

## TRUCKING INDUSTRY ASKS FOR FLEXIBILITY IN HOS REGS

On January 28, 2010, the Federal Motor Carrier Safety Administration (FMCSA) held the fourth of four “listening sessions” to gather information and comments to assist the agency as it prepares another rulemaking proposal on hours-of-service (HOS) requirements for property-carrying commercial vehicle drivers.

The current HOS regulations took effect on 1/19/09. However, these “new” rules did not change the HOS rules in effect since October, 2005, in any significant way. The current HOS regulations contain three maximum duty limits; the 14 hour duty limit, 11 hour driving limit and a 60/70 hour “weekly” limit.

The 14 hour rule is a target for change based upon the comments presented at the latest hearing. Currently, a driver is allowed 14 consecutive hours of duty time being off duty for 10 or more consecutive hours. The 14 hour “clock” runs even if a driver takes some off duty time, such as a nap or a meal, during those 14 hours §395.3(a)(2). If a driver has a sleeper berth, the 10 hours off duty may be split if 8 consecutive hours are spent in the berth, followed or preceded by at least 2 hours off duty and/or in a sleeper berth. Compliance is calculated from the end of the first two breaks §395.1(g).

To “remedy” the problems with the 14 hour rule, suggestions include:

- Allowing a 2 to 4 hour break during a duty period that wouldn't count toward the 14 hours; or
- Increasing the 14-hour window to allow for detention time or a break.

The “34 hour restart” provision is under scrutiny as well. This Rule allows a driver to “restart” your 60 or 70-hour clock calculations after having at least 34 consecutive hours off duty. In other words, after you have taken at least 34 hours off duty in a row, you have the full 60 or 70 hours available again. You would then begin counting hours on the day of the restart and not go back the full 7 or 8 days.

Although the FMCSA only scheduled 4 listening sessions, the agency has agreed to hold a fifth session, date and place to be announced.

If you have questions regarding the HOS rules or how you can be heard during the FMCSA's consideration of changes to those rules, contact a Reminger office and ask to speak with a transportation attorney listed in this website under that particular office.