

# Transport Safety **RISK** Management & Security



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## Putting the brakes on OOS orders

During vehicle-level roadside inspections occurring September 6-12, 2015, roadside inspectors will pay special attention to the condition of a commercial motor vehicle's brakes as a part of the annual Brake Safety Week, sponsored by the Commercial Vehicle Safety Alliance (CVSA). During the week, inspectors will look for out-of-adjustment brakes and brake-system violations.



Drivers play a key role in brake safety. In preparation of the event, use the month of August to your advantage by reminding drivers of their responsibilities in respect to brake safety. Communicate your expectations through paycheck stuffers, safety meetings, posters, weekly emailed safety tips, and the like.

### Importance of daily vehicle inspections

Thorough pretrip and post-trip vehicle inspections are important all year long — not just during an enforcement blitz or an inspection aimed at a particular vehicle component such as brakes. Review proper procedures to inspect the vehicle's brakes before and after every trip. This includes:

- Checking air lines for leaks, cuts, restrictions, bulges, chafing, and other problems.

*see OOS, pg. 7*

## ESC systems to appear on truck assembly lines soon

The National Highway Traffic Safety Administration (NHTSA) published a final rule, effective August 24,

2015, establishing the new Federal Motor Vehicle Safety Standard No. 136 to require electronic stabil-



ity control (ESC) systems on certain commercial motor vehicles to mitigate the risk of rollovers and loss of control due to understeer and oversteer conditions.

Compliance will be tested using a "J-turn" test that replicates a curved highway off-ramp.

NHTSA estimates the rule will prevent as many as 1,759 crashes, 649 injuries, and 49 fatalities each year. ESC will prevent up to 56 percent of untripped, rollover crashes (i.e., rollover crashes not caused by striking an obstacle or leaving the road).

*see ESC, pg. 2*

# Putting all doubts to rest on the frequency of MVR requests

The Federal Motor Carrier Safety Administration (FMCSA) requires motor carriers to request a motor vehicle record (MVR) for their commercial driver's license (CDL) holders after each and every driver physical to verify the drivers' medical status.

This administrative burden and cost often comes with some resistance within the industry, leading to the question, "Show me where it specifically states this in the regulations."

Some have come to believe it only applies when you first hire someone since the requirement is specified in Section 391.23, and again §391.51. Many find both citations somewhat vague.

In order for a motor carrier to verify that its CDL drivers are following through with their obligation to submit proof of medical certification to the state licensing agency, it makes sense that the motor carrier must request the MVR each time. To do otherwise

places the carrier at risk of using a driver whose CDL has been downgraded. A downgraded CDL is not a valid CDL for use in interstate commerce.

To put all doubts to rest as to how often an MVR showing a medical status must be requested, here is the Preamble language from the original December 1, 2008, rule. It states: "If the [medical] certificate expires during the year, between required annual [MVR] checks, and the employer is not participating in a subscription service that provides driver record update information for that driver, then the employing motor carrier would have to make an additional request for a CDLIS MVR and pay for it to document in the DQ file that the medical certification status was renewed." ♦



ESC, from pg. 1

## Applicability & compliance dates

This final rule applies to truck tractors and certain buses with a gross vehicle weight rating of greater than 11,793 kilograms (26,000 pounds). The actual compliance dates for the rule depend on the vehicle type.

All buses with a gross vehicle weight rating of greater than 14,969 kilograms (33,000 pounds) manufactured on or after June 24, 2018, must comply with this standard, and all buses manufactured on or after August 1, 2019, must meet the new ESC requirements. All three-axle truck tractors with a front axle that has a Gross Axle Weight Rating (GAWR) of 6,622 kilograms (14,600 pounds) or less and with two rear drive axles that have a combined GAWR of 20,412 kilograms (45,000 pounds) or less manufactured on or after August 1, 2017, must comply with this standard. And all trucks covered by this rule manufactured on or after August 1, 2019, must comply with this standard.

## ESC vs. RSC systems

As NHTSA drafted its rule, it took a look at the two common stability control technologies for heavy vehicles:

- **Roll stability control (RSC) system** — designed to prevent rollover by decelerating the vehicle using braking and engine torque control.

