

TRANSTRENDS

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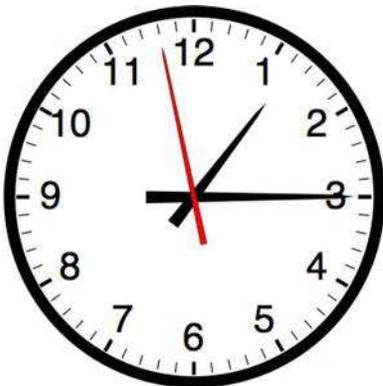


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RESTART PROVISION NOT CHANGING



Truckers using the voluntary restart provision won't have to change the way they use it, even if the government lets the current appropriations language expire.

Since December 2014, truckers have been able to use the voluntary 34-hour restart provision when they need it rather than limiting it to once every seven days, and it does not have to include two overnight 1 a.m. to 5 a.m. stints. That flexibility is thanks to the now-dubbed Collins Amendment introduced and passed into the federal government's 2015 appropriations bill.

Every year, legislation is put together that funds federal government operations for the upcoming fiscal year. The federal government's fiscal year runs from Oct. 1 to Sept. 30 each year.

Funding for the 2015 fiscal year was passed and signed into law in December 2014. It included an amendment that mandated changes to the voluntary 34-hour restart, which were introduced by Sen. Susan Collins, R-Maine.

The Collins amendment suspended the overnight provisions and the restriction on using the restart once every seven days while the Federal Motor Carrier Safety Administration conducts a comprehensive study – with input from the Office of Inspector General – to see if these changes are truly justified.

A spokesman with FMCSA confirmed that the study is currently in the data collection phase. When that is completed, the study team will analyze the data. Until a final report on the findings is issued, the voluntary restart provisions will remain as is.

As added protection on the voluntary restart provision, language is included in the 2016 appropriations Transportation Housing and Urban Development bill that passed the House and is currently in the Senate. It would continue the current provision if the Department of Transportation cannot prove to Congress that the once-per-week restriction and mandated two overnight periods actually improved safety on the roads.

YEAR END REGULATIONS TO EXPECT

FMCSA Acting Administrator Scott Darling today laid out the top five priorities he would like to see carried out by year's end. Featuring prominently is a final rule that would make electronic logging devices **mandatory**.



Darling says the ELD rule is being designed, as per a requirement, to protect commercial drivers from harassment.

Darling issued a letter on Tuesday, Sept. 15, to reiterate the Federal Motor Carrier Safety

Administration's commitment to saving lives and to update the agency's 1,100 employees on the top five priorities.

The FMCSA's top five priorities, **in the agency's words**, are:

Safety Fitness Determination

FMCSA is in the final stages of publishing a proposed rule that would increase the use of inspection data in making Safety Fitness Determinations for motor carriers. This rule would propose important changes to the agency's process for assessing the safety performance of truck and bus companies, focusing on incorporating current on-road safety performance data (i.e., roadside inspection and crash data).

Inspection Modernization

FMCSA launched a new version of its inspection software program – Aspen 3.0. It features a new look and feel and enhanced capabilities. Law enforcement personnel are also able to obtain direct access to out-of-service notices.

Unified Registration System

FMCSA will implement a new, revamped system designed to improve the accuracy and timeliness of the information in its database of registered motor carriers based on a 2013 Final Rule. URS will streamline manual processes and combine several forms that regulated entities are required to submit into one unified registration – the electronic “smart form.” The process will begin on October 23, 2015.

Compliance, Safety, Accountability (CSA) Phase III

In preparation for a successful launch of the final two CSA interventions – offsite investigations and cooperative safety plans – FMCSA is lining up the necessary training for Federal and State investigators and outreach to the industry. Two important things to note:

- The agency is also moving forward on a new type of investigation – the crash BASIC investigation – that focuses on identifying trends in carrier crash behaviors.
- FMCSA will be fine-tuning the SMS algorithm to better identify carriers for investigation in order to intervene more quickly with those found to be at greatest risk. A second *Federal Register* notice announcing the preview of the changes will be published in the coming months.

