

Regulatory Activity Update: Commercial Motor Vehicle and Driver Safety

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Good afternoon. Thank you for your kind introduction, and for allowing me to speak before you today.

I will be telling you about many recent laws and proposals for laws, as well as new and proposed regulations, that affect the manufacture and operation of trucks and buses in the United States.

I will also highlight ongoing vehicle and safety-technology research, as well as other initiatives related to driver safety.

I will end by presenting some new -- and encouraging -- safety data.



Most of SAFETEA-LU deals with highway safety grant programs, but it includes one vehicle-related issue: the safety of 15-passenger vans.

These vehicles are now tested for rollover resistance in NHTSA's New Car Assessment Program, and they are prohibited from being used to transport schoolchildren.

FMCSA published new regulations in February 2010 concerning oversight of motor carriers operating these vehicles.



As you may be aware, Congress has been debating the next comprehensive multi-year highway and transportation legislation.

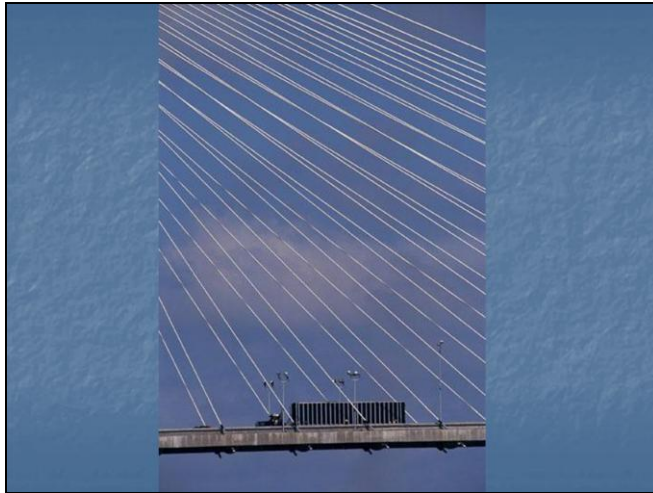
As part of this process, many bills have been introduced and debated in the past 2 years that address the safety of trucks and buses.

- Three concern the safety of large buses and motorcoaches.

- Two would provide tax credits to motor carriers purchasing advanced safety systems for CMVs.

- Three would require mandatory installation of event data recorders in motor vehicles.

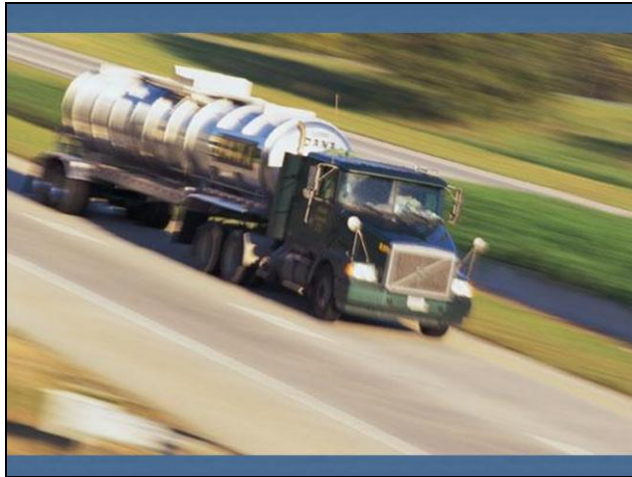
- And, one would require NHTSA to issue a rule to require the use of stability enhancing technologies in air-braked vehicles with a gross vehicle weight rating over 26,000 pounds (11,791 kg).



Bills concerning highway infrastructure and driving safety may have wide-ranging effects.

-- As of last July, when I sent in this manuscript, 3 bills and a provision in the Department's proposed Appropriations dealt with possible changes to Federal size-and-weight limits for heavy vehicles. Since that time, a fourth bill has been introduced.

-- And, three bills would require States to prohibit cell phone use and texting while driving. If they did not, they could lose highway construction funds.



Next, I would like to move back to the Agencies, and to address their ongoing vehicle safety regulatory and research activities.

NHTSA's most recent Rulemaking and Research Priority Plan covers 2009-2011.

Its priority projects in the heavy-vehicle program area focus on truck tractor stability control, forward collision avoidance and mitigation, and motorcoach safety.

