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Hours of Service Rules Revisited

By: Eric Rosemann

On October 2005, revised hours-of-service (HOS) rules took effect — the first substantial change since 1939. The HOS rules were revised from April 2003, to improve highway safety and help reduce the number of truck crashes and related fatalities and injuries by addressing commercial motor vehicle driver fatigue.

The U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA) estimated that the revised rules would save up to 75 lives and prevent as many as 1,326 fatigue-related crashes annually.

Regulatory recap

For reference, the regulations are contained in Title 49, Part 395, of the Code of Federal Regulations. They apply to commercial motor vehicles involved in interstate commerce. A commercial motor vehicle is defined as: (1) a vehicle that has a gross weight or gross weight rating, or gross combination weight or gross combination weight rating, of 10,001 pounds or more; or (2) a vehicle that transports hazardous materials of a type and quantity which require placarding; or (3) a vehicle that is designed or used to transport more than 15 people (including the driver); or (4) a vehicle that is designed or used to transport between 9 and 15 passengers (including the driver) for direct compensation and is operated beyond a 75 air-mile radius (86.3 statute miles or 138.9 kilometers) from the driver's normal work-reporting location. Note that a "property-carrying" vehicle is not defined, rather, it is any commercial motor vehicle (as defined above) that does not carry passengers. Buses and other passenger-carrying vehicles must comply with the regulations as they existed before the changes were made in 2003.

It is curious to note that the majority of field enforcers seem to associate the relationship of size with the designation of commercial vehicle — big pickups with long trailers hauling whatever looks like pipe,



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hoses or boxes. Be aware that individual states also have hours of service regulations for intrastate operations, either by adopting the federal rules or by establishing their own rules.

Driving limits

Under the rules for property-carrying commercial motor vehicles, a driver may NOT drive such a vehicle: (1) more than 11 hours following 10 consecutive hours off duty; or (2) beyond the 14th consecutive hour after coming on duty, following 10 consecutive hours off duty; or (3) after being on duty more than 60-70 hours in any 7-8 consecutive days. Drivers who have access to sleeper berths may accumulate the equivalent of 10 consecutive hours of off-duty time in two separate periods, as outlined in 49 CFR §395.1(g). Now, some of you might use the 34-hour restart that says a driver of a property-carrying vehicle may “restart” a 7-8 consecutive-day period after taking 34 or more consecutive hours off duty. After the 34-hour period, the on-duty hours worked before that 34-hour period started no longer have to be considered when calculating the driver’s 60-70 hour limit. Since October 1, 2005, a driver can use this 34-hour restart option regardless of the number of hours accumulated under the 60-70 hour rule. Prior to that date, drivers had to be under the 60- or 70- hour limit before starting the 34-hour off-duty period.

If you qualify, an alternative to the sleeper berth and restart issues comes under the oilfield exemptions of the HOS rules. These exemptions under §395.1(d)(1 and 2), provides that these drivers are not required to log time waiting at a natural gas or oil well site as “on-duty, not driving” time. This specific group of drivers is allowed to extend, by the amount of their waiting time, the 14-hour period after coming on duty during which driving is allowed. Also, you can restart your 60-70 hour clock with a 24-hour off-duty period. If you don’t believe it, here is the reference:

(d) Oilfield operations. (1) In the instance of drivers of commercial motor vehicles used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(d)(2) In the case of specially-trained drivers of commercial motor vehicles which are specially constructed to service oil wells, on duty time shall not include waiting time at a natural gas or oil well site; provided, that all such time shall be fully and accurately accounted for in records to be maintained by the motor carrier. Such records shall be made available upon request of the Federal Motor Carrier Safety Administration.

Hopefully, all you of have been following these regulations diligently. In addition to the enforcement activities on the pickup and trailer crowd, field stops in general are on the increase — some for security reasons, some for immigration purposes, some for vehicular inspection and, of course, for HOS. Compliance audits include HOS requirements and you must be able to produce or account for the 180 days of logbook records at the time of the audit. If stopped by an enforcement agency, documentation is needed of the previous seven days available to confirm you are within the 60-70 hour rule. A little tip here, print with block letters, be neat, keep up with your change of duty status and time-line connections, and the field stop will go a lot smoother.

Now that HOS regulations are in place and being strictly enforced, further educational references can be obtained from websites of the FMCSA and the trucking industry. Let’s not forget the “root cause” that prompted all these regulations — death and destruction caused by fatigue. Mark Twain said “there are lies, damn lies and then statistics.” These statistics indicate a high incident rate of fatigue-related fatal accidents involving large commercial rigs. You can argue that some of those incidents are induced by tired, non-commercial drivers, but the fact is we are the ones being regulated, so we must deal with it.

The real deal is real fatigue by real drivers that are driving big, heavy rigs that may carry dangerous cargos. Fact is, big units are not quick stoppers and do not handle like a sports car, so we as commercial drivers must be more alert and more professional in our driving habits than that fellow in the real sports car that just swerved in front of us. Professionalism includes abiding by the rules. Even if we utilize all of the exceptions, exemptions and legal actions at our disposal, that is not enough. A driver — especially a CMV driver — should not drive in a fatigued or impaired condition, regardless of “being legal” by HOS standards. You may be legal in HOS, but you may also end up dead if driving while impaired.

Our industry is becoming safer every day. It is time to take charge of your own safety. Try to extend that concept to fatigue, regardless of the legal position. Tired is tired! Each individual’s reactions to

being tired varies. Know yourself. If you are too tired to drive, don't. Inform your employer on your fatigues status as well as your HOS status and adjust the schedule accordingly. A "good" employer will thank you for taking charge of safety — not only your own, but that of the company as well.

It is a given that the HOS will undergo more changes in the future. Regardless of what governmental body dictates the next forum, we will ultimately have to look at ourselves to govern our personal safety and that of our neighbor in the next lane. Ya'll be safe now, hear?

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