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DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

49 CFR Part 395

Hours of Service of Drivers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of suspension of enforcement.

SUMMARY: FMCSA suspends enforcement of certain sections of the Agency's Hours of Service (HOS) rules as required by the Consolidated and Further Continuing Appropriations Act, 2015, enacted December 16, 2014. Specifically, FMCSA suspends the requirements regarding the restart of a driver's 60- or 70-hour limit that drivers were required to comply with beginning July 1, 2013. The restart provisions have no force or effect from the date of enactment of the Appropriations Act through the period of suspension, and such provisions are replaced with the previous restart provisions in effect on June 30, 2013. FMCSA provides this notification to motor carriers, commercial drivers, State Motor Carrier Safety Assistance Program grant recipients and other law enforcement personnel of these immediate enforcement changes.

DATES: The suspension of enforcement of § 395.3(c) and (d) is effective as of 12:01 a.m. on December 16, 2014.

FOR FURTHER INFORMATION CONTACT: Ms. Dee Williams, Chief, Compliance Division, Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001. Telephone (202) 366-1812 or Dee.Williams@dot.gov. Office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTAL INFORMATION:

On December 27, 2011, FMCSA published a final rule titled “Hours of Service of Drivers.” [76 FR 81134.] The rule revised the HOS regulations and imposed certain limits on the use of the 34-hour restart provision (49 CFR 395.3(c)-(d)). Compliance with the revised restart provision began on July 1, 2013.

On December 16, 2014, the President signed the Consolidated and Further Continuing Appropriations Act, 2015, which provides FY 2015 appropriations to the U.S. Department of Transportation, including FMCSA. Section 133(a) of Title I of Division K of the Act declares that 49 CFR 395.3(c) and (d) “shall have no force or effect from the date of enactment of this Act until the later of September 30, 2015, or upon submission of the final report issued by the Secretary [of Transportation] under this section. The restart provisions in effect on June 30, 2013, shall be in effect during this period.” Section 133(a) also prohibits FMCSA from using any of the funds appropriated or otherwise made available by the Act to enforce § 395.3(c) and (d).

Section 395.3(c) allows drivers to restart the calculation of their 60- or 70-hour limit by taking an off-duty period of at least 34 consecutive hours, including two periods from 1:00 a.m. to 5:00 a.m. Under § 395.3(d), only one restart authorized by § 395.3(c) is allowed per week (168 hours), measured from the beginning of the previous restart period.

The restart provisions in effect on June 30, 2013, on the other hand, allowed drivers to restart their 60- or 70-hour calculation by taking at least 34 consecutive hours off duty, without any additional limitations. Drivers are therefore authorized, as of 12:01 a.m. on December 16, 2014, to resume use of the previous, unlimited restart provision.

While the suspension of enforcement provision does not preempt State law, in order to maintain enforcement activities and regulations compatible with the Federal law and regulation, the funding restrictions prohibit all agencies that receive Federal grant funds under the Motor Carrier Safety Assistance Program (MCSAP) from using MCSAP funding to engage in any enforcement activities based on the two restart restrictions that went into effect on July 1, 2013.

Because Section 133 temporarily suspends, but does not rescind, § 395.3(c) and (d), no changes are being made to the text of those provisions. The Act requires the Agency to perform “a naturalistic study of the operational, safety, health and fatigue impacts” of those restart provisions. The suspension of the restart rules that took effect on July 1, 2013, and the availability to drivers of the restart rules in effect on June 30, 2013, will continue until the end of Fiscal Year 2015 (September 30) or until the final report on the naturalistic study has been submitted to the House and Senate Committees on Appropriations, whichever is later.

FMCSA will provide public notice of the date when the temporary suspension ends and § 395.3(c) and (d) regain their legal force and effect.

Issued on : December 17, 2014.

T. F. Scott Darling, III,
Acting Administrator.

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