



FACT SHEET

Exemption from Department of Transportation's (DOT) Hours of Service Rule

The DOT's Federal Motor Carrier Standards Administration issued its final Hours of Service (HOS) rule in April 2003. This rule regulates the maximum driving time for operators of commercial motor vehicles (gross vehicle weight of 10,001 pounds or more). The intent of the rule was to improve highway safety and help reduce the number of truck crashes and related fatalities on our nation's roads. However, drivers of utility service vehicles (USVs) who work for contractors and utilities have been ensnared in the rule, making it difficult for companies to respond to outages. The new rule's limitation on driving hours makes it nearly impossible for daytime utility workers to be called out in the evenings to respond to emergencies.

IBEW Position: Support inclusion of an exemption to HOS for USV drivers in the TEA-21 Reauthorization bill (Highway bill – unnumbered).

Status: The Transportation Equity Act for the 21st Century (TEA-21) is set to expire this year. Lawmakers are currently negotiating the reauthorization in the House Transportation and Infrastructure Committee. Negotiations have been slow, and it is likely Congress won't finish the bill this year. Instead, lawmakers will likely pass a six month or one-year extension, and finish the full reauthorization bill in 2004.

Key Points:

- **The DOT Hours of Service rule would likely hamper emergency response and public safety.** In the event of a power, telephone or other emergency outage, fast utility response is critical. Restricting employees' ability to restore telephone or electric service in emergency situations will, in some cases, hamper firefighters and other public safety officials' ability to respond to those emergencies as well. Regulations that delay and complicate the dispatch of USVs would also have the effect of eroding the overall reliability of the telephone or electrical system.
- **Utility service vehicles bear little, if any, resemblance to the long haul, over-the-road trucks or commercial delivery trucks that DOT targeted with this regulation.** USVs are mobile work platforms used by highly trained workers. Driving is incidental to utility employees' work; their primary responsibility is to restore, maintain or repair utility facilities.

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- **Protection against driver fatigue is important; however, utility employees are not subject to the same working conditions as truck drivers.** Union contracts, state regulations, OSHA requirements and utility company policies all protect fatigued workers from operating vehicles and working on facilities. Such requirements warrant different treatment of USV drivers under the HOS regulations.
- **DOT's HOS regulation would unfairly preempt state laws.** The regulation of utility distribution systems has traditionally been under the local jurisdiction of state public utility commissions. Many states have recognized the critical need for flexible HOS rules and have allowed utility vehicles to operate in a manner appropriate for their work. DOT's rule would materially affect restoration, maintenance and other reliability functions; therefore, it would unnecessarily preempt state authority.
- **Utility employees' need to respond to emergency circumstances creates a situation where an exemption or a different governing standard is appropriate.** DOT's HOS rule should be rewritten to include a new classification within which USV drivers would be grouped, similar to the treatment of other emergency response providers – firefighters, for example – that are currently exempted from HOS regulations.