



ROAD TALK

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'Automatic' definition of ELDs a key point in lawsuit against DOT

On March 29, the Owner Operators Independent Drivers Association (The Association) filed a legal brief with the U.S. Court of Appeals against the Department of Transportation's Final Rule mandating the use of Electronic Logging Devices (ELDs).

The 2012 MAP-21 highway bill defines an ELD as a device "capable of recording a driver's hours of service and duty status accurately and automatically. The association contends that ELDs do not automatically record a driver's changes in duty status as the statute requires - drivers manually input those changes.

With the majority of HOS violations found to be inaccurate driver entries of changes in duty status, The Association alleges that manual entry into ELDs provides no improvement over manual entry into paper log books. They

also note that petitioners have filed comments to FMCSA detailing how manual ELD entries can mask HOS violations, but that FMCSA has failed to deal with that analysis.

Responding to an argument made by the FMCSA about the controversial definition that Congress could not have meant what it said in the statute, the Association called for the court not to give any weight to the argument.

The Association also argues that:

- 1) FMCSA's Regulatory Impact Analysis failed to test an increase in compliance with the hours of service rules
- 2) Costs under the Final Rule are not justified when there are no measurable benefits



- 3) The Final Rule violates a driver's Fourth Amendment rights by authorizing the warrantless search of drivers for law enforcement purposes
- 4) The Final Rule fails again to implement the statutory mandate on harassment

According to The Association's attorney, "the Court is ultimately the adjudicator of what Congress meant" and that "if there is any ambiguity in the statute, FMCSA's interpretation applies unless arbitrary, capricious, contrary to law or manifestly unreasonable."

There is now a May 12 deadline for the U.S. DOT to respond to the arguments.

In 2011 the court vacated an effort by the FMCSA to mandate the use of ELDs based on the potential for harassment.

EMERGENCY RECALL NOTICE

The USDOT has announced an emergency Recall Notice for owners of certain Volvo VNL, VNM, VNX model trucks manufactured from May 11, 2015 through March 8, 2016. Trucks that haven't already received the recall remedy repair specified by Volvo in the recall and are still operating on the nation's roadways are in an unsafe condition and should not be operated; such vehicles are to be immediately ordered out-of-service by federal and state roadside safety inspectors. Volvo Trucks' Safety Recall (NHTSA Part 573 Safety Recall Report No. 16V-097000)

Final Rule issued on safe transport of food

April 6, 2016 - The Food and Drug Administration (FDA) issued a final rule for their Food Safety Modernization Act (FSMA). The FSMA establishes requirements for shippers, loaders, carriers by motor vehicle and rail vehicle, and receivers engaged in the transportation of food, including food for animals, to use sanitary transportation practices to ensure the safety of the food they transport.

Key Requirements: Specifically, the rule would establish requirements for:

Vehicles and transportation equipment: The design and maintenance of vehicles and transportation equipment to ensure that it does not cause the food that it transports to become unsafe. For example, they must be suitable and adequately cleanable for their intended use and capable of maintaining temperatures necessary for the safe transport of food.

Transportation operations: The measures taken during transportation to ensure food safety, such as adequate temperature controls, preventing contamination of ready to eat food from touching raw food, protection of food from contamination by non-food items in the same load or previous load, and protection of food from cross-contact, i.e., the unintentional incorporation of a food allergen.

Training: Training of carrier personnel in sanitary transportation practices and documentation of the training. This training is required when the carrier and shipper agree that the carrier is responsible for sanitary conditions during transport.

Records: Maintenance of records of written procedures, agreements and training (required of carriers). The required retention time for these records depends upon the type of record and when the covered activity occurred, but does not exceed 12 months.

The earliest compliance dates for some firms begin one year after publication of the final rule in the Federal Register.

