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180 E. Broad Street, 11th Floor
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Re: Case No. 14-235-TR-CVF

Dear Sir or Madam:

Please find enclosed the Post Hearing Brief of Respondent Sasa Pavlovic regarding the above-reference matter.

Please call me if you have any questions regarding this matter.

Very Truly Yours,

Anthony E. Palmer, Jr.

AEP/lak
Enclosures
Cc: Katie L. Johnson, Esq.
Sasa Pavlovic

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**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|---|---|---|
| In the Matter of Chicago Air Freight, Inc. | ) | Case No. 14-235-TR-CVF |
| and Sasa Pavlovic, Notice of Apparent | ) | (OH3296006440C) |
| Violation and Intent to Assess Forfeiture. | ) | (OH3293006440D) |
| | | (OH3293006442D) |

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# POST HEARING BRIEF OF RESPONDENT SASA PAVLOVIC

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## I. INTRODUCTION

These cases arise from two roadside safety inspections on August 21, 2013. Both inspections involved driver Sasa Pavlovic and Inspector Bob G. Walker, Jr. The first inspection occurred at about 11:47 a.m. ("First Inspection"). The second inspection occurred at about 3:27 p.m. ("Second Inspection").

At the First Inspection, Inspector Walker issued a Driver/Vehicle Examination Report to Pavlovic. A copy of this report is not in evidence. (See Transcript, p. 88.) Instead, a replacement report is in evidence and is marked as Staff's Exhibit 4. (Id.) The picture marked as Staff's Exhibit 4 was taken by Inspector Walker at the Second Inspection. (Tr., p. 42.) On the report marked as Staff's Exhibit 4 are six out of service violations: four violations for air suspension, one hours of service violation, and one brake hose violation. Pavlovic believed that he was only placed out of service at the conclusion of the First Inspection for the air suspension violation. (Tr., p. 87.)

The hours of service violation stemmed from Inspector Walker's conclusion that Pavlovic created a false record of duty status. (Tr., p. 59.) Walker believed that a driver falsifies a record of duty status by recording the nearest city and state abbreviation when at a rest area that is not in a city (Tr., p. 30), which Pavlovic did on the day in question to comply with federal hours of service regulations (Tr., p. 80, 85). Walker also relied on a mileage software program report without additional evaluation to determine a falsification charge. (Tr., p. 26-27.)

After correcting the air suspension problem that led to the violation, Pavlovic continued to travel, believing that he had satisfied the issue. (Tr., p. 79, 87.) Pavlovic was subsequently stopped for the Second Inspection and cited by Inspector Walker for violating the two out of service orders (hours of service and brake hose). (See Staff Exhibit 5.)

The PUCO issued to Pavlovic Notices of Intent to Assess Forfeiture and Notices of Preliminary Determination. (See Staff Exhibits 8, 9.) At issue is more than a monetary forfeiture. At stake is Pavlovic's livelihood as a professional commercial driver. A first violation of an out of service order carries a mandatory disqualification of a commercial driver license for at least 6 months, with a maximum of one year. 49 C.F.R. 383.51(e)(1). If found to have committed the violations alleged, Pavlovic cannot operate in his profession.

It is imprudent for the PUCO to establish a precedent of accepting as sufficient a case in which the Inspector did not keep or otherwise document the original out of service order and relied on an unsubstantiated mileage software report and an incorrect assumption of hours of service regulations. There is honor in the PUCO expecting more by way of evidence in its cases. It should do so here by dismissing the violations at issue in these cases.

## II. LAW AND ARGUMENT

### A. The Inspector relied erroneously on an incorrect understanding of hours of service regulations and on a mileage software report in citing Pavlovic for an hours of service violation.

Inspector Walker erroneously cited Pavlovic for an hours of service violation during the First Inspection. Walker cited Pavlovic for a false report of record of duty status, a violation of 49 C.F.R. 395.8(e), which states in full:

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

Inspector Walker concluded that Pavlovic created a false record of duty status based on two factors: (1) where Pavlovic made a change of duty status at a rest area, Pavlovic recorded the nearest city and state on his record of duty status (Tr., p. 80), and (2) the readings from a mileage software report (Tr., p. 27). Inspector Walker's conclusion is in error on both points.

