§ 395.8 Driver’s record of duty status.

(a) Except for a private motor carrier of passengers (nonbusiness), every motor carrier shall require every driver used by the motor carrier to record his/her duty status for each 24-hour period in either paragraphs (a)(1) or (a)(2) of this section.

(1) Every driver who operates a commercial motor vehicle shall record his/her duty status, in duplicate, for each 24-hour period. The duty status time shall be recorded in the specified grid, as shown in paragraph (g) of this section. The grid and the requirements of paragraph (d) of this section may be combined with any company forms. The
§ 395.8 previously approved format of the Daily Log, Form MCS–59 or the Multi-

day Log, MCS–139 and 139A, which meets the requirements of this section, may continue to be used.

(2) Every driver operating a commercial motor vehicle equipped with either an automatic on-board recording device meeting the requirements of §395.15 or an electronic on-board recorder meeting the requirements of §395.16 must record his or her duty status using the device installed in the vehicle. The requirements of this section shall not apply, except for paragraphs (e) and (k)(1) and (2) of this section.

(b) The duty status shall be recorded as follows:

(1) “Off duty” or “OFF.”
(2) “Sleeper berth” or “SB” (only if a sleeper berth used).
(3) “Driving” or “D.”
(4) “On-duty not driving” or “ON.”

(c) For each change of duty status (e.g., the place of reporting for work, starting to drive, on-duty not driving and where released from work), the name of the city, town, or village, with State abbreviation, shall be recorded.

NOTE: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.

(d) The following information must be included on the form in addition to the grid:

(1) Date;
(2) Total miles driving today;
(3) Truck or tractor and trailer number;
(4) Name of carrier;
(5) Driver’s signature/certification;
(6) 24-hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.);
(7) Main office address;
(8) Remarks;
(9) Name of co-driver;
(10) Total hours (far right edge of grid);
(11) Shipping document number(s), or name of shipper and commodity;

(e) Failure to complete the record of duty activities of either this section, §395.15 or §395.16, failure to preserve a record of such duty activities, or making false reports in connection with such duty activities shall make the driver and/or the carrier liable to prosecution.

(f) The driver’s activities shall be recorded in accordance with the following provisions:

(1) Entries to be current. Drivers shall keep their records of duty status current to the time shown for the last change of duty status.

(2) Entries made by driver only. All entries relating to driver’s duty status must be legible and in the driver’s own handwriting.

(3) Date. The month, day and year for the beginning of each 24-hour period shall be shown on the form containing the driver’s duty status record.

(4) Total miles driving today. Total mileage driven during the 24-hour period shall be recorded on the form containing the driver’s duty status record.

(5) Commercial motor vehicle identification. The driver shall show the number assigned by the motor carrier, or the license number and licensing State of each commercial motor vehicle operated during each 24-hour period on his/her record of duty status. The driver of an articulated (combination) commercial motor vehicle shall show the number assigned by the motor carrier, or the license number and licensing State of each motor vehicle used in each commercial motor vehicle combination operated during that 24-hour period on his/her record of duty status.

(6) Name of motor carrier. The name(s) of the motor carrier(s) for which work is performed shall be shown on the form containing the driver’s record of duty status. When work is performed for more than one motor carrier during the same 24-hour period, the beginning and finishing time, showing a.m. or p.m., worked for each motor carrier shall be shown after each motor carrier’s name. Drivers of leased commercial motor vehicles shall show the name of the motor carrier performing the transportation.

(7) Signature/certification. The driver shall certify to the correctness of all entries by signing the form containing
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the driver’s duty status record with
his/her legal name or name of record.
The driver’s signature certifies that all
entries required by this section made
by the driver are true and correct.

(8) Time base to be used. (i) The driv-
er’s duty status record shall be pre-
pared, maintained, and submitted
using the time standard in effect at the
driver’s home terminal, for a 24-hour
period beginning with the time speci-
fied by the motor carrier for that driv-
er’s home terminal.

(ii) The term “7 or 8 consecutive
days” means the 7 or 8 consecutive 24-
hour periods as designated by the car-
rier for the driver’s home terminal.

(iii) The 24-hour period starting time
must be identified on the driver’s duty
status record. One-hour increments
must appear on the graph, be identi-
fied, and preprinted. The words “Mid-
night” and “Noon” must appear above
or beside the appropriate one-hour in-
crement.

(9) Main office address. The motor car-
rier’s main office address shall be
shown on the form containing the driv-
er’s duty status record.

(10) Recording days off duty. Two or
more consecutive 24-hour periods off
duty may be recorded on one duty sta-
tus record.

(11) Total hours. The total hours in
each duty status: if duty other than in
a sleeper berth; off duty in a sleeper
berth; driving, and on duty not driving,
shall be entered to the right of the
grid, the total of such entries shall
equal 24 hours.

(12) Shipping document number(s) or
name of shipper and commodity shall be
shown on the driver’s record of duty
status.

(g) Graph grid. The following graph
grid must be incorporated into a motor
carrier recordkeeping system which
must also contain the information re-
quired in paragraph (d) of this section.
(h) Graph grid preparation. The graph grid may be used horizontally or vertically and shall be completed as follows:

(1) Off duty. Except for time spent resting in a sleeper berth, a continuous line shall be drawn between the appropriate time markers to record the period(s) of time when the driver is not on duty, is not required to be in readiness to work, or is not under any responsibility for performing work.

(2) Sleeper berth. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time off duty resting in a sleeper berth, as defined in §395.2. (If a non-sleeper berth operation, sleeper berth need not be shown on the grid.)

(3) Driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of driving time, as defined in §395.2.

(4) On duty not driving. A continuous line shall be drawn between the appropriate time markers to record the period(s) of time on duty not driving specified in §395.2.

