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MOTOR VEHICLE TRANSPORT ACT

Commercial Vehicle Drivers Hours of Service Regulations

P.C. 2005-1816 October 25, 2005

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Whereas, pursuant to subsection 3(1) of the *Motor Vehicle Transport Act, 1987* ([see footnote a](#)), the Minister of Transport has consulted with the government of each province affected by the annexed Regulations;

Whereas, pursuant to subsection 3(1) of that Act, a copy of the proposed *Commercial Vehicle Drivers Hours of Service Regulations*, substantially in the annexed form, was published in the *Canada Gazette*, **Part I**, on February 15, 2003, and a reasonable opportunity was afforded to interested persons to make representations to the Minister of Transport with respect to it;

And whereas the *Motor Vehicle Transport Act, 1987* ([see footnote b](#)) was amended by *An Act to Amend the Motor Vehicle Transport Act, 1987 and Other Acts as a Consequence Thereof* ([see footnote c](#));

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to section 16.1 of the *Motor Vehicle Transport Act* ([see footnote d](#)), hereby makes the annexed *Commercial Vehicle Drivers Hours of Service Regulations*.

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COMMERCIAL VEHICLE DRIVERS HOURS OF SERVICE REGULATIONS

INTERPRETATION

1. The following definitions apply in these Regulations.

"adverse driving conditions" means snow, sleet, fog or other adverse weather or road conditions that were not known to a driver or a motor carrier dispatching a driver immediately before the driver began driving or could not reasonably have been known to them. (*mauvaises conditions de circulation*)

"co-driver" means a person who is present in a commercial vehicle because of having been, or being about to be, its driver. (*coconducteur*)

"commercial vehicle" means a vehicle that

(a) is operated by a motor carrier and propelled otherwise than by muscular power; and

(b) is a truck, tractor, trailer or any combination of them that has a gross vehicle weight in excess of 4 500 kg or a bus that is designed and constructed to have a designated seating capacity of more than 10 persons, including the driver. (*véhicule utilitaire*)

"cycle" means

(a) cycle 1, under which on-duty time is accumulated over a period of 7 days; and

(b) cycle 2, under which on-duty time is accumulated over a period of 14 days. (*cycle*)

"daily log" means a record in the form set out in Schedule 2 containing the information required by section 82. (*fiche journalière*)

"day", in respect of a driver, means a 24-hour period that begins at the hour designated by the motor carrier for the duration of the driver's cycle. (*jour ou journée*)

"director" means a federal director or a provincial director. (*directeur*)

"driver"

(a) means a person who operates a commercial vehicle;

(b) means, in respect of a motor carrier, a person employed or otherwise engaged by the motor carrier to operate a commercial vehicle, including a self-employed driver; and

(c) for the purposes of section 98, includes a co-driver. (*conducteur*)

"duty status" means any of the following periods:

(a) off-duty time, other than time spent in a sleeper berth;

(b) off-duty time spent in a sleeper berth;

(c) driving time; or

(d) on-duty time, other than driving time. (*activité*)

"electronic recording device" means an electric, electronic or telematic device that is installed in a commercial vehicle and is capable of accurately recording, in accordance with section 83, each period of duty status, in whole or in part. (*enregistreur électronique*)

"emergency vehicle" means a fire-fighting vehicle, ambulance, police vehicle or other vehicle that is used for emergency purposes. (*véhicule de secours*)

"federal director" means an official of the Road Safety and Motor Vehicle Regulation Directorate of the federal Department of Transport. (*directeur fédéral*)

"home terminal" means the place of business of a motor carrier at which a driver ordinarily reports for work and, for the purposes of sections 80 to 82 and Schedule 2, includes a temporary work site designated by the motor carrier. (*gare d'attache*)

"inspector" means

(a) a person designated under subsection 3(2); or

(b) a peace officer within the meaning of section 2 of the *Criminal Code*. (*inspecteur*)

"motor carrier" means a person who is engaged in the operation of an extra-provincial bus undertaking or an extra-provincial truck undertaking. (*transporteur routier*)

"off-duty time" means any period other than on-duty time. (*heures de repos*)

"oil well service vehicle" means a commercial vehicle that is

(a) specially constructed, altered or equipped to accommodate a specific service requirement associated with the oil or natural gas industry; and

(b) used exclusively in the oil or natural gas industry for transporting equipment or materials to and from oil or natural gas facilities or for servicing and repairing oil or natural gas facilities. (*véhicule de service de puits de pétrole*)

"on-duty time" means the period that begins when a driver begins work or is required by the motor carrier to be available to work, except where the driver is waiting to be assigned to work, and ends when the driver stops work or is relieved of responsibility by the motor carrier, and includes driving time and time spent by the driver

(a) inspecting, servicing, repairing, conditioning or starting a

commercial vehicle;

(b) travelling in a commercial vehicle as a co-driver, when the time is not spent in the sleeper berth;

(c) participating in the loading or unloading of a commercial vehicle;

(d) inspecting or checking the load of a commercial vehicle;

(e) waiting for a commercial vehicle to be serviced, loaded, unloaded or dispatched;

- (f) waiting for a commercial vehicle or its load to be inspected;
- (g) waiting at an en-route point because of an accident or other unplanned occurrence or situation;
- (h) resting in or occupying a commercial vehicle for any other purpose, except
- (i) time counted as off-duty time in accordance with section 10,
- (ii) time spent in a sleeper berth,
- (iii) time spent in a stationary commercial vehicle to satisfy the requirements of sections 13 and 14, and
- (iv) time spent in a stationary commercial vehicle that is in addition to the off-duty requirements of section 14; and
- (l) performing any work for any motor carrier. (*heures de service*)

"out-of-service declaration" means a declaration issued by a director or inspector under section 91. (*déclaration de mise hors service*)

"principal place of business" means the place or places designated by the motor carrier where daily logs, supporting documents and other relevant records required by these Regulations are kept. (*établissement principal*)

"sleeper berth" means an area of a commercial vehicle that meets the requirements of Schedule 1. (*couchette*)

"supporting document" means a document or information recorded or stored by any means required by a director or inspector to assess compliance with these Regulations. (*document justificatif*)

APPLICATION

2. (1) These Regulations apply to all commercial vehicles other than the following:

- (a) a two or three-axle commercial vehicle being used for
 - (i) transporting the primary products of a farm, forest, sea or lake, if the driver or the motor carrier is the producer of the products, or
 - (ii) a return trip after transporting the primary products of a farm, forest, sea or lake, if the vehicle is empty or is transporting products used in the principal operation of a farm, forest, sea or lake;
- (b) an emergency vehicle;
- (c) a vehicle engaged in providing relief in the case of a public welfare emergency, as that expression is defined in section 5 of the *Emergencies*

Act,

(d) a bus that is part of the public transit service that is provided in a municipality, in contiguous municipalities or within 25 km of the boundary of the municipality or contiguous municipalities in which the public transit service is provided; and

(e) a commercial vehicle when driven for personal use, if

(i) the vehicle has been unloaded,

(ii) any trailers have been unhitched,

(iii) the distance travelled does not exceed 75 km in a day,

(iv) the driver has recorded in the logbook the odometer reading at the beginning and end of the personal use, and

(v) the driver is not the subject of an out-of-service declaration under section 91.

(2) In this section, the expression "commercial vehicle when driven for personal use" excludes use, by the driver, of the vehicle in the course of business as a motor carrier.

DIRECTORS

3. (1) The minister responsible for highway safety in a province may designate a person to exercise in the province the duties and functions of a director for the purposes of these Regulations.

(2) A director may designate inspectors for the purposes of these Regulations.

RESPONSIBILITIES OF MOTOR CARRIERS, SHIPPERS, CONSIGNEES AND DRIVERS

4. No motor carrier, shipper, consignee or other person shall request, require or allow a driver to drive and no driver shall drive if

(a) the driver's faculties are impaired to the point where it is unsafe for the driver to drive;

(b) driving would jeopardize or be likely to jeopardize the safety or health of the public, the driver or the employees of the motor carrier;

(c) the driver is the subject of an out-of-service declaration; or

(d) the driver, in doing so, would not be in compliance with these Regulations.

[5 to 9 reserved]

TRAVELLING AS A PASSENGER — OFF-DUTY TIME

10. If a driver who has, at the request of the motor carrier by whom the driver is employed or otherwise engaged, spent time travelling as a passenger in a commercial vehicle to the destination at which the driver will begin driving takes 8 consecutive hours of off-duty time before beginning to drive, the time spent as a passenger shall be counted as off-duty time.

