



REGULATORY UPDATE

HOURS OF SERVICE RULES *The Latest*

Background

On July 24, the U.S. Court of Appeals ruled in favor of a safety advocacy group - Public Citizen – on its challenge to the “new” HOS rules (issued in 2005). Specifically, the Court vacated the 11-hour driving rule and 34-hour restart provision, saying the Federal Motor Carrier Safety Administration (FMCSA) had not properly justified them when first issued. The effective date of the court’s ruling was to have been 52 days later (September 14th).

Update

On September 6th, the American Trucking Associations filed for a “stay” of the court’s ruling. This filing had the immediate effect of delaying any change to the hours of service rules, since the effective date of court’s initial ruling must now be extended while the court considers the stay request. Procedurally, the court must allow all parties involved to comment on the merits of the stay request and then evaluate the request—a process that could take several weeks.

What Will Happen Next?

Initially, it is unlikely that the hours of service rules will change in the short term (next two weeks). However, any number of things could happen after that time. Here are some possibilities:

- 1) The court could grant the stay, which would leave the current rules in place until the FMCSA begins a new rulemaking process to either: a) better justify the existing rules to satisfy the court and, as a result, leave the current rules in place, or b) propose alternative changes to the rules.
- 2) The court could eventually deny the stay request, but in the meantime the FMCSA could issue an “interim final rule” which would leave the current rules in place until the regulations are better justified to satisfy the court—a process that would take several months.
- 3) The court could deny the stay, the FMCSA could fail to issue an interim final rule, and the 11-hour rule and the 34-hour restart provision would both be vacated. In this case, the industry would probably have to subscribe to a ten hour driving time limit and would not have the ability to use a restart provision.

For now, the 11-hour rule and 34-hour restart provision remain in effect until further notice.

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