

**U.S. Department of Transportation's
Federal Motor Carrier Safety Administration**

Debunking the Myths on Federal Hours-of-Service Rules for Truck Drivers

Myth: *FMCSA has applied a one-size-fits-all Hours-of-Service rule and refused to provide any flexibility or options for relief from the regulation for the affected industries.*

Fact: As authorized by Congress, FMCSA carefully considers and collects public comments on all applications for exemptions from federal regulations -- including the Hours-of-Service rules for truck drivers. An exemption provides a person or class of persons with relief from the regulations for up to two years, and may be renewed. To-date, FMCSA has received four petitions for exemptions, which address only the 30 minute break requirement of the Hours-of-Service rule. Two of the petitions have been granted: (1) for carriers of the livestock industry, and (2) for the U.S. Departments of Defense and Energy contractors.

FMCSA has no authority to issue an exemption unless an application is first submitted to the Agency. Not a single party or segment of the trucking industry has even applied for an exemption from the new restrictions on the 34-hour restart.

Myth: *There was no need to update the Hours-of-Service rule.*

Fact: Nearly 4,000 people die in large truck crashes each year and driver fatigue is a leading factor. In 1995 and again in 1999, Congress directed the U.S. Department of Transportation to address fatigue-related motor carrier safety issues. Through a series of rulemakings, FMCSA attempted to do so but was embroiled in litigation – from both sides -- for almost a decade, creating uncertainty for the industry.

In 2011, after years of research and public input from industry and safety advocates, FMCSA finalized the rule that took effect on July 1, 2013 and is in place today. In August 2013, the U.S. Court of Appeals for the District of Columbia Circuit upheld the current Hours-of-Service rules, after twice overturning previous versions. The Court said, "...our decision today brings to an end much of the permanent warfare surrounding the HOS rules."

Myth: *The latest Hours-of-Service rule was put into place without proper research, study or public input.*

Fact: Before finalizing the current Hours-of-Service rules, FMCSA held six public listening sessions and an online question and answer forum, and it carefully considered approximately 21,000 formal docket comments that were submitted from drivers, carriers, state law enforcement, safety advocates and industry associations.

The 2011 final rule lists 80 sources of scientific research and data the Agency reviewed and considered, and the Regulatory Impact Analysis cited nearly 50 scientific sources. All of this was on top of hundreds of studies regarding fatigue and hours of work that were considered in past Hours-of-Service rulemakings, including research on the appropriateness and value of a "restart."

Myth: *There is no scientific basis for the current, more restrictive 34-hour restart provision in the current rule.*

Fact: The FMCSA limited use of the 34-hour restart in the new rule to once every 168 hours (seven days) based on the extensive body of research that shows the consequences of long work hours on driver health, and the correlation between long weekly work hours and a higher risk of sleep loss and crashes.

The CDC's National Institute for Occupational Safety and Health published a comprehensive study in April 2004 entitled "Overtime and Extended Work Shifts: Recent Findings on Illnesses, Injuries, and Health Behaviors" [Caruso, C.C., et al. (2004)]. The NIOSH report documents published research on long work hours (greater than 8 hours work per day) and an extended work week (greater than 40 hours per week).

This scientific review generally concluded that long work hours were associated with poorer health, increased work-related and non-work related injury rates, increased illness, a greater risk of unhealthy weight gain, cardiovascular disease, increased alcohol use, increased smoking, poorer neuropsychological performance, reduced vigilance on task measures, reduced cognitive function, reduced overall job performance, slower work, and decreased alertness and increased fatigue -- particularly during in the 9th to 12th hours of work.

Subsequent to publication of the current rule, a third-party field study -- one of the largest ever conducted using commercial motor vehicle drivers -- confirmed the importance of limiting use of the 34-hour restart. The naturalistic field study to measure fatigue among commercial motor vehicle drivers concluded that the current 34-hour restart provision requiring two periods of rest from 1-5 a.m. is more effective at combatting fatigue than the previous version, which did not. This research was peer-reviewed to ensure the methodology and results were solid.

In this study, researchers measured sleep, reaction time, subjective sleepiness and safe driving performance, and found that drivers who began their work week with just one nighttime period of rest, as compared to the two nights in the updated 34-hour restart break:

- Exhibited more lapses of attention, especially at night;
- Reported greater sleepiness, especially toward the end of their duty periods; and
- Showed increased lane deviation in the morning, afternoon and at night.

