

Marking Time

Here's a quick compliance guide to the new American hours-of-service rules.

By Jim Park

For many of you, your working lives are going to change on January 4, 2004. That's the day the new American hours-of-service rules come into effect. They appear pretty simple at first glance, but the interpretations are deceptively complex. The intent of the new rules is to create an on-duty/off-duty cycle that bears a closer resemblance to a natural awake/sleep cycle, and if drivers could stick to a 10-off/14-on cycle, the rules would have lived up to the mandate. But the U.S. Federal Motor Carrier Safety Administration (FMCSA) retained the idea of splitting sleeper time – throwing the science behind 10-and-14 out the window – to give drivers and carriers a degree of flexibility in scheduling.

Chuck DeWeese, a field supervisor with the New York State Department of Transportation, is one of the people charged with explaining all of this to carriers and

drivers, as well as training N.Y. state enforcement personnel. He spoke at an Ontario Trucking Association-sponsored orientation session for fleet supervisors in Toronto recently, and after two hours, most of the several hundred people in the room still seemed pretty vague about how the new rules will actually play out on the road.

"I can explain the rule in five minutes," he says. "But a full under-

standing of all the nuances of the rule would take considerably longer."

Under the 10-off/14-on plan, drivers will find their driving hours challenged by delays, inspections, waiting time, etc., because they will not be able to extend the day beyond 14 hours. Within the 14-hour 'window of opportunity', you'll be allowed up to 11 hours of driving. How much driving time is left within

the 14 hours after all the on-duty time is accounted for will vary from driver to driver. It's safe to say that drivers making several stops in a day will see a reduction in available driving time, while long-haulers will be happy being allowed to drive 11 hours rather than 10.

DeWeese says the key to compliance is planning. "You'll see how the 14-hour day limits the opportunity to work outside of a regular schedule. We did that so that drivers won't have to flip-flop back and forth between day and night work. We want drivers to get on a schedule and stay there, that's what the science says is the best way to reduce fatigue."

Love 'em or hate 'em, the rules are here to stay. Staying on the right side of the law is going to be a bit of a challenge, both from an administrative point of view and operationally. Given our space limitations, we're going to stick to issues that relate to over-the-road cross-border operations. We're not going to compare

The Fine Print

- **Current records of duty status (log books) and requirements for supporting documentation will remain the same as today.**
- **The adverse-weather exception permits a driver to exceed the 11-hour driving limit by 2 hours, but not the 14 consecutive-hour limit.**
- **Carriers/drivers must comply with existing hours-of-service rules through January 3, 2004. Mandatory compliance with new HOS rules begins for all carriers/drivers on January 4, 2004. Drivers who are in mid-trip when the change-over occurs may continue using the old rules until the trip is concluded or 'til the end of the first day of implementation, whichever comes first.**

old to new, and we'll approach this one layer at a time, adding complexity as we go.

The Work Shift

The rules say: *Drivers may drive up to 11 hours instead of 10, but are limited to 14 hours in a duty period.*

The length of the 'work shift' is limited to 14 hours from log-on to log-off. Within that time, you can log up to 11 hours of driving. You cannot extend the length of the day by logging off for meal breaks, delays, etc. The amount of driving you might accomplish within that 14 hours will be determined by how many of your available hours are spent doing something other than driving.

(See sample 1)

You will not be allowed to drive after 14 hours have passed from the time you originally logged on duty. Logging 'on duty' time as 'off duty' will make no difference to the length of the day, but those hours won't count against you in the cumulative 60-hours-in-seven-days or 70-hours-in-8-days totals. A 14-hour day with nine hours of driving and 4.5 hours on-duty (see sample 1) will count as a 13.5-hour day for the recap. A similar day with all non-driving activity logged off-duty would count as a nine-hour day as far as the recap is concerned.