- **Electronic stability control (ESC)** — includes all of the functions of an RSC system plus the ability to mitigate severe oversteer or understeer conditions by automatically applying brake force at selected wheel-ends to help maintain directional control of a vehicle.

To date, ESC and RSC systems for heavy vehicles have been developed for air-braked vehicles. Truck tractors and buses covered by the final rule make up a large proportion of air-braked heavy vehicles and heavy vehicles involved in both rollover crashes and total heavy vehicle crashes.

The agency considered requiring truck tractors and large buses to be equipped with RSC systems. When compared to the ESC requirement, RSC systems would cost less than ESC systems, be slightly more cost-effective, but would produce net benefits that are much lower than using ESC systems. This is because RSC systems are less effective at preventing rollover crashes and much less effective at preventing loss-of-control crashes. NHTSA also considered requiring trailers to be equipped with RSC systems. However, this alternative would save fewer lives, is not cost-effective, and does not result in net benefits.

As a result of the data analysis research, NHTSA determined that ESC systems can be 40 to 56 percent effective in reducing first-event untripped rollovers and 14 percent effective in eliminating loss-of-control crashes caused by severe oversteer or understeer conditions. ♦

# Selecting and equipping your driver trainers

When you promote a driver to the level of trainer, it is vital that he or she is ready for the role since it impacts safety, retention, and morale.

The Federal Motor Carrier Safety Regulations (FMCSRs) do not require a train-the-trainer program, but this investment in your training staff may avert putting the wrong person in a position of major influence at your motor carrier.

Note that the knowledge and skill of the trainer must exceed the FMCSRs or Hazardous Materials Regulations (HMR). The trainer should also be given formal training on supervisory techniques, discrimination, harassment, and interpersonal skills.

## Who makes the best trainer?

A trainer should be one that is detail-oriented and have a depth of knowledge of the regulations and company policies. But a skilled employee may not make the best instructor if he or she is not a people person. An important attribute of any trainer is the desire to mentor and see people succeed. Do your driver trainers “coach” your team?

Working with other employees requires a certain amount of interpersonal skills, flexibility, and ability to communicate. This may include adjusting the teaching technique to match the student.

When instructing drivers, one must be impartial and fair, always evaluating a student’s abilities based on the goals and objectives of the course, not personal biases. Observation skills are a necessity.

## Honing the teaching skills

More than likely, this newly promoted employee will have little or no background in education.

He or she needs to be taught on the two main types of adult education:

- *Knowledge-based* learning — facts or figures based on classroom memorization and book learning. If the trainee is not engaged, he or she will quickly forget the materials once the course is finished.
- *Skill-based* learning — hands-on activities or real-life scenarios so trainees gain proficiency and confidence in a task. However, if the class is rushed or the task is not communicated effectively, the participant may leave without the necessary skills.

Types of *learning styles* also will affect the presentation of materials. These styles are not just found in a child’s classroom setting. These attributes are carried throughout a person’s lifetime. By understanding how some employees are “wired,” trainers will understand why some employees ask obvious questions and others may look bewildered and remain silent.

The learning styles include:

- **Visual** — learn by observation, recall what they have seen, and follow written or drawn instructions. This learning style likes to read and would retain information through handouts, workbooks, assigned reading, a Powerpoint® presentation, videos, an overhead projector, charts, graphs, photographs, and so forth.
- **Auditory** — are “good listeners,” taking notes as the trainer speaks, finding patterns in the content, and discussing the content with classmates. They are also gifted in following oral direction and memorizing words. Effective auditory training techniques include discussion, debate, and dialogue of the curriculum; reading aloud; hearing anecdotes by the trainer or other students; and discussion groups.
- **Kinesthetic** — will memorize or learn a topic or task by moving. Through experience and physical activity, they will grasp a lesson plan. A specific topic can be learned through role playing, games, demonstrations or skits, teaching others what they already know, or acting as a volunteer from the audience.
- **Tactile** — are hands-on people that learn by doing, touching, and manipulating objects. They would be individuals who build models and learn as they go along. They are analytical and expound on the things they learned. They benefit from demonstrations in a training setting.

