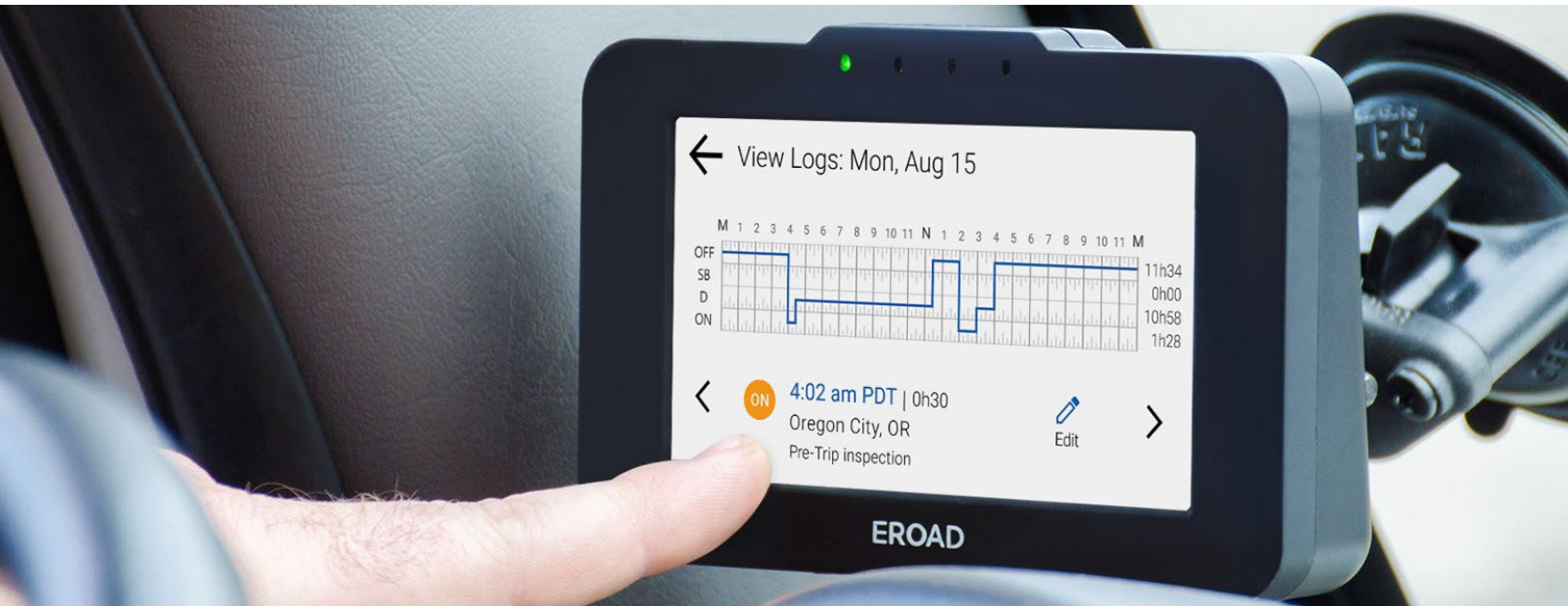




EROAD



EROAD Report: FMCSA HOS Flexibility NPRM Research

October 22, 2019

INTRODUCTION AND CONTENTS

EROAD is a leading technology supplier to the transportation industry delivering commercial fleet management, and independently verified and compliant ELD and electronic tax solutions to commercial motor carriers and drivers. Headquartered in Portland, Oregon, EROAD works closely with fleets and drivers to support accurate and reliable capture of vehicle and driver data that enables improved compliance, safety and efficient operations.

At EROAD, we want to help our carrier customers and the industry to have their voices heard on key issues and topics that matter most. HOS rules affect all of us but in different ways. Our goal around the NPRM was to help collect the industry’s reactions to the proposed changes, organize and analyze the data to share those findings with the industry and the FMCSA to enable informed decision making.

The information in this document was submitted to FMCSA on October 21, 2019.

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SUMMARY OF PROPOSED HOS CHANGES

