

FMCSA Update

**American Bus Association
Bus Industry Safety Council
July 25, 2023**

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Agenda

- Electronic Logging Device (ELD) Related News
- Proposed Regulatory Changes and Notices of Proposed Changes
- Recent Regulatory Changes
- Recent Publications
- Drug and Alcohol Clearinghouse Related News
- Modified and Customized Vehicles

Brief Rulemaking Process Overview

1. Advance Notice of Proposed Rulemaking
(Advance Proposed Rule)
2. Notice of Proposed Rulemaking
(Proposed Rule)
3. Final Rule

FMCSA Removes Nine ELDs from Registered ELDs List

FMCSA removed the following devices due to the company's failure to meet the minimum regulatory requirements:

1. ELD Name: ArionT ELD, Model Number: AT5000, ELD Provider: Arion Tech Inc.
2. ELD Name: ELDorado ELD, Model Number: ERS, ELD Provider: ELDorado
3. ELD Name: ELD ONE, Model Number: OELD01, ELD Provider: TMS ONE
4. ELD Name: Nationwide ELD, Model Number: NWTELDV1.1, ELD Provider: Nationwide Technologies Inc.
5. ELD Name: ONE PLUS ELD, Model Number: ORS, ELD: ORS160, ELD Provider: ONE PLUS ELD
6. ELD Name: All-Ways Track, Model Number: AWT01, ELD Provider: ALL-WAYS TRACK, LLC.
7. ELD Name: ALL TRUCKERS ELD, Model Number: ARS, ELD Provider: All Truckers ELD
8. ELD Name: PRIMELD, Model Number: PRS, ELD Provider: Primeld
9. ELD Name: SECURE ELD, Model Number: SRS, ELD Provider: WBCS GROUP LLC

Go to FMCSA's ELD webpage for guidance if you are using one of these ELDs – <https://www.fmcsa.dot.gov/hours-service/elds/electronic-logging-devices>

ELD Advance Proposed Rule

- On September 16, FMCSA requested comments on ways to improve the clarity of current ELD regulations and address certain concerns about the technical specifications raised by industry stakeholders.
 - Comment period closed on November 15.
- FMCSA sought comments in the following 5 specific areas in which the Agency is considering changes:
 1. Applicability to pre-2000 engines
 2. Addressing ELD malfunctions
 3. Removal process for ELD products from FMCSA's certified ELD list
 4. Technical specifications
 5. ELD certification

Speed Limiting Devices Advance Proposed Rule

- FMCSA published an advance proposed rule announcing its intent to proceed with a speed limiter rulemaking and requested all interested parties to provide information to specific questions.
 - Over 14,000 comments received
- Applicable commercial vehicle standards were mentioned:
 - in interstate commerce,
 - GVWR of 26,001 pounds or more, and
 - equipped with an electronic engine control unit capable of governing the maximum speed
- No other draft regulatory standards were proposed.

Speed Limiting Devices

- FMCSA plans to publish a proposed rule in the future addressing speed limiters on commercial vehicles.
- When this proposal is published, the industry and the public will have another opportunity to comment.

Unique Electronic Identification of Commercial Vehicles

- On September 23, FMCSA requested comments on whether its regulations should be revised to require every interstate commercial vehicle be equipped with electronic identification (ID) technology capable of wirelessly communicating a unique ID number when queried by a Federal or State official.
- This advance proposed rule is in response to a rulemaking petition from the Commercial Vehicle Safety Alliance (CVSA).
- FMCSA is considering such regulatory changes to improve the efficiency and effectiveness of the inspection program by more fully enabling enforcement agencies to focus their efforts at high-risk carriers and drivers.
- Comment period closed on November 22.

Clarification to the Applicability of Emergency Exemptions

- FMCSA has proposed to narrow the scope of regulations from which relief is provided automatically for motor carriers providing direct assistance when an emergency has been declared.
- The Agency also proposed revisions to the process for extending an automatic emergency exemption where circumstances warrant.
- Comment period to the proposed rule closed on February 6.