Trainers need to know that the staff will be blended with the different learning styles. It is important that they pick up on the attributes of each trainee. Incorporating different learning styles in a presentation may be one means of keeping everyone’s attention. Or having a couple of different ways (styles) to present the same training content, depending on how the students respond, would help capture their attention. ♦

## Training TIP

### Risk Management TIP

**Do you have a tip to share?**

Submit your transport-related tips to:

**Transport Safety Risk Management & Security**

c/o Kathy Close,  
fax: (920) 727-7519  
e-mail: [kclose@JJKeller.com](mailto:kclose@JJKeller.com)



# FMCSA eyes more changes to CSA

For those that thought nothing new was coming out of the Compliance, Safety, Accountability (CSA) enforcement program, recent actions by the Federal Motor Carrier Safety Administration (FMCSA) show otherwise.

CSA at its core is risk management. FMCSA is employing a continuous improvement model of its own as it fine-tunes its Safety Measurement System (SMS) methodology to identify at-risk motor carriers.

Using feedback from stakeholders, the agency unveiled several changes under consideration. FMCSA expects a preview of the proposed SMS enhancements to be made available in late 2015. Motor carriers will be able to log into the FMCSA Portal to see how the proposed changes would impact the carrier's scores, while the general public will see the preview in a simulated carrier data. The agency has indicated it will hold several public webinars to communicate the proposed changes to stakeholders.

FMCSA also is working to release the highly anticipated Safety Fitness Determination proposal, which has had its scheduled publication date pushed back on multiple occasions.

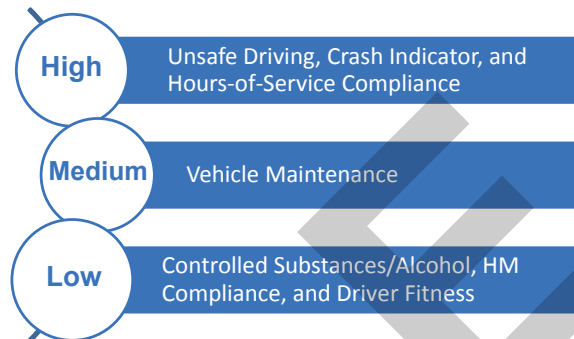
## Intervention Thresholds

FMCSA would like to change the SMS Intervention Thresholds to better reflect the Behavior Analysis and Safety Improvement Categories' (BASICS') correlation to causing a crash.

Using the agency's recent SMS Effectiveness Test and other independent analysis as a basis, FMCSA has determined that the Vehicle Maintenance BASIC intervention should be lowered to better reflect the crash risk associated with vehicle maintenance issues. It also drew the conclusion that the Controlled Substances/Alcohol, HM Compliance, and Driver Fitness

BASICs should be raised to more effectively prioritize motor carriers.

The SMS Effectiveness Test led FMCSA to suggest the following three tiers of BASICs based on crash risk correlation:



As a result, FMCSA recommends keeping the Unsafe Driving, Crash Indicator, and Hours-of-Service Compliance BASICs Intervention Thresholds at 65 percent; decreasing the Vehicle Maintenance BASIC by 5 to 75 percent; and increasing the Controlled Substances/Alcohol, HM Compliance, and Driver Fitness BASICs by 10 to 90 percent.

## HM BASIC changes

FMCSA seeks to segment the Hazardous Materials (HM) Compliance BASIC by cargo tank (CT) and non-CT carriers. Non-CT carriers felt they were unfairly compared to CT carriers making it difficult to improve BASIC scores. How each carrier type operates and the associated violations differ. FMCSA analysis confirmed that segmenting the two would remove the bias. A carrier is defined as a CT operation if more than 50 percent of the its inspections indicate CTs.

With this refinement to the BASIC, the agency wishes to release the HM Compliance BASIC scores to the public. They are currently private and only available in the carrier's logged-in view.

## OOS violations

When a carrier is cited for violating an out-of-service order (OOS), the violation currently resides in the BASIC in which the carrier was originally cited. Since the action is more closely related to the motor carrier's or driver's safety judgment, FMCSA feels such violations are better suited in the Unsafe Driving BASIC.

## VMT per PU increase

The Unsafe Driving and Crash Indicator BASICs both use a motor carrier's vehicle miles travelled (VMT) appearing in its MCS-150



**Safety**NEWS

profile. It assists in normalizing the data. FMCSA takes into account exposure on the road using VMT per power unit (PU). The current limit in the SMS Methodology for this utilization factor is 200,000 miles. It has been argued that this does not accurately represent companies with extremely high utilization. As a result, the agency is looking into raising the maximum VMT per PU to 250,000 miles.

