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**HEADLINE: Court rejects HOS restart, additional hour of driving**

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In a significant setback for many trucking companies, the U.S. Court of Appeals for the District of Columbia Circuit today, July 24, invalidated two significant pieces of the Federal Motor Carrier Safety Administration's hours-of-service regulations – the increase of the daily driving limit to 11 hours from the previous 10 hours, and the 34-hour restart option for drivers' weekly on-duty limits.

In addition, the court rejected the petition filed by the Owner-Operator Independent Drivers Association for greater flexibility in use of the sleeper berth, including allowing team drivers to continue to split rest in sleeper berths as they could before the August 2005 revision.

FMCSA's failings in the case appear to have been mainly in how it put the rule together, rather than in what the rule contained. The court concluded FMCSA "violated the Administrative Procedure Act because it failed to give interested parties an opportunity to comment on the methodology of the crash-risk model that the agency used to justify an increase in the maximum number of daily and weekly hours that truck drivers may drive and work." The court also held that the agency "failed to provide an explanation for critical elements of that methodology."

What happens now is unclear. When the appeals court rejected the first revised hours-of-service regulation in July 2004, Congress held the new rules in place for about a year while FMCSA worked on a new version. It remains to be seen whether a Democrat-controlled Congress will be so inclined to intervene. On the other hand, given that the flaws cited are essentially procedural, lawmakers might be inclined to hold the current rule in place pending a new rule.

For a copy of the appeals court decision, click:

<http://pacer.cadc.uscourts.gov/docs/common/opinions/200707/06-1035a.pdf>