

On September 29, 2020, the Federal Motor Carrier Safety Administration modified its hours of service (HOS) rules for commercial motor vehicle drivers. The complete text of the final rule is published in the [Federal Register](#) - 85 Fed. Reg. 33396 (June 1, 2020). These frequently asked questions are intended to provide guidance on the application of the revised rules. This guidance document lacks the force and effect of law, unless expressly authorized by statute or incorporated into a contract. FMCSA will publish this guidance in its [Guidance Portal](#). FMCSA may not cite, use, or rely on any guidance that is not posted on the Guidance Portal, except to establish historical facts.

<u>FREQUENTLY ASKED QUESTIONS RELATING TO</u>	
<u>2020 CHANGES TO HOURS OF SERVICE REGULATIONS</u>	
<u>Issued Date:</u> November 19, 2020	<u>Publication Date:</u> November 19, 2020
<u>Unique Identifier</u>	
	<u>Sleeper Berth</u>
(395.1/395.3) FMCSA-HOS-2020-395-FAQ01	Q: How may a driver using the sleeper berth provision obtain the off-duty time required by 395.3(a)(1)? A: A driver may 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.
FMCSA-HOS-2020-395-FAQ02	Q: What rest periods qualify for the split sleeper berth provision? 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.
FMCSA-HOS-2020-395-FAQ03	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? 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 of the related HOS rules.
FMCSA-HOS-2020-395-FAQ04	Q: How are split sleeper berth rest periods used in determining compliance with the 14-hour “driving window” rule? 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

	<p>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: May a 10-consecutive hour off-duty period be paired with a subsequent qualifying 7+-consecutive hour sleeper berth period?
	A: No. A 10-hour off-duty period cannot be paired for use of the split-sleeper provision. At the completion of a 10-hour off-duty period, the driver has reset both the 11- and 14-hour “clocks.”
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. How is this time calculated for HOS compliance?
	A: Both the 5-hour off duty and the 7-hour sleeper berth breaks are eligible 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 may be paired 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 to reset their “day clock”?
	A: In this specific scenario, 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-consecutive hour off-duty period at a hotel or a friend’s home.

FMCSA-HOS-2020-395-FAQ09	Q: May 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	[Reserved for future FAQ on Sleeper Berth.]
Adverse Driving Conditions	
(395.1/395.2)	Q: What is a “qualifying rest break or sleeper berth period” under the definition of adverse driving conditions?
FMCSA-HOS-2020-395-FAQ11	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, as well as any 10-consecutive 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 may 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 to use 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 is all the additional time the driver is allowed.
FMCSA-HOS-2020-395-FAQ14	Q: May a driver use the adverse driving conditions provision even if the adverse conditions have cleared when the driver arrives at the location where the condition occurred?
	A: Yes, but only if the adverse driving condition inhibited a driver’s ability to proceed. For example, if a rock slide blocks the road and causes traffic to back-up, and 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 may 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). 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) FMCSA-HOS-2020-395-FAQ16	Q: When must a driver take a 30-minute break?
	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 may 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: May 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: May 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) FMCSA-HOS-2020-395-FAQ21	Q: May the adverse driving conditions exception be used in concert with the revised short-haul provisions?
	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.