

# Motor Carrier Safety Report

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## Changes to medical exam forms and procedures are on the way

The processing of driver medical exams will be changing starting late this year under a new rule from the Federal Motor Carrier Safety Administration (FMCSA).

The rule should close loopholes and actually save drivers and motor carriers time and money once fully in place in 2018.

- Among the biggest changes:
- Commercial driver's license (CDL) holders and their employers will no longer have to deal with paper medical cards or provide them to state licensing agencies, because exam results will be forwarded electronically

from the examiner to the FMCSA and then to the states;

- Motor carriers will no longer have to verify that their CDL drivers' medical examiners are listed on the National Registry; and
- New medical exam forms and certificates will have to be used for all commercial driver exams.

The rule took effect on June 22, 2015, but compliance with most provisions is not required until June 2018, to give the states three years to prepare.

see *Exams*, pg. 4

## At least 5 major rules expected soon

If you're sick of dealing with regulations, just wait until this fall.

The Federal Motor Carrier Safety Administration (FMCSA) is expected to issue four major new rules in September alone, some only in draft stage but others finalized.

In a span of just seven weeks, the agency is planning to issue final rules dealing with electronic logging devices (ELDs) and driver coercion,

and draft rules for speed limiters, safety ratings, and entry-level training.

Before the end of the year, another major final rule — for a drug/alcohol clearinghouse — should also be appearing.

The following is an overview of each of these rulemaking activities, in date order. Be aware that expected publication dates frequently change.

see *Rules*, pg. 6

# Enforcement group issues criteria for med-card citations

Drivers whose state licensing agencies are lax about updating their driving records should continue to carry their paper medical cards, according to revised enforcement guidelines from the Commercial Vehicle Safety Alliance (CVSA).

The CVSA, which represents state and federal motor carrier enforcement agencies, says commercial driver's license (CDL) holders may need to carry their paper medical certificates for up to 60 days.

Under federal rules, states are supposed to update the national CDL database within 10 days after receiving a new medical certificate from a CDL driver. Once that record is updated, the driver should be able to leave his or her medical card at home.

Some states, however, have taken much longer to update their driving records, which leaves some enforcement officials unable to verify medical qualifications during roadside inspections.

The new CVSA guidance says that if a driver's CDL is valid but his or her electronic driving record does not contain medical information, the inspector should accept a paper medical certificate if it was issued within the past 60 days. Previously the CVSA's limit was 30 days.

If the certificate was issued 61 or more days ago, the driver can be cited for failing to provide the medical certificate to the state licensing agency,

a violation of 49 CFR Sec. 383.71(h).

## No rule changes

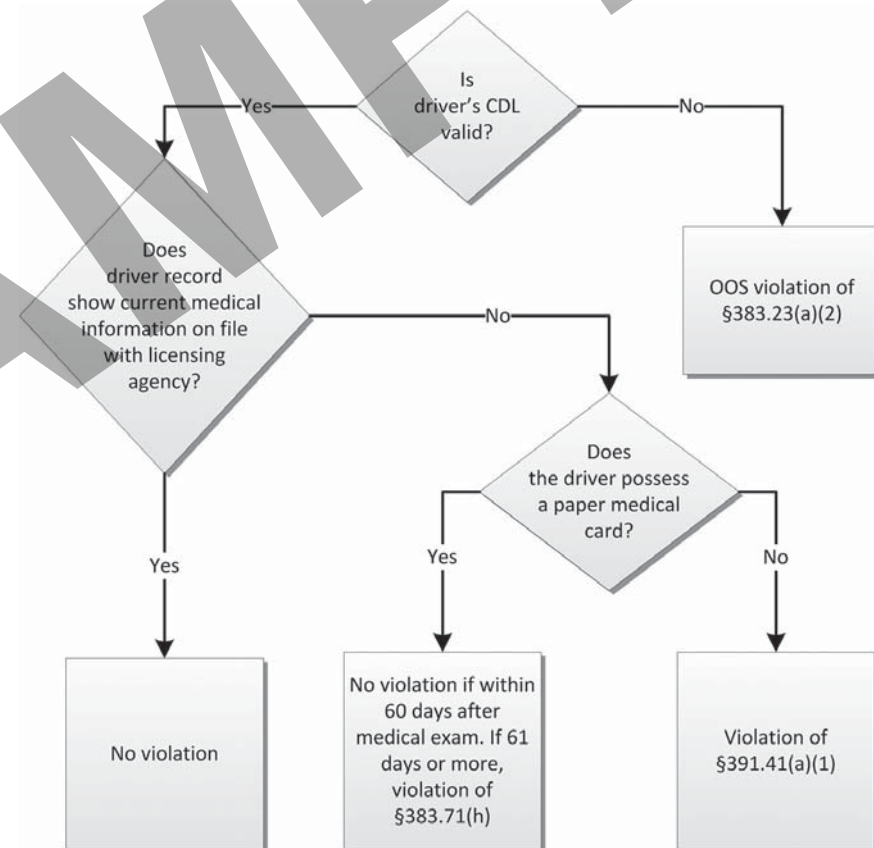
The new guidance affects enforcement only; the federal safety regulations themselves have not changed. The rules continue to say that CDL drivers only have to carry their medical cards for up to 15 days.

The guidance appears in the CVSA's inspection bulletin titled "Enforcement of Medical Examiner's Certificate Integration with the Commercial Driver's License," which was revised in April. The bulletin guides law enforcement on how to enforce the rules

regarding the use of medical cards as proof of medical qualification.

When a driver's electronic driving record shows that his or her CDL or learner's permit is not valid (canceled, suspended, revoked, etc.), the driver should be placed out of service (OOS) even if within the 60-day period, the bulletin notes.

Drivers with a valid CDL but not carrying a valid medical card will be cited for violating Sec. 391.41(a)(1) if their electronic driving record shows no medical information on file with the state licensing agency. ♦



*The CVSA says it will accept paper medical cards for up to 60 days in some cases.*

## Carriers encouraged to go ‘beyond compliance’

Would you adopt new safety practices if it meant better CSA scores or fewer roadside inspections?