	Short Haul Operations	Adverse Conditions	30-minute Break	Split Sleeper Berth	Split Duty Provision
Current Rules	<p>Short haul drivers must:</p> <ul style="list-style-type: none"> - Stay within 100 air mile radius of reporting location - Not be on-duty more than 12 hours - Not drive more than 11 hours - Start and end at the same location <p>Short haul drivers do not have to prepare RODS, use ELD, maintain supporting docs or take a 30-min break. Only need to keep timecard records for 6 months.</p>	<p>In adverse driving conditions the driver gets 2 extra hours in the 11-hour driving limit but must be done within 14-hour driving window.</p>	<p>Drivers must take at least a 30-min break in off-duty status after 8 hours of being on-duty including driving.</p>	<p>Currently the driver can split the 10-hour rest break into two periods of 8 hours or more in sleeper-berth with another off-duty period of 2 hours or more. The off-duty period of 2 hours or more counts towards the 14-hour window.</p>	<p>Driver must not drive past 14 hours of coming on-duty after a 10-hour rest. The 14-hour window is consecutive hours and does not pause for any periods of off-duty except for the 8 hours or more in sleeper berth.</p>
Proposed Changes	<p>Change 100 air mile radius to 150 air mile radius of reporting location. Increase the maximum on-duty hours from 12 to 14 hours.</p>	<p>Increase the 14-hour driving by 2 hours as well to make it 16-hour driving window.</p>	<p>Change so that the 30-min break can be satisfied by on-duty, not driving time as well as off-duty status. A 30-min break is due after 8 hours of driving time instead of on-duty time.</p>	<p>Allow drivers to split the 10 hours as 8 hours in sleeper berth and 2 hours in off duty; or 7 hours in sleeper and 3 hours in off duty. Now the 2 or more hours of off-duty would also be excluded and not count towards the 14-hour window.</p>	<p>Allow drivers to pause the 14-hour window by a single off-duty rest of up to 3 hours.</p>
Impact	<p>More drivers and more trips would be eligible for the short haul exception. Those drivers won't need to prepare daily RODS, nor need ELDs.</p>	<p>Allow drivers time to wait out the adverse condition or drive slowly and safely through it without HOS violations.</p>	<p>Now the driver is able to use on-duty time such as loading/unloading or fueling time to count towards the 30-min break. Suppose a driver started the day with 2 hours on-duty and then started driving. The driver will not need to take a break until later in the day.</p>	<p>Gives options for the driver to split the rest in response to the variables he faces in the day. Incentivizes the driver to take an off-duty rest period of 2 or more hours during the day so they can be more productive without cutting into the 14-hour window.</p>	<p>Significantly more flexibility than the current rules by allowing drivers to take an off-duty rest without fear of exhausting their available hours on the 14-hour clock. Incentivizes the driver to voluntarily take longer rest breaks as needed.</p>

EROAD SURVEY RESULTS ON PROPOSED HOS CHANGES

Survey Methodology and Respondent Profile

Methodology

EROAD’s survey on the proposed HOS changes started with questions to help us understand respondents’ type of haulage, size of fleet and role in their organization. The main part of the survey was organized into questions related to each of the five main proposed changes to the HOS rules. Questions asked respondents to comment on operations as HOS rules stand now, how proposed changes would impact operations, and how changes would be implemented.

EROAD solicited responses from a wide set of trucking industry professionals, including its customer base and other carriers and private fleets across the United States. We also worked with several trucking associations to reach their members.

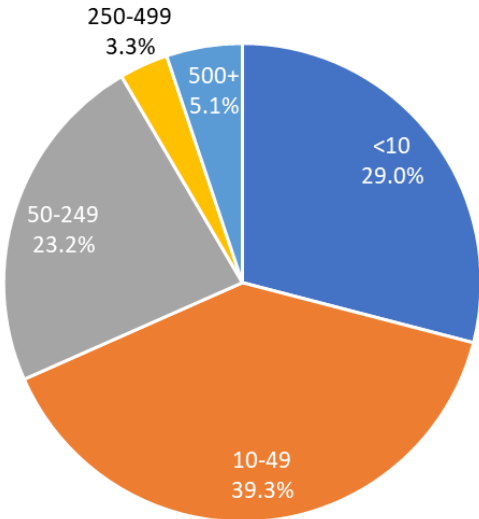
The analysis of the survey results was written by Soona Lee, EROAD Director of Regulatory Compliance. Her thoughts were influenced through outreach to industry stakeholders to gain their feedback on how the changes will impact safety, compliance and operations.

We received 272 total responses, though not all respondents addressed all questions. The charts below indicate that the respondents represent a wide range in the types of trucking operations and by role.

Survey Respondent Profile

Respondents by Fleet Size Band
Participation was strongest among small and medium sized fleets.
The average fleet size among all respondents is 288 trucks.
The median Fleet size is 25 trucks.

