



Committee on Transportation and Infrastructure
U.S. House of Representatives

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April 24, 2015

SUMMARY OF SUBJECT MATTER

TO: Members, Subcommittee on Highways and Transit
FROM: Staff, Subcommittee on Highways and Transit
RE: Subcommittee Hearing on “The Future of Commercial Motor Vehicle Safety: Technology, Safety Initiatives, and the Role of Federal Regulation.”

PURPOSE

The Subcommittee on Highways and Transit will meet on Wednesday, April 29, 2015 at 2:00 p.m. in 2167 Rayburn House Office Building to receive testimony related to commercial motor vehicle safety. The Subcommittee will hear from representatives of the Owner-Operator Independent Drivers Association; the American Trucking Associations; the Commercial Vehicle Safety Alliance; the United Motorcoach Association; and the International Brotherhood of Teamsters.

BACKGROUND

The Federal Motor Carrier Safety Administration (FMCSA) was established within the U.S. Department of Transportation (U.S. DOT) on January 1, 2000, pursuant to the Motor Carrier Safety Improvement Act of 1999 (P.L. 106-159) to prevent commercial motor vehicle accidents, fatalities, and injuries. Truck-related crashes and fatalities had been growing at an alarming rate, and it was determined that specific focus apart from the Federal Highway Administration’s (FHWA’s) Office of Motor Carriers could help promote truck and bus safety improvements.

FMCSA’s activities contribute to ensuring safety in motor carrier operations through enforcement of safety regulations; targeting oversight on high-risk carriers and commercial motor vehicle drivers; improving safety information systems and commercial motor vehicle technologies; strengthening commercial motor vehicle equipment and operating standards; and increasing safety awareness. To accomplish these activities, the agency works with federal, state, and local enforcement agencies, the motor carrier industry, safety advocacy groups, and others.

Since FMCSA's creation, registrations of large truck and buses have increased 31 percent. However, the rate of fatal crashes involving large trucks or buses has fallen from 0.178 per 100 million vehicle miles traveled by all motor vehicles to 0.127 in 2013. The rate reached an all-time low in 2009 when the fatal crash rate declined to 0.108.¹

Significant gains have been achieved in improving truck and bus safety. This hearing will examine how best to make additional strides, examining the roles of technology, regulation, and new safety initiatives.

MAP-21 Commercial Motor Vehicle Safety Provisions:

The Motor Carrier Safety Grant Programs

MAP-21 continued the Motor Carrier Safety Assistance Program (MCSAP; 49 U.S.C. 31102) and funded the program at \$215 million in fiscal year 2013 and \$218 million in fiscal year 2014. MCSAP is a federal grant program that provides financial assistance to states to reduce the number and severity of crashes and hazardous materials incidents involving commercial motor vehicles (CMV). FMCSA is responsible for administering the MCSAP grants at the federal level. In each state, grants are administered by the designated motor carrier safety office. The goal of the MCSAP is to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. Investing grant monies in appropriate safety programs increases the likelihood that safety defects, driver deficiencies, and unsafe motor carrier practices are detected and corrected before they become contributing factors to crashes.

MAP-21 also continued other FMCSA grant programs including Border Enforcement grants (\$32 million); Commercial Driver's License Program Improvement grants (\$30 million); Commercial Vehicle Information Systems and Networks Deployment (\$25 million); Performance and Registration Information Systems Management grants (\$5 million); and Safety Data Improvement Grants (\$3 million).

Electronic Logging Devices

MAP-21 mandated that commercial motor vehicles involved in interstate commerce and operated by a driver subject to the hours of service and record of duty status requirements be equipped with an electronic logging device to track drivers' compliance with hours of service regulations. MAP-21 required FMCSA to issue a final rule implementing this requirement by July 2013. However, FMCSA did not issue a proposed rule until March 28, 2014. The public comment period ended on June 26, 2014, and U.S. DOT estimates releasing the final rule in September 2015.

¹ Federal Motor Carrier Safety Administration, *Large Truck and Bus Crash Facts 2013*. A large truck is defined as a truck with a gross vehicle weight greater than 10,000 pounds. A bus is defined as any motor vehicle designed primarily to transport nine or more persons, including the driver.

Crash-Worthiness Standards

MAP-21 required FMCSA to conduct a comprehensive analysis of the need for crashworthiness standards on commercial motor vehicles with a gross vehicle weight of more than 26,000 pounds. Specifically, the analysis was to consider standards including roof strength, pillar strength, air bags, and other occupant protection standards to better protect drivers of commercial motor vehicles. The report, which was due in April 2014, has not yet been submitted to Congress.

Entry Level Driver Training

MAP-21 required FMCSA to issue regulations, within one year of enactment, establishing minimum training requirements for individuals seeking to obtain a commercial driver's license (CDL). U.S. DOT has not yet finalized a rulemaking on driver training standards. Congress first directed U.S. DOT to study whether driver training is adequate in 1991. A 2007 proposed rule for entry level driver training standards was withdrawn in 2013. In December 2014, FMCSA announced it was convening an advisory committee to complete a negotiated rulemaking. The advisory committee has 26 members representing FMCSA, the trucking industry, labor, law enforcement, training institutions and safety advocates. FMCSA expects to publish a proposed rule in 2015 for public comment and a final rule in 2016.

Motorcoach Safety

MAP-21 required the National Highway Traffic Safety Administration (NHTSA) to consider requiring new motor vehicle safety standards for motorcoaches including roof strength and crush resistance, anti-ejection countermeasures, rollover prevention, and fire prevention and mitigation. In addition, the law required seat belts be installed at each seating position on a motorcoach. NHTSA finalized its seat belt rule in November 2013 and the new requirements will take effect on November 28, 2016.

