

The Trucking Solutions Group (TSG) respectfully submits these comments in response to the Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration's (FMCSA) joint Notice of Proposed Rulemaking (NPRM) published in the Federal Register on September 7, 2016, under 49 CFR Part 571 on Docket No. NHTSA-2016-0087 and under 49 CFR Part 393 on Docket No. FMCSA-2014-0083, respectively. Through this NPRM, these agencies propose equipping heavy vehicles with a gross vehicle weight rating exceeding 26,000 pounds with a speed limiting device (NHTSA); and requiring motor carriers to operate these vehicles at or below a speed to be set in a final rule (FMCSA).

Installing or requiring speed limiting devices, for example, in the Northeast, set at a speed of 60, 65, or 68 MPH, in any of these states where the speed limits are at 55 or 60 MPH, a speed limiting device will have no effect whatsoever. Additionally, speed limiters will be of no value on city streets, in school or construction zones, or in adverse weather or road conditions such as rain, snow, fog, or ice. In fact, a speed limiter device is of no useful utility in the vast majority of instances where excessive speed poses a safety risk. We believe that in these instances where the speeds would be below any speed limited device setting, proper and regular enforcement are much more effective.

The problem is that of vehicles, both trucks and automobiles, exceeding posted speed limits. In general, however, the likelihood of automobiles traveling at speeds in excess of posted speed limits is much more frequent due to their enhanced ability to accelerate/decelerate, handling maneuverability, and lower center of gravity; they do speed because they can. Trucks, however, are lacking in these areas; a competent professional driver is much more attuned to driving within posted speed limits.

We believe that vehicles traveling in excess of posted speed limits are a primary safety hazard. We believe, however, that speed limits that are set by careful examination of the local, county, and state traffic engineers are best able to determine the maximum safe speed. To the contrary, an arbitrarily set, one-size-fits-all speed limiting device as proposed in this NPRM can hardly do justice to those who are best able to determine the maximum safe traveling speed for a particular roadway. We need better speed enforcement without creating the safety hazard that accompanies this NPRM.

In the Western United States where municipalities are much farther apart and speed limits are higher than in the East, speed limiters will effectively serve as the de facto least common denominator speed limit. In these cases, where non-heavy vehicles could travel faster, or, especially in States where there is a split speed limits (i.e. one speed limit for cars and another speed limit for trucks) the effective number of truck and car interactions will be increased significantly and with a greater speed difference between the two types of vehicles. This is precisely the opposite outcome that traffic safety dictates!

Having both the increased number of interactions at increased speed differentials is likely to have more – not fewer! – crashes involving trucks. Some of these collisions, with trucks traveling at 65 MPH and a faster moving automobile, will likely trigger more high-speed crashes for automobiles. Thus, the ATA's argument that the proposed rule will reduce the number and severity of crashes is questionable, at best, and both short-sighted and dangerous at worst.

In the NPRM, the agencies determined that it was appropriate to reexamine the "Commercial Motor Vehicle Control Devices (DOT HS 807 725 (May 1991)) report to Congress and came to the conclusion that the concerns and conclusions in that report were no longer valid. However, the agencies "have no plans at this time to prepare an updated study, given limited agency resources." Instead of examining and researching the "problem" in a comprehensive manner, the agencies put forth this NPRM that 1) increases the number of truck-automobile interactions that creates the potential for an increase in crashes, that is certain to undermine safety; and 2) will likely undermine the freight transportation industry's effectiveness, that would have significant negative economic consequences for the nation. It stands that

this NPRM should be rejected on its face precisely because the agencies have failed to properly vet – in their own words – by preparing an updated study.

It is interesting to note that prior to the National Highway System Designation Act of 1995 that repealed the federally sanctioned maximum speed limit, the minimum speed limit on the Interstate Highway System was 40 MPH. The premise reasoning behind the posting of minimum speed on interstates was to reduce interactions between fast and slow moving vehicles. The Uniform Vehicle Code published by the National Committee of Uniform Traffic Laws and Ordinances (1954) stipulated that minimum speed limits be established on highways whenever traffic and engineering investigations concluded that slow-moving vehicles consistently impeded the normal flow of traffic on the highways. Now, through the NPRM, the agencies propose to unwind more than 60 years of common sense, engineering principles.