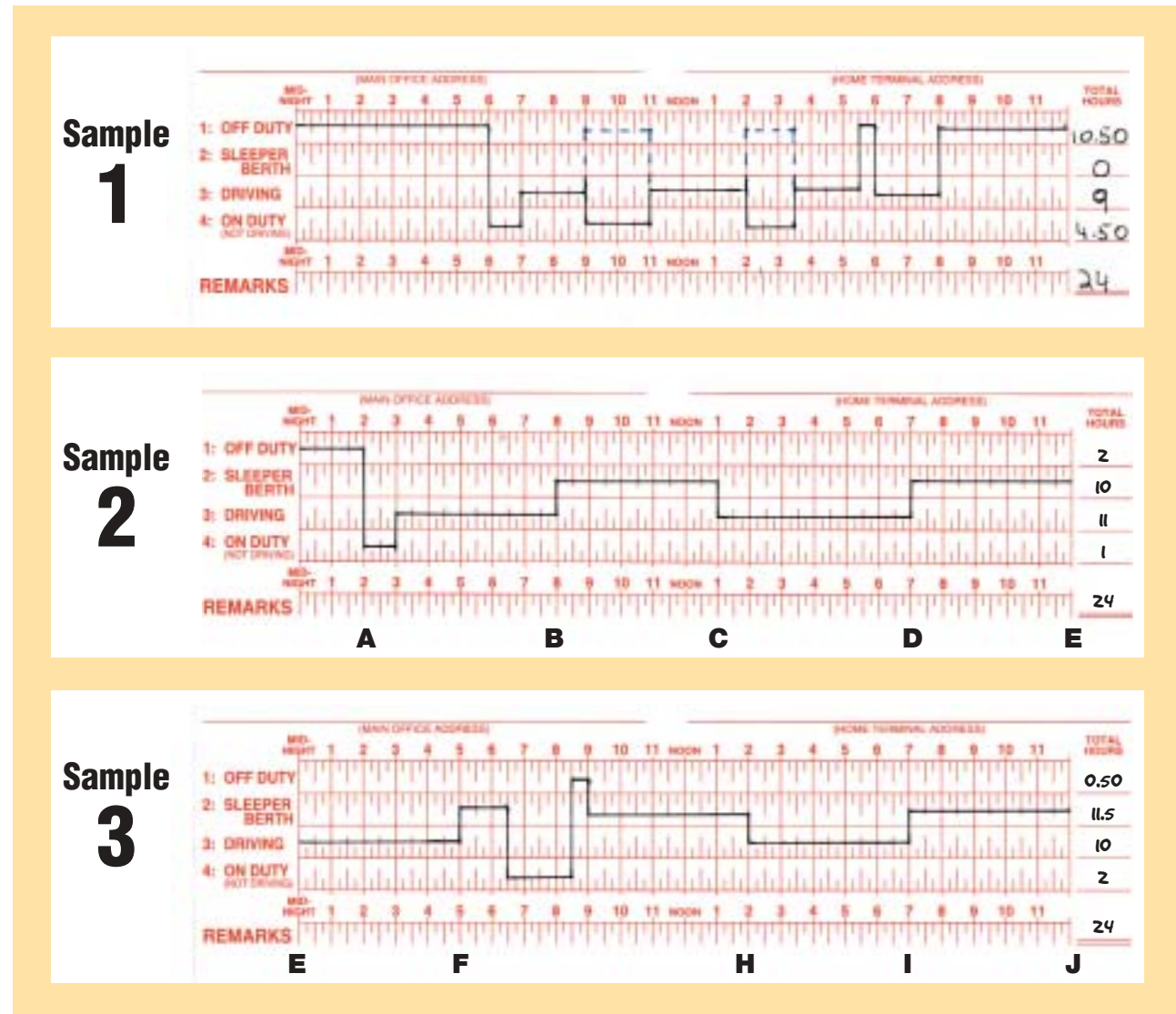
Sleeper Time

The rules say: *Sleeper berth exception: drivers may split on-duty time by using sleeper berth periods, but must comply with the new HOS rules.*

In various places since the rules were announced in April, including in several of the U.S. DOT's own publications on the new rule, the following phrase has been used to describe the use of the split-sleeper exception:

"The 14-hour duty period may not be extended with off-duty time for meal and fuel stops, etc. Only the use of a sleeper berth can extend the 14-hour on-duty period."