Drug and Alcohol Testing

FMCSA drug and alcohol rules apply to safety-sensitive employees who operate commercial motor vehicles requiring a CDL. These rules require drug and alcohol testing under several conditions: pre-employment, reasonable suspicion, post-accident, random, return-to-duty, and follow-up. MAP-21 required FMCSA to set up a national clearinghouse for drug and alcohol testing results for commercial drivers to ensure that recent drug test failures could be identified by future employers. FMCSA is in the final stages of developing a proposed rule.

Truck Size and Weight

MAP-21 required FHWA to complete a comprehensive truck size and weight study within two years. The agency was directed to evaluate accident risk and frequency; impact to infrastructure, including bridges; safety impacts; and freight diversion to other modes. This study was due in October 2014. FHWA has not yet submitted this study to Congress.

Other U.S. DOT Rulemakings:

The U.S. DOT is undertaking several other rulemakings on its own initiative relating to commercial motor vehicle safety.

- *Heavy Vehicle Speed-Limiters:* FMCSA initiated a rulemaking on May 29, 2013 to require the installation of speed-limiters on commercial motor vehicles with a gross vehicle weight of more than 26,000 pounds. A Notice of Proposed Rulemaking is expected to be released in July 2015.
- *Electronic Stability Control:* NHTSA is undertaking a rulemaking to require the installation of stability control systems on truck tractors and motorcoaches that address rollover and loss-of-control crashes. According to U.S. DOT, these accidents are responsible for 304 fatalities and 2,738 injuries annually. The final rule is expected to be released on May 7, 2015.
- *Minimum Financial Responsibility:* MAP-21 required FMCSA to review and issue a report on the appropriateness of minimum financial responsibility requirements within six months of enactment and every four years thereafter. FMCSA completed this report in April 2014, and issued an Advanced Notice of Proposed Rulemaking in November 2014 to consider increasing the minimum levels of financial responsibility for motor carriers.

The Compliance, Safety, and Accountability (CSA) Program

The Compliance, Safety, and Accountability (CSA) program is FMCSA's primary tool for evaluating the safety performance of commercial motor carriers. Implemented in December 2010, the main component of CSA is the Safety Measurement System (SMS) that analyzes safety violations from inspections and crash data to identify high-risk motor carriers for compliance reviews and other more-focused interventions to address specific problems. The SMS uses seven safety improvement categories called Behavior Analysis and Safety Improvement Categories (BASIC) to examine a carrier's on-road performance and potential crash risk. The seven BASICs are Unsafe Driving, Fatigued Driving (Hours-of-Service), Driver Fitness, Controlled Substances/Alcohol, Vehicle Maintenance, Cargo-Related and Crash Indicator.

The final component of the CSA program is FMCSA's rulemaking to revise the methodologies used to make a safety fitness determination (SFD) of a motor carrier as either "fit" or "unfit," based on roadside inspections and SMS data. Currently, motor carriers are assigned a "satisfactory," "conditional," or "unsatisfactory" safety rating based upon on-site investigations and compliance reviews. The Notice of Proposed Rulemaking is expected to be released in August 2015.

Hours of Service

Federal motor carrier safety regulations govern commercial driver hours of service (HOS), or limits on the maximum time that a driver may operate a commercial motor vehicle. On December 27, 2011, FMCSA issued a final rule in the *Federal Register* revising the HOS requirements. The final rule:

- Retained both the current 11-hour daily driving limit and the 60- and 70-hour weekly driving limits and the maximum “driving window” remains at 14 consecutive hours after coming on-duty.
- Modified the “34-hour restart” provision to require at least two periods of rest during 1:00 a.m. – 5:00 a.m. and it can only be used once during a seven-day period.
- Restricted motor carrier drivers from driving after working eight hours without first taking a break of at least 30 minutes. Drivers can take the 30-minute break whenever they need rest during the eight-hour window.
- Reduced by 12 hours the maximum number of hours a motor carrier driver can work within a week. Under the old rule, truck drivers could work on average up to 82 hours within a seven-day period. The new HOS final rule limits a driver’s work week to 70 hours.

A number of exemptions have been provided to certain industries in statute, including utility drivers and agriculture haulers. The HOS rule has been the subject of extensive litigation since 2003, when FMCSA first issued its rule to extend maximum driving time from ten hours to 11 hours, while increasing the mandatory rest period from eight hours to ten hours. In August 2013, a U.S. District court upheld most of FMCSA’s December 2011 final rule, but struck down the 30 minute rest break requirement for short-haul drivers.

In the fiscal year 2015 Omnibus, Consolidated and Further Continuing Appropriations Act (P.L. 113-235), Congress temporarily suspended enforcement of the hours of service regulation related to the restart provisions and required FMCSA to complete a naturalistic study on the impact of the 34-hour restart provisions. The restart provisions will remain suspended until the completion of the study and submission of the final report to Congress. The Inspector General recently approved the main areas of the study design, as required by law, and a five-month period of data collection with more than 150 participating drivers is underway. FMCSA expects to submit the final report to Congress by the end of 2015.

WITNESS LIST

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On behalf of the Owner-Operator Independent Drivers Association

Mr. Tom Kretsinger
President

American Central Transport

On behalf of the American Trucking Associations

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Captain

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On behalf of the Commercial Vehicle Safety Alliance

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