

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

AMERICAN TRUCKING ASSOCIATIONS, INC.,)	
)	
Petitioner,)	
)	
v.)	No. 12-1092
)	(consolidated with
FEDERAL MOTOR CARRIER SAFETY)	No. 12-1113)
ADMINISTRATION and the UNITED STATES,)	
)	
Respondents.)	
_____)	

PETITIONER’S STATEMENT OF ISSUES TO BE RAISED

Petitioner American Trucking Associations, Inc. hereby sets forth its statement of the issues that it expects to raise in this proceeding. Each of the issues set forth below relates to aspects of the final rule entitled “Hours of Service of Drivers” (Docket No. FMCSA-2004-19608), issued by Respondent Federal Motor Carrier Safety Administration (“FMCSA”) on December 16, 2011 and published in the Federal Register on December 27, 2011, at 76 Fed. Reg. 81134.

1. Whether the final rule’s restart provision, which requires that the restart include two periods between 1 a.m. to 5 a.m., should be held unlawful and set aside on the grounds that it is arbitrary and capricious, and contrary to law.
2. Whether the final rule’s limitation on the use of the restart to once every 168 hours should be held unlawful and set aside on the grounds that it is arbitrary and capricious, and contrary to law.
3. Whether the final rule’s break requirement should be held unlawful and set aside on the grounds that it is arbitrary and capricious, and contrary to law, because it requires that a mandated 30-minute break exclude all on-duty non-driving activity (if more than 8 consecutive hours have passed since the last off-duty or sleeper-berth period of at least half an hour).
4. Whether the final rule’s amendment and narrowing of the exemption set forth in 49 C.F.R. § 395.1(e)(2), which, among other things, was not proposed or discussed in the Notice of Proposed Rulemaking and hence was promulgated

without proper notice, should be held unlawful and set aside on the grounds that it is arbitrary and capricious, and contrary to law.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this 15th day of March, 2012, I caused the foregoing to be served by means of the Notice of Docket Activity that is generated by the Court's CM/ECF System upon the following counsel of record:

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