



2012 vs. 2013 HOS rule

Effective July 1, 2013 the following changes will be in effect unless delayed by court action

The major changes required as of July 2013 will include adjustments to the 34hour restart and a minimum 30 minute rest break in the first 8 hours of coming on duty. There is also a change to the definition of on duty time which will allow for periods behind the wheel or in the passenger seat to be recorded as off-duty time.

PROVISION	PRIOR RULE	FINAL RULE - COMPLIANCE DATE JULY 1, 2013
Limitations on minimum "34-hour restarts"	None	(1) Must include two periods between 1 a.m.- 5 a.m. home terminal time. (2) May only be used once per week.
Rest breaks	None except as limited by other rule provisions	May drive only if 8 hours or less have passed since end of driver's last off-duty period of at least 30 minutes. [HM 397.5 mandatory "in attendance" time may be included in break if no other duties performed]
PROVISION	PRIOR RULE	FINAL RULE - COMPLIANCE DATE FEBRUARY 27, 2012
On-duty time	Includes any time in CMV except sleeper-berth.	Does not include any time resting in a <u>parked</u> vehicle (also applies to passenger-carrying drivers). In a moving property-carrying CMV, does not include up to 2 hours in passenger seat immediately before or after 8 consecutive hours in sleeper-berth.
Penalties	"Egregious" hours of service violations not specifically defined.	Driving (or allowing a driver to drive) more than 3 hours beyond the driving-time limit may be considered an egregious violation and subject to the maximum civil penalties. Also applies to passenger-carrying drivers.
Oilfield exemption	"Waiting time" for certain drivers at oilfields (which is off-duty but does extend 14-hour duty period) must be recorded and available to FMCSA, but no method or details are specified for the recordkeeping.	"Waiting time" for certain drivers at oilfields must be shown on logbook or electronic equivalent as off duty and identified by annotations in "remarks" or a separate line added to "grid."

Definition of On-Duty Time amended

The FMCSA is excluding from the definition of on-duty time:
 anytime resting in a parked vehicle, or
 up to 2 hours in the passenger seat of a moving property-carrying CMV,
 immediately before or after 8 consecutive hours in the sleeper berth.

No driving after 8 hours unless a break of 30 or more minutes has been taken

The final rule requires that if more than 8 consecutive hours on duty have passed since the last off-duty (or sleeper-berth) period of at least half an hour, a driver must take an off-duty or sleeper berth break of at least 30 minutes before driving.

Recommendation: Develop a company policy that requires drivers to take a 30 minute break for every 6 hours on duty or portion thereof. This will allow for one hour off-duty each day during 12 hour shifts. At the end of a week you will have an additional 5 hours available under the 60/70 hr. rule.

How does compensation relate to on-duty time?

The fact that a driver is paid for a period of time does not establish that the driver was on duty. A driver may be relieved of duty under certain conditions and still be paid.

Do I have to take a break exactly 8 hours after I come on duty?

The rule prohibits *driving* if more than 8 consecutive hours have passed since the last off-duty period of at least 30 minutes. For example, if a driver spends 2 hours loading at the beginning of the day, then has a 10-hour drive the driver must take the break no later than 8 hours after coming on duty. The driver can, however, take the break earlier.

New HOS 34 hour restart

The 34 hour restart provision has changed significantly. Professional truck drivers who maximize their 60/70 hour work week will be required to take at least two rest periods between the hours of 1:00 a.m. to 5:00 am to utilize the 34hr restart provision. This may only be used once per week (168hrs).

Recommendation: Drivers who operate under the 70hr rule in 8 days may have use of more than one restart during that period as long as the 168 rule is complied with. **Remember no 34 hr. restart is required if the driver stays under the 60/70 hr rule**

Increased Penalties

Companies and drivers that commit egregious violations of the rule could face the maximum penalties for each offense. Trucking companies that allow drivers to exceed the 11-hour driving limit by 3 or more hours could be fined \$11,000 per offense, and the drivers themselves could face civil penalties of up to \$2,750 for each offense.

There have been no changes to the following HOS exceptions:

- 100/150 air mile radius exception
- 16hr local on duty exception
- Adverse/Emergency driving exception

Details and additional information are available at: www.fmcsa.dot.gov/rules-regulations/topics/hos-final/hos-final-rule.aspx

If you would like more information please visit our web site at www.49cfr.com or contact our office at 1-609-426-0555.