### 1. Inspector Walker relied on an incorrect understanding of the hours of service regulations.

The Inspector incorrectly found that Pavlovic created a false record of duty status by recording the nearest city and state when Pavlovic stopped at a rest area. With limited exceptions, drivers of a commercial motor vehicle are required to complete a record of duty status. See generally 49 C.F.R. 395.8. For each change of duty status, "the name of the city, town or village, with State abbreviation, shall be recorded" on the record of duty status. 49 C.F.R. 395.8(c). The name of the city, town, or village, as well as the state, must be recorded on the graph in the "Remarks" section. 49 C.F.R. 395.8(h)(5).

In his record of duty status, Pavlovic recorded a city and state in the Remarks section. (See Staff Exhibit 2.) At least one of Pavlovic's change of duty status recorded was at a rest area. (Tr., p. 80.) Pavlovic testified that he recorded the city that was close to the rest area. (*Id.*)

Pavlovic's practice is supported by the federal safety regulations. In relevant part, section 395.8, as in effect at the time of the inspection, provides:

> 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, 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*.

49 C.F.R. 395.8(c), NOTE (emphasis added) (see attached as Exhibit A). This provision is stated twice in section 395.8 as a NOTE. See 49 C.F.R. 395.8(c) and 395.8(h) (Ex. A.)

Aside from omitting the highway number and the nearest milepost or the name of the service plaza, Pavlovic complied with the regulation by recording the nearest city and state abbreviation. Inspector Walker, however, found the practice to be falsification:

Q: * * * Is it a problem if a driver, a commercial driver, uses a city that is close to where they log versus where they actually were?

A: It's falsification.

(Tr., p. 30.)[1] Inspector Walker's position, however, is contrary to the requirements of 49 C.F.R. 395.8(e), which mandates that Pavlovic record his change of duty status as he did. Pavlovic testified that he recorded the nearest city and state abbreviation to comply with federal regulations. (Tr., p. 85.) Pavlovic, therefore, did not create a false record of duty status by recording the nearest city and state abbreviation when he stopped at a rest area.

**2. Inspector Walker's reliance on the mileage software report was insufficient to support a finding of making a false record of duty status.**

Inspector Walker's reliance on the mileage software report was insufficient to support a conclusion that Pavlovic created a false record of duty status. To judge the time in which Pavlovic should have performed his travel, Walker used a mileage software program. (Tr., p. 27.) Based on the reading generated from the software, Walker determined that Pavlovic had made a false record of duty status. (Tr., p. 29.) Inspector Walker's reliance on the report, however, does not support the determination that Pavlovic created a false record of duty status.

In preparing a record of duty status, a driver is required to record, among other details, the total miles driven that day. 49 C.F.R. 395.8(d)(2); 49 C.F.R. 395.8(f)(3). The driver is also required to record "[t]he total hours in each duty status." 49 C.F.R. 395.8(f)(11). It is important that the regulation employs a standard of actual time driving, not a standard of time that should be taken as determined by a software program.

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[1] It appears from this exchange that Pavlovic's statements to Inspector Walker that Pavlovic recorded the nearest city and state abbreviation is Pavlovic's admission of falsification, as alleged in the Inspector Notes on the Driver/Vehicle Examination Report. Without any further testimony from Inspector Walker and with Pavlovic's testimony that he recorded the actual miles and time, it is unclear as to the exact statement made by Pavlovic that Walker interpreted as an admission.

Pavlovic complied with the regulation by recording the actual miles (648 miles) that he traveled on the day in question. (Tr., p. 80-81.) He also complied with the regulation by recording the actual time (11 hours) in which he drove the miles. (Tr. p. 85.) The State, therefore, bears the burden of establishing that Pavlovic did not travel 648 miles in 11 hours.

To reach this conclusion, Inspector Walker relied on the PC Miler report, which he believed stated that the 648-mile trip would have been completed in 12 hours and 13 minutes. (Tr., p. 29.) This report alone, however, does not establish that Pavlovic falsified his record of duty status. Inspector Walker's testimony regarding the report only establishes that based on the variables and the equations programmed into the software, the software generated a report that trip could take approximately 12 hours and 13 minutes. The accuracy of this software was not established during the hearing. The report is not in evidence and thus cannot be considered to controvert Pavlovic's testimony that he recorded the actual time that he was driving. No other evidence was offered to establish that Pavlovic's trip could not have been performed in 11 hours.

One way to test the Pavlovic's recorded time is to use a simple equation from physics. To determine the distance in which an object travels, one multiplies the rate of speed of the object by the time in which the object traveled. The equation is:

$$\text{Rate} \times \text{Time} = \text{Distance}$$

As a fundamental principle of algebra, if two of the factors in this equation are known, then one can calculate the third variable.