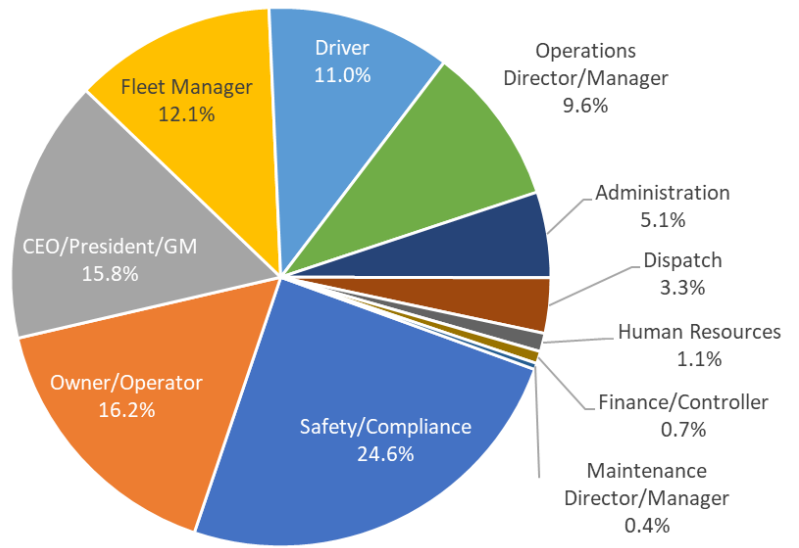
Fleet Size	# Respondents
<10	79
10-49	107
50-249	63
250-499	9
500+	14
Grand Total	272



Respondents by Function

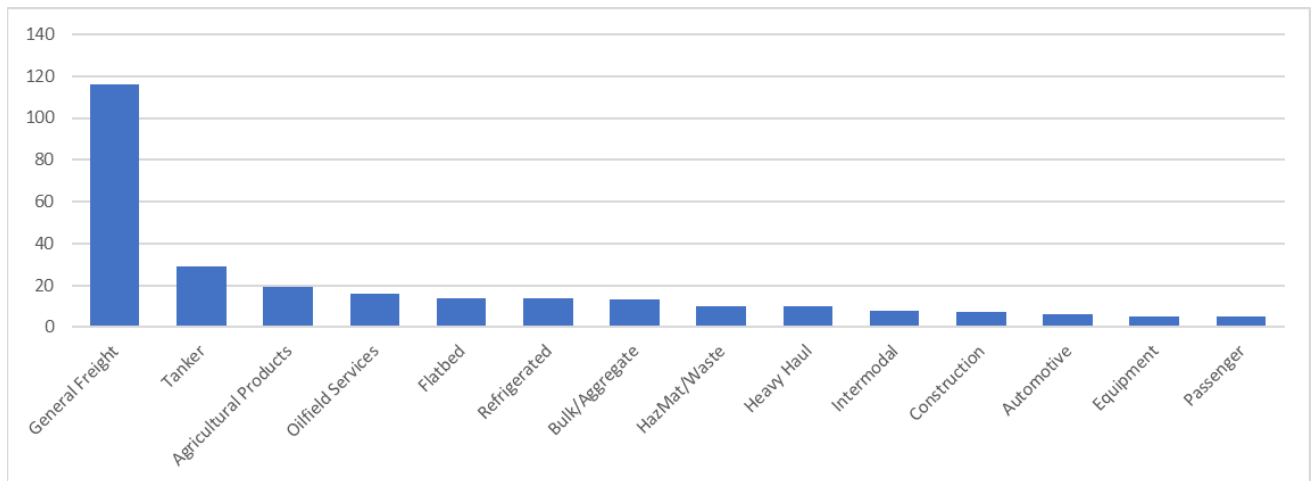
Responses came from many functions in transportation organizations, though safety/compliance, OOs and senior managements was most strongly represented.

[272 responses]



Respondents by Type of Haulage

General freight was strongly represented in the data set, though responses were received from across the industry in terms of freight hauled.



EROAD SURVEY RESULTS: Short Haul Exemption

Short haul: more use of the exemption

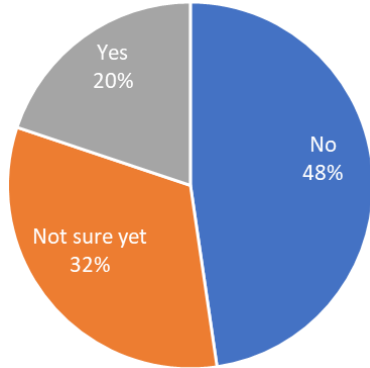
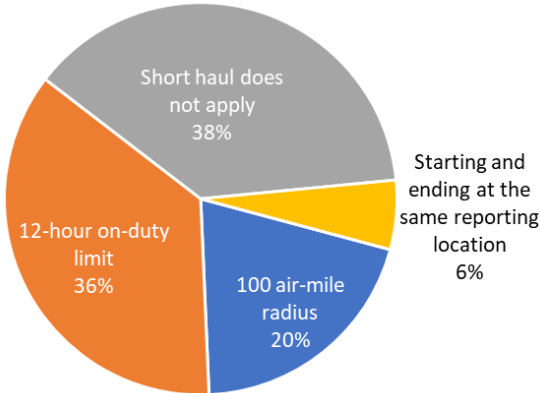
38% of respondents report that the short haul exemption does not apply to their operation. Of those respondents for which short haul does apply, 58% report that 12-hour on-duty limit is the most frequently exceeded short haul criteria.