Final Rule in Federal Register:
www.federalregister.gov; RIN:
 0910-AG98

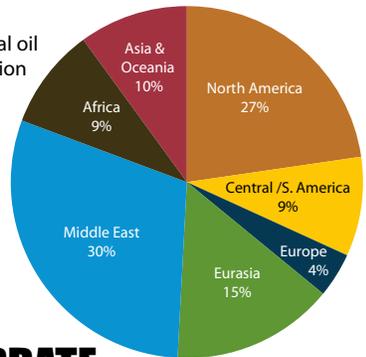


June 7-9

The Commercial Vehicle Safety Alliance's (CVSA) 29th annual International Roadcheck (I-R) will take place June 7-9, 2016. I-R is a 72-hour period when approximately 10,000 CVSA-certified local, state, provincial, territorial and federal inspectors in jurisdictions across North America perform large truck and bus safety inspections.

During I-R, inspectors primarily conduct North American Standard Level I Inspections which includes an examination of both the driver and vehicle. Drivers are required to provide items such as their license, endorsements, medical card and hours-of-service documentation, and may be checked for seat belt usage and the use of alcohol and/or drugs. The vehicle inspection includes checking items such as the braking system, securement of cargo, coupling devices, exhaust system, frame, fuel system, lights, steering mechanism, driveline/driveshaft, suspension, tires, van and open-top trailer bodies, wheels and rims, and windshield wipers.

Share of world total oil production by region (2014)



FUEL UPDATE

According to the U.S. Energy Information Association (EIA),

During the 2016 April-through-September summer driving season, U.S. regular gasoline retail prices are forecast to average \$2.04/gallon (gal), compared with \$2.63/gal last summer. For all of 2016, the forecast average price for gasoline is \$1.94/gal and \$2.11 for ULS Diesel. For 2015, gasoline and ULS Diesel averaged \$2.43 and 2.71 respectively.

Both Brent and West Texas Intermediate (WTI) crude oil prices are forecast to average \$35/b in 2016 and \$41/b in 2017 compared 2015 averages of \$52/b for Brent and \$49/b for WTI. For all of 2016, EIA expects a drop in U.S. oil production of 10% over 2015.



On-highway Diesel Fuel Prices

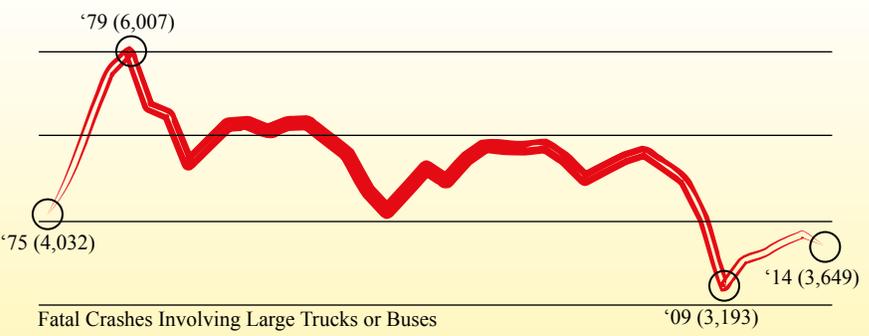
Region	5/16/16	4/18/16	5/18/15
East Coast	2.321	2.220	3.007
New England	2.348	2.287	3.093
Central Atlantic	2.410	2.325	3.158
Lower Atlantic	2.248	2.126	2.875
Midwest	2.271	2.112	2.791
Gulf Coast	2.157	2.046	2.793
Rocky Mtns	2.324	2.171	2.813
West Coast	2.530	2.371	3.162
California	2.615	2.466	3.268

Prices listed above are diesel averages in dollars per gallon.

Up-to-date statistics are available from the Department of Energy at www.eia.gov.

FMCSA Large Truck Crash Report

2014 Fatal/Injury crash statistics



From 2013-2014, the number of trucks involved in fatal crashes decreased by 5%, from 3,821 to 3,649 and the rate of large trucks involved in fatal crashes per 100 million miles traveled declined by 6%, from 1.43 to 1.34.

