

Operational Services Branch Training Bulletin



Subject: CMV Hours of Service Rules Changes

September 30, 2020
MCSAP 2020-3

The Federal Motor Carrier Safety Administration has modified the hours of service rules as of September 29, 2020 in four different areas. This document is intended to be an introduction and overview of those changes which will be followed up with a more detailed online training course to further explain the details of how CMV inspectors need to take these changes into account when conducting roadside inspections.

“Adverse Driving Conditions” | 49 CFR 395.1 and 395.5

395.5 – Definition Change:

The FMCSA has modified the definition of “adverse driving conditions” to take into account the driver’s role in identifying and planning for traffic and road conditions before and during their trip. The new language requires the driver to exercise due diligence before beginning their trip **and after any qualified rest break** (i.e. 10 hours off duty, split sleeper berth period, etc...) to check for any potential factors which could delay their trip. This would include things such as forecasted weather, announced construction projects, detours, etc. This change is highlighted in the following comparison of the previous definition and new definition:

| Previous Definition (prior to 9/29/2020) | Current Definition (as of 9/29/2020) |
|--|---|
| Adverse driving conditions means snow, sleet, fog, or other adverse weather conditions, a highway covered with snow or ice, or unusual road and traffic conditions, none of which were apparent on the basis of information known to the person dispatching the run at the time it was begun | Adverse driving conditions means snow, ice, sleet, fog, or other adverse weather conditions or unusual road or traffic conditions that were not known, or could not reasonably be known, to: a driver immediately prior to beginning the duty day or immediately before beginning driving after a qualifying rest break or sleeper berth period, or a motor carrier immediately prior to dispatching the driver |

395.1 – Scope of the Exception Change:

In addition to the changed definition, the scope of the exception extends both “driving” hours and “on-duty, not driving” hours when encountering adverse driving conditions. The previous exception language only extended the maximum “driving” time by two hours for a driver. The current exception extends both the maximum “driving” time **and** “on-duty, not driving” time by two hours. This change is highlighted in the following comparison of the previous and new language used in the exception:

| Previous Exception (prior to 9/29/2020) | Current Exception (as of 9/29/2020) |
|---|--|
| ...a driver who encounters adverse driving conditions, as defined in §395.2, and cannot, because of those conditions, safely complete the run within the maximum driving time permitted by §§395.3(a) or 395.5(a) may drive and be permitted or required to drive a commercial motor vehicle for not more than 2 additional hours beyond the maximum time allowed under §§395.3(a) or 395.5(a)... | ...a driver who encounters adverse driving conditions, as defined in § 395.2, and cannot, because of those conditions, safely complete the run within the maximum driving time or duty time during which driving is permitted under § 395.3(a) or § 395.5(a) may drive and be permitted or required to drive a commercial motor vehicle for not more than 2 additional hours beyond the maximum allowable hours permitted under § 395.3(a) or § 395.5(a)... |

Changes regarding the “30 Minute Rest Break” requirement | 49 CFR 395.3(a)(3)(ii)

395.3(a)(3)(ii) – “Rest Breaks” Change (property carriers only):

The required rest break for property carriers has changed in two significant ways. First, the rule now requires 30 consecutive minutes of “**interruption**” rather than specifically requiring that time to be in a “off duty” or “sleeper berth” status. Secondly, the text was changed to require that this “interruption” occur within the eight hours of **accumulated driving time** rather than all time since the last 30 minute rest break. This means that inspectors will only count “driving” hours up to a maximum of eight since the last interruption. Previous “non-driving” activities which were not allowed as a break in the previous rule (such as fuel stops, unloading/loading, roadside inspections, etc.) will now count as an interruption in the driving time if they last a minimum of 30 consecutive minutes. These changes are highlighted in the following comparison of the previous and new language of the rule:

| Previous Rule (prior to 9/29/2020) | Current Rule (as of 9/29/2020) |
|--|--|
| ...driving is not permitted if more than 8 hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes. | ...driving is not permitted if more than 8 hours of driving time have passed without at least a consecutive 30-minute interruption in driving status. A consecutive 30-minute interruption of driving status may be satisfied either by off-duty, sleeper berth or on-duty not driving time or by a combination of off-duty, sleeper berth and on-duty not driving time. |

Changes regarding the “100 air-mile radius – short haul” exception | 49 CFR 395.1(e)

395.1(e) – “Short Haul Operations” Changes:

