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[Home](#) > [Regulations](#) > [Parts](#) > [395](#) > [§ 395.1](#) > Regulations Section

Part 395

HOURS OF SERVICE OF DRIVERS

- [Section](#)
- [Guidance](#)

§ 395.1: Scope of rules in this part.

(a) **General.** (1) The rules in this part apply to all motor carriers and drivers, except as provided in paragraphs (b) through (r) of this section.

(2) The exceptions from Federal requirements contained in paragraphs (l) and (m) of this section do not preempt State laws and regulations governing the safe operation of commercial motor vehicles.

(b) **Driving conditions** —(1) **Adverse driving conditions.** Except as provided in paragraph (h)(2) of this section, 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) to complete that run or to reach a place offering safety for the occupants of the commercial motor vehicle and security for the commercial motor vehicle and its cargo.

(2) **Emergency conditions.** In case of any emergency, a driver may complete his/her run without being in violation of the provisions of the regulations in this part, if such run reasonably could have been completed absent the emergency.

(c) **Driver-salesperson.** The provisions of § 395.3(b) shall not apply to any driver-salesperson whose total driving time does not exceed 40 hours in any period of 7 consecutive days.

(d) **Oilfield operations.** (1) In the instance of drivers of commercial motor vehicles used exclusively in the transportation of oilfield equipment, including the stringing and picking up of pipe used in pipelines, and servicing of the field operations of the natural gas and oil industry, any period of 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(2) In the case of specially trained drivers of commercial motor vehicles that are specially constructed to service oil wells, on-duty time shall not include waiting time at a natural gas or oil well site. Such waiting time shall be recorded as “off duty” for purposes of §§ 395.8 and 395.15, with remarks or annotations to indicate the specific

off-duty periods that are waiting time, or on a separate “waiting time” line on the record of duty status to show that off-duty time is also waiting time. Waiting time shall not be included in calculating the 14-hour period in § 395.3(a)(2). Specially trained drivers of such commercial motor vehicles are not eligible to use the provisions of § 395.1(e)(1).

(e) **Short-haul operations** —(1) **100 air-mile radius driver** . A driver is exempt from the requirements of § 395.8 if:

(i) The driver operates within a 100 air-mile radius 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 12 consecutive hours;

(iii)(A) A property-carrying commercial motor vehicle driver has at least 10 consecutive hours off duty separating each 12 hours on duty;

(B) A passenger-carrying commercial motor vehicle driver has at least 8 consecutive hours off duty separating each 12 hours on duty;

(iv)(A) A property-carrying commercial motor vehicle driver does not exceed the maximum driving time specified in § 395.3(a)(3) following 10 consecutive hours off duty; or

(B) A passenger-carrying commercial motor vehicle driver does not exceed 10 hours maximum driving time following 8 consecutive hours off duty; and

(v) The motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records showing:

(A) The time the driver reports for duty each day;

(B) The total number of hours the driver is on duty each day;

(C) The time the driver is released from duty each day; and

(D) The total time for the preceding 7 days in accordance with § 395.8(j)(2) for drivers used for the first time or intermittently.

(2) **Operators of property-carrying commercial motor vehicles not requiring a commercial driver's license**. Except as provided in this paragraph, a driver is exempt from the requirements of § 395.3(a)(2) and § 395.8 and ineligible to use the provisions of § 395.1(e)(1), (g), and (o) if:

(i) The driver operates a property-carrying commercial motor vehicle for which a commercial driver's license is not required under part 383 of this subchapter;

(ii) The driver operates within a 150 air-mile radius of the location where the driver reports to and is released from work, *i.e.*, the normal work reporting location;

(iii) The driver returns to the normal work reporting location at the end of each duty tour;

(iv) The driver does not drive:

(A) After the 14th hour after coming on duty on 5 days of any period of 7 consecutive days; and

(B) After the 16th hour after coming on duty on 2 days of any period of 7 consecutive days;

(v) The motor carrier that employs the driver maintains and retains for a period of 6 months accurate and true time records showing:

(A) The time the driver reports for duty each day;

(B) The total number of hours the driver is on duty each day;

(C) The time the driver is released from duty each day;

(D) The total time for the preceding 7 days in accordance with § 395.8(j)(2) for drivers used for the first time or intermittently.