### Proposed safety rating at OMB

One of the last goals in completing the CSA enforcement program is to publish a rule that supports the model's safety fitness determination.

It appears that the FMCSA is one step closer to making that a reality. The proposed rule, "Carrier Safety Fitness Determination," was sent on June 23, 2015, to the Office of Management and Budget (OMB) for review. OMB reviews those rulemaking actions determined to be significant. It has 90 days to review the proposed rulemaking, offering FMCSA recommendations on its content before it appears in the *Federal Register* for stakeholder comments.

The proposal is needed in order for the agency to alter the current safety rating process from a compliance review to a data-driven model under CSA. ♦

## Which states comply with the REAL ID Act?

The REAL ID Act of 2005 sets security standards as states issue driver's licenses and identification cards. The law prohibits federal agencies from accepting driver's licenses and identification cards for official use if the state has not met these standards.

If an individual's state has failed to implement the requirements, its residents will not be able to use their state-issued means of identification to access federal facilities, enter nuclear power plants, or board a federally-regulated aircraft. In such cases, the resident would have to present an alternate form of identification such as a passport that is acceptable to the Department of Homeland Security (DHS). The aircraft provision is the last of the restrictions to be enforced and will not be in effect until 2016.

It is important to note that some states are offering residents the option of acquiring a version of its license or identification card that is not compliant. The state will have a mark on the license or ID stating something similar to "Not for Federal Identification."

### Noncompliant states/territories

DHS has listed the following jurisdictions as being noncompliant with the REAL ID Act:

- American Samoa
- Arizona
- Louisiana
- Minnesota+
- New Hampshire\*\*
- New York+

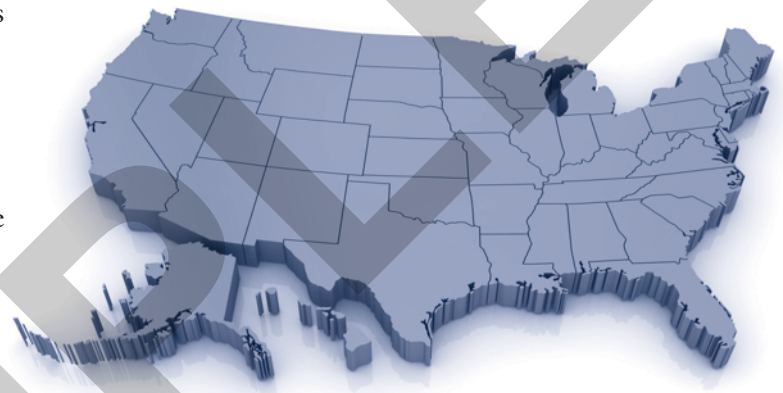
+ Federal officials may continue to accept Enhanced Driver's Licenses from these states.

\*\* Has an expired extension and were subject to enforcement beginning January 19, 2015.

### Compliant or extension states/territories

DHS has posted the following list of compliant states or those granted an extension:

- Alabama
- Alaska\*
- Arkansas\*
- California\*
- Colorado
- Connecticut



- Delaware
- District of Columbia
- Florida
- Georgia
- Guam\*
- Hawaii
- Idaho\*
- Illinois\*
- Indiana
- Iowa
- Kansas
- Kentucky\*
- Maine\*
- Maryland
- Mass.\*
- Michigan\*
- Mississippi
- Missouri\*
- Montana\*
- Nebraska
- Nevada
- New Jersey\*
- New Mexico\*
- North Carolina\*
- North Dakota\*
- North Marianas\*
- Ohio
- Oklahoma\*
- Oregon\*
- Pennsylvania\*
- Puerto Rico\*
- Rhode Island\*
- South Carolina\*
- South Dakota
- Tennessee
- Texas\*
- Utah
- Vermont
- Virginia\*
- Virgin Islands\*
- Washington\*
- West Virginia
- Wisconsin
- Wyoming

\* Has an extension, allowing Federal agencies to accept driver's licenses from these states. ♦

# Flooding the market with damaged vehicles

After leaving a Spring of flooding — and entering hurricane and tropical storm season — the phrase “buyer beware” should be taken seriously when it comes to purchasing vehicles.

