

Part 395

Hours of Service Drivers

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Hours of Service of Drivers

Hours of Service Final Rule Issued (Property Carrier)

Final rule for property carriers issued November 18, 2008 by FMCSA. Drivers are limited to driving 11 hours and working no more than 14 hours each day with 10 hours resting between shifts. Drivers are also limited to 60 hours on duty in 7 consecutive days or 70 hours on duty in 8 consecutive days. The Final rule is available at: www.fmcsa.dot.gov/rules-regulations/administration/rulemakings/final/E7-27437-HOS-Final-Rule-11-19-08.pdf.

General Rule

The hours of service rules apply to all motor carriers and drivers, with exceptions found in paragraphs (b) through (k) of Section 395.1.

On Duty Time

Means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work. On duty time shall include:

1. All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.
2. All time inspecting, servicing, or conditioning any commercial motor vehicle at any time.
3. All driving time as defined in the term driving time.
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth.
5. All time loading or unloading a commercial motor vehicle, supervision, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded.
6. All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle.

7. All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the random, reasonable suspicion, post-accident, or follow-up testing required by Part 382 when directed by a motor carrier.
8. Performing any other work in the capacity, employment, or service of a motor carrier; and
9. Performing any compensated work for a person who is not a motor carrier.

Driving Time

Means all time spent at the driving controls of a commercial motor vehicle in operation.

Passenger Carrying Vehicles

10-Hour Rule

Drivers are allowed to drive for ten hours following eight consecutive hours off duty.

15-Hour Rule

A motor carrier cannot permit or require a driver to drive after 15 hours are spent on duty following 8 consecutive hours off.

60 and 70 Hour Rules

A motor carrier must not permit or require a driver to drive after a total of:

- 60 hours on duty in 7 consecutive days or
- 70 hours on duty in 8 consecutive days
- If the driver works more than one job of any kind, that time must also be included as on duty time

Driver's Record of Duty Status

Every driver shall prepare a record of duty status (driver's daily log) in his/her own handwriting for each 24-hour period, unless operating under the 100 air-mile radius exemption.

Failure to complete or retain the log, or knowingly falsifying logs or other reports, makes the driver and/or carrier liable to prosecution.

100 Air-Mile Radius Exemption

A driver is exempt from maintaining the driver's daily log requirements of Section 395.8 if all of the following are true:

- The driver operates within a 100 air-mile radius of the normal work reporting location
- The driver returns to the work reporting location and is released from work within 12 consecutive hours
- Each 12 hours on duty are separated by at least 8 consecutive hours of off duty
- The driver does not exceed a maximum of ten hours driving time following eight consecutive hours off duty
- The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records that show:
 - The total number of hours the driver is on duty each day
 - The time the driver reports for duty each day
 - The time the driver is released from duty each day
 - The total time for the preceding seven days for first-time or intermittent drivers

Property Carrying Vehicles

Motor carriers and drivers must comply beginning on January 4, 2004 with the following:

11-Hour Rule

Drivers are allowed to drive for 11 hours following 10 consecutive hours off duty.

14-Hour Rule

A motor carrier cannot permit or require a driver to drive after 14 hours are spent on duty following 10 consecutive hours off.

16 Hour Exemption

395.1(o) A property-carrying driver is exempt from 395.3(a)(2), the 14-hour rule, when:

- The driver returns and is released from his normal

work reporting location for the previous 5 duty tours;

- The driver returns to his normal work reporting location and is released within 16 hours; and
- The driver has not used this exemption within the previous 7 consecutive days, except that the 16-hour provision may be used after any period of being off duty for 34 or more consecutive hours.

60 and 70 Hour Rules

A motor carrier must not permit or require a driver to drive after a total of:

- 60 hours on duty in 7 consecutive days or
- 70 hours on duty in 8 consecutive days
- If the driver works more than one job of any kind, that time must also be included as on duty time

34 Hour Restart Provision

395.3(c)(1) & (2) allows the driver to restart the 60/70 hour period when:

- Any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 34 or more consecutive hours

Driver's Record of Duty Status

Every driver shall prepare a record of duty status (driver's daily log) in his/her own handwriting for each 24-hour period, unless operating under the 100 air-mile radius exemption.

Failure to complete or retain the log, or knowingly falsifying logs or other reports, makes the driver and/or carrier liable to prosecution.

