Federal Drivers’ Hours of Service Regulations

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Objectives

- Describe the background and purpose of Hours of Service regulations
- Know the roles and responsibilities for your business
- Avoid unnecessary noncompliance problems and fines
What are Hours of Service Regulations and Who Do They Apply To?

- Hours of Service (HOS) Regulations are federal and state regulations that limit when and for how long drivers of commercial motor vehicles (CMV) may drive during the course of an entire day and an entire week.

- CMV: Transports property or passengers and weighs at least 10,001 lbs.

- Purpose: Keep CMV drivers alert while driving, reduce driver fatigue and ultimately reduce truck accidents associated with driver fatigue.

- HOS Regulations are overseen by the Federal Motor Carrier Safety Administration (FMCSA).
Title 49, Code of Federal Regulations:

- Controlled Substances & Alcohol Use Testing – 382
- Qualification of Drivers – 391
- Driving of Commercial Motor Vehicles – 392
- Parts and Accessories For Safe Operation – 393
- Hours of Service – 395
- Inspection, Repair & Maintenance – 396
- Driving of Hazardous Materials – 397
- Employee Safety & Health Standards - 399
Federal Motor Carrier Safety Regulations
Driver Hours of Service: Part 395

• The U.S. Department of Transportation has issued revisions to the HOS rules since their inception in 1939.
• How have HOS regulations progressed over the years…?
• Relatively unchanged until 2004.
• *Most significant changes span the last decade.*
Federal Motor Carrier Safety Regulations
Driver Hours of Service: Part 395

• Latest revision December 2011... included new liabilities
• February 2012/March 2013... newest litigation
• Safety and Industry groups challenge 2011 HOS rule
• August 2, 2013: Court Decision
• August 5, 2013: FMCSA Guidance
• December 19, 2013: More FMCSA Guidance
<table>
<thead>
<tr>
<th></th>
<th>2004 Rule</th>
<th>Old Rule (pre-2004)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. <strong>Off Duty</strong> Hours</td>
<td>10 consecutive hours</td>
<td>8 consecutive hours</td>
</tr>
<tr>
<td><strong>On-Duty</strong> Hours / Day</td>
<td>14 consecutive hours</td>
<td>15 non-consecutive hours (Driver may work longer than 15 hours, but may not drive until 8 hours off )</td>
</tr>
<tr>
<td>(Driving window)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal Exceptions</td>
<td>1 day each week, total</td>
<td>Other exemptions remain</td>
</tr>
<tr>
<td>and Exemptions</td>
<td>on duty hours to <strong>16</strong></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(11 drive hours max)</td>
<td></td>
</tr>
<tr>
<td>Maximum Cumulative</td>
<td>60 hours in 7 days</td>
<td>60 hours in 7 days</td>
</tr>
<tr>
<td>On-Duty Time</td>
<td>(6-day week)</td>
<td>(6-day week)</td>
</tr>
<tr>
<td>(7-day week)</td>
<td>70 hours in 8 days</td>
<td>70 hours in 8 days</td>
</tr>
<tr>
<td>Cumulative on-duty</td>
<td>Vol. 34-hr restart any</td>
<td>None</td>
</tr>
<tr>
<td>restart</td>
<td>point in driver’s 7 or 8</td>
<td></td>
</tr>
<tr>
<td>(Clock Reset)</td>
<td>day cycle</td>
<td></td>
</tr>
<tr>
<td>Max. Driving hours</td>
<td><strong>11</strong></td>
<td><strong>10</strong></td>
</tr>
<tr>
<td>PROVISION</td>
<td>PRIOR RULE</td>
<td>UPDATED RULE – COMPLIANCE DATE</td>
</tr>
<tr>
<td>------------------------------------------</td>
<td>---------------------------------------------------</td>
<td>----------------------------------------</td>
</tr>
</tbody>
</table>
| **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." |
How are the rules applied?