The National Insurance Crime Bureau (NICB) reports the recent flooding in Texas resulted in an estimated 7,000 to 10,000 insured vehicles suffering water damage. NICB arrived at this figure from information provided by Copart, a business that assists insurers when their vehicles are damaged by catastrophes.

NICB works with companies such as Copart, as well as insurance providers and enforcement, to make sure when vehicles that are damaged by floods are retitled with the state licensing agencies that they indicate the flood damage. In most instances, these vehicles are sold for salvageable parts.

Some vehicles may be cleaned up and sold out of state with no record of the vehicle’s history. NICB recommends that buyers check Vehicle Identification Numbers for any vehicle purchases made within a few months following any natural disaster. ♦

## Risk Management NEWS

## Metrics to measure safety

How does an organization measure its safety management efforts? Choosing the wrong metrics may leave you in the dark. You may not know whether your strategy is effective and/or safety risks exist.

We will examine two common indicators: lagging and leading. But it is important to note that there is no single measurement to gauge the health and safety of your employees.

### Lagging indicators

Often the information tracked by safety departments is “lagging” behind the events and a study of the company’s failures. It is often referred to as the reactive approach to safety.

As proof that a workplace and/or Department of Transportation (DOT) safety program is working, many use lagging metrics. Examples might include: number of injuries and fatalities; lost work time; number and severity of commercial motor vehicle crashes; number of workplace safety or DOT citations; number of near misses; and Workers’ Compensation claims.

If you use injury and illness statistics, they do serve an important function, but be aware that there are some pitfalls to relying solely on these statistics:

- Under-reporting may not give you the complete picture.
- An injury may not reflect whether or not the risk is under control. This includes others exposed to the same risk that have just “lucked out” and were unscathed.
- Injury rates don’t always tell the whole story. For example, the same risk might result in minor injury for one worker, but another exposed

to the same circumstances may come out with serious injuries.

- A low injury or illness rate might lead one to believe that no major safety risks are present and create a spirit of complacency.
- Injury rates provide outcomes not causes.

## BEST PRACTICES

### Leading indicators

Rather than look to past behaviors, by using leading indicators you are focused on fostering future positive safety behaviors. It is often called the proactive approach.

Such a plan would involve tracking improvements, measuring successes, asking for feedback within the company, encouraging problem-solving skills, communicating goals on improvement, and looking at the impact of these changes.

Leading indicators look at steadily improving safety with goals. You might perform scheduled self-audits and inspections; track the number of employees trained versus the goal; monitor the number of safety

see **Metrics**, pg. 7





# Texas passes stricter cargo theft laws

The booty associated with cargo thefts can amount to millions of dollars in a very short time. But law enforcement is often left with few choices from which to charge sophisticated cargo theft rings based on many current state laws.

This disparity in the penal codes led State Senator Judith Zaffirini of Texas to draft a bill to address the impediments in prosecuting organized crime involved in cargo theft. Texas is one of the leading states for cargo theft incidences, with an estimated \$23 million in losses between 2012 and 2014. The bill, SB 1828 was signed into law on June 19, 2015, by Governor Greg Abbott. It goes into effect September 1, 2015.

## Security NEWS

### Making the charges stick

In the Senator's analysis of the bill, she cites one roadblock in prosecution — the need to prove appropriation of property without the owner's consent. In the event of a driver "give-away," the bailment of the property is based on the owner's consent through the company's representative (driver) making the charges of theft difficult to establish. To counter this line of defense, the new law creates a separate category of

"cargo theft." The new offense includes failure to deliver cargo as contracted, or causing the seal to be broken on a laden vehicle.

The legislation also took a look at the sophisticated network involved in cargo theft rings. At the time of the bill, Texas law only allowed for the prosecution of the individual in possession of the stolen property.

In order to charge others, prosecutors would have to make the case that a "combination" of three or more persons collaborated in the heist. This claim is often hard to substantiate in court. To address the network of criminals involved, cargo theft now is defined to include anyone organizing or directly involved in the criminal activity, as well as receiving, possessing, concealing, storing, selling, or even abandoning the stolen freight.

