

TRANSPORTATION UPDATE

APRIL, 2014



Truck regulations require homework

New and pending changes generally offer some relief to farmers, but understanding when and how they apply takes some effort

By Kevin Rund

Knowing the rules is easy; understanding the exemptions is hard.

That's especially true when they keep changing. Farmers are discovering that as they are challenged to follow the slow-motion unfolding of a set of exemptions intended to excuse them from certain trucking regulations. On top of that, a handful of new regulations are sprinkled in every so often.

That's where we are today, and that's why—upon discovering a new truck regulation—you probably feel like “what just happened?” Truth is, it's still happening. Let me try to help you get your bearings in this shifting maze.

We'll focus on only the big chunks and sort out the details in future articles.

A Starting Point

Let's start from a solid base so we'll have a point of reference. That touchstone is the Federal Motor Carrier Safety Regulations (FMCSR.) These have been around over 30 years and have always applied to trucks over 10,000 pounds used in commerce—including farm trucks.

Don't confuse the FMCSR with the FMCSA. The latter is the Federal Motor Carrier Safety Administration—the agency within the U.S. DOT that creates and oversees the FMCSR.

The FMCSR is the cradle of most truck regulations, including: drug & alcohol screening; medical card; hours of service limits; logging; load securement; equipment inspections; driver records; insur-

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Transportation funding proposals

Governor and others recommend options for Illinois highways

Illinois is losing ground on highway and bridge maintenance. It'll take more money to catch up.

With Illinois' “Jobs Now!” capital highway funding package set to run out, dwindling purchasing capacity of remaining funds, and a growing backlog of road and bridge repair needs, politicians and transportation users are offering options for getting state and local transportation funding

back on the road.

Illinois Farm Bureau will be asked to wade in on the funding debate, so our members need to have a general understanding of the issues.

Let's look at two prominent proposals so far put on the table—one from the Governor, the other from the Transportation for

(See Funding on page 5)

The nation's freight ton miles are expected to rise 62% by 2040.

U.S. DOT

Impact of two medical card programs now felt

CDL drivers experiencing fallout of medical examiner and declaration requirements

For months we've been reminding drivers who have a CDL about the federal requirement to declare their medical card status to the Secretary of State's Office. That was to have been completed by January 30.

That was (and is) the choice you had to make between declaring one of four categories:

- Non-exempt Interstate (NI)
- Exempt Interstate (EI)
- Non-exempt Intrastate (NA)
- Exempt Intrastate (EA)

You'd do that at one of the 47 Secretary of State CDL licensing facilities in the state.

That deadline has come and gone and so has the February 28 end of the grace period offered. As of that date, drivers who had failed to declare had their CDL cancelled.

The medical card is also the focus of a second regulation set to kick in on May 21. Every DOT physical performed on and after that date on behalf of a driver who declared "NI" will have to be performed by a medical examiner who has been certified by the U.S. DOT to conduct those exams.

That will result in a significant reduction in the number of examiners who can conduct a DOT physical for interstate drivers. Intrastate drivers

who continue to need the medical card (NA) may continue to use non-certified medical examiners for the DOT physical.



Almost 16,000 CDL cancellations

Failure to certify medical card has consequences

Those CDL-licensed drivers who failed to declare the status of their medical card have now had their CDL driving privileges cancelled.

The Secretary of State sent out 23,381 cancellation warnings in mid-February with a cancellation date of February 28. That prompted a final rush to declare.

By the cancellation date, almost 7,500 of those drivers had complied, so that on the 28th the number of CDL drivers who had their licenses cancelled was 15,953.

A number of drivers have since declared and had their licenses restored, so the most recent cancellation count totals 11,629. That means that roughly 97% of all Illinois drivers required to declare have done so, well ahead of most other states.



Restoring a cancelled CDL

If a driver's CDL is cancelled due to failure to declare medical card status or because his/her medical card has expired, they'll need to take steps to get it restored before the CDL passes its expiration date.

Here are the steps to restoration:

1. Driver gives medical card to the Secretary of State's Office who loads the expiration date into their computer.
2. Computer grabs expiration date at the 90 days before cancellation mark and sends the driver a reminder that they have 90 days left on their medical card.
3. Medical expires, the Secretary of State places the driver on "non-certified status" and notifies the driver.
4. If the medical card still remains expired on the 31st day, the Secretary of State will cancel the CDL and notify the driver.
5. The CDL remains canceled until the driver either renews their medical card or they go into a facility to renew their base license. At the time of renewal, the driver will either have to drop the CDL completely, or provide a new medical to get the CDL reinstated. If the driver lets their base license expire before they come in and renew it, then all tests will be required to re-establish their CDL.

