

MOTOR CARRIER SAFETY

PART 395/OAR 740 – Hours of Service of Drivers

The hours of service rules apply to all motor carriers and drivers, with some exceptions found in Part 395.1, and intrastate exceptions found in OAR 740-100-0010(2).

Note: The Federal Motor Carrier Safety Administration has adopted changes to some of these hours of service rules. Compliance date: July 1, 2013. See <http://www.fmcsa.dot.gov/rules-regulations/topics/hos-final/hos-final-rule.aspx> for a complete list of the changes.

DEFINITIONS

**Driving Time
395.2** *Driving time* means all time spent at the driving controls of a CMV in operation. This includes time behind the wheel waiting to load or unload, and delays on impassable highways.

**Off-Duty Time
395.2** These conditions must be met before any time can be considered *off-duty time*:

1. The driver must be relieved of all duty and responsibility for the vehicle, its accessories, and any cargo or passengers being transported.
2. The duration of relief must be a finite period of sufficient duration to ensure fatigue is significantly reduced.
3. The driver must be at liberty to pursue activities of his/her own choosing, and be allowed to leave the premises where the CMV is located. However, the driver may elect to rest in a parked CMV, as long as the driver has no responsibilities during the rest period.

A driver may record as off duty up to 2 hours riding in the passenger seat of a property-carrying vehicle moving on the highway immediately before or after a period of at least 8 consecutive hours in the sleeper berth.

**On Duty Time
395.2** Generally, *On duty time* means all time from the time a driver begins to work or is ready to work until the time the driver is relieved from work and all responsibility for work. On duty time shall include all time:

- At a plant, terminal, facility, or other property of a motor carrier or shipper, or on public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.
- Inspecting, servicing, or conditioning any CMV at any time.
- Driving a CMV (*see definition of Driving Time above*).
- All time loading or unloading a CMV, supervising, or assisting in the loading or unloading, attending a CMV being loaded or unloaded, remaining in readiness to operate the CMV, or in giving or receiving

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receipts for shipments loaded or unloaded.

- All time repairing, obtaining assistance, or remaining in attendance upon a disabled CMV.
- Taking a controlled substances/alcohol test, including travel to and from the testing facility, when directed by a motor carrier.
- Performing any other work for a motor carrier.
- Performing any compensated work for a person who is not a motor carrier.
- All time in or on a commercial motor vehicle, other than:
 - Time spent resting in or on a parked vehicle. (However, drivers who haul certain Class 1 explosives must log attendance time as on-duty time); *
 - Time spent resting in a sleeper berth; or
 - Up to 2 hours riding in the passenger seat of a moving property-carrying CMV immediately before or after 8 consecutive hours in the sleeper berth. *

Note: *Effective 2/27/12.*

DRIVER'S RECORD OF DUTY STATUS

Driver's Record of Duty Status 395.8 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 an exemption.

The driver's log must be kept current to the *last change of duty status*. The driver must have the current day's log plus the previous 7 consecutive days in his/her possession.

The driver must turn in the original log sheet to the motor carrier within 13 days. The logs must be kept on file for at least 6 months. *

Example log sheet (see explanation of trip at the end of 395.8):

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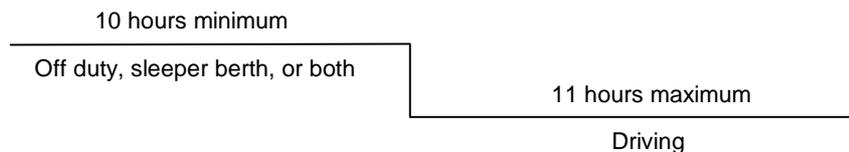
DRIVER'S DAILY LOG																								
(ONE CALENDAR DAY - 24 HOURS)																								
4-23-2005 <small>(MONTH) (DAY) (YEAR)</small>			270 <small>(MILES DRIVING TODAY)</small>			I certify these entries are true and correct:			TT #12, TR #21 <small>VEHICLE NUMBERS (SHOW EACH UNIT)</small>															
Washington Transportation <small>(NAME OF CARRIER OR CARRIERS)</small>							Washington, D.C. <small>(NAME OF CO-DRIVER)</small>																	
Washington, D.C. <small>(MAIN OFFICE ADDRESS)</small>							Washington, D.C. <small>(HOME TERMINAL ADDRESS)</small>																	
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
1: OFF DUTY	[Bar chart showing 11 hours off duty]																							11
2: SLEEPER BERTH	[Bar chart showing 1.75 hours sleeper berth]																							1.75
3: DRIVING	[Bar chart showing 7.75 hours driving]																							7.75
4: ON DUTY (Not Driving)	[Bar chart showing 3.5 hours on duty not driving]																							3.5
																							<u>24</u>	
REMARKS																								
SHIPPING DOCUMENTS: 1673, 1674 <small>Shipping Document No.</small>																								
<small>Shipper & Commodity</small>																								

