

ISSUE NUMBER

20-036-DRV

ISSUE NAME

Operational Policy 14 - Documenting ELD Violations

STATUS

Open

Driver-Traffic Enforcement Committee

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CVSA OPS-14 policy current lacks clear guidance on how to record ELD violations. Conflicting information has been received from FMCSA regarding how to properly record ELD violations. The information provided has changed since the implementation of ELDs in 2017. A lack of consistency is difficult to teach and difficult for inspectors to navigate.

For example, FMCSA guidance for violations of 395.24(c)(1)(i) through 395.24(c)(2)(iii), is to record one violation per CODE, per DAY. There are six options in 395.24(c) for violations. By that guidance, a driver/carrier could hypothetically receive 48 violations on a single inspection just for that code. A more likely scenario would be 24 violations, for the three more common violations of 395.24(c)(2)(i), (ii) and (iii), which are the driver failing to manually enter the power unit number, trailer number, and shipping document number.

In contrast, FMCSA has provided guidance that all violations of 395.26(b)(1) through (8), are to be grouped together and recorded as ONE violation per day, similar to how paper RODS general form and manner violations. Since there are no subparagraph numbers available in the inspection software for 395.26(b), an ELD that fails to record all 8 data elements would only be one violation per day, or 8 for the week at the most.

Whether the violation is recorded once per subparagraph with 395.24, or once per day as a whole group with 395.26(b), as long as the violation has been recorded and articulated, the carrier will be aware of the violations and can take corrective action to prevent further violations.

JUSTIFICATION OR NEED

Carriers are adversely affected by “stacking” of violations. Agencies are burdened with DataQ challenges for apparent stacking, even when the violations are recorded in accordance with CVSA policy. However, CVSA OPS-14 does not currently address ELD violations. Inspectors need clear guidance on how to record violations, and agencies need clear guidance to justify how the violations were documented. Carriers are frequently concerned with their SMS points and carrier profile. While multiple violations may not count more than once with a point value, carriers may not be aware of that, and on the surface choose to DataQ the inspection to lessen the impact on their safety record.

REQUEST FOR ACTION

Update CVSA OPS-14 to better address how all hours of service violations are to be recorded, for paper RODS, AOBRD, and ELD violations.

ACTION TAKEN BY COMMITTEE

This issue was tabled by the committee until the SafeSpect software is developed and implemented. Smart logic could significantly change this operational policy.