• These rules apply to interstate drivers.
• **Interstate???
• Some states have adopted "tolerance guidelines" for **intrastate commerce within their borders.**
• In these cases the states’ rules are generally less stringent.
Which States have “Tolerance Guidelines”? 
Definitions

On-Duty: all time when a driver is being compensated for work, "on-duty time" definition does not include "...any time resting in a parked commercial motor vehicle”

Driving Time: (sub-set of On-Duty time) all time when at the controls of the vehicle in operation

Off-Duty: all time when a driver is not being compensated for work (has no responsibilities)
Off-Duty Driving Limitations
“10 Hours Consecutive”

• A driver may not drive after an on-duty period until he or she has had 10 consecutive hours of off-duty time.

Example

6:00pm 10 hours 4:00am
Off-duty start 10 hours Can not drive until
On-Duty vs. Driving Limitations “14 Hours Consecutive”

- A driver may not drive beyond 14 hours after he or she has reported for duty unless the driver has had 10 consecutive hours of off-duty time.

**Example**

6:00am  
On-duty start

14 hours

8:00pm  
Cannot drive after
On-Duty Driving Limitations: “16 Hour - One Day Per Week Exception” for Short Haul Drivers

- A driver may drive beyond 14 hours, up to 16 hours, once a week.

- Driver must have been released from duty at the normal work reporting location for the last 5 duty tours.

- Driver must return to the normal work reporting location and be released from duty within 16 hours.

- Driver does not drive more than 11 hours after 10 consecutive hours off duty.

- Driver shall not have used this exemption in the previous 7 days, except following a 24 or 34 hour restart.
On-Duty Driving Limitations

“11 Hours of Driving Time”

• A driver may not drive beyond 11 hours (within a 14-hour driving window). Driving time is defined as all time spent at the controls of the vehicle in operation.

Due to the nature of construction, many drivers will never reach 11 hours driving time.

Most studies suggest that mixer driver’s actual “driving time” is less than 50% of on-duty time.
On-Duty Driving Limitations: “168-Hour Rule” or “60/7 and 70/8”

• If a driver does not operate every day of the week, then drivers cannot drive after they have been “on duty” for 60 hours in any 7-day period.

• Similarly, if a driver operates every day of the week, then drivers cannot drive after they are “on duty” more than 70 hours in any 8-day period.
Clock Reset - “168-Hour Rule”

- A driver may re-start the 60-hour/7-day or 70-hour/8-day clock after he or she has had at least 34 consecutive hours of off-duty time.

- **New Change:** Can only be used once a week and must include 2 periods between 1am and 5 am.

- The compliance date for the 34-hour restart change was **July 1st, 2013**.
Clock Reset “60/7 and 70/8” “On-Duty Driving Hours”

• If a “construction material exemption” is taken, the driver needs only 24 hours of off-duty time to re-start the clock.

• Can be used more than once a week.

• Does not require two 1am – 5 am periods.
“Construction Material Exception: 24-Hour Clock Reset”

- Must deliver to active construction site.
- Must not travel beyond 50 air-mile radius from the plant.
Driver Duty Status… “Logging”

• A driver must keep a record of duty status commonly known as the “driver’s log”.

• Many drivers can be exempt from filling out a log by using the “100 air-mile exemption”.

[Image of a daily log form with hours filled in]
Duty Status - 100 Air-Mile Radius Exemption

Drivers may be exempt from keeping a record of duty status if:

1) The driver works within 100 air miles of the reporting location;
2) The driver returns to reporting location and is released from work within 12 consecutive hours;
3) At least 10 consecutive hours off duty separate each 12 hours on-duty;
4) The driver does not exceed 11 hours maximum driving following 10 consecutive hours off duty; and
Duty Status ..100 Air-Mile Radius Exemption

5) The employer maintains and retains for 6 months the following:

a) The time the driver reports for duty each day;

b) The total number of hours driver on duty each day; and

c) The time the driver is released from duty each day.

Time cards are acceptable.
Duty Status ..100 Air-Mile Radius Exemption

Note:

- An air-mile is longer than a statute mile. There are 6,076 feet in an air-mile and 5,280 feet in a statute mile. One-hundred air miles is equal to 115.08 statute miles.
New.... 30 Minute Break Rule

• Requires drivers to take a 30-minute break at their choosing after at most eight consecutive hours.

