



## Transportation Updates and Regulatory News (TURN)

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### Motor Carrier Safety Advisory Committee Discusses Automated Driving Systems

On September 30 and October 1, 2019, the federal advisory [Motor Carrier Safety Advisory Committee](#) discussed Automated Driving Systems (ADS) for commercial vehicles. The [committee](#) was asked to provide the Federal Motor Carrier Safety Administration (FMCSA) with recommendations on regulatory provisions, workforce issues, and other concerns for a potential rulemaking. As part of the preparations for ADS, the U.S. Department of Transportation released [Preparing for the Future of Transportation, Automated Vehicles 3.0](#). Comments can be viewed at docket number [DOT-OST-2018-0149](#).

### Public Listening Sessions on Flexibility within the Hours of Service of Drivers

FMCSA held [public listening sessions](#) on the [proposed rulemaking](#) to provide flexibility within the hours of service of drivers. The webcast listening sessions, held in Washington, DC on September 17, 2019 and in Dallas, Texas on August 23, 2019, were transcribed and can be viewed at docket number [FMCSA-2018-0248](#).

The flexibility proposed includes: (1) allowing the 30-minute rest break to be satisfied by a driver using on duty, not driving status; (2) modifying the split sleeper berth exception to allow a driver to spend a minimum of 7 hours in the berth combined with a minimum 2-hour off-duty period, provided the combined periods total 10 hours (rather than the current 8 hour/2 hour split); (3) allowing one off-duty break of at least 30 minutes, but not more than three hours, that would pause a truck driver's 14-hour



driving window; (4) extending by two hours the time driving permitted to account for adverse conditions; and (5) lengthening the short-haul driver's maximum on-duty period from 12 to 14 hours and extending the distance limit from 100 to 150 air miles.

The American Trucking Association [requested](#) a 30-day day extension of the comment period that was scheduled to end on October 7. The Commercial Vehicle Safety Alliance [requested](#) a 45-day extension. FMCSA granted a two-week extension to October 21.

### **Proposed Extension of Compliance Date for States' Query of the Drug and Alcohol Clearinghouse**

On September 6, 2016, FMCSA, [proposed](#) to extend the compliance date, from January 6, 2020 to January 6, 2023, for States to utilize the [Commercial Driver's License \(CDL\) Drug and Alcohol Clearinghouse](#) to check drivers' records for violations of drug and alcohol tests. FMCSA will utilize the additional time to issue a rulemaking to address the concerns of the [American Association of Motor Vehicle Administrators](#). Beginning January 6, 2020, States may voluntarily utilize the Clearinghouse prior to issuing, renewing, upgrading, or transferring a CDL. Comments can be viewed at docket number [FMCSA-2019-0120](#).

### **Public Meeting on the Electronic Logging Device Technical Specifications**

On September 6, 2019, FMCSA hosted a [public meeting](#) in Washington, DC for Electronic Logging Device (ELD) [manufacturers](#) on [Appendix A to Subpart B of Part 395](#)—Functional Specifications for All Electronic Logging Devices (ELDs). Topics included the data transfer process and mandatory transition to ELDs (by December 16, 2019) of motor carriers using automatic onboard recording devices.

Comments can be viewed at docket number [FMCSA-2010-0167](#).

### **Update on Driver Detention Impacts on Safety and Productivity**

On September 4, the American Transportation Research Institute released an update showing an increase in the [Driver Detention Impacts on Safety and Productivity](#) from 2014 to 2018. Drivers, paid by the mile and limited to 14 hours on-duty time by FMCSA [hours of service rules](#), lose income while waiting to load and unload at shipper and receiver facilities. The analysis found, "In the 2018 dataset, over a third of the respondents (36.5%) who operate refrigerated trailers (reefer) indicated experiencing delays of four or more hours." The report will supplement FMCSA's June 10, 2019 [request](#) for data on driver detention during loading and unloading and the impact of such delays on safety. Comments can be viewed at docket number [FMCSA-2019-0054](#).

### **Misclassifying Workers as Independent Contractors Does Not Violate the National Labor Relations Act**

Many truck drivers prefer to work as independent contractors for employers, while many other truck drivers complain they have been misclassified as independent contractors by their employers, and denied employer provided benefits and legal protections. The classification issue has been the subject of driver protests, litigation, court rulings, regulations, and legislation over many years, especially in [California](#).

On August 29, 2019, "The National Labor Relations Board [held](#) that employers do not violate the National Labor Relations Act (NLRA) solely by misclassifying employees as independent contractors. The Board majority held that an employer's communication to its



workers of its opinion that they are independent contractors does not, standing alone, violate the NLRA if that opinion turns out to be mistaken. According to the decision, such communication does not inherently threaten those employees with termination or other adverse action if they engage in activities protected by the NLRA, nor does it communicate that it would be futile for them to engage in such activities.”

### **Fees for the Unified Carrier Registration Plan and Agreement to be Reduced**

On August 27, 2019, FMCSA [proposed](#) to reduce the “annual registration fees States collect from motor carriers, motor private carriers of property, brokers, freight forwarders, and leasing companies for the Unified Carrier Registration (UCR) Plan and Agreement for the 2020, 2021, and subsequent registration years. The proposed fees for the 2020 registration year would be reduced below the 2018 registration fee level that was in effect by approximately 12.82 percent to ensure that fee revenues do not exceed the statutory maximum, and to account for the various excess funds held in the depository.” Comments can be viewed at docket number [FMCSA-2019-0066](#).

### **Cost of Congestion to Trucking in the 2019 Urban Mobility Report**

On August 22, 2019, Texas A&M Transportation Institute (TTI) released the

[2019 Urban Mobility Report](#) which included the section entitled “What are the impacts of congestion on trucking and trucking on congestion?” The report found that the cost of congestion to trucking 2017 dollars is \$20.5 billion in “wasted time and fuel.” Trucks accounted for 12 percent of the total cost of vehicle congestion (\$166 billion), but only 7 percent of the total vehicle traffic volume.

### **FMCSA to Operate a Streamlined Crash Preventability Determination Program**

On August 5, 2019, FMCSA provided [notice](#) of a streamlined crash preventability determination program, to remove crashes found to be not preventable from the Safety Measurement System prioritization algorithm; make appropriate notations in the Pre-Employment Screening Program; and review the preventability of additional types of crashes. Comments can be viewed at docket number [FMCSA-2014-0177](#).

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