The Federal Motor Carrier Safety Administration (FMCSA) is hoping the answer is yes. The agency is considering adopting a “Beyond Compliance” program that could provide incentives to motor carriers that voluntarily take steps to improve highway safety.

Examples of actions that could potentially qualify for incentives:

- Adopting vehicle technologies like roll stability control systems and tire pressure sensors;
- Enrolling in driving-record notification systems; and

- Implementing state-of-the-art best practices.

The FMCSA recently asked for public input to gauge the level of interest in a Beyond Compliance program and to determine what such a program would look like.

Among the incentives the agency said could be considered are reduced Compliance, Safety, Accountability (CSA) scores, credit on Inspection Selection System (ISS) scores, and a reduction in roadside inspections.

ISS scores are used by enforcement personnel to help decide if a motor carrier should be targeted for inspection at the roadside.

Beyond Compliance would not result in regulatory relief, the FMCSA cautioned. The agency says it can already

grant regulatory relief through waivers, exemptions, and pilot programs.

In 2007, the Transportation Research Board recommended that the FMCSA conduct a Beyond Compliance pilot program, concluding that such a program “could provide significant incentives for carriers to adopt best practices.”

The FMCSA has also asked its Motor Carrier Safety Advisory Committee to provide recommendations on the potential benefits and feasibility of a Beyond Compliance program, the types of incentives that could be offered, and how the FMCSA could verify that a carrier was participating.

Notice of the program appeared in the *Federal Register* on April 23, 2015. ♦

## Owner-operator shut down for serious violations

A South Carolina-based trucking company with one truck and a 100 percent out-of-service rate has been ordered to immediately cease all vehicle operations.

The Federal Motor Carrier Safety Administration (FMCSA) says the company was an “imminent hazard to public safety” due to serious violations of federal rules for vehicle maintenance, drug and alcohol testing, driver qualification, and hours of service.

On six separate occasions in the past 12 months, the company’s sole tractor-trailer was placed out of service following roadside inspections. Violations included inadequate

brakes, brake system pressure loss, oil-contaminated brake and steering components, and worn tires.

“Any vehicle, especially a large commercial combination vehicle such as a truck and trailer, that is not maintained or repaired and allowed to become a serious public hazard, is absolutely unacceptable,” said FMCSA Chief Counsel Scott Darling. “Compliance is not optional. If a motor carrier does not adhere to the safety regulations, we will see that it does not operate.”

Under the Compliance, Safety, Accountability (CSA) program, the company was on

“Alert” in both the vehicle maintenance and hours-of-service categories, with a score of 99 percent for vehicle maintenance.

The FMCSA also simultaneously revoked the carrier’s federal operating authority and suspended its USDOT number.

Violating an imminent-hazard out-of-service order and operating without operating authority and a USDOT number may result in civil penalties up to \$60,000 as well as a criminal penalty, including a fine of up to \$25,000 and imprisonment for up to one year. ♦



**Exams, from pg. 1****New forms**

The first big change to arrive will be new medical forms to be used beginning Dec. 22, 2015, six months after the rule went into effect. This includes a new eight-page Medical Examination Report form and new Medical Examiner's Certificate, as well as a new electronic form doctors will use to upload exam results to the FMCSA. The medical exam itself will not change.

The new exam form and certificate are substantially the same as current forms, with most changes only affecting the basic layout. However, for the first time, the rules will specify the exact appearance of the forms rather than allow-

ing the use of forms that are "substantially similar" to those shown in the rules.

**Wallet card**

Until June 22, 2018, all commercial drivers will still need to be issued an original medical certificate (wallet card) after their exam.

This changes for CDL and commercial learner's permit (CLP) holders after that date, however. These drivers and their employers will no longer receive a paper medical card unless they ask for one. In other words, they will not need to have a copy of the medical card for any length of time.

As of June 22, 2018, the only official proof that a CDL/CLP driver is medically qualified will be their motor vehicle

driving record (MVR), not their medical card.

The rule establishes the following basic certification process for CDL/CLP drivers as of the 2018 compliance date:

1. After an exam, the medical examiner will upload the exam results to the FMCSA by midnight of the next calendar day, whether pass or fail. If an exam cannot be completed, it can remain "pending" for up to 45 days (and the driver may continue to drive until the existing card expires or a certification decision is made).
2. The FMCSA will "promptly" upload the exam results to the state licensing agency.

see *Exams*, pg. 11

## Ready-mixed concrete drivers get rest-break exemption

Drivers of ready-mixed concrete trucks can use "waiting" time to satisfy the requirement for a 30-minute rest break, thanks to a new exemption from the Federal Motor Carrier Safety Administration (FMCSA).

The new exemption means eligible drivers will be able to remain "on duty" for their mandatory breaks while waiting with the truck at a job site or terminal.

To be eligible for the exemption, drivers must perform no other work while waiting, must carry a copy of the

exemption notice with them, and must work for companies with a good safety record.

The new exemption is in effect until April 3, 2017.

The National Ready Mixed Concrete Association (NRMCA) sought the exemption on behalf of its 2,000 member companies, but the exemption applies to all the roughly 68,000 drivers of ready-mixed concrete mixer trucks in the country.

Under federal hours-of-service rules, truck drivers must get at least 30 minutes off duty every 8 hours in order to continue driving. The FMCSA has granted exceptions, however, to certain drivers hauling livestock, munitions, explosives, and other types of cargo.

According to the NRMCA, most concrete-mixer drivers operate for at least 8 to 10 hours (and often more than 12 hours) per day, but less than 40 percent of that time is actually spent driving. Compliance with the 30-minute rest-break rule is made difficult by the many variables associated with delivery (e.g., weather, customer readiness, traffic) and becomes even more problematic while transporting a perishable product during the busy season, the NRMCA says.

