

Motor Carrier Safety Report

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Top 20 driver, vehicle, and hazardous materials violations of 2014

Last year, there were 3.3 million commercial driver inspections and 2.3 million vehicle inspections resulting in over 5 million violations of motor carrier safety and hazardous materials regulations, according to the latest government data.

There were nearly 1 million out-of-service (OOS) violations in 2014, keeping drivers and vehicles off the road until the problems were fixed.

Being familiar with these violations can help drivers and motor carriers avoid them.

The following tables list the top violations of driver- and vehicle-related motor carrier safety and hazardous materi-

als regulations as cited during roadside inspections in 2014, as well as the percentage of those violations that resulted in an out-of-service order for the driver or vehicle.

Also included is a list of the top violations categorized as “other,” consisting primarily of violations of state and local laws.

The data is derived from a snapshot of the Federal Motor Carrier Safety Administration’s Motor Carrier Management Information System as of February 20, 2015.

see **Top 20**, pg. 4



Five ‘serious’ violations added to CSA

Having more than one license and failing to take a 30-minute rest break are among five new safety violations added to a list of “serious” violations.

The Federal Motor Carrier Safety Administration (FMCSA) uses the list of serious violations in its Compliance, Safety, Accountability (CSA) enforcement program. When an investigation or audit turns up any one of 146 serious violations, the CSA website displays a “Serious Violation

Found” icon for the next 12 months, alerting the public, insurers, brokers, and others that the motor carrier had a serious violation.

The serious violations are roughly equivalent to the list of “acute” and “critical” violations that can affect a motor carrier’s safety rating, as listed in Appendix B to 49 CFR Part 385. Serious violations come in two types:

- Those where noncompliance is so severe that they require

see **Serious**, pg. 6

Agency eases annual review process

New guidance from the Federal Motor Carrier Safety Administration (FMCSA) will make it easier for some motor carriers to perform and document their annual driving record reviews.

The guidance says carriers can get their driving records through state-operated “employer notification systems,” either directly from the states or through third parties. And, if the records are obtained electronically, there is no need to print them for drivers’ qualification files.

Employer notification systems provide a motor vehicle report (MVR) for every state in which a driver held either an operator’s license, a commercial driver’s license (CDL), or a driving permit.

Push/pull

Many states provide either a “push” system that sends out automatic updates on license status, crashes, and convictions, or a “pull” system that allows motor carriers to get the records on demand. Typically, drivers must be enrolled in the system and the motor

carrier must pay a fee for the service.

California, New York, and Virginia are among the states currently providing license notification systems.

The new guidance updates existing guidance for 49 CFR Sec. 391.25, *Annual inquiry and review of driving record*. The previous guidance — issued in 2003 — was specific to a particular third-party vendor.

A trucking association raised the issue with the FMCSA and the agency agreed that the guidance should be revised to provide generic guidance rather than being vendor-specific. In addition, since 2003, several states implemented new systems for providing driving record information to employers.

The use of state-run systems to check driving records, at least annually, satisfies the requirement for an annual review of each driver’s record, the guidance says.

If using a:

- **Push-type system** — the carrier needs to have

evidence that its drivers are enrolled, especially when no updates are received in a given year.

- **Pull-type system** — the carrier must pull a report at least annually.

State reports

To be compliant, the state report must include information about:

- license status,
- crashes, and
- convictions of laws or regulations governing the operation of motor vehicles.

If the report includes the name of the motor carrier representative who conducted the annual review, then additional records concerning the annual review would not be required.

Paper copies of driving records and the identity of the person performing the annual reviews are not required in each driver’s file as long as the information can be printed on demand, the guidance says.

The revised guidance took effect on March 12, 2015. ♦

HOS whistleblower nets job, \$230,000 in damages

Tattling on a fellow employee who violates the hours-of-service rules is a protected activity, as one Arizona-based motor carrier can attest.

A dispatcher at the company was fired after raising concerns that a driver exceeded the driving limits, and now the company has been ordered to give him his job back and pay him more than \$230,000 in back wages and damages.

The Occupational Safety and Health Administration

(OSHA) says the company violated federal whistleblower laws when they terminated the employee in 2011. The employee was responsible for routing, dispatching, and managing driver performance at the company.

“An employee’s right to report safety concerns without fear of reprisal contributes to maintaining a safe and healthy workplace for all workers,” said Barbara Goto, acting OSHA regional administrator in San Fran-

cisco. “Employers need to recognize that employees can report safety issues outside of their immediate departments and still be protected from retaliation.”

The company has filed an objection and requested a hearing before a U.S. Department of Labor Administrative Law Judge.

Information on employee whistleblower rights is available at www.whistleblowers.gov. ♦

CSA scores, other data now available by smartphone app

The nightmare just keeps getting worse for companies that want their safety scores to be hidden from public view.

Rather than making motor carrier scores in its Compliance, Safety, Accountability (CSA) system less accessible, the Federal Motor Carrier Safety Administration (FMCSA) is offering them up to anyone with a smartphone.

The agency has announced a new “QCMobile” app that “will allow for more convenient access to currently available online safety performance information for interstate truck and bus companies.”

Many motor carriers, congresspersons, and industry associations see CSA scores and crash data as misleading at best, and want the FMCSA to hide them from public view.

In fact, pending legislation would require just that.

But the agency says the new app will provide “greater transparency” for the public and law enforcement “while making our roadways safer for everyone.” The app provides quick access to a variety of information, including:

- Company name, address, and phone number;
- Operating authority status;
- Insurance information;
- Out-of-service rates;
- Crash history; and
- CSA scores and safety ratings.

“We are committed to using every resource available at our fingertips to ensure the safety of travelers,” said U.S. Transportation Secretary Anthony Foxx.

