

HOS Frequently Asked Questions

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19. If a driver is on call, but has not been called for 34 hours, may those 34 hours be counted as a 34-hour restart?

20. How will the "relieved-of-duty" clause work? Will it be acceptable to relieve a driver of duty during a 14-hour on-duty period to keep the driver from violating the 60/70-hour on-duty requirement?

21. May a driver be called after 8 hours off-duty to report to work 2 hours later?

22. How does the new hours-of-service rule affect the adverse weather exception?

23. When does the second shift begin in a situation in which a driver is off-duty for 10 hours, drives 5 hours, is in the sleeper berth for 2 hours, goes off duty for 2 hours, and then drives 6 hours? At the end of this sequence, does the "off 2" count toward the required 10-hour off-duty requirement? In other words is the driver required to spend 6 required hours, or 8 hours, in the sleeper berth to accumulate the 10 required off-duty hours?

24. Are drivers of vehicles that are specially constructed to service oil wells required to log waiting time as on-duty time under the new rule?

Answers

1) When will carriers be allowed to comply with the new hours-of-service rules?

Carriers are required to operate under the current rules through January 3, 2004. This will allow adequate time for the agency, regulated industry, and the enforcement community to obtain training and make any systems changes required by the new rules. The new rules will be enforced starting January 4, 2004.

2) Are there exceptions to the hours-of-service rule?

Yes. For example, vehicles used in oil-field operations, ground water well-drilling operations, utility service, and transporting construction materials and equipment retain the current 24-hour restart provision. However, except for drivers of vehicles that are specially constructed to service oil wells, these drivers are required to comply with the new 10-hour off-duty and 11-hour driving limitations, as well as the prohibition on driving after the 14th hour after coming on duty. Drivers of specially constructed vehicles that service oil wells are not required to log wait time as on-duty time [see sect; 395.1(d)(2)]. Other exceptions are listed in § 395.1.

Agricultural operations retain their current exemption from driving time requirements in

the planting and harvesting season in each State, as determined by the State.

3) Are Electronic On-Board Recorders required (EOBRs)?

No. FMCSA has decided not to mandate EOBRs at this time. The agency plans an expanded research initiative on EOBRs and other technologies, including evaluating alternatives for encouraging or providing incentives for their use.

4) Are motorcoach operators and drivers required to comply with the new rule?

No. Motorcoach operators and drivers will continue to operate under the "old" hours-of-service rules that provide for an 8-hour off-duty period, no driving after 15 hours on-duty, and a 10-hour driving period. FMCSA may reconsider its decision following completion of research assessing the unique characteristics of motorcoach operations.

5) Will drivers still be able to split the sleeper berth time?

Yes. Drivers may split on-duty time by using sleeper berth periods. These drivers may accumulate the equivalent of 10 consecutive hours off-duty by taking 2 periods of rest in the sleeper berth, provided:

Neither period is less than 2 hours;

Driving time in the period immediately before and after each rest period when added together does not exceed 11 hours; and

The on-duty time in the period immediately before and after each rest period when added together does not include any driving after the 14th hour.

6) What happens if a driver operates both a bus and truck for part of each day or each week?

A driver will be subject to the limits on driving time applicable to the commercial motor vehicle (CMV) the driver is driving (11 hours for a property-carrying CMV, 10 hours for a passenger CMV), and will be required to meet the off-duty requirements applicable to the type of CMV the driver will drive immediately after that off-duty period (10 hours if the next assignment is in a property-carrying CMV, 8 hours if it is in a passenger CMV). For example, if a bus driver completes 8 hours off-duty for the motorcoach company, the driver must remain off-duty for another 2 hours before driving for the trucking company. After completing 10 consecutive hours off-duty, the driver may drive for 11 hours for the trucking company. Following 8 consecutive hours off-duty, the driver may then drive for the bus company.

7) If a State retains the 8 hours off-duty requirement for intrastate operations, may a driver, who takes 8 hours off-duty after completing an intrastate trip, drive 11 hours on an interstate trip?

No. The driver must take an additional 2 consecutive hours off-duty, for a total of 10 consecutive hours, before beginning an interstate trip.

8) What happens if a driver is on-duty for 14 hours, but not driving?

If a driver is on-duty, but not driving, on a particular day, the driver may remain on-duty for more than 14 hours; however, the driver cannot drive after the 14th hour after coming on-duty. Also, the additional on-duty time will also reduce subsequent on-duty time available under the 60/70-hour rule.

9) Will waiting time in line at a terminal, plant, or port, be considered "off-duty" or "on-duty, not driving"?

Waiting time is considered on-duty, not driving.

10) What happens on the first day of rule implementation?

FMCSA has chosen a Sunday as the implementation date to minimize disruption. However, a driver who began a trip under the old rules in effect on Saturday, January 3, 2004 will be allowed to continue under those rules until the end of the trip or the end of the first day of implementation (11:59 p.m., January 4, 2004), whichever comes first.

11) If a driver works at another job, unrelated to trucking, during his 34-hour off-duty restart period, and then begins a duty shift for the trucking company, is the driver in violation of the hours-of-service requirements?

Yes. Upon beginning driving, the driver is in violation of the hours-of-service requirements because performing compensated work for a person not a motor carrier is considered on-duty time.

12) May a short-haul driver take two 15-hour on-duty periods in a seven-day period, rather than one 16-hour on-duty period?

No. The 16-hour on-duty exception may not be split.

13) What are the penalties for violating the hours-of-service rules?