Myth: *All truck drivers are negatively impacted by the updated rule. The Senate Appropriations amendment fixes this.*

Fact: A driver is never required to use the 34-hour restart. A 34-hour restart is only necessary if a long-haul truck driver wants to work longer than 60 hours in 7 days or 70 hours in 8 days. Less than 15 percent of long-haul truck drivers -- those who work the most extreme schedules -- are even impacted by the current rule, according to the Regulatory Impact Analysis for the 2011 Hours-of-Service rule. Those averaging 70 hours per week or less are not affected by the changes to the 34-hour restart because they would never work the number of hours that would require them to use the restart under the current rule. However, any carrier that previously allowed or required its drivers to average up to 82 hours per week -- which was allowed under the old rule -- is now required to stop this practice.

The Senate amendment would allow drivers to return to the extreme schedules allowed under the pre-July 2013 rule, when a company could require a driver to work a maximum average of up to 82 hours, week, after week, after week.

Working long daily and weekly hours on a continuing basis is associated with cumulative fatigue, a higher risk of crashes and a number of serious chronic health conditions in drivers.

Myth: *Crashes, injuries and fatalities were lower under the old Hours-of-Service rule.*

Fact: While the rate of fatal crashes involving large trucks per 100 million vehicle miles traveled decreased each year from 2005 through 2009, it rose, along with increased demand for freight shipping, from 2009 through 2012.

Myth: *The Hours-of-Service rule is hurting a trucker's ability to make money and trucking companies' bottom lines.*

Fact: This rule has been in place almost a full year; a year in which the industry has seen higher profitability than any year since 2009. Only those drivers who were working more than 60 hours in 7 days or 70 hours in 8 days may be affected by having their work limited to a maximum average of 70 hours per week; this is still nearly double the national standard of a 40-hour work week.

Myth: *The Hours-of-Service rule discriminates against nighttime drivers and forces them to be on the road during the day and prime rush hours.*

Fact: There is no body of evidence to support this claim, and supply chain professionals demand their trucking suppliers to make full use of the 24-hour day to move freight throughout our country. Many regular nighttime drivers are in the less-than-truckload segment and take full weekends off which automatically gives them two nights off-duty.

This rule also does not prevent carriers and drivers from setting their own schedules, nor does it restrict drivers from being on the road during any time of the day. Only drivers who run out of time during the work week (i.e., exceed 60 hours of work in 7 days or 70 hours in 8 days) and need to begin a new work week as soon as possible would have to use the 34-hour restart, including two nighttime periods from 1-5 a.m. Even then, there is no requirement that such a driver “hit the road” at 5 a.m.

Carrier selection to meet shipper needs has always been a factor in the highly mobile, highly competitive trucking industry. With less than 15 percent of long haul truck-drivers affected by the 34-hour restart, and many with variable schedules, the impact to morning rush hour would be statistically insignificant due to the distribution of these drivers across the country and the amount of other traffic already on the road.

Nonetheless, with an average of two truckloads of freight per person delivered in the U.S. every year, the U.S. DOT is committed to conducting research and analyzing the impacts of traffic patterns and delivery programs related to regulations, infrastructure capacity, congestion and public health.

Myth: *The rule’s drive time restrictions are forcing some drivers to shut down their trucks when they’re just a few miles from their destinations.*

Fact: The current Hours-of-Service rule, which went into effect on July 1, 2013, did not change the daily driving time limits or on-duty limits. Drivers have always been required to cease operations when they run out of time. No matter what the limits on driving and work hours are, if the motor carrier and driver plan the schedule so tightly that the driver can barely complete the run legally, this problem will occur.

Myth: *This rule is exacerbating the driver shortage.*

Fact: As the economy strengthens and demand increases, more truckers are needed to transport freight. However, high driver turnover is endemic in the trucking industry due to the difficult working conditions, low wages and the demands of the job. The American Trucking Associations determined that in 2013, driver turnover averaged 96 percent compared to 2005 when it reached an all-time high of 130 percent. Shortages of drivers, when and where they do exist, depend more on salaries and working conditions than on other factors.