

GUARDIAN

A Publication of the Commercial Vehicle Safety Alliance

Volume 27, Issue 2
2nd Quarter 2020

Dispelling Misconceptions

CVSA ANSWERS SOME OF ITS
MOST ASKED QUESTIONS



**Duane Dornath of
Western Express
is CVSA's 2020
International
Driver Excellence
Award Winner**

**Legal and Ethical
Consequences of
Plea Negotiations
Involving Commercial
Driver's Licenses**

**Curtailling
Human Trafficking
Demand:
Cutting Off the
Head of the Snake**

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GUARDIAN

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PRESIDENT'S MESSAGE

Back to the Basics

By Sgt. John Samis, Delaware State Police, CVSA President

The North American Standard Inspection Program has improved and modernized over time with the aid of technology and training, allowing our inspections to become more efficient and accurate. As new technology emerges and training efforts continue, the inspection program will continue to advance. However, even with improvements and growth, crashes and fatalities involving commercial motor vehicles have remained on a steady incline.

On Aug. 6, 2019, through a formal letter to Congress, CVSA requested that the U.S. Department of Transportation receive funding to update the large truck crash causation study. The last large truck crash causation study was conducted from 2001-2003. If that funding is approved, it will allow access to the most current and accurate data as it relates to traffic crashes, injuries and fatalities.

In the meantime, the Federal Motor Carrier Safety Administration's (FMCSA) 2019 Pocket Guide to Large Truck and Bus Statistics reports that three of the top five driver violations on inspection reports in 2018 were traffic violations – speeding, failure to use a seatbelt while operating a commercial motor vehicle and failure to obey a traffic control device. I find it concerning that despite the efforts of law enforcement and advances in technology, these violations are in the top five.

Law enforcement must get back to the basics and do its part to lower traffic violations and hold drivers accountable. Increase personnel conducting traffic enforcement, set up seatbelt checkpoints and use LIDARs. These are just some of the basic traffic enforcement tools at our disposal while continuing to maintain inspection efforts.

As law enforcement continues to conduct inspections and enforce traffic violations, the companies behind the trucks and buses can assist within their own companies to help improve statistics and ensure everyone makes it safely to their destinations.

Drivers themselves can make the biggest impact by wearing seatbelts and adjusting their speeds according to traffic and road conditions.

Advances in technology have also emerged for industry, allowing companies to use GPS monitoring and speed limiters. Companies can consider conducting driver training, mandatory driving assessments and offering rewards or quarterly bonuses to drivers who practice safe driving measures. Requiring a clean safety record of three years or longer for new hires, while also holding drivers accountable for violations and crashes, are just a few ideas that companies can take into consideration to help encourage safe driving. Although some of these options may involve an initial cost increase, they can save companies a considerable amount of money over the long term.

To help promote safe driving, CVSA holds enforcement blitzes every year, such as International Roadcheck, Operation Safe Driver Week and Brake Safety Week. Many jurisdictions also hold state and regional enforcement campaigns. Publishing these events encourages safe driving and allows jurisdictions to join in the campaigns or hold their own. I urge everyone to share their ideas with other departments which will allow us all to work together successfully. For example, each issue of "Guardian" has a dedicated Regional News section for jurisdictions to share what they are working on in their regions.

It will take a combined effort from law enforcement, motor carriers and drivers to begin to reverse the incline of crashes and fatalities involving commercial motor vehicles. Let's all continue to do our part to make our roadways safer. ■





EXECUTIVE DIRECTOR'S MESSAGE

COVID-19

What We Missed Without Embracing Universal Electronic ID and Level VIII Electronic Inspections

By Collin B. Mooney, MPA, CAE, Executive Director, Commercial Vehicle Safety Alliance

It's early May and, like many people, I'm working from home following a statewide stay-at-home order, practicing physical distancing, washing my hands frequently, following recommendations from recognized health authorities, such as wearing a face mask in public, and every day feels like Groundhog Day. As a child, I'd been in trouble and grounded before, but this is the longest "timeout" I've ever experienced and I don't even know what I did wrong; it's for something I didn't even do.

Anyway, as we were forced to abruptly adjust to a new reality, the commercial motor vehicle (CMV) enforcement community, the motor carrier industry, all levels and branches of government, and our public-sector partner associations were all frantically adjusting operations and/or fast-tracking the implementation of new service models in order to continue serving the transportation sector and the general public as efficiently and effectively as possible.

When we talk about adjusting our operations or implementing a new service model, these discussions usually occur organically, evolve over a period of time and are associated with a well-thought-out implementation plan. However, in the current COVID-19 environment, we're having to make decisions on the fly, all while learning from our mistakes as we readjust and make the best of this new uncharted experience.

Universal Electronic ID

As we're in the midst of this global pandemic, one of the lessons learned during this unprecedented experience is the disadvantage caused by slow adoption of universal electronic identification (ID) for all commercial motor vehicles. With government credentialing agencies, such as departments of motor vehicles, closed to the public, many have had to rely exclusively on online services or have had to change service models on the fly in order to effectively service the public.

With all of the challenges associated with obtaining or renewing a vehicle registration, including apportioned plates, we already have a solution that, if fully embraced and implemented, could have served as the platform for government authorities to push new vehicle registrations, renewals or other CMV-related credentials (such as International Registration Plan, International Fuel Tax Agreement and Unified Carrier Registration) electronically to the vehicle. By doing so, we wouldn't have had to rely upon the inefficient and outdated practice of issuing waivers and extensions as guidance for the greater law enforcement community and the motor carrier industry.

If there was ever a time to evolve as a community and implement new service models for the transportation sector, the time is now to embrace universal electronic ID in order to realize our collective vision.

Level VIII Electronic Inspections

The second lesson learned is the cost of the unfortunate slow implementation of our Level VIII Electronic Inspection initiative. Once the vision of a universal electronic ID is fully embraced and implemented, we'll be able to leverage that platform to identify a commercial motor vehicle electronically without the use of license plate or DOT number readers, and we'll be able to validate all operating credentials without stopping a CMV or physically having to interact with the driver.

During this unusual period of physical distancing, we're also experiencing a significant drop in CMV inspection and enforcement activity. This new electronic inspection model would have been the solution to permitting a safe and efficient way to conduct a Level III CMV driver credentialing and qualification inspection, maintaining distance without having to curtail roadside inspection and enforcement activities.

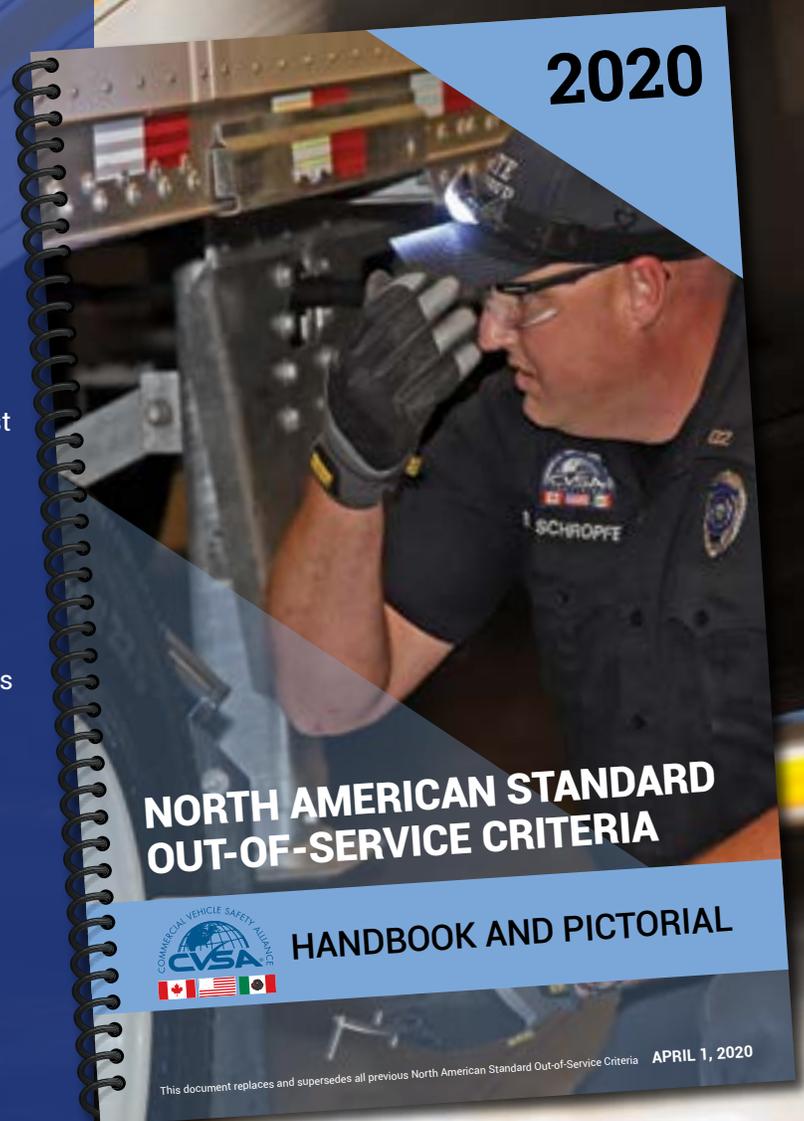
In closing, we must take a moment to reflect on what this experience could have been had we embraced these two initiatives by being more aggressive and forward thinking. Then, with the information gleaned from this experience, we must push to make the legislative, regulatory and programmatic adjustments necessary to emerge from this experience as a much stronger community.

In the meantime, please take care of yourself, stay well and we hope to see all of you at a future CVSA event. ■

Purchase the 2020 CVSA Out-of-Service Criteria

CVSA offers several formats of the new out-of-service criteria. Find the version that works best for you.

- The app contains the out-of-service criteria, inspection bulletins, pictorials, the learning management system for online training, inspection procedures, operational policies, inspection and educational videos, brochures and webinars. Download the app by searching "CVSA" in the Apple or Google Play stores.
- The spiral-bound, hard-copy handbook is CVSA's most popular format.
- The electronic handbook is a PDF file with a restricted three device and/or web browser limit. The PDF cannot be printed or copy-and-pasted and is best viewed on a desktop computer.
- CVSA offers the handbook in several languages: Spanish, English/Spanish bilingual, French and English/French bilingual.



Visit www.cvsa.org and select "Store" to purchase your print or electronic copy of the "2020 North American Standard Out-of-Service Criteria Handbook and Pictorial."



Updates from Puerto Rico's Transport and Other Public Services Bureau

By **Linette Santiago Vázquez**, *Communications Specialist, Transport and Other Public Services Bureau, Puerto Rico*

NTSP Offers Workshops on the Transport of Hazardous Materials

As part of the initiatives to continue familiarizing all the agents of the Transport and Other Public Services Bureau (NTSP, for its Spanish acronym) and members of the industry on Puerto Rico's state and federal laws and regulations regarding the transportation of hazardous materials, a series of conferences were held during three days in March.

The workshops were held in collaboration with the Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Assistance Program (MCSAP) and the Pipeline and Hazardous Materials Safety Administration (PHMSA).

"For us, it is essential to keep all our agents, including MCSAP and non-MCSAP, as well as the members of the industry, up to date regarding the regulations on the transport of hazardous materials in order for the carriers to know what is expected of them and to ensure the safety of all citizens who transit the public roads of the territory," said NTSP Chairman Luis García-Fraga.

The workshops were offered by FMCSA Safety Programs Manager Margie Rodríguez McQueen, FMCSA Hazardous Materials Training Specialist Melissa Townsend, FMCSA Hazardous Materials Program Manager Suzanne Ellis, PHMSA Transportation Specialist Elizabeth A. LaDow, PHMSA Investigator Alex Figueroa, PHMSA Transportation Specialist Eugenio Cardez and PHMSA Transportation Specialist Felix Gonzalez.



NTSP Carries Out Outreach Campaign on Non-Compliance with the Rate System

NTSP agents together with NTSP Chairman García-Fraga carried out an outreach campaign in which they visited several private companies to offer guidance on the changes included in the second phase of the NTSP Code of Regulations, as well as the penalties to which they are exposed for not complying with the tariff system.

"With this guidance, we fulfill our commitment to ensure fair payment to carriers. The demand for payment according to the NTSP's approved fees was a constant theme in all the meetings we had with various sectors. When we approved the second phase of the Code of Regulations, we included new sanctions for those who do not comply with the payment of said fees," said NTSP Chairman García-Fraga.

The guidance was focused on visiting private companies so they learned about the new changes in order to comply with applicable regulations, especially concrete, aggregate transport and refrigerated cargo companies, among others.

"Anyone who fails to comply with the new requirements established in the NTSP Code of Regulations will be fined for up to \$10,000. In addition, with this measure we intend to avoid the penalization of truckers who were previously barred by the companies or whose contracts were cancelled in retaliation for complaining to the NTSP," concluded the chairman. ■



REGIONAL MAP

Region I

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, U.S. Virgin Islands and Vermont

Region II

Alabama, American Samoa, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia

Region III

Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Northern Mariana Islands, Ohio, South Dakota and Wisconsin

Region IV

Alaska, Arizona, California, Guam, Hawaii, Idaho, Mexico, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming

Region V

Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nova Scotia, Nunavut, Ontario, Prince Edward Island, Quebec, Saskatchewan and Yukon

REGION II

CVSA Decals: What Good Are They After They Expire?

By **Sgt. Brad Gibson**, Commercial Vehicle Enforcement Training Unit, Texas Highway Patrol Division, Texas Department of Public Safety

On Feb. 20, 2020, Texas Department of Public Safety (DPS) Highway Patrol Tpr. Justin Tabor stopped a “hot shot rig” (a one-ton truck towing a flatbed trailer) for a routine Level II inspection on IH-20 in Taylor County, where the driver had delivered his load and was traveling back home to Waco, Texas.

During the inspection, Tpr. Tabor became suspicious when the trailer’s temporary registration return came back showing that the trailer, which was obviously an older commercially manufactured trailer, was a 2020 homemade trailer. The trailer’s vehicle identification number (VIN) sticker had been removed and the only identifying sticker/label/markings on the trailer was a CVSA decal issued in August 2018.

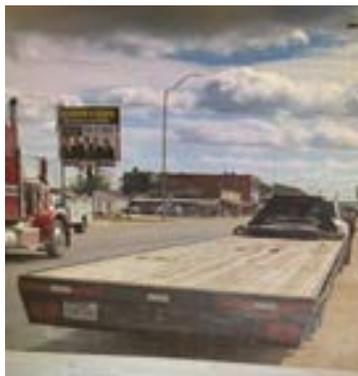
Tpr. Tabor reached out to Sgt. Brad Gibson with the Texas DPS Commercial Vehicle Enforcement (CVE) Training Unit for assistance in trying to determine who the CVSA decal was issued by, in an effort to gather more information about the trailer.

Sgt. Gibson was able to verify through locally maintained records that the CVSA decal was not issued to Texas and further reached out to CVSA Executive Director Collin Mooney to determine who the issuing agency was. Mooney was able to ascertain that the CVSA decal was issued to the Mississippi Department of Public Safety (DPS).

By this time, Tpr. Tabor had gathered as much evidence and information as he could, completed the inspection and released the driver and vehicle, as the driver had an appointment set up to have a 68-A inspection done on the trailer so he could obtain a title and register it. A 68-A inspection is a specialized inspection conducted by a law enforcement officer to verify the identity of a vehicle for registration purposes, such as for homemade trailers, vehicles that previously haven’t had a title or for other reasons.

