

Hours-of-service rulemaking brings some changes

For most of 2011, the Federal Motor Carrier Safety Administration (FMCSA) kept everyone on the edge of their seats waiting for an outcome to its truck driver hours-of-service rulemaking. Then just before the end of the year the agency issued its final rule and announced that it would not change the daily driving limit or the weekly on-duty hours limits either. The maximum daily driving time remains at 11 hours because the agency was unable to definitively demonstrate that a 10-hour limit, which it favored, would have higher net benefits. The weekly on-duty limits also remain unchanged so a person may not drive after 60 hours on-duty in 7 days or 70 hours on-duty in 8 days.

But beginning July 1, 2013, the FMCSA is revising the rules that allow drivers to restart the clock on their weekly 60 or 70 hours on-duty period by taking at least 34 consecutive hours off-duty. In July 2013, that restart option becomes something that can only be used once every 168 hours (7 days) and anyone using the 34-hour restart must have, as part of the restart, two periods that include the 1 a.m. to 5 a.m. period. Limiting drivers to one 34-hour restart per seven-day period has the effect of reducing the maximum time a driver can work per week from 82 hours to 70.

There's also a provision beginning July 1, 2013, requiring that if more than 8 consecutive hours have passed since the last off-duty (or sleeper-berth) period of at least half an hour, a driver must take at least a 30-minute break before driving.



Here's a summary of the new hours-of-service rules:

Required Off-Duty Period — This remains at a minimum of 10 consecutive hours. Driving time between two such periods remains at 11 hours.

“Driving Window” — This remains at 14 consecutive hours after coming on-duty following a break of at least 10 hours.

30-Minute Breaks — Beginning July 1, 2013, a new rule requires that if more than 8 consecutive hours have passed since the last off-duty (or sleeper-berth) period of at least half an hour, a driver must take a break of at least 30 minutes before driving. For example, if a driver started driving immediately after coming on duty, he or she could drive for 8 consecutive hours, take a half-hour break, and then drive another 3 hours, for a total of 11 hours. Or a driver could drive for 3 hours, take a half-hour break, and then drive another 8 hours. This driver can take the break anywhere between the 3rd and 8th hour after coming on duty. A driver who plans to drive until the end of the 14th hour and wants to take

only one break will need to take a break between the 6th and 8th hour after coming on duty. By postponing the latest point at which the break can be taken from the 7th to the 8th hour, it will be easier for team drivers to fit the break into their schedules. FMCSA also added an exception for commercial vehicle drivers carrying Division 1.1, 1.2, or 1.3 explosives to allow them to count on-duty time spent attending the CMV, but doing no other on-duty work,

toward the break.

Maximum On-Duty Within Driving Window — The maximum driving window will continue to be 14 consecutive hours after coming on duty.

Maximum On-Duty Hours — The weekly limits remain unchanged — a person may not drive after 60 hours on-duty in 7 days or 70 hours on-duty in 8 days.

“Restart” — The 34-hour restart allows drivers to restart their 60- or 70-hour on-duty clock by taking at least 34 consecutive hours off-duty. Beginning July 1, 2013, there will be two limitations to this provision. First, any restart must include two periods between 1 a.m. and 5 a.m. Second, a driver is allowed to begin another 34-hour off-duty period no sooner than 168 hours (7 days) after the beginning of the previous restart.

Sleeper Berth — The sleeper-berth rule remains unchanged. Drivers must take at least 8, but less than 10, consecutive hours in the sleeper berth and a shorter break of at least 2 hours off-duty in the sleeper berth, or a combination of both (in lieu of the standard 10 consecutive hours off-duty).

On-Duty Time — Beginning February 27, 2012, the definition of “on-duty” allows team drivers to log as off-duty up to 2 hours spent in the passenger seat immediately before or after a period of 8 or more hours in the sleeper berth while the other team member is driving. Also, time spent resting in a parked CMV would not be “on-duty” time.

Penalties — Motor carriers who allow drivers to exceed the 11-hour driving limit by 3 or more hours could be fined \$11,000 per offense, and drivers could face civil penalties of up to \$2,750 for each offense.

See the new rules and definitions on the back of this page.

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Revised Hours-of-Service Rules

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§395.3 Maximum driving time for property-carrying vehicles.

(a) Except as otherwise provided in §395.1, no motor carrier shall permit or require any driver used by it to drive a property-carrying commercial motor vehicle, nor shall any such driver drive a property-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, unless the driver complies with the following requirements:

- (1) Start of work shift. A driver may not drive without first taking 10 consecutive hours off duty;
- (2) 14-hour period. A driver may drive only during a period of 14 consecutive hours after coming on duty following 10 consecutive hours off duty. The driver may not drive after the end of the 14-consecutive-hour period without first taking 10 consecutive hours off duty.
- (3) Driving time and rest breaks. (i) Driving time. A driver may drive a total of 11 hours during the 14-hour period specified in paragraph (a)(2) of this section.
 - (ii) Rest breaks. After June 30, 2013, driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes.
- (b) No motor carrier shall permit or require a driver of a property-carrying commercial motor vehicle to drive, nor shall any driver drive a property-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, for any period after—
 - (1) Having been on duty 60 hours in any period of 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week; or
 - (2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.
- (c)(1) Through June 30, 2013, any period of 7 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours. After June 30, 2013, any period of 7 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours that includes two periods from 1 a.m. to 5 a.m.
- (2) Through June 30, 2013, any period of 8 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours. After June 30, 2013, any period of 8 consecutive days may end with the beginning of an off-duty period of 34 or more consecutive hours that includes two periods from 1 a.m. to 5 a.m.
- (d) After June 30, 2013, a driver may not take an off-duty period allowed by paragraph (c) of this section to restart the calculation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days until 168 or more consecutive hours have passed since the beginning of the last such off-duty period. When a driver takes more than one off-duty period of 34 or more consecutive hours within a period of 168 consecutive hours, he or she must indicate in the Remarks section of the record of duty status which such off-duty period is being used to restart the calculation of 60 hours in 7 consecutive days or 70 hours in 8 consecutive days.

§395.2 Definitions.

On-duty time means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work.

On-duty time shall include:

- (1) All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;
- (2) All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- (3) All driving time as defined in the term driving time;
- (4) All time in or on a commercial motor vehicle, other than:
 - (i) Time spent resting in or on a parked vehicle, except as otherwise provided in §397.5 of this subchapter;
 - (ii) Time spent resting in a sleeper berth; or
 - (iii) Up to 2 hours riding in the passenger seat of a property-carrying vehicle moving on the highway immediately before or after a period of at least 8 consecutive hours in the sleeper berth;
- (5) All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
- (6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle;
- (7) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, to comply with the random, reasonable suspicion, post-crash, or follow-up testing required by part 382 of this subchapter when directed by a motor carrier;
- (8) Performing any other work in the capacity, employ, or service of, a motor carrier; and
- (9) Performing any compensated work for a person who is not a motor carrier.