Medical examiner deadline approaches — May 21

CDL drivers who declared “NI” will have to seek out certified examiners

The National Registry of Certified Medical Examiners (National Registry) is a Federal program that establishes requirements for healthcare professionals that perform physical qualification examinations for truck and bus drivers. To become a certified medical examiner (ME) and be listed on the National Registry, healthcare professionals must complete training and testing on the Federal Motor Carrier Safety Administration’s (FMCSA) physical qualifications standards and guidelines.

As of April 7, there were 1,234 Illinois-based medical examiners on that National Registry, and another 412 in the pipeline. That’s not many for the estimated 200,000 Illi-

nois drivers who will have to seek them out.

Interstate drivers are required to obtain physical examinations and a medical examiner’s certificate from a certified medical examiner listed on the National Registry.

Drivers will still receive a medical certificate from the medical examiner after passing their examination; however, medical certificates will now include the certified medical examiner’s National Registry Number.

Medical certificates (Medical Cards) filled out and signed before May 21 can still be used to get a CDL license by an interstate driver.

Effective May 21, 2014, all medical certifications [for (NI) drivers only] must be conducted by a medical provider certified through the FMCSA National Registry; the certificate must contain the provider’s National Registry number.

For National Registry providers near you visit

www.nationalregistry.fmcsa.dot.gov.

If the medical card is not signed by a FMCSA-approved medical examiner who is registered in the National Registry, that document will be rejected.

Once rejected, if that driver fails to provide a new DOT medical card before their old one expires, the State will be forced to cancel their CDL.

The Owner-Operator Independent Drivers Association has entered a request to the Federal Motor Carrier Safety Administration to extend the registration deadline for certified medical examiners.

In early April, that association claimed that—with just six weeks to go—there is a shortage of medical examiners that have been accepted into the new national registry. Only about 25% of the targeted 40,000 medical examiners have been certified.

In Illinois, we can expect that rural areas of the State will retain few qualified examiners, requiring drivers to travel greater distances to find the required service.



“K” designation for NA & EA drivers

New driver’s license designation sets in-state limits

Around June 1, over 122,000 CDL holders who have declared the *Non-excepted intrastate (NA)* or *Excepted intrastate (EA)* status will each receive a letter from the Illinois Secretary of State’s Office announcing a new program.

Based on these declarations, the State of Illinois is required to place a “K” restriction on your driving record. This will allow law enforcement; employers; and other State’s driver licensing agencies to be aware of your Intrastate-only driving intentions.

If this is not your intention, and you wish to operate Interstate (NI) then you must come in to one of the CDL

facilities to change your declaration.

Of course, a DOT Medical Card from a certified examiner must accompany this change to Interstate Operations—if not exempt from the exam.

Finally, if this NA or EA declaration is correct, then the “K” restriction will actually be placed on your driver’s license the next time you visit an Illinois drivers license facility.

If you have any questions, or concerns about this letter in June, you may contact the Secretary of State’s CDL/Medical Unit at (217) 785-3002.



Homework

(Continued from page 1)

ance minimums; training requirements; and everyone's favorite, the CDL.

What? No hazardous materials transportation regulations, you ask? Well, the FMCSR does reference those and tweaks some of its own rules to fold around the HazMat regs (as they are often called.) But the HazMat regs themselves are created and administered by another agency within the U.S. DOT called the Pipeline and Hazardous Materials Safety Administration (PHMSA.)

Those two federal agencies account for the vast majority of regulations you'll encounter while trucking—except, of course, for all those that the individual States will add to the pile.

By the way, the States generally adopt the FMCSR as their own, keeping State and federal regulations pretty much uniform. So, in Illinois we have the Illinois MCSR that are virtually identical to the FMCSR—with a few exceptions.

And here, again, knowing what those exceptions are is the hard part. I'll point out those differences where they exist. But, since the two sets of rules are so similar, we'll reference them both simply as the "MCSR" from here on out.

While we're on the subject of terminology; by now you've noted that I'm using the term "rule" interchangeably with "regulation." Webster might quibble with that, but for our purposes, they mean the same thing.

The Big Chunks

Now that we've established the source of the regulations, let's look at some of the major rules the federal government has created—usually at the specific direction of the U.S. Congress.

The various parts of the federal MCSR are numbered, so I'll use those numbers for ease of reference. The major MCSR parts normally faced by farmers include:

- Part 382 Drug and alcohol screening

- Part 383 Commercial Driver's License (CDL)
- Part 390 General MCSR and definitions
- Part 391 Qualifications of drivers (includes medical card)
- Part 392 Driving of commercial vehicles
- Part 393 Parts and accessories
- Part 395 Hours of service (includes logging)
- Part 396 Inspection, repair and maintenance

All of these—and the full MCSR—are readily available on the newly-revised [FMCSA website](#). You can pick up the full details there.