Clarification to the Applicability of Emergency Exemptions

FMCSA proposed to:

- narrow the automatic applicability of emergency regulatory relief to the hours-of-service (HOS) limitations
- modify the emergency definition to not include economic conditions that are caused by market forces including driver shortages, inflation, etc. unless such conditions or events cause an immediate threat to human life and result in a declaration of an emergency
- limit the regulatory relief that takes effect upon a regional declaration of an emergency by a Governor or FMCSA to 5 days and would exempt drivers only from the HOS limitations
- limit the regulatory relief for local emergencies by exempting drivers only from the HOS limitations

Proposed Changes to Safety Measurement System (SMS)

- As part of FMCSA's commitment to continually improve our data-driven decision-making, the Agency has identified a set of changes to the SMS used to prioritize carriers for Agency intervention.
- Motor carriers and other stakeholders were encouraged to preview how data will appear under the proposed approach and submit comments.
 - Comment period closed on May 16, 2023.
- FMCSA has launched a new website, the CSA Prioritization Preview, to allow motor carriers to log in and see what their prioritization results would look like under this new approach.

Proposed Changes to Safety Measurement System (SMS)

Why is FMCSA proposing changes to the SMS methodology?

- The proposed changes are guided by FMCSA's continued commitment to making the system as fair, accurate, and clear as possible.
- With input from all stakeholders—including government at all levels, industry, researchers, and the public—FMCSA has identified a set of changes that build on the sound design of SMS.

How does this impact SMS today?

- No changes will be implemented in SMS at this time.
- SMS will continue to be used to prioritize motor carriers for intervention during this preview period.

Proposed Changes to Safety Measurement System (SMS)

Where can I learn about the proposed changes?

- All the proposed changes to SMS are explained in detail on the CSA Prioritization Preview website.

What is the current project status?

- FMCSA is reviewing the comments and is in the process of finalizing the new SMS methodology.

Crash Preventability Determination Program Proposal

- To address industry concerns about all crashes being used in the Agency's SMS, since May 2020 FMCSA has been operating the Crash Preventability Determination Program.
- This program reviews 16 specific crash types and modifies information in the SMS to distinguish unpreventable crashes.
- Through the incorporation of this information into SMS, FMCSA is better positioned to identify unsafe carrier and driver behaviors and prioritize motor carriers for interventions by excluding unpreventable crashes when calculating a motor carrier's Crash Indicator BASIC measure and percentile.

Crash Preventability Determination Program Proposal

- Based on the Agency's experiences with the crash types and its reviews of crash eligibility, FMCSA proposes modifying existing crash types to broaden eligibility, removing the distinction between direct and indirect strikes, and differentiating some types for improved reporting and use of the data to identify ways to reduce crashes involving non-motorists in alignment with the Department of Transportation's National Roadway Safety Strategies.
- FMCSA also proposed four new crash types be included in the program.
- FMCSA requested comments on these proposed changes by June 12.
- FMCSA will respond to the comments and announce the start of the updated program through a subsequent Federal Register notice.

Operating Authority Exemption for Providers of Recreational Activities

- FMCSA proposes the implementation of the statutory exemption from its operating authority registration rules for providers of recreational activities.
- The exemption would apply to motor carriers operating a motor vehicle designed or used to transport 9 to 15 passengers (including the driver), whether operated alone or with a trailer attached to the transport vehicle, if the vehicle is operated to provide recreational activities within a 150 air-mile radius of the location at which passengers initially boarded the vehicle at the beginning of the trip.
- FMCSA also proposes to define recreational activities to clarify the scope of this exemption.

Operating Authority Exemption for Providers of Recreational Activities

Recreational activities *means* activities consisting of an outdoor experience or excursion typically of a physical or athletic nature which require transportation for the sole purpose of moving customers to another location or locations where the outdoor experience or excursion will take place and collecting those customers to transport them back to the place of initial boarding or another outpost of the motor carrier.

Operating Authority Exemption for Providers of Recreational Activities

- Recreational activities include, but are not limited to, hiking, biking, horseback riding, canoeing, whitewater rafting, water trails, tubing, skiing, snowshoeing, snowmobiling, hunting, fishing, mountain climbing, and swimming.
- Recreational activities does not include any activity for which --
 - The activity offered or sold is occurring simultaneously with the transportation; or
 - For which the transportation is the primary service offered for sale.
- Comments should be received on or before August 21, 2023.

