



# SPECIAL BULLETIN

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## FMCSA RELEASES FINAL HOURS OF SERVICE RULE: RETAINS 11-HOUR DAILY DRIVING LIMIT

The Federal Motor Carrier Safety Administration has retained the 11-hour daily driving limit in a [final rule](#) released today amending the driver hours of service regulations. The new rule will be published in the Federal Register in the next few days but, except as noted below, its provisions will not go into effect until *July 1, 2013*. FMCSA has also published FAQs on the final rule.

### 11-Hour Driving Limit

The FMCSA retained the 11-hour daily driving limit in the final rule, even though the agency indicated a preference for a 10-hour limit in the proposed rule. The FMCSA stated that “In the absence of compelling scientific evidence demonstrating the safety benefits of a 10-hour driving limit, as opposed to an 11-hour limit, and confronted with strong evidence that an 11-hour limit could well provide higher net benefits, the Agency has concluded that adequate and reasonable grounds under the Administrative Procedure Act for adopting a new regulation on this issue do not yet exist and that the current driving limit should therefore be allowed to stand for now.”

However, the FMCSA will continue to study the issue and reserves the right to make further changes to the daily driving limit in some later rulemaking as additional research warrants.

### 30-Minute Breaks

The final rule prohibits a driver from driving a commercial motor vehicle if more than 8 hours on duty have passed since the last break (either off duty or sleeper berth time) of at least 30 minutes. The proposed rule had required a 30-minute break

after 7 hours on duty before a driver could resume driving.

Under the final rule, for example, if the 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. If a driver worked in a warehouse or did other non-driving functions for 3 hours after coming on duty, and then began driving, the driver would require a 30-minute break after 5 hours driving before being able to drive again. The driver could then drive 6 more consecutive hours for a total of 11 hours.

### 34-Hour Restart

The rule makes two changes to the 34-hour weekly restart provision. First, a driver may use the restart provision only once every week (defined as 168 consecutive hours). Second, the restart must include 34 consecutive hours off duty with two periods of 1:00 a.m. to 5:00 a.m. (The proposed rule would have required two periods from midnight to 6:00 a.m.) The FMCSA made the change in the final rule because the 4-hour period includes the window when the circadian low occurs and gives drivers greater flexibility in ending and beginning the restart period.

### Weekly On-Duty Limits

The rule does not change the 60-hour or 70-hour weekly on-duty limits.

## 14-Hour Driving Window

The maximum driving window will continue to be 14 consecutive hours after coming on duty. The FMCSA dropped the proposed 13-hour limit for on-duty time within the 14 hours to simplify the rule. Because of the break provision, drivers will be able to work 13.5 hours in the 14 hour period (if they are driving after the 8<sup>th</sup> hour on duty).

## Mandatory Off-Duty Requirement at the End of the Driving Window

The FMCSA did not adopt the proposal that drivers be required to go off-duty at the end of the 14<sup>th</sup> hour. Neither the costs nor the benefits of the provision could be adequately analyzed to support that result. Thus, drivers may remain on-duty at the end of the 14<sup>th</sup> hour, but may not drive again until at least 10 consecutive hours off duty.

### Twice Weekly Extension of the Driving Window

The FMCSA also did not adopt the proposed extension of the duty period to 16 hours twice a week, but did retain the twice weekly 16-hour on-duty exceptions for local and regional operations.

The agency said that driving in the 16th hour after coming on duty entails a sharply higher risk of crashes than driving in early hours of a duty day. But the final rule retains provisions in paragraphs (e)(2) and (o) of § 395.1, which apply to local and regional operations.

## Sleeper Berth

The final rule made no changes to the sleeper berth requirements.

## Definition of On-Duty Time

The FMCSA amended the definition of on-duty time to exclude any time resting in a parked CMV. In a moving CMV, on-duty time does not include up to 2 hours in the passenger seat immediately before or after 8 consecutive hours in the sleeper berth. *This provision goes into effect February 27, 2012.*

## Penalties

Driving (or allowing a driver to drive) three or more hours beyond the driving-time limit may be considered an egregious violation and is subject to the maximum civil penalties. *This provision also goes into effect February 27, 2012.*

## Possibility of Court Challenge

It is not known at this time whether the American Trucking Associations or Public Citizen will challenge this final rule in federal court. But because the rules do not go into effect for 18 months, any court suit will likely be completed before the primary rule changes go into effect.

***The above information was provided by the National Private Truck Council (NPTC)***