What that means, in English, is that drivers who elect to work under



the split-sleeper rules won't be limited by the 14-hour 'window of opportunity' described earlier. A scheduling issue that requires a driver to start work at 2:00 a.m., but also to make a pick-up at 6:00 p.m. the same night, could be managed by splitting the off-duty time into two sleeper-berth intervals instead of a solid 10 hours off. This is now confusingly known as the 'split sleeper-berth exception'.

When the rules were first announced, a discrepancy existed in the wording that caused a great deal of confusion over whether a driver could drive, using the sleeper-berth exception, after the 14th hour of on-duty time. That has now been resolved, and what follows is a guide on how to manage this complex arrangement of on- and off-duty, driving, and sleeper time.

(See sample 2)

In its simplest form, the split-

sleeper provision allows a driver to work in short on/off rotations, provided the hours comply with the requirements. In sample 2, there are 11 driving hours, split into two intervals, the first five hours long, the second, six. These are separated by two sleeper-berth intervals of five hours each, totaling 10. To begin this rotation, the driver must first have had 10 solid hours off-duty.

You'll notice the interval A-D is longer than 14 hours (17). The split-sleeper exception allows the driver to extend the length of the work day beyond 14 hours. However, if the sleeper intervals were less than two hours, they wouldn't qualify, nor would sleeper hours that were not included in the requirement for 10 hours off.

In the interval A-D, there are 11 driving hours and five sleeper hours. Before driving again, the driver must satisfy the 10-hour off-duty

requirement, so interval B-E contains 10 hours of sleeper time. As of midnight, on sample 2, the driver may begin driving again, but the driving hours will be limited to the time remaining after the previous driving interval is considered. Interval C-E contains six hours of driving, so the next shift can be no longer than five hours (11 available minus 6 used = 5 remaining).

(See sample 3)

In sample 3 (which runs sequentially from sample 2), the driver drives until 5:00 a.m., thus using up all available driving hours for the rotation ([C-D = 6] + [E-F = 5] total 11). Now we introduce another layer of complexity.

Having maxed-out the driving time, the driver still has three hours available inside the 14-hour window. This driver arrives at a customer at 5:00 a.m. for a 6:30 appointment, log-

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REGULATIONS

continued from page 21

ging 1.5 hours in the sleeper, and then spends two hours unloading. When you combine the past driving (C-D) and (E-F), plus non-qualified sleeper time and on-duty time (F-G), the driver has exceeded the 14-hour on-duty limit. But that's not a problem, yet. The driver could stay on duty, not driving, up to the end of the 60 or 70-hour weekly limit, provided he or she didn't drive until the 10-hour off-duty requirement had been met.

Having completed unloading at 8:30 (G), the driver would need to return the sleeper for at least five hours in order to continue the split-sleeper rotation. If the driver returned to driving at that point, he

would have 11 hours of driving (C-D + E-F), 1.5 hours off-duty, and two hours on-duty (F-G), but only five hours of qualified sleeper time (D-E).

The rule states: *For purposes of determining the 14-hour limit in a sleeper-berth operation, the following are included in calculating that limit: on-duty time; non-sleeper-berth off-duty time; sleeper berth time of less than two hours; and sleeper berth time of two hours or more that is not used to accumulate 10 hours of off-duty time.*

By returning to the sleeper for at least five hours, the driver could pick up the rotation where it left off, or could book a combination of sleeper and off-duty time totaling 10 hours, starting fresh

with a 14 available hours.

In essence, the only way a driver can manage a work day that stretches beyond 14 hours from log-on to log-off is to make use of the split-sleeper exception. But under the new rules, drivers will still have to comply with the prescribed time requirements, and they will also have to be careful not to exceed 14 hours of cumulative on-duty (combined driving and on-duty not driving) time without the required 10 hours off.

As DeWeese put it during the orientation session, planning will be key in making the rules work for you. It's unlikely that you'll be able to make adjustments on the fly as we've done in the past, because the cumulative shift limits on driving time and on-duty will still apply. You gain some flexibility in scheduling but lose the ability to extend the work interval indefinitely.

Maybe, Maybe Not

These new rules will affect various sectors of the trucking business differently. Drivers who opt to stay on a straight 10-off/14-on routine, likely doing regional or short-haul work, may see driving hours cut back considerably if they spend lots of time loading, etc. The 14-hour day won't be extendable by logging off duty, as is the custom and practice today. Any time within the 14-hour window of opportunity spent doing something other than driving will automatically cut into the available driving hours.