(f) **Retail store deliveries.** The provisions of § 395.3 (a) and (b) shall not apply with respect to drivers of commercial motor vehicles engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer, when driving solely within a 100-air mile radius of the driver's work-reporting location, during the period from December 10 to December 25, both inclusive, of each year.

(g) **Sleeper berths** —(1) **Property-carrying commercial motor vehicle** —(i) **In general.** A driver who operates a property-carrying commercial motor vehicle equipped with a sleeper berth, as defined in §§ 395.2 and 393.76 of this subchapter,

(A) Must, before driving, accumulate

(1) At least 10 consecutive hours off duty;

(2) At least 10 consecutive hours of sleeper-berth time;

(3) A combination of consecutive sleeper-berth and off-duty time amounting to at least 10 hours; or

(4) The equivalent of at least 10 consecutive hours off duty if the driver does not comply with paragraph (g)(1)(i)(A)(1), (2), or (3) of this section;

(B) May not drive more than the driving limit specified in § 395.3(a)(3)(i), or, in the case of drivers in Alaska, the driving limit specified in § 395.1(h)(1)(i)-(ii), following one of the 10-hour off-duty periods specified in paragraph (g)(1)(i)(A)(1) through (4) of this section. However, driving is permitted only if 8 hours or fewer have passed since the end of the driver's last off-duty break or sleeper-berth period of at least 30 minutes; and

(C) May not drive for more than the period specified in § 395.3(a)(2), or in the case of drivers in Alaska, the period specified in § 395.1(h)(1)(ii), after coming on duty following one of the 10-hour off-duty periods specified in paragraph (g)(1)(i)(A)(1)-(4) of this section; and

(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.

(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.

(B) Calculation of the driving limit includes all driving time; compliance must be re-calculated from the end of the first of the two periods used to comply with paragraph (g)(1)(ii)(A) of this section.

(C) Calculation of the 14-hour period in § 395.3(a)(2) includes all time—or, for calculation of the 20-hour period in § 395.1(h)(1)(ii) for drivers in Alaska, all on-duty time—except any sleeper-berth period of at least 8 but less than 10 consecutive hours and 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 but less than 10 consecutive hours in the sleeper berth; compliance must be recalculated from the end of the first of the two periods used to comply with the requirements of paragraph (g)(1)(ii)(A) of this section.

(C) Calculation of the 14-hour period in § 395.3(a)(2) includes all time except any sleeper-berth period of at least 8 but less than 10 consecutive hours and 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 but less than 10 consecutive hours in the sleeper berth; compliance must be re-calculated from the end of the first of the two periods used to comply with the requirements of paragraph (g)(1)(ii)(A) of this section.

(2) **Specially trained driver of a specially constructed oil well servicing commercial motor vehicle at a natural gas or oil well location.** A specially trained driver who operates a commercial motor vehicle specially constructed to service natural gas or oil wells that is equipped with a sleeper berth, as defined in §§ 395.2 and 393.76 of this subchapter, or who is off duty at a natural gas or oil well location, may accumulate the equivalent of 10 consecutive hours off duty time by taking a combination of at least 10 consecutive hours of off-duty time, sleeper-berth time, or time in other sleeping accommodations at a natural gas or oil well location; or by taking two periods of rest in a sleeper berth, or other sleeping accommodation at a natural gas or oil well location, providing:

(i) Neither rest period is shorter than 2 hours;

(ii) The driving time in the period immediately before and after each rest period, when added together, does not exceed the limit specified in § 395.3(a)(3);

(iii) The driver does not drive after the 14th hour after coming on duty following 10 hours off duty, where the 14th hour is calculated:

(A) By excluding any sleeper berth or other sleeping accommodation period of at least

2 hours which, when added to a subsequent sleeper berth or other sleeping accommodation period, totals at least 10 hours, and

(B) By including all on-duty time, all off-duty time not spent in the sleeper berth or other sleeping accommodations, all such periods of less than 2 hours, and any period not described in paragraph (g)(2)(iii)(A) of this section; and

(iv) The driver may not return to driving subject to the normal limits under § 395.3 without taking at least 10 consecutive hours off duty, at least 10 consecutive hours in the sleeper berth or other sleeping accommodations, or a combination of at least 10 consecutive hours off duty, sleeper berth time, or time in other sleeping accommodations.

