



FMCSA Regulatory Update for the 2016 NASDPTS Annual Conference

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Safety Fitness Determination

(NPRM, January 21, 2016)

Revised methodology would determine when a motor carrier is “unfit” and provide the Agency with the ability to issue proposed ratings based on:

- The carrier’s safety performance in relation to the Behavioral Analysis and Safety Improvement Categories (BASICs);
- An investigation; or
- A combination of on-road safety data and investigation information.

Current Regulatory Factors

- Factor 1 – General: Parts 387 and 390.
- Factor 2 – Driver: Parts 382, 383, 391.
- Factor 3 – Operational: Parts 392 and 395.
- Factor 4 – Vehicle: Parts 393 and 396.
- Factor 5 – HM (Parts 397, 171, 177 and 180).
- Factor 6 – Accidents (Recordable Rate, with preventability review).

Current Safety Rating Table (49 CFR 385, Appendix B)

Factor Ratings		Overall Safety Rating
<i>Unsatisfactory</i>	<i>Conditional</i>	
0	2 or fewer	Satisfactory
0	More than 2	Conditional
1	2 or fewer	Conditional
1	More than 2	Unsatisfactory
2 or more	0 or more	Unsatisfactory

Proposed Safety Fitness Determination Process

- Only one fitness determination – “Unfit;” *no Satisfactory or Conditional ratings.*
- If the carrier is not “Unfit,” the company may continue to operate.
- Carriers are compared to fixed failure standard not percentiles (as in SMS);
 - Not impacted by changes in other carriers’ scores.
- Crash Data: Preventability review still required.

3 Paths to Proposed Unfit

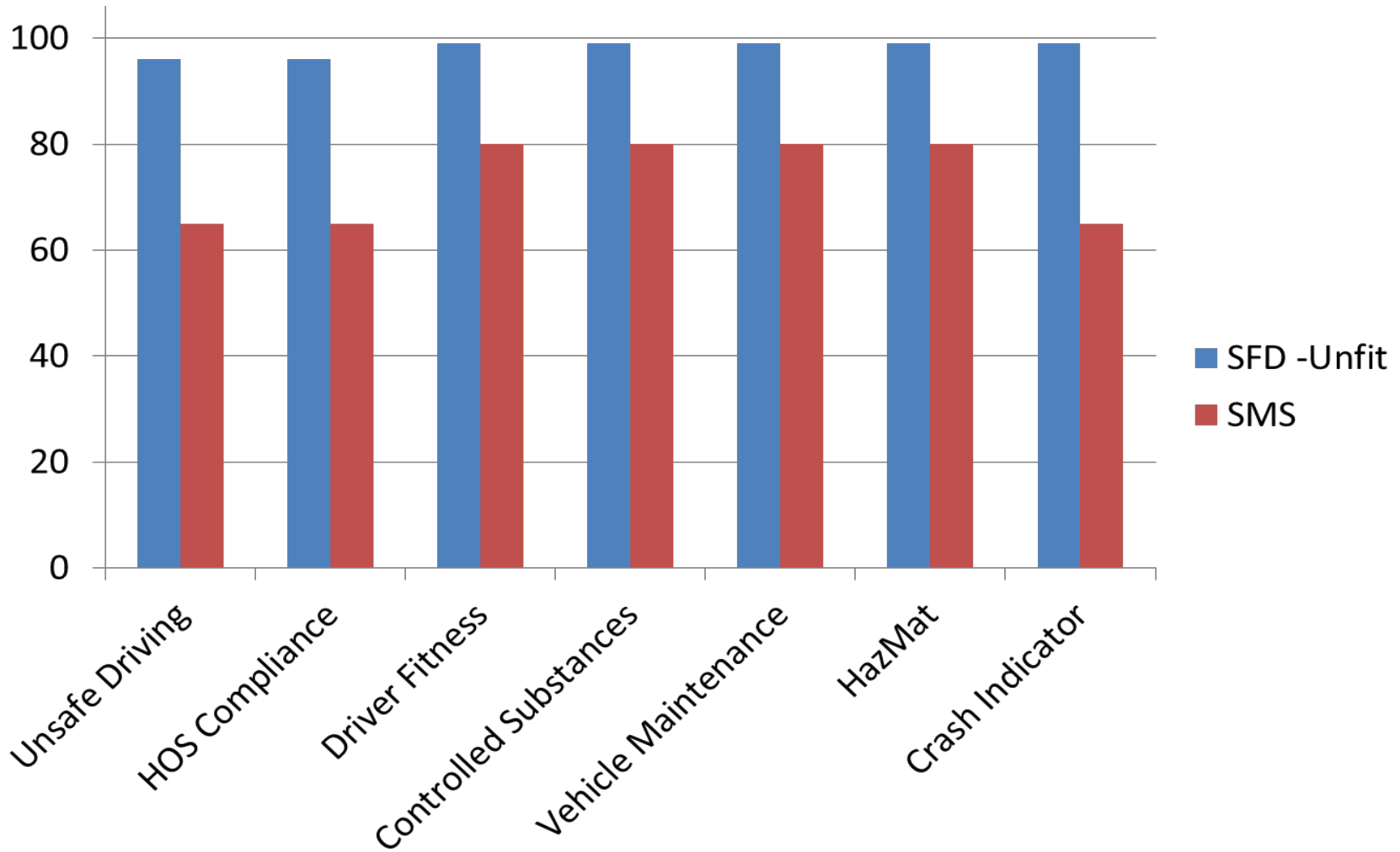
- 2+ BASICs above the failure standard (= 96/99th percentile) based on roadside inspection data (*must have 11 or more inspections with violations*);
- Violations of revised critical and/or acute regulations that result in 2 failed BASICs found in an investigation;
- 1 failed BASIC from investigation + 1 failed BASIC from roadside (*must have 11 or more inspections with violations*);