So far, one rulemaking in this program has been completed.

On July 27, 2009, NHTSA published a final rule, concerning Truck Tractor Air Brake Systems. Truck tractors must stop in no more than 250 ft (76.2 m) -- 30 percent less than currently required -- when loaded to GVWR and tested at 96.5 km/h (60 mph).

New 3-axle tractors, with a GVWR \leq 59,600 lb (27,034 kg) must comply by 1 August 2011. And, new 2-axle tractors and tractors with higher GVWRs must comply by 1 August 2013.



Truck Tractor Stability Control Systems have been studied since the late 1990s, as part of the Department's Intelligent Transportation Systems Program.

NHTSA estimates that these systems could help avoid nearly 3,500 rollover accidents, prevent 4,400 injuries, and save more than 100 lives annually.

And, safety system developers and NHTSA are continuing to assess current-generation technologies using track tests and the National Advanced Driving Simulator.

Earlier this year, NHTSA opened a public rulemaking docket and filed research and technology-assessment project reports. At this time, NHTSA has not developed a schedule for a rulemaking activity.



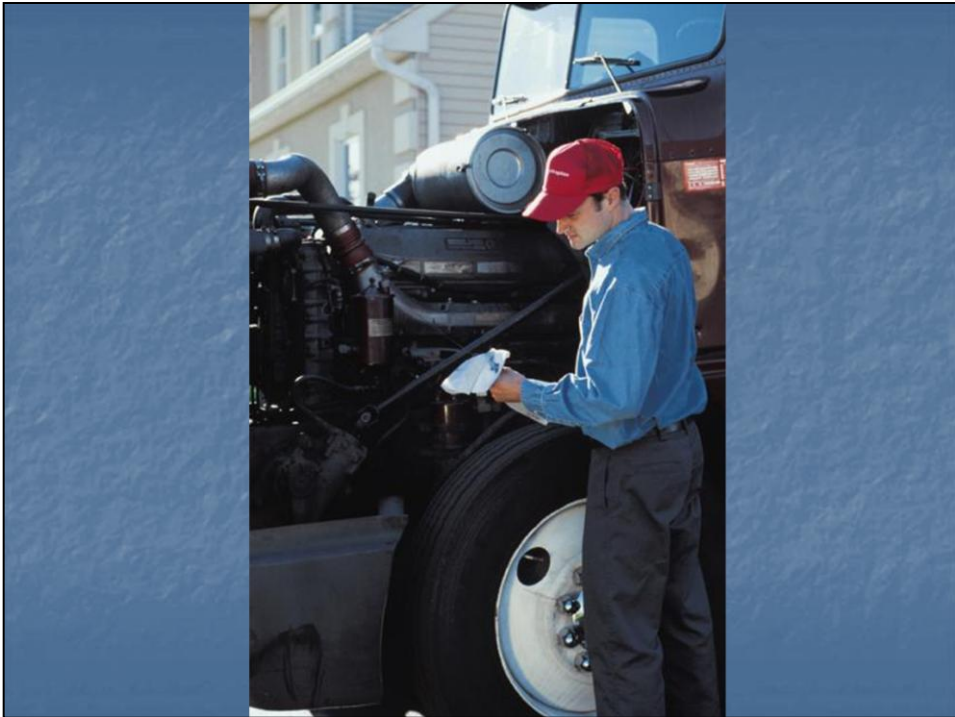
Although motorcoach travel is a very safe mode of highway transportation, severe crashes do still occur.

In April 2009, the Secretary of Transportation asked all Agencies to review motorcoach safety issues, identify critical safety problems, and develop aggressive schedules to implement them.

NHTSA has conducted a frontal crash test of a motorcoach in early 2007, sled tests in 2008 and 2009, and a vehicle egress study this year. Research on flammability of interior materials is underway.

On August 16, NHTSA issued a Notice of proposed rulemaking that would require combination lap/shoulder seat belts for each passenger seating position in new motorcoaches. NHTSA estimates that these seat belts could reduce the risk of fatal injuries in rollover crashes by 77 percent, mainly by preventing occupants from being ejected in a crash. (The Regulation Identification Number is 2127-AK56.)

For its part, FMCSA is considering how to provide stricter oversight of motorcoach companies.



