

WHITE PAPER: SPIREON - CONSTRAINTS ON CAPACITY

The F in FMCSA Is for Flexibility

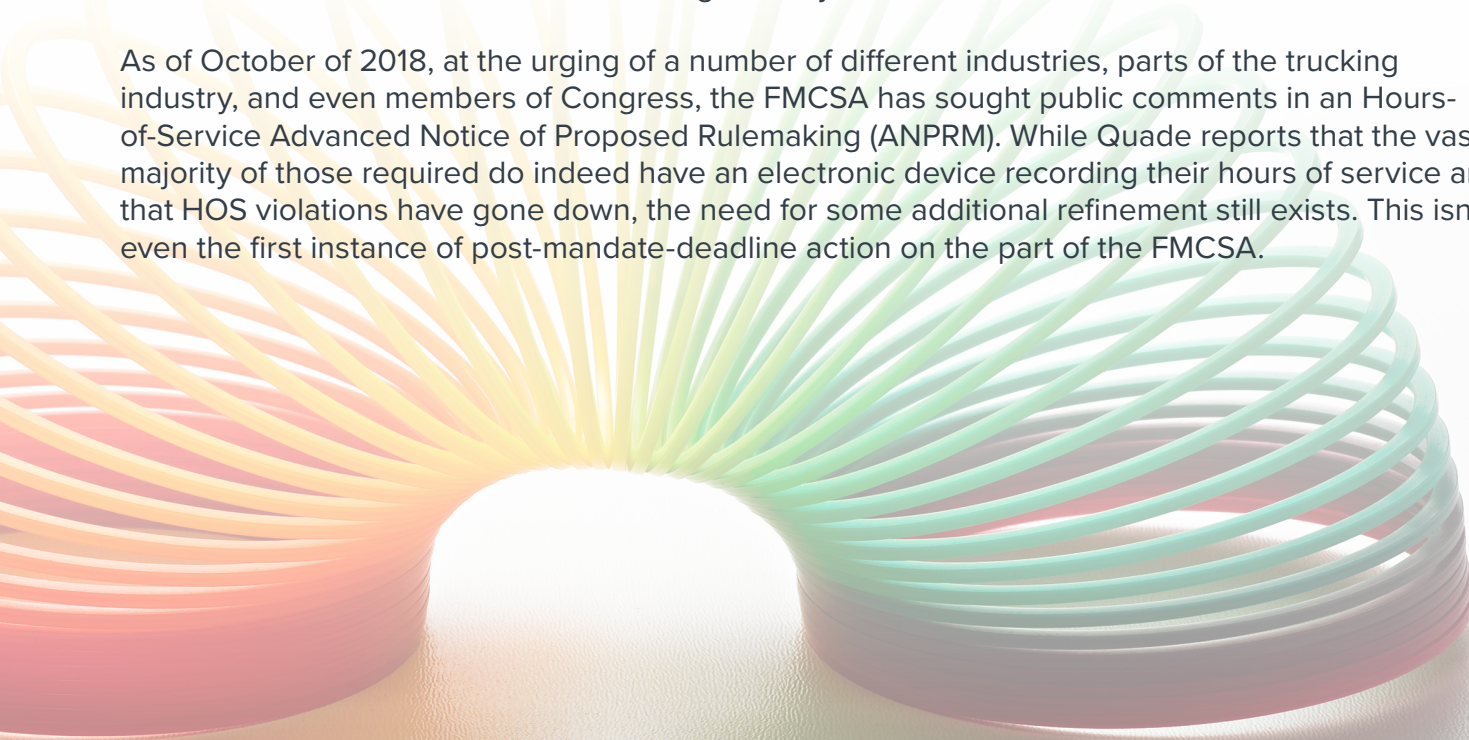
Not Really, But Hours of Service Flexibility May Be Coming
Plus How One Commercial Fleet Manages ELD Change

The build-up, layered implementation, and execution of the ELD mandate has come and gone, but not without its fair share of consternation. Many hands were wrung contemplating whether widespread fleets and routine-entrenched drivers would be able to make the transition, not least of all in the midst of a worsening driver shortage that could ill afford yet another obstacle that keeps drivers out of their cabs.

It turns out the US Department of Transportation, all the way from Secretary of Transportation Elaine Chao down to the Federal Motor Carrier Safety Administration (FMCSA) has been paying attention. The FMCSA is in fact beginning to take measures to add flexibility to ELD and hours of service (HOS) rules.

“Before we had electronic logging devices, there was room for some folks to get the flexibility they needed by kind of rounding off hours and trips,” says Bill Quade, associate administrator for enforcement at the FMCSA, an agency of the US Department of Transportation. “The implementation of ELDs has demonstrated that the trucking industry needs some additional flexibilities.”