100 Air-Mile Radius Exemption

395.1(e) A driver is exempt from maintaining the driver's daily log requirements of Section 395.8 if all of the following are true:

- The driver operates within a 100 air-mile radius of the normal work reporting location
- The driver returns to the work reporting location

and is released from duty within 12 consecutive hours

- Each 12 hours on duty are separated by at least 10 consecutive hours of off duty
- The driver does not exceed a maximum of 11 hours driving time following 10 consecutive hours off duty
- The motor carrier that employs the driver maintains and retains for a period of six months accurate and true time records that show:
 - The total number of hours the driver is on duty each day
 - The time the driver reports for duty each day
 - The time the driver is released from duty each day
 - The total time for the preceding seven days for first-time or intermittent drivers

driving duties, which would be counted against the 60/70 hour weekly limitation.

- Time records may be used in lieu of records of duty status.

Non-CDL 150 Air-Mile Radius Provision

Operators of property-carrying commercial motor vehicles not requiring a CDL, as defined in Part 383, may be covered by the Non-CDL 150 air-mile radius provision. Note that the applicability depends on the type of vehicle being driven, not whether the operator possesses a CDL.

Drivers of Non-CDL vehicles who are operating within 150 air-mile radius of their normal work reporting location and return to their normal work reporting location at the end of their duty tour are now covered by separate HOS provisions.

These drivers are required to comply with the following:

- The 11 hours driving, minimum 10 hours off-duty, 14 consecutive hour duty period, 60/70 hours in 7/8 days, 34-hour restart all applies.
- On any 2 days of every 7 consecutive days, the driver may extend the 14-hour duty period to 16 hours.
- There is no requirement that the driver be released from duty at the end of the 14- or 16-hour duty periods. The driver may continue to perform non-

U.S. DEPARTMENT OF TRANSPORTATION **DRIVER'S DAILY LOG**
(ONE CALENDAR DAY - 24 HOURS)

ORIGINAL - Submit to carrier within 13 days
DUPLICATE - Driver retains possession for eight days

(1) (MONTH) (DAY) (YEAR) (2) (TOTAL MILES DRIVING TODAY) (3) VEHICLE NUMBERS - (SHOW EACH UNIT)

(4) (NAME OF CARRIER OR CARRIERS) (5) (DRIVER'S SIGNATURE IN FULL) I certify these entries are true and correct:

(6) (MAIN OFFICE ADDRESS) (8) (NAME OF CO-DRIVER)

(HOME TERMINAL ADDRESS)

1: OFF DUTY
2: SLEEPER BERTH
3: DRIVING
4: ON DUTY (NOT DRIVING)

MID-NIGHT 1 2 3 4 5 6 7 8 9 10 11 NOON 1 2 3 4 5 6 7 8 9 10 11 TOTAL HOURS (9)

REMARKS (7)

Pro or Shipping No. (10)

Shipping document, manifest number, or name of a shipper and commodity. Information required by Section 395.8(o). Check the time and enter the name of place you reported and where released from work and when and where each change of duty occurred. Explain excess hours - Section 395.8(c).

FROM: (STARTING POINT OR PLACE) TO: (DESTINATION OR TURN AROUND POINT OR PLACE)

USE TIME STANDARD AT HOME TERMINAL

RECAP

DAY NO. _____

DRIVING HRS. TODAY
TOTAL LINE 3 _____

DRIVING VIOLATION TODAY _____

ON DUTY HRS. TODAY TOTAL LINES 3 & 4 _____

70 HR/8 DAY DRIVERS

A. _____

TOTAL HRS. ON DUTY LAST 7 DAYS. INCL TODAY _____

B. _____

TOTAL HRS. AVAILABLE TOMORROW: 70 HRS. MINUS A _____

C. _____

TOTAL HRS. ON DUTY LAST 8 DAYS INCL TODAY _____

60 HR/7 DAY DRIVERS

A. _____

TOTAL HRS. ON DUTY LAST 6 DAYS. INCL TODAY _____

B. _____

TOTAL HRS. AVAILABLE TOMORROW: 60 HRS. MINUS A _____

C. _____

TOTAL HRS. ON DUTY LAST 7 DAYS. INCL TODAY _____

Each item, required to be entered, on the Driver's Record of Duty Status is listed below, followed by a cryptic explanation of when the information should be recorded.

- (1) **Date** - Entered when the driver first comes on duty.
- (2) **Total miles driving today** - Entered at the end of the driver's workday.
- (3) **Truck or tractor and trailer number** - Entered just prior to operating the vehicle.
- (4) **Name of carrier** - Entered when the driver first comes on duty. The name of the motor carrier may be preprinted.
- (5) **Driver's signature/certification** - Entered at the end of the driver's workday.
- (6) **Main office address** - Entered when the driver first comes on duty. The address of the motor carrier may be preprinted.
- (7) **Remarks** - Entered whenever an event occurs that requires an entry in the remarks section. (Tire check - emergency condition)
- (8) **Name of co-driver** - Entered when the co-driver is known (prior to the commencement of driving operations).
- (9) **Total hours** - Computed and entered at the end of the driver's workday.
- (10) **Shipping document number(s), or name of shipper and commodity** - Entered at the time the trip is assigned to the driver (when loaded).
- (11) **24 hour period describing duty status.**

Note: All supporting documents including toll tickets, fuel receipts, scale tickets, etc. must be maintained with duty status records for six months in accordance with 395.8(k)(i).

