

§ 395.2

49 CFR Ch. III (10–1–23 Edition)

§ 395.3(a)(3)(ii) may use 30-minutes or more of time spent while waiting with the commercial motor vehicle at a job site or terminal to meet the requirement for the 30-minute rest break, providing the driver performs no other work during the break.

(u) *Transport of commercial bees.* The provisions of § 395.3(a)(3)(ii), requiring a 30-minute rest break, do not apply to a driver engaged in the interstate transportation of bees by commercial motor vehicle as long as the bees are on the vehicle.

(v) *Transport of livestock.* The provisions of § 395.3(a)(3)(ii), requiring a 30-minute rest break, do not apply to a driver engaged in the interstate transportation of livestock by commercial motor vehicle while the livestock are on the vehicle.

(w) *Hi-rail vehicles.* For the driver of a hi-rail vehicle, the maximum on duty time under § 395.3 shall not include time in transportation to or from a duty assignment if such time in transportation—

(1) Does not exceed 2 hours per calendar day or a total of 30 hours per calendar month; and

(2) 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.

(x) *Pipeline welding trucks.* The rules in this part do not apply to drivers of “pipeline welding trucks,” as defined in 49 CFR 390.38(b).

[57 FR 33647, July 30, 1992]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 395.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

§ 395.2 Definitions.

As used in this part, the following words and terms are construed to mean:

Adverse driving conditions means snow, ice, sleet, fog, or other adverse weather conditions or unusual road or traffic conditions that were not known, or could not reasonably be known, to a driver immediately prior to beginning the duty day or immediately before be-

ginning driving after a qualifying rest break or sleeper berth period, or to a motor carrier immediately prior to dispatching the driver.

Agricultural commodity means:

(1) Any agricultural commodity, non-processed food, feed, fiber, or livestock as defined in this section.

(2) As used in this definition, the term “any agricultural commodity” means horticultural products at risk of perishing, or degrading in quality, during transport by commercial motor vehicle, including plants, sod, flowers, shrubs, ornamentals, seedlings, live trees, and Christmas trees.

Automatic on-board recording device means an electric, electronic, electromechanical, or mechanical device capable of recording driver's duty status information accurately and automatically as required by § 395.15. The device must be integrally synchronized with specific operations of the commercial motor vehicle in which it is installed. At a minimum, the device must record engine use, road speed, miles driven, the date, and time of day.

Driver-salesperson means any employee who is employed solely as such by a private carrier of property by commercial motor vehicle, who is engaged both in selling goods, services, or the use of goods, and in delivering by commercial motor vehicle the goods sold or provided or upon which the services are performed, who does so entirely within a radius of 100 miles of the point at which he/she reports for duty, who devotes not more than 50 percent of his/her hours on duty to driving time. The term *selling goods* for purposes of this section shall include in all cases solicitation or obtaining of reorders or new accounts, and may also include other selling or merchandising activities designed to retain the customer or to increase the sale of goods or services, in addition to solicitation or obtaining of reorders or new accounts.

Driving time means all time spent at the driving controls of a commercial motor vehicle in operation.

Eight consecutive days means the period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

Electronic logging device (ELD) means a device or technology that automatically records a driver's driving time and facilitates the accurate recording of the driver's hours of service, and that meets the requirements of subpart B of this part.

ELD record means a record of duty status, recorded on an ELD, that reflects the data elements that an ELD must capture.

Farm supplies for agricultural purposes means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.

Ground water well drilling rig means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

Hi-rail vehicle means an internal rail flaw detection vehicle equipped with flange hi-rails.

Livestock means livestock as defined in sec. 602 of the Emergency Livestock Feed Assistance Act of 1988 [7 U.S.C. 1471], as amended, insects, and all other living animals cultivated, grown, or raised for commercial purposes, including aquatic animals.

Multiple stops means all stops made in any one village, town, or city may be computed as one.

Non-processed food means food commodities in a raw or natural state and not subjected to significant post-harvest changes to enhance shelf life, such as canning, jarring, freezing, or drying. The term "non-processed food" includes fresh fruits and vegetables, and cereal and oilseed crops which have been minimally processed by cleaning, cooling, trimming, cutting, chopping, shucking, bagging, or packaging to facilitate transport by commercial motor vehicle.