Mixer drivers take numerous rest breaks throughout each work period but they are spent "on duty" because the drivers must remain in or near the truck and therefore cannot be "off duty," the association says. ♦



## New rules target ‘questionable’ bus leasing practices

Bus operators who use lease agreements to hide their identity from federal regulators are the target of new regulations from the Federal Motor Carrier Safety Administration (FMCSA).

The rules are designed to:

- Help enforcement personnel and the public identify which bus operator is responsible for compliance with the FMCSA’s safety regulations and insurance requirements, and
- Make sure that a lessor surrenders control of the vehicle for the full term of the lease or temporary exchange of vehicles and drivers.

The rules took effect on July 27, 2015, but compliance is not required until January 1, 2017.

The rules do not apply to typical charters where a single motor carrier transports chartered customers with its own vehicles.

The FMCSA says the rules are needed to “ensure that unsafe passenger carriers cannot evade FMCSA oversight and enforcement by entering into a questionable lease arrangement to operate under the authority of another carrier that exercises no actual control over those operations.”

The new rules amend the definitions in Sec. 390.5 and the vehicle marking requirements in Sec. 390.21, and add a new Subpart F to Part 390, titled “Lease and Interchange of Passenger-Carrying Commercial Motor Vehicles.”

Key requirements of the new rules:

- A carrier can only transport passengers in a leased, interchanged, rented, borrowed, or loaned vehicle if there is a specific written agreement. The agreement and certain receipts must be carried in the vehicle and retained by the lessor and lessee for one year. In the

*What’s an ‘Interchange’?*  
**It happens when a bus operator provides a passenger-carrying commercial motor vehicle to another motor carrier, in order to continue a through movement.**

event of a crash, breakdown, or other event that requires an immediate replacement vehicle from another carrier, the carriers have up to 48 hours to write the agreement.

- If a carrier originally hired to provide charter transportation of passengers subcontracts the work to another passenger carrier, the tour operator or group of passengers must be told about the role of the subcontracted carrier within 24 hours.
- Leased or interchanged vehicles must

be marked with the words “Operated by,” followed by the operating carrier’s name and USDOT number.

The following types of operations are exempted from all or some of the new requirements:

- Contracts between a motor carrier and a financial organization or a manufacturer or dealer allowing the carrier to use a passenger-carrying vehicle.
- The exchange or interchange of vehicles between commonly owned and controlled motor carriers (i.e., families of companies). Such arrangements do not require lease agreements but the vehicles must carry a summary document for each trip.
- Carriers that have a revenue pooling agreement do not need leases or receipts if the driver carries certain documentation of the agreement and the vehicle is marked with the name of the responsible motor carrier operating the vehicle.

The new rules appeared in the *Federal Register* on May 27, 2015, and are available at [JKeller.com](http://JKeller.com). ♦



**Rules, from pg. 1**

**Rule:** Heavy Vehicle Speed Limiters

**Stage:** Draft

**Expected publication date:** August 27

**Summary:** This rule would require the installation of speed limiting devices on heavy trucks over 26,000 pounds.

**Rule:** Carrier Safety Fitness Determination

**Stage:** Draft

**Expected publication date:** September 9

**Summary:** This long-delayed proposal would change the way that motor carriers receive a safety rating, using data from the Compliance, Safety, Accountability (CSA) program.

**Rule:** Prohibition of Coercion

**Stage:** Final

**Expected publication date:** September 25

**Summary:** This rule will prevent motor carriers, shippers,

receivers, or other “transportation intermediaries” from forcing drivers to operate commercial vehicles in violation of federal safety rules. It will include procedures for drivers to report such coercion to the FMCSA.

**Rule:** ELDs and Supporting Documents

**Stage:** Final

**Expected publication date:** September 30

**Summary:** This rule will establish minimum performance and design standards for electronic logging devices, require their use by drivers who currently have to prepare logs, and will establish new rules for supporting documents.

**Rule:** Entry-Level Driver Training

**Stage:** Draft

**Expected publication date:** October 15

**Summary:** The FMCSA will propose new standards for mandatory training of entry-level drivers of commercial



motor vehicles that require a commercial driver’s license (CDL). The standards will include requirements for classroom, range, and behind-the-wheel training from training providers listed on a national registry.

**Rule:** CDL Drug and Alcohol Clearinghouse

**Stage:** Final

**Expected publication date:** December 14

**Summary:** This rule will create a central database for verified positive and refusal drug and alcohol test results for CDL holders. It will require employers and service agents to report positive test results and refusals, and require employers to query the database before hiring a driver. ♦

## Changes on the horizon for drug testing rules

A flurry of recent activity concerning the rules for drug and alcohol testing means changes are on the horizon for motor carriers and others involved in DOT-regulated testing.

The U.S. Department of Transportation (DOT) has officially approved an electronic drug testing form, Congress is seeking to allow hair testing, and a federal agency is exploring the use of both saliva and

hair for drug testing while also proposing changes to the urine testing standards.

Other than changes related to the Custody and Control Form (CCF) noted below, none of the changes has affected the driver testing process at this time.

### eCCF

The only official change so far is to the rules in 49 CFR Part 40 that govern the form

used to document urine drug tests.

Effective April 13, 2015, the DOT has officially approved the use of an electronic CCF rather than confining the form to paper only.

However, it will be some time before the “eCCF” starts showing up at your local clinic. Before a lab is allowed to use the electronic form, it must submit detailed plans to the Substance Abuse and Mental

Health Services Administration (SAMHSA) and receive official approval.

Even after a lab is approved to use the eCCF, any employer who wants to use it in their testing program has to make sure that the collection site, the primary and split laboratories, and the medical review officer (MRO) all have compatible systems to allow sharing of the form, and that drivers will receive a legible copy.

The CCF is used to identify a urine specimen and to document its handling throughout the testing process. The eCCF requires the same information as the paper version; there were no changes to the content of the form itself.

The DOT reminds employers that electronic signatures are not otherwise acceptable in Part 40. The use of the eCCF will create an exception so that electronic signatures will be acceptable on these forms only and not throughout the rest of Part 40, the agency says.