On Road Safety Data BASICS

Absolute performance measures would be specified in the rule, equivalent to the following percentiles:

- Hours of Service Compliance – 96th percentile;
- Unsafe Driving - 96th percentile;
- Vehicle Maintenance – 99th percentile;
- Driver Fitness – 99th percentile;
- Hazardous Materials Compliance – 99th percentile
- Crash Indicator – Investigations only (99th percentile);
- Controlled Substances/Alcohol – Investigations only (99th percentile).

Proposed SFD Thresholds and SMS Intervention Thresholds



<http://www.regulations.gov> *Docket No. FMCSA-2015-0001*

Federal Motor Carrier Safety Administration

The screenshot shows the homepage of regulations.gov. The browser address bar displays the URL <http://www.regulations.gov/#home;tab=search>. The site logo is "regulations.gov" with the tagline "Your Voice in Federal Decision-Making". Navigation links include Home, Help, Resources, and Feedback and Questions. A search bar contains the text "FMCSA-2015-0001" and a "Search" button. Below the search bar, there is a section titled "Participate Today!" with text encouraging users to submit comments on proposed regulations. To the right, a sidebar titled "Are you new to the site?" provides links for getting started, such as "What can I find on this site?" and "How do I submit a comment?". At the bottom, there are sections for "What's Trending" and "Regulations With".

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Electronic Logging Devices (ELDs)

(Final Rule, December 16, 2015)

- (1) Prescribes minimum technical standards for ELDs.
- (2) Subject to a limited exception, requires drivers who need to keep RODS to use ELDs.
- (3) Establishes explicit requirements for HOS supporting documents, specifying the “number, type and frequency.”
- (4) Prohibits harassment of drivers and establishes a complaint process for drivers, due process for carriers and specifies civil penalties.