SCHEDULING — DRIVING SOUTH OF LATITUDE 60°N

Application

11. Sections 12 to 29 apply in respect of driving south of latitude 60°N.

Daily Driving and On-duty Time

12. (1) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 13 hours of driving time in a day.

(2) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 14 hours of on-duty time in a day.

Mandatory Off-duty Time

13. (1) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 13 hours of driving time unless the driver takes at least 8 consecutive hours of off-duty time before driving again.

(2) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 14 hours of on-duty time unless the driver takes at least 8 consecutive hours of off-duty time before driving again.

(3) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after 16 hours of time have elapsed between the conclusion of the most recent period of 8 or more consecutive hours of off-duty time and the beginning of the next period of 8 or more consecutive hours of off-duty time.

Daily Off-duty Time

14. (1) A motor carrier shall ensure that a driver takes and the driver shall take at least 10 hours of off-duty time in a day.

(2) Off-duty time other than the mandatory 8 consecutive hours may be distributed throughout the day in blocks of no less than 30 minutes each.

(3) The total amount of off-duty time taken by a driver in a day shall include at least 2 hours of off-duty time that does not form **part** of a period of 8 consecutive hours of off-duty time required by section 13.

[15 reserved]

Deferral of Daily Off-duty Time

16. Despite sections 12 and 14, a driver who is not splitting off-duty time in accordance with section 18 or 19 may defer a maximum of 2 hours of the daily off-duty time to the following day if

- (a) the off-duty time deferred is not **part** of the mandatory 8 consecutive hours of off-duty time;
- (b) the total off-duty time taken in the 2 days is at least 20 hours;
- (c) the off-duty time deferred is added to the 8 consecutive hours of off-duty time taken in the second day;
- (d) the total driving time in the 2 days does not exceed 26 hours; and
- (e) there is a declaration in the "Remarks" section of the daily log that states that the driver is deferring off-duty time under this section and that clearly indicates whether the driver is driving under day one or day two of that time.

Ferries

17. Despite sections 13 and 14, a driver travelling by a ferry crossing that takes more than 5 hours is not required to take the mandatory 8 consecutive hours of off-duty time if

- (a) the time spent resting in a sleeper berth while waiting at the terminal to board the ferry, in rest accommodations on the ferry and at a rest stop that is no more than 25 km from the point of disembarkation from the ferry combine to total a minimum of 8 hours;
- (b) the hours are recorded in the daily log as off-duty time spent in a sleeper berth;
- (c) the driver retains, as a supporting document, the receipt for the crossing and rest accommodation fees; and
- (d) the supporting document coincides with the daily log entries.

Splitting of Daily Off-duty Time — Single Driver

18. (1) A driver who is driving a commercial vehicle fitted with a sleeper berth may meet the mandatory off-duty time and daily off-duty time requirements of sections 13 and 14 by accumulating off-duty time in no more than 2 periods if

- (a) neither period of off-duty time is shorter than 2 hours;
- (b) the total of the 2 periods of off-duty time is at least 10 hours;

- (c) the off-duty time is spent resting in the sleeper berth;
- (d) the total of the driving time in the periods immediately before and after each of the periods of off-duty time does not exceed 13 hours;
- (e) the elapsed time in the periods immediately before and after each of the periods of off-duty time does not include any driving time after the 16th hour after the driver comes on-duty;
- (f) none of the daily off-duty time is deferred to the next day; and
- (g) the total of the on-duty time in the periods immediately before and after each of the periods of off-duty time referred to in paragraph (b) does not include any driving time after the 14th hour.

(2) The 16th hour is calculated by

- (a) excluding any period spent in the sleeper berth that is 2 hours or more in duration and that, when added to a subsequent period in the sleeper berth, totals at least 10 hours; and
- (b) including
 - (i) all on-duty time,
 - (ii) all off-duty time not spent in the sleeper berth,
 - (iii) all periods of less than 2 hours spent in the sleeper berth, and
 - (iv) any other period spent in the sleeper berth that does not qualify as counting towards meeting the requirements of this section.

(3) No motor carrier shall request, require or allow a driver to begin to drive again and no driver shall begin to drive again in accordance with the requirements of sections 13 and 14 without first taking at least 8 consecutive hours of off-duty time.

Splitting of Daily Off-duty Time — Team of Drivers

19. (1) A team of drivers driving a commercial vehicle fitted with a sleeper berth may meet the mandatory off-duty time and daily off-duty time requirements of sections 13 and 14 by accumulating off-duty time in no more than 2 periods if

- (a) neither period of off-duty time is shorter than 4 hours;
- (b) the total of the 2 periods of off-duty time is at least 8 hours;
- (c) the off-duty time is spent resting in the sleeper berth;
- (d) the total of the driving time in the periods immediately before and after each of the periods of off-duty time does not exceed 13 hours;

(e) the elapsed time in the periods immediately before and after each of the periods of off-duty time does not include any driving time after the 16th hour after the driver comes on duty;

(f) none of the daily off-duty time is deferred to the next day; and

(g) the total of the on-duty time in the periods immediately before and after each of the periods of off-duty time referred to in paragraph (b) does not include any driving time after the 14th hour.

(2) The 16th hour is calculated by

(a) excluding any period spent in the sleeper berth that is 4 hours or more in duration and that, when added to a subsequent period in the sleeper berth, totals at least 8 hours; and

(b) including

(i) all on-duty time,

(ii) all off-duty time not spent in the sleeper berth,

(iii) all periods of less than 4 hours spent in the sleeper berth, and

(iv) any other period spent in the sleeper berth that does not qualify as counting towards meeting the requirements of this section.

(3) No motor carrier shall request, require or allow a driver to begin to drive again and no driver shall begin to drive again in accordance with the requirements of sections 13 and 14 without first taking at least 8 consecutive hours of off-duty time.

[20 to 23 reserved]

Cycles

24. A motor carrier shall require that a driver follows and the driver shall follow either cycle 1 or cycle 2.

25. Subject to section 28, no motor carrier shall request, require or allow a driver to drive and no driver shall drive unless the driver has taken at least 24 consecutive hours of off-duty time in the preceding 14 days.

26. Subject to section 28, no motor carrier shall request, require or allow a driver who is following cycle 1 to drive and no driver who is following cycle 1 shall drive after the driver has accumulated 70 hours of on-duty time during any period of 7 days or, if the driver has reset the cycle in accordance with section 28, during the period of the cycle that was ended.

27. Subject to section 28, no motor carrier shall request, require or allow a driver who is following cycle 2 to drive and no driver who is following cycle 2 shall drive after the driver has accumulated

(a) 120 hours of on-duty time during any period of 14 days or, if the driver has reset the cycle in accordance with section 28, during the period of the cycle that was ended; or

(b) 70 hours of on-duty time without having taken at least 24 consecutive hours of off-duty time.

Cycle Reset — Off-duty Time

28. (1) A driver may end the current cycle and begin a new cycle if the driver first takes the following off-duty time:

(a) for cycle 1, at least 36 consecutive hours; or

(b) for cycle 2, at least 72 consecutive hours.

(2) After taking the off-duty time, the driver begins a new cycle, the accumulated hours are set back to zero and the driver's hours begin to accumulate again.

Cycle Switching — Off-duty Time

29. (1) No motor carrier shall request, require or allow a driver to switch and no driver shall switch from one cycle to the other without first taking the following off-duty time before beginning to drive again:

(a) to switch from cycle 1 to cycle 2, at least 36 consecutive hours; or

(b) to switch from cycle 2 to cycle 1, at least 72 consecutive hours.

(2) After taking the off-duty time, the driver begins the other cycle, the accumulated hours are set back to zero and the driver's hours begin to accumulate again.

[30 to 36 reserved]

SCHEDULING — DRIVING NORTH OF LATITUDE 60°N

Application

37. Sections 38 to 54 apply in respect of driving north of latitude 60°N.

Driving and On-duty Time

38. (1) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 15 hours of driving time.

(2) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated 18 hours of on-duty time.

Mandatory Off-duty Time

39. (1) No motor carrier shall request, require or allow a driver to drive and no driver shall drive after the driver has accumulated more than 15 hours of driving time or 18 hours of on-duty time unless they take at least 8 consecutive hours of off-duty time before driving again.

(2) No motor carrier shall request, require or allow a driver to drive and no driver shall drive if more than 20 hours of time has elapsed between the conclusion of the most recent period of 8 or more consecutive hours of off-duty time and the beginning of the next period of 8 or more consecutive hours of off-duty time.

