

**Remarks for Jack Van Steenburg
FMCSA Assistant Administrator and Chief Safety Officer
ATA Leadership Meeting
Hazardous Materials Committee
Scottsdale, AZ
May 18, 2015
9:45 a.m.**

Topics Covered:

- Hazardous Materials Safety Permit Program and implementation.
- Enhanced Oversight
- Changes to HM BASIC
- ATA “Attending” Exemption
- Update of the Route Registry
- Energy Products Transport Enforcement
- Preventing Cargo Tank Rollovers
- Fireworks

Improving the Hazmat Safety Permit Program (HMSP)

We appreciate ATA's support for improving the Hazmat Safety Permit Program.

- MAP-21 required that FMCSA study the HMSP program and look for ways to improve it.
- In 2014, we sent those recommendations to Congress and in October 2014 sent a follow-up report on the need to:
 - Utilize SMS more fully.
 - Improve oversight of carriers with little or no safety data.
 - Update data systems to better track HMSP denials, suspensions, revocations.
 - Add USDOT number to PHMSA registration.
 - Integrate insurance information more fully into HMSP IT systems (should be accomplished via URS implementation).
 - Utilize MCSAP to better enforce HMSP requirements (The agency is considering revising Part 350 to require adoption of Part 385 for MCSAP funding.)
- The Consolidated and Further Continuing Appropriations (CROMNIBUS) Act of 2015 restricted FMCSA from denying permits on basis of HM OOS unless carrier given an opportunity to correct it.
 - To accomplish this, FMCSA has been overriding the system and issuing renewals of permits until the new HMSP monitoring procedures are published in the Federal Register.

Implementation of HMSP Improvements

- We are splitting out initial application from renewal (maintenance of the permit). If a carrier comes in and wants an HM safety permit for the first time, the process remains the same as it is today.
- Once a carrier obtains a non-temporary safety permit, that carrier will be continually monitored via SMS. There will be 3 **enhanced oversight conditions that will trigger intervention, which in this case will be a comprehensive investigation.**
- For renewals, the carrier is no longer subject to denial due to OOS or crash rates.
 - All suspensions and revocations are tied to the conditions for retaining an HMSP in § 385.421.
 - Provides for a second level of review, due to ability to use administrative review process for upgrade of safety rating and submission of corrective action plan.
 - The carrier's HMSP will remain in effect as long as the carrier is in good standing and in compliance on Biennial Update.

Enhanced Oversight

If a carrier meets one or more of the following conditions, it is scheduled for a comprehensive investigation, to be conducted within 6 months.

- HM BASIC over threshold (2 most recent months)
- 2 or more BASIC's over HM threshold, other than HM (2 most recent months)

- 48 months of insufficient data (No BASICS in alert for entire time and no Safety Rating for more than 4 years). These are smaller carriers who generally don't get inspected roadside.

If at any point after being placed on the investigate list, a non-temporary HMSP carrier does not meet one or more of three conditions, the Division Administrator has the option to remove carrier from Investigate I list and cancel comprehensive investigation.

Implementation will begin 60 days after issuance of Federal Register Notice and Policy.

Changes to Hazmat CSA BASIC

We have worked hard with industry and stakeholders to make the HM BASIC as fair as possible. Agency vets proposed improvements and does not finalize any changes to SMS without publishing a Federal Register Notice and seeking public input.

- We looked at dividing out cargo tank and non-cargo tank carriers.
- This resulted in a 50/50 split of the 14,000 carriers with HM BASIC scores.
- If the HM BASIC is divided this way, there will be winner and losers.
 - Our analysis suggests that some cargo tank carriers will see their safety score rise when measured against their peers, while some non cargo tank carriers' scores will fall.
 - Carriers in the 101+ inspection groups will see the most change with some non-cargo tank carriers' scores dropping by as much as 13.5

points and some cargo tank carriers' scores rising by as much as 10.9 points.

- The next SMS enhancements notice will propose this and the preview display will show the impacts.

ATA "Attending" Exemption Request

We have heard your views and are considering exemptions to the 30-minute rest break off-duty when it conflicts with the *constant attendance requirement* in HM security plans.