* Retention periods will be greater if the logs are used for other purposes such as tax reporting.

INTERSTATE COMMERCE: PROPERTY

11-Hour Rule 395.3(a)(1)

A driver shall not drive more than 11 hours following 10 consecutive hours off duty.



Note: This rule applies even if the time periods extend into the following day.

14-Hour Rule 395.3(a)(2)

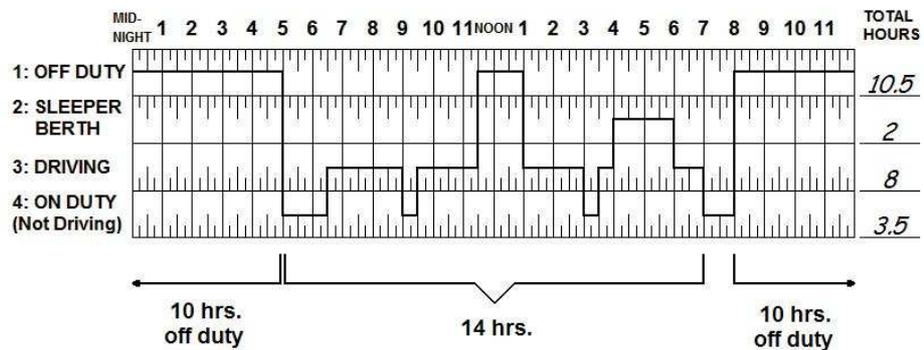
A driver shall not drive beyond the 14th hour after coming on-duty, following 10 consecutive hours off duty.

A driver may be *on duty*, but may not *drive*, after the 14th hour.

The 14 hours includes all time: driving, on duty (not driving), off duty, and sleeper berth less than 8 hours:

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Note: This rule applies even if the time periods extend into the following day. See 16-hour exception, sleeper berth provision, and non-CDL exception below.

Exception:
16-Hour
395.1(o)

A driver is exempt from the 14-hour rule if the driver:

- Was released from duty at the normal work-reporting location for the previous 5 days;
- Returns to the normal work-reporting location and is released from duty within 16 hours; and
- Has not used this exception in the last 6 days, except after a 34-hour restart.

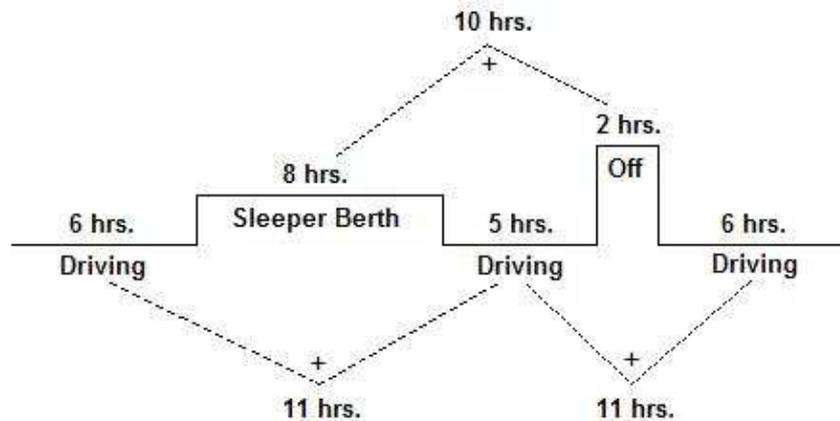
Exception:
Sleeper Berth
Provision
395.1(g)(1)

A driver is allowed to take 10 hours sleeper berth/off duty time in two separate **periods** if:

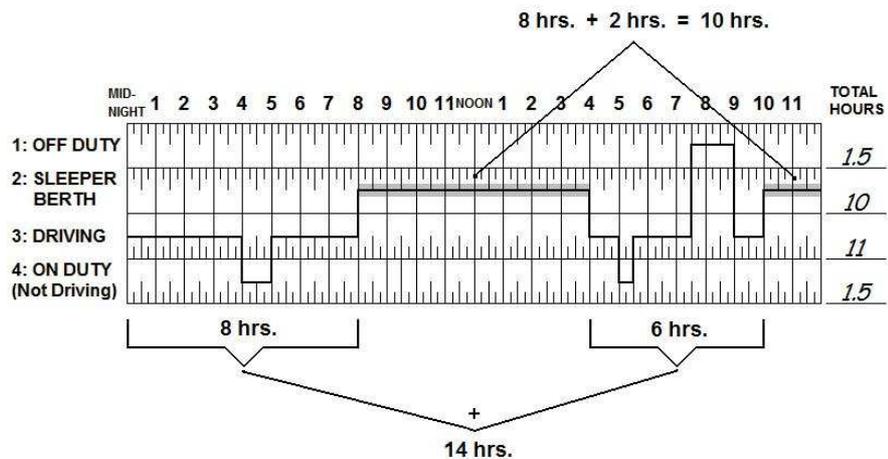
- One **period** is at least 8 but less than 10 hours sleeper berth.
- The other **period** is at least 2 but less than 10 hours sleeper berth, off duty, or both.
- 11-hour rule: The *driving time* just before and after each **period**, when added together, must be no more than 11 hours:

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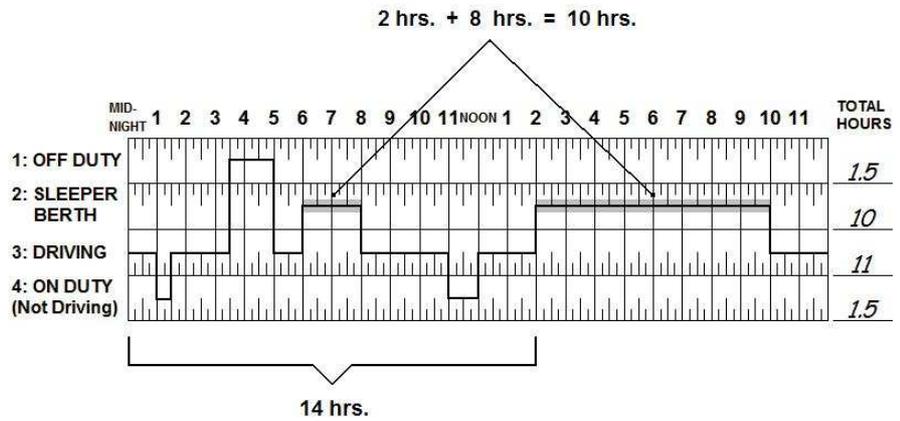
- 14-hour rule: The *total time* just before and after each **period**, when added together, must not result in a driver driving beyond the 14th hour.
 - A **period** of at least 8 hours sleeper berth is not included in the 14 hours:



- A **period** less than 8 hours sleeper berth, or less than 10 hours off duty, is included in the 14 hours:

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- The driver must *continue* using the sleeper berth provision until the driver has taken at least 10 consecutive hours off duty, sleeper berth, or both.

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**60 / 70 Hour Rule
395.3(b)**

A driver shall not drive after being on duty:

- 60 hours in 7 consecutive days, or
- 70 hours in 8 consecutive days.

A driver may be *on duty*, but may not *drive*, after the 60th or 70th hour.

A motor carrier who:

- *Does not operate CMV's every day of the week*, must use the 60-hour rule.
- *Operates CMV's every day of the week*, can choose either the 60-hour or the 70-hour rule.

The following is an example of a typical 70-hour/8-day recap located on the inside front cover of a log book. Some logs also have recaps along the right hand margin of each log sheet. Neither type of recap is required but is helpful in tracking hours.