Daily Off-duty Time

40. A motor carrier shall ensure that a driver takes and the driver shall take at least 8 hours of off-duty time.

Splitting of Daily Off-duty Time — Single Driver

41. (1) A driver who is driving a commercial vehicle fitted with a sleeper berth may meet the mandatory off-duty time and daily off-duty time requirements of sections 39 and 40 by accumulating off-duty time in no more than 2 periods if

- (a) neither period of off-duty time is shorter than 2 hours;
- (b) the total of the 2 periods of off-duty time is at least 8 hours;
- (c) the off-duty time is spent resting in the sleeper berth;
- (d) the total of the driving time in the periods immediately before and after each of the periods of off-duty time does not exceed 15 hours;
- (e) the on-duty time in the periods immediately before and after each of the periods of off-duty time does not include any driving time after the 18th hour after the driver comes on duty, calculated in accordance with subsection (2); and
- (f) none of the daily off-duty time is deferred to the next day.

(2) The 18th hour is calculated by

(a) excluding any period spent in the sleeper berth that is 2 hours or more in duration and that, when added to a subsequent period in the sleeper berth, totals at least 8 hours; and

(b) including

(i) all on-duty time,

(ii) all off-duty time not spent in the sleeper berth,

(iii) all periods of less than 2 hours spent in the sleeper berth, and

(iv) any other period spent in the sleeper berth that does not qualify as counting towards meeting the requirements of this section.

(3) No motor carrier shall request, require or allow the driver to begin to drive again in accordance with the requirements of sections 39 and 40 and no driver shall begin to drive again without first taking at least 8 consecutive hours of off-duty time.

Splitting of Daily Off-duty Time — Team of Drivers

42. (1) A team of drivers driving a commercial vehicle fitted with a sleeper berth may meet the mandatory off-duty time and daily off-duty time requirements of sections 39 and 40 by accumulating off-duty time in no more than 2 periods if

(a) neither period of off-duty time is shorter than 4 hours;

(b) the total of the 2 periods of off-duty time is at least 8 hours;

(c) the off-duty time is spent resting in the sleeper berth;

(d) the total of the driving time in the periods immediately before and after each of the periods of off-duty time does not exceed 15 hours;

(e) the on-duty time in the periods immediately before and after each of the periods of off-duty time does not include any driving time after the 18th hour after the driver comes on duty, calculated in accordance with subsection (2); and

(f) none of the off-duty time is deferred to the next day.

(2) The 18th hour is calculated by

(a) excluding any period spent in the sleeper berth that is 4 hours or more in duration and that, when added to a subsequent period in the sleeper berth, totals at least 8 hours; and

(b) including

(i) all on-duty time,

(ii) all off-duty time not spent in the sleeper berth,

(iii) all periods of less than 4 hours spent in the sleeper berth, and

(iv) any other period spent in the sleeper berth that does not qualify as counting towards meeting the requirements of this section.

(3) No motor carrier shall request, require or allow the driver to begin to drive again in accordance with the requirements of sections 39 and 40 and no driver shall begin to drive again without first taking at least 8 consecutive hours of off-duty time.

[43 to 48 reserved]

Cycles

49. A motor carrier shall require that a driver follows and the driver shall follow either cycle 1 or cycle 2.

50. Subject to section 53, no motor carrier shall request, require or allow a driver to drive and no driver shall drive unless the driver has taken at least 24 consecutive hours of off-duty time in the preceding 14 days.

51. Subject to section 53, no motor carrier shall request, require or allow a driver who is following cycle 1 to drive and no driver who is following cycle 1 shall drive after the driver has accumulated 80 hours of on-duty time during any period of 7 days.

52. Subject to section 53, no motor carrier shall request, require or allow a driver who is following cycle 2 to drive and no driver who is following cycle 2 shall drive after the driver has accumulated

(a) 120 hours of on-duty time in any period of 14 days; or

(b) 80 hours of on-duty time, without having taken at least 24 consecutive hours of off-duty time.

Cycle Reset — Off-duty Time

53. (1) A driver may end the current cycle and begin a new cycle if they first take the following off-duty time:

(a) for cycle 1, at least 36 consecutive hours; or

(b) for cycle 2, at least 72 consecutive hours.

(2) After taking the off-duty time, the driver begins a new cycle, the accumulated hours are set back to zero and the driver's hours begin to accumulate again.

Cycle Switching — Off-duty Time

54. (1) No motor carrier shall request, require or allow a driver to switch and no driver shall switch from one cycle to the other without first taking the following off-duty time before beginning to drive again:

(a) to switch from cycle 1 to cycle 2, at least 36 consecutive hours; or

(b) to switch from cycle 2 to cycle 1, at least 72 consecutive hours.

(2) After taking the off-duty time, the driver begins the other cycle, the accumulated hours are set back to zero and the driver's hours begin to accumulate again.

[55 to 60 reserved]

PERMITS

Special Permits

61. (1) A federal director may issue a special permit to a motor carrier for the purpose of a research or pilot project if the safety and health of the public, the driver or the employees of the motor carrier are not or are unlikely to be jeopardized.

(2) Sections 12 to 54 and 76 to 99 do not apply in respect of special permits, but sections 64 to 68 apply with such modifications as the circumstances require.

(3) The applicant shall provide to the federal director a detailed work plan that includes at least the following information:

(a) the nature of the proposed research or pilot project;

(b) the objectives of the proposed research or pilot project;

(c) the competence of the applicant to participate in the proposed research or pilot project;

(d) the criteria and method for measuring results;

(e) the safety implications and the approach to addressing any possible risks identified;

(f) the duration of the proposed research or pilot project; and

(g) the manner of and timing for reporting results.

Permits for Commercial Vehicles Other than Oil Well Service Vehicles

62. (1) A provincial director may issue a permit to a motor carrier in respect of a commercial vehicle other than an oil well service vehicle if

(a) the safety and health of the public, the driver or the employees of the motor carrier are not or are unlikely to be jeopardized; and

(b) a reduction of off-duty time or an increase in driving time is required

(i) to allow a driver following a regular itinerary to reach their home terminal or destination,

(ii) to allow the delivery of perishable goods, or

(iii) to accommodate a significant temporary increase in the transportation of passengers or goods by the motor carrier.

(2) The only deviations from the requirements of these Regulations that may be authorised in the permit are

(a) a reduction of the 2 hours of daily off-duty time required by subsection 14(3) if the commercial vehicle is operated south of latitude 60°N; and

(b) an increase in driving time and on-duty time of up to a total of 2 hours.

Oil Well Service Vehicle Permits

63. (1) A provincial director may issue a permit to a motor carrier in respect of an oil well service vehicle if

(a) the driver has successfully completed training directly related to safety requirements associated with operating within the field services sector of the oil or natural gas industry; and

(b) the safety and health of the public, the driver or the employees of the motor carrier are not or are unlikely to be jeopardized.

(2) Sections 24 to 29 and 49 to 54 do not apply in respect of an oil well service vehicle permit, but instead the permit shall require that the driver take

(a) at least 3 periods of off-duty time, each at least 24 hours long, in any period of 24 days, the periods being taken consecutively or separated by on-duty time; and

(b) at least 72 consecutive hours of off-duty time after ending driving under the provisions of the permit and beginning driving under those sections.

(3) When the driver begins to drive again under sections 24 to 29 or 49 to 54, they begin to accumulate hours in the cycle.

(4) Waiting time and standby time at an oil or natural gas well site or ancillary facility shall not be included as on-duty time if

(a) the driver performs no work during the time;

(b) the time is fully and accurately recorded in the daily log as off-duty time and denoted as waiting or standby time in the "Remarks" section; and

(c) the time is not included in the mandatory minimum of 8 consecutive hours of off-duty time.

(5) None of the daily off-duty time shall be deferred to the next day.

Applications for Permits

64. (1) A motor carrier may apply to a director for a permit by providing the following information and documents:

- (a) the name of the motor carrier;
 - (b) the names of the drivers who will operate a commercial vehicle under the permit;
 - (c) the driver licence numbers of the drivers and the provinces of issuance;
 - (d) a list of the commercial vehicles operated by the motor carrier;
 - (e) a list of all accidents involving the motor carrier or any driver of the motor carrier that occurred during the 6 months before the date of the application if they are required by the laws of the province, state or country in which the accident occurred to be reported to the police;
 - (f) the requested duration of the permit;
 - (g) in the case of an extra-provincial truck undertaking, a detailed description of the load and the provinces in respect of which the permit is to apply;
 - (h) in the case of an extra-provincial bus undertaking, a detailed description of the routes in respect of which the permit is to apply;
 - (i) the requested schedule;
 - (j) the reasons for the application, with supporting evidence;
 - (k) a copy of every permit issued to the motor carrier under these Regulations in the previous 5 years;
 - (l) a signed declaration that discloses any other application for a permit under these Regulations made by the motor carrier to any director within the 6 months before the date of the application; and
 - (m) any other information required by the director to evaluate whether the granting of a permit would or would be likely to jeopardize the safety or health of the public, the driver or the employees of the motor carrier.
- (2) If requested by the director to do so, the motor carrier shall make available to the director the daily logs, supporting documents or records of on-duty times, for the 6 months before the date of the application, of every driver who will operate a commercial vehicle of the motor carrier under the permit.

