Drivers Daily Log Summary of the
FMCSA’S PROPOSED CHANGES TO THE
HOURS OF SERVICE REGULATIONS
01/07/2011

FMCSA has proposed a number of changes to the hours of service regulations as shown below. These changes will be published in the Federal Register on December 29th; FMCSA will then accept comment on them for 60 days. The agency is subsequently expected to publish a final Rule by July 26th, 2011 (with an effective date several months later).

Proposed changes:

1. **Maximum Driving Hours** - Stays at 11 hours, however the agency is accepting comments on whether to retain the current 11 hour driving time limit or go back to 10 hours.

2. **14 Hour Day** (now called Driving Window) - FMCSA proposes to retain the current 14 Hour window, but allow drivers to extend the window to 16 hours (subject to rest break Requirements discussed below) 2 days out of the previous 168 consecutive hours. Unlike the current 16 hour exemption, use of this provision would not be limited to those drivers who return to their normal work reporting locations daily. The current 16 hour exemption would be removed.

Q: Does this allow a driver to drive past his/her 11 hours?
A: No, however it does help the driver over the current rule as it gives the driver two 16 hours periods that can be used during the past 168 hours that is not available in the current rules.

Q: Can you explain how this helps a driver?
A: Under the current rules you have a 14 hour window for driving and on-duty.

**Example 1:**

<table>
<thead>
<tr>
<th>Time</th>
<th>Duty Status</th>
<th>11 hr. Drive time</th>
<th>14 hr. On Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>00:00 to 00:15</td>
<td>On Duty</td>
<td>0</td>
<td>15 mins</td>
</tr>
<tr>
<td>00:15 to 07:15</td>
<td>Driving</td>
<td>7 hrs.</td>
<td>7 hrs. 15 mins</td>
</tr>
<tr>
<td>07:15 to 12:00</td>
<td>Off Duty</td>
<td>7 hrs.</td>
<td>12 hrs.</td>
</tr>
<tr>
<td>12:00 to 14:15</td>
<td>Driving</td>
<td>9 hrs.</td>
<td>14 hrs.</td>
</tr>
</tbody>
</table>

In the example above a driver could not drive a full 11 hrs. As he/she would hit the 14 hour clock, now look at the example below using the new 16 hr. rule.

**Example 2:**

<table>
<thead>
<tr>
<th>Time</th>
<th>Duty Status</th>
<th>11 hr Drive time</th>
<th>16 hr On Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>00:00 to 00:15</td>
<td>On Duty</td>
<td>0</td>
<td>15 mins</td>
</tr>
<tr>
<td>00:15 to 07:15</td>
<td>Driving</td>
<td>7 hrs.</td>
<td>7 hrs. 15 mins</td>
</tr>
<tr>
<td>07:15 to 12:00</td>
<td>Off Duty</td>
<td>7 hrs.</td>
<td>12 hrs.</td>
</tr>
<tr>
<td>12:00 to 16:00</td>
<td>Driving</td>
<td>11 hrs.</td>
<td>16 hrs.</td>
</tr>
</tbody>
</table>

As you can see using the 16 hour rule you are able to drive 2 more hours.

**Remember you can only use the 16 hour rule twice in the last 168 hours.**

Q: Does the 8 and 2 still apply? And does the 8 still exempt from the 14 and 16 hour rule?
A: Yes to both, nothing changed to this
3. **13 Hour On-Duty Time Limit**- Drivers would be limited to 13 hours of on-duty time within the 14 or 16 hour window. Hence, drivers exercising the option to use the 16 hour window would be required to have taken a three hour rest break. Further, drivers must be released from duty following the 14th (or 16th) hour.

English translation – Under current rules you can log on-duty 24 hours a day, 365 days a year and never have a violation, as long as you take 10 continuous hours off duty before you drive again. New Rules makes it a violation to be on-duty more than 13 straight hours in on-duty status.

Q: What does this rule have to do with a driver? No one logs On-Duty for 14 hours straight?
A: Yes there are drivers who are required to log on-duty; examples are salesman and women, some LTL short haul driver under the 100 air mile rule. Or others who fall under FMCSA rules for logging on-duty.

Bottom Line: 99% of property and motor coach drivers will not have a problem with this rule.

4. **Rest Breaks**- Drivers would be required to take a rest break of at least (not less than) 30 minutes within 7 hours of last rest period. Also, since drivers would be limited to 13 hours of on-duty time in a Driving window (either 14 or 16 hours), a second break (or breaks) may be needed, Depending on the duration of the first break.

5. **Restart**- Though FMCSA proposes to maintain a minimum 34-hour restart provision, They also propose additional restrictions which, for most drivers, will make the use of the Minimum period impossible.

a. 34 hour restart must include at least two rest periods that fall between midnight to 6 a.m.

b. Drivers would only be permitted to use the restart provision once in 168 continuous hrs. (Not a new seven day period beginning with a restart, as the current rule allows).

c. If a driver has more than one 34 hrs. restart, a note must be made in the remarks section stating which restart applies.

This one can and will get a driver in trouble, if the driver fails to account for how his/her hours will change if they choose a later 34 hour restart than the 1st restart.

Example 3
Driver is at 69 hours on 70hrs/7 day cycle, so he/she takes a 34 hours restart, and drives 11 hrs., the next couple of day the driver gets another 34 hours restarting, thinking it would be better to use the 2nd one. Looking back the driver now has an 11 hr. rule violation as he/she only picked up 1 hour since they chose the 2nd restart over the 1st. To make it worst see # 8 below as this would apply in the example. This now become as very serious violation for both the driver and motor carrier.

Example 4.
Driver arrives home at 0400 hrs. on Tue. 0400 hrs. on Wed is 24 hours. 14:00 (2:00pm) on Wed is 34 hours, if the driver departed now he/she WOULD NOT get a 34 hrs. restart. (Dosen't have the required two periods from Midnight to 0600 am). In order to get a restart he/she would have to wait till 06:00 hrs. On Thru. Total time off would be 50 hours.
6. **Off-Duty in A Parked CMV or In Passenger Seat** - FMCSA proposes to allow drivers to record time spent in a parked CMV as off-duty time. Also, team drivers would be permitted to record up to 2 hours of time spent in the passenger seat of a CMV in Operation as off-duty time, if it is just before or after an 8 hour sleeper berth period.

DDL Take: This rule is good for a teams! At least an improvement over the old rule of not being allowed to log off duty while your partner is driving.

7. **Oilfield Exemption** - Under the proposed rule, waiting time at an oil well or natural gas Site would not count toward calculation of the 14 (or 16) hour window.

8. **Egregious Violations** - FMCSA proposes that a driver who exceeds, and/or a motor Carrier that allows a driver to exceed, the driving time limit by 3 hours or more is considered to have committed an egregious violation and be subject to the maximum Civil penalties of $2,700 for drivers and $11,000 for motor carriers – for each offense.

9. **Adverse Driving rule** - Stays the same except that you can only drive a maximum of 12 hours, not 13 like the old rules.. In effect you only get 1 hour not 2 hours.

This rule is a catch 22. 100% of the time you would use this 2 hour rule, because you have drove your 11 hours and would of made it within that time if the adverse condition did not occur. So you can only drive 1 more hour, not two as before. End result you lose 1 hour in the new rule. This rule cannot be used if you hit the 14 or 16 hour rule.