

moreover, would have achieved consistency with the terminology used by the DOL, allowing FMCSA to rely on DOL records in place of driver records of duty status.

The agency has decided to continue the distinction between driving time and on-duty time. Within the limits of a tour of duty usually lasting no more than 14 hours, the FMCSA believes there is little doubt that modern CMVs can be driven safely up to 11 hours, particularly because rest breaks can be expected to naturally occur during the course of that tour. The FMCSA believes that the last hour of a driver's duty tour would be expected to be driving time that comes near the end of a 13- or 14-hour workday and is persuaded that 11 hours is a more reasonable limit. FMCSA will continue to rely on the driver-prepared records of duty status and the documents that support those records.

#### *Weekly or Longer Cycle*

The scientific basis for proposing weekly restrictions is the finding from research studies that sleep debt from multiple periods of insufficient (poor quality or insufficient quantity) sleep is the major cause of cumulative fatigue. The recommended countermeasure is a recovery period during which restorative sleep may be obtained and the sleep debt repaid. The concept of a weekly recovery period was presented in the NPRM in the definition of workweek, *i.e.*, "any fixed and regularly recurring period of seven consecutive workdays," and in the number of hours required to be off-duty before beginning the next workweek.

The FMCSA has concluded that the current 60-hour in 7-day and 70-hour in 8-day limitations continue to be generally acceptable for CMV drivers and will retain those limits.

#### **Weekly Recovery Periods**

The NPRM proposed to require between 32 and 56 consecutive hours off duty every seven consecutive days. As explained previously in this document, the FMCSA has decided to retain the current requirement for passenger-carrying drivers, *i.e.*, these drivers may not drive passenger-carrying vehicles after accumulating 60 hours on-duty in any 7 consecutive days or 70 hours in any 8 consecutive days. If the driver accumulated duty time at the maximum rate he/she would reach the limit in 4¼ days and would have to take three consecutive days off-duty before he/she could drive CMVs again.

The FMCSA is modifying the rule for property-carrying drivers to include a restart provision. A property-carrying driver may not drive CMVs after accumulating 60 hours on-duty in any 7 consecutive days or 70 hours in any 8 consecutive days. If the driver accumulated duty time at the maximum rate, he/she would reach the limit in approximately 5 days and would have to take at least 34 consecutive hours off-duty before he/she could drive CMVs again. However, the driver could start a new seven- or eight-day period anytime he/she took 34 consecutive hours off duty.

#### *Short Rest Breaks During a Work Shift*

The NPRM proposed that additional off-duty time for personal reasons such as mid-shift meals, naps, and rest break periods would be allowed, but would result in no extension of the workday. As explained in the discussion of the comments on this provision, the FMCSA has decided to continue allowing off-duty periods for passenger-carrying drivers that may result in extension of the workday. The FMCSA will allow property-carrying drivers to take off-duty mid-shift meal, nap, and

other rest break periods, but those breaks will not extend the workday.

#### *Electronic On-Board Recording Devices*

The NPRM proposed to require EOBRS for Type 1 and 2, *i.e.*, long-haul and regional operations, that would have replaced driver-prepared paper records of duty status. The FMCSA has decided to maintain the current requirement for driver-prepared paper records of duty status, while allowing automatic recording devices to be used in lieu of the driver-prepared paper records of duty status at the motor carrier's option.

#### *Use of Department of Labor Time Records*

The NPRM proposed to use U.S. Department of Labor (DOL) time records for Types 3, 4, and 5 drivers (*i.e.*, local-split shift, local and primary work not driving) and to remove the distance-based limitation on use of such time records. As explained in the discussion of comments about the compliance and enforcement provisions of the NPRM, the FMCSA has chosen to maintain the current requirement for driver-prepared records of duty status and timecard records for 100 air-mile radius drivers.

#### *Conclusion*

This final rule incorporates the FMCSA staff alternative because it provides the best combination of increased driver alertness and reduced numbers of fatigue-related incidents, while providing cost effective safety benefits to society.

#### **Section-by-Section Analysis**

The FMCSA's jurisdiction over the HOS regulations for motor carriers and drivers is shown in Table 19. Motor carriers and drivers are also subject to applicable State motor vehicle and highway safety laws and regulations.

TABLE 19.—APPLICABILITY OF FMCSA HOURS OF SERVICE (HOS) OF DRIVERS RULEMAKING

If you operate a:	In interstate commerce	In intrastate commerce
CMV, <i>i.e.</i> , a motor vehicle(s) that has any of the following four characteristics: <ol style="list-style-type: none"> <li>1. A gross vehicle weight, gross vehicle weight rating or gross combination weight rating of at least 4,537 kilograms (10,001 pounds) whichever is greater; or</li> <li>2. Is designed or used to transport more than 8 passengers, including the driver, for compensation; or</li> <li>3. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or</li> </ol>	You must comply with all FMCSA HOS regulations. <sup>2</sup>	You are not subject to the FMCSA HOS regulations. You may currently be subject to similar State rules and may be subject to the final rule in this document, if your State or local government adopts final rules in order to participate in the Motor Carrier Safety Assistance Program, 49 CFR part 350.