



Owner-Operator's Business
Association of Canada

Association professionnelle des
routiers autonomes du Canada

*...from the
director's chair*

Fifteen years and counting

Will another two years give us HoS everyone's happy with?

Here we go again. The Obama administration has caved in to pressure from special interest groups and has agreed to re-open the rulemaking process on Hours-of-Service. When I first heard the news, my stomach did one of those flips, like when you arrive at the airport running late for a flight and suddenly remember you left the iron plugged in.

The last thing we need right now, on top of all the other uncertainties going into 2010 and beyond, is a rewrite of the most significant bit of legislation in all of trucking. Hours-of-service touches everyone who gets within 100 feet of a truck, and many more who don't.

Take the software developers who are working on EOBRs as we speak. All the programming work they've done to date just flew out the window with this latest pandering to the so-called safety lobby.

The deal crafted to dump the current rule requires the government to redraft new HoS regulations within nine months, and publish a final rule within 21 months. Yeah, right. In case you've forgotten, we've been working on HoS since 1995, and we still don't have a rule everyone can live with – apparently.

Frankly, I don't believe it's possible to write a rule that meets everyone's needs and priorities, and I question the tremendous resources wasted in continuing to try. In addition to the fracas instigated south of the border by Public Citizen, CRASH, PATT, and a horde of others, serious friction exists in this country between Transport Canada and various provincial trucking regulators on differences in interpretation, enforcement, and application of our so-called federal HoS standard.

It could be years before we see harmonization up here – and we have only a hand-

ful of dissenting parties. To echo the words of former FMCSA chief Annette Sandberg, "HoS will never be settled in our lifetime."

The "safety advocates" have brought their case against the current rules to US courts on two previous occasions, and each prompted a review of the rule.

Except for forcing team drivers to now spend a full eight hours in the sleeper, nothing much has changed.

There is still a contention that 11 hours is too long a driving shift, and that the 34-hour reset (US) provision allows drivers to work an excessive number of hours over a seven-day period. There's never any mention of the two extra off-duty hours drivers take each day as a fatigue-mitigating factor, but such is politics.

This latest deal may halt the third court challenge, but if the new rulemaking – promised within 21 months – again fails to meet with Big Safety's approval, they'll be in court again. But what's to stop trucking from pushing back with its own challenge? In other words, with this particular can of worms now wide open, and with the doubtfulness of crafting a rule that will satisfy everyone, maybe it's time for a different approach.

Don't get me wrong – I'm not advocating that we dispense with limits of some kind on how many hours a driver should have to (or be allowed to) work, but I can think of better ways of managing the process than through prescriptive and restrictive start and stop times.

With all the competing interests in this debate, it irks me that the drivers' point of view seems to matter the least. We have science, enforcement, safety, and motor carriers telling drivers how fatigue should be managed, but none of those others have to

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deal with the impact of fatigue or the effects of restrictive regulations.

I believe it's high time that a true fatigue management plan was brought to the table, one that allows drivers to manage their own internal and very individual need for rest within the confines of a workable set of limits on drive time and prescribed minimums for daily rest.

Given the appropriate fatigue management training, drivers should be left alone to manage, say, 14 hours of work in a 24-hour period, with a minimum of 10 hours off-duty with at least six or seven consecutive hours off.

If drivers had the chance to rest when they felt they needed to rest – like during the late afternoon doldrums – rather than forging on because they have available hours and stopping to nap might compromise the available hours in their work shift, they might find themselves better rested than is the case today.

If the special interest groups have their way, we could be looking at something ridiculous like 12-on and 12-off, with a 10-hour driving cap. That's unsustainable in a long-haul operation.

Rather than another two years of uncertainty, how about some middle ground that actually serves the regulated parties rather than the regulators, the armchair quarterbacks, and those with nothing to add, only axes to grind? The implications of another failed attempt at an HoS rule are just too big to even consider.