The app is expected to be particularly valuable for state and federal law enforcement personnel, the FMCSA says, as well as insurers, brokers, freight-forwarders, and others interested in reviewing the USDOT registration and safety performance information of motor carriers.

Enforcement officers can already log in to specialized software to access a database of detailed safety information on all interstate motor carriers. The new app, which does not require a log-in, “immediately reveals whether the federal operating status of the carrier is authorized while helping to expedite an ‘inspect/pass’ decision by a certified commercial vehicle safety inspector,” the FMCSA wrote.

The free app is available for both Apple and Android devices. ♦

Supreme Court: Interpretations are not the same as rules

The USDOT and other administrative agencies may have breathed a sigh of relief when the Supreme Court recently ruled that federal agencies do not have to treat their “interpretive guidance” the same as regulations.

At issue was whether agencies like the Federal Motor Carrier Safety Administration (FMCSA) must use a lengthy notice-and-comment rulemaking process when they make changes to their official interpretations — the “guidance” that often accompanies the regulations.



Under the Administrative Procedures Act (APA), when an agency wants to write a new rule it must first issue a draft version and give the public an opportunity to submit comments, and then must consider those comments before issuing the final rule.

However, the APA also says this notice-and-comment requirement does not apply to “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.”

In *Perez v. Mortgage Bankers Association*, the Supreme Court reviewed whether government agencies have to use the notice-and-comment rule-making process if they want to issue a new interpretation that deviates significantly from a previously adopted interpretation.

In a unanimous ruling, the Supreme Court struck down a lower court’s opinion by finding that the APA language is clear — interpretive rules do not require notice and comment, even when significant changes are made. ♦

Top 20, from pg. 1

Top 20 Driver Violations

Rank	Code	Description	Violations	OOS
1	395.8	Log violation: general/form and manner	163,473	0.1%
2	392.2S	Speeding	110,314	0%
3	391.11(b)(2)	Non-English speaking driver	103,618	4%
4	395.3(a)(3)(ii)	Driving beyond 8 hours since end of last 30-minute break	95,539	0.5%
5	395.8(f)(1)	Driver's log not current	92,358	0.1%
6	391.41(a)	Driving without a valid medical certificate	81,994	7%
7	392.16	Failing to use seat belt	53,653	0%
8	395.3(a)(2)	Driving beyond 14-hour duty period	53,588	23.9%
9	392.2C	Failure to obey traffic control device	39,102	0%
10	395.8(e)	False log(s)	36,816	74.3%
11	395.8(k)(2)	Failing to retain previous 7 days' logs	28,197	84.2%
12	395.8(a)	No log(s) in driver's possession	27,946	89.4%
13	395.3(a)(3)	Driving beyond 11-hour driving limit	26,055	42.4%
14	392.82(a)(1)	Using a hand-held mobile telephone while driving	19,357	0%
15	392.2LV	Lane restriction violation	18,106	0%
16	383.23(a)(2)	Operating a CMV without a CDL	17,810	95.3%
17	391.11(b)(5)	Driver lacking valid license for vehicle type	15,629	91.8%
18	391.45(b)	Expired medical examiner's certificate	13,756	3.8%
19	392.2LC	Improper lane change	13,121	0%
20	383.51(a)	Driving a CMV while CDL is suspended	11,205	89.5%

Total driver inspections in 2014: 3,271,865; Total driver violations: 1,106,228; Total OOS violations: 194,184

Top 20 Vehicle Violations

Rank	Code	Description	Violations	OOS
1	393.9	Required lamp(s) not operable	564,335	7.8%
2	393.47(e)	Clamp/roto-chamber type brake(s) out of adjustment	198,977	0.2%
3	393.75(c)	Tire tread depth less than 2/32 of an inch	183,453	8.3%
4	396.3(a)(1)	General inspection/repair/maintenance	177,467	16%
5	396.5(b)	Oil and/or grease leak	153,385	0.9%
6	393.95(a)	Fire extinguisher missing/discharged/unsecured	146,245	0%
7	396.17(c)	Operating a CMV without periodic inspection	140,345	0.1%
8	396.3(a)(1)B	Brakes (general)	136,141	60.2%
9	393.45(b)(2)	Brake hose/tubing chaffing and/or kinking	121,742	11.6%
10	393.11	No/defective lighting/reflective devices	121,540	4.4%
11	393.9TS	Inoperative turn signal	119,230	42.2%
12	393.53(b)	Automatic brake adjuster, CMV manufactured on/after 10/20/94	95,021	0%
13	393.78	Windshield wipers inoperative/defective	83,474	0.5%
14	393.48(a)	Inoperative/defective brakes	64,422	25%
15	393.95(f)	Warning devices missing/insufficient	64,341	0%
16	393.9H	Inoperative head lamps	62,775	1.3%
17	393.60(c)	Windshield damaged or discolored	59,871	0.2%
18	393.9T	Inoperative tail lamp	55,770	10.9%
19	393.25(f)	Stop lamp violations	54,725	36.8%
20	393.55(e)	Malfunctioning ABS lamps, towed CMV manufactured 3/1/98-09	52,074	0%

Total vehicle inspections in 2014: 2,320,432; Total vehicle violations: 3,960,021; Total OOS violations: 658,153