In this case, two of the factors are known: time and distance. The time (11 hours) and the distance (648 miles) are recorded on Pavlovic's log. Plugging in the numbers, the equation reads:

$$\text{Rate} \times 11 \text{ hours} = 648 \text{ miles}$$

To calculate the rate (miles per hour), one must divide the distance by the time:

$$\text{Rate} = 648 \text{ miles} \div 11 \text{ hours}$$

By dividing the distance by the time, the rate equals:

$$\text{Rate} = 58.9 \text{ miles per hour}$$

To perform this trip, Pavlovic would have traveled at an average speed of almost 59 miles per hour. Pavlovic testified that the speed limit on the highway on which we was traveling that day was 65 miles per hour. (Tr., p. 86.) By traveling at an average speed of almost 59 miles per hour on a highway with a speed limit of 65 miles per hour, Pavlovic's recording of 11 hours in which he performed the trip is not merely possible, but likely. Inspector Walker's acceptance of the software report without further scrutiny or investigation was in error and costly for Pavlovic.

It must be noted, however, that Inspector Walker testified that he also used his knowledge to find that Pavlovic could not have performed the trip within 11 hours. (Tr., p. 59.) In his testimony, Walker described how he determines whether a log is accurate:

> In my past experience with log books with drivers a lot of times if it says 11 hours, *the 11 hour ones are the ones that they are trying to cover up long trips.* If they drive 13 or 14 hours they are not going to put 10 hours, they are going to put 11. That is the maximum they are allowed to drive.

(Tr., p. 22, emphasis added.)[2] As a driver with a recorded 11 hours driving on one day, Pavlovic would fit Inspector Walker's profile of an "11 hour one" trying to "cover up" a long trip. Perhaps the software report provided the justification of the hunch that an "11 hour one" was in fact trying to cover up a long trip. But rather than examine the trips in more detail to see that Pavlovic's log

[2] Inspector Walker did not provide examples or statistics to support his conclusion regarding "11 hour ones."

was likely accurate, Inspector Walker assumed that Pavlovic made a false record of duty status to cover up a long trip.

In sum, Inspector Walker determined falsification based on an unsubstantiated software report. This rush to judgment resulted in a stiff and unjust penalty to Pavlovic. The PUCO should not accept this scant evidence as sufficient to prove that a driver falsified his record of duty status. The PUCO should dismiss the hours of service violation accordingly.

### B. The violations of alleged out of service orders cannot be proven because the Driver/Vehicle Examination Report with the alleged orders is not in evidence.

The violations for driving in contravention of out of service orders alleged to be set forth in Driver/Vehicle Examination Report No. OH3293006440 cannot be proven because a copy of the actual Report that was issued to Pavlovic is not in the record. The State has alleged that Pavlovic was placed out of service for log falsification and two equipment issues (air suspension and a brake chamber hose). To support this allegation, the State produced Staff's Exhibit 4, which is a picture of a Driver/Vehicle Examination Report bearing a Report Number of OH3293006440, but is not a copy of the Report that was issued to Pavlovic at the conclusion of the First Inspection.

When asked at the hearing about the Report marked as Staff's Exhibit 4, Pavlovic testified that it was not a picture of the exact report that was issued to him at the conclusion of the First Inspection. (Tr., p. 87-88.) At the Second Inspection, Inspector Walker took the original report and gave to Pavlovic a replacement report. (*Id.*) Pavlovic's testimony was not challenged under cross examination. Notably, Inspector Walker did not testify in rebuttal to refute Pavlovic's testimony. While Pavlovic testified that he noticed the difference in the carrier name on the report (Tr., p. 88), the PUCO cannot review the original report and the replacement report to identify all differences in the report.

Moreover, Inspector Walker testified that the picture of the report marked as Staff's Exhibit 4 was taken at the Second Inspection, not at the First Inspection. (Tr., p. 42.) The picture thus was taken of the *replacement* report, not the original report that was issued to Pavlovic at the First Inspection. The logical conclusion is that the markings to highlight the alleged out of service orders included in Staff's Exhibit 4 were made by Inspector Walker at the Second Inspection. Without the original report, the PUCO cannot determine what, if any, items were marked by Inspector Walker.

When questioned earlier at the hearing about Staff's Exhibit 4, Inspector Walker could not confirm whether he issued a replacement inspection at the Second Inspection:

> Q: [I]s this report the exact same report that you issued to Mr. Pavlovic at the first inspection?
>
> A: I am sure that it is, yes.
>
> Q: So you are telling us that you made no changes at all to the driver vehicle examination report that you issued after your first inspection?
>
> A: No, I am not saying that. At times, I may print an inspection, forget a note, forget something on the inspection, and I may have to reprint, which may change the time or something along those lines.
>
> Q: Did you do that with this inspection?
>
> A: I can't remember.

