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| ***State level FAQ***When the driver has been relieved of all duty and responsibilities upon termination of direct assistance to a regional or local emergency relief effort, no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive in commerce until:(1) The driver has met the requirements of §§ 395.3(a) and 395.5(a) of this chapter; and (2) The driver has had at least 34 consecutive hours off-duty when: (i) The driver has been on duty for more than 60 hours in any 7 consecutive days at the time the driver is relieved of all duty if the employing motor carrier does not operate every day in the week, or (ii) The driver has been on duty for more than 70 hours in any 8 consecutive days at the time the driver is relieved of all duty if the employing motor carrier operates every day in the week.[57 FR 33647, July 30, 1992, as amended at 60FR 38744, July 28, 1995; 68 FR 22514, Apr. 28,2003; 70 FR 50070, Aug. 25, 2005]***The following are FAQs as extracted from the Federal Motor Carrier Safety Regulation:****B-1. Do these HOS regulations apply to intrastate commerce?**No.* Intrastate commercial motor vehicle regulations are under the jurisdiction of each State. The HOS regulations apply directly only to interstatecommerce. However, most States have adopted intrastate regulations which are identical or very similar to the Federal hours-of-service regulations. A driver involved exclusively in *intrastate* operations should contact the State agency handling commercial vehicle enforcement in the driver's home State with any questions. Usually this is the state police or highway patrol, although in some States, the function is handled by the department of motor vehicles, department of public safety, or public service commission. *B-2. What are the penalties for violating the HOS rules?*Drivers or carriers who violate the HOS rules face serious penalties:          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;          State and local enforcement officials may assess fines;          FMCSA may levy civil penalties on driver or carrier, from $1,000 to $11,000 per violation depending on severity;          The carrier's safety rating can be downgraded for a pattern of violations; and          Federal criminal penalties can be brought against carriers who knowingly and willfully allow or require HOS violations, or drivers who knowingly and willfully violate the HOS regulations. *B-5. If a State has an 8-hour off-duty requirement for intrastate operations, may a driver who takes 8 hours off-duty after completing an intrastate trip begin driving on an interstate trip?*No. The driver of a property carrying vehicle must take an additional 2 consecutive hours off-duty, for a total of 10 consecutive hours, before beginning an interstate trip. *B-6. How would "waiting time" at a terminal, plant, or port be logged?*"Waiting time" at a terminal, plant, or port may be recorded as off-duty, sleeper berth, or on duty/not driving, depending on specific circumstances. For "waiting time" to be off-duty, the following off-duty conditions must be met: 1.    The driver must be relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and any cargo or passengers it may be carrying. 2.   During the stop, and for the duration of the stop, the driver must be at liberty to pursue activities of his/her own choosing and to leave the premises where the vehicle is situated. If circumstances permit a driver to utilize a valid sleeper berth without being disturbed for a specific period of "waiting time," that time in the sleeper berth may be recorded as "sleeper berth" time. However, a driver must take eight consecutive hours in a sleeper berth, plus another two consecutive hours off duty or in a sleeper berth, in order to meet the requirement for the equivalent of 10 consecutive hours off duty. In most other circumstances, such as when the driver is required to remain with the vehicle to move it when necessary, the "waiting time" should be recorded as "on duty/not driving." *B-7. May a driver be called after 8 hours off-duty to report to work 2 hours later?*Yes. The HOS 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 be required to do any work for the motor carrier during the 10 hours of off-duty time. **C. SHORT-HAUL OPERATIONS****General Questions** *C-1. What is a "short-haul" operation?*The HOS regulations do not specifically define or use the term "short haul" except as a caption for § 395.1(e), which includes requirements for drivers using the 100 air-mile radius exception and those covered by the "non-CDL, as defined in Part 383, 150 air-mile radius" provision.   *C-4. May drivers who work split shifts take advantage of the short-haul operations provisions found in Part § 395.1(e)?*For property-drivers, the concept of "split shifts" is no longer relevant due to the limitations of the 14-hour rule. The provisions in § 395.1(e) only provide an exception to the RODS requirements. Generally, they do not exempt the driver from any requirements of the HOS rules. 