

REGULATORY UPDATE

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DOT Announces New Hours-of-Service Limits for Commercial Truck Drivers

On December 27, 2011, the Department of Transportation's (DOT) Federal Motor Carrier Safety Administration (FMCSA) published [The Hours of Service of Drivers Final Rule](#), which revises the hours-of-service (HOS) safety requirements for commercial truck drivers.

The final rule retains the current 11-hour daily driving limit. Major changes found in the rule include:

- Reducing, by 12 hours, the maximum number of hours a truck driver can work within a week from 82 hours within a seven-day period to 70 hours;
- Requiring truck drivers to take a break of at least 30 minutes before driving more than eight hours;
- Altering the definition of "on-duty time;" and
- Requiring truck drivers who maximize their weekly work hours to take at least two nights' rest from 1:00 a.m. to 5:00 a.m.

The effective date of the new definition of "on-duty time" is **February 27, 2012**. The compliance date of the other provisions is **July 1, 2013**.

This issue of the Leverity Insurance Group, Inc. Legislative Brief provides background and explanation of the new rule.

BACKGROUND OF THE RULE

The FMCSA stated that the goal of the final rule is to reduce excessively long work hours that increase both the risk of fatigue-related crashes and long-term health problems for drivers. Recent studies have demonstrated that long work hours can lead to reduced sleep and chronic fatigue. Fatigued drivers have slowed reaction times and a reduced ability to assess situations quickly.

Recent research has also linked long work hours and reduced sleep to a range of serious health effects, including obesity, high blood pressure, other cardiovascular diseases, diabetes and sleep apnea. These conditions not only shorten drivers' lives, but also can result in substantial ongoing medical costs and put drivers' medical certifications at risk. Commercial motor vehicle (CMV) drivers suffer from these conditions at a higher rate than the population as a whole.

The final rule is intended to reduce the likelihood of driver fatigue, fatigue-related crashes and fatigue-related health effects. Although crash rates have been falling, thousands of people are still injured and killed in truck crashes each year, including hundreds of truck drivers. This rule will address one of the causes of those crashes.

The FMCSA estimates that the benefits of the rule (a reduction in crashes and improved driver health) will outweigh the costs. It has stated that the cost of the rule represents a small fraction of 1 percent of trucking industry revenues and is the cost-equivalent of less than a 3-cent-a-gallon increase in the price of diesel fuel to the long-haul industry.

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CHANGES FOUND IN THE RULE

As mentioned above, the final rule retains the current 11-hour daily driving limit. FMCSA will continue to conduct research and data analysis to further examine any risks associated with the 11 hours of daily driving time.

Maximum Weekly Hours

FMCSA's new HOS final rule reduces by 12 hours the maximum number of hours a truck driver can work within a week. Under the old rule, truck drivers could work on average up to 82 hours within a seven-day period. **The new HOS final rule limits a driver's work week to 70 hours.**

30 Minute Break

Truck drivers may not drive after working eight hours without first taking a break of at least 30 minutes. Drivers can take the 30-minute break whenever they need rest during the eight-hour window. The rule gives drivers flexibility in when and where to take the break. The rule only prohibits driving if more than eight consecutive hours have passed since the last off-duty period of at least 30 minutes.

For example, if a driver spends two hours loading at the beginning of the day, then has a 10-hour drive ahead, he or she must take the break no later than eight hours after coming on duty. The driver can, however, take the break earlier. If the driver takes a half-hour or more break at some point between the fourth and eighth hours after coming on duty, he or she can complete the remainder of the planned 10 hours of driving without another break. Meal breaks or any other off-duty time of at least 30 minutes qualify as a break.

Definition of On-Duty Time

Under the new rule, the FMCSA now excludes from the definition of on-duty time any time resting in a parked CMV or up to 2 hours in the passenger seat of a moving CMV, immediately before or after 8 consecutive hours in the sleeper berth.

Restart Rule

The new rule requires truck drivers who maximize their weekly work hours to take at least two nights' rest from 1:00 a.m. to 5:00 a.m. This rest requirement is part of the rule's "34-hour restart" provision that allows drivers to restart the clock on their work week by taking at least 34 consecutive hours off-duty. The final rule allows drivers to use the restart provision only once during a seven-day period (168 hours).

Multiple restarts in each week would not generally be a problem because frequent 34-hour-long off-duty periods would leave little time in a given week to build up excessive duty hours. If, however, restarts are taken every six days, a problem does arise: under existing rules, alternating 14 hours on-duty and 10 hours off, a driver would reach 70 hours in less than five full days. After a 34-hour break, the driver could then begin this same cycle again, totaling 70 hours on-duty every six calendar days, for an average of almost 82 hours per calendar week. Limiting restarts to one every 168 hours prevents this excessive buildup of on-duty hours, while still allowing drivers to use the restart provision to their advantage and avoiding the complexity of special provisions for more frequent restarts.

Penalties for Noncompliance

Companies and drivers that commit egregious violations of the rule could face the maximum penalties for each offense. Trucking companies that allow drivers to exceed the 11-hour driving limit by 3 or more hours could be fined \$11,000 per offense, and the drivers themselves could face civil penalties of up to \$2,750 for each offense.

Source: United States Department of Transportation

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