Another rulemaking of interest concerns Commercial Medium- and Heavy-Duty On-Highway Vehicles and Work Truck Fuel Efficiency Standards. (RIN 2127-AK74.)

On May 21, 2010, President Obama directed NHTSA and the Environmental Protection Agency -- EPA -- to conduct a joint rulemaking. NHTSA would address fuel efficiency and EPA would address greenhouse gas emissions.

Both agencies sent proposed rulemakings to the Office of Management and Budget for review on August 13, 2010. Final rules must be issued by July 30, 2011.

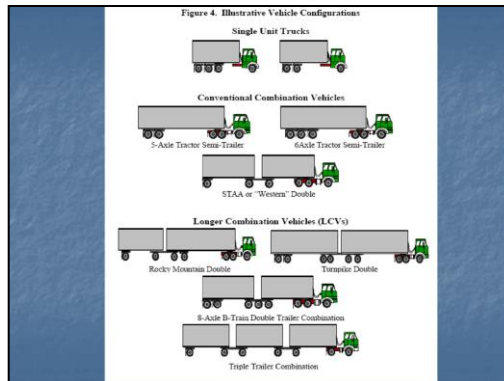


Although much of NHTSA's regulatory activity in response to the TREAD Act focused on lighter-weight vehicles, the Agency also has been conducting research and regulatory activities that focus on tires for heavier vehicles.

A proposed rule, published on September 29, 2010, would revise FMVSS No. 119 by making the endurance test more strict, adding a new high-speed test, and requiring the tire's maximum speed rating to be marked on the tire's sidewall..

The rule would apply to tires used on vehicles with a GVWR of 4,536 kilograms (10,001 pounds) or more.

[Regulation Identification Number RIN 2127-AK17]



Laws and regulations concerning maximum vehicle and weights and dimensions can influence highway safety, freight productivity, and infrastructure preservation. As a consequence they have long been the subject of considerable interest and controversy.

The USDOT is sponsoring a 1-year pilot program that began this past summer. The States of Maine and Vermont are allowed to use their own laws on their own portions of the Interstate System. Maine may allow vehicles up to 45,000 kg (99,000 pounds), and Vermont may allow vehicles up to 45,600 kg (100,000 lbs). Both of these States' limits apply to six-axle tractor trailer combination vehicles. The Federal limit, by contrast, is 36,364 kg (80,000 lbs.)

FHWA is required to prepare a report to Congress next year on the results of this pilot.



Moving along to DRIVER SAFETY REGULATORY INITIATIVES ...

FMCSA published a final rule, on April 5, 2010, providing new performance standards for electronic on-board recorders (EOBRs) installed in CMVs for hours-of-service (HOS) monitoring.

CMVs manufactured on or after June 4, 2012, are required to use EOBRs meeting these new requirements.

On-board HOS recording devices meeting the Agency's current requirements, and installed in CMVs manufactured before that date, may continue to be used for the remainder of the vehicles' service life.

The Rule also provides for limited mandatory use of EOBRs – if the Agency finds that a motor carrier has severe violations of the HOS rules – in 10% or more of records reviewed during an on-site (not roadside) assessment, the Agency would require the carrier to install and use EOBRs in all of its vehicles for 2 years.

FMCSA also is conducting a new rulemaking to consider expanding the scope of mandatory EOBR use and anticipates publishing this proposal for public comment in December 2010.



FMCSA also is examining a potential revision to the HOS regulations concerning drivers of freight- carrying CMVs. The Agency had published new regulations in 2003, 2005, and 2008 regarding HOS regulations -- and all were the subject of litigation.

To possibly forestall a fourth round of litigation, the lead organization that filed the lawsuit (Public Citizen, et al). agreed to delay its latest request until FMCSA re-evaluates the issue. The Agency plans to publish a new proposal in November 2010.



On September 21, the USDOT held its second Driver Distraction Summit. In the time since the first Summit, 30 States have enacted prohibitions against “texting” and 8 more now prohibit handheld cell phone use.

And, on September 27, FMCSA completed rulemaking action to prohibit texting by CMV drivers while operating in interstate commerce. Drivers in violation would be subject to fines, disqualification, and suspension of their CDL.

