# April Legislative and Regulatory Report

## LEGISLATIVE

### House Proposals Aim to Attract and Retain Trucking Workforce

This month, the U.S. House of Representatives introduced two legislative proposals seeking to address the ongoing truck driver shortage.

Rep. Spanberger (D-VA) introduced H.R. 7348, the Strengthening Supply Chains Through Truck Driver Incentives Act of 2022, in an effort to attract and retain new truck drivers. The bill seeks to establish a refundable tax credit of up to $7,500 for 2022 and 2023 for truck drivers possessing a valid Class A commercial driver's license who log a minimum of 1,900 driving hours per year. Drivers can receive a credit of up to $10,000 if they are new to the trucking workforce or enroll in a registered trucking apprenticeship.

Additionally, truck drivers who did not drive a commercial truck in the previous year or drove less than 1,420 hours in the current year but drove a minimum average of 40 hours per week when starting their position can qualify for a portion of the credit. Both the American Trucking Associations and the American Loggers Council have expressed their support for the bill. H.R. 7348 is cosponsored by Rep. Mike Gallagher (R-WI) and was referred to the House Committee on Ways and Means.

A separate proposal intended to reduce turnover by increasing truck driver pay for both new and existing drivers was introduced by Rep. Levin (D-MI). H.R. 7517, the Guaranteeing Overtime for Truckers Act, would strike the “motor carrier exception” in the Fair Labor Standards Act, which currently exempts truck drivers from the Act’s overtime pay requirements provided to other workers.

The legislation is supported by the Owner-Operator Independent Drivers Association, International Brotherhood of Teamsters, and Institute for Safer Trucking, among other industry groups. H.R. 7517, cosponsored by six Democrats and one Republican, was referred to the House Committee on Education and Labor.

## REGULATORY

### CVSA Petitions FMCSA to Amend HOS Requirements

In a petition submitted on March 29, the Commercial Vehicle Safety Alliance requested the Federal Motor Carrier Safety Association amend its hours of service guidance on truck driver’s use of personal conveyance to record off-duty status. This designation may be used by drivers to record time operating a commercial motor vehicle for personal use when the driver is relieved of all on-duty activities and responsibilities. CVSA called on FMCSA to clarify the definition of “personal conveyance" by adding a maximum time and/or mileage limit.

CVSA contends the existing FMCSA guidance could be misused by truck drivers to circumvent HOS limits and extend driving time, thus increasing driver fatigue and compromising road safety. CVSA also stated that the current parameters for personal conveyance are difficult for law enforcement to verify during roadside inspections, particularly when personal conveyance was used on previous travel days. CVSA further noted that many drivers unintentionally misuse personal conveyance due to unclear guidance, which has led some motor carriers to prohibit their drivers from using the designation at all to avoid potential violations.

CVSA originally petitioned for this change in 2018, when the request was denied because FMCSA did not identify a sufficient safety concern. Since then, CVSA noted an increase in false records of personal conveyance. In 2019, it was the sixth most frequently documented violation, while in 2021, it was the third. As of January 28, 2022, preliminary data cited by CVSA found 3,041 documented violations of personal conveyance, of which 61 percent resulted in a driver being placed out of service.

### Commissioner Bentzel Issues Report on Chinese Chassis & Container Manufacturing

At the end of March, Commissioner Bentzel of the Federal Maritime Commission released a report with findings from a yearlong investigation into China’s control of container and intermodal chassis manufacturing. The report was not an official FMC publication, rather, it represented Bentzel’s personal views as a Commissioner. Commissioner Bentzel stated the report seeks to bring attention to China’s market control in global container manufacturing, form awareness of potential price manipulation, and generate policy debate on the long-term consequences of U.S. reliance on Chinese manufacturing.

Commissioner Bentzel’s report found that 86 percent of the global chassis supply is controlled by the three largest Chinese manufacturers, who also manufacture over 95 percent of the world’s shipping containers. Additionally, the Commissioner questioned whether Chinese-based intermodal equipment manufacturers were intentionally slow to increase production during the surge in equipment demand at the onset of the pandemic so that they could manipulate prices. Commissioner Bentzel stated that the U.S. is partially reliant on China because the U.S. has worked over the past 40 years to deregulate the transportation industry, while China has done the opposite by implementing policies to support state-owned companies, such as providing large government subsidies.

In the report, Commissioner Bentzel expressed optimism regarding the substantial increase of production by Chinese manufacturers in 2021. However, industry stakeholders have noted that this increase in production may not be sufficient to expand overall equipment availability due to the low production volumes in 2019 and 2020. Additionally, the price of containers, which has remained steady at $3,500 for the past three months, indicates an ongoing scarcity.

The report did not include specific recommendations for FMC action but offered several potential options within its authority. Commissioner Bentzel suggested that the FMC could: prohibit common carriers from restricting access to intermodal equipment; impose sanctions against foreign carriers; or act against foreign governments, carriers, and maritime service providers for restrictive trade practices that harm U.S trade. He also expressed hope that the current duties on imported chassis from China would increase U.S. chassis manufacturing.

### CEQ Final Rule Reverses Trump Administration NEPA Regulations

In April, the Council on Environmental Quality issued a final rule modifying its regulations for the implementation of the National Environmental Policy Act, which requires federal agencies to assess the environmental impact of certain infrastructure projects. The final rule reverses several changes made to NEPA regulations under the Trump Administration in 2020 that sought to expedite project delivery by modifying the scope, procedures, and content of environmental reviews.

The rule reverts to prior NEPA regulations that had been in effect since 1978. Specifically, the final rule restores provisions addressing the “purpose and need” of a proposed action to focus on the public interest rather than limiting the scope of review to the project applicant’s goals and agency authority. It also provides increased flexibility in allowing agencies to establish individual NEPA procedures beyond CEQ’s regulations, as appropriate, to address their specific programs and circumstances. Additionally, the rule changes the definition of “direct and indirect effects” and “cumulative impacts” to its prior meaning, which included broader consideration of long-term and geographically remote environmental effects and impacts.

The Biden Administration’s rule has received mixed responses from industry stakeholders. Among others, the U.S. Chamber of Commerce, agricultural groups, and oil production companies have expressed opposition, asserting the changes would increase costs and delay project reviews. While environmental groups have generally been supportive, many have called for more expansive reforms to strengthen NEPA regulations.

The final rule is the first step in the CEQ’s two-phase process to amend existing NEPA provisions. While this rule aimed to address time-sensitive changes to specific provisions, CEQ will now begin developing a second proposal with more comprehensive changes. The final rule takes effect on May 20, 2022.