As of October of 2018, at the urging of a number of different industries, parts of the trucking industry, and even members of Congress, the FMCSA has sought public comments in an Hours-of-Service Advanced Notice of Proposed Rulemaking (ANPRM). While Quade reports that the vast majority of those required do indeed have an electronic device recording their hours of service and that HOS violations have gone down, the need for some additional refinement still exists. This isn't even the first instance of post-mandate-deadline action on the part of the FMCSA.



GUIDANCE ON PERSONAL CONVEYANCE

In May 2018, the FMCSA published Regulatory Guidance: Personal Conveyance. The purpose of this document is to help maintain consistent application of the personal conveyance rules by both the industry and law enforcement officials.

“The big thing here with personal conveyance is if you want to take advantage of it, you have to think about the intent of the movement,” clarifies Quade. “If the intent of the movement benefits your business in some way, shape, or form, then it’s really not personal conveyance.”

Appropriate use of personal conveyance occurs, for instance, when a driver is parked someplace and wants to go to a restaurant and the CMV is the only vehicle he or she has available to them. In that instance, personal conveyance allows for the CMV to be driven to the restaurant.

However, one of the features of the guidance opened up the rule to include laden and unladen vehicles. Previously, guidance mandated that the vehicle be unladen. This revision allows leeway for a driver to find a safe parking place if he or she is instructed by a shipper to leave the premises but is out of his or her 14 hours.

“The key point is what is the intent?” says Quade. “Now, if a driver goes 150 miles under personal conveyance claiming that’s what he needed to get to the closest safe parking place and that happens to be 150 miles toward their next route, obviously that’s not going to be proper use of personal conveyance.”

He goes on to clarify that personal conveyance is usually not applicable to a backhaul. Returning the vehicle to its place of origin is considered part of what is necessary for that trip to happen, thus despite the fact it’s necessary for the driver personally, it’s also necessary and beneficial for business, which excludes it from personal conveyance.



HOURS-OF-SERVICE ADVANCED NOTICE OF PROPOSED RULEMAKING

Back to the current matter under consideration, much like the personal conveyance guidance, the FMCSA is attempting to add further nuance to the letter of existing law. The FMCSA has identified four areas for input, none of which, Quade stresses, the department has made any particular recommendation on. This stage is exploratory and investigative with no particular hedging toward any particular outcome.

- **Expanding the short haul window**

The current window on a 100-air-mile driver, or short-haul driver, is 12 hours. The Hours-of-Service ANPRM has taken input on expanding the window to 14 hours.

- **Adverse driving conditions**

Current regulations allow for two extra hours of driving if a driver hits adverse driving conditions that couldn't have been anticipated, such as traffic as a result of a really bad vehicle accident on the route. However, regulations do not currently allow for the 14-hour window to be expanded due to adverse driving conditions. The ANPRM has taken comments on whether or not to loosen that rule.

- **The 30-minute rest break provision**

The ANPRM has taken comments on whether the 30-minute rest break provision should be revised or completely eliminated.

- **Split sleeper berth periods**

Finally, the ANPRM has taken comments on whether split sleeper berth periods should be allowed.

Additionally, the FMCSA received two petitions for rulemaking, one from the Owner-Operator Independent Drivers Association (OOIDA) and another from TruckerNation. The FMCSA has also sought comments on these petitions as well.

- **OOIDA** has proposed an off-duty period of up to three hours during the day that could extend the 14-hour rule up to 17 hours. This would add flexibility to what is now a very hard 14-hour window. The OOIDA also requested an elimination of the 30-minute rest break period.
- **TruckerNation** has proposed a 15-hour window of on-duty time that allows for off-duty time in the middle, regardless of whether it's one period or multiple periods, that could extend the 15-hour window — much like the regulations before 2003.

When we spoke to Quade in early October 2018, he reported the FMCSA had more than 3,000 comments, most of which favored change. The most commented-on proposal was the 30-minute rule change, followed closely by the 14-hour rule flexibility, specifically the OOIDA or the TruckerNation proposal.

Now that the FMCSA has conducted a series of listening sessions — including one at the Great American Truck Show in Dallas, Texas; another at the Guilty By Association Truck Show in Joplin, Missouri; and others in Reno, Nevada, Orlando, Florida, and Washington, D.C. — the plan, according to Quade, is to follow through with a notice of proposed rulemaking in early 2019 that includes a specific proposal from the FMCSA. Another comment period would follow, and then, optimistically, final rules could hit the streets as soon as late summer, early fall 2019.

“For those who know the federal rulemaking process, this would be about twice as fast as it usually works,” Quade explains. “Secretary Chao has made it very clear to the agency that she believes the truckers need additional flexibility and she wants us to get that on the street as soon as we can.”