DAY OF MO.	HOURS WORKED TODAY (TOTAL OF LINES 3 & 4 ON LOG)	70 HR/8 DAY DRIVERS ONLY		
		A	B	C
LAST 7 DAYS OF PRECEDING MONTH	2	TOTAL HOURS ON-DUTY LAST 7 DAYS	TOTAL HOURS AVAILABLE TOMORROW (70 HOURS MINUS COL. A)	TOTAL HOURS ON-DUTY LAST 8 DAYS
	12			
	13			
	6			
	8			
	8			
	9	58	12	
1	12	68	2	70
2	2	58	12	70
3	12	57	13	70
4	13	64	6	70
5	5	61	9	69
6	9	62	8	70

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Exception:
34-Hour Restart
395.3(c)

Drivers may “restart” the 7/8 day period by taking at least 34 consecutive hours off-duty, sleeper berth, or both.

DAY OF MO.	HOURS WORKED TODAY (TOTAL OF LINES 3 & 4 ON LOG)	70 HR/8 DAY DRIVERS ONLY		
		A	B	C
LAST 7 DAYS OF PRECEDING MONTH	2	TOTAL HOURS ON-DUTY LAST 7 DAYS	TOTAL HOURS AVAILABLE TOMORROW (70 HOURS MINUS COL. A)	TOTAL HOURS ON-DUTY LAST 8 DAYS
	12			
	13			
	6			
	8			
	8			
	9			
1	12	58	12	
2	0	68	2	70
3	12	56	14	68
4	13	12		12
5	5	25		25
6	9	30		30
		39		39

24 hours off, plus 10 hours from previous day = 34 hours off duty

Restart 8 day period

INTRASTATE COMMERCE: PROPERTY

12-Hour Rule
OAR 740-100-0010(2)(h)(A)

A driver shall not drive more than 12 hours following 10 consecutive hours off duty.

Note: *This rule applies even if the time periods extend into the following day.*

16-Hour Rule
OAR 740-100-0010(2)(h)(B)

A driver shall not drive beyond the 16th hour after coming on-duty, following 10 consecutive hours off duty.

A driver may be *on duty*, but may not *drive*, after the 16th hour.

The 16 hours includes all driving, on duty (not driving), off duty, and sleeper berth less than 8 hours.

Note: *This rule applies even if the time periods extend into the following day.*

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**70 / 80 Hour Rule
OAR 740-100-
0010(2)(h)(C) &
(D)**

A driver shall not drive after being on duty:

- 70 hours in 7 consecutive days, or
- 80 hours in 8 consecutive days.

A driver may be *on duty*, but may not *drive*, after the 70th or 80th hour.

A motor carrier who:

- *Does not operate CMV's every day of the week*, must use the 70-hour rule.
- *Operates CMV's every day of the week*, can choose either the 70-hour or the 80-hour rule.

Note: *Drivers may “restart” the 7/8 day period by taking at least 34 consecutive hours off-duty, sleeper berth, or both.*

INTRASTATE EXCEPTIONS

7 or 8-Day Period

A driver who begins a trip in *interstate* commerce must continue to comply with the *interstate* hours of service regulations for the next 6 or 7 consecutive days, even if the driver operates exclusively *intrastate* during the 6 or 7 days. For further information, visit the FMCSA Web site at:

www.fmcsa.dot.gov/espa%20C3%20B1ol/english/pdfs/4monthrule.htm

**Hazardous
Materials
OAR 740-100-
0010(i)**

The intrastate hours of service rules do not apply to drivers transporting hazardous materials requiring placarding. Drivers transporting placarded hazardous materials must comply with the Federal interstate hours of service.

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PROPERTY VS. PASSENGERS

Hours of Service Table Different hours of service regulations apply to the transportation of passengers. The differences are summarized below:

Property		Passengers
Interstate	Intrastate	Interstate and Intrastate
395.3	OAR 740-100-0010(2)(h)	395.5
11 hrs. driving ¹	12 hrs. driving ¹	10 hrs. driving ²
No driving beyond 14 th hr ¹	No driving beyond 16 th hr ¹	No driving after 15 hrs ²
Includes <u>all</u> time		Includes <u>on-duty</u> time only
16-Hour Exception	n/a	n/a
<u>Sleeper Provision</u> 8 hrs. sleeper + 2 hrs. sleeper/off. 2 hrs. counts towards 14 hrs.		<u>Split Sleeper</u> Split 8 hrs. into 2 periods. Each period must be at least 2 hrs. 15 hrs. includes on-duty time only.
2 hrs. counts towards 16 hrs.		
<u>100 Air-Mile Radius Drivers</u> Return/off duty within 12 hrs.		
Non-CDL Exemption		n/a
60 / 70 hrs.	70 / 80 hrs.	60 / 70 hrs.
34-Hour Restart		n/a

¹ Following **10** consecutive hours off duty.