• The compliance date for the mandatory 30-minute break was July 1st, 2013.

Example

5:00am  8 hours  1:00pm
On-duty start  Must have break
30 Minute Break Rule cont.

- August 2\textsuperscript{nd}: U.S. Court of Appeals for the District of Columbia Circuit:
  - Ruling upheld all of the July 1\textsuperscript{st} changes except the 30-minute break provision for short-haul drivers.
  - Effective August 2\textsuperscript{nd}, FMCSA no longer enforces the 30-minute break provision (49 CFR 395.3(a)(3)(ii)) against any driver that qualifies for either of the 100 air-mile exception.

- December 19\textsuperscript{th}: If a driver drives beyond the 12-hour reporting limit outlined in the 100 air-mile exemption:
  - Then that driver will be required to take the break at the “earliest safe opportunity” and annotate on the driver log why the “break was not take earlier.”
New.... Egregious Violation Rule

• Mandates penalties for "egregious violations of driving-time limits."

• The effective date was February 27, 2012.
New EOBR Mandate:

- Agency will solicited concepts, ideas, and comments
- Information they would need to see on the EOBR display screen to effectively enforce the HOS
- Address the issue of driver harassment
- Type of evidence they would need to be retained
- September 2013
“May 29, 2012  Special exemption for Rock-Tenn”
From the CSA website ....

“Describe the serious driver violations that are sometimes called Red Flag Violations.”

<table>
<thead>
<tr>
<th>Fatigued Driving (HOS)</th>
<th>Driving after being declared out-of-service (OOS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>395.13(d)</td>
<td></td>
</tr>
</tbody>
</table>
CSA and..... Hours of Service

“What triggers an intervention?”

The Intervention Thresholds for carriers are organized by BASIC and are set based on a given BASIC’s relationship to crash risk. FMCSA analysis has shown that the strongest relationship to crash risk is found with high percentiles in the Unsafe Driving, Hours-of-Service, and Crash Indicator BASICs. Therefore, these higher risk BASICs have a lower percentile threshold for interventions than the other BASICs.
“Can a driver do work (be on-duty) beyond the 14-hour driving window?”

Yes!.. There is no limit on total “on-duty” time. A driver may do other tasks, however, a driver may not drive once he/she has reached the 14 hour driving window limit… Unless he/she is using the “once a week 16 hour exception”.
Frequently Asked Questions

“Can a driver do non-driving work (be on-duty) beyond the 60/70 hour limit?”

Yes!.. There is no limit on total “on-duty” time. A driver may do other tasks, however, a driver may not drive once he/she has reached the 60/70 hour limits.
“Fred the driver also works at the local hardware store two nights a week, does he need to add these hours to his on-duty total?”

Yes!... Any work performed while being compensated, even with another employer, must be added to “on-duty” totals. In this case they would be “on-duty-not-driving”.
Frequently Asked Questions

“If a driver takes off on a Wednesday can he/she re-start his weekly clock on Thursday?”

If a driver is claiming the “construction material exemption” he/she can re-start the 60/7 or 70/8 clock (the weekly clock does not have to be Sunday to Saturday). If the driver can not claim the exemption, he or she must use the 34-hour reset before resetting the weekly clock.
More information...

- Federal Motor Carrier Safety Administration
  www.FMCSA.DOT.gov
- American Trucking Associations
  www.Truckline.com
- Owner-Operator Independent Drivers Association
  www.OOIDA.com
- National Ready Mixed Concrete Association
  www.NRMCAVoice.com
- J.J. Keller & Associates, Inc.
  www.JJKeller.com
HOS Summary

• New Rules in 2004, 2011
• Daily & Weekly Restrictions
• Exemptions for Short Haul
• Duty Status Requirements
• 34-hr restart 1-5am Periods

• Mandatory 30-Minute Break
• Egregious Violations
• EOBRs
• Specific Exemptions Possible
• CSA
Questions?
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