Trucking companies may choose to put speed limiters on their trucks for various reasons including fuel efficiency, equipping their trucks with speed limiters should be a choice left to the fleet manager. These fleets *choose* to add speed limiters to their fleet trucks where they then set the top speed to what they believe to be safe in the states in which they operate. There is no bar to prevent these large motor carrier companies from acting in their own best interest; equally, however, there should be no bar to prevent other motor carriers from acting in their own, safe, interests.

We believe that it would be a regulatory overreach for the FMCSA to require all motor carriers to follow suit by requiring all motor carriers to equip their trucks simply because the ATA-member mega-carriers choose to equip its tractors with speed limiting devices. We flatly reject the premise that federal agencies should be used as tools of the ATA member mega-carriers to level the playing field while the ATA members already enjoy sweeping competitive advantages, such as the exemption under the Fair Labor Standards Act that requires employers to pay minimum wage and overtime pay related to interstate commerce. Where the TSG's members are single truck or small fleet operators, the owner-operator with his or her vast experience is the best person to determine what is the safe operating speed given the conditions at that precise moment, that could very well be at a speed that less than the posted speed limit. The TSG members have an entirely different business model – by choice! – and should not be forced to comport our operations to the mega-carriers. The ATA's proposal that resulted in this NPRM is simply a competitive ploy, thinly veiled under the cloak of safety, perverting the regulatory environment for its members' competitive advantage.

NHTSA also requests comment on the feasibility of technologies which would limit the speed of the vehicle to the speed limit of the road, as an alternative option to the a requirement limiting vehicle speed to a specified set speed. These technologies might include a GPS, vision system, vehicle to infrastructure communication, or some other autonomous vehicle technology.

Manufacturers have recently developed lane departure and collision mitigation systems. Freightliner's Assurance Collision Mitigation System and Volvo's Active Driver Assist systems are designed to reduce the approximately 31% of the crashes today involving front-end collisions when traveling above 15 MPH. These systems address the issues of hard impact collisions and sideswipes. In addition, Volvo is testing a posted speed limit system that will utilize a camera to read roadside speed limit signs and alert the driver (and fleet manager) when excessive speeds occur. As a result, the NPRM speed limiting device mandate is already or is soon-to-be obsolete at its inception.

There is also the economic impact of slowing down all trucks. This will require more, slower, trucks to keep up with the supply chain, which will contribute to more trucks on the road, further increasing the number of auto-truck interactions.

Where will these additional trucks come from in a world of “Driver Shortage?” The ATA members will supply the needed drivers with newly graduated, inexperienced recruits. Remember, the large ATA members self-insure so this is the only avenue for new drivers; new drivers are uninsurable through traditional insurance carriers. We believe that the addition of inexperienced drivers on the roads make the highways less safe in the face of increased vehicle interactions?

In addition to compromising safety, this will create further congestion on the public roads that will create widespread driver frustration related to the slower moving trucks. More trucks will also exacerbate the tight supply of safe, adequate parking that already plagues the trucking industry.

We also believe that by imposing a speed limiter rule, our businesses would be adversely impacted by reducing productivity in many instances. A one hour change in many cases would require Drivers to be on the road for an additional day. Our small businesses cannot withstand the micro-economic cost while the macro-economy can ill-afford an unsubstantiated rulemaking.

Founded in 2008, the Trucking Solutions Group is a group of transportation professional, independent owner-operators who operate either single truck or small fleets. The mission of the group is better each others' business. We collaborate through our weekly conference calls, participating in industry focus groups, conducting trade seminars, and interacting with other fellow over-the-road professionals and regulatory agencies. Many of the group's members have logged over one million miles with more than a decade of safe, accident-free miles. More information about the Trucking Solutions Group can be found on its Facebook page at www.facebook.com/TruckingSolutionsGroup.