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FLSA2019-10

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### FLSA2019-10

Compensability of time spent in a truck's sleeper berth while otherwise relieved from duty

\* WHD is withdrawing opinion letter FLSA2019-10. This letter was inconsistent with longstanding WHD interpretations regarding the compensability of time spent in a truck's sleeper berth. Several courts have declined to follow this letter, determining, among other things, that it is inconsistent with the Department's regulations; unpersuasive; and not entitled to deference, in part because the letter did not adequately explain WHD's change in position. These courts have instead continued to follow the Department's longstanding prior position. To the extent that FLSA2019-10 withdrew prior opinion letters on this issue, see, e.g., WHD Opinion Letter SCA-118 (June 22, 1979); WHD Opinion Letter SCA-117 (Apr. 26, 1978); WHD Opinion Letter FLSA-235 (Nov. 18, 1966); WHD Opinion Letter FLSA-214 (Feb. 17, 1964); WHD Opinion Letter FLSA-213 (Jan. 6, 1964), those letters are reinstated. This withdrawal is an official ruling of the Wage and Hour Division for purposes of the Portal-to-Portal Act, 29 U.S.C. § 259, and this letter (FLSA2019-10) may not be relied upon as a statement of agency policy as of the date of withdrawal, February 19, 2021.

FLSA - Administrator

7/22/2019




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### Wage and Hour Division

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