

## Featured Article

# Motor Carrier Regulations Update: Gimme a Break! The New 30 Minute Break Requirement for Commercial Truck Drivers and Changes to the 34 Hour Reset

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The Federal Motor Carrier Safety Administration (FMCSA) has implemented changes to the hours of service of commercial truck drivers. Two significant changes were published in the Federal Register on December 27, 2011. *See Hours of Service of Drivers*, 76 Fed. Reg. 81136 (Dec. 27, 2011) (to be codified at 49 C.F.R. pt. 395). The changes require commercial drivers to take a mandatory break after being on duty more than eight consecutive hours, and limit the use of the thirty-four hour restart to once a week, as discussed below. The date for motor carriers and commercial drivers to comply with these changes is July 1, 2013. The overall goal of the FMCSA for implementing these changes is to decrease drivers' long work hours which lead to fatigue related accidents, and to also help combat long-term health problems which plague so many commercial drivers. The FMCSA did not change the maximum daily driving limit of eleven hours for commercial drivers. 76 Fed. Reg. 81135.

### Mandatory Thirty Minute Break

The FMCSA adopted a new rule that requires drivers to take a mandatory thirty minute break if the driver has been on duty more than eight consecutive hours. This new rule is based on research that indicates that the risk of an accident is decreased substantially after a break. 76 Fed. Reg. 81136. The rule, however, provides drivers with flexibility as to the timing of when to take their mandatory break; commercial drivers may take their thirty minute break any time between the third and eighth hour after coming on duty. *Id.* For example, a driver could drive for eight consecutive hours, take the required thirty minute break, and then continue driving for another three hours for a total of eleven hours of driving time. *Id.* Or, for example, a commercial driver could drive for four consecutive hours, take the thirty minute break, and then continue driving for seven more hours for a total of eleven hours. Ultimately, commercial drivers are now limited to working 13.5 hours within the fourteen hour window. *Id.*

### 34 Hour Restart

In 2003, the FMCSA made changes to the hours of service (HOS) rules by shortening the driving window to fourteen consecutive hours, increasing the off duty period from eight to ten hours, and increasing the daily maximum driving time from ten to eleven hours. 76 Fed. Reg. 81134. The 2003 HOS also allowed drivers to restart their duty time calculations whenever they took a thirty-four hour off period. *Id.* The FMCSA has now adopted a rule that limits the use of the thirty-four hour restart to only once every 168 hours, or once a week. 76 Fed. Reg. 81136. The end result of this new change is to limit the maximum work week from, on average, eighty-two hours to seventy hours. 76 Fed. Reg. 81134. But more importantly, the thirty-four hour restart must contain two periods between 1 a.m. and 5 a.m. *Id.* The reason for this is because those hours are the period of circadian low (referring to the human body's Circadian Rhythm). This requirement will allow commercial drivers who work mostly at night an opportunity to overcome the chronic fatigue that arises from working at night. 76 Fed. Reg. 81135.

### Conclusion

The purpose behind these changes is to reduce the likelihood of overall driver fatigue, fatigue related crashes, and fatigue related health problems. The FMCSA estimated that the cost of implementing these changes is less than one percent of the trucking industry revenues and that the benefits of the new rule changes will outweigh the costs. For the time being, the FMCSA has decided to allow the eleven hour daily driving maximum limit and the fourteen hour driving window to stand despite requests for a ten hour daily driving limit and a thirteen hour driving window. In deciding to keep the current eleven hour daily driving limit, the FMCSA determined it could

not demonstrate that a ten hour limit had a net benefit over the current eleven hour limit. However, the FMCSA expressly indicated that a change to the eleven hour daily limit could be warranted if future research provided a basis for reconsideration.

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