(Tr., p. 60-61.) Inspector Walker may not remember, but Pavlovic did. Pavlovic remembered that Inspector Walker took the original inspection report and handed to him a replacement report. The importance of this fact is that the PUCO cannot review the exact contents of the original report. The original report would have established the exact grounds under which Pavlovic had been ordered out of service.

Additionally, Pavlovic's subsequent decision to leave the scene of the First Inspection supports Pavlovic's position that Inspector Walker only issued an out of service order for the air suspension violations that he corrected before leaving. Pavlovic believed that Inspector Walker knew that Pavlovic was leaving to drive. (Tr., p. 87.) It defies common sense to conclude that Pavlovic would leave the scene with the Inspector's knowledge if Pavlovic believed that he was violating an out of service order. While Inspector Walker may have testified that he did otherwise, the objective record needed to establish the exact grounds under which Pavlovic was placed out of service is not in evidence.

Finally, the Inspector's notes in the reports marked as State's Exhibits 1 and 5 regarding Pavlovic's alleged admissions and statements are inconsistent with Pavlovic's testimony that he did not believe that he had been placed out of service for an hours of service violation or a brake hose violation. There appears to be a severe misunderstanding as to the exact violations for which Pavlovic was to have been placed out of service. Without an objective record to settle the subjective misunderstanding of the two individuals, there is insufficient evidence to find that Pavlovic violated two out of service orders. The omission of the original inspection report, through no fault of Pavlovic, is not in evidence. The out of service orders alleged to be contained therein cannot be verified. Thus, the violations of the alleged orders cannot be proven.

## III. CONCLUSION

The PUCO should remove the hours of service violation under Case No. 6440 because the Inspector relied erroneously on an incorrect understanding of hours of service regulations and on an unsubstantiated mileage software report. The violations under Case No. 6442 should also be removed because the out of service orders that were alleged to have been violated by Pavlovic are not in evidence and therefore cannot be proven.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served by ordinary first-class mail, postage prepaid, upon the Katie L. Johnson, Assistant Attorney General, Public Utilities Section, 180 E. Broad Street, 6th Floor, Columbus, OH 43215-3793, on this 5th day of December, 2014.

Anthony E. Palmer, Jr. (0082108)

Code of Federal Regulations
Title 49. Transportation
Subtitle B. Other Regulations Relating to Transportation
Chapter III. Federal Motor Carrier Safety Administration, Department of Transportation (Refs & Annos)
Subchapter B. Federal Motor Carrier Safety Regulations
Part 395. Hours of Service of Drivers (Refs & Annos)

This section has been updated. Click here for the updated version.

49 C.F.R. § 395.8

§ 395.8 Driver's record of duty status.

Effective: October 1, 2012 to September 23, 2013

(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 using the methods prescribed in either paragraphs (a)(1) or (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 on a 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.

(2) Every driver who operates a commercial motor vehicle shall record his/her duty status by using an automatic on-board recording device that meets the requirements of § 395.15 of this part. The requirements of this section shall not apply, except 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)

EXHIBIT
A

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 this section or § 395.15, failure to preserve a record of such duty activities, or making of 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 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 driver's duty status record shall be prepared, maintained, and submitted using the time standard in effect at the driver's home terminal, for a 24–hour period beginning with the time specified by the motor carrier for that driver's home terminal.

(ii) The term "7 or 8 consecutive days" means the 7 or 8 consecutive 24–hour periods as designated by the carrier 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 identified, and preprinted. The words "Midnight" and "Noon" must appear above or beside the appropriate one-hour increment.

(9) Main office address. The motor carrier's main office address shall be shown on the form containing the driver's duty status record.