Top 20 Hazardous Materials Violations

Rank	Code	Description	Violations	OOS
1	177.834(a)	Package not secure in vehicle	3,927	94.5%
2	107.620(b)	No copy of USDOT hazmat registration number	3,361	0.1%
3	172.516(c)(6)	Placard damaged, deteriorated, or obscured	2,757	1.3%
4	177.817(a)	No shipping papers (carrier)	2,330	76.5%
5	177.817(e)	Shipping paper accessibility	2,271	0.4%
6	172.504(a)	Vehicle not placarded as required	2,201	37.7%
7	172.202(b)	Failing to enter basic description of HM in proper sequence	1,929	0.2%
8	172.602(a)	Emergency response information missing	1,815	0.1%
9	172.502(a)(1)	Failing to provide carrier required placards	1,766	15.1%
10	177.823(a)	No placards/markings when required	1,325	49.7%
11	172.600(c)	Emergency response information not available	1,202	0.2%
12	172.200(a)	Offering HM without preparing a shipping paper	1,181	45.1%
13	180.415(b)	Cargo tank test or inspection markings	921	0.3%
14	173.24(b)(1)	Release of HM from package	814	93.6%
15	172.400(a)	Package/containment not labeled as required	627	1.6%
16	172.602(c)(1)	Maintenance/accessibility of emergency response information	569	0.2%
17	172.201(d)	Failing to enter emergency response phone # on shipping paper	546	0.7%
18	397.3	State/local laws/ordinances/regulations	531	3.4%
19	172.202(a)(1)	Failing to enter proper shipping name on shipping paper	522	2.9%
20	172.202(a)(5)	Failing to enter total quantity of HM on shipping paper	478	1.1%

Total hazmat inspections in 2014: 195,308; Total hazmat violations: 44,859; Total OOS violations: 10,590

Top 20 "Other" Violations

Rank	Code	Description	Violations	OOS
1	392.2RG	State vehicle registration or license plate violation	163,081	0.2%
2	392.2	Operating vehicle in violation of local/state laws	152,804	4.9%
3	390.21(b)	Failing to mark CMV with name and/or USDOT#	73,256	0%
5	392.2SLLEWA1	Excessive weight: 1-2,500 lbs over on an axle/axle groups	61,906	1.2%
6	392.2MI	Miscellaneous traffic law violation	46,829	0.9%
7	392.2W	Size and weight	45,838	0.9%
8	390.21(a)	Vehicle not marked in accordance with regulations	42,259	0.1%
9	392.2DIM	Dimension violation (width/height/length)	34,299	4.4%
10	392.2SLLEWA2	Excessive weight: 2,501-5,000 lbs over on an axle/axle groups	32,677	2.2%
11	392.2IRP	IRP apportioned tag or registration violation	25,350	0.3%
12	392.2UCR	Failure to pay UCR fee	24,690	0.1%
13	392.2SLLS1	Speeding 1-5 MPH over the speed limit	23,710	0%
14	392.2FT	State or international fuel tax (IFTA) violation	21,730	0%
15	392.2IN	State insurance violation	18,759	0.1%
16	392.2AU	State operating authority violation	17,438	3.4%
17	392.2DL	Miscellaneous driver's license violation	17,286	11.3%
18	392.2SLLEWA3	Excessive weight: more than 5,000 lbs over on axle/axle groups	14,229	2.1%
19	392.2SLLEWG3	Excessive weight: more than 5,000 lbs over on gross weight	14,074	0.9%
20	390.19(a)(1)	Failing to file MCS-150 before operating	12,506	0.5%

Total inspections with "other" violations in 2014: 910,287; Total such violations: 985,793; Total OOS: 100,964

All new trucks need crash avoidance tech, groups say

Highway safety advocates are calling on the USDOT to write new rules requiring crash avoidance technology in all new trucks and buses rated over 10,000 pounds.

Specifically, the groups want new vehicles to be equipped with Forward Collision Avoidance & Mitigation (FCAM) systems which use radar and sensors to automatically:

1. Alert the driver when he/she gets too close to another vehicle in front,
2. Adjust the cruise control, and
3. Apply the brakes when needed to avoid a crash or reduce its severity.

According to a statement from Advocates for Highway and Auto Safety, the Truck Safety Coalition, the Center for Auto Safety, and Road Safe America, the new rules are needed “to reduce the carnage on America’s roads resulting

from rear-end crashes by large trucks.”

The groups filed a petition with the National Highway Traffic Safety Administration (NHTSA) asking for the new vehicle manufacturing rules.

The agency estimates that FCAM systems can prevent over 2,500 crashes each year, with the number rising as technology improves. Though NHTSA estimates that at least 300 people die each year in crashes involving trucks striking the rear of other vehicles, the safety groups argue that the actual number may be “far higher.”

“In work zone areas and when traffic is significantly slowed or at a complete stop, cars are particularly vulnerable to being rear ended by large trucks,” said John Lannen, Executive Director of the Truck Safety Coalition. “Trucks are overrepresented in fatal highway crashes, and



they are even more so in fatal work zone crashes. This is why it is imperative that FCAM technology is required safety equipment in large trucks.”

Most truck manufacturers currently offer some type of FCAM system on new vehicles, but there is no national performance standard or requirement to purchase the equipment.

Only 3 percent of the more than 3 million Class 8 tractor-trailers on the road are equipped with some form of this technology, the safety groups say. ♦

Serious, from pg. 1

immediate corrective action by the carrier, such as failing to have a drug and alcohol testing program. A single violation of this type is considered “serious.”

- Those which relate directly to the carrier’s management and/or operational controls and indicate a breakdown in those controls, such as false logs. It takes a “pattern” of violations of this type before the violation is deemed “serious.”

