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Gallagher Sharp Newsflash: FMCSA Retains 11 Hour Driving and 34 Hour Restart Regulations

On November 19, 2008 the Federal Motor Carrier Safety Administration published a rule, set to take effect on January 19, 2009, which retains the controversial 11 hour-per-day driving and the 34 hour restart regulations.

These regulations were invalidated in July 2007 by the United States Court of Appeals for the District of Columbia Circuit. The Court decided that procedural rules relating to the adoption of the regulations weren't met, mainly due to the Agency's failure to properly explain its scientific methodology as well as irregularities by the Agency as it sought comments on the regulations.

FMCSA, through Administrator John Hill, said that it conducted additional analysis and carefully reviewed hundreds of comments on the regulations. After doing so the agency found no reason to change the rules. Administrator Hill remarked that the DC Circuit's concerns were procedural, not substantive. Mr. Hill added that the Agency's data and safety analysis make clear that the Hours of Service regulations "maintain highway safety by ensuring that drivers are rested and ready for work while continuing to provide operational flexibility to the industry."

As expected interest groups such as Public Citizen and the Teamsters attacked the Agency's action, stating that the challenged regulations have resulted and will continue to result in unsafe roads. The American Trucking Associations commented that since the regulations became effective the trucking industry's safety performance has "markedly improved".

The final rule can be found at:

<http://www.fmcsa.dot.gov/rules-regulations/administration/rulemakings/final/E8-27437-HOS-Final-Rule-11-19-08.pdf>

The FMCSA News release on the subject can be found at:

<http://www.fmcsa.dot.gov/about/news/news-releases/2008/111808.htm>

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