



SAFETY FOCUS

HOURS OF SERVICE FINAL RULE

HOS Changes

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On June 1, 2020, the Federal Motor Carrier Safety Administration (FMCSA) published the Hours of Service (HOS) final rule that revises the HOS regulations in 49 CFR Part 395, which prescribe driving limits for commercial motor vehicle (CMV) drivers.

The HOS final rule provides greater flexibility and productivity for drivers without adversely affecting safety.

What's Changing?

Drivers and carriers must operate under the HOS final rule starting September 29, 2020 at 12:01 AM EST, and not before.



Adverse Driving Conditions Exception

The adverse driving conditions exception is extending the duty day by two hours when adverse driving conditions are encountered. This is in addition to the extra two hours of driving time already allowed (13 hours within a 16-hour driving window).



30-Minute Interruption of Driving Time Requirement

The 30-minute interruption of driving time requirement can now be satisfied by an on-duty, not driving break (in addition to an off-duty break). The requirement for property-carrying drivers is applicable in situations where a driver has driven for a period of 8 hours without at least a 30-minute interruption.



Sleeper Berth Provision

The sleeper berth provision allows drivers to split their 10-hour off-duty period in different ways (e.g., 7/3, 8/2, 7.5/2.5), provided one off-duty period (whether in or out of the sleeper berth) is at least 2 hours long, and the other involves at least 7 consecutive hours spent in the sleeper berth. The periods must add up to 10 hours, and when used together, neither time period counts against the maximum 14-hour driving window.



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HOS FINAL RULE | IMPACT OF CHANGES

Impact of Changes

Adverse Driving Conditions

Impact of Change

- Drivers will have an added cushion of on-duty time when using the exception. All driving (up to 13 hours) will need to be done within 16 consecutive hours on-duty.
- With the expanded hours, more drivers will be eligible to use the exception to wait out unexpected weather or traffic conditions, rather than trying to “race the clock” to complete the run.
- Use of this exception is rare today and will continue to be rare under the new rules.

Things to Consider

- Refer to the updated definition of “adverse driving conditions” in §395.2 for important restrictions. Allowable uses of this exception remain relatively narrow.
- Motor carriers and drivers are obligated to make sure the adverse conditions were unknowable at the time of dispatch. Motor carriers and drivers should check traffic and weather conditions before starting a run.
- This exception cannot be used for routine weather or traffic delays. The delay must be unexpected, and it cannot be due to normal rush-hour traffic, vehicle breakdowns, loading or unloading delays, or an inability to find parking.
- Drivers should enter a note on their log to indicate when they’re using the exception and why. Enforcement personnel will request this information to determine if the adverse condition was unexpected or unknowable.

30-Minute Interruption of Driving Time Requirement

Impact of Change

- Anything a driver does for 30 consecutive minutes besides driving a CMV will count as a valid break.
- Many drivers will have the flexibility to shift their breaks to a later point in the workday (after 8 driving hours rather than 8 consecutive hours after starting the workday).
- Drivers will gain productivity since they need only to stop driving for their break, they can continue to perform other work activities. They will be able to load/unload, fuel, do vehicle inspections or paperwork, or engage in other work activities during the 30-minute break.

Things to Consider

- Driving while fatigued will still be prohibited, making off-duty rest breaks an important option for many drivers.
- Parking shortages will not be an excuse to violate the rule. Drivers should not wait until they drive nearly 8 hours before seeking a place to park for their break.

Sleeper Berth Provision

Impact of Change

- Individual and team drivers who “split” their 10-hour break into two qualifying breaks will have more flexibility in deciding how long their rest breaks will be, since a 7/3 split will be a new option.
- More drivers will take an interest in trying the split-break option if they discover it can be used to pause the 14-hour clock, especially if they use ELDs that calculate compliance automatically.
- More drivers may choose to go off duty for 2 or more hours when they encounter delays so they can pause the 14-hour clock as long as they will be able to go into a sleeper for at least 7 hours later in the day. However, drivers who fail to complete all 10 hours of “split” rest may easily go into violation, so they should plan ahead to ensure they will achieve the entire 10-hour break when they take the shorter of the two breaks.
- Drivers will gain more productivity since neither qualifying rest break counts against the 14-hour limit.
- Enforcement personnel will have a tougher time determining if a driver who took a mid-day, two-or-more-hour rest break is in compliance, since there is no way to know whether that driver will enter the sleeper berth later on to complete 10 hours of rest. (If the driver does NOT go into the sleeper later in the day, the shorter break will count against the 14-hour limit; otherwise, it will not.)

Things to Consider

- The “split” sleeper option is one of the most confusing HOS rules around. To prevent violations, drivers should make sure they understand this option before they choose to use it.
- There is no change to the 11-hour driving limit for drivers using a sleeper berth.