

# Compliance *News*

*\* Commentary*

**Q&A**

We have a mixed fleet of straight trucks and tractor trailers. How long should the pre-trip take? Also, if a DVIR doesn't show that defects have been repaired, and the carrier hasn't certified that the repairs aren't necessary, may the driver still drive the vehicle?

Regarding how long a pre-trip should take, the answer is "as long as it takes." The regs simply state that the driver shall "be satisfied that the motor vehicle is in safe operating condition." §396.13 (a) The length of time will vary depending on the vehicle configuration, individual driver skills, time of year, and facility location. The main point to consider is whether the driver is allowing sufficient time to detect defects that would affect the safe operation of the vehicle.



Concerning your second question, the driver is prohibited from operating a vehicle if the carrier fails to certify that previously noted 'defects' are not safety related or have been repaired. Operation of the vehicle without that certification places the driver and the carrier in violation of §396.11(c) and subject to appropriate penalties.

However, a driver may sign-off as an agent of the carrier if he/she is satisfied that the defects have been repaired.

For answers to your compliance questions, contact Standard & Best (503) 922-2009. Or logon to [www.standardandbest.com](http://www.standardandbest.com)

## Safety Conference emphasizes people skills and changes in the safety arena

The April conference in Bend featured national speaker Dan Baker and other top tier authorities.

■ Nationally known and respected speaker, Dan Baker, helped his audience part the haze of confusion surrounding the unique skills needed to attract and keep the rapidly growing Generation X and Y drivers now responding to recruiter's offers.

Emphasizing the trucking business as a 'people business,' Baker displayed keen insight into the chasm that stands between the 'Old Mossyback' driver who finds a spot with a company and stays on forever, and the new generation that will move to a new company at the slightest provocation.

People don't deal with you on the basis of what you are, Baker

pointed out, they deal with you on the basis of how they perceive you. The Bulverde, TX, son of a truck driver, challenged his audience to master four skills for effective retention of the new generation of drivers.

- 👉 Learn to be kind, warm & sincere,
- 👉 Learn their name,
- 👉 Learn to say "thank you", and
- 👉 Learn to ask them how they're doing—then listen.

Wrapping up his presentation at the evening awards banquet, Baker mustered those attending to a standing ovation with his plea to never give up their passion for the business that is the backbone of the country they live in.

■ From FMCSA Associate Administrator for Field Operations, Dan Hartman, to ATA Vice President for Safety, Dave Osiecki, the convention brought listeners ... *Continued page 2*

## New requirements for beginning commercial drivers in the works

FMCSA proposed rule making requires States to meet new minimum standards

■ The FMCSA proposes to revise the commercial driver's license (CDL) knowledge and skills testing standards, and to require new Federal minimum standards for States to issue commercial learner's permits (CLPs). FMCSA also proposes that a CLP holder meet vir-

tually the same requirements as those for a CDL holder. Provisions under consideration in the new rulemaking could mean that a CLP applicant:

■ With disqualifying offences under §383.51 would not be granted a CLP until the disqualification period had elapsed.

■ Would be required to operate under a CLP ... *(Continued on page 2)*

## Conference *(Continued)*

... a full menu of skills to perfect and trends to watch out for. Here are a few **highlights**:

✓ A good **return to work** program is still a tested recipe for better Workers Comp rates.

✓ Communications is **55% non-verbal**, so there's a lot to be gleaned from an applicant's unspoken communications when you know what to watch for.

✓ Technology may still be an attractive answer to what's going on in the driver's seat when a crash occurs with tools that provide visual **real-time records of events** triggered by hard stops and other incidents.

✓ All it takes is for you to meet the definition of a 'legally responsible party,' for you to be held liable in a hazmat spill, even if the **environmental release** resulted from an accident.

✓ An FMCSA program that provides individual **driver safety performance history**, which is currently unavailable to motor carriers, will become accessible to carriers in the future.

✓ The **large truck crash rate** resulting in fatalities continues its two decade rate of decline with a new low in 2006 of 2.21/100million miles.

✓ A national clearinghouse for **positive drug & alcohol** test results is gaining momentum following the strides made by individual state initiatives over recent years.

✓ A national **employer notification system** is being championed by the ATA to automatically alert employers when their drivers receive convictions for serious traffic violations. Eleven states already have programs in place.

✓ A **national speed limit** for large trucks may someday be 65 mph with new trucks hardwired at a top speed of 68 mph, if growing industry support prevails.

✓ Programs that **target aggressive cars and trucks** ("TACT"), first tested in Washington state and soon to be unveiled in Oregon, have gained national attention as tool to address the

disproportionately high rate of passenger vehicles as the prime cause of a large truck crash.

✓ **CSA 2010**, now testing in four states, may result in the days of a full compliance review being numbered and targeted areas for review taking up the lead.

✓ **Cross-border traffic** by Mexico-domiciled carriers continues to receive close safety monitoring under the pilot program involving 55 trucks and 16 motor carriers begun last year.

✓ Sleep studies suggest that 30% of commercial drivers have a suspected **sleep disorder**, with 1-in-10 at risk of a significant disorder.

✓ Drivers with a body mass index (**BMI**) >35 may one day see themselves being evaluated for sleep apnea under recommendations made by the FMCSA Medical Review Board.

✓ New provisions under consideration in an **OR-OSHA** proposed rulemaking would require Oregon companies of any size to have documented safety meetings.

## Proposed rule *(Continued)*

... for a minimum of 30 days before applying for a full CDL.

■ Would be limited in the initial and renewal periods for both the CLPs and CDLs. Two options under consideration would limit the period the CLP would be valid to either a 90-day or a 180-day period.

■ Be disallowed from using language interpreters for the knowledge and skills tests.

■ Would be required to complete a knowledge test before being issued a CLP in all states—currently some states do not require a knowledge test before issuing a CDL permit.

■ Would be limited to non-specialized CMVs during until a CDL is obtained.

☎ Submit comments to [www.regulations.gov](http://www.regulations.gov) and in the Comment or Submission section type "FMCSA -2007-27659". Deadline for submissions is June 9, 2008.

## Cost of noncompliance high for carriers failing to meet minimums.

According to public records, motor carriers continue to discover that the cost of noncompliance can be high. A sampling of hazardous materials fines reported:

☞ Kentucky oil carrier fined \$21,030 for failing to test and inspect spec tanks, train hazardous materials employees as required, and failing to comply with security plans requirements

☞ Texas paving company fined \$34,490 for failing to train hazmat drivers, prepare a security plan, or maintain copies of shipping papers as required.

☞ Southern hazmat shipper fined \$65,900 for shipping paper violations.

## Stats

● Seat belt usage among commercial truck drivers is up from 48% in 2004 to 65% for 2006.

● 30% of commercial truck drivers are suspected to suffer from sleep disorders, with 1-in-10 at risk of a significant sleep disorder.

● Oregon truck-at-fault crashes most frequently are a result of driver, not mechanical factors, involving an Oregon-based company, and involve triple trailers less-than-one percent of the time according to a 2006 ODOT analysis of 1402 truck crashes.



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☎ Canyonville—Compliance Practitioner's BOOT

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