The five new violations recently added to the list of serious violations are:

- **172.704(a)(4)**, Failing to provide security awareness training for hazardous materials.
 - **172.704(a)(5)**, Failing to provide in-depth security awareness training for hazardous materials.
 - **383.37(c)**, Knowingly allowing, requiring, permitting, or authorizing an employee with more than one commercial driver’s license to operate a commercial motor vehicle (CMV).
 - **395.3(a)(3)(i)**, Requiring or permitting a property-carrying CMV driver to drive more than 11 hours.
 - **395.3(a)(3)(ii)**, Requiring or permitting a property-carrying CMV driver to drive if more than 8 hours have passed since the end of the driver’s last off-duty or sleeper-berth period of at least 30 minutes.
- The change had no effect on the list of violations used to create CSA scores.
- The “Serious Violation Found” icon is displayed on the “Investigation Results Details” tab of the CSA website, when applicable. The entire list of serious violations is available on the website. ♦

Injuries and illnesses continue to plague trucking industry

Twenty-two days. That's the median amount of time that truck drivers have to stay home to recover from their injuries or illnesses, according to the latest government figures.

That statistic from 2013 is important because it's a key measure of how severe drivers' injuries and illnesses were. The "median" is the middle number — half of all injured or ill drivers took longer to recover, half took less. In 2012, the median was three days shorter (19), according to the U.S. Bureau of Labor Statistics (BLS).

Nearly 44 percent of injured or ill truck drivers required 31 days or more off work to recover, a higher percentage than in any other private-sector occupation.

For all private and public workers, by comparison, the median time to recover was 8 days in 2013, one fewer than in the previous year.

The incident rate for truck drivers requiring days away from work to recuperate was 323 cases per 10,000 drivers, up from 280 in 2012. That's more than three times greater than the rate for all private sector workers. The rate for bus and truck mechanics and diesel engine specialists was 255.

48,000 cases

The latest statistics paint a grim picture of health and safety in the transportation industry, with professional drivers continuing to suffer thousands of job-related injuries and illnesses that keep them away from work.

Out of all occupations, drivers of heavy trucks had the second-highest number of nonfatal injuries or illnesses requiring days off work in 2013, with nearly 48,000 cases in all, the BLS reported. That's

just behind workers classified as "manual laborers and freight, stock, and material movers."

Overexertion was the leading cause of those injuries, comprising about one-third of all injury cases. That was followed by slips, trips, and falls; "contact with object or equipment"; and transportation incidents.

Workers classified under "light truck or delivery services drivers" suffered 23,200 injury/illness cases requiring a median of 15 days off work. Service technicians and mechanics had 9,400 cases, with a median of 7 days off work.

Musculoskeletal disorders (commonly known as ergonomic injuries) accounted for over 15,300 injuries among truck drivers in private industry and required a median of 22 days away from work for recovery. ♦



FMCSA wants more traffic stops of trucks and buses

More traffic stops could be in your future if the Federal Motor Carrier Safety Administration (FMCSA) gets its way.

The agency is offering free training materials to all law enforcement agencies, encouraging them to pull over large trucks and buses whenever traffic violations are observed.

The training is aimed at traffic enforcement officers who are not normally trained to stop and inspect commercial motor vehicles.

"Experience has shown [that] most law enforcement officers assigned with traffic enforcement responsibilities are reluctant to conduct a vehicle stop of a large truck or motorcoach after observing either or both an illegal or unsafe driving behavior," the FMCSA wrote. "This reluctance is grounded in both a lack of knowledge and skills relating to these types of vehicle stops."

Traffic stops are important, the FMCSA says, because "many preventable crashes

result from an illegal action or unsafe behavior, such as speeding, distracted driving, or following too closely, by one or more of the vehicles involved in these crashes."

The agency's new "Large Truck and Bus Traffic Enforcement Training" program is designed to increase officers' knowledge about the dangers of unsafe driving by large trucks and buses.

The training materials are available online at <http://1.usa.gov/1bcsYqc>. ♦

Oregon timber haulers get their break exemption

A limited number of log haulers in Oregon will be allowed to skip their 30-minute rest breaks, thanks to a new exemption from the Federal Motor Carrier Safety Administration (FMCSA).

The agency has granted a two-year exemption to the Oregon Trucking Associations (OTA), which applied for the exemption on behalf of its members.

The companies transport logs to lumber mills and argued that the 30-minute break requirement makes it impossible to provide enough logs to the mills when operations are time-limited by fire restrictions.

Though they now enjoy an exemption from the break requirement until at least March 20, 2017, there is a trade-off — their drivers must be released from duty within 12 consecutive hours each day, similar to drivers using the 100-air-mile exception who are also exempt from breaks.

In addition, the exemption is limited to periods of the year in which the Oregon Department of Forestry has formally restricted logging operations to certain hours of the day due to an elevated fire risk.

Under federal rules in Sec. 395.3, truck drivers are required to stop driving if they

have not had a 30-minute rest break within the past 8 consecutive hours. The requirement took effect on July 1, 2013.

According to the OTA, Oregon lumber mills depend on a regular volume of logs for their economic viability. When the risk of fire increases and logging hours are restricted, drivers need to take advantage of all available on-duty time without a rest break, the OTA claimed.

When using the exemption, motor carriers must notify the FMCSA within five days of any recordable accident. ♦

By the numbers: Certified medical examiners

More than 41,000 medical examiners now appear on the National Registry of Certified Medical Examiners, one year after commercial drivers had to begin using the Registry for their physical exams.

Examiners who appear on the Registry are the only ones eligible to perform DOT-mandated medical exams for interstate commercial motor vehicle drivers. Use of the Registry was required as of May 1, 2014.

The following data is based on the examiners who were registered as of March 1, 2015. Driver data is based on May 2013 employment data from the Bureau of Labor Statistics for drivers classified as “heavy- and tractor-trailer truck drivers.”

