

# Department of Transportation Considering Changes to Trucking Hours of Service Rule

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On August 23, 2018, the Federal Motor Carrier Safety Administration (FMCSA) published an [Advance Notice of Proposed Rulemaking](#) (ANPRM) seeking information and public comment about several changes in the Hours of Service limits for commercial drivers that it was considering. The comment period is scheduled to end on September 24, 2018. FMCSA is also holding [public listening sessions](#).

In order to promote safety by reducing the incidence of fatigue among commercial drivers, in 1935 Congress authorized the Department of Transportation (DOT) to limit the number of hours a driver could drive. The regulation limiting the driving time of commercial drivers is known as the Hours of Service (HOS) rule. Currently, the HOS rule limits drivers hauling freight to a maximum of 11 hours of driving time in an on-duty period of up to 14 hours, followed by at least 10 hours off duty before coming on duty again; also, drivers must take a break of at least 30 minutes no later than eight hours after coming on duty if they wish to continue to drive after that eighth hour. Drivers transporting passengers have slightly different limits.

Until December 2017, drivers kept track of their service hours by filling out a paper log book. It was an open secret that drivers often violated the HOS limits, and that the paper logs filled out by the drivers themselves made such violations easy to hide. For decades, highway safety groups had called for a more secure method of recording the service hours of drivers. In 2012 Congress [mandated](#) that trucks be equipped with electronic logging devices (ELDs), and in [2015 DOT finalized a rule to implement that mandate](#). DOT set the mandate to take effect in December 2017 to give the industry time to prepare for the change.

Since the ELD mandate went into effect, certain sectors of the commercial trucking industry have complained about its impact. Since the ELD mandate did not change the HOS rule, but merely made it harder to evade the HOS limits without being detected, those complaints suggest that some industry practices had not been in compliance with the HOS rule.

In establishing regulations, government agencies consider the costs and benefits of the regulations. While the HOS rule contributes to highway safety, it also imposes costs on industry by limiting a range of possible business practices. In consideration of those costs, Congress and DOT have created exceptions to the HOS rule for certain sectors of the

commercial trucking industry. Generally, these are sectors in which drivers' typical work schedules involve short periods of driving and long periods of being on duty but not driving (e.g., utility services, oil field operations). The changes FMCSA is considering would address complaints from certain sectors of the trucking industry now that the HOS rule is being enforced through electronic logging.

The changes being considered are the following:

- **Short haul operations.** Drivers who operate within a 100 air-mile radius of their normal work reporting location, and whose on-duty time does not exceed 12 hours, are not required to record their driving time or use an ELD. FMCSA is considering expanding the on-duty time period for the short-haul operations exception to 14 hours, matching the on-duty period for other truck drivers.
- **Adverse driving conditions.** Drivers are allowed two extra hours of driving time under adverse conditions, which are defined as "snow, sleet, fog, other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun." (49 C.F.R. §395.2.) This exception allows a driver up to 13 hours of driving time, but does not extend the 14-hour on-duty limit. FMCSA is considering adding two hours to the 14-hour on-duty period for adverse conditions.
- **30-minute break.** FMCSA is seeking information on alternatives to, and the impact of eliminating, the required minimum 30-minute rest break after no more than eight hours have passed since the driver either (a) came on duty or (b) spent a period of at least 30 minutes in the sleeper-berth of a truck.
- **Split sleeper berth time.** A driver in a truck with a sleeper berth can divide the minimum 10 off-duty hours into two separate periods totaling at least 10 hours; one of those periods must include at least eight hours spent in the sleeper berth ("the sleeper berth option"). FMCSA plans to begin a pilot program giving drivers more flexibility in the length of the sleeper berth periods in the fall of 2018; it is also requesting comments on the existing sleeper berth option.

In addition, FMCSA is considering two petitions for changes to the HOS rules, one from the Owner-Operator Independent Drivers Association of America (OOIDA), the other from TruckerNation, a social media-based advocacy group for truck drivers and companies. [The OOIDA petition](#) asks that drivers be allowed to take a rest break of up to three hours in the midst of their on-duty period; the rest break would not count against the driver's on-duty time, so the driver's on-duty period could increase from 14 hours after reporting for duty to 17 hours (with the three-hour off-duty rest break in between). The [TruckerNation petition](#) asks that the minimum 10-consecutive-hour off-duty period be replaced with multiple periods of at least three hours off duty at the driver's discretion, to equal 10 total hours off duty in a 24-hour period. This would allow drivers to rest more often, but for short periods, throughout the day. FMCSA requested comments on how these changes could impact drivers' circadian rhythms; one purpose of the 14-consecutive-hour on-duty/10-consecutive-hour off-duty requirement is to promote restful sleep by minimizing disruptions to drivers' circadian rhythms from driving at different times each day. Both petitioners also request that the mandatory 30-minute break after eight hours on duty be eliminated.