How the heck did FMCSA wind up redoing HOS again?
By Jami Jones, Land Line senior editor

Ever wonder why the Federal Motor Carrier Safety Administration seems to keep retooling the hours-of-service regulations?

Well, sit back and kick up your feet. Because it’s a long story and starts back in 1995…

Dec. 29, 1995 – Section 408 of the Interstate Commerce Commission Termination Act of 1995, directed the Department of Transportation to issue regulations addressing fatigue-related issues (that’s code for hours of service) affecting commercial vehicle safety. The DOT was given a deadline of March 1, 1999, to issue the new HOS regs.

Nov. 27, 2002 – Public Citizen, Citizens for Reliable and Safe Highways, Parents Against Tired Truckers and Teamsters for a Democratic Union filed suit compelling the U.S. DOT to issue the rules, which includes new hours-of-service regulations, ordered by Congress.

April 24, 2003 – The Bush administration announced final rules to allow truckers to drive longer hours but take more time off between shifts under the first hours-of-service changes since 1939.

Dec. 1, 2003 – Public Citizen, Citizens for Reliable and Safe Highways and Parents Against Tired Truckers, told the U.S. Court of Appeals for the District of Columbia that “far from improving safety, the final rule abandons virtually every principle FMCSA had proclaimed necessary.”

July 16, 2004 – A three-judge panel of the U.S. Court of Appeals for the District of Columbia Circuit called the new HOS rules “arbitrary and capricious” and threw the regs out.

Sept. 30, 2004 – Congress got in on the act and passed a provision in the Surface Transportation Extension Act of 2004 that gave FMCSA until Sept. 30, 2005, to reformulate the HOS rules. That allowed FMCSA to keep the April 2003 HOS regs in place during the rulemaking process.

Aug. 19, 2005 – FMCSA unveiled its second attempt to retool HOS since 1939. The 2005 version kept the 34-hour restart, 14 hours of on-duty time and 11 hours of driving from the 2003 rule. However, it revised the split sleeper berth provision periods to eight and two hours.

Aug. 29, 2005 – OOIDA filed a petition for reconsideration with the agency. The petition included requests for two “common sense changes.” One request was for the two-hour portion of the split sleeper berth provision to stop the 14-hour on-duty clock. The other request was to allow teams to split the sleeper berth time in something other than the eight- and two-hour periods.

Oct. 1, 2005 – The newly revised hours of service went into effect, despite lingering petitions for reconsideration filed with FMCSA.

Jan. 23, 2006 – OOIDA filed a petition for review with the DC Circuit asking the court to review the agency’s changes to the sleeper berth provision, claiming the agency “did not do adequate research to justify the decisions they did make.”

Feb. 27, 2006 – The International Brotherhood of Teamsters, the Truckload Carrier’s Association and the Ohio and California Trucking Associations supported OOIDA’s court challenge and filed “motions to intervene” in the petition for review.

Feb. 27, 2006 – A second lawsuit challenging the current regulations was filed by Public Citizen. That case – although challenging the rule very differently – was eventually combined with OOIDA’s suit by the court.

July 24, 2007 – The court tossed the provision that increased driving time to 11 hours from 10 hours and the 34-hour restart provision – on procedural, not safety, grounds. In that same decision, the court denied a petition by OOIDA asking the court to consider the impact of changes to the sleeper berth provision, thereby removing OOIDA as a plaintiff in the pending litigation.

Sept. 28, 2007 – The DC Circuit denied appeals in the HOS decision and gave the agency until the end of the year to take action on revising the regulations, again.

Dec. 11, 2007 – FMCSA once again retained the current hours-of-service regulation, allowing drivers to use the 34-hour restart and drive the 11th hour, while defending both provisions with additional research.

Jan. 23, 2008 – The DC circuit denied a petition filed by the International Brotherhood of Teamsters, Public Citizen, Advocates for Highway and Auto Safety, and the Truck Safety Coalition that asked the court to vacate the interim final rule.

Nov. 19, 2008 – FMCSA published “new” final rule in Federal Register, which made no changes to the regulation the industry had operated under since October 2005.

Jan. 19, 2009 – The current hours-of-service regulations officially went into effect.

March 9, 2009 – The third chapter in the HOS saga kicked off when four groups filed a lawsuit asking that the current version of the regulation be tossed. Filing suit were International Brotherhood of Teamsters, Public Citizen, Advocates for Highway and Auto Safety, and the Truck Safety Coalition.

Oct. 26, 2009 – FMCSA and Public Citizen were granted a joint motion by the court to delay legal action in order to allow FMCSA to craft new HOS regs.
Dec. 23, 2010 – FMCSA rolled out its proposed hours-of-service regulations. For a complete breakdown on the current proposal, check out the February issue of Land Line.

Jan. 27, 2011 – Public Citizen and FMCSA asked the court for “an order continuing to hold proceedings in abeyance pending the issuance of a final rule.” The court agreed ordering the parties to update the court every 60 days beginning March 29 and to file another joint motion 30 days after the final rule is published.

Information contained in this timeline was compiled by Land Line Magazine Senior Editor Jami Jones from OOIDA resources and Land Line Magazine articles.

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