Approval of Other Directors

65. (1) Before issuing a permit, a director shall obtain the written approval of the provincial directors of the provinces in which the commercial vehicle will be driven under the permit.

(2) A provincial director from whom approval is sought shall

- (a) respond to the request for approval within 30 days after receiving it; and
- (b) give their approval if they have no reason to believe that the safety or health of the public, the driver or the employees of the motor carrier would be or would be likely to be jeopardized by the granting of the permit.

Issuance of Permits

66. A director who issues a permit shall specify in the permit

- (a) the reasons for issuing it;
- (b) its duration, which shall not exceed one year; and
- (c) any terms or conditions required for the protection of the safety or health of the public, the driver or the employees of the motor carrier.

Obligations of Permit Holders

67. (1) A motor carrier to whom a permit is issued shall

- (a) require that a copy of the permit is placed in each commercial vehicle in respect of which it applies;
 - (b) provide the director with a list of the commercial vehicles in respect of which the permit applies and keep the director informed of any changes so that the director may accurately and quickly identify the vehicles;
 - (c) make available for inspection by the director, immediately on request, the daily log and the supporting documents of the drivers of the commercial vehicles in respect of which the permit applies; and
 - (d) notify the director without delay of any accident involving any of the commercial vehicles to which the permit applies if it is required by the laws of the province, state or country in which the accident occurred to be reported to the police.
- (2) Every driver who is driving under a permit shall drive and the motor carrier shall ensure that they drive in accordance with the terms and conditions of the permit.

Amendment, Cancellation and Suspension of Permits

68. (1) A director who issues a permit may amend, cancel or suspend it, and a director who approves a permit issued by another director may withdraw the approval, on written notification to the motor carrier, if

- (a) the motor carrier or the driver contravenes these Regulations or any condition of the permit; or
- (b) the director determines that the safety and health of the public, the driver or the employees of the motor carrier are or are likely to be jeopardized.

(2) The director shall choose among amendment, cancellation and suspension of the permit

(a) if the director is a provincial director, in accordance with the laws of the province; and

(b) if the director is the federal director, in accordance with the laws of the province in which the vehicle is base-plated.

(3) When a director withdraws approval for a permit issued by another director, the director who issued the permit shall amend it to remove the authority for a commercial vehicle to be operated under the permit in the province in respect of which approval is withdrawn.

[69 to 75 reserved]

EMERGENCIES AND ADVERSE DRIVING CONDITIONS

76. (1) The requirements of these Regulations in respect of driving time, on-duty time and off-duty time do not apply to a driver who, in an emergency, requires more driving time to reach a destination that provides safety for the occupants of the commercial vehicle and for other users of the road or the security of the commercial vehicle and its load.

(2) A driver who encounters adverse driving conditions while operating the vehicle during a trip south of latitude 60°N may extend the permitted 13 hours of driving time specified in sections 12 and 13 and reduce the 2 hours of daily off-duty time required by subsection 14(3) by the amount of time needed to complete the trip if

(a) the driving, on-duty and elapsed time in the elected cycle is not extended more than 2 hours;

(b) the driver still takes the required 8 consecutive hours of off-duty time; and

(c) the trip could have been completed under normal driving conditions without the reduction.

(3) A driver who encounters adverse driving conditions while operating the vehicle during a trip north of latitude 60°N may extend the permitted 15 hours of driving time specified in section 38 by the amount of time needed to complete the trip if

(a) the extension of the driving time is no more than 2 hours;

(b) the driver still takes the required 8 consecutive hours of off-duty time; and

(c) the trip could have been completed under normal driving conditions without the extension.

(4) A driver who extends their driving, on-duty or elapsed time because of

an emergency or adverse driving conditions shall record the reason for doing so in the "Remarks" section of the daily log.

[77 to 79 reserved]

DAILY LOGS

Interpretation

80. A requirement that a driver record time in a daily log is a requirement to record the time using the local time at the driver's home terminal.

Requirement to Fill Out a Daily Log

81. (1) A motor carrier shall require every driver to fill out and every driver shall fill out a daily log each day that accounts for all of the driver's on-duty time and off-duty time for that day.

(2) This section does not apply if

(a) the driver operates or is instructed by the motor carrier to operate a commercial vehicle within a radius of 160 km of the home terminal;

(b) the driver returns to the home terminal each day to begin a minimum of 8 consecutive hours of off-duty time;

(c) the motor carrier maintains accurate and legible records showing, for each day, the driver's duty status and elected cycle, the hour at which each duty status begins and ends and the total number of hours spent in each status and keeps those records for a minimum period of 6 months after the day on which they were recorded; and

(d) the driver is not driving under a permit issued under these Regulations.

Content of Daily Logs

82. (1) At the beginning of each day, a motor carrier shall require that a driver enters legibly and the driver shall enter legibly the following information in the daily log:

(a) the date, the start time if different than midnight, the name of the driver and, if the driver is a member of a team of drivers, the names of the co-drivers;

(b) in the case of a driver who is not driving under the provisions of an oil well service permit, the cycle that the driver is following;

(c) the commercial vehicle licence plates or unit numbers;

(d) the odometer reading of each of the commercial vehicles operated by the driver;

(e) the names and the addresses of the home terminal and the principal place of business of every motor carrier by whom the driver was employed or otherwise engaged during that day;

(f) in the "Remarks" section of the daily log, if the motor carrier or driver was not required to keep a daily log immediately before the beginning of the day, the number of hours of off-duty time and on-duty time that were accumulated by the driver each day during the 14 days immediately before the beginning of the day; and

(g) if applicable, a declaration in the "Remarks" section of the daily log that states that the driver is deferring off-duty time under section 16 and that clearly indicates whether the driver is driving under day one or day two of that time.

(2) The motor carrier shall require that the driver records and the driver shall record in the daily log the hours in each duty status during the day covered by the daily log, in accordance with Schedule 2, and the location of the driver each time their duty status changes, as that information becomes known.

(3) At the end of each day, the motor carrier shall require that the driver records and the driver shall record the total hours for each duty status and the total distance driven by the driver that day, excluding the distance driven in respect of the driver's personal use of the vehicle, as well as the odometer reading at the end of the day and sign the daily log attesting to the accuracy of the information recorded in it.

Use of Electronic Recording Devices

83. A driver may use an electronic recording device for recording their duty status if

(a) the information contained in the electronic recording device is the same as the information that would have been provided if it had been submitted as a daily log in paper format;

(b) when requested to do so by a director or an inspector, the driver can immediately provide the information for the previous 14 days by producing it on a digital display screen of the electronic recording device or in handwritten form or on a print-out or any other intelligible output, or any combination of these;

(c) the device is capable of displaying

(i) the driving time and other on-duty time for each day on which the device is used,

(ii) the total on-duty time remaining and the total on-duty time accumulated in the cycle being followed by the driver, and

(iii) the sequential changes in duty status and the time at which each change occurred for each day on which the device is used;

(d) the driver is capable, if so requested by an inspector, of preparing a handwritten daily log from the information stored in the device for each day on which the device is used;

(e) the device automatically records when it is disconnected and reconnected and keeps a record of the time and date of these occurrences;

(f) the device records the time spent in each duty status of the driver;

(g) any hard copy of the daily log that is generated from the information that is stored in the device is signed on each page by the driver attesting to its accuracy; and

(h) the motor carrier provides blank daily log forms in the commercial vehicle for the driver's use.

Possession of Daily Logs and Supporting Documents by Drivers

84. No driver who is required to fill out a daily log shall drive and no motor carrier shall request, require or allow the driver to drive unless the driver has in their possession

(a) a copy of the daily logs for the preceding 14 days and, in the case of a driver driving under an oil well service permit, for each of the required 3 periods of 24 consecutive hours of off-duty time in any period of 24 days;

(b) the daily log for the current day, completed up to the time at which the last change in the driver's duty status occurred; and

(c) any supporting documents or other relevant records that the driver received in the course of the current trip.

Distribution and Keeping of Daily Logs

85. (1) A driver shall, within 20 days after completing a daily log, forward the original daily log and supporting documents to the home terminal and the motor carrier shall ensure that the driver does so.