- The exemption asks FMCSA to permit drivers transporting HM subject to security plans, where the plan prescribes full-time attendance, to be able to count "attendance-only" time as time off-duty for purposes of the 30-minute rest break.
- Federal Register Notice was published in the May 1 Federal Register and the public comment period ends June 1.

Route Registry

FMCSA worked hard for more than a year to complete the first update and reformatting of the Route Registry in 15 years. We want HM carriers to have the peace of mind to know that they are transporting their HM cargo along safe, verified routes.

- The entire list of routes has been verified, and "route-ordered" for easier identification. Hundreds more were deleted or amended.
- Agencies and contacts were verified.

- Route-order maps are included in the docket and available online at our website.
- We published the FRN on April 29.

Energy Products Transportation Enforcement

FMCSA is focusing on the transportation of energy products by:

- Providing advanced training for our investigators in cargo tank facility, cargo tank motor carrier, cargo tank motor vehicle, and other energy-related transportation regulations.

This means:

- More oversight of cargo tank motor carriers in crude oil, petroleum distillate and propane service
- More oversight of cargo tank inspection and repair facilities servicing cargo tank motor carriers, especially in oil field operations
- More oversight of cargo tank manufacturers engaged in the designing and building of cargo tank motor vehicles in used in energy transportation-related services
- Cooperative enforcement efforts with other Federal and State agencies and reaching out to industry.

Cargo Tanks and Cargo Tank Facilities

We have oversight of nearly 4,500 Cargo Tank Manufacturing, Inspection and Repair Facilities registered with FMCSA.

- Along with these facilities, there are 20,500 Bulk HM Carriers, with 7,000 identified as Cargo Tank (CT) motor carriers in SMS.

Upon review of the data on the facilities and carriers, we noted:

- Top 5 violations for FY 12, 13 and 14 connected to CT facility investigations
- All violations were connected to CT facility, even when the CT facility was operated by a motor carrier (CT motor carrier that has its own CT repair and inspection facility)
- Represented 58% of all violations discovered

<u>Year</u>	<u>Investigations</u>	<u>NOC</u>	<u>Violations</u>	<u>Top 5 Violations</u>
2014:	79	26	731	No test/inspection records (232) Improper/no pressure test (81) Training record keeping (34) Improper/no external visual test (33) Improper/no leakage test (27)
2013:	118	49	1,063	No test/inspection records (305) Improper/no pressure test (171) Lack recordkeeping training (63) Improper/no external visual test (60) Inspector not meet qualifications (38)
2012:	224	75	2,795	No test/inspection records (917) Improper/no pressure test (297) Training records not current (219) Improper/no leakage test (125) Improper/no thickness test (54)

Cargo Tank Rollover Prevention

We have created a Cargo Tank Rollover Prevention Toolbox and made it available throughout the industry.

- This toolbox contains, among other information, the Cargo Tank Rollover Prevention video and a link to the American Transportation Research Institute's (ATRI) Rollover Hotspot Map.
- The video has had more than 50,000 hits and has been distributed in hard-copy form to over 22,000 companies involved in cargo tank transportation and training.
- It has also been used by companies such as Exxon in its international cargo tank driver training. And, the video, in conjunction with the National Tank Truck Carriers, has been made into one specifically for emergency responders who drive water tankers.
- The Toolbox's url is: <http://www.fmcsa.dot.gov/rolloverprevention>

Fireworks Activities

FMCSA is finalizing a response to the American Pyrotechnics Association's request for an exemption from certain HOS rules during the 4th of July fireworks season.

- The request would permit certain motor carriers to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour on-duty period.
- The drivers for these companies would continue to obtain 10 consecutive hours off duty prior to the 14-hour period, and observe the 11-hour driving time limit, as well as the 60- and 70-hour on-duty.

Wrap-Up

Thank you again for the opportunity to speak.

I always look forward to hearing your views on hazmat matters because, frankly, the stakes are higher for carriers like yourselves. The cargo you carry helps fuel the Nation's economy but the consequences of a crash can pose unique challenges that we must be prepared to handle and that we must work hard to prevent from happening.

And thank you for all you do every day to advance highway safety.

###