ELD Mandate: Carriers and Drivers

- Motor carriers subject to the RODS (logbook) requirements under 49 CFR Part 395 must ensure that drivers use ELDs beginning December 18, 2017.
- Motor carriers currently using automatic on-board recording devices (AOBRDs) to satisfy the RODS requirement must make the transition to ELDs no later than December 16, 2019.

Exceptions to the ELD Mandate

- Drivers that are required to prepare RODS no more than 8 days within any 30-day period;
- Drivers in a driveaway-towaway operation in which the vehicle being driven is part of the shipment being delivered;
- Drivers operating a commercial motor vehicle manufactured before model year 2000.

HOS Supporting Documents

- Motor carriers must retain up to 8 supporting documents for every 24-hour period;
- Documents should contain the following:
 - Driver name or carrier-assigned identification number
 - Date
 - Location (including name of nearest city, town, or village; and,
 - Time

HOS Supporting Documents (Cont.)

Supporting documents consist of the following five categories:

- Bills of lading, itineraries, schedules, or equivalent documents that indicate the origin and destination of each trip;
- Dispatch records, trip records, or equivalent documents;
- Expense receipts;
- Electronic mobile communication records, reflecting communications transmitted through a fleet management system (FMS);
- Payroll records, settlement sheets, or equivalent documents that indicates payment to a driver.

Prohibition Against Harassment

- “Harassment” covers an action by a motor carrier toward one of its drivers that the motor carrier know, or should have known, would result in the driver violating § 392.3, concerning ill or fatigued operation of a CMV, or violating the requirements under Part 395.
- Harassment must involve information available to the motor carrier through an ELD or other technology used in combination with and not separable from an ELD.

Drug & Alcohol Clearinghouse (*Final Rule*)

- Motor carriers, Medical Review Officers (MROs), Substance Abuse Professionals (SAPs), and consortia/third party administrators (C/TPAs) to report:
 - Verified positive, adulterated, and substituted drug test results, positive alcohol test results, test refusals, negative return-to-duty test results, and information on follow-up testing.
- Motor carriers would be required to report actual knowledge of traffic citations for driving a commercial motor vehicle (CMV) while under the influence (DUI) of alcohol or drugs.
- ***Status:*** Final rule was cleared by OMB on October 31, 2016.

Entry-Level Driver Training (NPRM, March 7, 2016)

- Section 32304 of MAP-21
- The regulations must address knowledge and skills for drivers, with specific requirements for drivers seeking a passenger or hazmat endorsement.
- Classroom and behind-the-wheel training is required.
- Rules must require that training providers demonstrate that their training meets the Federal standards.
- February 2015 – May 2015: Negotiated Rulemaking Committee meetings were conducted.

ELDT Advisory Committee Recommendations

- **Class A CDL** – 30 hours of behind-the-wheel (BTW) training; **Class B CDL** – 15 hours of BTW training.
- All CDL training providers would be listed on a Training Provider Registry; training providers would complete an identification report and provide a biennial update.
- Training providers must submit training certificates to FMCSA; FMCSA will transmit the certificates to the State licensing agency.
- ***Status:*** Final Rule expected in late 2016; *the rule was submitted to OMB on August 30.*

National Registry of Certified Medical Examiners (NRCME)

- **April 20, 2012** – Final rule to establish minimum training and testing requirements for all medical examiners who issue medical certificates for interstate truck and bus drivers.
- **May 21, 2014** (*Compliance date*) – All medical cards issued on or after that date must be provided by examiners on the registry.
- Examiners must complete training course and testing, and submit medical certificate information to FMCSA on everyone who applies for a medical card.

Relationship Between Medical Certification & CDL (49 CFR 383.71)

All CDL holders must self-certify which of the following categories cover their operation:

- Non-excepted interstate; subject to FMCSA medical standards;
- Excepted interstate; not subject to FMCSA medical standards;
- Non-excepted intrastate; subject to State medical standards (which may be identical to FMCSA's rules);
- Excepted intrastate; not subject to State medical standards.