The best place to start, when attempting to understand these rules, is in Part 390. That's where you'll find the definitions for various terms. Until you know those, there's no hope of understanding the rest of the regulations. You'll find definitions in other parts, too, but the fundamental building blocks are in 390.

Farm Exemptions

When it comes to the MCSR, there are two primary groupings of exemptions for farmers:

- Farm Vehicle Driver (FVD)
- Covered Farm Vehicle (CVF)

You can also find some limited, situational exemptions in the various Parts, but the broad exemptions that affect most farmers fall into those two primary groups.

When the MCSR were new, they included virtually no farm exemptions. Then, in 1992 when the CDL regulations were implemented, they were accompanied by the Farm Vehicle Driver (FVD) exemption. Its characteristics are that it is easy to qualify for, but offers limited range

U.S. DOT Secretary Foxx sends transportation package to Congress

Source: Based on USDOT press release

WASHINGTON - U.S. Transportation Secretary Anthony Foxx has unveiled a long-term transportation bill he is sending to Congress for consideration as the House and Senate face looming deadlines to avoid the economic uncertainty and job loss that would ensue if the Highway Trust Fund runs out of money by the end of August.

The [GROW AMERICA Act](#) is a four-

year surface transportation reauthorization bill that is intended, in part, help address the expected 62% growth in freight tonnage over the next 25 years.

Its diverse programs include installation of broadband corridors on Federal-aid highway projects in unserved or underserved areas of the country.



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HIGHWAYS

Funding

Illinois Coalition (TFIC), a collection of some pretty knowledgeable groups when it comes to transportation and funding.

Quinn Plan

Governor Quinn unveiled a six-year, \$8.6 billion construction program targeting 1,845 miles of improved highways, replacement or rehabilitation of 384 bridges and major

be built, but short on specifics as to where those dollars would come from. The plan includes \$6.99 billion in anticipated federal funds, \$1.16 billion in state funds and the remaining \$450 million from local and other sources.

TFIC Plan

The TFIC would put \$1.8 billion in annual revenues toward transporta-

sales tax on motor fuels. An estimated \$800 million would be added to the Road Fund if the State's 5% share of sales taxes on fuels was re-directed. Other fees and budget allocations could total another \$170 million.

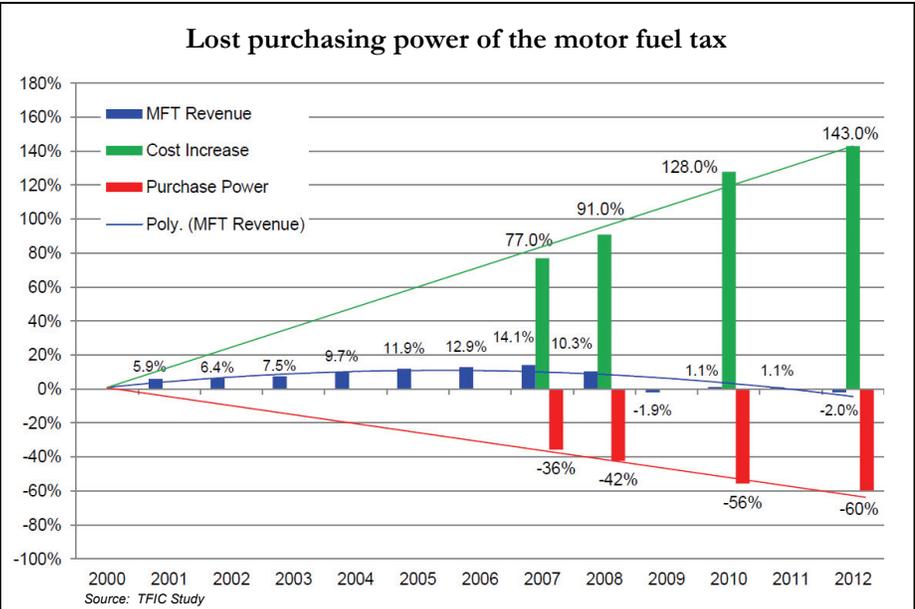
New revenues would come from a 4-cent-per-gallon increase in the tax on gasoline—7 cents on diesel—combining for \$304 million. TFIC would add to that a sales tax on services for automobiles (oil change, car wash, etc.) and a boost in vehicle registration (license plate) fees, the equivalent of \$18 per vehicle. TFIC floated a trial balloon by suggesting the license fee be graduated, tied to the value of the vehicle. But observers note that would be more akin to a personal property tax than a user fee.