Tpr. Tabor was able to obtain a copy of the inspection report from Mississippi DPS documenting when the CVSA decal was issued. The inspection report listed the trailer’s VIN assigned by the manufacturer, its gross vehicle weight rating and the CVSA decal number. Tpr. Tabor then ran the VIN listed on the Mississippi DPS inspection report, which showed the trailer was reported stolen on Nov. 26, 2019.

After reporting the trailer stolen, the owner removed the VIN sticker, ground away the trailer’s secondary VIN and painted over and/or removed all of the manufacturer’s markings, leaving nothing identifiable but the CVSA decal.



This is the trailer one month before it was reported stolen.



This is the trailer at the time of the stop.



Note the CVSA decal.

Tpr. Tabor believed that the owner left the CVSA decal on the trailer to discourage DOT officers from stopping it. Tpr. Tabor reached out to the officers scheduled to conduct the 68-A inspection, Lt. Howard Stinehour, with the Burnet County Heart of Texas Auto Theft Task Force, and Jeff Aycok, with the National Insurance Crime Bureau (NICB), with the evidence and information he collected.

By the time the 68-A inspection was conducted on Feb. 26, 2020, the owner had removed the old CVSA decal, sanded the area where it was located and repainted the area. Only with the evidence and information collected by Tpr. Tabor were Lt. Stinehour and

Mr. Aycok able to determine the true identity of the trailer, allowing them to seize it.

The Burnet County Heart of Texas Auto Theft Task Force and the NICB are currently pursuing insurance fraud and removing/altering VIN charges against the owner.

Through a collaborative effort among the Texas DPS Highway Patrol, the Texas DPS CVE Training Unit, CVSA, the Mississippi DPS, the Burnet County Heart of Texas Auto Theft Task Force and the NICB, an old expired CVSA decal served an unintended purpose that led law enforcement to apprehend a felon. ■

South Dakota CMV Driver Honored for Assisting Assaulted Trooper

By **Capt. John Broers**, South Dakota Highway Patrol, South Dakota Department of Public Safety; CVSA Vice President

On Feb. 28, 2020, South Dakota Highway Patrol (SDHP) Col. Rick Miller presented the Superintendent's Performance Award to driver James Meyer of Pierre, South Dakota, for his quick-thinking actions that aided a state trooper after a traffic stop turned bad.

On June 28, 2019, a trooper stopped a vehicle on Interstate 29 for several traffic violations. The vehicle was occupied by the driver and a six-year-

old child. The trooper noticed several signs of drug and alcohol impairment from the driver.

As the trooper began the DUI investigation, the driver became uncooperative and tried to get back to the driver's seat of the vehicle. Due to the obvious signs of impairment, the trooper attempted to stop the driver from reaching the vehicle. The driver began to actively fight with the trooper in an attempt to escape.

As the trooper tried to gain control of the driver, commercial motor vehicle (CMV) driver James Meyer observed the fight while traveling in the driving lane of the interstate. He saw the need for assistance and pulled his semi-truck trailer combination to the side of the road while still blocking the driving lane to protect the trooper and driver from oncoming traffic.

Meyer got out of his truck and came to the trooper's aid. Meyer yelled for the driver to stop and pulled the driver away from the trooper. The driver attempted to get into the driver's seat again, but Meyer was able to strip the keys from the ignition and hold the driver in the vehicle. Meyer was able to prevent the driver from escaping or assaulting anyone further until additional law enforcement back-up arrived at the scene.

The appreciative trooper nominated Meyer for the SDHP Superintendent's Performance Award for not only preventing other traffic from hitting the officer and suspect during the assault, but for his assistance in apprehending the combative driver. His actions certainly prevented further injury to the trooper or worse, being struck by another driver. He was able to prevent the intoxicated driver from further endangering himself, the six-year old child and other vehicles on the road that day.

The driver was placed under arrest for several charges, including driving under the influence and assaulting a law enforcement officer.

Col. Miller presented the award to Meyer at the South Dakota Law Enforcement Training Academy and was joined by Meyer's family and many members of the SDHP and other law enforcement agencies.

Meyer simply stated he saw someone in need and wanted to help. Col. Miller said there was more to it than that.

"It is an honor to present an award to a citizen such as James Meyer," said Col. Miller. "His actions prevented a further assault on one of our fellow troopers or a needless alcohol and drug impaired driving death. Mr. Meyer's willingness to provide assistance speaks to his character and willingness to help out those in need." ■



Col. Rick Miller (pictured left) presents James Meyer (right) with the Superintendent's Performance Award for his quick-thinking actions that aided a state trooper.



The Necessities of Load Securement

By **John Watkins**, Motor Carrier Services Patrol, Montana Department of Transportation

Commercial motor vehicle inspectors must always be aware of one of the most visible aspects of the trucking industry – load securement. Ensuring proper load securement also ensures the traveling public does not have to swerve around debris or worry when they are following a commercial motor vehicle that something is about to fall off a load. Load securement failures can cost the motorist a windshield, tire or body damage, and could lead to potentially dangerous incidents. This is unacceptable for the public.

Proper load securement not only protects the cargo being carried but the equipment carrying it. Keeping a load from shifting helps protect the securement devices and the commercial motor vehicle transporting it. Once a load has shifted, the steering, suspension, body components and securement devices themselves are at risk of failure. The traveling public places trust in the inspectors to help ensure that products, dunnage and equipment do not fall onto the roadway, creating a road hazard.

According to the Federal Motor Carrier Safety Administration's 2019 Pocket Guide to Large Truck and Bus Statistics, in 2018, there were 1,101,199 Level I Inspections and 1,200,315 Level II Inspections completed. Although load securement failed to make the top 20 of the most frequent vehicle violations, it remains a critical and important aspect of commercial motor vehicle inspections. ■



Load securement. Photo by Eric Miller.



Tire load securement. Photo by Justin Moran.



Broken link. Photo by Matt Coleman MCS87.



Repaired strap. Photo by John Watkins.



Loose cargo. Photo by John Watkins.

UPDATES FROM



Mexico

Weight and Dimensions Enforcement Inspections

Vehicles and vehicle configurations providing cargo service (established by the Official Mexican Standard NOM-012-SCT-2-2017) were inspected for the maximum weight and dimensions that motor transport vehicles can be driven for federal motor transportation on Mexican interstate roadways. The inspections were conducted at the control center along the Mexico-Querétaro highway, the highway where the largest number of cargo vehicles circulates.

In this operation, documentation reviewed included federal licenses, drivers' hours-of-service logbooks, cab cards, directives on physical-mechanical conditions, current pollutant emissions and bills of lading.

Also, technical and safety provisions for articulated vehicles were checked, such as those that have an automatic adjustment braking system; a converter equipped with a double safety chain; and an anti-lock braking system (ABS), which is installed on all axles except the directional air suspension and dual-action brake chambers.

Director General for the Federal Motor Carrier Safety Transportation General Directorate (DGAF) Salomón Elnecavé gave the directive to start the weight and dimensions operations, which will be carried out in 2020 with participation of National Guard officers.



Third Global Ministerial Conference on Road Safety

During his participation in the Third Global Ministerial Conference on Road Safety, in Stockholm, Sweden, on Feb. 19-20, 2020, DGAF Director General Salomón Elnecavé indicated that in Mexico, efforts must be increased to control drivers' hours of service in accordance with the Official Mexican Standard NOM-087-SCT-2-2017 and the legal framework of federal motor transport must be strengthened with a safe, systematic approach through the rigorous application of the law.

He pointed out that the co-responsibility of the National Guard and the private sector is necessary in the management of safety and law enforcement. He also mentioned the importance of applying existing and future technologies to improve all aspects of road safety.

The Third Global Ministerial Conference on Road Safety had the following objectives:

- Promote the actions of the public and private sector, academia and non-governmental organizations to reduce deaths from accidents by at least 50% between 2020 and 2030.
- Reiterate the commitments expressed in the Stockholm Declaration (2020).
- Improve road safety by promoting global efforts to achieve a significant reduction in deaths and injuries.
- Define joint strategies and action plans for road safety.



'Ensuring Decent Work Conditions' Parallel Session at the Third Global Ministerial Conference on Road Safety

Director General of Federal Transport of the Secretaría de Comunicaciones y Transportes (SCT) (Ministry of Communications and Transportation) Salomón Elnecavé was a panelist in a parallel session convened by the International Labor Office of the World Health Organization at the Third Global Ministerial Conference on Road Safety. Addressing the problem of "decent work" is considered by Mexico as a human right whose qualities provide federal motor transport drivers with healthy working conditions. Ensuring these standards are met is of interest to governmental and non-governmental organizations, as well as the private sector.

During the parallel session, the representative of the SCT reaffirmed the interest of the administration in the progress of decent work, a fundamental issue whose development offers an essential framework to achieve the goals of road safety.

In Mexico, decent work faces the challenge of fragmentation in the management of road safety and the proper application of the decent work agenda. Therefore, it is important that operators have better training, adequate knowledge and a willingness to comply with the regulatory framework.

For the SCT, the implementation of policies, programs or practices to attack the causes

of claims at the root are developed among these measures: driving times, medical exams and professionalization. These aspects were worked on in shared responsibility with the actors, shippers, entities, intermediaries, transporters and independents who jointly have taken on the task of facing the global challenges between commercial interests and road safety. ■



 **MARK YOUR CALENDAR**

CVSA WORKSHOP

**April 18-22, 2021
LOUISVILLE, KENTUCKY**

CVSA may have had to cancel the 2020 CVSA Workshop due to health and safety concerns associated with the coronavirus, but the 2021 CVSA Workshop is still scheduled to take place as scheduled, April 18-22, 2021, in Louisville, Kentucky. So mark your calendar for next year. We're looking forward to seeing everyone again next spring.

AMTA Implementing Research and Innovation Program

By **Angie Rice**, *Research and Grants Coordinator, Alberta Motor Transport Association*

The Alberta Motor Transport Association (AMTA) is working toward a research and innovation program. With such a program, the association can support the commercial transportation industry and stakeholders by playing an active role in the introduction, research, proof of concept and deployment of innovative technologies, systems and processes.

Technologies of interest include connected vehicles, automated vehicles, alternative fuels, virtual reality and simulations, among others.

"Aligning with the AMTA's mission, we see this initiative as an opportunity to foster strategic and collaborative partnerships to benefit research and development within the commercial transportation industry while supporting education, safety and advocacy," said AMTA Director of Compliance and Regulatory Affairs Andrew Barnes. "The AMTA will be implementing our research and innovation initiatives this year and recently formulated a steering committee for the program."

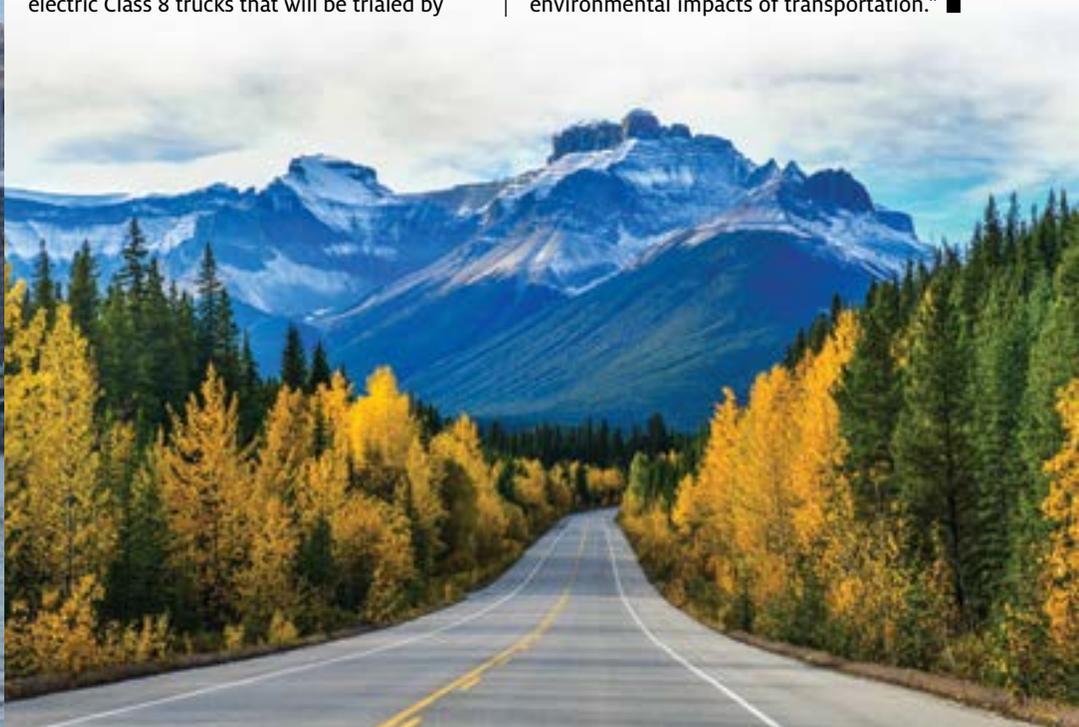
The AMTA is the lead applicant for the Alberta Zero Emissions Truck Electrification Collaboration (AZETEC) project. This project is a \$15 million industry-led initiative funded in part by Emissions Reduction Alberta to reduce emissions from Alberta's heavy-duty transportation industry. AZETEC involves the design and build of two hydrogen fuel cell electric Class 8 trucks that will be trialed by

Bison Transport and Trimac Transportation between Edmonton and Calgary. These trucks will be heavy weight, 63.5 tonnes (metric tons), and B-train capable with no tailpipe emissions.

The design and build of the trucks will occur from July 2019 to June 2021 and road testing is scheduled for July 2021 to December 2022. Objectives of this initiative include developing technology that can be successfully deployed to meet the unique demands of Canada's commercial transportation industry, assisting in the movement of commercial transportation toward zero emissions and promoting a Canadian hydrogen economy.

The AMTA also actively participates in various steering committees and groups involved in initiatives relating to transportation and mobility. This includes being a member of the Clean Air Strategic Alliance's Rover III Project Team, ACAMPS' Autonomous Systems and Robotics Consortium, and the University of Alberta's Centre for Smart Transportation Steering Committee. Recently, the AMTA joined Stantec as a partner for its connected vehicle incubator initiative which looks to incorporate technology into transportation.

"The AMTA sees value in research and innovation as it can contribute to the safe, efficient and secure movement of goods and people," added Barnes. "There is also opportunity to develop sustainable, energy-efficient transportation that can reduce the environmental impacts of transportation." ■



Dispelling Misconceptions



CVSA ANSWERS SOME OF ITS MOST ASKED QUESTIONS

CVSA is the premier commercial motor vehicle safety organization with a membership of individuals dedicated to driver, vehicle and highway safety and committed to ensuring uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement activities throughout North America.

Part of CVSA's mission is to improve commercial motor vehicle safety by providing guidance and education to enforcement, industry, policy makers and the general public. As the organization that represents the law enforcement agencies and, by extension, the individuals who enforce commercial motor vehicle and driver safety regulations, CVSA often has to clarify misinformation about the Alliance and commercial motor vehicle enforcement.

The next four pages feature some of the questions we've consistently received throughout the years, along with their answers. Hopefully, this information will help provide clarity and dispel misconceptions some people may have about the Alliance, commercial motor vehicle roadside inspections and regulatory enforcement.

[Continued on next page](#)



Continued from page 11

WHAT'S THE DIFFERENCE BETWEEN CVSA AND U.S. DOT/FMCSA?

CVSA is a nonprofit association comprised of federal, state, provincial, territorial and local commercial motor vehicle safety officials and industry representatives responsible for the development and coordination of the North American Standard Inspection Program.