National Registry Statistics: May 21, 2014 – August 31, 2016

- 49,777 certified examiners; 7 million distinct CDL holders; 1.5 million distinct non-CDL drivers.
- 11,869,908 medical examinations were conducted.
 - 11,454,608 drivers received medical certificates (96.5%)
 - 6,928,214 (60.5%), 2-year medical cards
 - 3,749,011 (32.7%), 1-year medical cards
 - 609,626 (5.3%), 3-month medical cards
 - 167,757 (1.5%), < 3-month medical cards
 - 227,083 drivers were temporarily disqualified (1.98%).
 - 114,591 drivers were medically disqualified (1.0%).

National Registry II

(Final Rule)

- On April 23, 2015, FMCSA published the Medical Examiner's Certification Integration final rule (*80 FR 22790*).
 - Require medical examiners to submit medical certificates to FMCSA on a daily basis for each driver they examine.
 - FMCSA will transmit the medical certificates to the State driver licensing agencies for CDL holders (**June 2018**).
 - State licensing agencies will also be able to download the medical certificates from FMCSA for CDL holders and CDL applicants (**June 2018**).
- The rule will decrease the risks of falsification of medical cards.

A vertical banner on the left side of the slide features a close-up of the American flag's red and white stripes at the top, a field of white stars on a dark background in the middle, and a close-up of a truck's front grille at the bottom. The text 'Federal Motor Carrier Safety Administration' is written vertically in white on the left side of the banner.

National Registry (FAST Act – Veterans Administration)

- Section 5403 – Veterans may obtain their medical certificates to operate CMVs in interstate commerce from the VA. The VA doctor must:
 - Be employed by the VA;
 - Be familiar with the standards for medical certification;
 - Have never “acted fraudulently.”
- DOT must develop a process for qualified physicians to perform medical exams and provide medical certificates – including listing on the National Registry of Certified Medical Examiners.
- **Status:** NPRM anticipated in Fall 2016.



Obstructive Sleep Apnea (ANPRM, March 10, 2016)

FMCSA and FRA jointly issued the ANPRM to gather information about:

- The prevalence of moderate-to-severe obstructive sleep apnea (OSA) among individuals occupying safety sensitive positions in rail and highway transportation;
- The potential economic impact and safety benefits associated with regulatory actions that would result in transportation workers in these positions, who exhibit multiple risk factors for OSA, undergoing evaluation by a healthcare professional with expertise in sleep disorders, and subsequent treatment.

Obstructive Sleep Apnea - Medical Review Board (MRB)

- August 22-23, 2016 – MRB meeting.
- Recommendations for diagnostic sleep evaluations:
 - a. Individuals with a BMI ≥ 40 mg/kg².
 - b. Individuals with a BMI ≥ 33 and < 40 mg/kg² with 3 or more other risk factors, such as:
 - Hypertension (treated or untreated);
 - Type 2 diabetes (treated or untreated);
 - Neck size > 17 inches (male), 15.5 inches (female);
 - Age 42 and above; etc.
- See full details at <https://www.fmcsa.dot.gov/mrb>.

http://www.dot.gov/regulations/report-on-significant-rulemakings

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The Significant Rulemakings Report provides a summary and the status for all significant rulemakings that DOT currently has pending or has issued recently. We update the Report at the beginning of each month. The information in the Report is not intended to commit DOT to specific conclusions or actions. For example, after further analysis, DOT may decide the effects of the rule would be different or it may decide to terminate the rulemaking.

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The main content area is divided into several sections:

- Home**: A breadcrumb trail "Home > FDsys".
- FDsys: GPO's Federal Digital System**: Includes links for "About FDsys", "Search Government Publications", and "Browse Government Publications".
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- Congressional Record**: A featured collection titled "President's State of the Union Address" with a thumbnail of the American flag and links for "View Text >" and "View PDF >".
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