

**HOURS-OF-SERVICE (HOS) FINAL RULE FREQUENTLY ASKED
 QUESTIONS (FAQs) ON THE RULE EFFECTIVE SEPTEMBER 29, 2020**

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<u>Proposed Number</u>	<u>Sleeper Berth</u>
(395.1) FMCSA-HOS-2020-395-FAQ01	<p>Q: How can a driver using the sleeper berth provision obtain the off-duty time required by 395.3(a)(1)?</p> <p>A: A driver can obtain the required off-duty time by accumulating A) at least 10 consecutive hours off duty; B) at least 10 consecutive hours of sleeper berth time; C) a combination of consecutive sleeper berth and off-duty time amounting to at least 10 hours; D) a combination of sleeper berth time of at least 7 consecutive hours and up to 3 hours riding in the passenger seat, amounting to at least 10 consecutive hours; and E) the equivalent of at least 10 consecutive hours off-duty using the split sleeper berth provision.</p>
FMCSA-HOS-2020-395-FAQ02	<p>Q: What rest periods qualify for the split sleeper berth provision?</p> <p>A: Truck drivers using the split sleeper berth provision under the hours-of-service (HOS) rule, may take a period of at least 7 consecutive hours in the sleeper berth and a period of at least 2 consecutive hours off duty, provided that, when the two periods are paired, they total at least 10 hours.</p>
FMCSA-HOS-2020-395-FAQ03	<p>Q: What if a driver is stopped for a roadside inspection after having taken only one rest period that qualifies for the split sleeper berth provision?</p> <p>A: If there is a rest period under the split sleeper berth provision that could be taken at some point in the future that would allow the driver to be in compliance, then the roadside inspector should not cite a violation.</p>
FMCSA-HOS-2020-395-FAQ04	<p>Q: How are split sleeper berth rest periods used in determining compliance with the 14-hour “driving window” rule?</p> <p>A: Off-duty and sleeper berth rest periods that qualify for the split sleeper berth provision are excluded from the 14-hour “driving window” when the rest periods are properly paired. When more than a single pairing of rest periods is possible, the pairing that should be used is the pairing that results in no violations, or the fewest violations in the following order:</p>

	<ul style="list-style-type: none"> - Nominal violations (less than 15 minutes in violation) - Violations - Out-of-Service (OOS) violations during a roadside inspection or egregious violations during an investigation (more than 3 hours in violation). <p>If all options result in the same number and severity of violations, the qualifying rest period that affords the driver the most available on-duty and driving time moving forward should be selected.</p>
FMCSA-HOS-2020-395-FAQ05	Q: Can a 10-consecutive hour off-duty period be paired with another qualifying period of at least 7+ consecutive hour sleeper-berth period?
	A: Yes. When the 7+ consecutive hour sleeper berth period occurs prior to the 10 consecutive hour off-duty period because 10 consecutive hours off-duty resets the clock for the 11-hour driving and 14-hour “driving window” rules moving forward.
FMCSA-HOS-2020-395-FAQ06	Q: A driver takes 5 consecutive hours off duty and later takes a 7-hour consecutive break in the sleeper berth. Is this allowable under the revised sleeper-berth rule provisions, and how is this time calculated for HOS compliance?
	A: Yes. These are both rest break periods that when paired qualify for the split sleeper berth provision, as they meet the 2 minimum hours off duty and 7 minimum hours in the sleeper berth requirement and total at least 10 hours. If chosen as the two rest periods for calculating compliance, both periods would be excluded from the 14-hour “driving window.”
FMCSA-HOS-2020-395-FAQ07	Q: If a driver takes 3 hours off duty and then 10 consecutive hours in the sleeper berth, will the 3 hours count against the driver’s 14-hour “driving window”?
	A: No. Any off-duty period of 2 hours or more can pair with a sleeper berth period that is 7 hours or more, provided the two periods total at least 10 hours when added together. As these periods meet all the requirements, this would be a compliant pairing. However, 10 consecutive hours in the sleeper berth would reset the 11-hour driving time and 14-hour “driving window” moving forward.
FMCSA-HOS-2020-395-FAQ08	Q: Under the sleeper-berth provisions, a driver takes 7 hours in the sleeper berth, and later takes an off-duty period of 3 hours before arriving at home. When the driver arrives home within the permissible hours, what rest is required?
	A: In this specific scenario, once the driver reaches their home, the driver will need to take either: 1) at least 7 hours in the sleeper berth (continuing reliance on the sleeper berth provision), or 2) 10 consecutive hours off duty. Both options would exclude the off-duty period of 3 hours from the 14-hour “driving window”. The location of the off-duty period is not a factor in the calculation. This same principle applies, if, for example, the driver takes a 10-hour consecutive off-duty period at a hotel or a friend’s home.