Therefore, increasing the maximum on-duty limit from 12-hours to 14-hours will help short haul operations without the need to change the way they operate. Only one in five (20%) of fleets have indicated that they would change the way they may operate to benefit further from changes to the short haul exemption.

QUESTION:

“Based on the existing short haul criteria, which of the limits are your drivers most frequently exceeding?”

[263 responses]



QUESTION:

“Would you change the way you operate as a result of the short haul changes?”

[151 responses]

Fleet Size	Yes	Not Sure	No
<10	16%	31%	53%
10-49	27%	32%	41%
50-249	17%	34%	49%
250-499	17%	33%	50%
500+	0%	33%	67%

IMPACT SUMMARY:

With the proposed changes, more drivers and more trips would be eligible for the short haul exemption. Those drivers won’t need to prepare daily RODS, nor need ELDs. As many as half of fleets may adjust operations to take advantage of new short haul criteria.

SELECT COMMENTS FROM RESPONDENTS: use of the short haul exemption

“A fair number of our drivers pick up more than 100 air miles from the terminal, but they rarely exceed 14 hours and they are home after every shift, so they run the 70/8 rules. For our operation 150 miles and a 14-hour day would be beneficial.”

name withheld

“99% of our drivers drive in excess of 150 air miles on most trips. We are a super-regional company.”

name withheld

“12 hours isn't enough time for a lot of paving jobs we do locally. There are a lot of times drivers will sit for 25% to 35% of their shift and they are not driving so for them to have 14 hours on duty and 11 hours of drive time would make it so my drivers don't have to worry about getting their break in just to do a local job when they need 14 hours of on duty time.”

name withheld

“Long lines at loading racks and heavy traffic can cause 12-hour rule to be exceeded on occasion.”

Mike Elmenhorst, Groendyke Transport

“100 air miles are enough. If FMCSA makes it 150 it will be abused. It is already being abused at 100 air miles. The 12-hour should change. More productivity.”

Adam Gallagher, Devine Intermodal

“Some days drivers get tied up at the port and go over the 12-hour limit.”

name withheld

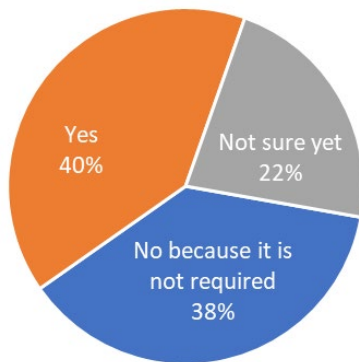
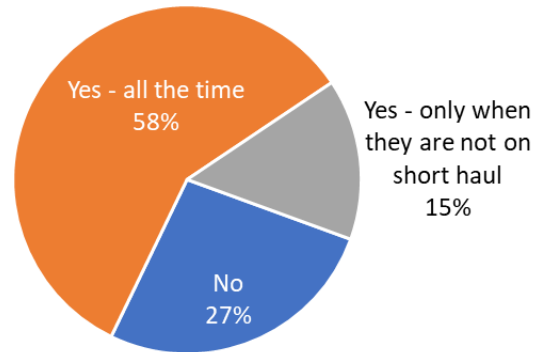
Short haul: fewer short haul drivers using ELDs

Most respondents currently use ELDs in their fleets even though some or all their drivers operate within the short haul exemption. These respondents state that they require the use of ELDs as part of their company policy to maintain a uniform way to manage HOS records, driver payroll, IFTA fuel taxes and driver-vehicle inspection reports (DVIR).

QUESTION:

Are the short haul drivers in your fleet using ELDs?

[154 responses]



QUESTION:

Would you continue to choose to use ELDs if the short haul criteria are broadened as proposed?

[151 responses]

With the proposed changes to short haul, the respondents stating they will not choose to continue using ELDs for short haul drivers increases sharply. Currently 27% of respondents report that their short haul drivers don't use ELDs. With the proposed changes, the respondents indicating they won't use ELDs for their short haul drivers jumps to 61% (69% for fleets with less than 50 trucks). Those that will continue deploying ELDs report doing so to support business needs for IFTA, IRP, dispatch, operations optimization and driver behavior.

Fleet Size	CURRENT STATE		FUTURE STATE	
	Short haul drivers now use ELDs all of the time or when not on short haul		Yes, ELDs will be used with new short haul criteria	Not sure if ELDs will be used with new short haul criteria
<10	83%		36%	20%
10-49	62%		31%	18%
50-249	75%		54%	26%
250-499	100%		50%	50%
500+	89%		56%	33%

[151 responses]

IMPACT SUMMARY:

With the proposed changes, fewer ELDs will be in use in operations that use the short haul exemption some or all the time. Larger fleets are more likely than smaller fleets to continue using ELDs due to the operational benefits.

