



U.S. Department
of Transportation


Memorandum

**Federal Motor Carrier
Safety Administration**

MC-ECS-2014-0002

Subject: **ACTION:** Enforcement Suspension
Hours of Service of Drivers

Date: DEC 17 2014

From: William A. Quade 
Associate Administrator for Enforcement

**Reply to
Attn. of:** MC-ECS

To: FMCSA Staff

PURPOSE

The purpose of this policy memo is to provide direction on the suspension of enforcement of certain sections of the Hours of Service (HOS) regulations, effective December 16, 2014. These changes result from specific language in the Consolidated and Further Continuing Appropriations Act, 2015.

BACKGROUND

On December 16, 2014, the Consolidated and Further Continuing Appropriations Act, 2015 (Act) was signed. The Act includes provisions that suspend certain provisions of the "Hours-of-Service of Drivers" final rule for utilizing the 34-hour restart period that went into effect on July 1, 2013. Specifically, the language suspends enforcement of the following requirements of the current 34-hour restart regulations:

- Must include two periods from 1:00 a.m. – 5:00 a.m. (home terminal time). (49 CFR 395.3(c))
- May only be used once per week (once every 168 hours), calculated from the beginning of the previous restart period. (49 CFR 395.3(d))

The restrictions in the Act prohibit the expenditure of Federal funds, including Motor Carrier Safety Assistance Program (MCSAP) funds, to enforce the two provisions above relating to the 34-hour restart. Additionally, in order to maintain enforcement activities and regulations compatible with Federal law and regulation, agencies that receive Federal MCSAP funding should adopt enforcement standards and orders compatible with this Federal law.

The suspensions of enforcement are effective immediately, pending more study on the rule and its impact on safety and efficiency. While the congressional action is specific to the suspension of funding for enforcement, the practical effect of this provision requires the Federal Motor Carrier Safety Administration (FMCSA) to revert back to the regulatory provisions of the 34 hour restart that were in effect prior to the changes instituted on July 1, 2013.

The regulatory text regarding the 34 hour restart found in 49 CFR 395.3 that was in effect at that time was the following:

1. Any period of 7 consecutive days may end with the beginning of any off duty period of 34 or more consecutive hours; or
2. Any period of 8 consecutive days may end with the beginning of any off duty period of 34 or more consecutive hours.

POLICY

Effective December 16, 2014, violations of the 60/70-hour rule (49 CFR 395.3(b)) that are based on a driver's failure to comply with the 2-overnight (1 a.m. to 5 a.m.) requirement for the 34-hour restart or failure to observe the once-a-week restart limit that went into effect July 1, 2013, must not be cited during any enforcement action, including inspections, safety audits, or investigations. Further, violations of the 60/70-hour rule may not otherwise be enforced without using the guidance provided in this policy. This applies to all investigations, safety audits and roadside inspections conducted by FMCSA personnel and State enforcement personnel utilizing Motor Carrier Safety Assistance Program (MCSAP) funding.

To maintain enforcement activities and regulations compatible with Federal law and regulation, agencies that receive Federal MCSAP funding should adopt enforcement standards and orders compatible with this Federal law.

Identifying violations of 395.3(b)

During all future and ongoing investigations or inspections, violations of 49 CFR 395.3(b) must be calculated as follows:

- Any restart that consists of 34 consecutive hours off duty will give the driver a fresh 60/70-hour clock. Two periods between 1:00 am and 5:00 am shall no longer be required for a valid restart.
- By using the latest valid 34-hour restart available, regardless of the number of restarts used.

Violations of 60/70-hour rule based on the two suspended provisions of the 34-hour restart provision shall not be uploaded into FMCSA's data systems.

DataQs

Any request received through the DataQs system to remove a violation of 49 CFR 395.3(b) violations that occurred on or after the effective date of this policy should be immediately accepted and the violation removed if the violation was not determined in accordance with this policy.

EFFECTIVE DATE

This policy is effective December 16, 2014. If you have any questions, please contact Dee Williams, Chief, Compliance Division, at 202-366-1812 or by email at Dee.Williams@dot.gov

Thanks in advance for your cooperation, and please ensure this information gets the widest possible distribution to Federal staff and State partners.