In adopting the eCCF, the DOT amended sections 40.3, 40.45, and 40.73.

SAMHSA received approval from the White House in early 2014 to allow use of an eCCF, and amended its “Mandatory Guidelines for Federal Workplace Drug Testing Programs” accordingly. The DOT is required to base its Part 40 testing rules on the Mandatory Guidelines.

### Hair testing

SAMHSA is in the initial stages of exploring whether hair testing should be allowed

in place of urine, but Congress may force their hand.

Bills introduced in both houses of Congress would allow motor carriers to conduct DOT-mandated drug tests using hair samples rather than urine.

The “Drug Free Commercial Driver Act of 2015” (S.806, H.R.1467) would not *require* hair testing but would make it “an acceptable alternative to urinalysis” for pre-employment and random testing purposes only.

Urinalysis is the only currently acceptable drug testing method under DOT rules.

Proponents of hair testing say urinalysis is often less effective in detecting substance abuse, with only a two- to three-day window of detection versus 60-90 days for hair testing, according to Senator John Boozman, who introduced the Senate bill.

“Leading employers in a variety of industries around the world have recognized that hair testing is a very effective method to detect drug use,” said Dean Newell, vice president of safety and driver training at Maverick USA, based in Little Rock, AR. “Hair tests are difficult to evade or subvert and provide a better window into an applicant’s potential history of drug use.”

The proposed legislation would also allow carriers to apply for an exemption from urinalysis testing if they run a compliant hair testing program. The bill is supported by the American Trucking



Associations and the Trucking Alliance.

On May 29, 2015, SAMHSA published a notice asking for input on numerous questions regarding hair testing, such as how much hair should be collected, from where, and how shampoo and other products might affect test results.

### Saliva testing

Another proposed change to the Mandatory Guidelines may allow drivers to have their saliva tested in place of urine.

SAMHSA is proposing to establish standards and technical requirements for oral fluid testing, including standards for collection devices, testing methods, and MRO review.

The ability to use oral fluids will give testing programs more flexibility, SAMHSA says. Drug concentrations in saliva are much lower than in urine but saliva testing is also faster and potentially more secure because the collection is always done under observation.

If saliva testing is allowed, the agency says it expects

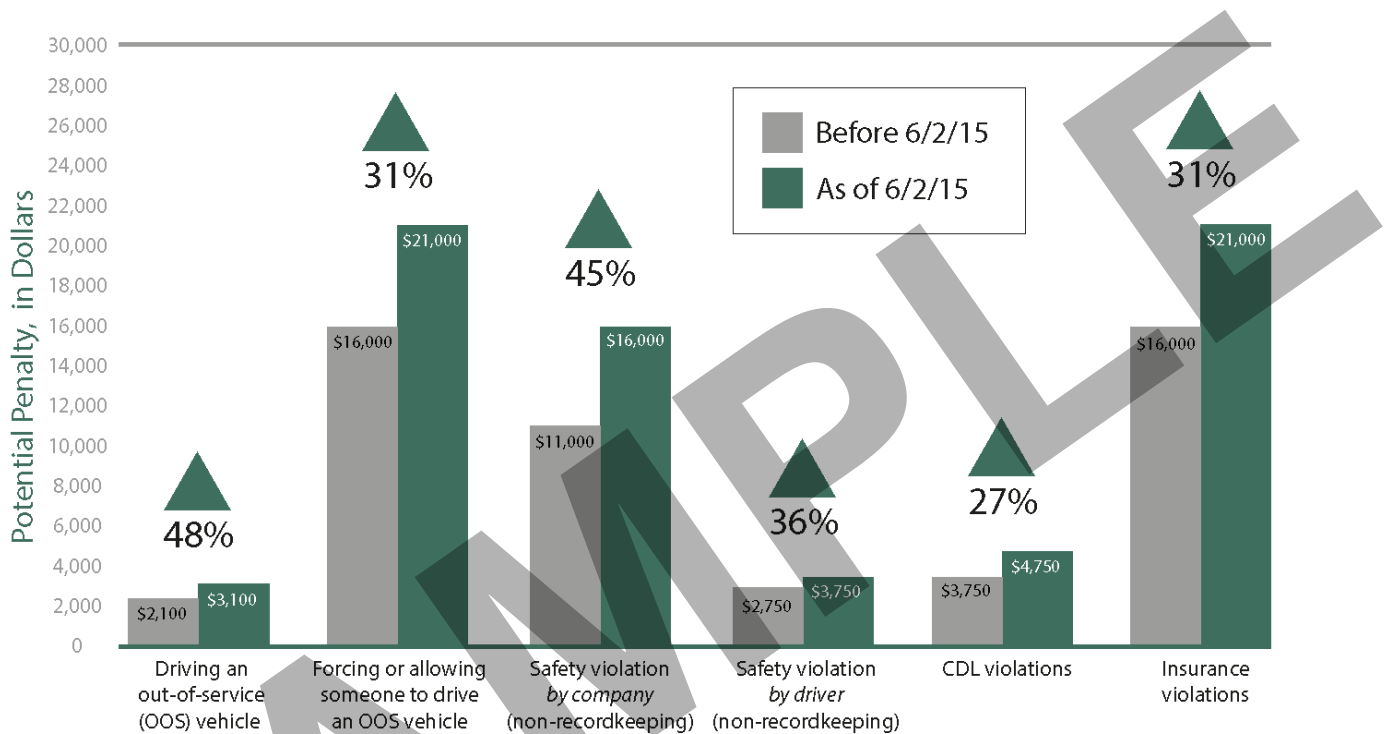
see *Changes*, pg. 11

## Potential DOT fines have increased

The price of violating the Federal Motor Carrier Safety Regulations has gone up.

Effective June 2, 2015, the Federal Motor Carrier Safety Administration (FMCSA) has adjusted its maximum civil penalties for inflation, meaning drivers and motor carriers may face higher penalties for violations.