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

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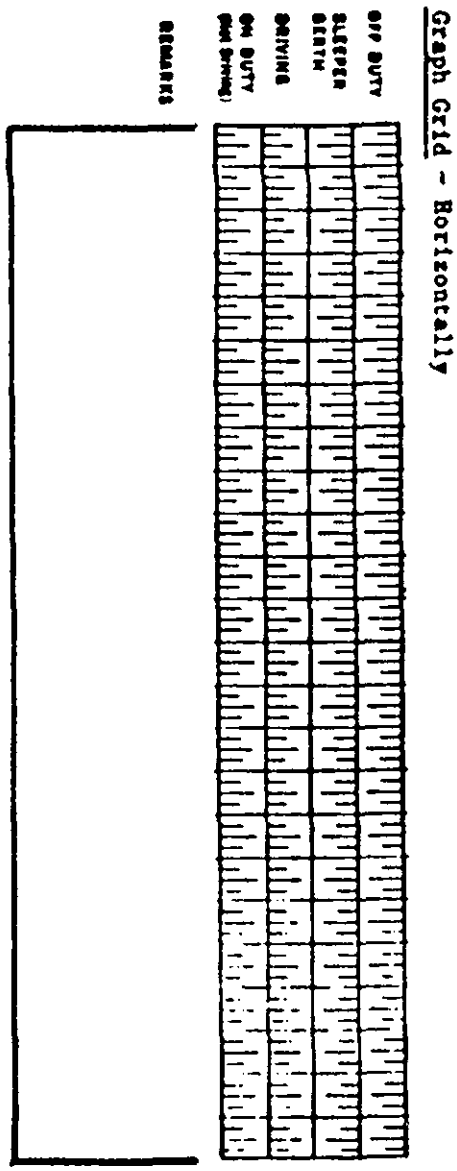
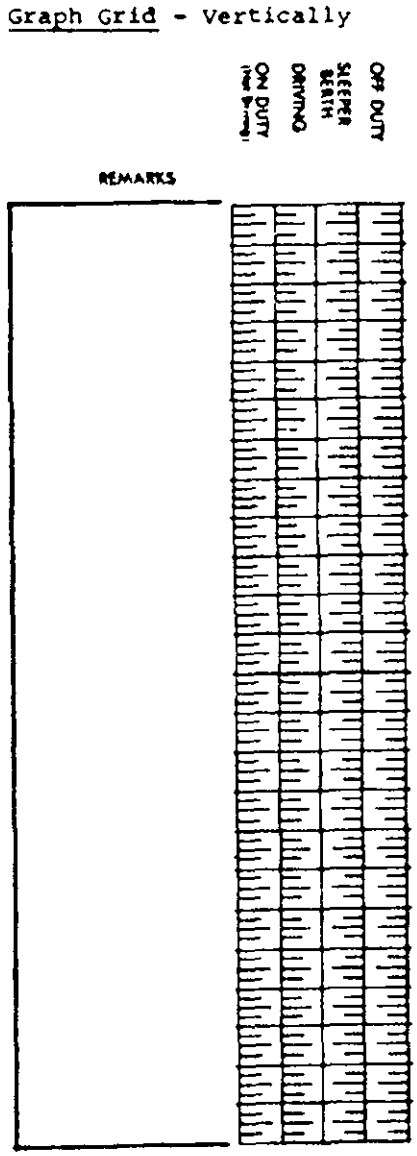
(11) Total hours. The total hours in each duty status: off duty other than in a sleeper berth; off duty in a sleeper berth; driving, and on duty not driving, shall be entered to the right of the grid, the total of such entries shall equal 24 hours.

(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 required 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.

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.

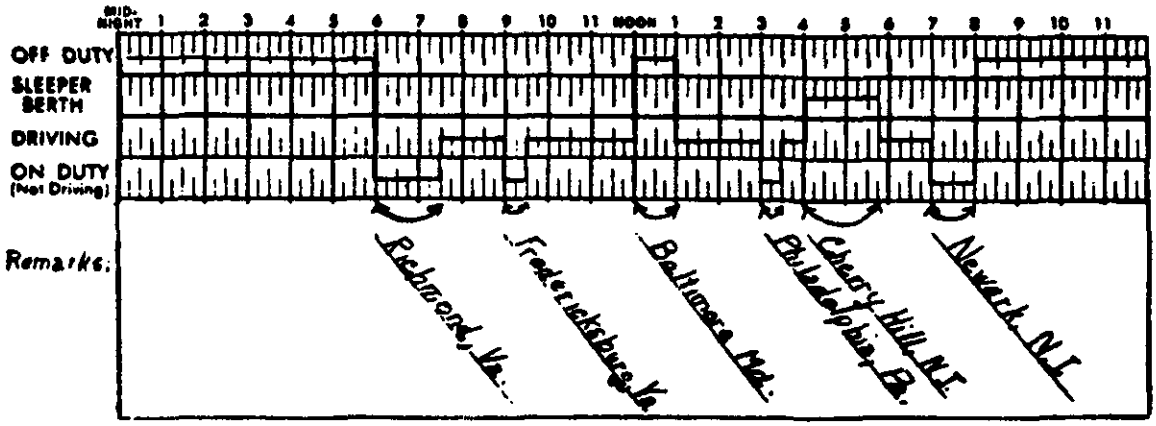
(1) Each motor carrier shall maintain records of duty status and all supporting documents for each driver it employs for a period of six months from the date of receipt.