SELECT COMMENTS FROM RESPONDENTS: use of ELDs

“For Safety, I feel that not only do ELDs help with IFTA, but they help track safety.”

Harry Smith, Safety/Compliance, TRCC Transport Inc.

“Keep all hours in one place and to ensure drivers don't forget to log on ELD”

Sandra Knigge, Owner, Melco Inc

“That is our procedure and I see no reason to go away from using electronic logs.”

Mike Elmenhorst, Safety Manager, Groendyke Transport

“Consistency for cross functional drivers, DVIR and dispatch messaging are value added tools.”

Cory Whittle, Safety Director, Gary Amoth Trucking

“Makes IFTA reporting easier and improves accuracy.”

Koral J Salina, Records Management, Salinas Trucking LLC

“They still would have to use the ELD's because we pay our short haulers for mileage if they drive beyond 50 miles. It is part of our union contract.”

Fay Urban, Safety Director, Heding Truck Services Inc.

“ELDs can support business' keeping track of all records.”

name withheld

EROAD SURVEY RESULTS: Adverse Driving Conditions

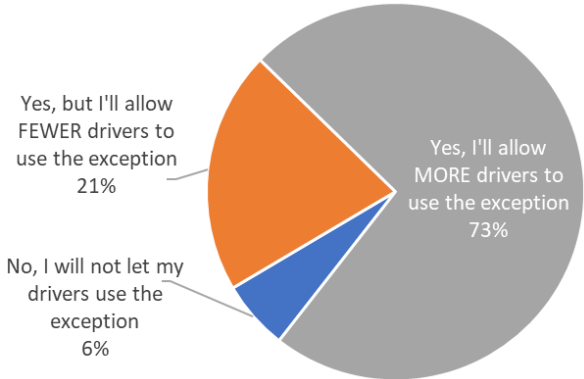
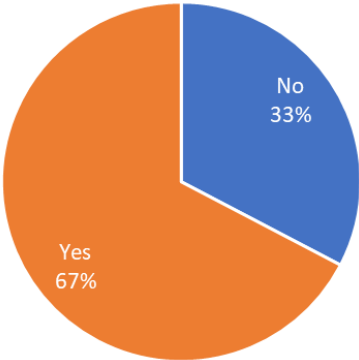
Adverse conditions: increased use of the exception

Nearly one-third of fleets currently do not allow drivers to use the adverse conditions exception. With the proposed changes, that drops to 17% - and nearly two-thirds plan to let more drivers use the exception.

QUESTION:

Do you currently allow your drivers to use adverse conditions exception?

[150 responses]



QUESTION:

With the proposed changes, would you allow your drivers to use the exception?

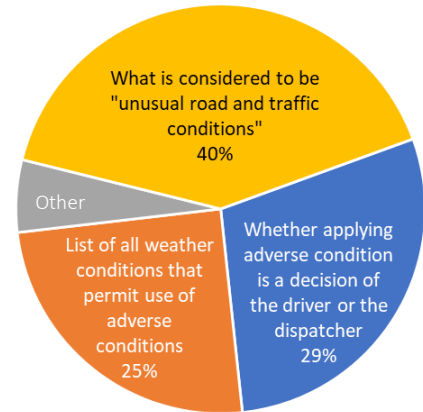
[101 responses]

A significant number of respondents suggest that further clarification is needed to define qualifying weather conditions and unusual road and traffic conditions. Several respondents commented that applying the exception should be the decision of the driver as they are the ones that are facing the adversity on the roadways and should be the ones to make the call.

QUESTION:

Does the definition of adverse condition need further clarification?

[221 responses]



IMPACT SUMMARY:

More carriers are looking to allow increased use of adverse conditions exception with better clarification on what qualifies as adverse condition and who (driver or dispatcher) is allowed to make that determination.

SELECT COMMENTS FROM RESPONDENTS: adverse driving conditions exception

“We allow very limited use of this exception and I see no reason to expand use. With 24-hour weather channels and access to road closures there are limited times a driver could claim adverse conditions.”

Mike Elmenhorst, Safety Manager, Groendyke Transport

“One big problem is if there is an accident on the interstate and our driver is stuck in traffic longer than their 14 hours. They may have drive time available but not enough time on their 14 to drive to the next location. This would allow them to get to the next safe place to park.”

Fay Urban, Safety Director, Hedding Truck Service Inc.

