Executive Summary - The deadline for compliance with the Federal Motor Carrier Safety Administration (FMCSA) 2011 amendments to driver hours of service regulations is July 1, 2013. The changes affect all petroleum marketers who employ CDL/HAZMAT drivers. The new rule requires a thirty minute break period for drivers, restricts and limits the 34-hour restart provision, and imposes new fines for violations. The rule also shortens the maximum weekly work hours for drivers from a possible 82-hours to 70-hours over an eight-day period or 60-hours over a seven-day period by restricting use of the 34-hour restart provision to once weekly. Other provisions in the HOS such as the 11-hour maximum daily driving period and the 14-hour maximum daily on-duty period remain unchanged.

REMININDER! CHANGES TO DRIVER HOURS OF SERVICE RULE EFFECTIVE JULY 1, 2013

The U.S. DOT’s Federal Motor Carrier Safety Administration (FMCSA) issued a final rule in December 2011 that amends CDL/HAZMAT driver hours of service (HOS) regulations. The 11-hour maximum daily driving period remains in place but requires a 30-minute rest period. The 14-hour driving window remains unchanged. However, restrictions and limitations on the use of the 34-hour restart provision, the mechanism used by driver’s to restart their work week, significantly reduces scheduling flexibility and pares down from 82 to 70 the maximum number of hours a driver can work in the week subsequent to the week that the restart provision was used. The compliance deadline for the new provisions in the HOS regulations is July 1, 2013. The five new or changed HOS provisions that affect petroleum marketers are explained in detail below:

1) Maximum 11-Hour Daily Driving Period:

The maximum 11-hour daily driving period remains unchanged under the new rule. The U.S. DOT had proposed to reduce the number of hours a driver could drive in a day to 10 but decided not to adopt the change due to opposition from industry groups including PMAA. Drivers may drive up to 11-hours within a daily 14-hour driving “window”.

Example: A driver has had 10 consecutive hours off, comes to work at 6:00 a.m. and drives from 7:00 a.m. until 2:00 p.m. (seven hours driving). The driver must take a 30-minute break to meet the new hours-of-service requirements (after July 1, 2013), and then he or she can drive for another four hours until 6:30 p.m. After 6:30 p.m., the driver must not drive again until having at least 10 consecutive hours off duty. The driver may do other work after 6:30 p.m., but cannot drive a commercial motor vehicle on a public road.
2) Mandatory 30-Minute Rest Period:

Under the new HOS rule beginning July 1, 2013, a driver must take a 30-minute break if more than eight consecutive hours have passed since the last off-duty period. Drivers may not drive after the eighth hour without taking the 30-minute. The new 30-minute break provision reduces the 14-hour driving window to just 13.5 hours per day (if the driver is driving after the eighth hour on duty). Meal breaks or any other off-duty time of at least 30 minutes qualifies as a break.

**Example:** If a driver starts driving immediately after coming on duty, he or she could drive for eight consecutive hours, take a half-hour break, and then drive another three hours for a total of 11 hours. In another example, this driver could drive for three hours, take a half-hour break, and then drive another eight hours for a total of 11 hours.

3) Maximum 14-Hour Daily On-Duty Period:

The maximum 14-hour daily “driving window” formerly called the driver’s “on duty period” is effectively reduced to 13½ hours due to the new 30-minute mandatory rest period requirement. A driver can drive the maximum 11 hours per day only within the 14-hour driving window after which 10 consecutive off duty hours is required before the driver may return to driving a CMV.

**Example:** A driver has 10 continuous hours off and comes to work at 6:00 a.m. The driver must not drive after 8:00 p.m. that evening, which is 14 hours later. The driver may do other work after 8:00 p.m., but cannot do any more driving until taking at least 10 consecutive hours off.

4) Mandatory 34-Hour Rest Period to Restart Driver’s Work Week:

The new rule limits when and how often a driver can “restart” the work week. The 34-hour restart provision is maintained in the new rule but significantly limited. The new HOS rule now requires the 34-hour restart period to include two periods between 1:00 a.m. to 5:00 a.m. to allow drivers the opportunity to sleep according to their natural circadian rhythms. The two 1:00 a.m. to 5:00 a.m. periods need not be consecutive. This change will likely force drivers who work overnight to be off duty for longer than 34-hours in order to get a valid restart. The new rule also limits the use of the restart period to once during any 168-hour period. Finally, if the driver has multiple 34-hour periods off within a seven-day period, the driver must indicate in log book or on time records which one of the 34-hour periods is being counted as the official restart. The new restart limitations effectively reduce the maximum number of hours a truck driver can drive during a work week from 82 hours to 70 hours.

**Example:** If a driver is following the 70-hour/eight-day limit and works 14 hours per day for five days in a row, the driver will have been on duty for 70 hours. The driver would not be able drive again until he or she drops below 70 hours worked in an eight-day period. However, if the driver’s employer allows use of the 34-hour restart provision, he or she would have driving time available immediately after 34 consecutive hours off duty. The driver would then begin a new period of eight consecutive days and have 70 hours available. However, effective July 1, 2013, the hours of service regulations limit the use of the 34-hour restart provision to once every 168 hours (once a week) and require that anyone using the 34-hour restart provision have as part of the restart two off-duty periods that include 1:00 a.m. to 5:00 a.m.
5) **New Definition of “Egregious” Violations:**

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 three 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. This rule allows, but does not require, the agency to treat these violations as egregious. An “egregious” offense negatively impacts carrier safety rating scores.

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