(2) A driver who is employed or otherwise engaged by more than one motor carrier in any day shall forward, within 20 days after completing a daily log, and the motor carriers shall ensure that the driver forwards

(a) the original of the daily log to the home terminal of the first motor carrier for which the driver worked and a copy of it to the home terminal of each other carrier for which the driver worked; and

(b) the original supporting documents to the home terminal of the applicable motor carrier.

(3) The motor carrier shall

(a) deposit the daily logs and supporting documents at its principal place of

business within 30 days after receiving them; and

(b) keep the daily logs and supporting documents in chronological order for each driver for a period of at least 6 months.

Tampering

86. (1) No motor carrier shall request, require or allow a driver to keep and no driver shall keep more than one daily log in respect of any day.

(2) No motor carrier shall request, require or allow any person to enter and no person shall enter inaccurate information in a daily log, whether it is handwritten or produced using an electronic recording device, or falsify, mutilate or deface a daily log or supporting documents.

Monitoring by Motor Carriers

87. (1) A motor carrier shall monitor the compliance of each driver with these Regulations.

(2) A motor carrier that determines that there has been non-compliance with these Regulations shall take immediate remedial action and record the dates on which the non-compliance occurred, the date of issuance of a notice of non-compliance and the action taken.

[88 to 90 reserved]

OUT-OF-SERVICE DECLARATIONS

91. (1) A director or an inspector may issue an out-of-service declaration in respect of a driver if

(a) the driver contravenes paragraph 4(a) or (b);

(b) the driver fails to comply with any of the driving time or off-duty time requirements of sections 12 to 29, sections 38 to 54 or a permit;

(c) the driver is unable or refuses to produce their daily log book in accordance with section 98;

(d) there is evidence that shows that the driver has completed more than one daily log, has entered inaccurate information in the daily log or has falsified information in the daily log; or

(e) the driver has mutilated or defaced a daily log or a supporting document in such a way that the director or inspector cannot determine whether the driver has complied with the driving time and off-duty time requirements of sections 12 to 29, sections 38 to 54 or a permit.

(2) The director or inspector shall notify the driver and the motor carrier in writing of the reason that the driver has been made the subject of an out-of-service declaration and the period during which it applies.

(3) An out-of-service declaration applies

(a) for 10 consecutive hours, if the driver contravenes paragraph 4(a) or (b);

(b) for 10 consecutive hours, if the driver contravenes section 12 or 38;

(c) for the number of hours needed to correct the failure, if the driver fails to comply with the off-duty time requirements of any of sections 12 to 29 or 38 to 54; and

(d) for 72 consecutive hours, if the driver contravenes section 86 or 98.

(4) The out-of-service declaration in respect of a driver who contravenes section 86 or 98 continues to apply beyond the 72 hours until the driver rectifies the daily log, if applicable, and provides it to the director or inspector so that the director or inspector is able to determine whether the driver has complied with these Regulations.

[92 to 95 reserved]

INSPECTIONS

Proof of Authority

96. An inspector shall, at all times during the exercise of their functions, produce on request proof of their designation and title.

Authority to Enter Premises for an Inspection

97. (1) An inspector may, during business hours, enter a motor carrier's home terminal or principal place of business, other than living quarters, for the purpose of inspecting the daily logs, supporting documents and other relevant records.

(2) An inspector may at any time stop and enter a commercial vehicle, except for its sleeper berth, for the purpose of inspecting the daily logs and supporting documents.

(3) An inspector may, at any time, stop a commercial vehicle and enter its sleeper berth for the purpose of verifying that the sleeper berth meets the requirements of Schedule 1.

(4) No person shall obstruct or hinder, or knowingly make any false or misleading statements either orally or in writing to, a director or an inspector engaged in carrying out their duties and functions under these Regulations.

Production of Daily Logs and Supporting Documents

98. (1) At the request of an inspector, a driver shall immediately produce for inspection daily logs, supporting documents and other relevant records for the current trip and the preceding 14 days as well as any permit the driver may be driving under.

(2) If an electronic recording device is installed in the commercial vehicle, the driver shall retrieve the information stored by the device for each day that it was used.

(3) The driver shall, at the request of an inspector, immediately give the inspector a copy of the daily logs, supporting documents and other relevant records for the preceding 14 days, or the originals if it is not possible in the circumstances to make copies, as well as any permit the driver may be driving under.

(4) The inspector shall provide a receipt in the form set out in Schedule 3 for the copy of the daily logs, supporting documents and other relevant records.

99. (1) A motor carrier shall, during business hours, at the request of an inspector, immediately make available for inspection at a place specified by the inspector daily logs, supporting documents and other relevant records as well as any permit a driver may be driving under or have been driving under during the period for which the inspector makes the request for the documents.

(2) The inspector shall

(a) immediately return the permit if it is still a current permit and provide a receipt in the form set out in Schedule 3 for any expired permit as well as for the daily logs, supporting documents and other relevant records; and

(b) return the expired permits, daily logs, supporting documents and other relevant records within 14 days after receiving them.

REPEAL

100. The *Commercial Vehicle Drivers Hours of Service Regulations, 1994* ([see footnote 1](#)) are repealed.

COMING INTO FORCE

101. These Regulations come into force on January 1, 2007.

SCHEDULE 1

(Section 1 and subsection 97(3))

SLEEPER BERTHS

1. An area of a commercial vehicle is a sleeper berth if

(a) it is designed to be used as sleeping accommodation;

(b) it is located in the cab of the commercial vehicle or immediately adjacent to the cab and is securely fixed to it;

(c) it is not located in or on a semi-trailer or a full trailer;

(d) if it is located in the cargo space, it is securely compartmentalized from the remainder of the cargo space;

(e) in the case of a bus,

(i) it is located in the passenger compartment,

(ii) it is at least 1.9 m in length, 60 cm in width and 60 cm in height,

(iii) it is separated from the passenger area by a solid physical barrier that is equipped with a door that can be locked,

(iv) it provides privacy for the occupant, and

(v) it is equipped with a means to significantly limit the amount of light entering the area;

(f) in the case of a commercial vehicle other than a bus, it is rectangular in shape with at least the following dimensions:

(i) 1.9 m in length, measured on the centre line of the longitudinal axis,

(ii) 60 cm in width, measured on the centre line of the transverse axis, and

(iii) 60 cm in height, measured from the sleeping mattress to the highest point of the area;

(g) it is constructed so that there are no impediments to ready entrance to or exit from the area;

(h) there is a direct and readily accessible means of passing from it into the driver's seat or compartment;

(i) it is protected against leaks and overheating from the vehicle's exhaust system;

(j) it is equipped to provide adequate heating, cooling and ventilation;

(k) it is reasonably sealed against dust and rain;

(l) it is equipped with a mattress that is at least 10 cm thick and adequate sheets and blankets so that the occupant can get restful sleep; and

(m) it is equipped with a means of preventing ejection of the occupant during deceleration of the commercial vehicle, the means being designed, installed and maintained to withstand a total force of 2 700 kg applied toward the front of the vehicle and parallel to the longitudinal axis of the vehicle.

SCHEDULE 2
(Section 1 and subsection 82(2))

DUTY STATUS

NAME / NOM _____ DATE _____

Cycle 1 (7 days — 7 jours) OR/OU Cycle 2 (14 days — 14 jours)

(Hour at which day begins — Use local time at home terminal)
 (Heure à laquelle la journée commence — Utiliser l'heure locale à la gare d'attache)

Total Hours
Total des heures

	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	
1. Off-duty time other than sleeping berth / Hors du service, à l'exclusion des temps passés dans une couchette																										
2. Off-duty time spent in a sleeping berth / Hors du service passé dans une couchette																										
3. Driving time / Heures de conduite																										
4. On-duty time other than driving time / Heures de service, à l'exclusion des heures de conduite																										

Remarks / Observations: _____

Total distance driven / Distance totale parcourue: _____

Signature _____

INSTRUCTIONS

Fill out the grid as follows:

(a) for each duty status,

(i) mark the beginning time and the end time, and

(ii) draw a continuous line between the time markers;

(b) record the name of the municipality or give the location on a highway or in a legal sub-division and the name of the province or state where a change in duty status occurs;

(c) if the driver is engaged in making deliveries in a municipality that result in a number of periods of driving time being interrupted by a number of short periods of other on-duty time, the periods of driving time may be combined and the periods of other on-duty time may be combined; and

(d) enter on the right of the grid the total number of hours of each period of duty status, which total must equal 24 hours.

SCHEDULE 3 (Subsection 98(4) and paragraph 99(2)(a))

RECEIPT

It is hereby acknowledged that, pursuant to subsection 98(4) or paragraph 99(2)(a) of the *Commercial Vehicle Drivers Hours of Service Regulations*, the following daily logs, supporting documents and other records were provided by

(Name of person)
at
(Number, street, municipality, location, province of motor carrier)
on
(Day, month, year)
namely
(Description of daily logs, supporting documents and records received)
Dated at
(Municipality, location)
on
(Day, month, year)

Inspector's signature

REGULATORY IMPACT ANALYSIS STATEMENT

(This statement is not part of the Regulations.)