“For safety precautions, we prefer our drivers be off the road.”

name withheld

“I feel it will put my company at risk. It’s not just dumb, but crazy! Do you want a driver in 80,000 lbs that has the potential to be up without sleep for 17 to 20 hours behind the wheel? Why not just give him a beer (same thing, people!). Wake up! We need to move freight, but I have family on the roads. So do you. Let’s really step back and think.”

Harry Smith, Safety, TRCC Transport Inc.

EROAD SURVEY RESULTS: 30-minute Rest Break

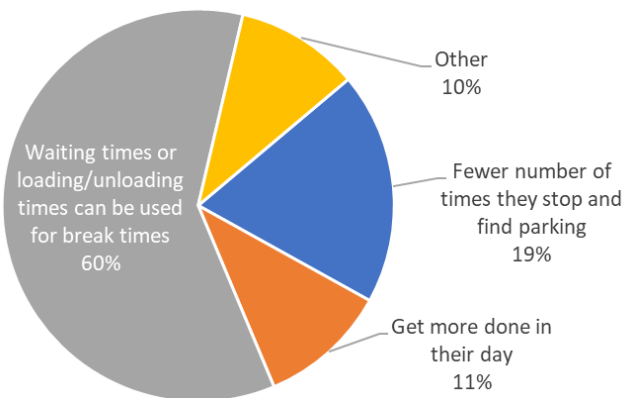
30-minute rest break: relief from detention time

60% of the respondents consider the change to the 30-minute rest break as a relief valve for detention time by allowing waiting times or loading times to be treated as break times. Many respondents see the time spent in non-driving activities are good enough as breaks from driving.

QUESTION

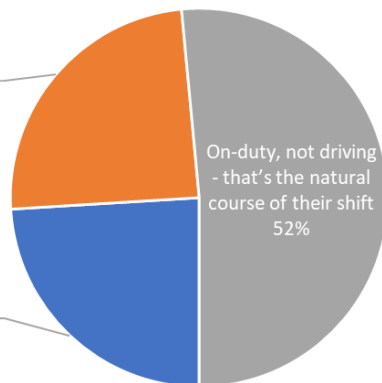
What do you think is the biggest benefit for your drivers from FMCSA's proposed changes to the 30-minute rest break?

[235 responses]



On-duty, not driving - that will substitute for their off-duty 24%

Off-duty - we encourage them to take distinct breaks 24%



QUESTION

Given your type of operation, which type of break would your drivers be taking?

[233 responses]

Several types of operations already benefit from the 30-minute exemption—*asphalt and paving operations, transporting ready-mix concrete*—that suggest it helps their operations without affecting safety. Other comments indicate that the current rule adds to the stress of having to stop at a certain time and find parking. The changes that allow on-duty rest breaks will help the driver to break up driving more naturally during their day.

IMPACT SUMMARY:

By allowing loading, unloading and other on-duty activities to qualify as rest breaks, it provides drivers with relief for dwell times at shippers or customers and helps to reduce the stress of looking for truck parking.

SELECT COMMENTS FROM RESPONDENTS: 30-minute rest break exemption

“This rule is only necessary for drivers who drive all day without stopping. Most drivers don’t fall into that category. Besides the lack of parking, there is the stress of having to stop at a certain time in a place where you can park. Also, stopping early in your shift may take away the opportunity to stop later in your shift when you may be tired and want to rest.”

Christopher A Sutton, Driver, ADUSA Transportation LLC

“Now instead of sneaking a 30-minute break in while fueling off duty, they can log it correctly without wasting more time off the clock”

Edward Oliver, Driver, Magnum Companies

“Pretty much nothing is beneficial for drivers and the community in terms of safety. The only tangible benefits are to the company that financially profits from having drivers work through their 30-minute breaks. I’m pretty sure the long-haul drivers paid by the mile would do this day in and day out, so allowing this rule to change would have a very high chance of having more long haul drivers not take any 30-minute break during their day, larger companies financially profiting, and society taking on the risks as well as society and insurance companies taking on the increased financial costs of additional accidents.”

name withheld

EROAD SURVEY RESULTS: Split Sleeper-berth

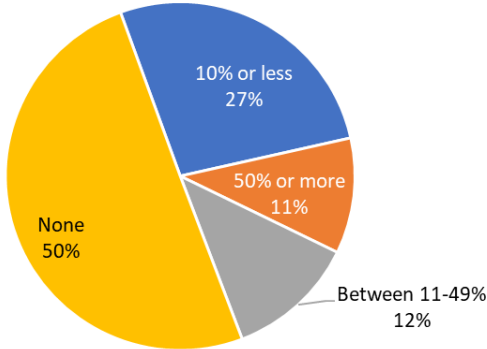
Split sleeper-berth: more use of the provision

Only half of the respondents had a portion of their fleets using split sleeper provision. This may be an indication of the trend towards increased out-and-back routes.