FMCSA-HOS-2020-395-FAQ09	Q: Can a driver choose to use the sleeper berth provision some days and the other provisions of 49 CFR 395.1(g) other days?
	A: Yes. Drivers may choose any of the options provided in 49 CFR 395.1(g)(1)(i).
FMCSA-HOS-2020-395-FAQ10	Q: A driver takes 7 hours in the sleeper berth and 4 hours off duty consecutively, for a total of 11 consecutive hours off. Is this a pairing that qualifies for the split sleeper berth provision under the new rule?
	A: Yes. However, this break would satisfy the 10 hours of rest (as it is consecutive) and both the 11- and 14-hour “clocks” would be completely reset after this 11 consecutive hours of sleeper berth and off-duty time.
Adverse Driving Conditions	
(395.1 and 395.2) FMCSA-HOS-2020-395-FAQ11	Q: What is a “qualifying rest break or sleeper berth period” based on how it is used in the definition of adverse driving conditions?
	A: A qualifying rest break or sleeper berth period is either the sleeper-berth period of at least 7 hours or the rest period of at least 2 hours in the sleeper berth or off duty as described under the sleeper-berth exception, in addition to any 10-hour or more break. The 30-minute break is not a qualifying rest break or sleeper berth period under the adverse driving conditions definition.
FMCSA-2020-395-FAQ12	Q: Are there any restrictions on how often the adverse driving conditions exception can be used?
	A: No. There is no limit provided the adverse driving conditions exception is used consistently with the definition in 49 CFR 395.2.
FMCSA-HOS-2020-395-FAQ13	Q: If it only takes an hour for a driver to get through the adverse driving conditions, do they still get the full 2 hours of the exception?
	A: No. Drivers are allowed <i>up to</i> an additional two hours. If it only took an hour for the driver to get through the adverse driving condition, then that this is all the additional time the driver is allowed.
FMCSA-HOS-2020-395-FAQ14	Q: Can the driver use adverse driving conditions even if the adverse conditions have cleared when the driver arrives at the location where the condition occurred?
	A: Yes. If the adverse driving condition inhibited a driver’s ability to proceed, then the additional time is allowed. For example, a rock slide blocks the road and causes traffic to back-up. The rock slide is cleared off the road before the driver gets there, but the driver is inhibited by the traffic back-up, the driver can use the adverse driving condition exception.
FMCSA-HOS-2020-395-FAQ15	Q: Are drivers required to annotate an adverse driving condition they encountered on their electronic logging device (ELD)?
	A: Yes. A driver is required to annotate the use of the adverse driving conditions exception on the electronic logging device under

	49 CFR Section 395.28(c). However, drivers will not be cited for failing to annotate. Drivers are encouraged to document adverse driving conditions as an annotation. If the roadside officer can prove there was no adverse driving condition, the driver should be cited for the applicable violation of 49 CFR 395.3 or 395.5.
	30-Minute Break
(395.3)	Q: When must a driver take a 30-minute break?
FMCSA-HOS-2020-395-FAQ16	A: After 8 <u>cumulative</u> hours of driving without at least a 30-minute break.
FMCSA-HOS-2020-395-FAQ17	Q: Does the 30-minute break have to be consecutive?
	A: Yes. But, drivers can use different non-driving statuses (off duty, sleeper berth, or on-duty not driving) to add up to the 30 consecutive minutes. For example, a driver could use 10 minutes of off-duty time, followed by 20 minutes to fuel the truck and fill out paperwork (on-duty, not driving time) to satisfy his or her 30-minute break, as long as the various duty periods are consecutive.
FMCSA-HOS-2020-395-FAQ18	Q: Does the 30-minute break count against the 14-hour “driving window”?
	A: Yes.
FMCSA-HOS-2020-395-FAQ19	Q: Can a driver use on-duty not driving time during a roadside inspection to satisfy the 30-minute break?
	A: Yes. If the driver is stopped for at least 30 consecutive minutes for the roadside inspection this time would be logged as on-duty, not driving and it would satisfy the 30-minute break requirement.
FMCSA-HOS-2020-395-FAQ20	Q: Can a driver use yard moves to satisfy the 30-minute break requirement?
	A: Yes. If the yard move is part of a 30-consecutive minute break, because this time would also be on-duty, not driving.
	Short Haul
(395.1)	Q: Can the adverse driving conditions exception be used in concert with the revised short-haul provisions?
FMCSA-HOS-2020-395-FAQ21	A: Yes. However, if the adverse driving condition caused the driver to not return to the normal work reporting location within 14 hours, a record of duty status would need to be completed for that day.
	General Rule Implementation
FMCSA-HOS-2020-395-FAQ22	Q: When does the new hours-of-service (HOS) rule officially take effect?
	A: The new changes to the HOS rules officially take effect on September 29, 2020 12:01 A.M. (ET).