The following is a sampling of the new penalty amounts. Complete details are available in appendices A and B to 49 CFR Part 386, as well as the April 3, 2015, *Federal Register* available at [JJKeller.com/tmc](http://JJKeller.com/tmc).



## Association requests ‘break’ from rules for hazmat haulers

A trade association is asking federal regulators to allow carriers operating under a hazardous materials security plan to be able to count “attendance” time as a rest break.

The American Trucking Associations (ATA) applied for the exemption on behalf of all motor carriers that transport hazardous materials requiring security plans under regulations of the Pipeline and Hazardous Materials Safety Administration (PHMSA).

Such plans normally require the driver to “attend” to the

cargo while the vehicle is stopped, which is an on-duty activity. This can force drivers to choose between complying with hours-of-service rules — which require them to get 30-minute off-duty rest breaks — or complying with the security plan.

If the exemption is granted, it would resemble the existing standard in 49 CFR Sec. 395.1(q), which allows those who transport Class 1 explosives to count attendance time as their break as long as they

perform no other work during that time.

### Constant attendance

Under 49 CFR Secs. 172.800-804, carriers of certain security-sensitive materials must develop special plans that account for personnel, cargo, and en route security. Although not mandatory, “constant attendance” of the cargo is included by most carriers in their security plans.

Commercial motor vehicle (CMV) drivers are subject to the rest-break requirements



in Sec. 395.3(a)(3)(ii), which prohibit them from driving a CMV if more than 8 consecutive hours have passed since the driver's last off-duty or sleeper-berth period of 30 minutes or more.

Drivers who are required by their carrier's hazmat security plan to maintain constant on-

duty attendance on the CMV whenever stopped cannot also comply with the off-duty rest-break requirement.

The ATA had initially asked the FMCSA "to clarify that drivers can exercise constant attendance over a vehicle without having to remain on duty," according to the

agency. After discussion with agency officials, however, ATA agreed that its request should be treated as an exemption application.

Notice of the exemption request appeared in the *Federal Register* on May 1, 2015. ♦

## DOT: Custom-built coach drivers need 'P' endorsement

If you want the privilege of ferrying a rock star to his or her next gig, you'll need a passenger endorsement on your license.

Drivers who transport even just a few passengers on a custom-built motorcoach need the endorsement, according to a new directive from the Federal Motor Carrier Safety Administration (FMCSA).

The new guidance will primarily affect those who drive custom-built motorcoaches used to transport entertainers to performance venues. These vehicles are generally designed to hold just 10-12 passengers, but are large enough to require a commercial driver's license (CDL).

The new FMCSA guidance says these drivers need a passenger ("P") endorsement even when there are fewer than 16 passengers on board.

Vehicles designed for 16 or more passengers require a CDL even if the overall weight is below 26,001 pounds, but custom motorcoaches require a CDL because their weight is over that threshold. The fact that they were designed for any passengers means the endorsement is needed, the FMCSA says.

The American Bus Association (ABA) estimates that approximately 1,000 entertainer motorcoaches are currently in operation. Each vehicle begins as a motorcoach

chassis and body shell which is then customized by a second-stage manufacturer that installs beds, couches, sinks, kitchen cabinets, and other furnishings.

Under federal licensing rules, CDL holders who operate "passenger vehicles" have to get a passenger endorsement, but the rules do not specify a minimum number of passengers needed to trigger that requirement.

Drivers of recreational vehicles used strictly for non-commercial purposes are exempt from the CDL and endorsement requirements.

The new FMCSA guidance appears as Question 15 under 49 CFR Sec. 383.93. ♦

## Carrier gets OK to test alternate sleeper-berth pattern

A Tennessee-based motor carrier has received federal approval to test a new sleeper-berth pattern for its team drivers.

Under the terms of a one-year exemption, the private company's tractor-trailer drivers will have more flexibility in how they "split" their mandatory 10 hours of daily rest using a sleeper berth.

The drivers will need to be in a berth for at least 10 hours total but can split that time into two periods of any length down to a minimum of three hours.

A similar pattern was allowed under federal hours-of-service (HOS) rules until 2005. Under current rules, drivers may split their 10-hour break into two periods but must spend at least eight

consecutive hours in a sleeper berth for one of the two breaks.

Long-haul teams bemoaned the change, saying it decreased their flexibility to get rest when they felt fatigued.

The motor carrier that requested the exemption delivers fresh snack-food products nationwide using about 650

see *Carrier*, pg. 11

## Crash investigators urge more video cameras on CMVs

The federal agency that investigates serious truck and bus crashes is encouraging wider use of onboard video recorders.

The National Transportation Safety Board (NTSB) has issued a report on the benefits of video systems, saying they can help evaluate both driver and passenger behaviors and aid in collision analysis.

Such systems record video either continuously or as the result of a triggering event. Many commercial vehicles, especially school buses and motorcoaches, are already equipped with onboard video systems.

After a crash, the NTSB uses information from onboard video systems to help determine the probable cause of the crash and make recommendations to prevent future crashes and reduce loss of life and injury when crashes do happen.

The NTSB report highlights recent crash investigations in which continuous video sys-

tems were installed on commercial vehicles. In a 2012 collision involving a truck-tractor semitrailer and a school bus in Florida, for example, the video system captured pre-crash driver and passenger behaviors and vehicle motion, vehicle and occupant motion during the crash, and post-crash events.

The report discusses the advantages of onboard video systems but also areas for improvement, such as the

need to improve video quality, low-light recording capabilities, and the ability to see the driver, each occupant seat, and the view toward the front of the vehicle.

The report also addresses the importance of proper installation and maintenance of all onboard video systems.

The report is available online at [www.nts.gov/safety/safety-studies/Documents/SR1501.pdf](http://www.nts.gov/safety/safety-studies/Documents/SR1501.pdf). ♦

### Got video? Use it properly!

The National Transportation Safety Board (NTSB) has issued a "Safety Alert" to help motor carriers ensure that their onboard video recorders are set up properly — or to help them buy a good recording system if they don't already have one.