41,423 — Total examiners on the Registry

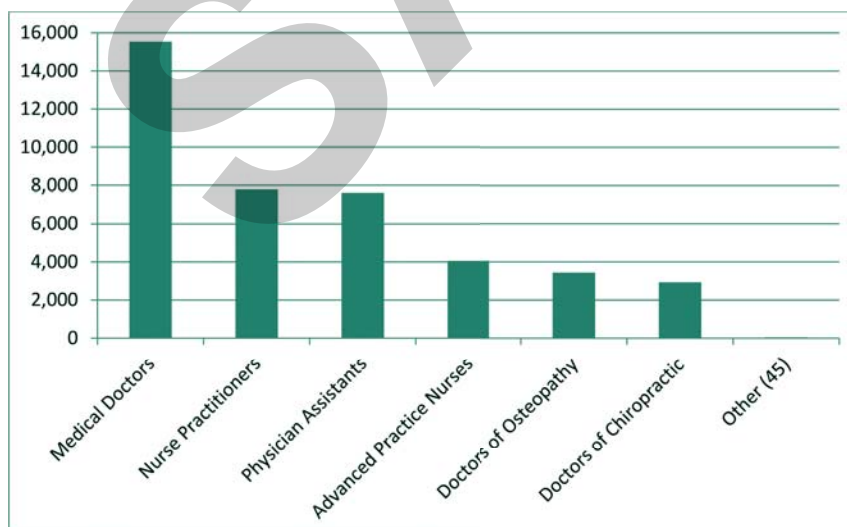
1,585,270 — Total heavy-truck drivers

38:1 — Ratio of truck drivers to registered examiners

Cities with the Most Registered Examiners

City	Examiners
Houston, TX	216
San Antonio, TX	176
Chicago, IL	173
Phoenix, AZ	142
Indianapolis, IN	140

Profession of Registered Examiners



States with fewest examiners per square mile of area

State	Examiners	Land Area (Sq. Miles)	Square Miles per Examiner
Alaska	329	571,951	1,738
New Mexico	258	121,356	470
Montana	351	145,552	415
Wyoming	237	97,100	410
Nevada	285	109,826	385

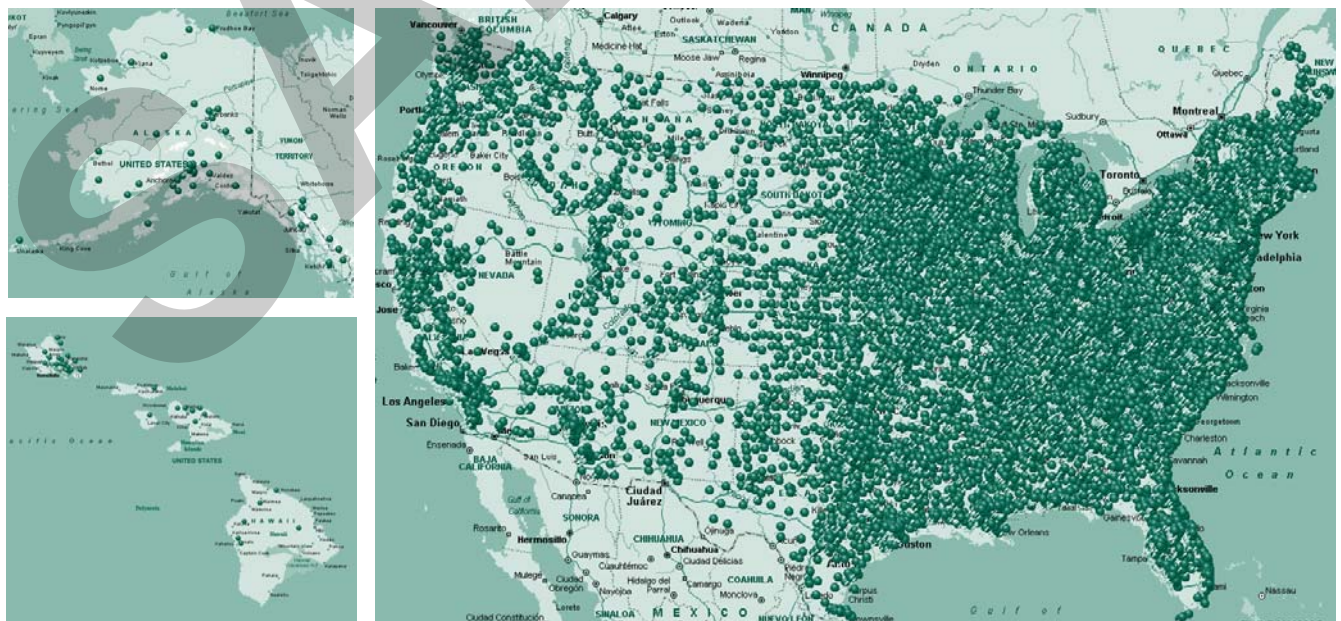
Top 5 states with the most examiners

State	Certified Examiners	Heavy-Truck Drivers	Drivers per Examiner	Square Miles per Examiner
Texas	2,638	157,260	60	99
California	2,590	126,490	49	60
Florida	2,102	67,340	32	26
Pennsylvania	1,863	71,970	39	24
North Carolina	1,611	48,370	30	30

Bottom 5 states with the fewest examiners

State	Certified Examiners	Heavy-Truck Drivers	Drivers per Examiner	Square Miles per Examiner
New Hampshire	267	6,410	24	34
North Dakota	265	15,310	58	260
New Mexico	258	9,200	36	470
Wyoming	237	6,870	29	410
Maine	177	8,670	49	174

Medical examiner distribution



Congress considers overhauling the FMCSA

The head of a Senate transportation committee plans to introduce legislation that could reform the way the Federal Motor Carrier Safety Administration (FMCSA) does business.

