

**SUBJECT:** *Driver Hours of Service - Driver Attendance and Rest Breaks*

**ISSUE:** *Rest Breaks Recorded as "On-Duty" Time*

**DATE:** *August 28, 2015*

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**FMCSA ALLOWS 30-MINUTE REST BREAKS TO BE COUNTED AS ON-DUTY TIME FOR SELECT DRIVERS:**

The U.S. DOT Federal Motor Carrier Safety Administration (FMCSA) has issued an exemption that changes the way CDL drivers hauling gasoline record their mandatory 30-minute break period under recently amended hours of service (HOS) regulations. The new exemption allows drivers hauling gasoline who record their time in a daily log book to count the 30-minute break as "on-duty" time rather than "off-duty" time as otherwise required under the HOS regulations. The exemption was requested by the American Trucking Associations due to a conflict between the FMCSA's 30-minute off-duty rest break requirement and driver on-duty attendance requirements under the U.S. DOT's federal hazardous material regulations (HMR). Due to the conflict, a driver hauling gasoline can't take the mandatory 30-minute off-duty break while at the same time remaining in attendance of the shipment which counts as on-duty time.

To remove this conflict the FMCSA is allowing drivers to take the 30-minute break and count it against on-duty time provided:

- the driver is hauling gasoline; and
- the driver is recording daily HOS in log books; and
- the driver is subject to the 14 hour maximum daily on duty time under the HOS; and
- the driver is not using the 100-air mile radius exemption which reduces daily on duty time to 12 hours and eliminates the written log book requirement; and
- the driver's employer has a written security plan that requires constant attendance of the shipment; and
- the driver's employer has a "satisfactory" safety rating or are unrated by the FMCSA; and
- the driver keeps a copy of the 30-minute rest period exemption in the cab of the truck.

The exemption began August 21, 2015 and expires August 21, 2017.

A copy of the exemption can be downloaded here: <http://www.gpo.gov/fdsys/pkg/FR-2015-08-21/html/2015-20686.htm>

**IMPORTANT!** The exemption does not apply to drivers hauling diesel fuel or heating oil. The exemption does not change the prohibition against counting break time while waiting in line at a terminal. Waiting in line at a terminal never qualifies as a 30-minute break period or off-duty time. The exemption requires the driver to stop operation of the truck but remain in attendance. Basically, this means the driver must pull over to the side of the road, park and eat lunch or rest in the cab of the truck. Finally, the exemption is not an exemption from the 30-minute break period itself but simply an exemption from recording the 30-minute break as "off-duty" time.

**IMPORTANT!** The 30-minute break period does not apply to drivers who stay within 100 air-mile radius of their normal work reporting location and released from duty after 12 hours.