Daily Hours Of Service

Employee Name/# _____ Month/Year _____

Each day provide the following information:

1. Time you report for work each day.
2. Time you are released from work each day.
3. The total hours worked each day.

(see title 49 CFR, section 395.1(e))

Property Carrier

- Do not work more than 12 hours in one day.
- Do not drive more than 11 hours in one day.
- Must be “off duty” at least 10 consecutive hours between work periods.

Passenger Carrier

- Do not work more than 12 hours in one day.
- Do not drive more than 10 hours in one day.
- *must be “off duty” at least 8 consecutive

Hours of Service (395.1e)					COMMENTS
Date	Start	End	Total	Unit #	
1	:	:			
2	:	:			
3	:	:			
4	:	:			
5	:	:			
6	:	:			
7	:	:			
8	:	:			
9	:	:			
10	:	:			
11	:	:			
12	:	:			
13	:	:			
14	:	:			
15	:	:			
16	:	:			
17	:	:			
18	:	:			
19	:	:			
20	:	:			
21	:	:			
22	:	:			
23	:	:			
24	:	:			
25	:	:			
26	:	:			
27	:	:			
28	:	:			
29	:	:			
30	:	:			
31	:	:			

Date	Hours of Service (395.1e)					Vehicle Condition Report			Vehicle Condition Report (396.11) Signatures Required		
	Start	End	Total Hrs.	Unit #	Trailer #	Explanation of Defects	Driver's Signature	Repairman's Signature	Next Trip Driver's Signature		
15	:	:									
16	:	:									
17	:	:									
18	:	:									
19	:	:									
20	:	:									
21	:	:									
22	:	:									
23	:	:									
24	:	:									
25	:	:									
26	:	:									
27	:	:									
28	:	:									
29	:	:									
30	:	:									
31	:	:									

Submitting/Retaining Duty Status Log

The driver must submit the original log sheet to the employing carrier within 13 days after completion. When a motor carrier uses a driver initially or intermittently, that carrier must obtain from him/her a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which he/she was last relieved of duty. Records of duty status must be maintained for a minimum of six months at the carrier's principal place of business, with all supporting documents.

Electronic On-Board Recording Devices

Alternatively, motor carriers may require a driver to use an electronic on-board recording device (EOBR) to record duty status. The driver must still have in his/her possession records of duty status in automated or written form, for the previous seven consecutive days. The driver must sign all hard copies of the driver's record of duty status.

EOBR Information Requirements

- Shall produce, upon demand, a driver's hours of service chart, electronic display, or printout showing the time and sequence of duty status changes including the drivers' starting time at the beginning of each day.
- Shall provide a means whereby authorized Federal, State, or local officials can immediately check the status of a driver's hours of service. This information may be used in conjunction with handwritten or printed records of duty status, for the previous 7 days.
- Support systems used in conjunction with on-board recorders at a driver's home terminal or the motor carrier's principal place of business must be capable of providing authorized Federal, State or local officials with summaries of an individual driver's hours of service records, including the information specified in §395.8(d). The support systems must also provide information concerning on board system sensor failures and identification of edited data. Such support systems

should meet the information interchange requirements of the American National Standard Code for Information Interchange (ANSII) (EIA RS 232/CCITV.24 port (National Bureau of Standards "Code for Information Interchange," FIPS PUB 1 1)).

- The driver shall have in his/her possession records of duty status for the previous 7 consecutive days available for inspection while on duty. These records shall consist of information stored in and retrievable from the automatic on board recording device, handwritten records, computer generated records, or any combination thereof.
- All hard copies of the driver's record of duty status must be signed by the driver. The driver's signature certifies that the information contained thereon is true and correct.

