

COMMERCIAL VEHICLES DRIVERS' HOURS OF SERVICE REGULATION

Background

In Alberta, the *Drivers' Hours of Service Regulation, AR317/2002*, under the *Traffic Safety Act*, governs the maximum allowable driving times and minimum required off-duty times for commercial vehicle drivers. The regulation governs drivers who operate buses with a seating capacity of 11 or more including the driver and trucks with a registered weight of 11,794 kilograms (kg) or more, and who are employed to drive commercial vehicles, or who operate commercial vehicles as part of their employment (i.e. trades people). This regulation only governs carriers who operate commercial vehicles solely within the province (intra-provincial undertakings). Carriers operating commercial vehicles outside of Alberta (extra-provincial undertaking) are governed by the federal regulation. The federal regulation applies to drivers of trucks registered in excess of 4,500 kg and to drivers of buses with a seating capacity of 11 or more including the driver.

The New Federal Regulation

On November 16, 2005 Transport Canada published a new *Commercial Vehicle Drivers' Hours of Service Regulation* in Canada Gazette Part II, with implementation scheduled for January 1, 2007. This new regulation is based on the revised National Safety Code Standard #9.

The federal, provincial and territorial governments, in conjunction with the trucking and bus industry and other stakeholders, negotiated significant changes and improvements to the national standard. These improvements and changes were developed over the past decade as a result of stakeholder input. The process was carried out under the auspices of the Canadian Council of Motor Transport Administrators (CCMTA). The development was a collaborative approach reflecting the interests of a wide variety of stakeholders.

Further input was received from many sources. A panel of academic experts in shift work, sleep and human performance was consulted. Also, an independent consultant was engaged by Transport Canada to gather information from over 60 stakeholders across Canada. Lastly, the Minister of Transport invited the House of Commons Standing Committee on Transport to examine the issue. The committee held hearings and allowed a range of interested parties to provide their viewpoints.

This extensive consultation process led to significant improvements to the national standard. As a result highway safety will be significantly enhanced. The following fatigue management rules will contribute to highway safety:

1. Drivers will have more of an opportunity to rest in order to recover from daily and cumulative fatigue.

Government of Alberta ■

2. Drivers will be required to take 10 hours off in a day and be restricted to a maximum 16 hour work shift.
3. Drivers will be encouraged to follow a regular schedule, rather than shifting work/rest schedules.

The rules are also simplified to make them easier to understand, comply with and enforce.

The Information Package

A short description of the proposed changes to the federal regulation is provided. As noted, a great deal of research and stakeholder consultation has gone into the regulation, with Alberta's involvement. It is anticipated that as this reflects a cross-Canada and cross-border attempt to harmonize these rules, provincial regulations across the country will essentially adopt the federal regulation as it has been proposed.

The new federal Commercial Vehicle Drivers' Hours of Service Regulation can be accessed through: <http://laws.justice.gc.ca/en/showtdm/cr/SOR-2005-313>

An Application Guide to assist in interpretation of the regulation is also available at www.ccmta.ca

Key Changes To The Federal Regulation

1. Under the current regulation, a driver can drive up to 16 hours in a calendar day. There is no specified minimum off-duty time for a day.

Under the new regulation, a driver will have to take 10 hours off in a day, a day being defined as a 24-hour period that begins at the hour designated by the carrier for the duration of the driver's cycle. Off-duty time taken in periods of less than 30 minutes will not count towards the 10 hour off-duty requirement.

As well, under the new regulation, a driver will not be permitted to drive once he/she reaches 13 hours of driving or 14 hours on-duty in a day.

2. Under the current regulation, a driver can start his/her work shift after taking at least 8 consecutive hours of off-duty time. The driver cannot drive after 13 hours of driving or after 15 hours on-duty in a work shift.

Government of Alberta ■

Under the new regulation, the driver will have to have at least 8 consecutive hours of off-duty time in order to commence a shift. The driver will not be able to drive after:

- 13 hours of driving;
- 14 hours of on-duty; or after
- 16 hours of time has elapsed since the conclusion of the most recent period of 8 or more consecutive hours of off-duty time. The 16 hours of elapsed time includes all duty statuses including off-duty periods of less than 8 consecutive hours which can restart the 16 hour shift.

3. The current regulation allows a driver, once in seven days (twice for buses), to reduce the off-duty time prior to commencing the next work shift to not less than 4 hours if the time reduced is immediately added to the next 8 hours of off-duty time.

