

## CLIENT ALERT

### New DOT Regulations Require Commercial Truckers to Hit the "Breaks"

January 5, 2012

The U.S. Department of Transportation's Federal Motor Carrier Safety Administration ("DOT") recently issued a final rule that revises the hours-of-service ("HOS") safety requirements for commercial truck drivers ("HOS Rule"). The new HOS Rule, which goes into effect on July 1, 2013, reduces the maximum number of hours that a driver of a commercial motor vehicle ("CMV") can work within a week from 82 hours to 70 hours. The HOS Rule also prohibits truck drivers from driving more than eight hours without taking a break of at least thirty minutes. The HOS Rule retains the existing eleven-hour total daily driving limit. Finally, the HOS Rule makes several changes to the "thirty-four hour restart" provisions that allow truck drivers to restart the calculation of their work week by taking at least thirty-four consecutive hours off work. Truck drivers will, upon the effective date, only be able to use the thirty-four hour restart once every seven days. These thirty-four hours off duty will be required to include at least two periods between 1:00 a.m. and 5:00 a.m.

The HOS Rule also excludes from the definition of "on duty" time any time resting in or on a parked CMV, or up to two hours in the passenger seat of a moving CMV immediately before or after eight consecutive hours in a sleeper berth, as well as time spent resting in a sleeper berth. This provision of the Rule is effective February 27, 2012.

The DOT's stated purpose in implementing the HOS Rule "is to limit the ability of drivers to work the maximum number of hours currently allowed, or close to the maximum, on a continuing basis to reduce the possibility of driver fatigue." For example, the limitation on the use of the restart provision "allows drivers to work intensely for one week, but will require them to compensate by taking more time off in the following week."

Companies who violate the HOS Rule can face penalties up to \$11,000 per offense and drivers can face penalties up to \$2,750 per offense. The new HOS Rule specifically defines egregious violations, which are subject to the maximum penalties, as driving (or allowing a driver to drive) three or more hours beyond the driving-time limit. Companies that employ truck drivers that may be impacted by the new HOS Rule should review the drivers' scheduled and actual work hours, and the applicable procedures for recording hours of service information, well prior to the July 1, 2013 effective date in order to ensure that the drivers' work hours, off-duty time and rest time comply with the new requirements.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

**Trina Fairley Barlow**

Partner – Washington, D.C.  
Phone: +1.202.624.2830  
Email: [tbarlow@crowell.com](mailto:tbarlow@crowell.com)

**Rebecca L. Springer**

Partner – Washington, D.C.  
Phone: +1.202.624.2569  
Email: [rspringer@crowell.com](mailto:rspringer@crowell.com)

**Ira M. Saxe**

Partner – New York

Phone: +1.212.895.4230

Email: [isaxe@crowell.com](mailto:isaxe@crowell.com)