The notice says to make sure the video equipment:

- Provides visibility of the driver,
- Provides visibility of each occupant seating location,
- Provides visibility forward of the vehicle,
- Ensures an optimized frame rate,
- Allows low-light recording capability (night vision), and
- Is properly installed and maintained.

The notice is available online at [www.nts.gov/safety/safety-alerts/Documents/SA\\_043.pdf](http://www.nts.gov/safety/safety-alerts/Documents/SA_043.pdf). ♦

## Drivers with defibrillators still waiting for exemptions

While federal regulators delay a decision on whether commercial drivers can be medically qualified while using defibrillators, more drivers are pounding on the door.

Another 12 drivers recently submitted applications to be exempted from the federal prohibition on the use of implantable cardioverter defibrillators (ICDs), joining 7 drivers who

have submitted applications since 2012.

ICDs are used to prevent cardiac arrest in high-risk patients, but federal safety standards do not allow their use among drivers operating commercial vehicles.

The Federal Motor Carrier Safety Administration (FMCSA) says it is still "in the process of gathering and analyzing additional data con-

cerning ICDs and commercial motor vehicle (CMV) driving."

If granted, the exemptions would allow drivers with ICDs to operate in interstate commerce for up to two years.

The FMCSA also recently received exemption requests from three drivers who suffer from narcolepsy.

In all 22 cases, the agency's decision remains pending. ♦

**Exams, from pg. 4**

3. The licensing agency will post the medical certification information to the driver's record within one business day. If the driver is not medically certified, the state will indicate "not certified" on the driver's record within 10 days, will notify the driver, and will begin the process of downgrading the driver's license.
4. The motor carrier will obtain a new MVR to have proof that the driver is

medically certified. The current 15-day window for getting a new MVR will no longer exist.

For non-CDL drivers, the medical card will continue to serve as proof of medical certification, so they will need to continue carrying their wallet cards, and motor carriers must continue to keep a copy on file.

**National Registry**

Medical examiners will be using their National Registry of Certified Medical Examiners account to upload exam results to the FMCSA.

Because of this, motor carriers will no longer need to verify that their CDL/CLP drivers were examined by someone appearing on the Registry, beginning June 22, 2018.

Such verification will still need to take place for non-CDL drivers, however, as required under Sec. 391.51.

The new "Medical Examiner's Certification Integration" rule appeared in the *Federal Register* on April 23, 2015, and is available at [JKeller.com](http://JKeller.com). It amends 49 CFR parts 383, 384, and 391. ♦

**Changes, from pg. 7**

about 7 percent of all regulated drug tests to be performed using saliva, with many employers choosing to do on-site collection.

**Process changes**

Other changes to federal drug testing guidelines are in the works, which will eventually affect DOT testing rules.

SAMHSA has proposed changes to the Mandatory Guidelines to:

- Allow the DOT and other agencies to test for additional prescription medications, including oxycodone, oxymorphone, hydrocodone, and hydromorphone;
- Revise the cutoff for reporting a specimen as adulterated based on low pH (the proposal would raise the cutoff from 3 to 4);
- Require MRO requalification training and re-examination at least every five

years after initial certification; and

- Where appropriate, include references to the use of a specimen other than urine, such as hair or saliva, though such substances have not yet been approved for testing.

Both SAMHSA proposals appeared in the *Federal Register* on May 15, 2015. Comments are being accepted until July 14, 2015, via [www.regulations.gov](http://www.regulations.gov). ♦

**Carrier, from pg. 9**

drivers and 300 tractor-trailer units equipped with electronic logs. Its average round trip, with backhaul, is about 1,000 miles.

The exemption, which is in place until next March, requires the drivers to have a minimum 26 hours off duty on weekends, at home, and be limited to 10 hours of driving each day.

The Federal Motor Carrier Safety Administration

(FMCSA) said the exemption will enable it "to observe the effects of split sleep in a real world context over a substantial time period."

**Slippery slope?**

The exemption request received strong opposition from several members of the public.

One commenter, Michael Millard, suggested that the exemption "sets in motion a slippery slope; whereas, if the FMCSA grants the exemption

they are indicating the current HOS is not suitable for acquiring the needed rest [and] they can expect to be hounded by other motor carriers to participate in the exemption."

The American Trucking Associations (ATA) supported the exemption request, saying the current rules "do not introduce enough flexibility into the delicate equation of driver rest, sleep and performance." ♦

## Proposal would ease restrictions on diabetic drivers

Commercial drivers who need insulin to control their diabetes could soon be able to drive across state lines without needing a special waiver.

The Federal Motor Carrier Safety Administration (FMCSA) has proposed a new rule that would eliminate the need for drivers with insulin-treated diabetes mellitus to apply for an exemption to be able to operate in interstate commerce.

Current federal safety rules prohibit individuals who take insulin from driving commercial motor vehicles.

In order for a driver to qualify for a medical certificate under the newly proposed standards, their treating clinician would have to send documentation to the medical examiner indicating that their diabetic condition is stable and well-controlled. The driver would have to get a new medical certificate at least annually.

According to the FMCSA, various studies have shown that drivers with insulin-treated diabetes “are as safe as other drivers when their condition is well-controlled.”

The agency estimates that over 200,000 drivers may be eligible for medical qualification under the new standards.

Congress required the FMCSA to relax its qualification standards for insulin-using drivers in 2005, but the agency has been slow to respond.

Meanwhile, exemption requests have been mounting — the agency received

858 exemption applications in 2012 from insulin-using drivers. If the new standards are finalized, the existing exemptions would be unnecessary and withdrawn.

### Hypoglycemia

Diabetes poses a safety concern mainly due to the symptoms of hypoglycemia, a condition where insulin treatment may cause blood glucose to drop to dangerously low levels. This can result in double or blurry vision, shaking or trembling, weakness, fatigue, fainting, seizures, or coma.

The FMCSA’s medical board advised the agency to allow insulin-using drivers to be medically certified “if they are free of severe hypoglycemic reactions, have no altered mental status or unawareness of hypoglycemia, and manage their diabetes mellitus properly to keep blood sugar levels in the appropriate ranges.”