The Federal Motor Carrier Safety Administration (FMCSA), on the other hand, is a modal government agency within the U.S. Department of Transportation (DOT) responsible for the regulatory oversight of interstate commercial motor vehicle safety on U.S. roadways.

In short, CVSA is a nonprofit organization; FMCSA is a government agency.

FMCSA develops and maintains the Federal Motor Carrier Safety Regulations and CVSA's member agencies enforce those regulations and use the North American Standard Out-of-Service Criteria to determine when vehicles or drivers should be removed from roadways.

Canada and Mexico also have government agencies that develop regulatory requirements and CVSA provides uniform direction related to the roadside inspection program to each state, province and territory to ensure consistency, where possible.

WHAT IS CVSA'S RELATIONSHIP TO U.S. DOT/FMCSA?

CVSA and FMCSA are distinctly separate entities but have a cooperative, symbiotic and collaborative relationship.

While FMCSA is responsible for the development and maintenance of the Federal Motor Carrier Safety Regulations, CVSA develops and maintains all non-regulatory elements of the North American Standard Inspection Program.

FMCSA also supports the state and local law enforcement agencies that enforce the federal regulations by providing financial assistance through its Motor Carrier Safety Assistance Program (MCSAP). Those law enforcement agencies comprise the U.S. state and territorial representation of CVSA's membership. FMCSA also provides grant assistance to support CVSA enforcement, outreach and awareness programs, such as International Roadcheck, Operation Safe Driver, Operation Airbrake, Human Trafficking Enforcement, etc. FMCSA and CVSA often work together to keep U.S. roadways safe and improve commercial motor vehicle safety through consistency, reciprocity, education, enforcement, outreach and technology.

Furthermore, CVSA, as the voice of commercial motor vehicle safety enforcement officials, assists FMCSA by providing the enforcement perspective on rulemaking initiatives and implementation of regulatory requirements. Also, as a nonprofit organization, CVSA can be flexible and nimble, which enables the Alliance to respond to the needs of the commercial motor vehicle enforcement community relatively quickly compared to the federal government.

HOW ARE THE REGULATIONS AND CVSA'S OUT-OF-SERVICE CRITERIA DIFFERENT?

Regulations are developed by federal, state, provincial or territorial regulatory authorities. For example, FMCSA is the federal agency under the U.S. Department of Transportation responsible for developing and maintaining the regulatory framework, or rules, for the motor carrier industry.

CVSA is an independent, nonprofit organization separate from the government. CVSA is a coalition that represents commercial motor vehicle safety inspectors/jurisdictions throughout Canada, Mexico and the U.S. Through its members, CVSA seeks to improve commercial motor vehicle safety and uniformity throughout North America. CVSA's North American Standard Out-of-Service Criteria ensures uniformity in determining whether or not drivers or vehicles present an imminent hazard and should be placed out of service.

Motor carriers and drivers must comply with the federal, state, provincial or territorial regulations. Those regulations set forth minimum standards for those involved with the operation of commercial motor vehicles in interstate/interprovincial commerce.

The North American Standard Inspection Program, created by CVSA, serves as the roadside process for inspecting commercial motor vehicles and drivers to ensure compliance with the regulations. CVSA members uniformly apply the North American Standard Out-of-Service Criteria, which is the pass-fail criteria for inspections. The purpose of the criteria is to identify critical violations that render the driver and/or vehicle out of service until the violations can be corrected or repaired.



Essentially, the federal, state, provincial or territorial government agencies create the regulations and CVSA member jurisdictions enforce those regulations. The out-of-service criteria identifies those violations that present an imminent hazard to roadway safety.

WHY DOES CVSA MAKE THE OUT-OF-SERVICE CRITERIA, NOT THE FEDERAL GOVERNMENT?

Government agencies/departments, such as FMCSA, establish regulations. Associations, such as CVSA, set standards. The North American Standard Out-of-Service Criteria is not a regulation. It's copyrighted guidance, by CVSA, that outlines imminent hazard conditions that place drivers, vehicles and motor carriers out of service based on a roadside safety inspection.

The out-of-service criteria has evolved from decades of collaborative efforts by the commercial motor vehicle enforcement community, representatives from various levels of governments, motor carriers, owner-operators, drivers, equipment manufacturers, industry service providers and industry-related trade associations.

WHY IS THE OUT-OF-SERVICE CRITERIA UPDATED?

The North American Standard Out-of-Service Criteria was created in the early 1980s. As you know, there have been many changes in regulations and updates in technology since then and such changes continue to occur. Items in the criteria need to be clarified, readdressed, and new conditions need to be added while some need to be removed. As a result, the out-of-service criteria is updated

annually on April 1 to reflect changes in regulations, updates in technology, changes to parts and equipment, etc.

WHAT IS THE PROCESS FOR MAKING CHANGES TO THE OUT-OF-SERVICE CRITERIA?

Any individual (member or non-member) interested in proposing a change to the out-of-service criteria starts that process by submitting an issue request for action through CVSA's website (www.cvsa.org/submit-issue). The request is then reviewed by CVSA staff and forwarded to the appropriate CVSA committee chairperson to be discussed during the next in-person meeting – either the CVSA Workshop in the spring or the CVSA Annual Conference and Exhibition in the fall.

Ideally, the issuer would attend the meeting where the issue will be discussed to ensure it is adequately presented to the committee and appropriately discussed. The issuer would outline to the committee why the change should be made (is there an update in technology, a crash that was caused due to the condition, etc.) and related photos or data would be presented as well.

If the committee agrees that the change should be made to the out-of-service criteria, the committee chairperson will work with the members of the committee to present an action item to the CVSA Board of Directors for approval at a future board meeting. If the board agrees that the change should be made to the out-of-service criteria, the board will submit that proposed change to the membership for approval or denial.

According to Article VII in the CVSA Bylaws, each Class I Member (one vote per jurisdiction) must vote on any amendments to the North

American Standard Out-of-Service Criteria. If the majority votes to approve the change, it will be reflected in the next update of the out-of-service criteria, which would be effective as of the next April 1.

WHY DO WE NEED REGULATIONS?

Most motor carriers, drivers and vehicles are safe and function in full compliance with regulations. Although some carriers and drivers would adhere to safety practices with or without regulations, we, as a community, as a society, cannot take that chance; not when the motoring public's lives are at stake.

Regulations provide consistency and safety on the highways. Without regulations, there would be no way to address the carriers and drivers that do not operate safely, which is dangerous for everyone on our roadways. Without regulations, carriers and drivers could drive for as long as they wanted, with as little training as they felt necessary, in vehicles that were maintained to any level of safety.

WHO MAKES REGULATIONS?

In the U.S., most of the regulations that pertain to interstate motor carriers, vehicles and drivers are written and developed by FMCSA. FMCSA is the federal governing body for interstate commerce; however, there are also state/territory laws that must be adhered to in addition to the federal regulations. Furthermore, Hazardous Materials Regulations related to the safe transportation of hazardous materials on our roadways are developed by the U.S. Pipeline and Hazardous Materials Safety Administration.

In Canada, there are National Safety Code Standards that each province and territory

Continued on next page



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use to develop their provincial and territorial regulations. In some jurisdictions in Canada, they adopt a federal standard through their provincial/territorial regulations, while others will develop independent regulations specific to their province/territory.

WHY ARE SAFETY REGULATIONS UPDATED?

As the demand for goods and services change over time, industry, law enforcement and technology adapt to those needs. This requires some regulations to be clarified or readdressed and, in some cases, new regulations must be created and outdated regulations removed.

WHAT'S THE PROCESS FOR CHANGING THE FEDERAL MOTOR CARRIER SAFETY REGULATIONS?

Generally, the Federal Motor Carrier Safety Regulations are changed when FMCSA, sometimes at the direction of Congress, creates or modifies a regulation. FMCSA will propose rulemaking through notice and comment in the Federal Register. FMCSA may post an advanced notice of proposed rulemaking or a notice of proposed rulemaking to gather information from the public before finalizing a rule.

CVSA will often submit comments to proposed regulations, and the federal government values the Alliance's opinions and contributions; however, CVSA has no authority in changes made to the Federal Motor Carrier Safety Regulations. Congress and FMCSA alone can create, remove or modify the regulations.

WHO'S THE PERSONNEL AT WEIGH STATIONS? WHO'S INSPECTING COMMERCIAL MOTOR VEHICLES?

While there are some variances from jurisdiction to jurisdiction, generally, the personnel at weigh/inspection stations are a combination of law enforcement officials and civilians responsible for the enforcement of commercial motor vehicle regulations in that state, province or territory. However, only qualified authorized personnel may complete an inspection of a commercial motor vehicle. Authorized personnel are employees of federal, state, provincial or territorial agencies certified to conduct an inspection of a commercial motor vehicle.

For an individual to be authorized to conduct North American Standard Level I Inspections, he or she must complete the CVSA-approved North American Standard Part A (Driver) and Part B (Vehicle) Inspection Courses and pass the CVSA-approved written exams.

In addition to the training and testing requirements, the inspector trainee must complete, within six months of passing both written exams, at least 32 North American Standard Level I Inspections with a certified inspector who will evaluate the inspector trainee for knowledge of the regulations, proficiency in the inspection process and documentation of violations.

Inspectors who successfully complete the above-outlined training courses, exams and minimum number of inspections are qualified and authorized to conduct CVSA North American Standard Inspections and may apply CVSA decals to commercial motor vehicles that pass Level I or Level V Inspections.

WHERE DOES THE MONEY COME FROM IN THE U.S. FOR COMMERCIAL MOTOR VEHICLE ENFORCEMENT?

States and the federal government pay for commercial motor vehicle enforcement.

The states authorize and fund their commercial motor vehicle agencies (state patrols, departments of transportation, commissions, etc.) for commercial motor vehicle enforcement.

The federal government also provides money to states to enforce weight laws and commercial motor vehicle safety regulations. The Federal Highway Administration requires states to have fixed and mobile weight enforcement functions as a condition of receiving state highway money. FMCSA provides funding to states through grants. FMCSA has two types of grants: fixed and competitive. Competitive grants are either for specific safety initiatives or technology. The Motor Carrier Safety Assistance Program (MCSAP) is a fixed grant program. MCSAP is typically what people think of when a state inspects a commercial motor vehicle. To receive MCSAP funding, a state must complete a commercial vehicle safety plan submitted to and approved by FMCSA.

DOES CVSA MAKE MONEY FROM PLACING VEHICLES OUT OF SERVICE?

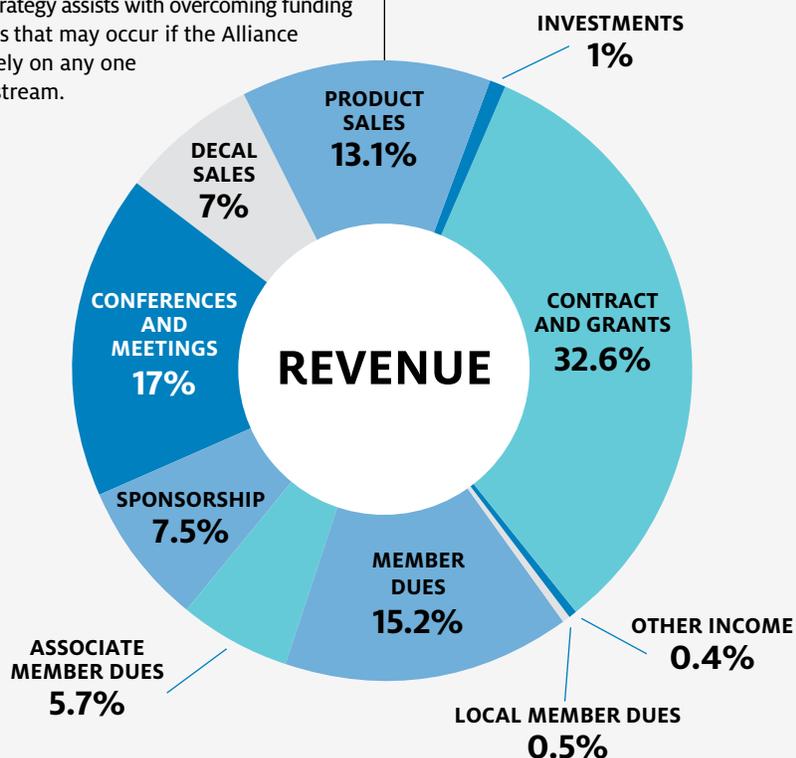
CVSA does not receive any financial gain from placing a vehicle or driver out of service. A driver and/or vehicle is placed out of service solely in the interest of public safety.

? WHERE DOES THE MONEY FROM FINES GO?

Most people believe that law enforcement agencies receive the funds from the fines they issue. But in most cases, the money from fines goes to the general fund in the state, province or territory that issues the citation.

? WHERE DOES CVSA GET ITS MONEY?

The Alliance has a diverse revenue stream designed to stabilize programs and services throughout the organization. Specifically, the Alliance's revenues consist of organizational membership dues, event registration fees, program product sales (e.g., CVSA decals, tools and equipment, the out-of-service criteria, brochures, publications, etc.), event sponsorships, federal contracts and grants, royalties from intellectual property and investments. This diverse funding strategy assists with overcoming funding disruptions that may occur if the Alliance were to rely on any one revenue stream.



? WHY DO I HAVE TO PAY FOR THE OUT-OF-SERVICE HANDBOOK? IT SHOULD BE FREE.

The North American Standard Out-of-Service Criteria is a copyrighted publication of the Alliance, an independently functioning nonprofit organization separate from the federal government. All revenue generated from the sale of the out-of-service criteria assists with funding CVSA's programs and services, such as developing and maintaining non-regulatory elements of the North American Standard Inspection Program and the North American Standard Out-of-Service Criteria.

? WHY AREN'T THERE ANY TRUCK DRIVERS ON THE CVSA BOARD?

All nonprofit organizations are unique in nature. The Alliance was established by members of the commercial motor vehicle enforcement community in the early 1980s during the development of the North American Free Trade Agreement (NAFTA). The goal of the Alliance was to modernize roadside inspection processes by standardizing all commercial motor vehicle enforcement activities into one uniform program. CVSA's founding members, and its current core membership, were state and provincial law enforcement agencies. Therefore, the organization's board of directors and voting leadership is comprised of law enforcement safety officials. ■

STILL HAVE
QUESTIONS?
WE CAN HELP. EMAIL US AT
CVSAHQ@CVSA.ORG.

Duane Dornath of Western Express is CVSA's 2020 International Driver Excellence Award Winner



“One mile at a time. You can have 10 million miles of safe driving, but that next mile is the most important mile to drive. Families, moms, dads and kids are counting on all of us to complete that mile safely. So many lives can be changed if we don't.”

-DUANE DORNATH

CVSA is proud to announce that this year's International Driver Excellence Award (IDEA) recipient is professional driver Duane Dornath of Western Express Inc. Dornath has been with Western Express for more than 40 years and safely driven more than 4 million miles without incident.

“There are so many quality drivers out there and to be considered among them is an honor,” said Dornath. “This prestigious award is the highlight of my trucking career.”

CVSA recognizes the exceptional careers of professional commercial motor vehicle drivers and their commitment to public safety through its driver excellence award. The requirements to apply for this award are not easy to meet. Nominees must have at least 25 cumulative years of crash-free driving in a commercial motor vehicle with a clean driving record for the past three years, no felony convictions, no safety-related driving suspensions in the past three years and no driver violations in the past three years, excluding form and manner violations.

“We are so impressed by Duane Dornath's many years of safe driving, his commitment to fostering and encouraging other drivers in his fleet, his community service and volunteer work, and his focus on faith and family,” said CVSA President Sgt. John Samis with the Delaware State Police. “Duane said it was an honor to receive this award but we're the ones who feel honored to be able to acknowledge such an exceptional driver for his efforts.”