On-duty time means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for per-

forming work. *On-duty time* shall include:

(1) All time at a plant, terminal, facility, or other property of a motor carrier or shipper, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;

(2) All time inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All driving time as defined in the term *driving time*;

(4) All time in or on a commercial motor vehicle, other than:

(i) Time spent resting in or on a parked vehicle, except as otherwise provided in § 397.5 of this subchapter;

(ii) Time spent resting in a *sleeper berth*; or

(iii) Up to 3 hours riding in the passenger seat of a property-carrying vehicle moving on the highway immediately before or after a period of at least 7 consecutive hours in the sleeper berth;

(5) All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a commercial motor vehicle being loaded or unloaded, remaining in readiness to operate the commercial motor vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(6) All time repairing, obtaining assistance, or remaining in attendance upon a disabled commercial motor vehicle;

(7) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, to comply with the random, reasonable suspicion, post-crash, or follow-up testing required by part 382 of this subchapter when directed by a motor carrier;

(8) Performing any other work in the capacity, employ, or service of, a motor carrier; and

(9) Performing any compensated work for a person who is not a motor carrier.

Ready-mixed concrete delivery vehicle means a vehicle designed to deliver ready-mixed concrete on a daily basis and equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer

§ 395.3

drum to agitate and mix the product en route to the delivery site.

Seven consecutive days means the period of 7 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

Signal employee, as defined in 49 U.S.C. 21101(4), means an individual who is engaged in installing, repairing, or maintaining signal systems.

Sleeper berth means a berth conforming to the requirements of § 393.76 of this chapter.

Supporting document means a document, in any medium, generated or received by a motor carrier in the normal course of business as described in § 395.11 that can be used, as produced or with additional identifying information, by the motor carrier and enforcement officials to verify the accuracy of a driver's record of duty status.

Transportation of construction material and equipment means the transportation of construction and pavement materials, construction equipment, and construction maintenance vehicles, by a driver to or from an active construction site (a construction site between mobilization of equipment and materials to the site to the final completion of the construction project) within a 75 air mile radius of the normal work reporting location of the driver, except that a State, upon notice to the Administrator, may establish a different air mile radius limitation for purposes of this definition if such limitation is between 50 and 75 air miles and applies only to movements that take place entirely within the State. This paragraph does not apply to the transportation of material found by the Secretary to be hazardous under 49 U.S.C. 5103 in a quantity requiring placarding under regulations issued to carry out such section.

Twenty-four-hour period means any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

Utility service vehicle means any commercial motor vehicle:

(1) Used in the furtherance of repairing, maintaining, or operating any structures or any other physical facilities necessary for the delivery of public utility services, including the fur-

49 CFR Ch. III (10–1–23 Edition)

nishing of electric, gas, water, sanitary sewer, telephone, and television cable or community antenna service;

(2) While engaged in any activity necessarily related to the ultimate delivery of such public utility services to consumers, including travel or movement to, from, upon, or between activity sites (including occasional travel or movement outside the service area necessitated by any utility emergency as determined by the utility provider); and

(3) Except for any occasional emergency use, operated primarily within the service area of a utility's subscribers or consumers, without regard to whether the vehicle is owned, leased, or rented by the utility.

[57 FR 33648, July 30, 1992]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 395.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 395.3 Maximum driving time for property-carrying vehicles.

(a) Except as otherwise provided in § 395.1, no motor carrier shall permit or require any driver used by it to drive a property-carrying commercial motor vehicle, nor shall any such driver drive a property-carrying commercial motor vehicle, regardless of the number of motor carriers using the driver's services, unless the driver complies with the following requirements:

(1) *Start of work shift*. A driver may not drive without first taking 10 consecutive hours off duty;

(2) *14-hour period*. A driver may not drive after a period of 14 consecutive hours after coming on-duty following 10 consecutive hours off-duty.

(3) *Driving time and interruptions of driving periods*—(i) *Driving time*. A driver may drive a total of 11 hours during the period specified in paragraph (a)(2) of this section.

(ii) *Interruption of driving time*. Except for drivers who qualify for either of the short-haul exceptions in § 395.1(e)(1) or (2), driving is not permitted if more than 8 hours of driving time have passed without at least a consecutive 30-minute interruption in driving status. A consecutive 30-minute interruption of driving status may be satisfied