

Rail HOS Questions & Answers for Commercial Motor Vehicle (CMV) Drivers

“Hours of service” refers to the maximum amount of time drivers are permitted to be on duty including driving time, and specifies number and length of rest periods, to help ensure that drivers stay awake and alert. In general, all carriers and drivers operating commercial motor vehicles (CMVs) must comply with HOS regulations found in 49 CFR 395.

NOTE: The following information covers the Federal Motor Carrier Safety Regulations (FMCSRs) on hours of service (HOS) that apply to property-carrying commercial motor vehicles (CMVs). Passenger-carrying CMVs are limited to 10 hours of driving after 8 consecutive hours off duty, must stop driving after accumulating 15 hours of on-duty time after 8 hours off duty, and must stop driving upon accumulating 60 or 70 hours of on-duty time over 7 or 8 consecutive days.

1. All the members of a section crew start work at the same time of day. If they are still working after 14 consecutive hours, can any of them drive a CMV to return to the start location?

Any worker who is still on duty after 14 consecutive hours since first going on duty may not drive a CMV unless a special exception applies. There are several possible exceptions that may apply in this situation:

- 1) **Non-CDL short haul:** If one of the workers is eligible for the short haul 150-air-mile exception for drivers of vehicles that do not require a CDL (395.1(e)(2)), i.e., **non-hazardous materials-placarded** (non-HM-placarded trucks) under 26,001 pounds, the driver may extend the 14-hour limit to 16 hours up to twice in any 7 consecutive days. The driver is still limited to 11 hours of driving, however.
- 2) **16-hour exception:** If you usually come back to your work-reporting location and go home at the end of each workday, you might be able to use the 16-hour short-haul exception in 395.1(o). This exception allows you to extend the 14-consecutive-hour window to 16 hours once every 7 consecutive days. To use this exception:
 - You must return to the work-reporting location on the day you use the exception;
 - You must have returned to your work-reporting location on your last 5 workdays;
 - You must be released from duty within 16 hours after coming on duty on the day you use the exception; and
 - You must only use this exception once every 7 consecutive days (unless you took 34 consecutive hours off to restart a 7/8-day period).
- 3) **Hi-rail transit:** A driver may be eligible for the ‘hi-rail vehicles’ provision in section 395.1(w), which says that the 14-hour limit does not include “time in transportation to or from a duty assignment if such time in transportation:
 - Does not exceed 2 hours per calendar day or a total of 30 hours per calendar month; and
 - Is fully and accurately accounted for in records to be maintained by the motor carrier and such records are made available upon request of the Federal Motor Carrier Safety Administration or the Federal Railroad Administration.”

- 4) **Hi-rail driving:** Drivers may operate a hi-rail vehicle *on the rails* after the 14th hour because such time is recorded as “on-duty not driving.”
- 5) **Non-CMV:** A driver may operate a non-CMV after the 14-hour limit. For example, a driver could drive a 12-passenger van that has a GVW and GVWR of under 10,001 pounds. A CMV is defined in 390.5. The operation of the non-CMV would be recorded as “on-duty not driving.”
- 6) **Adverse driving conditions:** No. However, if they were driving a CMV back from a worksite, on the highway, and ran into adverse driving conditions (as defined in 395.2) on the way back, then they could use the exception to exceed the 11- and 14-hour limits.
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.

2. A driver encounters a situation where he/she cannot complete the workday within the 14-hour window allowable under the Short-Haul (150-air-mile) Exception, what should he/she do?

For a driver operating a truck that requires a CDL:

Answer: The driver is no longer eligible for the short-haul exception in section 395.1(e)(1), which requires drivers to go off duty within 14 consecutive hours. Therefore, the driver must complete a standard *Record of Duty Status (RODS)* for the 24-hour period, must comply with the 30-minute break requirement in 395.3(a)(3)(ii), and must retain supporting documents as required in 395.11. The driver may qualify for the 16-hour exception in 395.1(o), which allows short-haul drivers to extend the 14-hour limit by up to two hours, as long as:

- (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).

For a driver operating a truck that does not require a CDL (i.e., a non-HM-placarded truck under 26,001 pounds):

Answer: The driver may still use the short-haul exception in section 395.1(e)(2), which allows short-haul (150-air-mile) drivers to exceed the 14-hour limit by up to two hours on any two days out of seven consecutive days. If the driver has already taken advantage of that provision and has already exceeded the 14-hour limit twice in the seven-day period, then the short-haul exception no longer applies and the driver must complete a standard Record of Duty Status (RODS) for the 24-hour period, must comply with the 30-minute break requirement in 395.3(a)(3)(ii), and must retain supporting documents as required in 395.11.

3. **What documents are employers required to maintain if they allow drivers to use the Short Haul (150-air-mile) Exception?**

Answer: The employer must maintain a time record that contains the following 3 items:

- a. The time each driver reports for duty each day
- b. The total number of hours each driver is on duty each day
- c. The time each driver goes off duty each day

If the driver is working for the first time or intermittently, the employer must also maintain a record of the driver's total on-duty time for the previous seven days.

How long must those documents be retained?

Answer: Employers must maintain and retain accurate time records for a period of 6 months.

