



Driving Trucking's Success

ISSUE: TRUCK DRIVER HOURS OF SERVICE RULES (HOS)

HISTORY & BACKGROUND: See page 2

CURRENT STATUS: In October 2009, prior to the Administrator of the Federal Motor Carrier Safety Administration taking office, Obama Administration officials at the U.S. Department of Transportation (DOT) signed an HOS litigation settlement agreement with Public Citizen and the Teamsters. As part of the settlement, DOT officials agreed to *'review and reconsider'* the HOS rules for truck drivers. Under this agreement, DOT agreed to have the Federal Motor Carrier Safety Administration (FMCSA) publish a new proposed rule in the Fall of 2010, and must finalize a rule by July 2011. As of November 30, 2010, OMB is still reviewing FMCSA's proposed rule, prior to publication.

ATA expects FMCSA to propose a reduction in driving time, an increase in the number of hours required to restart a driver's weekly on-duty period, and at least one mandatory rest break during each shift. (See "Additional Information on Upcoming Proposal" section below.)

ATA POSITION: The trucking industry has operated safely and efficiently for 7 years (since January 2004) under the current HOS rules. ATA strongly supports retention of the current and safe rules with one exception—more rest options through greater flexibility in the sleeper berth rule.

INDUSTRY SAFETY UNDER CURRENT HOS RULES: **The industry's safety performance while operating under the current HOS rules since January 2004 is remarkable. Truck-involved highway crash fatalities in 2009 were down 33% from the 2003 level and are at their lowest level since USDOT began keeping records in 1975. Crash-related injuries have also dropped dramatically since 2003, and the fatality, injury and property-damage-only crash rates for large trucks (crashes per 100 million miles traveled) are at their lowest point since the USDOT began keeping records three decades ago. From this data, it is clear the industry is operating more safely than ever under the new HOS rules.**

ADDITIONAL INFORMATION ON UPCOMING PROPOSAL: When viewed against that sterling safety record, it seems plain that DOT's willingness to reconsider the HOS rules has almost everything to do with politics and little or nothing to do with highway safety. By further restricting driving and work time, the Obama Administration will be simply supporting organized labor's effort to swell its ranks by forcing inefficiencies on the trucking industry which would force motor carriers to hire more drivers to haul the same amount of freight – drivers who the Teamsters would hope some day to organize.

Hard-pressed to argue safety benefits, the Administration is likely to try to justify any HOS changes as needed for driver health. That argument will be as specious as claims of safety gains. FMCSA has consistently gone on record over nearly the last decade that the current HOS rules are having no deleterious effect on driver health. Among other things the agency has noted that drivers are not driving any more hours-per-week under the new rules than before, and that the enormous improvements in diesel exhaust reduction and other modern truck features (e.g. power steering, automatic transmissions, improved suspension systems) drastically limit the health risks associated with truck driving.

Moreover, any changes are sure to be enormously expensive for trucking and the economy. Just two years ago, in Nov. 2008, the agency estimated an annual cost of over \$2.25 billion to the industry if the daily maximum drive time was reduced by one hour and the 34 hour restart provision was significantly changed.

FMCSA will be equally hard pressed to justify, on a cost-benefit basis, a more than \$2 billion increase based on illusory safety and health gains. Indeed, in 2008, the agency expressly stated that eliminating the 11th driving hour was “unlikely to be cost effective under any reasonable set of circumstances.” Finally, by restricting truck driver productivity and forcing the use of more inexperienced drivers, the revised rules are likely to result in more highway crashes – new drivers present more than 3 times the risk of crashes than their more experienced counterparts.

HOS HISTORY & BACKGROUND

- Hours of Service (HOS) rules for truck drivers were originally established by the federal government in 1939. These rules remained in place and virtually unchanged for more than 60 years.
- In 1995, Congress directed DOT to establish new rules that incorporated the latest science about human fatigue and alertness.
- In April 2003, DOT published new rules which met the Congressional directive and became effective in January 2004.
- In July 2004, in response to a legal challenge by a public interest group, the U.S. Court of Appeals for the D.C. Circuit overturned the April 2003 rules based on DOT’s oversight in performing one statutorily mandated analysis concerning driver health.
- In August 2005, DOT issued new HOS rules identical to the April 2003 rules, with one exception—a significant change in how drivers could use a truck’s sleeper berth to obtain rest.
- In July 2007, in response to another legal challenge by two public interest groups and the International Brotherhood of Teamsters, the U.S. Court of Appeals for the D.C. Circuit overturned the rules based on procedural errors made by DOT in the rulemaking process.
- In December, 2007, DOT issued an Interim Final Rule (IFR) addressing the procedural issues identified by the Court and retaining the August 2005 HOS rules.
- In November 2008, DOT reissued the August 2005 HOS rules as a Final Rule.
- In March 2009, the same plaintiffs again filed suit against DOT.
- In October 2009, prior to the confirmation of current FMCSA Administrator Anne Ferro, politically appointed DOT officials signed a litigation settlement agreement with the public interest groups and the Teamsters in which DOT agreed to ‘*review and reconsider*’ the HOS rules.

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