



Transportation Section

President Trump and Trucking—A Busy Three Weeks

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If you pay attention to the news at all, you have probably been struck by how busy President Trump has been in terms of issuing Executive Orders that affect the transportation industry. Many of his actions have been controversial in the eyes of some observers, however, no matter which side of the aisle you favor if your practice services the transportation industry or if you own or work for a motor carrier or other company within the transportation industry, you need to be aware of how the President's actions might affect the industry.

Below are a number of developments that directly impact the industry.

Elaine Chao confirmed. Mrs. Chao was confirmed as the Secretary of the Department of Transportation ("DOT"). She was confirmed on a relatively non-controversial 93-6 vote. There was very little debate on Mrs. Chao's nomination when compared to others that were undergoing or that are undergoing confirmation currently. There are other DOT agency heads that need to be nominated by the President. Those agency heads will also need to be confirmed by the Senate.

President Trump requires that two regulations be culled for every new regulation passed. In an interesting approach to regulatory law, Mr. Trump signed an Executive Order that required all federal agencies to identify two regulations to be removed for every new regulation that the agencies proposed or enacted. This will certainly effect federal agencies such as the Federal Motor Carrier Safety Administration ("FMCSA") and DOT. The move was touted as being intended to ease the burden of complying with government regulations on small businesses.

New Driver Training Rule Slightly Delayed. The President also signed an Executive Order that froze all new regulations. The only new regulation applicable to the trucking industry that would be affected by the freeze was the FMCSA's entry-level driver training rule that put forward a regulatory scheme for training new CDL holders. This rule was originally published in December 2016 and was set to become effective February 6, 2017. The Executive Order delayed the pending rule from becoming effective until 60 days after the memorandum published by the President. Accordingly, the driver training rule will

become effective March 21, 2017 assuming a review by the administration doesn't reveal issues.

Electronic Logging Device Rule("ELD") still in place. Mr. Trump's Executive Order that froze all new regulations did not have the same effect on any regulations that were already law, including DOT's ELD rule. The order that freezes regulations only applies to new regulations and serves to delay those that are not yet effective, such as the aforementioned driver training rule. The ELD rule became effective in December 2015. The new rule did provide motor carriers and drivers two years within which to come into compliance.

If you advise clients in the trucking industry, you should be sure to familiarize yourself with these developments in order to properly advise them of what their obligations might be. If you are in the trucking industry, then please feel free to contact your general counsel and/or your outside counsel to discuss what these matters mean to how to safely and profitably operate your business.