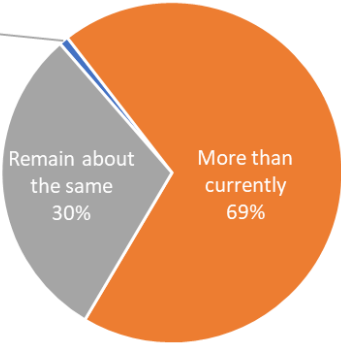
QUESTION:

What percentage of your fleet/drivers use the split sleeper-berth provision?

[233 responses]



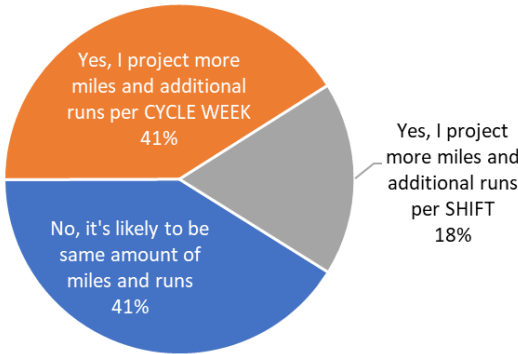
Less than currently
1%



QUESTION:

With FMCSA's proposed changes to the split sleeper berth provision, would your drivers want to use the provision?

[113 responses]



QUESTION:

Would your drivers be able to drive more miles and complete additional runs with the proposed changes to the split sleeper berth provision?

[112 responses]

However, the proposed flexibility to the split sleeper provision would make it attractive to the long-haul over-the-road drivers to use the provision more. Nearly two-thirds of respondents also project more miles and runs – most saying it will be on a cycle week basis rather than per shift.

IMPACT SUMMARY:

More flexibility with the split sleeper-berth provision is expected to generate more miles and runs by drivers, which are more likely on a cycle week basis than per shift basis.

EROAD SURVEY RESULTS: Split Duty Provision

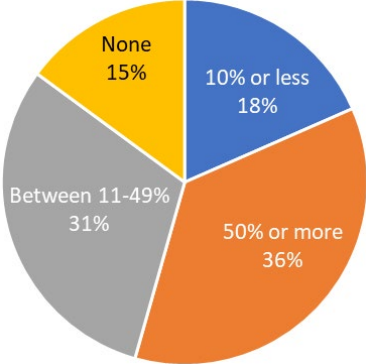
Extending the 14-hour window: most, but not all, like it

Respondents are generally comfortable with drivers extending their driving window given drivers are still bound by the 11-hour driving limit. However, there are some that might set out conditions in company policies to avoid abuse of this provision, while some would avoid allowing longer shifts altogether.

QUESTION:

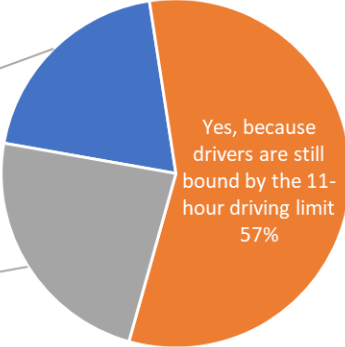
In any given day, what percentage of your drivers are running close to their 14-hour driving window?

[228 responses]



No, I would not be comfortable having my drivers operate such long hours and will keep to shifts less than 14 hours
20%

Yes, but I might outline conditions in company policies
23%



QUESTION:

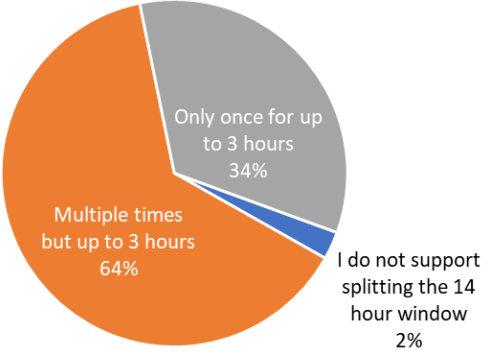
Would you be comfortable with your drivers potentially having a 17-hour working day (compared to 14 hours)?

[192 responses]

QUESTION:

Do you think that a driver should be allowed to pause once or multiple times for up to 3 hours to extend the 14-hour window?

[154 responses]



A significant majority support extending the 14-hour duty period with off-duty rest, and over half would prefer even more flexibility with multiple rest periods for up to 3 hours rather than just a single period.

This proposal provoked the most comments amongst respondents. Main reasons offered by respondents that did not support this proposal was the impact on driver fatigue and that it could be subject to abuse. However, majority of respondents argue that this provision would offer drivers the most flexibility to plan their trips, obtain proper rest and get off the road during peak traffic.