Electronic Logging Devices (ELD)

A final rule on ELDs is being reviewed by the Office of Management and Budget and is scheduled to be out later this year. Although the FEDS will not discuss the provisions of a final rule before it is made public, the rule is designed to benefit everyone by:

- By improving hours of service (HOS) compliance, which we estimate will prevent about 20 fatalities and over 400 injuries each year;
- Helping businesses cut paperwork and save money;
- Protecting drivers from harassment; and
- Making it easier for law enforcement and safety inspectors to review driver HOS records.

MORE EXECUTIVES CAN EXPECT JAIL TIME

The U.S. Justice Department has issued new guidelines that emphasize prosecuting individual executives in white-collar crime cases, and not just their corporations.

Deputy Attorney General Sally Yates, author of a memo outlining the rules for federal prosecutors, was to announce the guidelines in a speech on Thursday at the New York University Law School.

The memo, first obtained by the New York Times, came in response to criticism that the Obama administration had not vigorously pursued individuals in the financial meltdown and housing crisis of 2008-2009 and in various corporate scandals, the newspaper said.

"Crime is crime," Yates planned to say in her address, according to excerpts released by the Justice Department.



"And it is our obligation at the Justice Department to ensure that we are holding lawbreakers accountable regardless of whether they commit their crimes on the street corner or in the board room," she added.

"In the white-collar context, that means pursuing not just corporate entities but also the individuals through which these corporations act." By going

after individuals, Yates said the Justice Department wanted to "change corporate culture to appropriately recognize the full costs of wrongdoing, rather than treating liability as a cost of doing business."

Yates said companies would not get credit for cooperating with investigators unless they identify all employees responsible for crimes - regardless of executive rank or seniority - and turn over all evidence against them. Civil and criminal attorneys both should focus on individuals from the beginning of an investigation, the memo said.

NEW YORK DOCTOR CHARGED FOR FALSE MEDICAL EXAMS



A New York City doctor has been charged with falsely certifying physical examinations, according to a Department of Justice news release. The case involves examinations performed on applicants for commercial driver's licenses.

The criminal complaint against Gerald Surya, M.D., 45, was unsealed this week in federal court. According to the complaint, Dr. Surya was authorized to conduct Department of Transportation medical examinations and certifications for CDL applicants at his office at the JFK airport in Queens, N.Y.

However, Dr. Surya never examined the applicants. Rather, the exams were conducted by other staff members who were not properly trained, qualified or authorized. If convicted, Dr. Surya faces a maximum of 15 years in prison.

FOUR SENTENCED IN \$23 MILLION BIODIESEL PRODUCTION FRAUD



A federal judge ordered four Florida residents to serve prison time and pay restitution for their parts in concocting a scheme to produce and distribute bogus biodiesel fuel.

The defendants Dean Daniels, 52; his wife Brenda Daniels, 45; Richard Smith, 57; and William Bradley, 58, all of Florida, pleaded guilty to conspiracy to commit wire fraud and to defraud the United States. They were sentenced Aug. 27 in U.S. district court in Ohio. Dean Daniels also pleaded guilty to offering a hazardous material for transport without providing or affixing proper placards.

Dean Daniels was sentenced to 63 months incarceration, Bradley was sentenced to 51 months incarceration, Smith was sentenced to 41 months incarceration, and Brenda Daniels was sentenced to 366 days incarceration.

According to court documents, the defendants profited by unjustly generating and selling biodiesel credits (RINs) and unjustly claiming biodiesel tax credits for the production and blending of fuel that was not actually biodiesel. In total, the defendants sold over \$15 million worth of fraudulent biodiesel RINs, and another \$7 million in tax credits from the IRS.

According to a news release from the U.S. Attorney's office, the defendants would purchase low-grade feedstock and perform minimal processing to produce a low-grade fuel. Although the fuel was not biodiesel, the defendants would represent to the EPA that it was. They would generate fraudulent biodiesel RINs and sell them to various third parties.

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