² Following **8** consecutive hours off duty.

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EXCEPTIONS: 24-HOUR RESTART

Construction
395.1(m) / 395.2 Drivers transporting construction materials and equipment may restart their 7/8 day period after taking at least 24 consecutive hours off-duty, if they operate to or from a construction site that is within 50 air-miles of their normal work reporting location.

Note: *Exception not allowed for placarded hazardous materials.*

Well Drilling
395.1(l) / 395.2 Drivers who transport and operate ground water well drilling rigs may restart their 7/8 day period after taking at least 24 consecutive hours off-duty.

Utility
395.1(n) / 395.2 *See "OTHER EXCEPTIONS".*

TIME RECORD EXEMPTIONS

Short-Haul
100 Air-Mile
Radius Drivers
395.1(e)(1) A driver is exempt from completing the driver's daily log if *all* of the following is true:

- The driver operates within *100 air-miles* of the normal work reporting location.
- The driver returns to the work reporting location and is released from work within *12 hours*.
- The driver completes a *time card* for each day showing:
 - The time the driver reports for duty.
 - The time the driver is released from duty.
 - The total hours on duty.

Note: *The start and stop times for each time card must show AM or PM, or be recorded in military time. Each time card must also include the driver's name and date. The time cards must be kept on file for at least 6 months, but need not be in the driver's possession.*

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Short-Haul
Non-CDL Vehicles
395.1(e)(2)

A driver is exempt from completing the driver's daily log if *all* of the following is true:

- The driver operates a *property-carrying CMV not requiring a CDL*.
- The driver operates within *150 air-miles* of the normal work reporting location.
- The driver returns to the work reporting location and is released from work at the end of each day.
- The driver completes a *time card* for each day showing:
 - The time the driver reports for duty.
 - The time the driver is released from duty.
 - The total hours on duty.

Note: *Interstate drivers using this exemption may drive up to the 16th hour on 2 days of each 7-day period. However, any driver using this exemption may not use the 100 air-mile radius exception or sleeper berth provision.*

Occasional Drivers
395.8(j)(2)

A first time or occasional driver must give the motor carrier a signed statement showing the total hours on duty during the last 7 days, and the last time the driver went off duty.

Automatic On-Board Recording Devices
395.15

Alternatively, motor carriers may require a driver to use an ***automatic on-board recording device*** to record the hours of service. The driver must still have in his/her possession the duty status records in automated or written form, for the previous 7 consecutive days. All hard copies of the duty status records must be signed by the driver. Each CMV must also have an information packet which contains: (1) an instruction sheet, and (2) a supply of blank log book forms.

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OTHER EXCEPTIONS

**Adverse Driving
Conditions**
395.1(b) / 395.2

A driver who encounters *adverse driving conditions* and because of those conditions cannot complete a trip in the maximum time allowed, may drive to reach a safe location no more than:

- 13 hours following 10 consecutive hours off duty (property); or
- 12 hours following 8 consecutive hours off duty (passenger).

The *adverse driving conditions* must not have been apparent to the person dispatching the trip. The driver must comply with all other hours of service limits.

Agriculture
395.1(k)

The hours of service regulations do not apply to farm commodities transported within 100 air-miles of the farm, or farm supplies transported within 100 air-miles of the distribution point.

Note: See also farm exemptions under ORS 825.017(4), 825.024.

Utility
395.1(n) / 395.2

The hours of service regulations do not apply to drivers of *utility service vehicles* used to repair and/or maintain public utility services.

Note: See FMCSR 395.2 for definition of utility service vehicle.

Travel Time
395.1(j)

When a driver is traveling, but not driving, at the direction of the motor carrier, such time must be counted as on-duty time, unless the driver goes off duty for at least 10 consecutive hours (property) or 8 consecutive hours (passenger) after arriving at the destination. In that case, the travel time is also considered off duty.