

## Hours of Service (HOS) Ruling

The FMCSA's new Hours of Service (HOS) final ruling goes largely into effect July 1, 2013. There were some provisions, such as changes in the definitions of "egregious violations" and "on-duty time", which took effect on February 27, 2012.

The final rule did not change the current 11-hour daily driving limit; however, a driver's work week will be limited to 70 hours within a seven-day period. Furthermore, drivers will not be able to drive a commercial motor vehicle after working eight hours until a rest break of at least 30 minutes has been taken. Drivers can take the 30-minute break whenever they need to rest during the eight-hour window.

The biggest change in the HOS rules is the "34-hour restart" provision. This means that professional truck drivers who maximize their 70-hour work week will be required to take at least two rest periods between the hours of 1:00 a.m. to 5:00 a.m., home terminal time.

Furthermore, the final rule will allow drivers to use the "34-hour restart" provision only once during a seven-day period.

The new rule is currently available on the FMCSA's website as the HOS Final Rule.

### A. Restart limited to once per week.

The rule limits the use of the "34-hour restart" to once a week (168 hours).

- According to the FMCSA, "The purpose of the rule change is to limit work to no more than 70 hours a week on average. Working long daily and weekly hours on a continuing basis is associated with chronic fatigue, a high risk of crashes, and a number of serious chronic health conditions in drivers."
- Decreases possible duty hours per week of long haul truckers from 82 to 70 hours weekly – a total reduction of 12 hours per week.

### B. Restart must include 2 night periods between 1:00 a.m. and 5:00 a.m.

- (This applies to drivers that will be driving the maximum 70 hours and will require a restart. Drivers driving less than 70 hours per week will not need a restart and will not be affected.)
- The restart must cover at least 34 consecutive hours and include at least two periods between 1:00 a.m. and 5:00 a.m., not two periods between midnight and 6:00 a.m. as proposed in the NPRM. Although both alternatives cover most estimates of when the "window of circadian low" occurs, the 4-hour (rather than 6-hour) period addresses concerns drivers raised in the comment period by giving drivers greater flexibility in ending and beginning the restart.

(1). Who will be affected by the 2-night provision?

- Per the FMCSA, "Only drivers who drive nights and work more than 60 or 70 hours in a week will be impacted. The nighttime operations of the major less-than-truckload (LTL) carriers should be minimally impacted, as their drivers generally receive 2 days off duty a week. Drivers who will be impacted by this provision work heavy and irregular schedules that include some nighttime driving."

### C. No driving if more than 8 hours have passed since the last break of 30 or more minutes.

The final rule requires that if more than 8 consecutive hours on duty have passed since the last off-duty or sleeper-berth period of at least half an hour, a driver must take an off-duty or sleeper berth break of at least 30 minutes before driving.

- Drivers most affected will be those who regularly work more than 70 hours per week. The FMCSA believes this to be a small percentage of truckers. The industry disagrees.

## Hours of Service (HOS) Regulations Comparison

PROVISION	OLD RULE	NEW RULE - COMPLIANCE DATE JULY 1, 2013
Limitations on minimum "34-hour restarts"	None.	(1) Must include two periods from 1 a.m. to 5 a.m., home terminal time. (2) May only be used once per week, 168 hours, measured from the beginning of the previous restart.
Rest breaks	None except as limited by other rule provisions.	May drive only if 8 hours or less have passed since end of driver's last off-duty or sleeper berth period of at least 30 minutes. [49 CFR 397.5 mandatory "in attendance" time for hazardous materials may be included in break if no other duties performed]
On-duty time	Includes any time in CMV except sleeper berth.	Does not include any time resting in a parked vehicle (also applies to passenger-carrying drivers). In a moving property-carrying CMV, does not include up to 2 hours in passenger seat immediately before or after 8 consecutive hours in sleeper berth.
Penalties	"Egregious" hours-of-service violations not specifically defined.	Driving (or allowing a driver to drive) more than 3 hours beyond the driving-time limit may be considered an "egregious" violation and subject to the maximum civil penalties. Also applies to passenger-carrying drivers.
Oilfield exemption	"Waiting time" for certain drivers at oilfields (which is off-duty but does extend 14-hour duty period) must be recorded and available to FMCSA, but no method or details are specified for the recordkeeping.	"Waiting time" for certain drivers at oilfields must be shown on logbook or electronic equivalent as off duty and identified by annotations in "remarks" or a separate line added to "grid."