“Duane is the perfect example of what a professional driver should strive to be,” said Daniel Patterson, director of safety for Western Express Inc. He nominated Dornath and had this to say about him: “It is not often, in any industry, where you meet someone who is not only great at performing their job, but also positive in influence on both the industry and the community. I would consider myself fortunate to meet another person as passionate about serving the community, who takes the time to look out for others in the industry and who is an overall great ambassador to everyone involved in the industry and at Western Express.”

“Duane acts as a mentor for other drivers in his fleet and new drivers to the industry,” said Patterson. “Many tenured drivers in the fleet attribute their success to Duane being there to help coach them. He has developed a great relationship with his fellow drivers in his regional fleet as well as our management team.”

When asked what he enjoys most about his profession, Dornath said he most enjoys the freedom and being out on the road. “I've always enjoyed driving and seeing the different parts of the country. I've got a job to do but still can enjoy the outdoors. There is also a certain amount of pride in doing what the trucking industry does which is delivering the goods and services that we all depend upon.”

With decades of driving experience and millions of crash-free miles driven safely on the road, Dornath knows exactly what to do to ensure he is operating safely. “I think patience is a key element in safe driving,” said Dornath. “I always told my kids when they were learning to drive that they shouldn't always expect people to do what they are supposed to do. People sometimes don't and that's how accidents can happen. Be ready with a plan B when you see plan A isn't going to work.”

He added, “I also believe that when it comes to any type of driving, short-term memory loss is a good thing. Forget about that driver that cut you off, forget about the driver that wouldn't let you move over. Road rage only leads to bad things.”

As you might expect for such an extraordinary driver, CVSA's IDEA isn't the only award Dornath has received throughout his career. He has been recognized multiple times by Western Express for his professionalism and excellence in safety as the driver of the month and driver of the year in 2007 and 2017. Western Express has also recognized Dornath for both his safety record of more than 4 million safe miles and his 40-year tenure with the company. Dornath has also competed at state and national levels. He won the Iowa Truck Driving Championship in the flatbed division seven times and placed in the top three in nationals three times.

In addition, Dornath has also been a great advocate for the trucking industry with law enforcement and the community with his involvement in the Iowa Motor Truck Association Road Team, the Iowa State Patrol Ride-Along Program and the Special Olympics Convoy.

“As roadside inspectors, we interact with safe and conscientious commercial motor vehicle drivers every day and we’re grateful for the work of such drivers and motor carriers to ensure our roadways are safe,” said Sgt. Samis. “This award acknowledges our deep appreciation of the proactive steps that professional drivers take to safely navigate and share our roadways.”

“One mile at a time,” said Dornath. “You can have 10 million miles of safe driving, but that next mile is the most important mile to drive. Families, moms, dads and kids are counting on all of us to complete that mile safely. So many lives can be changed if we don’t.”

Dornath has a lot to be grateful for and he counts his blessings. “I thank God for the integral part he plays in my life every day. My life is very much faith based and God is my pilot every inch of every mile. I consider myself the co-pilot. His divine guidance has helped me through many situations. I give him all glory and praise.”

Dornath continued, “I thank my wife, Mary. We have been married for more than 35 years and she supported me through those years. We have four great kids and she is the main reason they turned out that way. I wasn’t always able to be there for their activities, but she was. She has always been there for us.”

“I am so grateful for the support of my whole family throughout my trucking career,” said Dornath. “Strong family support is a true blessing.”

“I also want to thank Western Express for giving me the tools to do what I do and for nominating me for this award. I originally started my career with Smithway Motor Xpress more than 40 years ago. When Western Express acquired Smithway, years

ago, they took me on board and have always treated me so very well. It has been a great 40 years and counting.”

When he has time away from driving, Dornath enjoys doing yard work and, as a baseball fan, he tries to get to some Minnesota Twins games each season. He also enjoys spending time with his family and three granddaughters. “They keep papa on his toes and life in perspective.”

PrePass Safety Alliance sponsored 2020 IDEA. PrePass Safety Alliance’s mission is making highways safer and more efficient through innovative data-driven solutions. Its services help increase safety, reduce delays and costs, and enhance the economic and environmental benefits that the freight sector contributes to the nation.

“Thank you to PrePass Safety Alliance for its sponsorship of this award,” said Dornath. “And thank you to CVSA for what it does in helping keep the trucking industry safe for all.”

Dornath will receive his trophy and monetary award at the 2020 CVSA Annual Conference and Exhibition in Wilmington, Delaware, in September. ■



Duane Dornath, Western Express Inc.

MARK YOUR CALENDAR

OPERATION SAFE DRIVER WEEK

JULY 12-18, 2020

Law enforcement personnel will be on the lookout for commercial motor vehicle drivers and passenger vehicle drivers engaging in dangerous driver behaviors during Operation Safe Driver Week. Drivers engaging in unsafe driving behaviors will be pulled over by law enforcement and may be issued a warning or citation.

CVSA selected speeding as the emphasis for this year’s Operation Safe Driver Week.



ORDER COMPLIMENTARY POSTCARDS

CVSA is offering complimentary 2020 Operation Safe Driver Week postcards to its enforcement and industry members. To receive your free postcards, email nicolel@cvsa.org with the quantity of postcards you'd like to receive along with your name and the mailing address where you'd like the postcards delivered.





Distracted Driving Laws

By Christopher J. Turner, Esq., Director of Crash and Data Programs, Commercial Vehicle Safety Alliance

Distracted driving is commonly defined as when a driver's attention is diverted away from driving by a secondary task that requires focusing on an object, event or person not related to the driving task.

A few of you will remember using a rotary phone and consciously choosing not to call someone with a nine or zero in their phone number just because of the nine or zero in their number. In fact, maybe you just should not be friends with them anymore.

More of you will remember the bricks that were the first mobile phones, possibly the envy of being able to take your phone with you, which today may have turned into wishing you could drown your latest waterproof phone.

More of you still will remember the first Razr from Motorola as the most advanced portable technological wonder of cell phones and pondering what "texting" even was. I recall each of these phones, the novelty and annoyance of sending a text where I had to hit 555,666,555 (LOL – so you don't have to look).

Times have changed. If you cannot remember any of these previous phones, well, we cannot be friends; we will likely need a translator to communicate...back to my stone, chisel and abacus.



Distracted Driving

Many people think of distracted driving as cell phone use in a vehicle and while that is true, it is only one type of distraction. What exactly is distracted driving?

While there are different specific definitions of distracted driving, it is commonly defined as when a driver's attention is diverted away from driving by a secondary task that requires focusing on an object, event or person not related to the driving task. The National Highway Traffic Safety Administration (NHTSA) describes distracted driving as any activity that diverts attention from driving, including talking or texting on your phone; eating or drinking; talking to people in your vehicle; fiddling with the stereo, entertainment or navigation system(s) – anything that takes your attention away from the task of safe driving. The Centers for Disease Control and Prevention (CDC) defines distracted driving as driving while doing another activity that takes your attention away from driving.

Crash investigations and safety studies conducted by the National Transportation Safety Board (NTSB) in all modes of transportation underscore the dangers of using personal electronic devices while operating a highway vehicle, plane, train, ship or pipeline. With the advent of new

In 2003, Americans sent about 2.1 billion text messages a month. By 2017, the number had exploded to **6 billion text messages each day**, more than 180 billion messages each month.

mobile technology, specifically mobile phones, distracted driving has become an epidemic with tragic consequences. In 2018, distracted driving was reported in crashes killing 2,841 people (7.8% of all fatalities); although many instances may go unreported.

Cell Phones

Today's devices provide a tremendous resource to keep in touch with family and friends, and the ability to work and entertain ourselves on the go. We can maintain our calendar, make and update appointments, and keep key stakeholders apprised of events while looking up a recipe for tonight's dinner. There is a darker side, however, more fraught with inherent danger to ourselves and others when we use this technology while driving.

As a retired law enforcement officer of 21 years, I have seen many instances of distracted driving. I remember when distracted driving was eating a sandwich, maybe while reading a paper or book. Then texting came about. Recently, I watched a crash video taken from a live blogger, blogging while driving. Drivers are not simply texting anymore. Now they blog, look at videos, create art, read the news, surf the web, watch movie previews or movies, and who knows what else, all while behind the wheel of a car, truck or commercial motor vehicle.

Distracted driving has become a leading cause of all crashes in the U.S. and a significant causal factor in fatality collisions. To emphasize this point, in 2003, Americans sent about 2.1 billion text messages a month. By 2017, the number had exploded to 6 billion text messages each day, more than 180 billion messages each month.

As this is not a new or novel topic, the U.S. Department of Transportation's Federal Motor Carrier Safety Administration (FMCSA), along with states and local jurisdictions, enacted distracted driving laws aimed at cell phone or electronic device use years ago. Ultimately, law enforcement officers must enforce these laws and the traffic prosecutors must prosecute the drivers. But there are challenges for both law enforcement and prosecutors.

Traditionally, the most dangerous type of impaired driving has been drunk driving. Studies now show texting while driving can be six times more dangerous than drunk driving. Other studies have shown sending a text while driving impacted driver reaction times more negatively when compared with drunk driving, driving under the influence of marijuana or reading an email. Even though studies and research have clearly shown texting while driving is equally or more dangerous than drunk driving, state texting bans treat it as a minor traffic infraction with little deterrent

effect, no per se violation and statutes with numerous exemptions allowed for a driver utilizing a device.

State Laws

An examination of texting laws reveals the inherent complications behind enacting and enforcing cell phone prohibitions and exceptions. State legislatures have attempted to respond to the dangers of texting but, typically, these laws may be underinclusive and may not deter drivers. The laws also leave police with a minimally effective way to enforce them. The risk of being caught violating texting or mobile phone bans is low. For example, Indiana's texting ban (for all drivers) has been largely unenforced since it was passed in 2011. From 2011 to mid-2014, less than 400 citations were written for a violation of the texting ban.

Indiana's texting law states that a person may not use a telecommunications device to type a text message or an electronic mail message, transmit a text message or an electronic mail message, or read a text message or an electronic mail message while operating a moving motor vehicle unless the device is used in conjunction with hands-free or voice-operated technology, or unless the device is used to call 911 to report an emergency.

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However, in Indiana, a police officer may not, without the consent of the person:

- confiscate a telecommunications device for the purpose of determining compliance
- confiscate a telecommunications device and retain it as evidence pending trial for a violation
- extract or otherwise download information from a telecommunications device for a violation, unless:
 - the police officer has probable cause to believe the telecommunications device was used in the commission of a crime
 - the information is extracted or otherwise downloaded under a valid search warrant
 - otherwise authorized by law

While the code clearly prohibits texting, other dangerous cell phone use, such as GPS, searching the internet, using social media, etc., is not restricted. Having the phone in the driver's hand is not a presumption of violating the statute. Essentially, an officer would need a confession to enforce the statute.

In another example, Kansas prohibits texting through KSA 8-15, 111, which states that no person shall operate a motor vehicle on a public road or highway while using a wireless communications device to write, send or read a written communication. However, the provisions of the subsection shall not apply to:

- A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment
- A motor vehicle stopped off the regular traveled portion of the roadway
- A person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call
- A person who receives an emergency, traffic or weather alert message
- A person receiving a message related to the operation or navigation of the motor vehicle

In addition, the provisions of the subsection shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:

- Report current or ongoing illegal activity to law enforcement
- Prevent imminent injury to a person or property

- Relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle

The definition of a wireless communication device is fairly standard, not exceptional. More important is how this statute is flawed on its face.

For example, in the Kansas law, "wireless communication device" means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages, or a laptop computer. The definition of a wireless communication device does not include a device that is voice-operated and allows the user to send or receive a text-based communication without the use of either hand, except to activate or deactivate a feature or function.

The problem in the plain language of the statute is every smartphone and even most flip phones allow the user to operate it by voice communication without the use of either hand. The statute does not require it be used that way, only that it has the functionality to do so. The statute excluded devices that have the feature from the definition of a wireless communication device, effectively rendering the statute useless on its face.

The Kansas statute also has numerous exemptions. For example, a driver may use the phone to dial or enable maps/GPS. Also, having the phone in your hand is not, per se, a violation of the statute. Much like Indiana's texting law, these exceptions in the statute render it difficult for law enforcement to enforce without a confession from the suspected offender. Effective enforcement of the Kansas statute will require a legislative change or the courts to interpret legislative intent in the statute.

FMCSA Prohibits Mobile Phone Use in a CMV

The Large Truck Crash Causation Study (mandated by the Motor Carrier Safety Improvement Act of 1999) found approximately 75% of all truck crashes were caused by the negligence of the driver of the other vehicle, not the commercial motor vehicle (CMV). FMCSA does not have authority to regulate non-CMV drivers. FMCSA's authority does allow it to regulate CMV drivers' use of cell phones and it has done so.

Specifically, while operating a CMV on a highway (defined as any road, street or way, whether on public or private property, open to public travel), the following rules apply:

- Prohibition - No driver shall engage in texting while driving.
- Motor carriers - No motor carrier shall allow or require its drivers to engage in texting while driving.
- Definition - For the purpose of this section only, driving means operating a CMV with the motor running, including while temporarily stationary because of traffic, a traffic control device or other momentary delays. Driving does not include operating a CMV with or without the motor running when the driver has moved the vehicle to the side of, or off, a highway, as defined in 49 CFR 390.5, and halted in a location where the vehicle can safely remain stationary.
- Emergency exception - Texting while driving is permissible by drivers of a CMV when necessary to communicate with law enforcement officials or other emergency services.

49 CFR § 392.82 uses the same language to prohibit the driver from using a handheld mobile telephone while driving a CMV. A driver may not hold a telephone, even to conduct voice communication, dial or answer a mobile telephone by pressing more than a single button, or reach for a mobile telephone in a manner requiring the driver to maneuver so they are no longer in a seated and properly restrained driving position. Even if a driver stops at a red light, they may not use a handheld mobile telephone. "Driving" includes temporary stops because of traffic, red lights and other momentary delays.

Texting includes, but is not limited to, short message service, emailing, instant messaging, a command or request to access a webpage, pressing more than a single button to initiate or terminate a voice communication using a mobile telephone, or engaging in any other form of electronic text retrieval or entry for present or future communication.

Drivers violating the law by using a handheld phone while driving a CMV are subject to civil penalties up to \$2,750 per violation. Motor carriers allowing their drivers to violate this prohibition are subject to a civil penalty of up to \$11,000 per violation. These are maximum civil penalties for each violation, which could stack if there are multiple violations on one trip.

If a police officer sees a CMV driver holding a cell phone, the driver faces the penalty of \$2,750 and the carrier \$11,000. If a driver's logbook shows the driver on duty and driving when the call history shows he made or received a call, there is potential for a violation for each existing call, resulting in significant penalties.

Studies show the odds of being involved in a critical event in a CMV are more than 23 times greater for a CMV driver who texts versus a CMV driver who does not text.

Difficulties for Law Enforcement

Law enforcement officers must be familiar with the distracted driving statutes in their state. All states place legal responsibilities on drivers to operate in a safe manner through enactment of safe driving statutes (e.g., speed restrictions, turn signals, DUI) and most of these laws are written plainly and consistently. However, distracted driving laws vary across the U.S., both in what they prohibit and how they may be enforced. Some state laws may prohibit drivers from talking on handheld devices altogether; some only apply to vehicles in motion or to drivers in a travel lane; some only focus on "texting" (omitting other forms of mobile phone use as examined in Indiana) and some on composing or viewing messages or texts.