Description

The *Commercial Vehicle Drivers Hours of Service Regulations* govern the maximum driving times and minimum off-duty times of commercial vehicle (bus and truck) drivers employed or otherwise engaged in extra-provincial transportation. These Regulations require drivers to keep a record of their daily driving and other work activities in a prescribed format and to make these records available to designated enforcement officials upon request.

Transport Canada has moved to repeal and replace the *Commercial Vehicle Drivers Hours of Service Regulations, 1994*, under the *Motor Vehicle Transport Act, 1987* (MVTA). The central changes featured in the new Regulations include:

- introduction of a new daily requirement for a minimum of 10 hours off-duty. The current Regulations do not contain a specific daily requirement;
- requiring that upon reaching the on-duty, driving or a new elapsed time limit, a minimum of 8 consecutive hours of off-duty time is taken before re-commencing driving;
- reducing the daily maximum driving time by 18.8 per cent from 16 hours to 13 hours;
- reducing the daily maximum on-duty time by 12.5 per cent from 16 hours to 14 hours;
- introducing a new elapsed time limit of 16 hours from the last off-duty period of 8 hours or greater;
- eliminating an option that permits a driver, on a limited basis, to reduce the minimum off-duty time from 8 hours to 4 hours;
- increasing the minimum rest period for team drivers using a vehicle equipped with sleeper berth accommodations from 2 to 4 consecutive hours;
- providing reasonable flexibility by permitting, within defined parameters, the averaging of on-duty and off-duty time over a 48-hour period;
- simplifying the regulation by reducing the number of available work/rest cycles from three to two: a maximum 70-hour cycle over 7 days and a maximum 120-hour cycle over 14 days;
- for drivers who wish to switch or reset the cycle (cumulative time) that they are operating under, a minimum of 36 consecutive hours off-duty must be obtained for Cycle 1 (70 hours/7 days) and a minimum of 72 consecutive hours off-duty must be obtained for Cycle 2 (120 hours/14 days);
- requiring a minimum of 24 consecutive hours off-duty, at least once every 14 days for all drivers.

The main objective of the new Regulations is to reduce the risk of fatigue-related commercial vehicle collisions by providing drivers with the opportunity to obtain additional rest. The Regulations also aim to reduce the complexity of the rules by making them easier to comply with and to enforce, for example through the reduction of the number of cycles and the elimination of the options to reduce off-duty time.

The new Regulations are patterned after the applicable National Safety Code Standard (NSC). The NSC is a comprehensive code of minimum performance standards designed to ensure the safe operations of commercial vehicles, drivers and motor carriers. One of these standards, NSC #9 - Hours of Service, contains the basic rules on hours of service. On September 20, 2002, the federal/provincial Council of Ministers Responsible for Transportation and Highway Safety approved a revised NSC #9 as the basis for amendments to federal and provincial regulations. Based on the Council of Ministers' commitment, the Department of Transport (the Department) is initiating changes to the hours of service regulations at the federal level. Similar changes will be implemented by the provinces/territories for intra-provincial transportation.

Background

The *Commercial Vehicle Drivers Hours of Service Regulations* establish the limitations and minimum requirements that bus and truck drivers are required to follow when operating a commercial vehicle in Canada. The Regulations are intended to address safety issues that pertain to the operating environment of a driver. It is important that the regulation be viewed as a package of changes, as many of the clauses and sections are inter-related.

The new Regulations maintain the principle presented in the pre-publication, namely to increase the opportunity for drivers to obtain more rest.

Increased off-duty time

Sleep researchers around the world agree that obtaining sufficient restful sleep is the only way to counteract the effect of fatigue. However, no matter how the Regulations are constructed, we cannot guarantee that a driver will sleep, nor can we mandate that sleep will be taken. Regulators agree that the Regulations must afford drivers with sufficient time to rest and that, through better education and guidance, drivers and motor carriers recognize the need for rest and sleep.

The current Regulations are structured on a rotational concept of work and rest – the rest component being 8 consecutive hours. Over a day, the maximum off-duty time required is only 8 hours. Regulators and industry agree that more time is required, and as such, have agreed to increase the daily limit to 10 hours – a 25 per cent increase. The additional 2 hours must be taken in no less than 1/2 hour increments. Coupled with the reduction in on-duty time to 14 hours that is discussed later, the combined total equates to 24 hours or what is commonly referred to as a "day" in these Regulations.

During extensive consultations with stakeholders, it was clear that a requirement to take additional off-duty time may have an adverse effect on the efficiency of some operations, but it was generally agreed to be a necessary requirement in the new Regulations.

Reductions in driving and on-duty time

As was noted above, changes were made that align the Regulations substantially on a 24-hour basis, and at the same time, implement reductions to some of the specific limitations. The current Regulations contain specific limits calculated over a shift, but do not have daily (over a 24-hour basis) limitations. Under the new Regulations, the maximum driving time, per shift, will be maintained at 13 hours to reflect Canadian geography and infrastructure (road network, population densities, etc.). However, under the current Regulations, a driver can drive 16 hours over a day (24-hour period), albeit, not consecutively. The new Regulations introduce a new daily limitation that restricts driving to 13 hours, a reduction of 3 hours or 18.8 per cent over the day.

The new Regulations also call for reductions in on-duty limits. On a per shift basis, on-duty limits are reduced from 15 to 14 hours. As with driving time, the new Regulations also call for a reduction in the on-duty over the day –

from 16 hours to 14 hours.

Elimination of one cycle

The current Regulations contain three cycles for drivers to accumulate their on-duty time over an extended period of time: 60 hours in 7 days; 70 hours in 8 days and 120 hours in 15 days. Drivers are free to operate under any of the cycles and are free to change cycles as they wish. This aspect of the current Regulations is often misunderstood, however, the most important point is that a driver, following the rules, can reach the 7-day limit in only 3.5 days. At that point, the driver can switch to the 8-day cycle, however, the 8-day limit is reached after 4.5 days, at which point the driver switches to the 14-day cycle. The end result is that, over a 7-day period, a driver can accumulate 108 hours of driving.

Regulators and stakeholders agreed that this situation should be eliminated and decided that the elimination of one cycle would accomplish that goal. The new regulation provides for two cycles: Cycle 1 - 70 hours in 7 days and Cycle 2 - 120 hours in 14 days. Furthermore, drivers who wish to switch between the cycles will have to take a minimum of 36 consecutive hours off-duty to switch from cycle 1 and 72 consecutive hours if switching from Cycle 2.

Elimination of the short change rule

The current Regulations contain a specific provision that allows bus and truck drivers to reduce their minimum consecutive off-duty time from 8 to 4 hours, once in 7 days. Furthermore, bus operators are also able to apply for a permit that would allow this practice twice in 7 days. The Department is eliminating this practice since it is not consistent with the objective of providing a sufficient opportunity to sleep and to recover from fatigue.

The trucking industry, while recognizing that some operations may be impacted by the elimination of this provision, were in agreement with government regulators that reducing the minimum off-duty time should be avoided and supports the change.

Implementation

This amendment comes into force on January 1, 2007. This date was selected to facilitate harmonization of the new federal rules with corresponding provincial and territorial rules for intra-provincial carriers, which will be amended in the interim period. In this way, hours of service rules for all commercial vehicle drivers will change concomitantly across the country. The interim period also provides the industry and enforcement authorities the lead-time necessary to adapt to the new rules.

Alternatives

Through consultation with provincial jurisdictions and stakeholders, Transport Canada considered the following alternatives: maintaining the status quo; accepting a variety of proposals of stakeholder groups; and harmonization with the United States' hours of service regime.

The status quo was rejected because the current Regulations do not incorporate new developments in sleep and fatigue management research, which conclude that sleep is the principal countermeasure to fatigue. As such, the new Regulations aim to provide drivers with greater opportunities for rest.

During the deliberations on the new Regulations, which extended over a decade, a number of stakeholders offered variations on the proposed amendment. This is not surprising given the complexity of the subject, and the wide interests of stakeholders. Many of the proposals were incorporated in the proposal, while others were rejected. While the development of the new Regulations accounted for the latest research findings on sleep and fatigue, the scientific community offered no single definitive solution to the issue. Extensive consultation led to a consensus solution that incorporates the essence of the latest research while still balancing the economic and societal demands placed on the motor carrier industry. Should other research findings become available, further regulatory modifications will be considered.

