



TRANSPORT CENTER UPDATE

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MK CONTACT INFORMATION

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It's About the Hours

The long awaited, much anticipated proposed revisions to the hours-of-service regulations were released on December 23, 2010. The proposals, if adopted, will alter the operations of our industry and economics of motor transportation.

We will be presenting a webinar sponsored by KCI Insurance on January 3, 2010 at 1:00 p.m. and again at 4:00 p.m. Please email if you are interested in receiving a link to participate in the webinar.

A. PROPOSED CHANGES

The proposed regulations would make seven (7) changes to the current regulations. They can be summarized as follows:

1. Hours of driving

During the lengthy wait, concern mounted as to whether the proposal would be to retain the 11 hours of driver or shorten them to 10 hours. The answer was...yes.

The proposal remains undetermined as to the permissible time for driving. While favoring a 10 hour driving period, the FMCSA has refrained from finality pending consideration of the comments and any additional data received.

Your comments on this issue are vital. You may do so by going to

M&K Upcoming Events:

Jan. 3rd @ 1pm and 4pm
- Proposed Hours of Service Rule Webimar - Presented by Doug Marcello and hosted by KCI Insurance - to get more information or to register send us an email.

For more current updates on events, follow M&K on [Facebook](#) and [Twitter](#).

MORE HOS RESOURCES:

[FMCSA'S HOS WEBSITE](#)

<http://www.regulations.gov> or you can use any of the other methods listed in the left-hand column of this Newsletter. If you are commenting on these proposed rules, be sure to reference docket number FMCSA-2004-19608 and all comments are due no later than February 28, 2011.

2. "Driving Window"

The regulations retain what is called the "driving window" of fourteen (14) hours. It is generally akin to the "clock in/clock out" period now applicable.

However, the proposal would permit the "window" to be extended to sixteen (16) hours twice per week. This provision, akin to the current local driver provisions, is now extended to all drivers.

3. Duty Time within the "Window"

As with driving time, the proposed regulations limit the "on-duty" time for drivers. This would limit the "on-duty" time to thirteen (13) hours within the "driving window".

The result-while a driver has 14 hours during which he could drive, he may only be on duty for 13 of those hours. This appears intended to promote breaks during the work day.

4. Driving period

Drivers would be limited to seven (7) hours of driving after their last off-duty or sleeper-berth period of at least 30 minutes. Together with the 13 hour "on-duty" limit, the provision appears yet another attempt to provide for mid-day breaks.

5. 34-Hour Restart

Reports of the death of the 34-hour restart were greatly exaggerated...kind of.

The good news is that there remains a creature referred to as the 34-hour restart. The bad news is that it is barely

[COPY OF PROPOSED
RULE](#)

[HOS - FAQs WEBSITE](#)

[HOW TO SUBMIT
COMMENTS](#)

[COMMENT
VIA INTERNET](#)

SAFEDRIVERHOURS.COM

Upcoming Events in the Industry:

Jan. 17th - 19th - UMA Motorcoach Expo, Tampa, FL for more info click [here](#).

Jan. 19th - 23rd - Jump Start 2011, Defining Success in Transportation, Atlanta, GA, for more info click [here](#).

Jan. 31st - Feb. 4th - COHMED Conference, Tampa, FL. For more info click [here](#).

Feb. 4th-5th - 2011 Mid-West Truck Show & Convention, Peoria, Ill. For more info click [here](#).

Be Heard: How to Comment on Proposed Rules

Comments on the proposed rule may be submitted several ways:

Via mail - You may send a written, signed comment to Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE,

recognizable.

Any 34-hour restart must now include two (2) periods between midnight and 6 a.m. Additionally, it may only be used once per week-no sooner than 168 hours after the beginning of the previously designated restart.

6. "On-Duty" Redefined

Hemorrhaging of valuable time while waiting at a shipper will be lessened by the proposed revisions of the definition of "on duty". Under the proposed definition, the time spent in or on a non-moving commercial motor vehicle may be logged as "off duty."

7. Oilfield Exception

The oilfield exception would be revised under the proposal. It would be clarify the language on waiting time. It would also provide that waiting time would not be included in the calculation of the driving window.

B. MORE INFORMATION

You can obtain a copy of the proposed regulations by going to the link in the right margin of the newsletter. You can keep up-to-date at the ATA Hours-of-Service website at <http://www.safedriverhours.com/>.

Keep up to date on our blog at <http://www.cdl-law.com/blog/> or by following us on Twitter and Facebook.

C. THOUGHTS

We are early in the process of evaluating and calculating the potential effects of the proposed revisions. We will post the thoughts of greater minds than ours on our blog, Twitter, and Facebook as they become available.

Each of your companies will have to individually evaluate the effect on your operation. Your loads, routes, schedules as well as tracking of loads and driver time will all need to be considered in adjusting to the proposed revisions.

For now, we can at least appreciate the

Washington, DC 20590-0001.

Hand delivery - You may also hand deliver your comment to Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

Via Fax - You may send your written comment to (202) 493-2251.

Electronically - You may submit a comment through the Federal eRulemaking Portal located at <http://www.regulations.gov>.