These variances, loopholes and exceptions create difficulty for officers and prosecutors alike. Officers essentially have two ways to enforce these statutes: by seeing the driver violate the statute or by using the vehicle-in-motion cues, which are consistent with DUI vehicle-in-motion cues.

Once a driver is stopped for a vehicle-in-motion indicator, further absence of evidence may become significant. If the officer stops the driver based on a driving indicator and further testing or an observation reveals the driver is not impaired, the officer can focus on other possibilities for the driving indicator, such as mobile device use.

Exacerbating the difficulty of enforcement are laws that only ban typing, sending and reading text messages (leaving other phone functions unrestricted), making enforcement nearly impossible. To determine whether the driver is engaging in the prohibited activity or using their phone for an accepted use, the officer essentially must gain a confession from the driver.



Studies show the odds of being involved in a critical event in a CMV are more than **23 times greater** for a CMV driver who texts versus a CMV driver who does not text.

Conclusion

Once the advent of the mobile device was accepted as helpful while driving, with GPS and hands-free communication, the thinking was that distraction would be less. Now, the unprecedented ability to be connected everywhere has created a dangerous driving environment with fatal consequences. These consequences threaten lives, with nearly a hundred people dying each day in motor vehicle crashes. In addition to the cost of lost lives, injury and property damage, crashes result in billions of dollars in lost revenue, lost employee productivity and medical expenses, resulting in increased insurance premiums for automobiles and higher health care costs.

States have responded by enacting distracted driving laws that vary in their scope and exceptions. Some laws only prohibit sending or reading a text but say nothing of email, the internet or social media. In other words, they leave holes in the statute, making it difficult for law enforcement to take action. Officers can rely on driving cues similar to

DUI-influence cues to stop a vehicle and the driver's absence of cues of impairment can steer the officer to consider distracted driving as a reason for the poor driving. However, the problem remains that most of the laws have enough loopholes that they nearly require a confession from the driver to the officer to be enforceable.

Federally, the U.S. Department of Transportation, through FMCSA's rulemaking process, implemented a total ban for handheld devices in CMVs. The federal bans have significant first-time fines for both the driver and the motor carrier. Because federal bans do not allow the driver to hold the device, law enforcement is able to readily enforce the federal ban. Strict enforcement (combined with the certainty of being caught) and heavy fines (severity of punishment) make the federal ban an effective enforcement model for states to follow. This federal ban serves as a good model for states to strengthen their individual laws. ■

Learn More About the CVSA Secretary Nominee

Nominations for CVSA secretary were accepted this past spring. CVSA received one nomination for the secretary position – Maj. Russ Christoferson with the Montana Department of Transportation.

The CVSA secretary serves one year in the secretary position, one year as vice president, one year as president and three years as a past president. The election for the secretary position will take place at the CVSA Annual Conference and Exhibition in Wilmington, Delaware, this September.

Although there is one nominee, it's still important for CVSA's voting membership to get to know this year's nominee. At right is an introduction to Maj. Christoferson, written by him.



MAJ. RUSS CHRISTOFERSON

Montana Department of Transportation, Region IV

I am Maj. Russ Christoferson with the Montana Department of Transportation (MDT) and I am currently seeking the position of CVSA secretary. I have worked for the MDT Motor Carrier Services Enforcement Bureau for the past 24 years, starting as a scale officer at our joint Montana/Alberta facility and promoting through the ranks, up to major in 2018.

During my career, I spent 11 years as a CVSA Part A and B instructor, teaching courses across the U.S. states and territories. I was also fortunate to be a master instructor since the inception of the program and assisted with evaluating and helping new instructors become the backbone of the training program for CVSA inspections. My time spent traveling and meeting inspectors and instructors from around the U.S. and Canada has shown me that the safety of commercial motor vehicles is vitally important across all jurisdictions.

For the past several years, I have overseen the commercial motor vehicle enforcement program in Montana. Within this role, I have written new policies and procedures and have been at the forefront of advancing new technologies to deploy within Montana. My top priority has always been to increase highway safety and save lives, which I believe can be done, in part, by adopting new technologies and increasing data sharing and collaboration between jurisdictions.

I began attending CVSA's annual conferences and workshops starting with the 2015 CVSA Annual Conference and Exhibition in Boise, Idaho. Since that time, I have been a voting member of the Training Committee and the Vehicle Committee and I am currently the Vehicle Committee secretary and the vice president of Region IV. My participation at CVSA conferences has given me an understanding and respect for each role in CVSA, from working with experts within committees to sitting on the CVSA Board of Directors.

During my time in commercial motor vehicle enforcement, I have worked closely with industry partners and jurisdictions from across North America. All those in the commercial motor vehicle industry are now faced with dealing with the challenge of the COVID-19 pandemic. Government agencies, motor carriers, associations and enforcement personnel are all working together to respond to this pandemic and have shown resilience by coming together as one to continue serving the public.

As the pandemic continues to unfold, it has become evident that drivers who supply our communities are an essential part of the way we live. The commercial motor vehicle industry does not shut down in a time of crisis. It steps up and continues to safely and effectively deliver the goods and services upon which we all rely. Commercial motor vehicle safety does not take a back seat during these times of uncertainty, and inspectors and government agencies continue to protect the infrastructure and promote transportation safety, while at the same time ensuring that critical supplies are delivered in a safe manner.

This pandemic not only has the short-term impact of changing the way people work and live, but it very well could have a long-lasting impact on the economy, jobs and everyday life. One thing is for certain: this pandemic shall pass and people will once again begin to enjoy group gatherings, restaurants and vacations. As life begins to return to normal, people will have a greater perspective of how fragile life is and our countries will be stronger for it. I believe CVSA will be in a great position to build upon this greater public appreciation of the transportation industry and highlight the importance of safety within the industry.

The transportation industry will always be vital to the success of our nation. The safety of the traveling public and saving lives must always remain top priorities while delivering goods. The Alliance has participated in the Road to Zero Coalition, which has a vision for achieving zero roadway deaths by 2050. I believe CVSA can continue to play a vital role in advancing the Road to Zero campaign as its vision aligns perfectly with the mission of CVSA to improve commercial motor vehicle safety and uniformity throughout Canada, Mexico and the U.S. by providing guidance and education to enforcement, industry and policymakers.

If elected CVSA secretary, a few of my priorities would be to focus on driver behaviors and education campaigns that can lead to saving lives as well as continued focus on technology and data sharing. I believe this can be accomplished by leveraging partnerships among industry, enforcement, CVSA members and other stakeholders. We must also keep an open dialogue between all partners and work toward a common goal of keeping roadways safe for the traveling public. I would be honored to serve in CVSA leadership and I appreciate your support. ■



INSPECTOR'S CORNER

You May Never Realize the Consequences of Your Decisions

By **Sgt. Benjamin Schropfer**, *Nebraska State Patrol; 2019 North American Inspectors Championship Grand Champion*

There are many things that, as a society, we know are dangerous while driving. Yet, some of us make the decision to do them regardless.

We've all been there: on top of the jungle gym with a jump rope as a stand-in for a bullwhip, ready to jump off and swing over the chasm of doom just like Indiana Jones. Then, mom comes out and spoils all the fun by pointing out the possible consequences of our decision, usually in less than temperate language.

As children, we hadn't yet developed the ability to think critically and figure out those consequences on our own. As we grow, we hopefully learn things along the way that help us make good decisions. However, the decisions we face get harder too. As a toddler, you faced choices like, should you touch the pot on the stove, should you stick your toy in the electrical socket or should you put the toy you just pulled out of the sandbox into your mouth just to see what it tastes like? Now, as an adult, the decisions you have to make are much more complex and, in many cases, have far more serious consequences.

I've made my share of poor decisions, mostly as a teen. They involved the operation of motor vehicles in ways frowned upon by my current profession. Luckily, none of those decisions resulted in consequences that were irreversible or resulted in irreparable harm to myself or others. I will admit that I've been lucky in that regard. Sometimes, that is what it seems to come down to, luck. You are fortunate if you've never had a close call that you look back on after it's over, realize how you messed something up and how badly it could have gone if not for some small happenstance.

Usually, we have time to think about our decisions. Sometimes, we just choose not to see the possible consequences of our actions. Often, we are allowed that luxury because, let's face it, a lot of the time you can do some pretty boneheaded things and get away with

it. Sometimes, this causes us to become complacent. We do some things so often with no negative consequences that we fool ourselves into thinking it's no big deal.

It is the things that we do frequently that we often take for granted. For most of us, operating a motor vehicle falls into this category. Most of us drive every day and for many of us, we drive for a living. Hopefully, we can all agree that driving takes some skill. This is why we don't let you drive on public roads until you've reached a certain age, and then you have to pass a test and show a level of proficiency in order to get your license to actually drive. Unfortunately, it is those recently licensed drivers who do not have the experience to realize they are not invincible and don't really have great skill.

There are many things that, as a society, we know are dangerous while driving. Yet, some of us make the decision to do them regardless. The reason why we choose to make those decisions could be anything from a sense of invincibility, to complacency because nothing bad has happened to us before. Most of us will go our whole lives and never have anything bad happen while driving. We may even be fortunate enough to never see something happen. However, those of us in law enforcement are not so fortunate.

I have had occasion during my career to see the consequences of people's poor decisions. I have seen crashes devastate lives, either by ending them too early, or leaving survivors crippled and forever changed by the event. I have seen these crashes do this violently and abruptly. Most of these crashes have happened because of decisions made by drivers. Most of those drivers chose to make bad decisions in spite of how many times they've been told how dangerous they may

be. They chose to make those decisions because they've done it so many times before, and gotten away with it, that they became complacent. They chose to make those decisions because they thought their choice was more important than the possibility of the negative consequences.

Those drivers thought that staying up for days on end so that they could get to their destination earlier was the most important thing; until they dozed off, crossed the centerline and killed a 40-year-old father of four going to work. They thought that changing the music on their phone was the most important thing, until they crashed into the back of the lady while she turned into her neighborhood. They thought that driving their car home after a night at the bar was the most important thing, until they ran into a minivan stopped at a red light and killed the family of four inside.

I implore every one of you to think of the choices you are making. You may think that something is the most important thing happening right now, but it probably isn't. Don't drive like you're trying to win the Grand Prix, leave the cell phone in your pocket, wait to eat your spaghetti and meatballs until you are home, and call a friend if you had a drink with dinner. You may get away with bad decisions for a long time but, at some point, they may catch up to you. You may have one of my colleagues point out the consequences of your decisions, like mom used to do, or you may walk away from a crash and have to live with the guilt of ending someone's life.

So make good decisions, because a bad decision may change your or someone else's life forever, but a good decision will as well. You just may never realize that it did. ■



THE LEGISLATIVE AND REGULATORY RUNDOWN

Responding to COVID-19 Helps Highlight a Path Forward

By **Adrienne Gildea, CAE**, Deputy Executive Director, Commercial Vehicle Safety Alliance

The COVID-19 pandemic has brought into focus a number of things that have long been evident to CVSA and its members. First, as the commercial motor vehicle industry responded to the COVID-19 outbreak earlier this spring, it became abundantly clear to most throughout North America just how much we rely on the trucking industry in our daily lives. In addition, we saw how quickly enforcement, industry and our federal partners can come together to respond to a crisis. Finally, the strength, resilience and adaptability of the commercial motor vehicle enforcement community was on display for all to see.

Unfortunately, the onset of the pandemic also shone a light on the critical need to address a number of CVSA's long-standing policy priorities.

Emergency Declarations Portal

On March 13, 2020, President Trump declared a national emergency in response to the COVID-19 outbreak. Following the president's announcement, the Federal Motor Carrier Safety Administration (FMCSA) issued a national emergency declaration suspending Title 49 Code of Federal Regulations (CFR) 390-399, including hours-of-service regulations, for carriers providing direct assistance to emergency relief efforts. Later, on March 18 and April 8, FMCSA published updated versions of the declaration, expanding and clarifying the scope of the associated relief.

In response, CVSA, FMCSA and our association partners at the American Association of Motor Vehicle Administrators, the International Registration Plan and others began working to provide industry and the enforcement

community with clear, consistent messaging on the application and scope of the waiver. At the same time, states began issuing their own emergency declarations and waivers. Many, but not all, mirrored the federal declaration. As a result, inconsistencies and confusion began to spread.

CVSA members have long discussed the need for a central repository containing active emergency declaration information. Seizing upon the opportunity and with funding from FMCSA, CVSA partnered with Seikosoftware, a contracted software company, to develop an online portal housing information on active emergency declarations. States have access to update their information on the portal, as appropriate, ensuring the information is timely and accurate. In addition, the public has access to view emergency declaration

Authority	Title	Summary	Issuer	Effective	Expiration	Official Declaration	Link
FMCSA	COVID-19 Emergency Special Permits	SP 20021 - To authorize the filing and offering for transportation in commerce of certain DOT specification vehicles that are up to 22 months overdue for periodic requalification for relief efforts during the COVID-19 Public Health Emergency.	Public and Hazardous Materials Safety Administration	03/18/2020	06/30/2020		
FMCSA	Revised Temporary Relief Notice for Commercial Transporting Hand Sanitizer to Highway	In support of the critical need to move hazardous materials during the COVID-19 public health emergency, on April 2, 2020, FMCSA issued a temporary relief notice for commercial shipping hand sanitizers used for sanitation purposes. To provide additional clarification and guidance, FMCSA issued a revised Hand Sanitizer Notice of Enforcement Discretion on April 15, 2020. The revised notice provides the option to use labels that conform to FDA guidance (as a replacement for the DOT test markings required by the guidelines), provided the FDA labels are visible in transportation. The revised notice also clarifies that registration with FMCSA is waived irrespective of the quantity of hand sanitizer transported. The temporary relief notice continues to help facilitate the increased availability of sanitizer products during this public health emergency. The current relief applies to hand sanitizer products meeting certain specifications and shipped by highway only.	Public and Hazardous Materials Safety Administration	04/15/2020	07/01/2020		
FMCSA	FMCSA Issues Notice of Enforcement Discretion for Cylinders	In its continued efforts to support the need to move critical hazardous materials products during the COVID-19 public health emergency, FMCSA will issue an enforcement discretion for cylinders that have exceeded their periodic requalification test dates. FMCSA understands that due to the COVID-19 emergency, many sections of the industrial and industrial gas industry may be experiencing difficulty in obtaining cylinders due to the increased demand for these gases or a disruption in the normal business trade for cylinder exchanges. The notice in the related documents section of this page, provides notice that FMCSA and the Federal Motor Carrier Safety Administration will not take enforcement action against any person who fits a DOT specification cylinder used to transport Division 2.2 non-flammable gas by motor vehicle. The enforcement discretion does not extend to transport for air, vessel, or railroad.	Public and Hazardous Materials Safety Administration	04/16/2020	07/01/2020		
FMCSA	FMCSA COVID-19 Emergency Special Permits	SP20042 - To authorize the offering for and transportation in commerce of certain 15-gallon drums containing residue of Class 3, Flammable Group B disinfectant that have not been tested in accordance with the manufacturer's clean instructions during the COVID-19 Public Health Emergency.	Public and Hazardous Materials Safety Administration	04/17/2020	07/01/2020		
FMCSA	FMCSA Notice of Enforcement Discretion for Sanitizing and Disinfecting Products	To support the continued supply of critical resources needed to respond to the COVID-19 public health emergency, FMCSA issued a notice of enforcement discretion for the transportation of sanitizing and disinfecting materials to be used in protecting the health and safety of employees. Transportation companies that are essential to the nation's economy have a need to continue to provide enough cleaning resources, including hand sanitizers or disinfectant sprays, to provide for the protection of their employees at locations that do not have ready access to soap and water. As such, FMCSA's enforcement discretion applies to the transport of these materials to locations, such as parking facilities and loading and unloading facilities, where they will be used by employees that directly support the transportation operations of the carrier. Additionally, enforcement discretion is limited to	Public and Hazardous Materials Safety Administration	04/16/2020	07/01/2020		

The crisis that developed over the spring demonstrated the critical role our commercial motor vehicle enforcement community plays in keeping our roadways safe.

information at any time. As a result, going forward, inspectors, industry and the public will have a reliable resource for this information, which will result in improved movement of critical relief supplies during national, regional and state emergencies.