(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 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)

**Credits**

[33 FR 19758, Dec. 25, 1968, as amended at 36 FR 14741, Aug. 11, 1971; 36 FR 18400, Sept. 14, 1971; 38 FR 1934, Jan. 19, 1973; 38 FR 27050, Sept. 28, 1973; 38 FR 27930, Oct. 10, 1973; 40 FR 10685, March 7, 1975; 40 FR 32336, Aug. 1, 1975; 43 FR 50438, Oct. 30, 1978; 43 FR 52246, Nov. 9, 1978; 44 FR 34963, June 18, 1979; 45 FR 22044, April 3, 1980; 45 FR 28142, April 28, 1980; 45 FR 46425, July 10, 1980; 46 FR 19237, March 30, 1981; 47 FR 53389, Nov. 26, 1982; 49 FR 38290, Sept. 28, 1984; 49 FR 46147, Nov. 23, 1984; 49 FR 47494, Dec. 17, 1984; 51 FR 12622, April 14, 1986; 52 FR 41721, Oct. 30, 1987; 53 FR 18058, May 19, 1988; 53 FR 38670, Sept. 30, 1988; 57 FR 33649, July 30, 1992; 58 FR 33777, June 21, 1993; 59 FR 8753, Feb. 23, 1994; 60 FR 38748, July 28, 1995; 62 FR 16709, April 8, 1997; 63 FR 33279, June 18, 1998; 75 FR 17245, April 5, 2010; 77 FR 28451, May 14, 2012; 77 FR 28454, May 14, 2012; 77 FR 59828, Oct. 1, 2012]

SOURCE: 33 FR 19758, Dec. 25, 1968; 51 FR 12622, April 14, 1986; 52 FR 41721, Oct. 30, 1987; 53 FR 18058, May 19, 1988; 53 FR 38670, Sept. 30, 1988; 54 FR 7191, Feb. 17, 1989; 59 FR 60323, Nov. 23, 1994; 59 FR 60324, Nov. 23, 1994; 60 FR 38747, July 28, 1995; 61 FR 14679, April 3, 1996; 66 FR 49874, Oct. 1, 2001; 68 FR 22514, April 28, 2003; 72 FR 36790, July 5, 2007; 75 FR 17245, April 5, 2010; 76 FR 25590, May 5, 2011; 77 FR 59828, Oct. 1, 2012; 78 FR 16195, March 14, 2013, unless otherwise noted.

AUTHORITY: 49 U.S.C. 504, 31133, 31136, 31137, and 31502; sec. 113, Pub.L. 103–311, 108 Stat. 1673, 1676; sec. 229, Pub.L. 106–159 (as transferred by sec. 4115 and amended by secs. 4130–4132, Pub.L. 109–59, 119 Stat. 1144, 1726, 1743, 1744); sec. 4133, Pub.L. 109–59, 119 Stat. 1144, 1744; sec. 108, Pub.L. 110–432, 122 Stat. 4860–4866; sec. 32934, Pub.L. 112–141, 126 Stat. 405, 830; and 49 CFR 1.87.

**End of Document**

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**Versions (5)**

**§ 395.8 Driver's record of duty status.**
**49 CFR § 395.8**
**Effective October 2, 2014**
79 FR 59457, Oct. 2, 2014

**Prior Versions (4)**

**§ 395.8 Driver's record of duty status.**
**49 CFR § 395.8**
**Effective September 24, 2013 to October 1, 2014**
78 FR 58485, Sept. 24, 2013

**§ 395.8 Driver's record of duty status.**
**49 CFR § 395.8**
**Effective October 1, 2012 to September 23, 2013**
77 FR 59828, Oct. 1, 2012

**§ 395.8 Driver's record of duty status.**
**49 CFR § 395.8**
**Effective May 14, 2012 to September 30, 2012**
77 FR 28451, May 14, 2012 77 FR 28454, May 14, 2012

**§ 395.8 Driver's record of duty status.**
**49 CFR § 395.8**
**Effective [See Federal Register] to May 13, 2012**
75 FR 17245, April 5, 2010

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