Citing the agency's handling of the CSA program and the 34-hour restart, Sen. Deb Fischer (R-Neb.) says the FMCSA takes a "flawed approach" to rulemaking and must be reformed. The goal of the reforms would be "to ensure higher levels of trust, collaboration, and, ultimately, more effective regulations," she said.

Fischer is Chairman of the Senate Subcommittee on Surface Transportation & Merchant Marine Infrastructure, Safety, and Security. At a recent hearing, the senator questioned the FMCSA's commitment to safety and cited two specific examples where she thinks the agency has gone awry:

- The agency's handling of changes to the 34-hour restart provision in its

hours-of-service rules.

Fischer said the FMCSA showed "complete disregard" for Congress by failing to study the effects of restrictions that were placed on the restart in 2013.

- The agency's failure to fix flaws in its Compliance, Safety, Accountability (CSA) program, as described in a 2014 report from the Government Accountability Office (GAO). "Inaccurate CSA scores, publicly available online, have cost companies contracts and raised insurance rates," Fischer said. "All of this has occurred without a clear correlation to increasing highway safety. When confronted with these findings, FMCSA completely disregarded GAO's recommendations."

"As chairman of this subcommittee, I intend to author legislation to reform the FMCSA and ensure that the process is more inclusive of Congress and stakeholders," Fischer said.

The senator says her legislation will include two major directives:

1. The FMCSA should complete a periodic and transparent review of its current technical and programmatic guidance.
2. When proposing new rules, the agency must conduct a more robust cost-benefit analysis that represents carriers from a wide variety of business models. If necessary, the agency should also conduct a real-world study of the proposed regulations.

Most importantly, Fischer said, the FMCSA must show more transparency to Congress, the industry, and other stakeholders.

The Senate hearing, titled "Surface Transportation Reauthorization: Oversight and Reform of the Federal Motor Carrier Safety Administration," took place on March 4, 2015, and is the first in a series of oversight hearings. ♦

FDA guidance targets drug-impaired driving

Drugmakers are facing more scrutiny from federal regulators concerned about the effects of medications on drivers.

The U.S. Food and Drug Administration (FDA) plans to issue new guidance aimed at making sure that drug manufacturers pay more attention to the on-the-road effects of new psychoactive drugs.

"Driving is a complex activity involving a wide range of cognitive, perceptual, and

motor activities," the FDA wrote. "Reducing the incidence of motor vehicle accidents that occur because of drug-impaired driving is a public health priority."

The agency issued draft guidance earlier this year and intends to implement it after reviewing public comments. The guidance recommends a systematic approach to identifying drugs that increase the risk of accidents, and the

development of strategies to reduce that risk.

If drug research finds a potential for driving impairment, the guidance recommends that dedicated driving studies be carried out with either actual motor vehicles or driving simulators.

The draft guidance is titled "Evaluating Drug Effects on the Ability to Operate a Motor Vehicle." The guidance will not be binding on the drug industry. ♦

That's a lot of miles!

Americans drove almost three trillion miles in 2013, the highest level in six years and the fourth-highest ever, according to the Federal Highway Administration (FHWA).

To put that number in perspective, that's like driving about *120 million times* around the Earth!

The number of U.S. vehicles increased to 255.9 million from 253.6 million the previous year, the biggest single-year increase since 2011.

Combination Trucks



Distance traveled: 168,436,000,000 miles

Number registered: 2,471,349

Fuel consumed: 28,794,905,000 gallons

Average fuel economy: 5.8 MPG

Straight Trucks



Distance traveled: 106,582,000,000 miles

Number registered: 8,126,007

Fuel consumed: 14,501,958,000 gallons

Average fuel economy: 7.3 MPG

Buses



Distance traveled: 15,167,000,000 miles

Number registered: 864,549

Fuel consumed: 2,116,657,000 gallons

Average fuel economy: 7.2 MPG

DataQs set to have its day in court

A lawsuit challenging the government's use of driver violation data is making progress in federal court.

The U.S. Court of Appeals for the D.C. Circuit has denied a motion to dismiss a lawsuit from the Owner-Operator Independent Drivers Association (OOIDA) challenging the accuracy of driver violation data distributed by the Federal Motor Carrier Safety Administration (FMCSA).

OOIDA contends that the agency continues to maintain and report bad data to the public about alleged violations, even when those allegations have been dismissed or drivers were issued not-guilty verdicts in state court.

The defendants, including the FMCSA, had filed a motion to dismiss the lawsuit, but the court denied the motion on March 10, 2015, OOIDA reports.

MCMIS

The violation data at the heart of the case resides in the FMCSA's large database known as the Motor Carrier Management Information System (MCMIS). The database

acts as a depository of reports from state enforcement activities and feeds both the Compliance, Safety, Accountability (CSA) scoring system and the Pre-employment Screening Program (PSP).

OOIDA contends that FMCSA is responsible under various federal statutes for ensuring the accuracy of the records in the database. After a violation appears in the database, a driver or motor carrier can challenge it by submitting a request through the online DataQs system, but the outcome of such a request is decided by the state that issued the citation, not the FMCSA.

The FMCSA has no authority to delegate its legal responsibility for accuracy to the states, OOIDA says.

"FMCSA should never report enforcement activity as a 'violation' before a driver has his or her day in court or after the driver has been acquitted or the charges dismissed," said OOIDA president and CEO Jim Johnston.

The lawsuit asks the court to order the FMCSA to keep

all driver violation data out of MCMIS until:

- The driver has his/her day in court,
- Charges against the driver have been dismissed, or
- The driver is acquitted in court.