Visit www.cvsaemergencydeclarations.org to view or access the portal.

Financial Flexibility for States

CVSA has long supported providing the states with more flexibility when it comes to their Motor Carrier Safety Assistance Program (MCSAP) funds. Each year, grant awards are made later and later, and in recent years, the funds have come as late as September in the first year of the grant – effectively reducing the grant period of performance by one year. These delays make it difficult for states to plan long term and build their safety programs. To address this, as part of the Alliance’s reauthorization priorities, CVSA is asking Congress to give states that year back, by adding an additional year to spend their MCSAP funds. In addition, CVSA is asking Congress to give FMCSA authority to keep and redistribute unspent funds at the end of the grant cycle.

While an extreme example, the COVID-19 outbreak highlighted just how critical this additional flexibility is to the states. Following widespread outbreak of the coronavirus, jurisdictions saw their commercial motor vehicle inspectors reassigned to other COVID-19 response-related tasks and put into place social distancing policies to help prevent spreading the virus. States pivoted to combat the spread of the COVID-19 pandemic, and, as a result, many experienced a temporary decrease in their commercial motor vehicle enforcement-related activities that qualify for reimbursement under MCSAP. That means that as the end of the fiscal year approaches, many states will have MCSAP funds that they simply do not have the time to spend.

CVSA has argued that any COVID-19 relief package that includes relief for state governments should include provisions that help the states keep and spend their MCSAP funds. Specifically, CVSA asked Congress to include language that would:

- Give states an extra year of spending eligibility for funds awarded for fiscal years 2019 and 2020.
- Give FMCSA the authority to keep and redistribute unallocated funds at the end of the grant period of performance for fiscal years 2019 and 2020.
- Waive the match requirement for MCSAP, High Priority and Commercial Driver’s License Program Implementation (CDLPI) for fiscal years 2021-2023.

Giving states the additional time and FMCSA the authority to keep and redistribute those funds once the pandemic has passed will be incredibly important to ensure state programs can be maintained appropriately in the long term. And including similar language in the next highway bill will ensure that states are prepared and protection is in place when the next disaster occurs.

Critical Role of Enforcement

Finally, the crisis that developed over the spring demonstrated the critical role our commercial motor vehicle enforcement community plays in keeping our roadways safe. As states dealt with the COVID-19 outbreak, we have seen a reduction in the number of inspections being conducted. This is due to the emergency declaration and associated waivers, the need to reassign staff to other priorities and the social distancing policies put into place.

As traffic decreased and enforcement was reduced, some jurisdictions saw a disturbing trend, as those on the roadways took advantage of open lanes and decreased enforcement presence to travel at dangerously high speeds. While the data is still coming

in, average speeds measured during the first week of April increased significantly in the five largest U.S. metropolitan areas. According to recent data, the average speed on interstate highways, state highways and expressways in those areas increased by as much as 75% compared to January and February. Clearly, visible enforcement is critical to ensuring some drivers comply with traffic laws.

In addition, in spring of 2020, many states saw a reduction in roadside inspections. According to FMCSA’s online data resource, roadside inspections dropped from 288,868 in January of this year to 175,901 in March, the last month for which data was available.

CVSA has long supported policies necessary to modernize and expand the scope of the roadside inspection program. Central to this is the need to establish a universal electronic vehicle identifier for all commercial motor vehicles. This would allow enforcement to identify a commercial motor vehicle electronically, while the vehicle is in motion, reducing the need to stop a commercial motor vehicle to review driver information and inspect the vehicle. Had this requirement been in place at the onset of the coronavirus outbreak, states could have continued conducting inspections on subject vehicles from a safe distance.

Going Forward

As we move forward into the summer and fall, CVSA will continue to advocate strongly for these and other critical commercial motor vehicle safety policies. Members and staff were hard at work in early 2020, drafting the next highway bill. Congress is expected to pass legislation that will, at the very least, extend the current highway bill into fiscal 2021. Hopefully, the lessons learned in 2020 will help inform policy and leave us all better prepared to face the next crisis. ■

Mastering Masking

The Legal and Ethical Consequences of Plea Negotiations Involving Commercial Driver's Licenses

By **Jeanine Howard**, Staff Attorney, National District Attorneys Association



This article is part two in a two-part series on mastering masking. Part one, titled "Why and How to Avoid Masking CDL-Holder Convictions," ran in the previous edition (Q1 2020) of this magazine.

On June 5, 2019, the National Traffic Law Center (NTLC), with funding provided by the Federal Motor Carrier Safety Administration (FMCSA), hosted 26 prosecutors and other traffic safety professionals for its inaugural presentation of "Mastering Masking: The Legal and Ethical Consequences of Plea Negotiations Involving Commercial Driver's Licenses," in Cleveland, Ohio.

This course was designed to provide prosecutors and other traffic safety professionals with the materials and techniques necessary to train others in their respective jurisdictions about the fundamentals of the prohibition on masking offenses. The NTLC wanted attendees to be able to appreciate how the enforcement of these regulations results in reducing injuries and deaths by keeping unsafe commercial driver's license (CDL) holders off the roads and ensuring each driver has one driver's license and one complete driver's record.

In Cleveland, attendees participated in four modules which employed adult learning

techniques to help facilitate the understanding of the federal definition of the terms "masking," "conviction" and "disqualification," pursuant to the Federal Motor Carrier Safety Regulations (FMCSRs).

The first course module was the Convictions module. During this module, attendees were introduced to the federal definition of the term "conviction," which is much broader than its traditional meaning. Understanding what constitutes a conviction is key to understanding the importance of CDL record keeping and the sharing of CDL information from state to state. Participants also learned how convictions affect CDLs through disqualifications and what role convictions play in masking.

Masking and Ethics are introduced in the second module. During this module, attendees gained more in-depth information pertaining to masking and why it is prohibited by the FMCSRs through a thorough examination of the statute. Attendees participated in

exercises designed to help them identify masking and determine the ethical considerations involved when prosecutors negotiate CDL cases. Attendees also learned that states are required, under 49 USC § 31311(19), to comply with the FMCSR definition of masking and to create state-specific versions of the FMCSRs, including the prohibition on masking offenses.

The third module was Disqualifications. During this module, attendees learned to navigate the CDL disqualification tables found in 49 CFR § 383.51 and learned the difference between federal versus state disqualification of a CDL. The states' traffic control laws that are subject to disqualification were highlighted. Attendees learned that the regulations governing the disqualification of CDLs were established as a mechanism to ensure each driver has one driver's license and one driver's record.

The fourth and final module was a panel discussion. This optional module was designed to allow attendees to hear real-world examples



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from instructors of their experiences involving convictions, masking and disqualification involving CDL holders and the impact on traffic safety in their communities. The panel module was particularly powerful for course attendees. One panelist, Stacy Emert, opened the discussion with the moving account of her parents who were tragically killed in a tractor-trailer crash. Elizabeth Matune, the Ohio prosecutor who handled Emert's parents' case, was also a panelist. Other panelists included: Christopher Daniels, traffic safety resource prosecutor from Indiana; Jennifer Cifaldi, traffic safety resource prosecutor from Illinois; and Elizabeth Earleywine, FMCSA's attorney advisor.

The Mastering Masking course is designed to be used as a whole or as individual modules to be added to other trainings. By providing course participants with all the course materials on a thumb drive, the NTLC has provided an option that allows for traffic safety professionals to seamlessly add portions of the course to existing

presentations or trainings. Course materials are available upon request. Alternatively, NTLC staff is available to come to your jurisdiction to provide this course at no cost, subject to available funding.

For more information on Mastering Masking, contact NTLC Staff Attorney Jeanine Howard at jhoward@ndaajustice.org. ■

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CVSA is always looking for interesting, relevant content for this magazine. "Guardian" provides a useful mix of trends, perspectives and innovations from government, enforcement and industry. We welcome articles on topics specific to the commercial motor vehicle transportation safety industry.

If you are a CVSA member, consider submitting an article for consideration for inclusion in this magazine. The deadline for the next edition of the magazine is June 24.

Send submissions to CVSA Manager of Communications Nicole Leandro at nicolel@cvsa.org. ■

Curtailing Demand: Cutting Off the Head of the Snake

By **Lyn Leeburg**, *Communications Director, Truckers Against Trafficking*



In the world of commercial sex trafficking, marketplace dynamics hold true – the demand of buyers for sexual services energizes traffickers, pimps, exploiters and abusers to meet that demand and make a profit. They do this through force, fraud and coercion with slave labor, using a mix of underaged girls and boys, women and men, to provide services, including all forms of prostitution, pornography, personal sex slaves, stripping, etc., in a variety of venues. So, to fight commercial sex trafficking, stopping demand is every bit as important, maybe more so, than learning to recognize and report sex trafficking when you see it happening. No demand = no victim = no sex trafficking.

Since its inception over a decade ago, Truckers Against Trafficking (TAT) has been working with critical industries, including trucking and bus companies, oversight agencies and shippers, to raise a mobile army of transportation professionals who can provide an extra set of eyes and ears for law enforcement to close the

loopholes traffickers are exploiting, and ensure that perpetrators are arrested and victims recovered when it comes to human trafficking, both labor and sex. TAT does this by educating, equipping, empowering and mobilizing the members of these industries with turnkey, anti-trafficking protocols and policies that activate the public and private sectors to combat human trafficking.

To zero in on demand, TAT began its Man-to-Man Campaign in 2017 (www.truckersagainstrafficking.org/man-to-man-campaign). As part of that campaign, drivers from American Trucking Associations' America's Road Team and drivers from other company road teams (through the TAT Ambassadors program) deliver presentations across the country. TAT has life-size posters of those drivers with quotes on its mobile museum, called the Freedom Drivers Project, along with a video anyone can use to explore the attitudes and perceptions toward women that contribute to commercial sex trafficking.

TAT also provides a list of suggestions on how companies can work on lowering demand, including asking them to implement anti-trafficking-in-persons policies with a demand-reduction focus. TAT also provides samples of such policies.

Some make the argument that sex trafficking would cease if prostitution was legalized. However, it is impossible to regulate an inherently harmful system to safety. In a June 6, 2016, article in the United Kingdom's publication "The Guardian" about the dangers of rebranding prostitution as "sex work," author and activist Kat Banyard points out that "The whole point of the sex industry is that it offers men the chance to buy sexual access to women who do not want to have sex with them – otherwise they wouldn't have to pay."

Banyard goes on to describe why it's impossible to commodify consent, which is what advocates who want to decriminalize prostitution want to do: "Perhaps the single



**NO DEMAND = NO VICTIM
= NO SEX TRAFFICKING**

most effective strategy hit upon so far is to pump out the myth contained in the term 'sex work': the myth that it is possible to commodify consent. How can sexual consent be a thing that can be bought and sold, yet we can still talk with a straight face about there being such concepts as healthy sexual relationships and meaningful consent? If, while having sex with someone, you feel repulsed by them touching you, afraid of what they might do, degraded and humiliated by the sexual acts, hurt by the hateful words they're whispering in your ear, sore because he's the fifth man you've had sex with today, exhausted from it all, traumatized, abused – the fact that you'll get a bit of cash at the end does not change anything. There is no invisible hand in the prostitution market that magically disappears the lived experience of sexual abuse."

Autumn Burris, a survivor of commercial sex trafficking and the founding CEO of Survivors for Solutions, asserts, "The 'sex work' dialogue

ignores the harm, violence and death as a result of systems of prostitution at the hands of males – both sex buyers and traffickers. Prostitution is not a morality issue but a mortality issue."

Survivors for Solutions favors an equality model (www.equalitymodelus.org) which seeks to decriminalize those who are bought and sold and provide support services, including exit strategies, to help them rebuild their lives, and which holds sex buyers and third-party exploiters (pimps, brothel owners, etc.) accountable for the harms they cause.

Studies show that some purchased commercial sex is bought during the day from men at work. Traffickers may set up shop at truck stops for their "frequently remote locations and transient customer base," as noted by the National Human Trafficking Hotline. This is all the more reason to have a policy in place that will provide necessary accountability for anyone using company

CVSA'S NEW HUMAN TRAFFICKING ENFORCEMENT PROGRAM

CVSA created a new program for enforcement and drivers – the Human Trafficking Enforcement Program. The leadership of that committee is as follows:

- **CHAIR** – Chief David Lorenzen
Iowa Department of Transportation
- **VICE CHAIR** – Maj. Michael Krumm
Michigan State Police
- **SECRETARY** – Kylla Lanier
Truckers Against Trafficking

The Human Trafficking Enforcement Program Committee will have its first meeting at the CVSA Annual Conference and Exhibition in September. CVSA members may join that committee at any time by logging in at www.cvsa.org/memberportal. Once logged in, under "My Committees & Programs," select "Browse Committees" to find "Human Trafficking Enforcement."



resources or company time to purchase commercial sex or engage in anything that furthers trafficking. Whether you're out on the road or behind a desk, your role in fighting human trafficking, and the demand that fuels it, is critical.

All of this speaks to the issue of demand and why it must be curtailed. We urge you to take the time to read through the strategies for curtailing demand, including the anti-trafficking-in-persons policy with a demand-reduction focus that TAT has on its website, and work to implement one in your company, organization or agency.

For more information on human trafficking identification and prevention, visit the Truckers Against Trafficking website at www.truckersagainstrafficking.org. ■



FROM THE DRIVER'S SEAT

Safe Trucking in the Age of COVID-19

By **Allen Boyd**, Professional Truck Driver, Walmart Transportation; America's Road Team Captain

Professional truck drivers, like all Americans, are doing what we can to stay safe from the coronavirus (COVID-19) outbreak. Safety is our top priority, both on the highways and in our daily lives. I am proud to be part of an industry that is on the front line 365 days a year.

The safety tips I would recommend today are the same I would recommend every day.

- Don't tailgate.
- Don't pass the truck on the right side.
- Pay close attention to the turn signals on the truck and give us extra room to make those turns.
- Don't cut us off when you pass.

With the threat of COVID-19, many drivers are following the truck into the dock area to ask what we are delivering. It is super important that motorists do not follow us. We need to get our trucks maneuvered into position in order to back into the dock. There is usually limited space to move and having an extra vehicle in the area puts everyone in the vehicle at risk.

Once the trailer is in the dock, the freight must be pulled off, entered into store inventory, brought to the store floor and stocked on the shelves. Any delays getting the truck to the

dock will delay the product from getting to the shelves and then the consumer.

We need the supply chain to work in order for us to deliver goods on time. However, truckers are being impacted on their routes with a lack of truck parking, restroom access and food. Many rest areas are closed and restaurants, if open at all, are going to a drive-thru operation. Our trucks cannot go through a drive-thru and many establishments do not allow us to walk through. Some are now suggesting we call ahead and they will deliver to our trucks.

At the distribution centers, there are delays in getting to the dock to load because there is a high demand for products resulting in a lot of truck waiting. Higher inbound volumes mean more warehouse associates to unload and load freight. When you couple that with the fact that many associates call out because they may not feel well, it makes it hard to keep trucks moving.

