

Federal Motor Carrier Safety Agency Proposes Changes to Hours of Service Rules for Truck Drivers

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The U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) has published a [notice of proposed rulemaking \(NPRM\)](#) on changes to the hours of service (HOS) rules.

Background

First adopted in 1937, FMCSA's HOS rules set the permitted operating hours of commercial drivers.

FMCSA mandated use of electronic logging devices (ELDs) effective December 18, 2017. ELDs ensure compliance with the applicable HOS regulations. The current HOS rules are 15 years old and predate ELDs and the precursor to ELDs, the Automatic On-Board Recording Device (AOBRD).

Highlighting some positive enforcement trends since the ELD-related out-of-service criteria took effect last April, FMCSA Administrator Raymond P. Martinez told the 81st Annual Truckload Carriers Association Convention that less than one percent of all driver inspections resulted in a driver being cited for operating without an ELD or grandfathered AOBRD. He also said that HOS violations decreased by 52 percent in 2018. Martinez reported that the transition to ELDs helped the FMCSA get a better look at HOS reform.

Industry groups, including the Owner-Operator Independent Drivers Association and TruckerNation.org, submitted petitions to the FMCSA requesting that the HOS rules be revisited. The trucking industry's overall goal is to promote safety while giving drivers more flexibility to time their breaks for the unavoidable delays (caused by, *e.g.*, waiting for freight to be unloaded and loaded, traffic jams, and bad weather).

Proposal

On August 14, 2019, after two delays in issuing proposed rules, the FMCSA published the new NPRM, opening a 45-day comment period.

Announcing the NPRM, Martinez said, "We listened directly to the concerns of drivers for rules that are safer and have more flexibility—and we have acted. We encourage everyone to review and comment on this proposal."

The new HOS rules relate to five areas:

1. The short-haul time limit;
2. The short-haul distance limit;
3. The HOS exception for adverse driving conditions;
4. The 30-minute rest break provision; and
5. The sleeper berth rule that allows drivers to split their required time in the sleeper berth.

The change to the short-haul limit would increase the time a driver engaged in "short-haul" driving from 12 hours to 14 hours on duty (although the 11-hour driving limit remains in place).

The new rules also would redefine what constitutes "short-haul" driving by increasing the mileage limit from a 100-air mile radius to a 150-air mile radius.

The adverse driving conditions limit would extend the 14-hour on-duty limitation by up to two hours when a driver encounters adverse driving conditions.

The 30-minute rest break provision would tie the break requirement to eight hours of driving time without interruption of at least 30 minutes. It also would allow the break to be satisfied by the driver using on-duty, not driving status, rather than requiring drivers be off-duty.

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The sleeper berth rule would reinstate the option of splitting up the 10-hour off-duty rest break for drivers that operate trucks equipped with a sleeper berth. The new rule would require at least seven consecutive hours in the sleeper berth and the other period (of not less than two consecutive hours) could be off-duty or in the sleeper berth. Neither rest period would count against the 14-hour driving window.

Please contact a Jackson Lewis attorney with any questions about the NPRM or how to submit comments.

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