The requirements for a driver to qualify for the short haul exception under 395.1(e)(1) has also changed in two significant ways. Formerly known as the “100 air-mile radius driver”, the rule now extends the maximum distance a driver may operate from their normal reporting location by 50 miles to allow for a 150 air-mile radius. The second change in this exception extends the allowed 12 hour work period an additional two hours for a total of 14 consecutive hours. This change is highlighted in the following comparison of the previous and new language used in the exception:

| Previous Exception (prior to 9/29/2020) | Current Exception (as of 9/29/2020) |
|---|--|
| (1)(i) The driver operates within a 100 air-mile radius of the normal work reporting location; (i)(A) The driver, except a driver-salesperson or a driver of a ready-mixed concrete delivery vehicle, returns to the work reporting location and is released from work within 12 consecutive hours ; | (1)(i) The driver operates within a 150 air-mile radius (172.6 statute miles) of the normal work reporting location; (ii) The driver, except a driver-salesperson, returns to the work reporting location and is released from work within 14 consecutive hours ; |

Changes regarding the “sleeper berths” exception | 49 CFR 395.1(g)(1)

395.1(g)(1) – “Sleeper Berths” Changes (property carrier only):

A significant change has been made to how a driver may accumulate the required 10 consecutive hours off duty required by 49 CFR 395.3(a)(1) if their vehicle is equipped with a sleeper berth. The driver may still meet the off duty requirement by 10 consecutive hours in the sleeper berth or any consecutive combination of sleeper berth and off duty time totaling 10 or more hours (this is the same as previous rule). The new rule has changed how they may split two separate periods of sleeper berth time to accumulate the required 10 total hours of rest. Rather than requiring eight consecutive hours in the sleeper berth as in the previous rule, the current rule only requires a minimum of seven consecutive hours in the sleeper berth to be able to be used as part of a qualifying split rest period. While there are some nuances on how to credit the driver with the split time (which will be detailed in the online training courses), the changes are highlighted in the following comparison of the previous and new exception language:

| Previous Exception (prior to 9/29/2020) | Current Exception (as of 9/29/2020) |
|---|--|
| (ii) Specific requirements. The following rules apply in determining compliance with paragraph (g)(1)(i) of this section: (A) The term “equivalent of at least 10 consecutive hours off duty” means a period of (1) At least 8 but less than 10 consecutive hours in a sleeper berth , and (2) A separate period of at least 2 but less than 10 consecutive hours either in the sleeper berth or off duty, or any combination thereof. | (ii)Sleeper berth. A driver may accumulate the equivalent of at least 10 consecutive hours off-duty by taking not more than two periods of either sleeper berth time or a combination of off-duty time and sleeper berth time if: (A) Neither rest period is shorter than 2 consecutive hours ; (B) One rest period is at least 7 consecutive hours in the sleeper berth ; (C) The total of the two periods is at least 10 hours; and |

Additionally, the calculation of the 14 hour maximum duty-period has also changed within this exception. Any time which is used as part of a qualified rest break (hours used to accumulate 10 total hours of rest) will no longer be counted as part of the 14 hours. Essentially, both periods of a properly used split sleeper berth rest break exception will be excluded from hours counted against the 14 hour duty-period restriction. A comparison of the previous and current rule has been highlighted below:

| Previous Rule (prior to 9/29/2020) | Current Rule (as of 9/29/2020) |
|---|--|
| (i)(D) Must exclude from the calculation of the 14-hour period in 395.3(a)(2) any sleeper-berth period of at least 8 but less than 10 consecutive hours . | (iii)(B) 14-hour period. The 14-hour driving window for purposes of § 395.3(a)(2) does not include qualifying rest periods under paragraph (g)(1)(ii) of this section . |

Additional Resources

| Public CMV Industry | Inspector Enforcement Personnel Only |
|---|---|
| https://www.fmcsa.dot.gov/regulations/hours-of-service Includes fact sheets and pre-recorded webinar and outreach slides https://www.federalregister.gov/documents/2020/06/01/2020-11469/hours-of-service-of-drivers Final rule text in the Federal Register hoursofservice@dot.gov Email account available for questions from the public and industry. | https://csa.fmcsa.dot.gov/YourRole/FMCSA/downloadFile.axd/HOS-Changes-eLearning.zip/story.html eLearning webinar for the new rules (part 1 of 2 – required training) https://www.colorado.gov/csp/2020HOS eLearning webinar for the new rules (part 2 of 2 – required training) hos.enforcement@dot.gov Email account available for questions from inspectors (not public). |



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