(3) **Passenger-carrying commercial motor vehicles.** A driver who is driving a passenger-carrying commercial motor vehicle that is equipped with a sleeper berth, as defined in §§ 395.2 and 393.76 of this subchapter, may accumulate the equivalent of 8 consecutive hours of off-duty time by taking a combination of at least 8 consecutive hours off-duty and sleeper berth time; or by taking two periods of rest in the sleeper berth, providing:

(i) Neither rest period is shorter than two hours;

(ii) The driving time in the period immediately before and after each rest period, when added together, does not exceed 10 hours;

(iii) The on-duty time in the period immediately before and after each rest period, when added together, does not include any driving time after the 15th hour; and

(iv) The driver may not return to driving subject to the normal limits under § 395.5 without taking at least 8 consecutive hours off duty, at least 8 consecutive hours in the sleeper berth, or a combination of at least 8 consecutive hours off duty and sleeper berth time.

(h) **State of Alaska** —(1) **Property-carrying commercial motor vehicle.** The provisions of § 395.3(a) and (b) do not apply to any driver who is driving a commercial motor vehicle in the State of Alaska. A driver who is driving a property-carrying commercial motor vehicle in the State of Alaska must not drive or be required or permitted to drive—

(i) More than 15 hours following 10 consecutive hours off duty; or

(ii) After being on duty for 20 hours or more following 10 consecutive hours off duty.

(iii) After having been on duty for 70 hours in any period of 7 consecutive days, if the motor carrier for which the driver drives does not operate every day in the week; or

(iv) After having been on duty for 80 hours in any period of 8 consecutive days, if the motor carrier for which the driver drives operates every day in the week.

(2) **Passenger-carrying commercial motor vehicle.** The provisions of § 395.5 do not apply to any driver who is driving a passenger-carrying commercial motor vehicle in the State of Alaska. A driver who is driving a passenger-carrying commercial motor vehicle

in the State of Alaska must not drive or be required or permitted to drive—

- (i) More than 15 hours following 8 consecutive hours off duty;
 - (ii) After being on duty for 20 hours or more following 8 consecutive hours off duty;
 - (iii) After having been on duty for 70 hours in any period of 7 consecutive days, if the motor carrier for which the driver drives does not operate every day in the week; or
 - (iv) After having been on duty for 80 hours in any period of 8 consecutive days, if the motor carrier for which the driver drives operates every day in the week.
- (3) A driver who is driving a commercial motor vehicle in the State of Alaska and who encounters adverse driving conditions (as defined in § 395.2) may drive and be permitted or required to drive a commercial motor vehicle for the period of time needed to complete the run.
- (i) After a property-carrying commercial motor vehicle driver completes the run, that driver must be off duty for at least 10 consecutive hours before he/she drives again; and
 - (ii) After a passenger-carrying commercial motor vehicle driver completes the run, that driver must be off duty for at least 8 consecutive hours before he/she drives again.
- (i) **State of Hawaii.** The rules in § 395.8 do not apply to a driver who drives a commercial motor vehicle in the State of Hawaii, if the motor carrier who employs the driver maintains and retains for a period of 6 months accurate and true records showing —
- (1) The total number of hours the driver is on duty each day; and
 - (2) The time at which the driver reports for, and is released from, duty each day.
- (j) **Travel time** —(1) When a property-carrying commercial motor vehicle driver at the direction of the motor carrier is traveling, but not driving or assuming any other responsibility to the carrier, such time must be counted as on-duty time unless the driver is afforded at least 10 consecutive hours off duty when arriving at destination, in which case he/she must be considered off duty for the entire period.
- (2) When a passenger-carrying commercial motor vehicle driver at the direction of the motor carrier is traveling, but not driving or assuming any other responsibility to the carrier, such time must be counted as on-duty time unless the driver is afforded at least 8 consecutive hours off duty when arriving at destination, in which case he/she must be considered off duty for the entire period.
- (k) **Agricultural operations.** The provisions of this part shall not apply during planting and harvesting periods, as determined by each State, to drivers transporting
- (1) Agricultural commodities from the source of the agricultural commodities to a location within a 150 air-mile radius from the source;
 - (2) Farm supplies for agricultural purposes from a wholesale or retail distribution point

of the farm supplies to a farm or other location where the farm supplies are intended to be used within a 150 air-mile radius from the distribution point; or

(3) Farm supplies for agricultural purposes from a wholesale distribution point of the farm supplies to a retail distribution point of the farm supplies within a 150 air-mile radius from the wholesale distribution point.