OOIDA filed a lawsuit in 2012 over the DataQs appeal process and driver data used in the PSP, which is available to prospective employers. The group filed a separate lawsuit in 2013 aimed at MCMIS.

Policy change

The FMCSA has taken some steps to improve the accuracy of its violation data. As of August 23, 2014, drivers can have violation data removed from MCMIS if they submit a DataQs challenge showing that the violation was dismissed in court or the driver was found not guilty. When drivers are convicted on a lesser charge or a citation is dismissed with court costs or a fine, the violation is not removed from the database.

The DataQs website is available at dataqs.fmcsa.dot.gov. ♦

More carriers get OK to mount cameras on windshield

As video recorders become ubiquitous, it's no wonder that more and more commercial vehicle operators want to take advantage of their safety benefits. Now, many more of them can.

A school, a motorcoach manufacturer, and a technology company are the latest to receive government approval

to mount camera equipment in a windshield area that is normally off-limits to obstructions.

In addition, similar permission already granted to another industry supplier was recently extended into the future.

Federal regulations in 49 CFR Sec. 393.60(e) currently

prohibit the mounting of obstructions within the area swept by the windshield wipers or within the driver's sight lines. Roadway-facing cameras — often used in collision avoidance systems — typically need to be mounted within that area so they have a clear view of the road. Companies wishing to mount such equip-



ment must first obtain an exemption from the Federal Motor Carrier Safety Administration (FMCSA).

The Virginia Tech Transportation Institute (VTTI) already has a 90-day waiver from compliance and is now seeking an exemption that would be good for up to two years while it performs government-sponsored research.

Meanwhile, vehicle manufacturer Prevest and camera system manufacturer Mobileye have both been granted an exemption until early 2017. Prevest intends to mount lane-departure-warning (LDW) systems in the lower part of the windshield on motorcoaches, and Mobileye says it hopes to install collision avoidance systems in “up to several hundred thousand commercial motor vehicles,” according to the FMCSA.

VTTI

The school wants to install up to 150 camera-based “data acquisition systems” in trucks used by seven interstate motor carriers as part of a study for the National Highway Traffic Safety Administration (NHTSA).

The exemption would allow VTTI and NHTSA to conduct research on the reliability of

collision avoidance systems for commercial motor vehicles, the FMCSA says.

The equipment “must have a clear forward facing view of the road, and [be] low enough to accurately scan facial features for detection of impaired driving,” VTTI wrote.

Prevest

Prevest says its LDW system alerts drivers who unintentionally drift out of their lane of travel, but the camera has to have a clear view of the road.

The FMCSA has long acknowledged the benefits of LDW systems and currently allows all motor carriers to install LDW sensors at the top of the windshield under an existing exemption. The mounting location for those devices must be not more than two inches below the upper edge of the area swept by the windshield wipers.

Prevest, however, wants to install them at the bottom, which means it had to apply for its own exemption.

The motorcoach manufacturer says the lower part of the windshield on a typical motorcoach is outside the driver’s sight lines anyway, making it a good place to install a camera.

The company will be required to keep the devices within the bottom seven inches of the area swept by the windshield wipers and out of the driver’s normal sight line. The FMCSA says this is a “reasonable” approach that will be enforceable at roadside.

In granting the exemption until March 13, 2017, the

agency said it “believes that the use of LDW systems by fleets is likely to improve the overall level of safety to the motoring public,” adding that it “is unaware of any reduction in the level of safety associated with the use of those systems.”

Mobileye

Mobileye produces and installs camera-based collision avoidance systems, and its new exemption is set to expire on March 20, 2017. The company already provides similar equipment to several major automakers and says over two million vehicles have been deployed with the technology.

Under the exemption, the Mobileye equipment must be mounted within the top or bottom four inches of the area swept by the windshield wipers, and must be out of the driver’s normal sight line.

DriveCam/Lytx

An exemption for Lytx, which sells the DriveCam system, has been extended until April 16, 2017, allowing continued use of the company’s video event recorders. The company has enjoyed an exemption since early 2009.

This exemption stipulates that the recorders must be mounted not more than 2 inches below the upper edge of the area swept by the windshield wipers, and must be located outside the driver’s sight lines.

Though rare, the FMCSA is authorized to rescind any of its exemptions at any time if safety problems are discovered. ♦

Vehicles don't crash, drivers do

A new analysis of crash data has found that vehicle and environmental conditions play a very small role in vehicle accidents, far outweighed by irresponsible drivers.

An analysis published by the National Highway Traffic Safety Administration (NHTSA) finds that the "critical reason" behind an estimated 94 percent of all light-vehicle crashes can be attributed to the driver, with just 2 percent attributable to a vehicle component failure, the environment, or some other factor.

The results are based on 5,470 light-vehicle crashes that were investigated from 2005 to 2007.

Among the driver-related errors leading to a crash, recognition errors (inattention, distraction, inadequate surveillance, etc.) were on top at about 41 percent of the crashes, followed by decision errors (driving aggressively, speeding, etc.) at 33 percent, and performance errors (overcompensation, improper directional control, etc.) at 11 percent.

Sleep was cited as the critical reason behind 7 percent of the crashes.

Researchers caution that the "critical reason" for a crash is not the same as the "cause." Rather, it is often the last failure in the chain of events leading up to the crash.

Of the 2 percent of crashes in which the critical reason was assigned to the vehicle:

- Tire problems accounted for about 35 percent of the crashes;
- Brake-related problems: 22 percent;
- Steering/suspension/transmission/engine-related problems: 3 percent; and
- Other vehicle-related problems: 40 percent.