Under the new regulation, this option will be eliminated and replaced with an option to defer 2 of the 10 hours of off-duty time in a day to the following day by adding the 2 hours to the 8 consecutive hours of off-duty time taken on the second day. This provision can be exercised every second day if a driver chooses. This option is not available if the driver is operating under a permit or exercising the sleeper berth option.

4. The current regulation allows a driver to split the required 8 consecutive hours of off-duty time into two periods if the time is taken in a sleeper berth and neither period is less than 2 hours.

Under the new regulation drivers will be allowed to split the 8 consecutive hours of off-duty in a sleeper berth as follows:

- for a single driver, neither period can be shorter than 2 hours and the total of the 2 periods must be at least 10 hours;
- for team drivers, neither period can be shorter than 4 hours and the total of the 2 periods must be at least 8 hours.

Both single and team drivers are required to comply with the daily off-duty and driving requirements. A driver can not drive after 16 hours of elapsed time. The 16 hours is calculated by including all on-duty time/driving time, off-duty time not spent in the sleeper and any sleeper berth time that does not meet the minimum time set out in the previous paragraph. Sleeper berth periods meeting the minimum requirements are not included in the 16 hours.

5. The existing federal regulation provides a driver with the option to comply with one of three cumulative cycles, with the ability to switch from one cycle to another. Only under the 14 day cycle is the driver required to take 24 hours of off-duty time upon accumulating 75 hours of on-duty time in order to start driving again.

The new regulation reduces the three cycles to two cycles as follows:

- Cycle 1 - no driving after accumulating 70 hours of on-duty time in any seven days; or
- Cycle 2 – no driving after accumulating 120 hours of on-duty time in any 14 days.

A driver must declare on the log, the cycle which he/she is operating under. Regardless of the cycle followed, a driver is required to take at least 24 consecutive hours of off-duty time in the proceeding 14 days. A driver following cycle 2 is required to take at least 24 consecutive hours of off-duty time upon accumulating 70 hours of on-duty time.

Cycle switching is not permitted except under certain circumstances. Drivers will be able to switch cycles and restart cycles by taking at least 36 hours of off-duty time for cycle 1 or switching from cycle 1 to cycle 2, and 72 hours of off-duty time for cycle 2 or switching from cycle 2 to cycle 1.

6. The current regulation does not specify standards for sleeper berth design.

The new regulation will require sleeper berths to meet specific dimensions as well as other design criteria generally accepted as an industry standard. Details can be found in Schedule 1 of the new federal regulation.

7. The current federal regulation allows a driver who is operating an oil well service vehicle to be exempt from the cycle requirements if the driver obtains a permit from a provincial director. Waiting and standby time can be included as off-duty time if the driver performs no work; however it cannot be included as off-duty time for the purpose of meeting the minimum 8 consecutive hours of off-duty time required to restart the shift.

This oil well service vehicle permit option will continue under the new federal regulation. The permit will exempt a driver from complying with cycle requirements; however the driver will be required to take at least three periods of off-duty time, each at least 24 hours long in any period of 24 days. These periods do not have to be taken consecutively. Waiting and standby time will be treated as described above, however the time will be included as part of the 16 hours of elapsed time.

8. Currently, a driver is exempt from completing a daily log if the driver does not operate beyond a radius of 160 kilometers from the home terminal, returns to the home terminal and is released from work within 15 hours from the commencement of the work shift.

Under the new regulation, this option is available to a driver as long as the driver returns to the home terminal each day and begins at least 8 consecutive hours of off-duty time. The carrier must maintain accurate records showing the elected cycle for each day, the driver's duty statuses and the hour at which each duty status begins and ends, as well as the total number of hours spent in each status. The carrier must maintain these records for at least 6 months.

9. The current regulation exempts recreational vehicles from hours of service rules.

The proposed regulation will allow a commercial vehicle to be exempt from regulatory requirements when driven for personal use if the following criteria are met:

- if the vehicle is unloaded;
- any trailers have been unhitched;

Government of Alberta ■

- the distance traveled does not exceed 75 kilometers in a day;
- the odometer reading before and after is recorded on the log; and
- the vehicle is not subject to an out-of-service declaration.

10. Other changes made to the regulation include:

- Drivers will be required to carry at least 14 days worth of logs regardless of what cycle they are operating under.
- Motor carriers, shippers, consignees or any other person will be responsible for ensuring that a driver does not drive if:
 - the driver is fatigued to a point where it is unsafe or driving would jeopardize highway safety;
 - the driver is subject to an out-of-service declaration; or
 - the driver in doing so, would contravene the regulation.
- A motor carrier is required to monitor each driver's compliance to all regulatory requirements, to take remedial action and to record all information related to the incident.
- Similar changes have also been introduced for north of the 60th parallel.