A Case in Point: Darling Ingredients and the Real World Challenges of Implementation

Darling Ingredients is a global developer and producer of sustainable natural ingredients from edible and inedible bionutrients. With operations in 18 countries on five continents, headquarters in Irving, Texas, and approximately 10,000 employees worldwide generating annual revenue around \$3.7 million, Darling is extremely invested in fleets, transportation, and the logistics of moving its products. The company’s transportation efforts focus on three main areas: compliance, productivity, and utilization.

COMPLIANCE

Darling uses its onboard technology to track miles of any of its vehicles in motion, regardless if a driver has logged in. The company also tracks pre-trip and post-trip inspections. Its fleet management system pushes all onboard tracking information and maintenance records into the company’s main compliance documentation. Technology is key in this area.

“We have roughly 100 locations across North America,” says Vice President of Fleet Operations Patrick McNutt. “Good technology that keeps up with all that data is paramount.”

PRODUCTIVITY

Darling uses some of its same compliance technology to collect route execution data and manage manpower. The shortage of qualified drivers in the industry underlines the need to optimize the productivity of the drivers it has.

“We use Spireon FleetLocate to track our trailers and fleet,” McNutt points out. “With over 4,500 trailers around North America, our ability to know where they are and that our drivers are staying compliant is important.”

For optimal productivity, all Darling Ingredients’ systems “speak” to each other. Data from onboard powered units and trailers feeds directly into fleet maintenance software, doing away with the need for manual readings checks. By automating this process, human error — such as data being fed into the system twice — is eliminated. Such accuracy amounts to a major return on investment both through maintenance tracking and prediction modeling, according to McNutt.

Route optimization is also key. It allows demand of service forecasting and predictive model, or “planned actual,” measurement, allowing Darling Ingredients to more accurately plan and measure performance. “We do a lot of stops and a



lot of routing of our trucks, so the predictability and execution of those routes is extremely important to us,” explains McNutt. By being able to track its trailers, Darling Ingredients knows when to expect a shipment to hit a customer and can work with those customers more productively. In some cases, Darling even shares its tracking data with its customers as an added layer of value. The more insight, the more predictability for everyone.

Productivity is also relevant at the mechanic level. By performing its own maintenance, Darling faces challenges in staying staffed with qualified mechanics. As such, it uses its shop-floor workstation to monitor and measure the activities of its mechanics and ensure optimal productivity. Equipment in the greatest need of maintenance gets it at the right time, heading off more severe problems down the road.

UTILIZATION

“When we think about our capacity and constraint challenges, we do everything we can to make sure we’re getting maximum utilization from our equipment — power units, trailers, even human resources,” says McNutt.

Darling once again draws on the power of the same family of onboard technology. Onboard computers measure miles and fuel, track trailer location, and report exactly how many miles have been driven in any period of time. “We can reach out and grab them when we need to.”

McNutt estimates most companies are operating with about a 10 percent shortage of drivers. To get the most out of the 90 percent they have, route optimization once again is crucial. “As the old adage goes, what gets measured gets done. If you can create effective routes and get your drivers to run efficiently, then you have the ability to pick up productivity.”

THE IMPACT OF ELD

McNutt has seen the greatest impact of ELD on its outsourced third-party haulers, in which capacity has dried up quite a bit. Driver training for new processes was another challenge. “It’s not something that you just plug in and switch on,” says McNutt.

Change management did not come easy at Darling, though driver reaction to systems implementation did soften over time. McNutt believes a company has gotten it right when, if the technology were taken away, there would be more complaints than when it was put in. He thinks Darling has reached that threshold.

“I used to describe it as swimming upstream with a fire hose in our face. Once they got used to the ELDs and not having to do paper logs and the accompanying administrative work, it all became very well-accepted.”

Ultimately, any technology implementation — whether for regulation compliance, or to ease the constraints of productivity and utilization — must pay for itself.

“It’s always important to look at technology in terms of practicality first. It has to provide something that your company can actually be successful implementing,” McNutt advises. “There is a lot of good technology out there that costs a lot of money and under the right circumstances can be beneficial to implement, but if you are not prepared to analyze the practicality, you’re throwing money out the window because it won’t get you to the finish line.”

For more information on the ELD mandate and onboard technology that not only keeps your fleet compliant, but also productive and efficient, visit spireon.com/fleetlocate-compliance or call one of our friendly experts at 800.557.1449.

Bill Quade and Patrick McNutt were the featured guest speakers for “Capacity, Constraints and Hours of Service: What’s Here Now and What’s Coming Next,” a recent webinar hosted by Spireon. To see the upcoming slate of Spireon webinars featuring fleet and trailer management, visit spireon.com/webinars.

