined light on emerging safety concerns like speed differentials between trucks and passenger vehicles. Rapidly increasing interstate speed limits nationwide and adoption of new safety technologies like forward collision mitigation, automated emergency braking and adaptive cruise control, shifted the 2016 safety discussion in the trucking industry to rear collisions by passenger cars and how to address distracted driving and speed differentials exacerbating those collisions. As a result, ATA *opposed* the 2016 NPRM. Despite the stalled rulemaking, safety groups continued to advocate for speed limiters with speeds in the low 60s, and no consideration for developing safety technologies. Recognizing that action on speed limiters may be imminent, ATA looked to focus our policy around a platform that promotes and integrates these developing safety technologies with speed control to maximize safety.

**ATA Policy:** At ATA’s annual Management, Conference and Exhibition in October 2019, the association’s Safety Policy Committee considered and adopted a more holistic policy on speed limiters that recognizes safety technologies widely deployed in fleets. The policy,

- Sets the speed of all electronically governed class 7 and 8 trucks manufactured after 1992, used in commerce, by tamperproof devices limiting the vehicle to a fixed maximum speed of 65 mph.
- However, the policy also provides an exception for vehicles equipped with automatic emergency braking and adaptive cruise control to be limited to a fixed maximum speed of 70 mph.
- Additionally, the policy also includes a direction that the Department of Transportation should conduct a recurring 5 year review of speed governing regulations to ensure that the regulations are appropriate and consistent with currently deployed technologies.

**The Latest:** On May 4, 2022, FMCSA published an Advanced Notice of Supplemental Proposed Rulemaking announcing their intent to proceed with a speed limiter rulemaking. This advanced notice indicates that FMCSA plans to issue a Supplemental Notice of Proposed Rulemaking (SNPRM). Once published, the SNPRM will propose that motor carriers operating commercial motor vehicles in interstate commerce with a gross vehicle weight rating of 26,001 pounds or more, that are equipped with an electronic engine control unit (ECU) capable of governing the maximum speed be required to limit the CMV to a speed to be determined by the rulemaking. This advanced notice, also referred to as a Notice of Intent, did *not* propose a maximum speed, nor did it establish timeframes for setting ECUs. Once FMCSA collects data from this advanced notice, they will proceed with drafting the SNPRM. Upon publication of the SNPRM, a comment period will take place. Only after the conclusion of that comment period will a Final Rule be developed and published, at which time the effective dates will be determined.

For more information, please contact Dan Horvath, [dhorvath@trucking.org](mailto:dhorvath@trucking.org).

**FMCSA Request for Public Comments**  
**May 4, 2022 Advanced Notice of Supplemental Proposed Rulemaking**

FMCSA Requests comments on the programming or adjustment of ECUs that could be made to impose speed limits on CMVs, including responses to the questions below:

1. What percentage of the CMV fleet currently uses speed limiting devices?
2. If in use, at what maximum speed are the devices generally set?
3. What skill sets or training are needed for motor carriers' maintenance personnel to adjust or program ECUs to set speed limits?
4. What tools or equipment are needed to adjust or program ECUs?
5. How long would adjustment or reprogramming of an ECU take?
6. Where can the adjustment or reprogramming of an ECU be completed?
  - 6.a Can the adjustment or reprogramming of an ECU be made on-site where the vehicle is ordinarily housed or garaged, or would it have to be completed at a dealership?
7. Do responses to questions 3 through 6 change based on the model year of the power unit?
8. Since publication of the NPRM, how has standard practice or technology changed as it relates to the ability to set speed limits using ECUs?
9. Are there any challenges or burdens associated with FMCSA publishing a rule without NHTSA updating the FMVSS?
10. Should FMCSA revisit using the 2003 model year as the baseline requirement for the rule?
11. Should FMCSA consider a retrofit requirement in the rule and, if so, should it be based on model year or other criteria, and what would the cost of such a requirement be?
12. Should FMCSA include Classes 3-6 (i.e., 10,001 – 26,001 lbs. GVWR) in the SNPRM?