A final alternative considered was the harmonization of Canada's hours of service rules with those of the U.S. Differences between the two countries with respect to demographics, geography, and infrastructure, have dictated historically different regimes. Presently, Canada and the U.S. recognize each other's hours of service regime. Canadian commercial vehicle drivers adhere to the U.S. regime when driving in the U.S. and vice versa. This longstanding arrangement has induced no untoward difficulties. Neither the motor carrier industry nor the regulating authorities were in favour of fully harmonizing Canada's hours of service regulations to those of the U.S.

As in Canada, the U.S. has also been considering changes to their hours of service rules and in April 2000, the U.S. Federal Motor Carrier Safety Administration (FMCSA) issued a Notice of Proposed Rulemaking that generated a significant amount of controversy in the U.S. On January 4, 2004, revised rules came into effect, however, on July 16, 2004, a U.S. District Court of Appeals decision vacated the revised rules. The Court allowed the FMCSA 45 days to respond, but subsequent intervention by the Senate provided FMCSA until September 30, 2005 to address the Court's decision. On August 16, 2005, the FMCSA published its new rules, which become effective on October 1, 2005. The new rules amend certain provisions, however, it maintains the underlying principles contained in the current rules.

The hours of service rules in the U.S. are suited to their operating environment. The majority of regulated stakeholders in Canada support the development of regulations specific to Canadian economic conditions, competitive factors and infrastructure.

Benefits and Costs

The motor carrier industry is a very important component of the Canadian economy, with annual operating revenues of \$50 billion. Trucking is a vital component of international trade, with exports to the U.S. representing 80 per cent by value of goods shipped, and imports 60 per cent. While the motor coach industry is much smaller, it also plays an important role in transporting passengers both on an inter-city and on a charter/tour basis,

and carries approximately 14 million scheduled passengers annually.

Data is sparse on the cause of collisions as a result of fatigue. Information collected by Transport Canada is derived from police collision reports, as provided by the provinces. Of the approximately 3,000 fatalities that occurred annually on Canada's roads between 1994 and 1998, an average of only 11 fatalities per year are attributed to either fatigue or falling asleep. However, it is widely felt that these statistics are underreported. The U.S. Federal Motor Carrier Safety Administration suggests that fatigue could be the cause in about 15 per cent of annual road fatalities, while other sources suggest that the number could be considerably higher – up to 40 per cent.

The adoption of the new *Commercial Vehicle Drivers Hours of Service Regulations*, therefore, is expected to have incremental beneficial effects on road safety. While prescribing additional hours of consecutive rest does not guarantee that drivers will sleep, the possibility that a driver will be less tired is significantly enhanced under the new rules. Simplifying the Regulations ensures that they will be easier to understand and will thereby promote improved industry compliance.

The anticipated costs of the new Regulations are minimal. The volume of freight and passengers being transported is not likely to be affected by the new changes. The new Regulations are not expected to affect inflation and employment. However, industry will have to adapt. Possible expenses for industry and provincial governments will include adjustments to logistics planning, shipping and receiving, training for inspectors and commercial vehicle drivers on the new Regulations, and adjustments to operating systems. Nonetheless, industry and governments have accepted these costs as a necessary outcome to providing a safer environment on Canadian roads.

Environmental Impact

The Regulations have no environmental impact.

Regulatory Burden

The Regulations are not expected to impose any significant long-term regulatory burden, however, in the short term, stakeholders will have to familiarize themselves with the revised Regulations and train enforcement officials, drivers and motor carriers on the specific changes.

Consultation

In developing these new Regulations, Transport Canada considered the views of public interest groups, law enforcement agencies, labour organizations and the motor carrier industry, as well as provincial governments and individual stakeholders.

The Department's main consultative mechanism has been the Canadian Council of Motor Transport Administrators (CCMTA), the key national organization for motor carrier safety. The CCMTA is a non-profit organization comprised of representatives from federal and provincial governments, as well as associate members representing a wide variety of

interests. Through a collective consultative process, the CCMTA makes decisions on administration and operational matters dealing with motor carrier, commercial vehicle and driver safety. Associate members are invited, without reservation, to participate on project groups and task forces, where standards and proposed regulations are discussed and developed.

Deliberations on revising the hours of service rules have been underway since the early 1990s under the auspices of the CCMTA. Discussions on specific changes were held in abeyance pending release of a multi-year \$6 million study, which was conducted by the Department in partnership with the U.S. Department of Transportation. The results of the Driver Fatigue and Alertness Study (DFAS) were released in November 1996, at which time Transport Canada assumed the chair of the multi-stakeholder CCMTA project group examining hours of service. Members included representatives from federal and provincial governments, the motor carrier sector, public interest groups, U.S. federal transportation officials and labour organizations.

The project group also sought guidance from a panel of academic experts in shift-work, sleep and human performance. Their report was published in September 1998. Many of the panel's recommendations were adopted completely or in part, and formed the basis for the recommended changes in the new Regulations.

Further, because the project group was interested in obtaining the views of all stakeholders, Transport Canada engaged the services of a consultant in the fall of 1998 to gather input to the hours of service review. The consultant's report, published in December 1998, presented the views of approximately 60 stakeholders from across Canada.

Throughout 1999, the project group met on numerous occasions to finalize its deliberations. The results were incorporated into a firm set of proposals (revisions to the standard) presented in a policy paper, which was approved by the CCMTA Board of Directors in December 1999.

To further encourage public input, in April 2001, the Minister of Transport invited the House of Commons Standing Committee on Transport (SCOT) to examine the issue of commercial drivers hours of service and the CCMTA proposal. The SCOT hearings allowed a range of interested parties to provide their viewpoint on revising the hours of service regime in Canada. The Standing Committee tabled its report on June 17, 2002; its conclusions support the changes as proposed by the CCMTA.

In addition to approving the proposed changes, during its September 20, 2002 meeting, the Council of Ministers also agreed to work on continued research into effective fatigue management, on-going improvements to hours of service regimes, and the development of improved enforcement tools such as numbered logbooks and new electronic tools.

The new Regulations have been developed in concert with the revised NSC standard on hours of service. Transport Canada's review of the hours of service rules has been an exhaustive and extensive process that has involved stakeholders at every phase of the discussions. The open and transparent nature of the dialogue has allowed for a rigorous and frank but

prolonged debate of the issues.

The new Regulations are considered by major stakeholders (including governments and industry, e.g. the Canadian Trucking Alliance (CTA) and labour, e.g. Teamsters Canada) to have the potential to improve road safety while balancing economic and social concerns. The changes provide greater opportunities for drivers to obtain more rest, which is the most effective way to combat the effects of fatigue. Nevertheless, some stakeholders suggest that the changes do not go far enough in limiting driving and on-duty hours.

The new Regulations were pre-published in the *Canada Gazette*, Part I (CG Part I) on February 15, 2003 providing a comment period of 60 days. All responses were considered in the development of the Regulations.

As expected, the subject matter generated a number (40) of submissions in response to the CG Part I publication. Comments were received from 7 provincial governments and 33 respondents representing the truck and bus industry, labour, public advocacy groups and private citizens. Many of the suggested changes received have been incorporated in the Regulations. Many other issues raised by respondents had been addressed in discussions prior to the Part I pre-publication and rejected by CCMTA. In addition, a number of issues were raised that necessitated further consultation and resulted in lengthy and protracted discussions. Notwithstanding the additional deliberations, the basic principles and underlying themes presented in the pre-publication have been maintained. Most issues discussed were of a technical or procedural nature and do not undermine the intent to provide commercial vehicle drivers with additional rest.

In some instances, respondents raised issues that do not specifically affect the new Regulations. These issues will be addressed in an interpretation guide, which will be produced by CCMTA once the new Regulations are published.

The following distills the more significant issues raised following the pre-publication of the Regulations by providing an explanation of the issue, a summary of the comments received and the Department's response.

Definition of a "Day"

One of the more intense debates concerned the "definition of a day" as this sets the parameters around which many of the driving, on-duty and rest requirements are set. The current federal Regulations are based on a system that cycles or rotates work and rest limitations, without consideration of how work and rest is distributed relative to the day. For example, under the current Regulations, a driver can drive for 13 hours, take 8 consecutive hours off-duty and then re-commence driving and continue in this manner until he/she reaches the cycle limits. Over the day (24-hour period) the driver would be able to drive a total of 16 hours, albeit not consecutively. Most regulators and stakeholders consider this to be excessive, supporting the need for separate daily limits. However, not everyone agreed that the amendment would achieve the intended outcome.