4. **Is an employer allowed to contact a driver during his/her 10 consecutive hours off-duty period?**

Answer: Brief interruptions do not impact the 10-hour break. However, repeated interruptions do interrupt the 10-consecutive-hour off-duty break.

See FMCSA's interpretations in §395.2 on both brief and repeated interruptions:

Question 5: Do telephone calls to or from the motor carrier that momentarily interrupt a driver's rest period constitute a change of the driver's duty status?

Guidance: Telephone calls of this type do not prevent the driver from obtaining adequate rest. Therefore, the Federal Highway Administration (FHWA) [now the FMCSA] does not consider these brief telephone calls to be a break in the driver's off-duty status.

Question 31: If a driver is required repeatedly to respond to satellite or similar communications received during a 10-hour (8-hour for passenger transportation) off-duty period, does this activity affect a driver's duty status?

Guidance: Yes. The driver cannot be required to do any work for the motor carrier during the 10-hour or the 8-hour off-duty period. A driver who is required to access a communications system for the purpose of reading messages from the carrier, responding to certain messages (either verbally or by typing a message), or otherwise acknowledging them, is performing work. For the purpose of this guidance, "repeatedly" means a pattern or series of interruptions that prevent a driver from obtaining restorative sleep during the off-duty period.

5. **When must a driver who uses the Short-Haul Exception use a paper Record of Duty Status (RODS)?**

Answer: Short-haul drivers are exempt from keeping RODS unless they do not qualify for the short-haul exception – for any reason – at which time the driver must complete a ROD (a log) for the full 24-hour period.

To qualify for the short-haul exception, a driver must operate within a 150 air-mile radius of the normal work reporting location; report and return to that same location; and go off duty after a maximum duty period of 14 consecutive hours. §395.1(e)(1)

Are there any limitations to how frequently the driver may use paper RODS?

Answer: Yes, if a short-haul driver exceeds the limits in the exception more than 8 times in any consecutive 30-day period, the driver must use an electronic logging device (ELD).

6. In a situation where a property-carrying driver works for 30 or more consecutive hours, what must he/she do prior to resuming driving duties?

Answer: The driver must have at least 10 consecutive hours off duty.

The 30-hour on-duty period counts towards the driver's 60- or 70-hour limit. If the driver has exceeded the 60- or 70-hour limit, then he/she might need more than 10 hours off per 395.3(c).

Also, drivers are prohibited from operating while ill or fatigued per the 'Ill or Fatigued Operator' regulation (§392.3), so if more than 10 hours is required by the driver, it must be provided.

7. If a driver is declared "off duty" after working a few hours and is then instructed to return to work before reaching the 10 consecutive off-duty period between driving shifts, how does it affect his/her workday, is he/she allowed to resume driving duty upon return to work?

Answer: It depends on how many hours have passed since the driver *first* went on duty. Because the driver did not get a 10-hour break, the driver's 14-hour clock continued to tick away through the off-duty period. If the driver is already past 14 consecutive hours from the start of the workday, the driver must have 10 consecutive hours off duty before driving a CMV. For example, if the driver started their day at 7:00 a.m., no driving of a CMV is allowed after 9:00 p.m. — even if the driver had several hours off duty during the day — until the driver has 10 consecutive hours off duty.

Does the "off duty" period count towards the maximum 60- or 70-hour limit.

Answer: No, off-duty time never counts towards a driver's 60- or 70-hour limit.

8. Can a driver who has worked beyond the 14-hour window drive a CMV to return to the starting location if he/she drives using 'hi-rails' on track?

Yes. The FMCSA provides the following interpretation in [§395.2](#):

How must the time spent operating a motor vehicle on the rails (RoadRailers) be recorded?

Answer: If the driver is on the rails and behind the wheel its on-duty not driving. As soon as they come off the rails and onto a public highway, time spent behind the wheel is driving.

Does crossing public roads during the ‘hi-rail’ return trigger any other Federal Motor Carrier Safety Regulations (FMCSRs)?

Answer: No, as long as crossing a public road is on rails, it would not be subject to the FMCSRs, including the ‘hours of service’ regulations.

If, however, the wheels are off the track on a road that is open to public travel, the FMCSRs would apply.

REFERENCES

- [Hours of Service \(HOS\) | FMCSA \(dot.gov\)](#)
- [Summary of Hours of Service Regulations | FMCSA \(dot.gov\)](#)
- [Hours of Service Regulations \(dot.gov\)](#)
- [All HOS Fact Sheets 508.pdf \(dot.gov\)](#)
- <https://teamstersafety.org/wp-content/uploads/2021/04/Hours-of-Service-Fact-Sheet-Revised-Regulation-September-29-2020-final.pdf>
- [Hours of Service Changes since June 1, 2020 \(dot.gov\)](#)
- [Regulatory Guidance | FMCSA \(dot.gov\)](#)
- [Hours-of-Service \(HOS\) Compliance Behavior Analysis and Safety Improvement Category \(BASIC\) Factsheet \(dot.gov\)](#)

Passenger Carriers

- [Passenger Carrier Guidance Fact Sheet | FMCSA \(dot.gov\)](#)
- [Clarification of Existing Regulations for Passenger Carriers in Interstate Commerce Fact Sheet \(dot.gov\)](#)