(l) **Ground water well drilling operations.** In the instance of a driver of a commercial motor vehicle who is used primarily in the transportation and operations of a ground water well drilling rig, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(m) **Construction materials and equipment .** In the instance of a driver of a commercial motor vehicle who is used primarily in the transportation of construction materials and equipment, any period of 7 or 8 consecutive days may end with the beginning of any off-duty period of 24 or more successive hours.

(n) **Utility service vehicles.** The provisions of this part shall not apply to a driver of a utility service vehicle as defined in § 395.2.

(o) **Property-carrying driver .** A property-carrying driver is exempt from the requirements of § 395.3(a)(2) if:

(1) The driver has returned to the driver's normal work reporting location and the carrier released the driver from duty at that location for the previous five duty tours the driver has worked;

(2) The driver has returned to the normal work reporting location and the carrier releases the driver from duty within 16 hours after coming on duty following 10 consecutive hours off duty; and

(3) The driver has not taken this exemption within the previous 6 consecutive days, except when the driver has begun a new 7- or 8-consecutive day period with the beginning of any off-duty period of 34 or more consecutive hours as allowed by § 395.3(c).

(p) **Commercial motor vehicle transportation to or from a motion picture production site .** A driver of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site is exempt from the requirements of § 395.3(a) if the driver operates within a 100 air-mile radius of the location where the driver reports to and is released from work, i.e., the normal work-reporting location. With respect to the maximum daily hours of service, such a driver may not drive—

(1) More than 10 hours following 8 consecutive hours off duty;

(2) For any period after having been on duty 15 hours following 8 consecutive hours off duty.

(3) If a driver of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site operates beyond a 100 air-mile radius of the normal work-reporting location, the driver is subject

to § 395.3(a), and paragraphs (p)(1) and (2) of this section do not apply.

(q) **Attendance on commercial motor vehicles containing Division 1.1, 1.2, or 1.3 explosives.** Operators who are required by 49 CFR 397.5 to be in attendance on commercial motor vehicles containing Division 1.1, 1.2, or 1.3 explosives are on duty at all times while performing attendance functions or any other work for a motor carrier. Operators of commercial motor vehicles containing Division 1.1, 1.2, or 1.3 explosives subject to the requirements for a 30-minute rest break in § 395.3(a)(3)(ii) may use 30 minutes or more of attendance time to meet the requirement for a rest break, providing they perform no other work during the break. Such drivers must record the rest break as on-duty time in their record of duty status with remarks or annotations to indicate the specific on-duty periods that are used to meet the requirement for break.

(r) **Railroad signal employees.** The provisions of this part shall not apply to a signal employee, as defined in § 395.2, who operates a commercial motor vehicle, is engaged in installing, repairing, or maintaining signal systems, is employed by a railroad carrier or a contractor or subcontractor to a railroad carrier, while regulated by the Federal Railroad Administration.

(s) **Covered farm vehicles.** The rules in this part do not apply to drivers of “covered farm vehicles,” as defined in 49 CFR 390.5.

Citation: [57 FR 33647, July 30, 1992, as amended at 58 FR 33777, June 21, 1993; 60 FR 38748, July 28, 1995; 61 FR 14679, Apr. 3, 1996; 63 FR 33279, June 18, 1998; 68 FR 22515, Apr. 28, 2003; 68 FR 56211, Sept. 30, 2003; 70 FR 50071, Aug. 25, 2005; 72 FR 36790, July 5, 2007; 72 FR 55703, Oct. 1, 2007; 72 FR 71269, Dec. 17, 2007; 76 FR 25590, May 5, 2011; 76 FR 81186, Dec. 27, 2011; 77 FR 7544, Feb. 23, 2012; 78 FR 16195, Mar. 14, 2013; 78 FR 58484, Sept. 24, 2013]

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