



# CONCRETE CAPITOL CONNECTION

## UPDATES ON LEGISLATION, REGULATION AND CASE LAW • January 2012

Dear Member:

NLRB Finalizes Amended "Snap" Election Rule. On December 21<sup>st</sup>, the National Labor Relations Board (NLRB) published its final rule to overhaul the union organizing election process. Although largely scaled down from the Board's original proposal, the final rule still succeeds, in part, in shortening the amount of time between the notice of an election and the actual election. Specifically, the rule achieves this by drastically limiting pre-election hearings, however not by mandating a specific time frame as originally proposed. The rule is effective April 30<sup>th</sup>, 2012. Please visit [www.NLRB.gov](http://www.NLRB.gov) to view the NLRB's final rule, or for more information please visit [www.USChamber.com](http://www.USChamber.com). Also on the NLRB front, as of December 31<sup>st</sup>, Board member Craig Becker's appointment expired, leaving the Board with only two members. This development means that the Board is prohibited from issuing new rules unless one or more members are added. Attempting to remedy this, on December 14<sup>th</sup>, President Obama announced two nominees for Board. The first nominee is Sharon Block, a former aide to the late Sen. Edward Kennedy (D-MA), a former NLRB employee, and current U.S. Department of Labor employee. The second nominee is Richard Griffin, the current general counsel to the International Union of Operating Engineers (IUOE). Both nominees were met with harsh criticism, while President Obama received a stern letter from all 47 Senate Republicans urging him not to recess-appoint the nominees. Lastly, on December 23<sup>rd</sup>, the effective date of the NLRB's finalized proposal requiring virtually all U.S. employers to display a poster notifying employees of their rights as afforded under the National Labor Relations Act, changed again to April 30<sup>th</sup>, 2012. Please visit [www.NLRB.gov](http://www.NLRB.gov) for more information.

### Event Update:



Don't forget to mark your calendar for the 2012 NRMCA Annual Convention March 4<sup>th</sup>-6<sup>th</sup>, 2012, in Savannah, GA. The Government Affairs Committee will meet Tuesday, March 6<sup>th</sup> at 3:30p.m.

New Hours of Service Rule Published. On December 22<sup>nd</sup>, the Federal Motor Carrier Safety Administration (FMCSA) published its contentious and long-awaited final Hours of Service (HOS) rule. The rule limits the use of the 34-hour restart provision to just once a week covering "at least two periods between 1 a.m. and 5 a.m.," drivers must take a 30-minute break at their choosing after at most eight hours of "on-duty" time, and the rule changes the "on-duty time" definition to not include "...any time resting in a parked CMV [commercial motor vehicle]." The rule also permits penalties for "egregious violations of driving-time limits." The definition of an "egregious violation" is: "A driver who exceeds, or motor carrier that requires or permits a driver to exceed, by more than three hours the driving-time limit..." Such a violation could result in a fine of up to \$11,000 for motor carriers, and/or \$2,750 for drivers, for each violation. The compliance date for the 34-hour restart change and the mandatory 30-minute break is July 1<sup>st</sup>, 2013. For the "on-duty time" change and the "egregious violation" provisions, the effective date is February 27<sup>th</sup>, 2012. The HOS provisions of importance to the ready mixed concrete industry, including the 24-hour weekly clock reset for construction materials deliveries, the 16-hour short-haul exception, the 100 air-mile logbook exemption, and the current intrastate tolerance guidelines remain unchanged by the new rule.

House Clears REINS Act. On December 7<sup>th</sup>, the U.S. House of Representatives passed H.R. 10, the *Regulations from the Executive in Need of Scrutiny (REINS) Act*, by a vote of 241 to 184. H.R. 10 aims to pull back the reins what many see as out-of-control growth of new regulations since early 2009. Specifically, the REINS Act would change current law to require Congressional approval of all "major federal regulations" with an effect of \$100 million or more. The bill now moves to the Senate, where little to no action is expected on the measure.

Fight Over Health Care Law In U.S. Supreme Court Scheduled. On December 19<sup>th</sup>, the U.S. Supreme Court announced the dates during which the court will hear arguments on the constitutionality of certain portions of President Obama's new health care law. The court set the dates of March 26<sup>th</sup> through March 28<sup>th</sup> to hear arguments. Signaling the court's understanding of the brevity of the issue at hand, the court's scheduled time frame marks a rare instance of allotting more than two days for arguments on a single case.

Sincerely,

*NRMCA Government Affairs*

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