Drivers or carriers who violate the hours-of-service rules face serious penalties:

A. Drivers may be placed out-of-service (shut down) at roadside until the driver has accumulated enough off-duty time to be back in compliance;

B. State and local enforcement officials may assess fines;

C. FMCSA may levy civil penalties on driver or carrier, ranging from \$550 to \$11,000 per violation depending on severity;

D. The carrier's safety rating can be downgraded for a pattern of violations; and

E. Federal criminal penalties can be brought against carriers who knowingly and willfully allow or require hours-of-service violations.

14) Does the new hours-of-service regulation apply to Mexican and Canadian drivers

and carriers?

Yes. Starting on January 4, 2004, Mexican and Canadian drivers must comply with U.S. hours-of-service regulations at the time they enter the United States and while operating in the United States. They must also maintain a current record of duty status for the previous 7/8 consecutive day period.

15) May a driver spend part of his 34 hours of consecutive off-duty time in a sleeper berth?

Yes, provided the 34-hour period is consecutive and not broken by on-duty or driving activities.

16) Does the driving time for 100 air mile radius exception drivers (require no log book) increase to 11 hours or is it kept at its current limitation of 10 hours driving?

A property-carrying driver using the 100 air mile radius exception is subject to the 11-hour driving time, 12-hour on-duty time, and 10-hour off-duty time requirements of the new rule. However, a passenger-carrying driver using the 100 air mile radius exception is subject to the 10-hour driving time, 12-hour on-duty time, and 8-hour off-duty time requirement of the old rule.

17) If a carrier allows a driver to log mealtime as off-duty time, does that permit a driver to extend the 14-hour on-duty period?

No. Off-duty breaks during the day do not extend the workday to permit a driver to drive after the 14th consecutive hour on-duty. However, time logged as off-duty is not counted in calculating a driver's 60/70-hour on-duty period.

18) Does 34 consecutive hours off-duty immediately restart the calculation of 60/70-hour on-duty period?

Yes. Anytime a driver has a 34 consecutive hour off-duty period the driver may restart the calculation of the 60/70-hour on-duty period.

19) If a driver is on call, but has not been called for 34 hours, may those 34 hours be counted as a 34-hour restart?

Yes, provided the carrier has not required the driver to report for work until after the 34-hour period has ended.

20) How will the "relieved-of-duty" clause work? Will it be acceptable to relieve a driver of duty during a 14-hour on-duty period to keep the driver from violating the 60/70-hour on-duty requirement?

Yes. A driver may be relieved-of-duty during the 14 consecutive hour on-duty period.

This off-duty time will not extend the 14-hour on-duty period. However, that off-duty time will not be included in calculating compliance with the 60/70-hour on-duty period.

21) May a driver be called after 8 hours off-duty to report to work 2 hours later?

The final hours-of-service rule does not control communication between the driver and the motor carrier during the driver's off-duty time, so the call may occur. However, the driver cannot, in addition, be required to do any work for the motor carrier during the 10 hours of off-duty time.

22) How does the new hours-of-service rule affect the adverse weather exception?

The adverse weather exception permits a driver to exceed the current 10-hour driving limit by no more than 2 hours. The new rule permits a driver to exceed the 11-hour driving limit by 2 hours. The adverse weather exception does not permit a driver to exceed the 14 consecutive hour limit.

23) When does the second shift begin in a situation in which a driver is off-duty for 10 hours, drives 5 hours, is in the sleeper berth for 2 hours, goes off duty for 2 hours, and then drives 6 hours? At the end of this sequence, does the "off 2" count toward the required 10-hour off-duty requirement? In other words is the driver required to spend 6 required hours, or 8 hours, in the sleeper berth to accumulate the 10 required off-duty hours?

In this case, the total driving time before and after the 2-hour rest (sleeper berth) period is 11 hours. Therefore the driver is in compliance with the 11-hour rule. Because the total on-duty period before and after the rest (sleeper berth) period is also 11 hours, the driver has complied with the provision that prohibits driving if the on-duty period on either side of the rest period, when added together, exceeds 14 hours. However, the driver has had only 2 hours of sleeper berth time and must now go into the sleeper berth for 8 hours to accumulate the required 10 hours off-duty before the driver may begin the drive cycle again. The 2 hours of off-duty time after the first sleep period may not be counted for purposes of accumulating the required 10-hours of sleeper-berth time.

In another example, if, beginning at midnight, the driver drove 5 hours, went into the sleeper berth for 2 hours, was off-duty for 2 hours, and was "on-duty, not driving" for 4 hours, the driver could then drive for an additional 3 hours. Although the driver has accumulated only 8 hours of driving time on either side of a rest period, if the driver drove more than 3 hours in the second period, it would be a violation of the 14-hour provision of the sleeper berth exception (5 hours of driving + 2 hours of off-duty time, + 4 hours of on-duty, not driving time + 3 hours of driving time equals a total of 14 on-duty hours on either side of the rest period.) At 2:00 p.m. the driver must go into the sleeper berth for 8 hours to accumulate the required 10 hours of off-duty time before driving again.

24) Are drivers of vehicles that are specially constructed to service oil wells required to log waiting time as on-duty time under the new rule?

No. The new rule retains the current exception in § 395.1(d)(2), which provides that these drivers are not required to log time waiting at a natural gas or oil well site as "on-duty, not driving" time. This specific group of drivers is allowed to extend, by the amount of their waiting time, the 14-hour period after coming on duty during which driving is allowed.