100 air-mile radius driver - A driver may go on- and off-duty multiple times during a duty tour, after completing at least 10 hours off duty, but the total of all on- and off-duty time accumulates toward their 12 hours. Once a driver is on duty more than 12 hours they no longer meet the 100 air-mile radius exemption. Operators of property-carrying commercial motor vehicles not requiring a commercial driver's license - A driver may go on- and off-duty multiple times during a duty tour, but the total of all on- and off-duty time accumulates towards the 14- or 16-hour time limit, whichever is applicable at the time, until the driver has a period of 10 or more consecutive hours off-duty. Prior Regulatory Guidance (§ 395.1 Question 19) on this subject no longer applies to property-carrying drivers. *C-5. How does a driver comply if during a 7-day period the driver operates some days under the 100 air-mile radius exception, some days under the "non-CDL 150 air-mile radius" provision, and some days under neither?*The driver complies with the provisions of the 100 air-mile radius exception or the non-CDL, as defined by Part 383, 150 air-mile radius provision if either of those are applicable for the entire duty period (usually one day). For example, if a driver operates within the 100 air-mile radius for part of the day and then travels outside the radius during the same duty period, the exception would not apply. The driver must remain under the conditions of the exception for the entire duty period. Compliance may vary from one duty period to the next, depending on operating circumstances. A driver operating under the 100 air-mile radius exception for one day and then outside the radius for the second day would only be required to make a RODS for the second day. **100 Air-Mile Radius Provision** *C-6. How would you summarize the 100 air-mile radius HOS provision in § 395.1(e)(1)?* The 100 air-mile radius exception in Part § 395.1(e)(1) is an *option* to use time records in lieu of RODS on days when the driver meets the conditions of the exception, which are:          The driver operates within a 100 air-mile ( 115 statute miles) radius of the normal work reporting location, and          The driver returns to the work reporting location and be *released from duty* within 12 consecutive hours, and          The driver maintains time records as specified in the rule, and          The driver is not covered by the "non-CDL 150 air-mile radius" provision. *C-7. May a "100 air-mile radius" driver utilize the "16-hour duty period" exception in Part § 395.1(o)?*Yes. A driver normally operating under the 100 air-mile radius exception in § 395.1(e) may also meet the requirements in § 395.1(o) enabling the driver to have one period of 16 hours on-duty each week (or after a 34-hour restart). However, on the day in which the 16-hour exception is utilized, the driver would not meet the 12-hour duty-period requirement of the 100 air-mile radius exception and would therefore be required to make a RODS for that day. **Non-CDL 150 Air-Mile Radius Provision** *C-8. What drivers are covered by the Non-CDL 150 air-mile radius provision?*Operators of property-carrying commercial motor vehicles not requiring a CDL, as defined in Part 383, may be covered by the Non-CDL 150 air-mile radius provision. Note that the applicability depends on the type of vehicle being driven, not whether the operator possesses a CDL. *C-9. How would you summarize the Non-CDL 150 air-mile radius provision in* *Part § 395.1(e)(2)?*Drivers of non-CDL vehicles (those vehicles not requiring a CDL, as defined in Part 383 to operate) who are operating within a 150 air-mile radius of their normal work reporting location and return to their normal work reporting location at the end of their duty tour are now covered by separate HOS provisions. Drivers meeting these conditions are not eligible for the existing 100 air-mile radius provision in § 395.1(e)(1) or the current 16-hour exception in § 395.1(o), since those conflict with this new Non-CDL 150 air-mile radius provision. These drivers are required to comply with the following: (a) The 11 hours driving, minimum 10 hours off-duty, 14 consecutive hour duty period, 60/70 hours in 7/8 days, 34-hour restart all apply. (b) On any 2 days of every 7 consecutive days, the driver may extend the 14-hour duty period to 16 hours. (c) There is no requirement that the driver be released from duty at the end of the 14- or 16-hour duty periods. The driver may continue to perform non-driving duties, which would be counted against the 60/70 hour weekly limitation. (d) Time records may be used in lieu of records of duty status. **D.** **14-HOUR DUTY PERIOD***D-1. May a driver be on duty for more than 14 consecutive hours?*Yes. A driver may remain on duty for more than 14 hours; however, the driver of a property-carrying CMV cannot *drive* after the 14th hour after coming on duty. Also, the additional on-duty time will be counted toward the 60/70-hour on-duty limit. *D-2. If a carrier allows a driver to log mealtime or similar activities as off-duty time, does that permit a driver to extend the 14-hour 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 limit. **E. 16-HOUR EXCEPTION***E-1. What is a "duty tour" as the term is used in Part § 395.1(o)?*The 16-hour exemption in § 395.1(o) is designed for one-day "duty tours." The duty tour is the interval between the time a driver comes on-duty and is released from duty on a daily basis. This period begins and ends at the driver's normal work reporting location and may only be used following 10 or more consecutive hours off-duty, 10 or more consecutive hours in the sleeper berth, or a combination of 10 or more consecutive hours off-duty & sleeper berth time. *E-2. If a driver is "on duty, not driving" during the 15th and 16th hour of his duty tour and does not drive after that, has he used the 16-hour exception in § 395.1(o)?