Environmental factors included:

- Slick roads: 50 percent
- Glare: 17 percent
- View obstruction: 11 percent
- Signs and signals: 3 percent
- Weather conditions: 4 percent. ♦

Exemption to be extended for regular-route bus operators

Regulators are set to extend an exemption that allows regular-route passenger carriers to log short stops as "driving" time rather than having to show a change in duty status.

The exemption has been in place since 2013 but was due to expire on May 31, 2015. If renewed as expected, the exemption will remain in place until May 31, 2017.

The exemption for bus drivers applies to stops of 10 minutes or less for picking up or dropping off passengers, baggage, or packages. Rather than recording these stops as "on duty" and logging the location, the drivers can save time by logging them as "driving" time. The trade-off is that the time must be subtracted from the 10 hours the drivers

are allowed to drive each day.

The original exemption was requested by a group of three bus operators but the FMCSA decided to extend it to all fixed-route bus operations nationwide.

The three carriers admitted to advising their drivers for years to not log short stops, due to their reliance on an outdated interpretation from the Federal Highway Administration. The interpretation said regular-route passenger carriers didn't have to record a location for non-driving periods of less than 10 minutes, but the guidance was invalidated in 1997.



In 2011, New York State officials began enforcing a literal interpretation of the rule, requiring that a change in duty status be entered on the log any time the driver leaves the operating controls of the vehicle. This led the companies to apply for the exemption. ♦

Lawsuit takes aim at border-crossing program

Highway safety advocates and the Teamsters Union have filed a legal challenge against the Department of Transportation's (DOT) recent decision to allow Mexico-domiciled motor carriers to conduct long-haul operations in the United States.

At the heart of the lawsuit is the alleged lack of data that the DOT collected during a recently concluded three-year pilot program that was required by Congress.

The lawsuit contends that the DOT's final report to Congress about that program violated the law because its conclusion — that Mexico-domiciled carriers operate at

a level of safety equal to or greater than U.S. and Canadian carriers — is “arbitrary and capricious” due to a lack of safety data.

The lawsuit was filed in a federal appeals court by the Teamsters, Advocates for Highway and Auto Safety, and the Truck Safety Coalition.

The DOT announced in January that it would move forward with opening the border to trucks domiciled in Mexico. Though the agency's own Inspector General acknowledged a lack of statistically significant data from the pilot program, the agency said it has enough data overall when including data from other

Mexican carriers operating in the U.S.

Thirteen carriers participated in the DOT's pilot program, which ended last October.

The pilot program was part of the DOT's implementation of the North American Free Trade Agreement cross-border long-haul trucking provisions. Congress required the pilot program to test the safety of granting long-haul authority to Mexico-domiciled motor carriers. In mid-January, the DOT announced that it is accepting applications from Mexico-domiciled motor carriers interested in conducting long-haul operations. ♦



State Highlights

COLORADO

FMCSR adoptions

The Colorado Department of Public Safety has adopted Parts 40, 380, 382, 385 Subparts C and D, 387, 390-393, 395, 396, 399, and Appendix G to Subchapter B of the Federal Motor Carrier Safety Regulations (FMCSRs). The regulations were adopted as they were in effect on October 1, 2014, with some modifications.

The adoption was effective April 1, 2015.

NEW JERSEY

FMCSR adoption

New Jersey has updated its adoption of the Federal

Motor Carrier Safety Regulations (FMCSRs) for intrastate operations.

Under the adoption, compliance with the FMCSRs is required for intrastate commercial motor vehicles with a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) of 10,001 pounds or more.

Previously, the FMCSRs applied to intrastate vehicles with a GVWR of 26,001 pounds or more, or a GCWR of 26,001 pounds or more including a towed unit with a GVWR of more than 10,000 pounds.

The adoption also adds a 30-minute rest break to the state's intrastate hours-of-

service regulations. Driving is not allowed if more than eight hours have passed since the end of the driver's last off-duty or sleeper-berth period of at least 30 minutes.

The changes were effective March 2, 2015.

SOUTH DAKOTA

FMCSR adoption

South Dakota has adopted Parts 387 and 390-397 of the Federal Motor Carrier Safety Regulations (FMCSRs), as amended through January 1, 2015.

This adoption is effective July 1, 2015. ♦



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.

6/2/2015

Roadcheck

The 2015 edition of the three-day International Roadcheck inspection event will be held June 2-4, 2015, at locations across North America.

6/22/2015

Speed Limiters

The DOT has again delayed a proposed rule that would require the installation of speed limiting devices on commercial trucks over 26,000 pounds. The draft rule is now expected in late June.

7/8/2015

CLP Medical Cards

Beginning July 8, 2015, 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 will need to obtain and retain their driving records to verify medical certification.

7/15/2015

Safety Fitness

The FMCSA is still projecting that it will issue a proposed version of the "carrier safety fitness determination" rule by mid-July. The draft rule was scheduled to go to the White House for review in April. In part, the rule would allow use of CSA data to assign safety ratings, rather than relying solely on audits.

9/10/2015

Anti-Coercion

The FMCSA says early September is when it plans to issue a final rule that will prevent drivers from being coerced into driving — by a motor carrier, shipper, receiver, or other entity — if such driving would violate the safety regulations. See *MCSR*, 7/14, p. 1.

9/10/2015

Bus Lease/Interchange

The FMCSA expects to issue new rules in September governing the lease and interchange of passenger-carrying commercial motor vehicles.

9/30/2015

E-Logs Rule

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

12/14/2015

Drug & Alcohol Clearinghouse

A final rule to establish a clearinghouse of CDL drivers who have tested positive on DOT drug or alcohol tests is projected to be published in mid-December.

10/23/2015

URS Takes Effect

The Unified Registration System becomes fully operational on October 23, 2015, with a new online registration system and many other changes. See *MCSR*, 10/13, p. 1. ♦

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