In our terminal offices, we have had an increase in incoming calls by people pretending to be store managers to see when a particular truck is leaving and what it will have in the trailer. As a driver, we don't always know who may be watching us and why. We have actually had instances of cars coming up alongside of us

when we are driving down the interstate, rolling down their window and asking us if we have a particular product on our trailers, such as toilet paper, water, milk, eggs or cereal.

There may be a point in the future when we need police escorts to get us into the stores. I, for one, hope we never get to that point. As for fellow drivers, we have always and will continue to encourage each other to do our very best to be safe, be aware of our surroundings and deliver the load in the most upright position. We also keep each other informed of the ever-changing weather and traffic conditions and how to avoid those challenges. This helps us all get our product delivered as quickly and safely as possible.

Everyone in the transportation industry plays a critical role in making sure consumers have the products they need and want. It takes more than just the driver to make this happen. It takes warehouse, maintenance and office personnel, in addition to store associates, law enforcement, highway workers, restaurant employees and many people behind the scenes all working together with us. Make no mistake, no matter how bad things get, American truck drivers WILL do their part to keep this great country moving forward. ■



The Importance of Continuing Education

By **Rhonda Yost**, Vice President, Compliance, Safety and Training, PGT Trucking Inc.

Most professional careers today involve continuing education because it reduces risk and keeps professionals up to date on the latest techniques, trends and policies in their field. With the advancement of technology in trucking and implementation of new and changing regulations, it is imperative to continually educate drivers. Trucking office staff need continual education too in order to assist drivers with questions and issues.

Continuing education has historically included training for defensive driving, hours of service, pre- and post-trip inspections, close-quarters maneuvering, injury prevention and for flatbed companies, securement techniques.

In trucking today, training is essential for electronic logging devices, telematics, dash cameras, truck regens, climate control, bunk heaters, as well as various mobile phone apps used for turning in paperwork, completing logs and finding safe parking.

While the costs associated with investing in continual training and safety technology are sometimes high, it is well worth the investment for the importance of personal and public safety. Continuing education can help reduce accidents and claims while also providing professional drivers and office staff with the latest available knowledge.

PGT created professional development plans for the entirety of 2020 and beyond, with the goal of measuring improved employee performance by addressing knowledge gaps, and providing consistency related to PGT's policies and procedures.

It is easy to become complacent and simply maintain the status quo. With complacency, risk is intensified. By maximizing employees' learning and development, trucking companies can stretch themselves out of the comfort zone and into a mindset of continuous improvement. Good professional development plans are centered on ways to invest in office staff and drivers' safety and well-being.

Topics of learning should be geared toward accident prevention, pre- and post-trip inspections, proper use of truck technology, distracted driving, discussions of accident trends and reviews of the company's policies and procedures that will assist drivers and office staff in refining their safety and securement knowledge.

All attendees need to be actively engaged during professional development sessions, demonstrating what they know and participating in thoughtful discussion and hands-on learning. Professional development sessions should be designed to be intensive, collaborative and continuous. The sessions can be held face to face and virtually to provide a blended learning environment in order to be cognizant of time and cost while still appealing to different learning styles.

2020 will mark the third year for intensified safety training of office staff for PGT. Training and development sessions are held on a bi-monthly basis and focus on current events within the transportation industry and emerging trends at PGT that can be addressed by those in the office. Attendance is mandatory and classes are presented in various styles with a year-end review to ensure topics presented were retained and also to give an overview for new staff added after classes were presented.

Topics ranging from truck/trailer components, cargo securement, cyber security, defensive driving and more have been taught to those who interact with drivers daily as well as those who rarely interact. Through non-driver training, PGT has seen an increase in effective communication and decision-making with one another as well as with our drivers.

By emphasizing a learning and development culture, trucking companies can make strides toward continuous improvement by directly investing in drivers and office staff. You can instill a growth mindset in your employees to promote the cultivation of ideas, develop talents and make improvements. At PGT, we want all of our proud professionals to be equipped with the skills and tools necessary to do the job the safe way and the right way, every time. ■

Safety Is a Value, Not a Priority

By **Dana Spencer**, Director of Safety, Compliance, CRST – Dedicated West (Gardner Trucking)

What is the difference between a value and a priority in regard to safety? Values are more than things we believe. Values guide our every decision on how we react to issues and solve problems. Values are what is engrained in our DNA. Priorities, on the other hand, are flexible, even fluid. A priority is a choice and often changes; whereas, values are the practices we use every day, in everything we do. Stating that safety is a priority means that it will change based on the needs or urgencies of the moment. Stating that safety is a value means priorities of work can change but values do not. Values are embossed; priorities can change.

In the workplace, employees tend to attach rules, policies or procedures to a given priority. The challenge organizations have is getting employees to buy into the idea of safety as a core value to be used on and off the job. In a safety-valued organization, it doesn't so much matter why employees want to be safe. What matters is that everyone is willing to work together to ensure all employees stay safe. If an employee is more driven and focused on productivity and efficiency than working safely, the system cannot work.

It is important that company leaders change the message of safety. Safety needs to be viewed and communicated throughout organizations as a core value in every layer of business practices, not just as a priority. Safety needs to be integrated into the fabric of organizational activity. Making a culture change throughout an organization will change an employee's expectations and correct unsafe behaviors.

Creating an effective safety culture requires outstanding leadership, management commitment and employee participation in safety among all levels of personnel. In the workplace, it should mean that safety is not viewed as a priority along with productivity; rather, it is an ethic that guides and leads everything employees do. For safety to be a core value, safety must become a way of life, which requires personal commitment at all levels in an organization. ■

Lithium Battery Transport Rules: What to Know

By **Brian Beetz**, *Manager of Regulatory Affairs and Corporate Responsibility, Labelmaster*

Rising safety concerns around lithium batteries and their associated fire risk have resulted in increasingly strict transportation restrictions, including a ban from passenger aircrafts, and stricter stress testing around a battery's ability to withstand extreme temperatures, altitudes and transport stresses.

As recently as last year, the U.S. introduced additional, and even stricter, rules for transporting lithium batteries. These rules refined air travel restrictions and added requirements for additional marking and labeling of lithium battery shipments via all transportation modes. This interim final rule (IFR), set by the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety Administration, means that companies transporting lithium batteries domestically must now align to the same transport and labeling rules originally put forth by the International Civil Aviation Organization in 2016.



Example of former box marking/labeling



Examples of new box marking/labeling

Staying on Top of Ever-Changing Transport Regulations

The IFR and other transport regulations directly impact companies that manufacture and distribute lithium batteries and products containing lithium. To help companies better comply with regulations and minimize operational disruptions, here are tips to keep in mind.

- ✔ **Understand the latest regulations.**
Regulations for shipping lithium batteries are ever-evolving and often put into effect without a transition period. It's important to stay up to date on the latest regulations in order to make near-instant adjustments.
- ✔ **Ensure processes are compliant.**
Regulations for shipping hazardous materials/dangerous goods vary by country, transportation mode, item type and more, so organizations with multiple business units and locations must keep pace. Establish enterprise-wide processes (and consider automated software) to make sure every shipment meets the latest regulations – from proper labels and packaging to complete and accurate documentation.
- ✔ **Partner with a trusted regulatory expert.**
Shipping lithium-ion batteries is a complicated process. Partnering with an industry expert can help you make sense of the latest regulations to ensure compliance across your supply chain.
- ✔ **Be strategic.**
There are now harsher non-compliance penalties when it comes to lithium battery shipments. So, companies that manufacture and distribute them should look for opportunities to utilize new and innovative shipping solutions to streamline the shipping process, improve regulatory compliance and mitigate risk.

Recent Changes to Lithium Battery Shipping Requirements: Rules to Note

The most significant changes applicable to air transport of lithium cells and batteries in the U.S.:

- Prohibit the transport of standalone lithium-ion cells and batteries as cargo on passenger aircraft.
- Limit standalone lithium-ion cells and batteries to a 30% state of charge (SOC). A limited exception exists for cells/batteries used to power medical devices, but requires Pipeline and Hazardous Materials Safety Administration approval.
- Limit excepted shipments of lithium-ion and metal cells/batteries to one package per consignment or overpack.
- Shipments containing excepted lithium-ion cells and batteries shipped in accordance with 49 CFR § 173.185(c) must now display either the marking "LITHIUM ION BATTERIES—FORBIDDEN FOR TRANSPORT ABOARD PASSENGER AIRCRAFT" or a "CARGO AIRCRAFT ONLY" label. This requirement also applies to lithium-ion cells and batteries contained in/packed with equipment where the package exceeds 5 kg of cells/batteries.

Successfully Navigate Changing Lithium Battery Transport Regulations

The use of lithium batteries and battery-powered devices will continue to grow. To ensure compliance with shipping regulations and to maintain safe operations, it's important to have the right infrastructure in place and take a strategic approach to lithium battery transport. ■



Collaborating for Safety: Three Ways CVSA Helps Me Manage Our Safety Program

By **Dave Elniski**, *Safety Officer, Caveman Transport Ltd.*

As part of my role as the safety officer for Caveman Transport Ltd. – a southern Alberta flatbed trucking company that runs into the U.S. – I review all documents received from law enforcement agencies concerning our drivers. While we work hard to ensure our inspections are violation-free, when violations discovered by enforcement officials come to my attention, it is my duty to make sure we complete repairs, manage report-back requirements and create solutions to prevent future occurrences.

To help us prevent violations from occurring in the first place, I am so grateful to have access to so much safety data to help me make proactive decisions. Our Alberta Carrier Profile, Central Analysis Bureau report, FMCSA Portal account, CVSA inspection reports, results from internal audits, safety meetings and driver file reviews all help me guide the overall safety program. What I want to discuss in this article, though, is the importance of gathering data from a source frequently overlooked by carriers: the roadside inspectors themselves.

One of the most helpful practices I have developed is to contact the officer who conducted the inspection. These interactions have helped me learn so much about North American trucking regulations and I have used that knowledge to improve our hiring, training and operational practices.

I want to highlight three specific categories of information that I frequently receive when I discuss inspections with officers:

- Driver behavior
- Company performance
- Regulatory insight

Driver Behavior

My favorite part of reaching out to inspectors is that I get an idea about how a particular driver behaves during an inspection. Although I am involved in the hiring of new drivers and their orientation/training, I have few opportunities to observe them on the job. When I call an officer and ask “How was our driver? Were they professional and courteous?” I get insight into the driver’s ability to handle stress and communicate.

I’m so grateful that I get to work at a company with a very professional crew of drivers, so I typically hear good things. At times, though, I have heard about rude or nervous/anxious drivers. When I receive that sort of feedback, I can tailor my approach in dealing with the individual and these interactions have sometimes led to communication and

professionalism training initiatives. To me, the opinion of a law enforcement professional about one of our drivers is just as important as that of a customer.

Company Performance

I always learn about my company when I speak to inspectors. I love when I hear things like “we really never have any issues with Caveman,” because I get to report the good news back to our staff. I have also heard constructive feedback when I’ve asked about any areas in which we may struggle, which has allowed me to offer better training to our drivers. For example, CVSA officer input has helped us greatly improve our U.S. weights and dimensions training.

Regulatory Insight

Along with consultants and industry professionals, commercial motor vehicle enforcement officers are experts in the regulations, but they offer a unique perspective: roadside interpretation. When I ask officers about specific legislation and CVSA policies, I’m getting information from someone who puts the legislation into practice and looks for compliance. Whether they know it or not, these officers have helped us plan and deliver safer loads. Given how passionate officers are about ensuring highway safety, I think this is a fantastic mutual benefit.

I’ll disclose that sometimes when I’ve called an inspector to discuss the results of an inspection, I have been met with defensiveness (I imagine that calls from industry aren’t always pleasant). This always disappears quickly when I make it clear that I am looking for ways to ensure we are operating safely and to promote industry-enforcement collaboration.

Some drivers and companies do have an us versus them mentality when it comes to commercial motor vehicle officers, but I make it clear to our drivers and staff that these officers are there to help us do our job and are an excellent resource for anyone who wants to better understand transportation safety and compliance.

So, CVSA, please accept a sincere thank you from an industry safety professional and for the industry representatives reading this article, never overlook the information that can come directly from the enforcement officer. At the end of the day, perhaps the greatest benefits to everyone are the feelings of collaboration toward the common goal of highway safety and the building of friendly, professional connections. ■

Blocking and Bracing of Hazardous Materials/Dangerous Goods

By **Marvin Sudduth**, *Dangerous Goods Advisor, FedEx Logistics*

As working members of CVSA, we have a vested responsibility to operate in a fundamentally safe and regulatory-compliant environment. This is accomplished by adhering to established work practices that help us maintain that environment.

As carriers of hazardous materials/dangerous goods (HM/DG) in ground transport vehicles, a major safe work practice is the blocking and bracing of this freight. All packages must be blocked and braced to prevent movement within a vehicle. If the HM/DG cannot be secured via blocking and bracing, then alternative means of securement must be utilized.

HM/DG packages of all classes (including dry ice) must be secured against shifting, including relative motion between packages, under conditions normally occurring in transportation (e.g., normal vehicle turns, starting and stopping).

HM/DG packages may be secured by blocking and bracing with other freight or by positive means, such as straps, netting, bungee cords or load bars. When using other freight, the HM/DG package being secured must be braced on all four sides with no gaps or spacing between the HM/DG package and the packages being used for securement. This also means that there can be no gaps or spaces when using the sidewall of the truck to secure one side of the HM/DG package. ■



Questions from the Field: A Safety and Compliance Expert Responds

By **Ron Cordova**, Director of Safety and Compliance, Zonar

Over the past few years, the trucking industry has gone through a rapid evolution. From regulations to the adoption of new technology, to more start-ups entering the market, it's clear that change is the new normal in an industry not always used to dealing with transformation.

Because of my current role and my experience as a former law enforcement officer and CVSA president, I have a deep understanding of the impact of change on everyone within the industry. I am fortunate to meet and hear from people across the industry – from lawmakers to small-business owners, operators and drivers – and I hear some common questions wherever I go.

With all this change comes confusion, especially as businesses are trying to ensure both compliance with state and federal laws, and adoption of the new tools and solutions available to them. To help alleviate some of this confusion, I'm sharing my responses to some of the most commonly asked safety and compliance questions I get from the road.

We already use ELDs in the U.S., will the Canadian ELD mandate really impact my business and drivers?

The good news is, if you've successfully used an electronic logging device (ELD) in the U.S., complying with Canada's ELD mandate will not be too impactful to you or your business. The difference in mandates is the complexity of the Canadian hours-of-service rules. For example, with the personal conveyance exception, Canadian rules only allow drivers a maximum of 75 km unladen. In contrast, within the U.S., drivers fall under the exception while laden with no specific mileage. Also, fleet managers will need to ensure that their ELDs are certified in Canada. If not, now is the time to change vendors.

For more information, check out this comprehensive guide on the Canadian mandate at www.gazette.gc.ca/rp-pr/p2/2019/2019-06-12/html/sor-dors165-eng.html, and regularly check Zonar's Resource Hub at www.zonarsystems.com/resources/freight for updates.

What's the easiest way to improve driver behavior on the road? What's the biggest safety risk you've seen businesses or drivers commit and how can I help avoid it?

One of the easiest ways to improve driver behavior is to make sure they understand the rules of the road. It sounds simple but sometimes, people simply aren't aware of the nuances within traffic laws – state by state and nationwide.

