



Substantive changes to the hours-of-service regulations for the trucking industry went into effect on January 4, 2004. These are the first significant revisions in over 60 years. Determining compliance with the new regulations will require knowledge of the trucking industry and the regulations that is both extensive and current.

On January 4, 2004 new hours-of-service regulations for the trucking industry went into effect. The new regulations issued by the Federal Motor Carrier Safety Administration represent the first substantive changes to the hours-of-service regulations in over 60 years. Determining compliance with the new regulations will require an individual whose knowledge of the regulations is both extensive and current.

The impetus behind the rule change is to help ensure that drivers get sufficient rest in order to drive more safely. The rule incorporates information from sleep and fatigue related studies in an attempt to provide the commercial vehicle driver with a work/rest schedule that conforms more closely to the body's circadian rhythm.

The hours-of-service rule changes affect drivers of property-carrying commercial motor vehicles involved in interstate

commerce. Drivers of passenger-carrying commercial motor vehicles remain subject to the previous rules.

The chart below is a brief summary of some of the changes in the hours-of-service regulations. The new regulations can be found in FMCSR Part 395.

Overview

A driver may drive up to 11 hours in a duty period as of January 4, 2004 rather than the 10 that were previously allowed. However, he must have 10 consecutive hours off duty rather than the 8 hours off that were previously required.

A driver is now only allowed to work for 14 consecutive hours; the clock stops 14 hours after he starts his day whether he has been on duty, driving or off duty during that time period. This is a significant change compared to the 15 non-consecutive hours that were previously allowed.

Hours-of-Service Regulations' Comparison

	Old Hours-of-Service Regulations (effective through 1/3/04)	New Hours-of-Service Regulations (effective 1/4/04)
Off-Duty Time	8 consecutive hours	10 consecutive hours
Driving Time	10 hours	11 hours
On-Duty Time	15 hours (may be non-consecutive)	14 consecutive hours after coming on duty
Cumulative On-Duty	60 hours / 7 days 70 hours / 8 days	60 hours / 7 days 70 hours / 8 days
Cumulative "Restart"	None	A driver may "restart" the 60 or 70 hour clock after having at least 34 consecutive hours off duty.
Sleeper Berth	May be split into two periods totaling at least 8 hours. Neither period may be less than 2 hours.	May be split into two periods totaling at least 10 hours. Neither period may be less than 2 hours.



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Under the old regulations, the driver's workday consisted of 10 hours of driving time and 5 hours of non-driving time for a total of 15 on-duty hours. Non-driving time included pre-trip inspections, waiting at a loading dock to be loaded or unloaded, etc. That 15 hour workday could be extended to 16 hours or more by going off duty to have lunch, take a break or a catnap, etc.

Under the new rules, a driver can only work for 14 consecutive hours. In those 14 hours, he can drive for 11 hours and everything else must be done in the 3 remaining hours. That includes meal stops, fuel stops, pre-trip inspections, waiting to be loaded or unloaded, etc. In effect, the driver can no longer "stop the clock." This is a much stricter time schedule than had been previously allowed.

The only way the driver can now extend the 14 hour duty period is by using the sleeper berth. Time in the sleeper berth may be split into two periods totaling at least 10 hours, as opposed to the previous requirement of 8 hours. Neither period may be less for than 2 hours. There are additional criteria that must be met when using the sleeper berth exception to be in compliance with the FMCSR.

Examples

A driver under the old rules: He starts his workday at 6:00 a.m. He drives for 2 hours and arrives at his first pick-up point. His load isn't ready and he has to wait for 3 hours. (He goes off duty.) He drives for 2 hours and stops for an hour to eat lunch. (He goes off duty.) He now drives another 2 hours to get the remainder of his load.

While the trailer is being loaded, the forklift breaks down and he is held up another 3 hours. (He goes off duty.) He now drives another 4 hours to return to his home terminal. He arrives at his home terminal at 11:00 p.m. Although his workday lasted

17 hours, the driver has not violated the hours-of-service regulations.

Same driver under the new rules: His workday starts at 6:00 a.m. He drives for 2 hours and arrives at his first pick-up point. His load isn't ready and he has to wait for 3 hours. (He may log off duty.) He drives for 2 hours and stops for an hour to eat lunch. (He may log off duty.) He now drives another 2 hours to get the remainder of his load.

While the trailer is being loaded the forklift breaks down and he is held up another 3 hours. (He may log off duty.) He now drives another 4 hours to return to his home terminal. He arrives at his home terminal at 11:00 p.m. This driver has been in violation of the hours-of-service regulations since 8:00 p.m. since at that point he had reached the 14th hour.

You will notice that under the new rules it states that the driver may log off duty. However, for any given day, the fact that the driver does or does not log off duty makes no difference because under either scenario, ***when the 14th hour is reached the driver must stop driving.***

Conclusion

This is only a brief overview of the new hours-of-service regulations. The new regulations will add complexity because new interpretations of the regulations will be promulgated as different situations arise. It is more critical than ever to have a knowledgeable individual working on your case who is familiar with the applicable regulations and their application.

John Moore and Peter Philbrick in the Scottsdale, AZ office are conversant with the new regulations and the current interpretations. For more information on compliance, please contact Ruhl Forensic at ruhl@ruhl.com or by calling (800) 235-2808.