IMPACT SUMMARY:

General comfort with extending the 14-hour driving window given driving limits and company policies to guide driver behavior. However, some carriers would avoid the longer shifts entirely to avoid driver fatigue.

SELECT COMMENTS FROM RESPONDENTS: extending the 14-hour window

“I think we are running into potential accidents and fatigue running more than 14 hours. I don't allow my non driving employees to work more than 12 hours because of less getting done as someone is on the clock.”

David Holley, General Manager, Moss Greenhouses

“Fatigue is a problem with this change.”

name withheld

“Being able to take multiple breaks throughout a shift would be beneficial to drivers. It would provide peace of mind knowing that pulling over for a needed rest would not take time away from your day and encourage drivers to take the breaks they need rather than try and push through because the clock is ticking.”

name withheld

“The area we run is populated with multiple large companies that all start and end shifts at the same time. Allowing the driver to stop and wait for traffic during peak rush hour traffic would be a great opportunity.”

Max Ludtke, Dispatch, Ludtke Pacific Trucking Inc.

“Great example [of this need]...I am waiting for freight right now. Got here at 0600 and it's 1130. I have a 7.5 hour ride to get home. I will not make it.”

Bradley Hill, Owner Operator, Heal Associates LLC

EROAD SURVEY RESULTS: Training Requirements

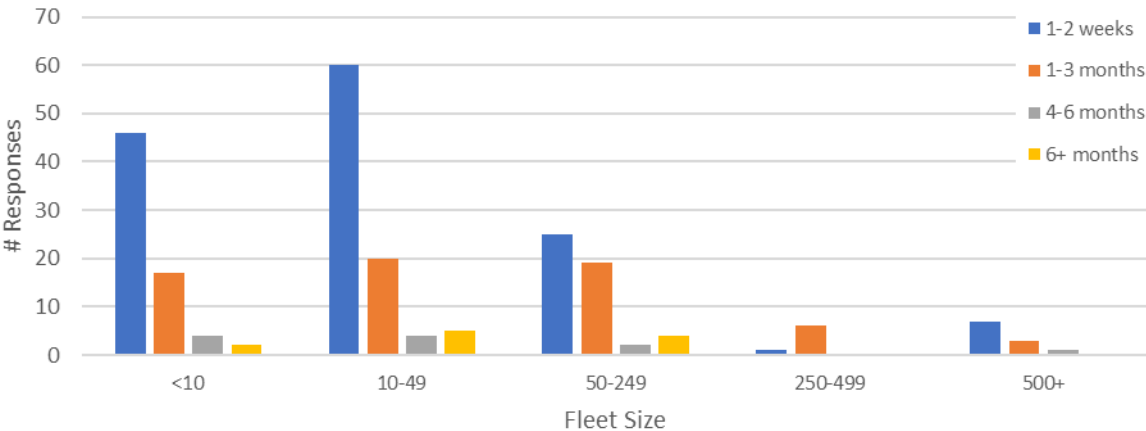
Training on changes: even large fleets think 3 months is enough

90% of respondents state that it would take less than 3 months to train drivers and fleet management staff on the HOS changes. Even among respondents with larger fleets above 250 trucks, it is believed that 1-2 weeks is needed for office staff, and up to 3 months to train all drivers.

QUESTION:

How long do you think it will take to train drivers, dispatchers, safety managers and other staff on the HOS changes?

[226 responses]



Respondents comment that most of the staff are aware of the changes and there are processes in place to bring in groups of drivers to carry out the trainings such as monthly safety meetings. Many believe that it will not take long to learn the changes and be compliant as it is straight forward.

IMPACT SUMMARY:

Carriers of all sizes believe it will take under 3 months to get drivers and staff trained on the proposed changes. They believe that as long as the ELDs are up to date, the training should not take that long.

SELECT COMMENTS FROM RESPONDENTS: training on HOS changes

“By the time it would be implicated we should know all about the changes. As far as the drivers go, if the ELD's are up to date, it will let warn them when they need to stop.”

Fay Urban, Safety Director, Hedging Truck Service Inc.

“Most companies are already trained for hours of service, this would be only an adjustment in those areas proposed.

Rickie Guillory, President, Guillory Petroleum Transport LLC

“The changes are not that big. It is simple learning a new way to do their logs.”

name withheld

“2 weeks is too short of a time frame. We sometimes don't see drivers for three weeks due to schedules.

name withheld

“Most of our drivers are fast learners. The only delay would be the ELD maker making the adjustments in their program.”

Brad Cardinal, Driver Manager, Tim's Delivery

CLOSING COMMENTS

If you have any further questions or comments on aspects of this submission, please feel free to email Keith Halasy, Director of Marketing at EROAD at keith.halasy@eroad.com.