The Pipeline and Hazardous Material Safety Administration also published a similar rule, on the same day, prohibiting all drivers of dangerous-goods vehicles from texting,. This is important because it fills what could otherwise be a gap involving intrastate vehicle drivers.

The new rule went into effect yesterday [October 27]. The rule addresses “texting” as it applies to entering and reading text from electronic devices, but it does not apply to voice-commands, or use of navigation or fleet-management systems.

A second FMCSA rulemaking action would restrict the use of cell phones while operating a CMV. The proposed rulemaking is under review and is expected to be published later this year.

FMCSA's Driver Rulemakings: Final Rules

- Safety Requirements for Operators of Small Passenger Vehicles
- Medical Certification Requirement as Part of the CDL – Technical Amendments
- Final Rule, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

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This final rule adopts as final, without change, a June 13, 2008, interim final rule (IFR) authorizing employers in the Department's drug and alcohol testing program to disclose to State commercial driver licensing (CDL) authorities the drug and alcohol violations of employees who hold CDLs and operate commercial motor vehicles (CMVs), when a State law requires such reporting. The rule also responds to comments on the IFR.

FMCSA's Vehicle Rulemakings: Final Rules

- Technical Amendment: Intermodal Equipment Safety (12/29/2009, 8/20/2010)
- Applicability of FMCSRs to Small Passenger-Carrying Vehicles (2/1/2010)
- Electronic On-Board Recorders for Hours-of-Service (4/5/2010, 9/13/2010)

FMCSA's Vehicle Rulemakings: Direct Final Rule Authority

- Issued May 28, 2010
- Used only on routine or noncontroversial matters
- Regulatory changes become effective a specified number of days after publication
- Two DFRs published in September 2010:
 - Noise Emissions Standards – Exhaust Systems
 - Trailer External ABS Lamp

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FMCSA amends its regulations by establishing direct final rulemaking procedures for use on routine or noncontroversial rules. Under these procedures, FMCSA will make regulatory changes that will become effective a specified number of days after the date of publication in the Federal Register, unless FMCSA receives written adverse comment(s) or written notice of intent to submit adverse comment(s) by the date specified in the direct final rule. These new procedures will expedite the promulgation of routine or noncontroversial rules by reducing the time and resources necessary to develop, review, clear, and publish separate proposed and final rules. FMCSA will not use the direct final rule procedures for complex or controversial issues.

FMCSA's Vehicle Rulemakings: Petitions in Process

- Brake Adjustment Limits
- Roadside Inspection vs. Periodic Inspection
- Roadside Inspector Qualifications (related to Periodic Inspection)
- Repair Prior to Next Dispatch
- "No Defect DVIR" for Intermodal Equipment

Selected FMCSA Significant Rulemakings In Progress

NPRMs, SNPRMs:

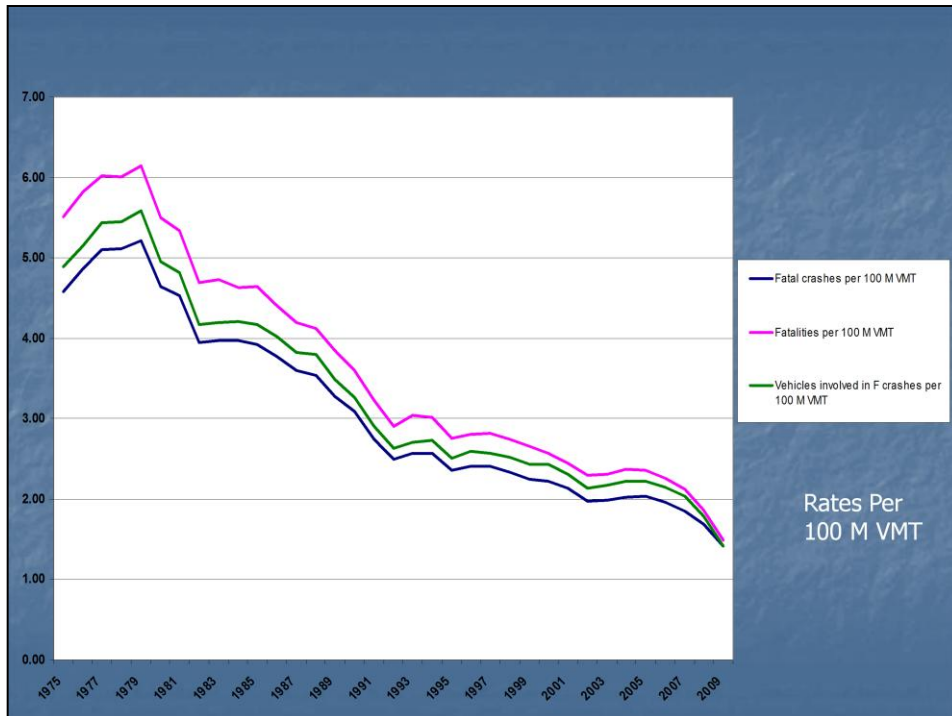
- Unified Registration System
- Qualifications of Drivers; Diabetes Standard
- Carrier Safety Fitness Determination
- CMV Driver Positive Controlled Substances and Alcohol Test Results Database
- EOBRs and Hours of Service Supporting Documents
- Hours of Service
- Drivers of CMVs; Restricting the Use of Cellular Phones

