

**BACKGROUND AND CHRONOLOGY**  
**ON THE TRUCK DRIVER HOURS OF SERVICE (HOS) RULES**  
*American Trucking Associations – December 2011*

The truck driver HOS rules were originally established by the federal government in 1939. In 1995, Congress directed the U.S. DOT to establish new rules that incorporate current science about fatigue and alertness. Between 1939 and 2003, the HOS rules remained in effect and virtually unchanged (e.g., only minor changes were made in 1962).

DOT published new rules in April 2003 which increased the minimum amount of rest time between shifts by 2 hours (from 8 to 10 hours), decreased the maximum on-duty shift to 14 consecutive hours (versus 15 non-consecutive hours in the old rules), and limited weekly on-duty time to 60 hours. The rule also allowed 1 additional hour of driving each shift (from 10 to 11 hours), and provided a driver with the ability to “restart” their weekly on-duty time limit after taking at least 34 consecutive hours off-duty. The rules became effective in January 2004.

Responding to a legal challenge brought forth by Public Citizen, the Teamsters, the Truck Safety Coalition (i.e. CRASH & PATT), and Advocates for Highway and Auto Safety, in July 2004 the U.S. Court of Appeals for the D.C. Circuit overturned the rules based on DOT’s failure to perform one statutorily mandated analysis concerning driver health.

Congress passed a law in September 2004 to keep in place for one year the 2003 rules while DOT conducted its analysis and issued new rules.

In August 2005 DOT issued new HOS rules similar to the 2003 rules but with one significant change in how drivers could use a truck’s sleeper berth to obtain rest. This ‘sleeper berth’ change was unwelcome by the industry and drivers; however, since the rest of the rules were consistent with the April 2003 rules, the industry was generally satisfied.

In response to another legal challenge by Public Citizen et al., the U.S. Court of Appeals for the D.C. Circuit in July 2007 overturned the rules for a second time based on procedural errors made by DOT in the rulemaking process. The Court made clear that its decision to vacate was based on DOT’s procedural errors.

On December 17, 2007 DOT issued an interim final rule (IFR) that retained the 2005 rules and which addressed the procedural issues identified by the Court.

On November 19, 2008, FMCSA published a final rule that retained the 2005 rules, including the 11-hour driving limit and 34-hour restart provisions. One month later FMCSA received a petition for reconsideration filed by Public Citizen et al. FMCSA denied this petition on January 16, 2009 and three days later the HOS rule went into effect.

With a new administration in place however, Public Citizen et al once again submitted their petition for reconsideration in March 2009 challenging the latest publication of the rule. In October 2009, politically appointed DOT officials signed a litigation settlement agreement with Public Citizen, et al and filed it with the D.C. Circuit Court of Appeals. Under this agreement, DOT and FMCSA agreed to “review and reconsider” the HOS rules. The agreement also committed FMCSA to publish a proposed rule in the fall 2010 and finalize an HOS rule by July 2011.

On December 23, 2010, FMCSA proposed new, more restrictive, and more complex HOS rules, with a public comment period until early March 2011. During that period FMCSA received more than 25,000 comments, the vast majority written in support of keeping the existing rules in place and opposing FMCSA’s proposed changes.

On May 9, 2011, FMCSA placed four new research reports in the HOS docket and re-opened the public comment period for 30 days until June 8, 2011. FMCSA informed the D.C. Circuit of its intention to issue a final rule by late October 2011. FMCSA missed the October 2011 deadline and was granted a one month extension. In a late November 2011 Court filing, FMCSA signaled its intention to publish a final hours of service rule by December 28, 2011 or perhaps sooner.