The pre-published Regulations in CG Part I proposed limits of 13 hours driving and 14 hours on-duty in a "day", but that did not define the day with sufficient clarity to ensure compliance. To achieve the desired outcome, two options were considered: finding an operational model within the current rotational system that would reflect the intent of the daily limits, or introduce incremental daily limitations to ensure drivers reduce their on-duty and driving times. After considerable and in-depth analyses, taking into account the diversity of the industry and motor carrier operations across Canada, it was agreed that the only meaningful way to provide sufficient opportunity for rest is to establish specific daily limits.

Excluding the bus industry from the changes

The motor coach industry has been a very active participant in the numerous discussions and meetings on the changes to the Regulations. The Department appreciates their efforts to address the issues.

Since the beginning of discussions, the bus industry associations have argued that they should be excluded from the changes. Comments supporting this position were received from Motor Coach Canada, Ontario Motor Coach Association, l'Association des propriétaires de l'autobus du Québec and many individual bus operators, such as Greyhound Canada and Hammond Transportation.

The bus industry bases its position on the fact that the characteristics of the vehicle, the type of service they provide, and the human cargo they transport does not lend itself to regulations that are designed to address trucking operations. The bus industry notes their excellent safety record, which they state, is an indication of their commitment to safety. Some safety advocates suggest that since the bus industry carries passengers and not specifically cargo, they should be held to a higher standard than the trucking sector.

In the U.S., the hours of service rules for trucking were amended and implemented on January 4, 2004. The rules governing passenger-carrying operations (bus) were excluded, but the Final Rule noted that the Federal Motor Carrier Safety Administration is continuing to study fatigue and may consider "other alternatives to reduce fatigue-related incidents and increase motor coach driver alertness in the future". Therefore, in the U.S. there are now different sets of rules for trucks and buses. Some rules are more stringent than for truck drivers and some are less. For example, the consecutive driving limit for trucks has been increased to 11 hours, while for buses it is maintained at 10 hours.

The Department does not underestimate the industry's efforts to provide safe transportation to the Canadian public, and indeed, Transport Canada compliments the bus industry on its safety record. However, the Department believes that the issue of driver fatigue is not confined to the type of service rendered or the vehicle driven. Fatigue is a common physiological state that can affect all human operators.

The Department's response is to develop the regulatory changes needed to improve safety on Canada's roads. While the Department recognizes the efforts of the bus industry towards safety, it rejects the argument that buses

should be excluded. This decision was endorsed by provincial and territorial governments and subsequently has been accepted by the bus industry.

The industry associations, along with the Ontario School Bus Association and several bus operators noted that the changes would have a detrimental effect on their business by prohibiting the operation of early morning school trips if the driver has not been able to obtain 8 consecutive hours off-duty. Bus operators cited examples where charter groups use the bus for evening, followed by early morning activities. Motor Coach Canada also cited examples where some charter and tour operations would be impacted by the elimination of this provision.

The Department appreciates the impact that the elimination of this provision will cause to some bus and tour operators, however, the ability for a driver to obtain adequate rest is paramount. Moreover, the expert panel report of 1998 recommended the elimination of the rest reduction provision. The amendment will achieve that objective.

Split sleeper berth

The Department proposed eliminating the current ability for a driver (non-team) to split his/her 8-consecutive hour off-duty period into 2 periods, neither of which is less than 2 hours. Canadian industry representatives urged regulators to reconsider, citing economic competitiveness and operational simplicity, especially with respect to international operations.

It was, therefore, agreed to undertake both an economic and scientific assessment of the issue. The CTA submitted a report that addressed the economic impacts. The report concluded, "certain segments of the Canadian trucking industry will suffer from the loss of the split sleeper-berth provision". The report estimated that the increase in trip time due to the loss of this provision would cost between \$460 and \$800 million annually.

In December 2003, the Expert Panel convened to review the sleeper berth issue and concluded that the industry proposal to split the 10-hour off-duty time into 2 periods, neither period being less than 2 hours, could be supported. The Panel did note that due to the lack of experimental scientific/analytical data addressing this specific issue, appropriate studies should be considered in the future.

Therefore, on the basis of these studies, the Department and provincial/territorial governments agreed to amend the new Regulations to incorporate the use of the split sleeper berth.

Elapsed time limitation

The current Regulations do not limit the length of the work shift, e.g. the elapsed time a driver can drive after reporting for duty. Currently, a driver can log him/herself off-duty intermittently, which has the effect of "stopping the clock" and extending the day. An example more clearly demonstrates this occurrence. Consider a driver who commences driving at midnight, drives for 4 hours; takes 3 hours off-duty; returns to driving for 4 hours; takes another 3 hours off-duty; drives for 2 hours; takes 2 hours off-duty; and then returns to drive for another 3 hours, at which point the driver has

accumulated 13 hours driving and must stop to obtain rest. However, at that point, the driver has been awake for 21 hours since reporting for work. The numbers of examples is limitless, but in all cases, the driver can interrupt the workday by logging off-duty time, thereby extending the length of the workday beyond reasonable bounds.

Regulators viewed this as a flaw in the current Regulations and proposed setting a limitation (implicitly 16 hours) on the elapsed time, from the time the driver reports for work (on-duty). This resulted in a significant debate among regulators and stakeholders concerning the appropriate length of shift. Various limits were considered, however, no specific research or scientific literature could be cited to guide regulators. The proposal for a 16-hour window was opposed by industry, which preferred an 18-hour window.

At its September 2004 meeting, the Council of Ministers Responsible for Transportation and Highway Safety directed the CCMTA to conduct an objective evaluation of the impacts of the 18-hour window in consultation with all stakeholders, including drivers. The evaluation included an expert panel review, driver input from focus groups conducted across Canada, and CCMTA associate member input.

The result of this protracted consultation culminated in agreement to implement the 16-hour window limit.

The Department believes that the inclusion of an elapsed time limit of 16 hours was implicit in the CG Part I proposal. (The combination of 8 consecutive hours off-duty, within a 24-hour day, left only 16 hours of elapsed time to complete the work shift.) However, this specific element was inadvertently excluded in the CG Part I pre-publication. All parties now support the inclusion of a 16-hour elapsed time in the new Regulations.

North of Latitude 60°North

The current federal hours of service regulations contain specific provisions pertaining to operations North of the geographical reference Latitude 60°North. This area includes Yukon, Northwest Territories and would include, in the future, Nunavut if the construction of a road results in motor carriers crossing provincial/territorial boundaries. All operators who cross south of Latitude 60°North are required to adhere to all South of 60° provisions in the Regulations, as soon as they cross the boundary.

Special provisions are recognized to be necessary in this northern region of Canada due to its unique geographical and climatic conditions. Winter ice roads, extensive road closures, a paucity of proper road side pull offs and facilities, and long stretches of isolated highway warrant greater flexibility.

The provisions for the North do not specify daily limits and extend the elapsed time limit to 20 hours, though they retain the existing 15-hour and 18-hour limits for driving and on-duty time, respectively. The elapsed time limit effectively prevents unlimited extension of the work shift that is possible under the existing Regulations. Upon reaching either the driving, on-duty or elapsed time limits, a driver will be required to take a minimum of 8 consecutive hours off-duty.

Transport Canada data do not raise road safety concerns pertaining to commercial vehicle operations in the North, and the Department is satisfied that safety will not be compromised as a result of continuing special provisions. Both industry and the territorial governments support the proposed changes.

Compliance and Enforcement

Provincial governments are responsible for enforcing hours of service regulations.

Transport Canada will monitor the implementation and enforcement of the *Commercial Vehicle Drivers Hours of Service Regulations* through the meetings and discussions of the appropriate CCMTA standing committees, through bilateral discussions with jurisdictions and industry representatives, through periodic reporting and through occasional studies on implementation and consistency as may be undertaken by the Department.

Section 26 of the MVTA requires that the Minister table with Parliament a comprehensive review of the amendments to the Act passed by Parliament in 2001. Proclamation bringing these amendments into force will be January 1, 2006. The review is to occur during the fifth year after coming into force. By this time, the revised hours of service regulations will have been in force in all jurisdictions for a meaningful period of time. Although the MVTA amendments do not directly affect the new Regulations, a concurrent review of the new hours of service rules would be logical and complementary and will be included as **part** of the comprehensive review.

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[Footnote a](#)

R.S., c.29 (3rd Supp.)

[Footnote b](#)

R.S., c. 29 (3rd Supp.)

[Footnote c](#)

S.C. 2001, c. 13

[Footnote d](#)


S.C. 2001, c. 13

[Footnote 1](#)

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NOTICE:

The format of the electronic version of this issue of the *Canada Gazette* was modified in order to be compatible with hypertext language (HTML). Its content is very similar except for the footnotes, the symbols and the tables.


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