### Creating stiffer penalties

Many cargo theft cases result in misdemeanor charges. Zaffirini included language in her bill to make any theft of cargo a state jail felony at a minimum. Thefts valued \$200,000 or more (which could include the vehicle stolen or damaged as a result) are classified as a first degree felony. ♦

### OOS, from pg. 1

- Watching for cracked, loose, or missing linings. Replace any linings thinner than ¼ inch.
- Checking the brake stroke and look for any loose, missing, or broken mechanical components such as springs, pins, brackets, cam rollers, spiders, pads, and bolts.
- Bleeding the air tanks every day, starting with the wet tank. Watch for excessive oil, which indicates wear.

The only way to find a brake adjustment problem is to carefully measure the stroke. Drivers should not just check the "slack." They need to use visual stroke indicators if available. With service brakes fully applied,

engine off, and 90-100 PSI in the tanks, instruct drivers to make sure the pushrod stroke is less than the adjustment limit for the vehicle.

### Reporting problems

If a brake with an automatic adjuster is over-stroking, drivers must clearly understand it is their job to report the problem and have it inspected by an authorized technician. Adjusting it won't fix the problem and may make it worse — or may even damage the brake. Manual brake adjusters must be readjusted on a regular basis.

Remind drivers that they should only adjust their brakes if they are fully trained and qualified! ♦

### Metrics, from pg. 6

improvements initiated and completed versus the company's objectives; perform risk or hazard assessments; and document job hazard analyses.

### Everything works together

To see if your safety program is working properly, a company's metrics will include both leading and lagging indicators. For example, you may meet your goal of 100 percent of your drivers taking a refresher course on hours-of-service, but do your roadside inspections and in-house log-auditing reflect this?

If the leading indicator of the training goal shows success, but the other leading indicator (log-auditing) and the lagging indicator (roadside inspection violations) do not, the company should find the root cause of why and try again. For example, perhaps, the information presented during the training was not clear, and the drivers left confused. You may need to revisit the topic with the drivers and, again, measure its success through both types of indicators.

What comes down to is a series of checks and balances, never relying solely on one metric or category of measure. ♦

# Horseplay in the workplace should be stalled

Just about every mother has heeded the warning, “It’s all fun and games until someone gets hurt.” These words of wisdom don’t just apply to children at play; they ring true in the work environment as well.

“Horseplay” on the job may lead to injuries and accidents — some even with deadly consequences. For example, any tool tossed at or toward a coworker has the potential to injure or possibly kill. An injury as the result of horseplay in the workplace may need to be recorded on your OSHA 300 log if it meets the standard for recordability.

## Defining the perimeters

Even though most employers would like their employees to bond and actually enjoy the work they do, some social interactions should be prohibited by policy. One such example is horseplay in the work environment.

So what types of behaviors are horseplay? It is behavior that puts the person or others at risk such as roughhousing, practical jokes, pranks, fooling around, and so forth. This might include running, chasing, pulling, throwing tools, driving forklifts recklessly, distracting those operating heavy machinery, hiding personal protective equipment, turning the lights off, and the list goes on. All these activi-



## Policies & Procedures

ties distract employees from risks that they may have otherwise seen.

Some workers pull pranks on the new employee, and some interactions could border on workplace bullying.

## Consequences for your actions

Communicate to your employees about the dangers associated with jokes that get out of hand or careless “goofing” off on the job. Stress the impact of one’s actions and the remorse one might feel if something should happen to a fellow employee because of a thoughtless endeavor. Just because you think nothing will happen, doesn’t mean someone won’t get hurt.

Suggest the following:

- Don’t be the “idea person” to initiate the activity
- Don’t be persuaded to participate
- Don’t look away when you see potential dangers — report it!

Remind employees that those engaging in horseplay are subject to disciplinary actions.

## No loitering allowed

A related topic of discussion is loitering on company property. Adopt a no-loitering policy for company buildings/terminals and company grounds by any person(s), including employees. Such a policy may assist in limiting safety and security risks.

Managers and supervisors should be instructed to confront and question any off-duty employees observed loitering on company property. Employees (such as drivers waiting for dispatch or other employees on break) should congregate in designated areas only. ♦

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