Helpful tips for commenting on proposed rules:

- Be sure to reference the proposed rule's docket number which can be found at the beginning of the proposed rule.
- To avoid duplication, you should only submit a comment through one of the four methods listed above.
- Indicate which section of the proposed rule your comment applies.
- Provide the reason for each suggestion and/or recommendation you include in your comment.
- FMCSA also recommends that you include your preferred contact information so that if they have any questions or follow-up on your submission they may contact you.
- If you send your comment via mail and wish to receive confirmation of its receipt include a self-addressed

potential framework of a post-revision world. The structure of a driver's day would be as follows:

- a. 14 hours are permitted to complete driving from the time going "on duty". Extensions to 16 hours are available twice per week;
- b. 13 hours of that time may be on-duty, resulting in a required hour of "off-duty" or "sleeper-berth" time during a day in which the driver goes to the end of the 14th hour. Without the break, the driver must log out after 13 hours;
- c. 10 or 11 hours of driving during the 13 "on-duty" hours within the 14 hour window;
- d. 7 hours limit of driving after the last "off-duty" or "sleeper berth" time of at least 30 minutes. So if the driver goes on-duty for 3 hours before driving, he is limited to 4 hours of driving before taking the mandatory break. This may be softened by the proposed allowance to log "off-duty" while in or on a non-moving CMV. For example, a 30 minute wait at a shipper can now restart the clock for the 7 hour driving time and will not count towards the 13 hours of "on duty" time permitted. Preplanning breaks will be at a premium to the extent it is possible.
- e. 34-hour restart once per week (after 168 hours) required to cover two periods of midnight to 6 a.m. Ben Hogan said that a golf hole should be planned from the hole back. Similarly, the period requirements of the 34-hour restart now must be planned backwards. Pulling in at 1 a.m. would mean that would require 53 hours on the sidelines to get credit for the restart.
- f. Time in or on a non-moving CMV can be logged "off duty".

stamped envelope with your submission.

- Comments that have been submitted may be viewed online at <http://www.regulations.gov> or in person at the Docket Management Facility in Room W12-40 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, with the exception of holidays.

Documents and Resources Available From M&K

If you are interested in obtaining copies of the following, please call or email.

- Hours-of-Service Rules Safety Impact 2010 Analysis compiled by ARTI in May 2010
- Accident preparedness DVD and/or forms
- Powerpoint presentation regarding CSA 2010 presented by ATA
- Powerpoint presentation by Dr. Hickman regarding Distracted Driving Study presented at M&K Seminar

To see M&K's recent case results and articles click [here](#).

Other Resources

FMCSA Distracted Driving Instructional Videos click [here](#).

[PA Motor Trucking Association](#)

[American Trucking Association](#)

Additionally, the first 2 hours after a team driver spends 8 hours in the bunk will be able to be logged as "off duty".

This is just the beginning of an ongoing process that will culminate with the publications of the final regulations in July, 2010 as required by the FMCSA's Court settlement.

Now is the time to voice your opinions and concerns. Follow the ATA Hours-of-Service page. Submit your comments to the FMCSA. Your window to do so is limited.

FMCSA Proposes Restrictions On Mobile Phone Use By Commercial Drivers

On December 17, 2010, FMCSA published a proposed rule that would ban the use of cellular phones while operating a commercial motor vehicle. This proposed rule is another step FMCSA is taking to reduce distracted driving. The agency and U.S. Dept. of Transportation have undertaken a national movement to create awareness of the dangers of distracted driving and to reduce it. Earlier this year, a rule that banned texting while operating a commercial motor vehicle was finalized and became law. The U.S. DOT has also initiated its "Faces of Distracted Driving" series which can be viewed at <http://www.distraction.gov/faces/>. The website features videos of loved ones speaking about the impact distracted driving has had on their lives and the lives of their loved ones.

The December 17th Rule proposes to restrict the use of hand-held mobile phones, including cellular phones, by commercial drivers who are operating in interstate commerce. The rule defines "using a hand-held mobile telephone" as "using at least one hand to hold a mobile telephone to conduct a voice communication or reach for or dial a mobile telephone." To see a copy of the

[Trucking Industry Defense Association \(TIDA\)](#)

[Federal Motor Carrier Safety Administration](#)

[PA Travel InformationTo-Go](#)

[National Traffic and Road Closure Information](#)

For more resources click [here](#)

QUOTE OF THE MONTH

"Many years ago I resolved never to bother with New Years resolutions, and I've stuck with it ever since."

~ Dave Beard



proposed rule check out FMCSA's Proposed Rule website by clicking [here](#). Initial comments may be made within 60 days of the date the proposed rule was published in the Federal Register and reply comments are due within 90 days of the date the proposed rule was published in the Federal Register.

Free Presentations for Your Driver Meetings

We provide FREE presentations at driver's meetings geared toward our client's topics of interests. Recently, we finished filming a mock trial cross-examination of a driver as part of a new presentation.

Please let us know if you are interested.

About Our Firm

Founded in 2005, **M&K, LLC** is dedicated to and focused upon transportation law and the needs of their transportation clients. Since opening in 2005, **M&K, LLC** has expanded its office to provide clients with the attention and availability they deserve.

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LET US KNOW WHAT YOU THINK

We want to focus our articles on the issues and concerns of our subscribers. If you have suggestions for our newsletter please do not hesitate to contact us.

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