Under the proposed rule, a driver’s treating clinician must annually determine:

- That the driver has had no severe hypoglycemic reactions resulting in a loss of consciousness or seizure, the need for assistance from another person, or impaired cognitive function; and
- That the driver is properly managing his or her diabetes.

The proposed rule would continue to prohibit drivers with insulin-treated diabetes who hold licenses from Canada or Mexico from operating commercial vehicles in the United States.

The FMCSA says it may remove the existing grandfather provisions of 49 CFR Sec. 391.64 once the new standards take effect.

The draft rule appeared in the *Federal Register* on May 4, 2015. The FMCSA is accepting public comments on the proposed rule until July 6, 2015. Comments may be submitted or viewed online at [www.regulations.gov](http://www.regulations.gov) under docket number FMCSA-2005-23151. ♦

### History of the DOT’s Insulin Restrictions

**1940-1971:** Urine glucose tests are recommended as part of the driver medical exam.

**1971:** The current standard is put in place, preventing drivers who use insulin from being certified for interstate commerce.

**1993:** Drivers are given the opportunity to apply for a waiver from the insulin restriction.

**1994:** A federal court decision invalidates the waiver program.

**1998:** Congress asks the DOT to develop a new protocol for allowing insulin-treated drivers to be qualified.

**2003-present:** Drivers can apply for an exemption from the insulin prohibition, using an application found on the FMCSA website.

**2015:** The FMCSA proposes a rule to eliminate the need for an exemption. ♦

## Agency exempts certain RV drivers from CDL rules

Drive an RV or motorhome for your next vacation and it probably doesn't matter what kind of license (or skills) you have.

But deliver a new RV to a dealer and the picture can change — you may need a full commercial driver's license (CDL).

Thanks to a new exemption from the Federal Motor Carrier Safety Administration (FMCSA), however, the pool of those eligible to drive a large RV or motorhome for commercial purposes has expanded.

The agency has decided to allow non-CDL-licensed driv-

ers to deliver certain newly manufactured motorhomes and recreational vehicles to dealers or trade shows before retail sale, i.e., driveaway operations.

The Recreation Vehicle Industry Association (RVIA) requested the exemption on behalf of its members due to a shortage of commercially licensed drivers, especially during the spring when RV sales are high, the group says.

The new exemption covers employees of all U.S. driveaway companies, RV manufacturers, and RV dealers transporting RVs between manufacturing sites and dealer locations and for movements prior to first retail sale.

Drivers engaged in driveaway deliveries of RVs with gross vehicle weight ratings of 26,001 pounds or more —

which normally require a CDL — will not be required to have a CDL as long as the empty RVs have an actual gross weight of less than 26,001 pounds.

Drivers delivering RV trailers will also be exempt when the trailers weigh 10,000 pounds or less.

RV units that have a combined gross vehicle weight exceeding 26,000 pounds are not covered by the exemption.

An RV is a vehicle designed as temporary living quarters for recreational, camping, travel, and seasonal use. RVs may be motorized (motorhomes) or towable (travel trailers, fifth-wheel trailers, folding camping trailers, and truck campers).

The National Automobile Dealers Association supported the exemption and urged the FMCSA to expand it to apply to all new motor vehicles weighing below 26,000 pounds.

The exemption is in place until April 6, 2017. ♦



## Is hitting an attenuator truck an 'accident'?

If you crash into a truck that was designed to be crashed into, is it considered an "accident?" Not for the company that owns the truck, according to the Federal Motor Carrier Safety Administration (FMCSA).

New FMCSA guidance says the operator of an "attenuator" truck at a construction site does not need to make an entry on its accident register when someone hits the back of the truck.

If a commercial motor vehicle (CMV) hits an attenuator truck, however, then the accident is recordable for the CMV operator.

Attenuator trucks are highway safety vehicles equipped with an impact-absorbing cushion intended to reduce the risks of injuries and fatalities resulting from crashes in construction work zones.

Crashing into an attenuator truck is not considered a recordable accident for the

company operating the truck, the FMCSA says, since "it is expected that these vehicles will be struck from time to time while the attenuators are deployed."

Construction companies that already have such crashes on their safety records can have those accidents removed through the DataQs appeal process.

The new guidance to 49 CFR Sec. 390.5 took effect on May 26, 2015. ♦

## Exemptions renewed for cargo securement, HOS

The Federal Motor Carrier Safety Administration (FMCSA) has renewed two exemptions related to hours of service and the securement of metal coils.

### Metal coils

The metal-coil exemption applies to the securement of coils loaded with eyes crosswise and grouped in rows, when the coils are in contact with each other in the longitudinal direction.

Such a configuration is not currently covered under the agency's commodity-specific rules for securing metal coils in 49 CFR Sec. 393.120.

Under the exemption, a motor carrier may continue to use the pre-2004 cargo securement rules when securing the coils. In effect, this means carriers must:

- Continue to meet the aggregate working load limits of Sec. 393.106(d);
- Load the coils to contact each other in the longitudinal direction, with relative motion between coils — and between coils and

the vehicle — prevented by tiedown assemblies and timbers;

- Secure the foremost and rearmost coils with 4x4 inch (or larger) timbers that have a length which is at least 75 percent of the width of the coil or row of coils, tightly placed against both the front and rear sides of the row of coils and restrained to prevent movement of the coils in the forward and rearward directions; and
- Secure the first and last coils in a row of coils with a tiedown assembly restricting against forward and rearward motion, respectively; each additional coil must be secured to the trailer using a tiedown assembly.

The exemption was originally granted in 2011 and has been extended twice since then. The exemption is now in effect until April 13, 2017.

### Hours of service

Drivers for regular-route passenger carriers are exempt from the requirement

to enter a change in duty status on their logs for breaks in driving time of 10 minutes or less. This exemption applies only when picking up or dropping off passengers, baggage, or small express packages.