*No. Example: If a driver was on duty 16 hours on Wednesday, but didn't drive after being on duty 14 hours, could the driver use the 16 hour extension on Friday and be allowed to drive after the 14th hour as long as all other conditions and regulations  (11-, 16-, and 60/70- hour rules) were met? In this scenario, the driver may choose to use the 16-hour extension on Friday as long as the driver meets all of the requirements for the 16-hour exception outlined in Part § 395.1(o) and also remains in compliance with Part § 395.3(a)(1) and Part § 395.3(b). Although the 16 hours on-duty on Wednesday will count toward the driver's 60/70 calculations, the driver has not utilized the 16-hour exception unless the driver has actually driven after the 14th hour. *E-3. May a driver having more than one work reporting location use the § 395.1(o), 16-hour exception?*As stated in § 395.1(o) and current § 395.1 Interpretation Question 15, a driver having more than one work reporting location could use the § 395.1(o) 16-hour exception; however, its availability would be limited by the requirement of § 395.1(o)(1) that the "carrier released the driver from duty at that location for the previous five duty tours the driver has worked..." A driver alternating between two normal work locations on a weekly basis would not be able to utilize the exception unless he worked six days per week, and then the exception could only be used on the sixth day. *E-4. May a driver utilize the adverse driving rule, which extends the driving time by two additional hours, in conjunction with the 16-hour exception?*No. A driver may not use the exception for adverse driving conditions while also using the 16-hour exception for property-carrying drivers. Section 395.1(b)(1)(ii) of the adverse driving conditions exception specifically states that a property-carrying driver may not drive or be permitted to drive after he/she has been on-duty after the end of the 14th hour after coming on-duty following 10 consecutive hours off-duty. *E-5. When the "16 hour exception" is used, may sleeper berth periods or extended off-duty periods be included in the "duty tour?" How does this affect team drivers?*The § 395.1(o) exception for property-carrying drivers is for drivers who return to the normal work reporting location and are released from duty at the end of each of the previous 5 duty tours. The use of 10 consecutive hours off duty or the equivalent (sleeper berth, off duty, or any allowable combination thereof) before returning to the work reporting location would interrupt the duty tour, and the driver would not be eligible to use the 16-hour exception that day or again until after 5 or more duty tours when the driver did return to the work reporting location. **F. 34-HOUR RESTART***Does any period of 34 consecutive hours off-duty automatically restart the calculation of the 60/70-hour on-duty period?*Yes. Any period of 34 consecutive hours off-duty will restart the 60/70 hour calculation. *F-2. 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, does the 34-hour restart provision apply?*No. Performing compensated work for a person not a motor carrier is considered on-duty time, which would interrupt the 34-hour period. *F-3. 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.   *F-4. If a driver takes the 34-hour restart in Canada or Mexico just before entering the U.S., will it be recognized as such in the U.S.?* Yes. Duty status changes and periods occurring in Canada or Mexico before entering the U.S. are included in HOS calculations while in the U.S. *F-5. How should the "recap" section of the RODS page be completed when using a 34-hour restart to begin a new 60/70 hour period?*The RODS pages printed by most commercial firms include a "recap" on each page for drivers to calculate compliance with the 60/70 hour limits and show "time remaining" within those limits. This "recap," however, is not required or addressed by the FMCSRs. Therefore, the "recap" may be completed in any manner desired. **G. SLEEPER BERTHS***G-1. May a driver spend part of his or her 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. *G-2. If a team driver goes directly from 10 consecutive hours off-duty to the sleeper berth at the start of his duty period, can the sleeper-berth period be excluded from calculation of the 14-hour limit?*Yes. It would be a "...combination of consecutive sleeper-berth and off-duty time amounting to at least 10 hours" per § 395.1(g)(1). The driver would not be permitted to perform any duties, such as pre-trip inspections, prior to using the sleeper berth. *G-3. How does a driver who is utilizing the sleeper berth provision calculate his or her compliance with the 14-hour rule?*A sleeper-berth period of at least 8 consecutive hours is excluded from calculation of the 14-hour limitation. All other sleeper berth periods are included in the 14-hour calculation (unless part of a sleeper-berth/off-duty combination of 10 or more consecutive hours). **J. OTHER EXEMPTIONS***J-1. Are there other hours-of-service exemptions not included in this regulation?* Yes. The Motor Carrier Safety Act of 2005 (Part IV of SAFETEA-LU) includes several exemptions to the hours-of-service for specific industries. Although not included in this regulation, these exemptions are in effect. |
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