Final Rules:

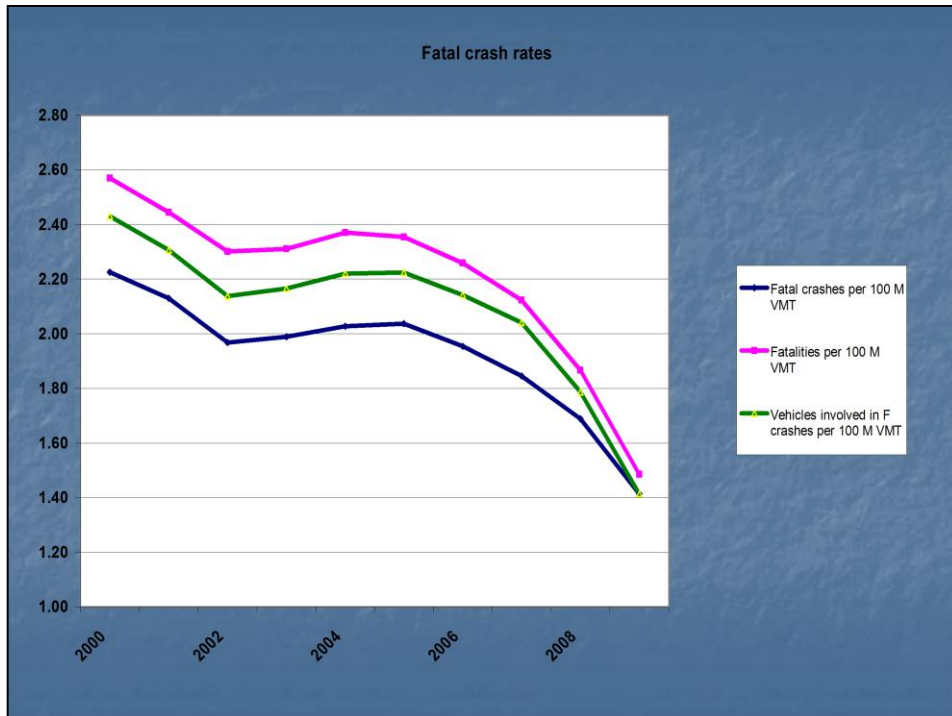
- National Registry of Certified Medical Examiners
- CDL Testing and Commercial Learner's Permit Standards
- Minimum Training Requirements for Entry Level CMV Operations
- Drivers of CMVs; Limiting the Use of Wireless Communication Devices

For more information ...

- FMCSA's website:
<http://www.fmcsa.dot.gov>
- USDOT General Counsel, Significant Rulemakings: <http://regs.dot.gov>
- Federal e-Rulemaking Portal:
<http://www.regulations.gov>
- New Office of the Federal Register portal:
<http://federalregister.gov>



As it is said, one picture is worth a thousand words ... and the improvements in commercial vehicle safety over the past 35 years clearly illustrate that the laws, research, and regulations have had an effect. The rates of fatal crashes, persons receiving fatal injuries, and the numbers of vehicles involved have dropped by nearly seventy-five percent.



And, in the last 10 years alone, the rates have dropped by around 40 percent.

We still face challenges – we are not at zero – and we will not rest until we are.



Thank you very much.