Electronic On-Board Recorders For Hours Of Service Final Rule Question & Answer

- Q** Under the EOBR final rule, what population of commercial carriers will be required to install EOBRs?
- A** The new EOBR final rule will require interstate commercial truck and bus companies with serious patterns of hours-of-service (HOS) violations to use electronic on-board recorders (EOBRs) in all their vehicles. Nearly 5,700 interstate carriers will be required to use EOBRs after the final rule's first year of implementation.
- Q** What information would be recorded by EOBRs in the final rule?
- A** The final rule would require EOBRs to record basic information needed to track a driver's on- and off-duty status: name; duty status (on-duty/not driving, driving time, sleeper berth, off-duty); date, time and location of the commercial vehicle and distance traveled. It would also require EOBRs to use Global Positioning System (GPS) technology or other location tracking systems to automatically identify the location of the commercial vehicle, which would further reduce the likelihood of falsification of HOS information.
- Q** How will the final EOBR rule be enforced and when will the remedial directive go into affect?
- A** Under the EOBR final rule, commercial carriers found with 10 percent or more HOS violations during a compliance review will be required to install and use EOBRs in all their vehicles for a minimum of two years. The final rule will go into effect on June 1, 2012 to ensure EOBR manufacturers have sufficient time to meet the rule's performance standards and to manufacture products to meet industry demand.
- Q** What is the penalty if a carrier with a pattern of violations fails to install and use the EOBRs?
- A** That carrier would be prohibited from operating in interstate commerce. For-hire carriers may also have their operating authority revoked.
- Q** Why didn't FMCSA propose mandatory use of EOBRs for the entire motor carrier industry? Will the Agency consider a broader EOBR mandate in the future?
- A** This final rule issued today is the first of two important steps to ensure carriers are operating in compliance with HOS requirements. FMCSA believes the greatest safety benefit comes from mandating EOBRs for high-risk carriers without delay. By focusing on carriers with high rates of noncompliance with the HOS rules, this final rule will help FMCSA significantly improve highway safety today and will assist carriers in creating an environment where their drivers are focused on safety. As a second step, FMCSA will initiate a rulemaking later this year that considers an EOBR mandate for a broader population of motor carriers.
- Q** Would on-board recording devices currently being used by carriers have to be replaced with devices that meet the new EOBR standards?
- A** No. FMCSA proposed that on-board recording devices that were voluntarily installed before the new requirements are implemented may continue to be used through the life of the vehicle. Any EOBR installed on a commercial vehicle manufactured on or after two years following the publication date of the final rule must meet the new standard.
- Q** What incentives does FMCSA offer to carriers that voluntarily install the EOBRs?
- A** Supporting Documents: Carriers that voluntarily adopt EOBRs will receive relief from some of FMCSA's requirements to retain HOS supporting documents, such as toll receipts used to check the accuracy of driver logbooks. Compliance Reviews: For carriers that voluntarily adopt EOBRs, FMCSA will revise its compliance review procedures to permit examination of a random

sample of drivers' records of on-duty status after an initial sampling of all driver records.

Q Would the final rule violate CMV drivers' privacy?

A No. The final rule does not change the requirements for who must comply with HOS rules, and it does not require any additional information concerning drivers' activities while on duty. The rulemaking is intended to provide a more accurate record of drivers' duty status and significantly reduce the likelihood of falsification of hours-of-service information.

Q What data does FMCSA have to show that the final rule would prevent commercial vehicle-related crashes?

A The crash rate for the carriers that will be covered by the EOBR final rule is 40 percent higher than the crash rate of other motor carriers. The mandatory use of EOBRs will bring non-compliant carriers back in compliance with federal HOS rules. We believe strongly that when carriers follow the rules, crashes will be reduced.

Q How many fatigue-related fatal crashes occur each year?

A Generally, FMCSA believes truck driver fatigue is a factor in 5.5 percent of the fatal crashes involving large trucks.

Q What percentage of fatigue-related crashes can be attributed to those carriers that will be impacted by the EOBR mandate?

A Specific data on the number of fatigue related crashes among the carriers that would be covered by the final rule is not available, but these carriers have a clear pattern of violating the HOS rules. These high-risk carriers represent a group that have crash rates higher than others and are likely to have more fatigue-related crashes because of their high level of noncompliance with the HOS rules.

Q Why did FMCSA decide not to combine the EOBR and HOS rulemakings into a single rule making?

A There are many issues surrounding EOBRs, including safety benefits, technical requirements, economic considerations, and privacy and legal concerns. To do justice to such a complex issue we initiated a separate rulemaking effort apart from our simultaneous work on the HOS rule.

Q What does the final rule include with regard to technology standards for EOBRs?

A With this final rule, FMCSA updates the performance specifications for EOBRs to make best use of modern and efficient communications and information management processes. The final rule provides new technical performance standards including requirements for recording the date, time and location of a driver's duty status.

Q Will this rule contribute to more lawsuits by those obtaining access to motor carrier data?

A No, this rule will not contribute to more lawsuits. The final rule will only require EOBRs to record basic information needed to track a driver's duty status: identity of the driver, duty status, date, time and location of the vehicle and distance traveled.