Interpretive Rule about Passenger Carriers

- On November 15, FMCSA published an interpretive rule that clarified:
 - Interstate Commerce pertaining to passenger transportation to and from transportation stations such as airports, waterway port, or railroad station
 - Circumstances that constitute for-hire passenger transportation
 - Applicability of operating authority registration, insurance, and the safety regulations to passenger carriers whose primary business or activity is not passenger transportation

Interpretive Rule about Passenger Carriers

Information was provided about 19 passenger transportation scenarios in the following categories:

- Passengers using multiple transportation modes
- Hotel related passenger transportation
- Employer related passenger transportation
- Education related passenger transportation
- Faith based organization related passenger transportation
- Miscellaneous passenger transportation

Revised Driver Vision Standard

- FMCSA amended its regulations to permit drivers who do not satisfy, with the worse eye, either the existing distant visual acuity standard with corrective lenses or the field of vision standard, or both, to be physically qualified to operate a commercial vehicle in interstate commerce under specified conditions.
- Previously, such drivers were prohibited from driving commercial vehicles in interstate commerce unless they obtained an exemption from FMCSA.
- This new vision standard replaces the vision exemption program as the basis for determining the physical qualification of these drivers.

Certified Medical Examiners - Refresher Training and Recertification Testing

- FMCSA announced implementation of the regulatory requirement that all medical examiners on the Agency's Certified Medical Examiner Registry maintain their certification by completing refresher training 4 to 5 and 9 to 10 years after certification and passing a recertification test 10 years after certification.
 - The 5-year refresher training has been implemented.

Certified Medical Examiners - Refresher Training and Recertification Testing

- The required 10-year refresher training is delivered by private sector training organizations in the same manner as the initial Registry medical examiner training.
- The 10-year recertification test is provided by the two FMCSA-approved testing organizations in the same manner as the initial Registry medical examiner certification test.
- Medical examiners can upload proof of completion of the 10-year training to their Registry accounts and can currently take the 10-year recertification test.

Drug and Alcohol Clearinghouse Compliance

- When re-hiring a previously employed driver, it is required to do a pre-employment query on him/her before he/she starts driving for your company again.
 - A pre-employment query is always a full query.
 - When a query is submitted to the Clearinghouse, the driver must approve the release of the information electronically.
- Annual queries are required at least once a year (after January 6, 2020) on each driver employed by the motor carrier.
 - An annual query can be a limited query.
 - A limited query only reports whether there is any new information in the Clearinghouse but will not release the information.
 - A full query must be done within 24 hours of receiving a new information result.

Drug and Alcohol Clearinghouse - Notifications

- The Clearinghouse will now notify employers if there is a change to a driver's Clearinghouse record up to 12 months following a driver query.
 - However, notification setup is necessary in the Clearinghouse account.
 - Previously, after conducting a pre-employment query, an employer received a notification from the Clearinghouse if there was a change to that driver's Clearinghouse record within 30 days.
 - Now, an employer will be notified via email when a driver they have queried has new information recorded in their Clearinghouse record within 12 months of a pre-employment or annual query.

Drug and Alcohol Clearinghouse - Notifications

- Follow-on query is needed to view new driver information.
 - Note that new information in a Clearinghouse record may include changes such as an update in return-to-duty status, a removed violation, or a new violation.
 - A full follow-on query is needed to determine if the new information results in the driver having a **Prohibited** Clearinghouse status.
 - The employer should complete a full follow-on query, which requires the driver's specific consent, within 24 hours to determine if the new information prohibits the driver from performing safety-sensitive functions such as operating a commercial motor vehicle.

Drug and Alcohol Clearinghouse – Notifications, etc.