Drivers running long cross-country trips with no picks and drops might profit from the 11-hour driving interval, and having 10 hours off to rest, eat, shower, and sleep will make the trip seem more like a vacation. The long-haulers who prefer to work in shorter bursts will still be able to split their sleeper time, so there's no disadvantage there.

Even with the 14-hour limit, a work week will remain capped at 60 hours in seven days, or 70 hours in eight days. But having reached the 70th hour in five days (assuming full utilization of hours), you'll be able to get back to work a day sooner than the current rules allow, thanks to the 34-hour reset provision. Under the old rules, you could have reached the 70-hour limit on the fifth day, and would have to sit until the eighth day to restart, and you'd still be dogged by the previous week's hours. With the reset provision, you still reach maximum hours on day five, but you can be reset by sometime the seventh day. Same applies to the 60-in-seven routine. The reset requires 34 consecutive hours off duty, so there will be occasions where it may be prudent to advise dispatch if a reset possibility surfaces



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some time before the 70th hour arrives, so you can use the downtime to your best advantage.

Rules of Thumb

The split-sleeper exception will require that all the hours in a 'split shift' meet the minimum sleep requirement of 10 hours, and don't exceed *both* the maximum driving time of 11 hours and maximum on-duty time of 14 hours.

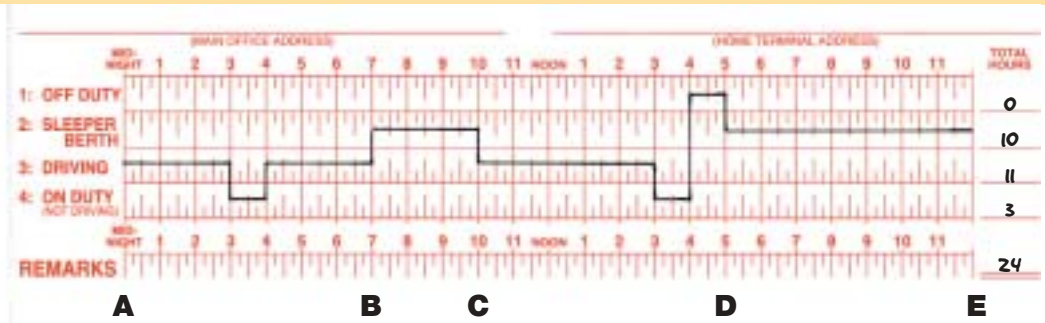
(See sample 4)

Making it all add up: total time A-E = 24 hours; driving time A-B + C-D = 11 hours; sleeper time B-C + D-E = 10 hours; total on-duty, not-driving time plus off-duty time = three hours. The sleeper interval before B-C would have had to be *at least* seven hours (B-C = 3 + X = 10), the next driving interval after C-D could be *no longer* than six hrs (C-D = 5 + X = 11). Always count both forward and backward in calculating used time versus available time. And you must calculate on-duty time in determining total hours for a combined driving-sleeper shift.

Staying compliant with the new rules will require very close attention to the arithmetic. The straight 10/14 drill will be easy enough to manage, but the pay cheque might need some attention, once all your driving hours evaporate at customs or at a loading dock. The split-sleeper exception, with all its fresh nuances, promises flexibility but you'll really have to stay on top of it.

While DeWeese was going through his presentation, not long ago, there were a lot of blank stares in the room, and those were the folks who you're supposed to be able to turn to for help. This is as new to them as it will be to you. There will be adjustments to make all around, but perhaps the biggest adjustments will need to be made by the

Sample 4



shippers. The U.S. DOT has taken a lot of flexibility out of the system, and one thing is a certainty:

these new rules will make it a lot harder for honest people to make a living. ★



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In a Nutshell

OLD	NEW
10 hours driving	11 hours driving
15 hours on-duty (breaks may extend time on duty)	14 consecutive hours (breaks do not extend on-duty time)
8 Cumulative hours off-duty	10 cumulative hours off-duty
60/70 in 7/8 days	60/70 in 7/8 days 34-Hour restart