

Summary of FMCSA's Hours of Service Rule Changes – June 2020

New Rules Effective September 29, 2020

On June 1, 2020, the “final rule” making changes to the Hours of Service of Drivers (HOS) rules in Part 395 of the Federal Motor Carrier Safety Regulations was published in the Federal Register. The four changes, summarized below, will not become effective until September 29, 2020.

The four changes are summarized below:

CMV Short-haul Exemption (49 C.F.R. §395(e)(1)) – FMCSA lengthened the maximum on-duty period and air-mile radius for the CDL driver short-haul exemption to 14 consecutive hours and 150 air-miles, respectively (from the previous 12 consecutive hours and 100 air-miles).

Adverse Driving Conditions (49 C.F.R. §391.1(b)(1)) – FMCSA's rule change allows drivers who encounter unexpected adverse driving conditions to extend their 14-hour driving window by an additional two hours to complete their run for the day. FMCSA also slightly modified the definition to allow the driver more discretion when determining if the adverse driving conditions exception applies.

30 Minute Rest Break (49 C.F.R. §395.3(a)(3)) – FMCSA modified the existing 30-minute rest break requirement such that a break will only be required after a driver accumulates 8 hours of driving time (as opposed to on-duty time), and allowing the break to be satisfied by “on-duty, not driving” time and/or “off-duty” time.

Split Sleeper Berth Rule (49 C.F.R. §395.1(g)) – FMCSA's rule change allows drivers using the split-sleeper-berth exception to split their off-duty periods into two off-duty periods provided one is at least two hours and the other involves at least seven consecutive hours spent in the sleeper berth. In other words, 8-hour + 2-hour and 7-hour + 3-hour splits are now allowed. Neither period counts toward the 14-hour “driving window.”

Below is a table providing side-by-side comparisons of these four new rules to the past rules, along with summarized impacts of each new rule change.

HOS Provision	Past HOS Rule	New HOS Rule	Impacts
<p>CMV Short-haul Exemption</p>	<p>Drivers using the short-haul exemption may not be on-duty more than 12 hours and may not drive beyond a 100 air-mile radius.</p>	<p>Extends the maximum duty period allowed under the short-haul exemption to 14 hours and to 150 air-miles.</p>	<p>Provides flexibility by increasing the number of drivers able to take advantage of the short-haul exemption. This is a recordkeeping exemption, meaning drivers and carriers using it are not required to use ELDs.</p>
<p>Adverse Driving Conditions</p>	<p>A driver may drive up to 2 additional hours beyond 11-hour maximum when encountering unexpected adverse driving conditions. However, this does not currently extend the maximum 14-hour “driving window.”</p>	<p>Allows a driver to extend the maximum “driving window” by up to 2 hours during adverse driving conditions.</p>	<p>Provides flexibility by allowing drivers time to park and wait out the adverse condition, or to drive slowly through it.</p>
<p>30 Minute Rest Break</p>	<p>If more than 8 consecutive hours have passed since the last off-duty (or sleeper berth) period of at least half an hour, a driver must take an off-duty break of at least 30 minutes before driving.</p>	<p>Requires a 30-minute break after 8 hours of <u>driving</u> time (instead of on-duty time) and allows <u>on-duty/not driving</u> periods to qualify as breaks.</p>	<p>Adds flexibility for drivers by allowing on-duty/not driving time to count toward a rest break and reduces the number of drivers required to take a rest break since most do not drive more than 8 hours in a shift.</p>
<p>Split-Sleeper Berth Rule</p>	<p>A driver can use the sleeper berth for an 8/2 split – e.g. 8 hours of rest that does not count against the 14-hour limit, and 2 hours of rest that does count against the 14-hour driving window.</p>	<p>Modifies the sleeper-berth exception to allow drivers to split the required 10 hours off duty into two periods: an 8/2 split, and a 7/3 split—with neither period counting against the driver’s 14-hour driving window.</p>	<p>Improves flexibility for drivers by potentially increasing the use of sleeper berths because drivers using a berth have additional hours to complete 11 hours of driving.</p>