The biggest safety risk on the road is speeding. I always tell fleet managers and drivers to slow down. Speeding creates a very high risk for accidents and citations and is one of the top causes of incidents on the road. In fact, the

National Highway Traffic Safety Administration quotes that for more than two decades, speeding has been involved in approximately one-third of all motor vehicle fatalities. If drivers are going too fast, even by a few miles over the limit, they can't keep a safe distance from other vehicles while operating a commercial motor vehicle.

The next best thing drivers and fleet managers can do is to conduct a thorough and complete pre-trip and post-trip inspection on their vehicle. This can help prevent accidents from happening even before a driver gets on the road.

Are in-cab videos really all that helpful for drivers? Is it worth the cost of implementation?

In-cab video can be useful for both drivers and businesses. There is always a fear of "big brother" watching over the drivers, but the rewards of having video could be very valuable. One exoneration of an accident could pay for the cost of the system for years to come. With the rise of "nuclear" verdicts (a verdict in excess of \$10 million) regarding trucking accidents, an in-cab video could be valuable as evidence, leading to reduction of these verdicts against trucking companies and drivers. In fact, a University of Michigan Transportation Research Institute study found that car drivers were assigned contributing factors in 81% of crashes involving large trucks, versus only 27% for professional drivers. Since professional drivers have a low fault rate, having a forward-facing camera can help professional drivers' innocence.

As our world continues to change, I can only imagine the plethora of questions everyone will have regarding the impact to their business and our industry at large. From changing rules (state, federal and international) to new players entering the market to unexpected issues, like COVID-19, the only thing we can continue to do is stay aware – and to keep asking questions. ■



2020 Level VI Train the Trainer Training Course

This year's Level VI Train the Trainer Course was held in Little Rock, Arkansas, Feb. 25-27, 2020. Twenty-eight state trainers were in attendance. Each state that maintains a Level VI Inspection Program is required to ensure their certified Level VI inspectors receive an eight-hour refresher training every 24 months. Those states send an individual or a team of certified Level VI inspectors to the Train the Trainer Course. Below is the text from CVSA Operational Policy 6 regarding the Train the Trainer Program.

Recertification of North American Standard Level VI Inspection for Transuranic Waste and HRCQ of Radioactive Material

In order to instruct the recertification course for North American Standard Level VI Inspection for Transuranic Waste and Highway Route Controlled Quantities (HRCQ) of Radioactive Material, the instructor must meet the minimum criteria listed below:

- Successfully complete the current approved North American Standard Level VI Inspection for Transuranic Waste and HRCQ of Radioactive Material Course.
- Maintain certification as a North American Standard Level I and Hazardous Materials/Dangerous Goods inspector for the two years immediately prior to applying as a Level VI recertification instructor.
- Successfully complete an Instructor Development Course approved by the applicant's member jurisdiction.

Certification

Successfully complete the approved North American Standard Level VI Instructor Recertification Course as determined by the CVSA Level VI Inspection program director.

Maintenance

- Maintain certification as a North American Standard Level I inspector at all times.
- Maintain certification as a North American Standard Hazardous Materials/Dangerous Goods inspector at all times.
- Maintain certification as a North American Standard Level VI Inspection for Transuranic Waste and HRCQ of Radioactive Material inspector.
- Attend the approved North American Standard Level VI Instructor Recertification Course every two years. ■



About 'RAD Inspection News'

'RAD Inspection News' features news and other stories pertaining to the North American Standard Level VI Inspection Program for transuranic waste and highway route controlled quantities (HRCQ) of radioactive material. This inspection is for select radiological shipments that include enhancements to the North American Standard Level I Inspection Program and the North American Standard Out-of-Service Criteria with added radiological requirements for transuranic waste and HRCQ of radioactive material.

Learn more about the Level VI Inspection Program at www.cvsa.org.

'RAD Inspection News' is made possible under a cooperative agreement with the U.S. Department of Energy. Since January 2007, it has run as a section inside CVSA's "Guardian." ■



Little Rock, Arkansas



U.S. DOE's System for Safely Transporting TRU Waste to WIPP

The U.S. Department of Energy (DOE) established an elaborate system for safely transporting transuranic (TRU) waste to the Waste Isolation Pilot Plant (WIPP) for permanent disposal or between TRU waste generator sites. The waste is transported in four specially designed shipping casks approved for use by the U.S. Nuclear Regulatory Commission (NRC).

Three shipping casks – the Transuranic Packaging Transporter Model 2 (TRUPACT-II), HalfPACT and TRUPACT-III – are designed for hauling contact-handled (CH) TRU waste; while the RH 72-B is used to transport remote-handled (RH) TRU waste. All four casks meet NRC and U.S. Department of Transportation (DOT) radiation limits for public safety.

TRUPACT-II



Each stainless steel TRUPACT-II is approximately 8 feet in diameter, 10-foot high, and

constructed with leak-tight inner and outer containment vessels. The TRUPACT-II can hold up to 14 55-gallon waste drums, eight 85-gallon drums, six 100-gallon drums, two standard waste boxes or one 10-drum overpack. A single CH TRU waste shipment can consist of a maximum of three TRUPACT-IIs or a combination of TRUPACT-IIs and HalfPACTs.

HalfPACT

Some shipments consist of CH TRU waste drums that weigh as much as 1,000 pounds each. The total weight of the shipment (including the truck and trailer) can be no more than 80,000 pounds, under DOT requirements. To meet these requirements, DOE designed the HalfPACT, a cask for CH TRU waste that is shorter and lighter than the TRUPACT-II. Each HalfPACT can carry up to seven 55-gallon drums, four 85-gallon drums or three 100-gallon drums. A single WIPP shipment can consist of a maximum of three HalfPACTs or a combination of HalfPACTs and TRUPACT-IIs.

TRUPACT-III



Large CH TRU waste containers known as Standard Large Box 2s (SLB2s) are too big to fit inside the TRUPACT-II or HalfPACT. To accommodate such large waste containers, DOE designed a third CH TRU waste shipping cask. This minimizes the need for size reduction and repackaging. The TRUPACT-III is a large rectangular cask comprised of inner and outer stainless-steel plates and polyurethane foam to protect against potential punctures and fire danger. A single TRUPACT-III is transported on a custom-designed trailer. The

maximum allowable weight of a TRUPACT-III cask can be up to 55,116 pounds, making a fully loaded TRUPACT-III shipment 84,096 pounds. A TRUPACT-III shipment is a non-divisible load, meaning parts of the shipment cannot be removed to lessen the weight.

RH 72-B



RH TRU waste typically has a higher dose rate on the surface of the waste container than CH TRU waste, but

the dose rate limit on the outside of the shipping cask is the same due to lead shielding. The RH 72-B has a 15/8-inch thick lead liner. Because of the weight of the lead shielding, only one RH 72-B is loaded per trailer.

Like the CH TRU waste casks, the steel RH 72-B is leak-tight and constructed with inner and outer containment vessels. It is a large cylinder, approximately 12-foot long and about 3.5 feet in diameter. The cylinder fits into circular impact limiters, similar to shock absorbers, designed to protect the cask and its contents in the event of an accident. It also has an outer thermal shield to protect the cask against potential fire damage. Inside, a cylindrical canister holds direct-loaded RH TRU waste or up to three 55-gallon drums of RH TRU waste.

Shielded Containers

Some RH TRU waste is packaged in lead-shielded containers and handled and emplaced as CH TRU waste. The activity of the RH TRU waste must be low enough to result in a dose rate of less than 200 millirem/hour at the surface of the shielded container. Shielded containers are shipped in CH TRU waste shipping casks. The shielded container has a 1-inch-thick lead shielding sandwiched between a double-walled steel shell with a 3-inch thick steel lid and base. It is designed to hold a 30-gallon drum and has approximately the same exterior dimensions as a 55-gallon drum. Three containers can be shipped in a HalfPACT. The containers are tracked as RH TRU waste.

Testing and Certification

All transportation casks used to transport TRU waste to WIPP are NRC-certified Type B casks. Type B casks must meet stringent NRC design, fabrication, operation and maintenance requirements. Designs for the Type B casks must withstand normal transportation conditions, such as exposure to high and low temperatures, varying external pressure and impact from debris.

In addition, NRC certification requires Type B casks to withstand a series of hypothetical accident scenarios without failing. The NRC regulations (10 Code of Federal Regulations Part 71) allow computer-simulated scale model or full-scale model testing to demonstrate a transportation cask's suitability for certification. A combination of these methods is commonly used. Extensive full-scale model testing was conducted at Sandia National Laboratories.

The tests performed include:

- **Free-Drop Test** – The transportation cask is dropped from 30 feet onto a flat, unyielding surface (such as a steel-reinforced concrete pad), striking the surface at the weakest point.
- **Puncture Test** – The transportation cask is subjected to a 40-inch free drop onto a 6-inch diameter steel bar at least 8 inches long.
- **Burn Test** – The transportation cask is drenched with jet fuel and ignited, subjecting it to a temperature of 1,475 degrees Fahrenheit for 30 minutes.
- **Immersion Test** – Using specialized analyses, a separate transportation cask of the same design is subjected to external pressure equivalent to being immersed under 50 feet of water.

When all the requirements for design and testing are met, NRC issues a certificate of compliance for the design of the transportation cask. The certificate specifies procedures for the manufacture, operation and maintenance of the packaging. It also defines the packaging's authorized contents. The certificate is valid for five years. At the end of this period, DOE may apply to renew certification. ■

Level VI Refresher Training Conducted at 2020 COHMED Conference

The CVSA Level VI Inspection Program hosted an eight-hour refresher training course during the COHMED Conference on Jan. 27, 2020, in Louisville, Kentucky. Twenty-eight certified Level VI officers took advantage of the training.

Since 2015, the Level VI Inspection Program has worked with the COHMED Program to provide this necessary training during the COHMED Conference. The training was provided by CVSA Director of Level VI Inspection Program Carlisle Smith, Level VI National Instructor Rion Stann of the Pennsylvania State Police and CVSA contractor Tom Fuller.

OPERATIONAL POLICY 4: Standards for Maintaining Inspector Certification

This operational policy is not intended to override any member jurisdiction statutory requirement, governor order, state rule or other mandate currently in place or future enactment of statutes, orders, rules and other mandates to conduct Level VI Inspections of vehicles and drivers transporting transuranic waste or highway route controlled quantities

(HRCQ) of radioactive material. Certified Level VI inspectors must abide by the requirements placed upon them by their jurisdiction and agency, using CVSA policies as a guideline for the completion of Level VI Inspections.

To maintain certification to conduct North American Standard Level VI Inspections, an inspector must:

- Successfully complete the Level VI recertification course (eight hours minimum) within a 24-month period of passing the inspector's initial North American Standard Level VI Inspection Course, or the inspector's last Level VI recertification training as applicable. For example: A Level VI certified inspector completes an eight-hour recertification course in March 2017 and, therefore, must complete another eight-hour recertification course by no later than the end of March 2019 and so on.
- Maintain certification to conduct North American Standard Level I Inspections and North American Standard Hazardous Materials/Dangerous Goods Inspections. ■



U.S. DOE Seeks Hazardous Waste Permit Renewal with New Mexico

Permit renewal calls for WIPP to accept nuclear waste until 2052

Nuclear waste could continue to be buried beneath Carlsbad, New Mexico, for another 32 years if the New Mexico Environment Department approves a permit renewal filed for the Waste Isolation Pilot Plant (WIPP) by the U.S. Department of Energy (DOE) and contractor Nuclear Waste Partnership (NWP).

The 10-year renewal did not entail any changes to the process of accepting transuranic (TRU) waste – mostly radiated clothing items or machine parts – or emplacing it in the underground salt formation about 2,000 feet below the surface.

It did not seek to increase WIPP's capacity or make changes to three areas permitted to hold waste:

- a parking area where waste is held before being brought in to WIPP
- the waste handling building within the facility
- the underground salt mine where it is permanently disposed

The renewal application did seek to alter the final date of emplacement, as defined in the permit, from 2024 to 2052 – adding 28 years to WIPP lifetime.

Karen Day, a permitting manager with NWP, said the contractor and DOE would file subsequent permit modification requests as more space is needed. She presented the renewal application to public stakeholders during a meeting at the DOE's Skeen Whitlock Building in Carlsbad. Representatives from the city of Carlsbad and other local agencies spoke in support of the renewal. No opposition was voiced during the meeting.

WIPP holds TRU waste in eight panels, with waste being emplaced in Panel 7 as Panel 8 is being mined. Panel 8 was expected to be fully mined by 2020. ■

Source: *Carlsbad Current-Argus*

U.S. Nuclear Waste Repository Takes in First Large Shipment in Six Years

In January 2020, the U.S. government’s only underground nuclear waste repository took in its first large shipment in six years, following recertification and retraining of workers.

The shipment, using a special large cask known as a Transuranic Package Transporter Model 3, or TRUPACT-III, came from the Savannah River Site in South Carolina. It included contaminated glove boxes and other large-scale analytical equipment.

The large casks are 14 feet (4.27 meters) tall, more than 8 feet (2.44 meters) square and

weigh about 25 tons. That’s more than double the weight of the containers typically used to make shipments to the Waste Isolation Pilot Plant (WIPP) in southeastern New Mexico. The larger containers accelerate the pace of cleanup at federal sites across the U.S. Department of Energy’s complex and reduces safety risks to workers, officials said.

To get the equipment in working order again, an automated transporter that the cask rides atop was overhauled and workers were retrained in its use. A payload transfer station where large boxes are pulled from the cask

and transferred to a pallet for processing also was repaired.

The first TRUPACT-III came to the repository in 2011 – a dozen years after the facility opened – to begin taking the nation’s defense-related waste. TRUPACT-III shipments were halted after a truck fire and unrelated radiological release forced the temporary closure of the repository in 2014.

Source: Associated Press, <https://apnews.com/1e18edc9c0e02d06308731f395b8e484> ■

2020 Level VI Inspection Basic Certification Courses

CVSA, under a cooperative agreement with the U.S. Department of Energy, offers Level VI certification on inspecting vehicles, motor carriers and drivers that transport transuranic waste and highway route controlled quantities shipments of radioactive material. This Level VI training is offered to jurisdictional inspectors who meet the prerequisite of having obtained CVSA Level I and hazmat certification.

Here are upcoming certification courses:



There is no registration fee for either of the above-listed courses; however, registration is required. To register for either course or if you have any questions, contact CVSA Director of Level VI Inspection Program Carlisle Smith at carlises@cvsa.org or 301-830-6147. ■

Level VI Roadside Inspections (2020 - Fiscal)

LEVEL VI INSPECTIONS	Federal	State	Total	% of Total
Number of Level VI Inspections	0	243	100	100%
Point of Origin	0	143	143	58.85%
En Route	0	100	100	41.15%
Point of Destination	0	0	0	0%
Unknown Location	0	0	0	0%
Level VI Inspections with No Violations	0	237	237	97.53%
Level VI Inspections with Violations	0	6	6	2.47%
Level VI Inspections with Out-of-Service Conditions	0	2	2	0.82%

Level VI Roadside Inspection Violations (2020 - Fiscal)

Violation Code	Violation Description	# of Inspections	# of Violations	% of Total Violations	# of OOS Violations	OOS %
393.45D	Brake Connections with Leaks or Constrictions	2	2	28.57%	1	50%
393.207B	Adjustable Axle Locking Pins Missing or Not Engaged	1	1	14.29%	0	0%
393.45B2	Brake Hose or Tubing Chafing and/or Kinking	1	1	14.29%	0	0%
393.9A	Inoperative Required Lamps	1	1	14.29%	1	100%
393.11	No or Defective Lighting Devices or Reflective Material as Required	1	1	14.29%	0	0%
393.75A3	Tire – Flat and/or Audible Air Leak	1	1	25%	1	100%

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Thank You

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