Such stops will not be considered a change of duty status for the purposes of Sec. 395.8(c). Since the stops are logged as “driving,” they will reduce the drivers' available driving time for the day.

This exemption was first issued in May 2013 and is now in effect through May 31, 2017. ♦



## Driver uses cocaine, hits officer, gets OOS Order

After a serious accident at the Port of Savannah, a Georgia-licensed truck driver was recently served a federal order preventing him from operating commercial vehicles across state lines.

The Federal Motor Carrier Safety Administration (FMCSA) declared the driver to be an “imminent

hazard to public safety” and ordered him off the road after his vehicle struck a Georgia Port Authority police officer, causing serious bodily harm.

The driver was arrested and later tested positive for cocaine.

“Commercial drivers should have no doubt that we will vigorously enforce all federal

safety regulations to the fullest extent possible by law,” said FMCSA Chief Counsel Scott Darling. “FMCSA is committed to raising the bar for commercial vehicle safety, and we will remain vigilant in removing unsafe truck and bus drivers from our roadways.” ♦



## State Highlights

### ARKANSAS

#### *Speed limit*

The Arkansas State Highway Commission has eliminated split speed limits on rural freeways in the state. A uniform speed limit of 70 mph has been set for all vehicles on rural freeways. Previously the speed limit was 65 mph for trucks and 70 mph for all other vehicles.

### KANSAS

#### *FMCSR exception*

Recently enacted legislation exempts certain intrastate operations in Kansas from compliance with a majority of the Federal Motor Carrier Safety Regulations (FMCSRs).

Effective April 9, 2015, private motor carriers domiciled in Kansas operating vehicles with a gross vehicle weight rating (GVWR), gross combination weight rating (GCWR), gross vehicle weight (GVW), or gross combination weight (GCW) of 10,001 to 26,000 pounds are exempt from most FMCSRs. These operations

must comply with Part 393, Subpart F (coupling devices), Part 393, Subpart I (load securement), and Sec. 396.17 (periodic/annual inspection) of the FMCSRs when operating a vehicle with a GVWR, GCWR, GVW, or GCW of 10,001 pounds or more.

The exception does not apply to a carrier transporting hazardous materials or certain types of passenger-carrying operations.

For all other carriers, Kansas' intrastate adoption of the FMCSRs applies to vehicles with a GVWR, GCWR, GVW, or GCW of 10,001 pounds or more, vehicles transporting hazardous materials requiring placarding, and certain types of passenger-carrying operations.

### OKLAHOMA

#### *Texting ban*

On May 5, Oklahoma Governor Mary Fallin signed a bill to prohibit texting while driving. The law goes into effect on November 1, 2015, and carries a \$100 fine, according to the

Governors Highway Safety Association (GHSA).

In just eight years — since Washington became the first in 2007 — 46 states have enacted “texting while driving” bans.

The GHSA urges all drivers to put down their cell phones or other electronic devices while driving, regardless of the current law.

### WASHINGTON

#### *FMCSR adoption*

The Utilities and Transportation Commission has updated its adoption of the Federal Motor Carrier Safety Regulations (FMCSRs).

Effective April 2, 2015, the Utilities and Transportation Commission has adopted by reference the FMCSRs as in effect on October 1, 2014. The regulations adopted (with some amendments) for intrastate carriers include Parts 40, 375, 379, 380, 382, 383, 385, 390, 391, 392, 393, 395, 396, and 397.

The Utilities and Transportation Commission prescribes rules and regulations for carriers subject to its jurisdiction including household good carriers, solid waste collection companies, and common carrier brokers.

### WISCONSIN

#### *Speed limit*

Recently enacted legislation increases the speed limit in Wisconsin to 70 mph on interstates and freeways as posted. Previously the speed limit was 65 mph. ♦





## Regulations Calendar

The following are upcoming rulemaking actions and significant, pending compliance deadlines related to motor carrier safety. The entries are arranged in date order.

**7/8/2015**

### CLP Medical Cards

Beginning July 8, commercial learner's permit (CLP) holders will no longer need to carry their medical certificates for more than 15 days. As with CDL holders, employers of CLP drivers need to obtain and retain their driving records to verify medical certification.

**8/27/2015**

### Speed Limiters

A proposed rule that would require the installation of speed limiting devices on commercial trucks over 26,000 pounds is now expected in late August.

**9/6/2015**

### Brake Safety Week

Brake Safety Week takes place September 6-12, 2015. During the event, inspectors will conduct brake system inspections on trucks and buses across North America

to identify out-of-adjustment brakes and brake-system violations.

**9/9/2015**

### Safety Fitness

The FMCSA is projecting that it will issue the long-awaited "carrier safety fitness determination" rule by early September. In part, the rule would use CSA data to assign safety ratings, rather than relying solely on audits.

**9/25/2015**

### Anti-Coercion

The FMCSA now says late September is when it plans to issue a final rule that will prevent drivers from being coerced into driving when they would violate the safety regulations. See *MCSR*, 7/14, p. 1.

**9/30/2015**

### ELD Rule

The FMCSA is planning to issue its final rule on electronic logging devices by the end of September, requiring the devices for most interstate commercial drivers. The industry is expected to have just two years to install and begin using the devices once the final rule takes effect.

**10/23/2015**

### URS Takes Effect

The Unified Registration System (URS) becomes fully operational on October 23, 2015. See *MCSR*, 10/13, p. 1.

**12/14/2015**

### Clearinghouse

Mid-December is the projected date for a final rule to establish a clearinghouse of CDL drivers who have tested positive on DOT drug or alcohol tests.

**12/22/2015**

### Medical Forms

A new medical exam form and certificate (wallet card) must be used beginning December 22, due to a new rule issued April 23, 2015. See related article, p. 1.

**1/1/2017**

### Bus Lease/Interchange

Compliance will be required in 2017 for a new rule targeting bus operators that use lease agreements to hide their identity from DOT enforcement. See related article, pg. 5.



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ISSN 1092-3101

GST R123-317687

(41809)



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