



## SPECIAL HOURS OF SERVICE ISSUE

Want to sign yourself or someone else up to receive this newsletter? Send an email to [lnugen@mjai.com](mailto:lnugen@mjai.com) and Les will get you added to our list

### Websites of Interest:

[www.dot.gov/ost/dapc](http://www.dot.gov/ost/dapc)  
Office of Drug & Alcohol Policy & Compliance has launched a new page on its website. The "Employer Page" is designed to be a resource page for employers subject to DOT drug and alcohol testing regulations..

[www.atrionline.org](http://www.atrionline.org)  
American Transportation Research Institute maintains a current list of idling regulations on their website.!

[www.presentationpro.com](http://www.presentationpro.com)  
Looking for ways to improve your trainings and presentations? Good source for PowerPoint templates, backgrounds, and tips..

<https://dataqs.fmcsa.dot.gov>  
DataQ is used to challenge inaccurate data on your Safestat reports. Register to use the system and login here.

Contact Us:

## FMCSA Hours of Service Remain Unchanged



In the November 19 Federal Register, the Federal Motor Carrier Safety Administration published a final rule on the hours of service regulations. This final rule will hopefully end the speculation that has been going around about whether the rule would change or stay the same. The "truck stop attorneys" have been busy with this one ever since the rules were struck down last year.

Everyone can take a deep breath and relax for now because the final rule leaves the hours of service regulations **UNCHANGED!** But read the article below before getting too happy! It is important to note that a challenge can, and most likely will be filed by the same groups who have sued in the past. Challenges can be filed for up to 30 days, and they have 60 days to file a petition for review with a U.S. Court of Appeals. Statements from the "safety advocate" groups have already been issued stating that they are not satisfied with the final rule.

## FMCSA Changes Policy on Electronic Data

**For those of you that may have been dancing after reading the article above on the hours of service rules staying the same I suggest that you sit down before reading any further!** Another notice was also published in the Federal Register on Nov. 19<sup>th</sup> that did not receive much attention. This notice will have a huge impact on how FMCSA compliance reviews are conducted on most motor carriers.



This "notice of policy change" rescinds the 1997 policy on Advanced Information Technology. The 1997 policy basically stated that electronic data from technologies such as Qualcomm, People Net, etc. were not to be used during a compliance review unless there were not sufficient other forms of supporting documents to substantiate the hours of service. Under this policy the inspector could request the documents if approval was given by his/her superiors, but there were very few cases where the information was actually requested.

**By rescinding this policy it now means that all electronic records will be fair game during the compliance review. Effective date for this policy change is December 19, 2008.**

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Remember, I warned you to sit down so if you fell I cannot be held responsible for any injuries. If you are using any of these types of technology it would be very wise to begin checking these records against your logs for falsification.

I read a statement in the past that when normal paper supporting documents are checked against logs that the average violation rate is around 9%, but when Qualcomm was used to check the violation rate was about 65%. This means that everyone has a lot of work to do to get ready for this new challenge. It is vital that you begin educating your company officials and office staff, revise policies and procedures, and retrain your drivers on this issue immediately.

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## FMCSA Sends EOBR Rule to White House



The FMCSA has sent its rules governing the use of electronic onboard recorders to the White House for review. FMCSA Administrator John Hill told reporters Tuesday in a conference call that he anticipated publishing the final rule before he leaves on January 20.

At this time the details of the proposal are unknown, but a previous proposal that was rescinded looked to require EOBR for motor carriers with repeated violations of hours of service regulations during compliance reviews. The general reaction from most people was that the original proposal did not go far enough or impact enough motor carriers so look for possibly a more aggressive proposal this time around.

The policy change noted in the article above will also be used to enhance whatever proposal is issued on EOBR. Carriers that currently use advanced technologies such as Qualcomm, People Net, EZ Pass, PrePass, etc. will have those records checked during a compliance review which will serve almost as well as if they had an EOBR installed on their equipment.

We will continue to watch for more details on this proposal and other hours of service issues as they become available. If you have questions or need assistance in preparing for the changes discussed in this newsletter please do not hesitate to contact one of our safety representatives. We are dedicated to helping you make the necessary adjustments to get your hours of service compliance program ready to handle these challenges. The rules of the game have changed, and unless you want your next DOT audit experience to be a very unpleasant one you need to get your team ready now.

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