The number of large trucks involved in injury crashes increased by 21%, from 73,000 to 88,000.

The number of large trucks involved in property damage only crashes increased by 31%, from 265,000 to 346,000.

Vehicle miles traveled (VMT) by large trucks increased by 1.5%.

Approximately 61% of all fatal crashes involving large trucks occurred on rural roads and 26% on rural or urban Interstate highways.

37% of all fatal crashes, 19% of all injury crashes, and 20% of all property damage only crashes involving large trucks occurred at night (6:00pm to 6:00am); from 2012-2014, the largest percentage occurred from 12pm to 3am.

The vast majority of fatal crashes (84%) and nonfatal crashes (88%) involving large trucks occurred on weekdays (Monday through Friday). Crash percentages doubled on weekdays in fatal, injury and property damage crashes compared with weekends; Wednesday was the highest (17.3%, 19.9% and 20.2% respectively).

From 2012-2014, most fatal crashes involving large trucks happen between 50-55mph (34.3%) followed by 60-65mph (21.9%) and 70-75mph (18.1%).

The top 5 states with the most fatal crashes were: Texas (481); California (265); Florida (170); Pennsylvania (152); and Georgia (138).

Hazardous materials (HM) placards were present on 3% of the large trucks involved in fatal crashes and 2% of those in nonfatal crashes.

Trucks pulling trailers made up 65% of fatal crashes and 50% of injury crashes; single-unit trucks made up 27% of fatal crashes and 31% of injury crashes;

Fatal crashes by cargo body type: Van/Enclosed Box (42.3%), Flatbed (12.3%), Cargo Tank (9.8%); and Dump (8.7%).

Injury crashes by cargo body type: Van/Enclosed Box (40.3%), Flatbed (11.9%), Dump (10%); and Cargo Tank (6.9%).

Greater than 80% of all fatal crashes involving large trucks occurred on the roadway (not an intersection and not a construction zone) during clear conditions on dry roads.



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4 Roadtalk Newsletter



FMCSA to issue new BASIC category

In accordance with Fixing America's Surface Transportation Act, the Federal Motor Carrier Safety Administration (FMCSA) is developing a "Beyond Compliance" category/methodology. The new category/methodology is intended to recognize motor carriers either with a credit recognized by a new Behavior Analysis and Safety Improvement Category (BASIC) or an improved SMS percentile when they go above and beyond the regulations to ensure safe operation.

According to the FAST Act, "Beyond Compliance" could mean:

- (1) installing advanced safety equipment;
- (2) using enhanced driver fitness measures;
- (3) adopting fleet safety management tools, technologies, and programs; or
- (4) by satisfying other standards determined appropriate by the FMCSA.

The agency has issued a Federal Register notice requesting comments on the program. Comments must be received on or before June 20, 2016. The proposed program will not allow relief from regulatory requirements.

Submit your comments at: www.regulations.gov, Docket #: FMCSA-2015-0124

The information in this newsletter is taken from sources which we believe to be reliable, but is not guaranteed and isn't necessarily a complete statement of all the available data. Conclusions are based solely upon our best judgement and analysis of technical factors and industry information sources.

GOODYEAR

[American Highway Carriers Association is happy to announce a partnership with Goodyear Tires to bring an extensive tire program to membership](#)

This exciting relationship will enable AHCA members to reduce operational costs and downtime by gaining access to Goodyear's most advanced tires at preferred prices.

As part of the benefit, AHCA members are eligible to become part of Goodyear's Preferred Fleet program which will help to get you back on the road with:

- 24-Hour Goodyear® Fleet HQ® service
- Consistent nationwide pricing and service
- 24/7 Roadside Assistance
- Elimination of out-of-pocket expenses at time of service
- Premium Goodyear tires and retreads
- Local Dealer billing

[Becoming part of the program is easy!](#)

Contact AHCA or visit us online at AHCAonline.com for complete details.

