

Hours of Service Rule Advances

The Hours of Service proposed revisions continue to crawl their way through the political legislative process. Originally, it was expected that the revised HOS guidelines would be implemented in late 2011, but now this is clearly not going to happen. From a carrier perspective (and I'm sure from a shipper perspective too!) the delay is a good thing. Had the proposed revisions gone into effect, we as carriers would have been forced to make adjustments in dispatch and service offerings, and no doubt a rate increase would have been necessary to keep drivers compensated at a competitive income. Fortunately, these actions will be delayed giving both Shipper and Carrier balance sheets and P&Ls a little more time to recover before having to deal with the byproducts of a HOS rewrite.

There is no way around it - the three anticipated revisions highlighted below will have a monumental impact to shippers and carriers.

- A 1 hour (9%) reduction in drive time directly correlates to a reduction in the number of miles a driver can drive. This will push out delivery dates & times and will cost shippers and carriers more to handle the same freight.
- A 1 hour (7%) reduction in the on-duty time will affect how long a driver can spend loading & unloading yet still drive the maximum hours.
- The anticipated re-start rule will likewise impact the "effective" number of hours a driver can be on duty and drive. In the case of flatbed, it could have a significant impact on how flatbed carriers have to plan their loads over weekends.

The American Trucking Associations and major carriers, including Melton Truck Lines, continue to make our voices heard to state and federal legislators, congressmen, the DOT, and the FMCSA. If you as a shipper also wish to avoid the impact of these revisions, I encourage you to also let your voice be heard.

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Hours Rule Advances to Office of Management and Budget

By Oliver B. Patton, Washington Editor

The revised hours of service rule moved one step closer to publication yesterday when the Department of Transportation sent its proposed revisions to the White House Office of Management and Budget for review.

OMB typically takes up to 90 days to finish its work. At that point the proposed rule goes back to DOT for final touches and forwarding to the Federal Register for publication, a process that can move quickly. So it is possible that publication could come as late as February, although it may happen sooner.

The proposal was originally scheduled to be published Oct. 28 but, as is common with federal rules, the process has taken longer than expected.

The Federal Motor Carrier Safety Administration is revising the rule in order to resolve a

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long-running legal fight with Public Citizen, the Teamsters union and other groups.

Twice since 2003 these groups won rulings in which the court ordered the agency to tighten work hours, and each time the agency came back with a defense of the rule. Then in 2009 the agency reversed course, agreeing to revisit the rule while Public Citizen suspended its suit. Public Citizen reserved the right to renew its suit if it does not like the new rule.

The details of the proposed changes will remain sealed until publication, but trucking interests are on high alert based on what FMCSA proposed in earlier stages of the rulemaking process.

Among other changes, **the agency said it is leaning toward cutting driving time from 11 to 10 hours a day**. It also proposed giving drivers a one-hour break during the day by **limiting actual duty time within the 14-hour driving window to 13 hours**. Another significant change would modify **the 34-hour restart to include two periods between midnight and 6 a.m., to be used only once a week**.

The trucking and shipping community believe these changes would not improve safety and would add significant costs to doing business. American Trucking Associations is prepared to sue if the agency goes ahead as it has proposed, and has been gathering support on Capitol Hill.

Republicans in Congress have been highlighting the revision as an example of excessive government regulation.

House Speaker John Boehner, Ohio, and Majority Leader Eric Cantor, Va., asked President Obama to withdraw the pending rewrite and stick with the current rule, saying that by doing so he can avoid adding a \$1 billion regulatory burden.

Rep. John Mica, R-Fla., chairman of the House Transportation and Infrastructure Committee, and three of his Republican colleagues on the committee, told Obama in a letter that they will "aggressively oversee" new regulatory burdens. Mica has since declined to say what specific steps he would take.

Sen. Kelly Ayotte, R-N.H., introduced a measure to block the rewrite, but that amendment did not make it into the transportation appropriations bill that the Senate passed this week.



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