- If the employer uses the “Send Consent Request” prompt on the Query History screen, they will not be charged for the follow-on query.
- The follow-on query will also satisfy the employer’s annual query requirement, and employers will receive notifications of changes to the driver’s record within 12 months of a follow-on query.
- Beginning November 18, 2024, as part of new Federal regulations, drivers with a **Prohibited** status in FMCSA’s Drug and Alcohol Clearinghouse will be **denied** or **lose** their State-issued commercial driving license privileges.

Drug and Alcohol Clearinghouse Compliance

- Employers of CDL drivers are required to conduct background investigations before hiring a driver.
- This process includes determining if the driver has violated the drug and alcohol regulations of any Department of Transportation mode within the past three years.
- This required employers or their designated consortia/third-party administrators to conduct both electronic queries in the Clearinghouse and manual inquiries with previous employers to meet the three-year time frame.
- A pre-employment Clearinghouse query satisfies the requirement to investigate a prospective driver's previous drug and alcohol program violations.

Drug and Alcohol Clearinghouse Compliance

A point to consider:

- The Clearinghouse contains only information about drivers employed by FMCSA-regulated employers.
- If a prospective employee was employed by an employer regulated by a DOT agency other than FMCSA (such as the Federal Railroad Administration, Federal Transit Administration, Federal Aviation Administration, etc.) during the three-year time frame, prospective employers will still be required to directly request drug and alcohol violation information from those DOT-regulated employers since this information is not reported to the Clearinghouse.

Drug and Alcohol Clearinghouse Compliance

- If you have a question, go to the Frequently Asked Questions (FAQs) on the Clearinghouse website <https://clearinghouse.fmcsa.dot.gov>
- Subscribe to email updates.
- Contact clearinghouse@dot.gov if you have an unanswered question.

CVSA Inspection Bulletin on Inspecting Emergency Exits

- CVSA created a new inspection bulletin providing guidance on the inspection of emergency exits in passenger carrier vehicles.
- All manufacturers of commercial passenger-carrying motor vehicles are required to meet NHTSA's Federal Motor Vehicle Safety Standards (FMVSS) for emergency egress in the U.S. and the Canadian Motor Vehicle Safety Standards in Canada.
- These standards minimize the likelihood of occupants being ejected from the vehicle in the event of an accident and provide a means of readily accessible emergency egress.
- FMCSA incorporated the FMVSS 217 Standard into its regulations in Part 393.

Modified and Customized Vehicles

- Many passenger carrier vehicles undergo construction by second-stage manufacturers or modifiers and such customizations may block or render inoperative required emergency exit windows, hatches, and/or doors.
- For these situations, calculating the exit space, and determining size and location of emergency exits is important for compliance.

Modified and Customized Vehicles

- If you operate a vehicle that had construction by a second-stage manufacturer, or you operate a vehicle that has been modified or customized after the original equipment manufacturer –
 - It is recommended that you go through emergency egress related inspection procedures to ensure your vehicle is compliant.
 - Doing so will help avoid a horrific safety problem in which passengers cannot exit the vehicle during an emergency or an inconvenience of the vehicle being placed out-of-service for being in violation.

Motor Carrier Safety Planner

Motor Carrier Safety Planner – Online guide making it easier to understand and comply with safety regulations. You can customize and share the Planner with your team.



The screenshot shows the homepage of the Motor Carrier Safety Planner. At the top, it features the United States Department of Transportation logo and the FMCSA (Federal Motor Carrier Safety Administration) logo. The main heading is "The Motor Carrier Safety Planner". Below this, there is a navigation menu with links for HOME, CHAPTERS, RESOURCES & FORMS, MY SAFETY PLANNER, HELP, and SPANISH VERSION. A search bar is located on the right side of the navigation menu. The main content area features a graphic with five circular icons: a yellow circle with a white document icon, a blue circle with a white pencil icon, a purple circle with a white folder icon, a green circle with a white checklist icon, and a blue circle with a white document icon. To the right of the graphic, the text reads: "The Motor Carrier Safety Planner" followed by "This online guide provides simple explanations and templates to help companies that operate CMVs understand and comply with Federal safety regulations."

[The Motor Carrier Safety Planner \(dot.gov\) -
https://csa.fmcsa.dot.gov/safetyplanner/](https://csa.fmcsa.dot.gov/safetyplanner/)



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