(5) Location—remarks. The name of the city, town, or village, with State abbreviation where each change of duty status occurs shall be recorded.
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Note: If a change of duty status occurs at a location other than a city, town, or village, show one of the following: (1) The highway number and nearest milepost followed by the name of the nearest city, town, or village and State abbreviation, (2) the highway number and the name of the service plaza followed by the name of the nearest city, town, or village and State abbreviation, or (3) the highway numbers of the nearest two intersecting roadways followed by the name of the nearest city, town, or village and State abbreviation.

(i) Filing driver’s record of duty status. The driver shall submit or forward by mail the original driver’s record of duty status to the regular employing motor carrier within 13 days following the completion of the form.

(j) Drivers used by more than one motor carrier. (1) When the services of a driver are used by more than one motor carrier during any 24-hour period in effect at the driver’s home terminal, the driver shall submit a copy of the record of duty status to each motor carrier. The record shall include:

(i) All duty time for the entire 24-hour period;

(ii) The name of each motor carrier served by the driver during that period; and

(iii) The beginning and finishing time, including a.m. or p.m., worked for each carrier.

(2) Motor carriers, when using a driver for the first time or intermittently, shall obtain from the driver a signed statement giving the total time on duty during the immediately preceding 7 days and the time at which the driver was last relieved from duty prior to beginning work for the motor carriers.

(k) Retention of driver’s record of duty status. (1) Each motor carrier shall maintain records of duty status and all supporting documents for each driver it employs for a period of six months from the date of receipt.

(2) The driver shall retain a copy of each record of duty status for the previous 7 consecutive days which shall be in his/her possession and available for inspection while on duty.

NOTE: Driver’s Record of Duty Status.
The graph grid, when incorporated as part of any form used by a motor carrier, must be of sufficient size to be legible.
The following executed specimen grid illustrates how a driver’s duty status should be recorded for a trip from Richmond, Virginia, to Newark, New Jersey. The grid reflects the midnight to midnight 24 hour period.

Graph Grid (Midnight to Midnight Operation)
The driver in this instance reported for duty at the motor carrier’s terminal. The driver reported for work at 6 a.m., helped load, checked with dispatch, made a pretrip inspection, and performed other duties until 7:30 a.m. when the driver began driving. At 9 a.m. the driver had a minor accident in Fredericksburg, Virginia, and spent one half hour handling details with the local police. The driver arrived at the company’s Baltimore, Maryland, terminal at noon and went to lunch while minor repairs were made to the tractor. At 1 p.m. the driver resumed the trip and made a delivery in Philadelphia, Pennsylvania, between 3 p.m. and 3:30 p.m. at which time the driver started driving again. Upon arrival at Cherry Hill, New Jersey, at 4 p.m., the driver entered the sleeper berth
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for a rest break until 5:45 p.m. at which time the driver resumed driving again. At 7 p.m. the driver arrived at the company’s terminal in Newark, New Jersey. Between 7 p.m. and 8 p.m. the driver prepared the required paperwork including completing the driver’s record of duty status, driver vehicle inspection report, insurance report for the Fredericksburg, Virginia accident, checked for the next day’s dispatch, etc. At 8 p.m., the driver went off duty.

(Approved by the Office of Management and Budget under control number 2125-0016)

§ 395.11 Supporting documents for drivers using EOBRs.

(a) Motor carriers maintaining date, time and location data produced by a § 395.16-compliant EOBR need only maintain additional supporting documents (e.g., driver payroll records, fuel receipts) that provide the ability to verify on-duty not driving activities and off-duty status according to the requirements of § 395.8(k).

(b) This section does not apply to motor carriers and owner-operators that have been issued a remedial directive to install, use, and maintain EOBRs.

§ 395.12 [Reserved]

§ 395.13 Drivers declared out of service.

(a) Authority to declare drivers out of service. Every special agent of the Federal Motor Carrier Safety Administration (as defined in appendix B to this subchapter) is authorized to declare a driver out of service and to notify the motor carrier of that declaration, upon finding at the time and place of examination that the driver has violated the out of service criteria as set forth in paragraph (b) of this section.

(b) Out of service criteria. (1) No driver shall drive after being on duty in excess of the maximum periods permitted by this part.

(2) Every driver required to maintain a record of duty status under § 395.8 must have a record of duty status current on the day of examination and for the prior 7 consecutive days.

(3) Exception. A driver failing only to have possession of a record of duty status current on the day of examination and the prior day, but has completed records of duty status up to that time (previous 6 days), will be given the opportunity to make the duty status record current.

(4) No driver shall drive a CMV in violation of § 385.811(d) of this chapter.

(c) Responsibilities of motor carriers. (1) No motor carrier shall:

   (i) Require or permit a driver who has been declared out of service to operate a commercial motor vehicle until that driver may lawfully do so under the rules in this part.

   (ii) Require a driver who has been declared out of service for failure to prepare a record of duty status to operate a commercial motor vehicle until that driver has been off duty for the appropriate number of consecutive hours required by this part and is in compliance with this section. The appropriate consecutive hours off-duty may include sleeper berth time.

   (2) A motor carrier shall complete the “Motor Carrier Certification of Action Taken” portion of the form MCS–63 (Driver-Vehicle Examination Report) and deliver the copy of the form either personally or by mail to the Division Administrator or State Director Federal Motor Carrier Safety Administration, at the address specified upon the form within 15 days following the date of examination. If the motor carrier mails the form, delivery is made on the date it is postmarked.

(d) Responsibilities of the driver. (1) No driver who has been declared out of service shall operate a commercial motor vehicle until that driver may lawfully do so under the rules of this part.

(2) No driver who has been declared out of service, for failing to prepare a record of duty status, shall operate a commercial motor vehicle until the