The entire revenue pot would be divided 20% to transit, and of the remainder the State would get 60% and 40% would go to local roads and streets. That permanent transit allocation is new, and would be a major draw-down on funds available for roads and bridges.

IFB Policy

Our own policy (#132) would generally oppose that diversion of highway user fees to transit. And the TFIC boost to motor fuel taxes stops short of the 10-cent-per-gallon we could support.

Other provisions of the TFIC plan would require some consideration to sort out their pros and cons. The Governor's package is so short on details that it is difficult to analyze from a policy perspective.



investment in public transit. It includes two major river bridges, one at Peoria and another at Moline.

For fiscal year 2015, which begins July 1, 2014, the program allocates \$1.88 billion for road projects, \$1.85 billion for public transportation, \$2.7 million for rail and \$161 million for airport improvements. For the six years of the plan, a total of \$5.82 billion is targeted to state highway system improvements with \$2.77 billion going toward local transportation needs.

The Governor's announcement is long on listed projects that would

tion-related construction. About \$1.4 billion per year would be used for "pay-as-you-go" construction and another \$450 million would be used to finance a \$5 billion multi-year bonding program. \$670 million would go to the State for roads and bridges; local roads and bridges would receive \$450 million; and \$280 million would go to transit.

To pay for this package, TFIC proposes to raise some user fees. But an even-larger share of the new money would come from redirecting user fees now deposited into the State's General Revenue account. Chief among them is the

Rail delays impact ethanol supply and pricing

Transportation issues in the Dakotas spike national ethanol prices

By Mike Doherty

Early in April, the Energy Information Agency (EIA) released data showing a widening gap in ethanol prices. Spot prices for ethanol have increased steadily since early February.

By late March, New York Harbor (NYH) spot ethanol prices exceeded prices for reformulated gasoline blendstock for oxygen blending (RBOB) by more than \$1/gallon. Ethanol spot prices in Chicago and Gulf Coast markets also rose above NYH RBOB prices. The premium of

NYH over Chicago spot ethanol prices widened to \$1/gallon in March from 25 cents/gallon in January.

It was reported that ethanol plants were temporarily shutting down operations in the Dakotas for lack of available railcars while other plants reported having ethanol tanker cars sitting for an excessive number of days. Comments by participants in a recent US Grains Council mission to Mexico indicated that overseas buyers of DDGS were also being impacted by delayed shipments.

The Surface Transportation Board held a hearing on April 10 to discuss the recent rail challenges and find ways to improve service. The agency said in a statement it is "concerned about service problems across the nation's railroad network, particularly on the Canadian Pacific Railway Company (CP) and BNSF Railway Company (BNSF) systems."

The Association of American Railroads reported that rail car movement has been slowed by a large and compressed grain harvest last year, higher coal volumes and the cold temperatures over the winter that reduced the size and speed of the trains that operate. Spokespersons for the Canadian Pacific railroad stated that a bottleneck has existed in the Chicago area and that this has affected up to 40 percent of its U.S. traffic, but that this should be "back to normal" within six weeks.



Amtrak's Rockford-Chicago route to restart in 2015

Source: Governor's Office

Illinois Gov. Pat Quinn's six-year transportation plan announced in early April includes \$223 million to restore Amtrak service between Rockford and Chicago starting next year.

The plan calls for restoring the service with one round trip daily between Chicago's Union Station and a temporary station in Rockford, then expanding service the following year and eventually continuing it west to Dubuque, Iowa, state officials said in a press release.

Resuming the Rockford service became possible after state officials were able to reach an agreement to utilize tracks owned by Metra and Union Pacific Railroad. The new northern route was selected following lengthy negotiations with CN, whose tracks were originally chosen for the service.

"This funding and a new route are the final pieces of the puzzle to restart this critical rail service, which has been dormant for more than three decades. This is just the

beginning - reliable, intercity passenger rail will create jobs and drive economic development in these cities, the region and the state for years to come."

The new route will use Metra's Milwaukee District-West Line and connect to a UP line near Big Timber Road in Elgin. The temporary Rockford station will be located on the east side of the Rock River while the Illinois Department of Transportation and the city continue to develop a permanent Main Street station on the river's west side.

Quinn and U.S. Sen. Dick Durbin (D-Ill.) dedicated \$3 million in state and federal funding in 2012 in develop the multi-modal station. Stops also are being planned for Elgin, Huntley and Belvidere, state officials said.

"The change will allow the line to connect to more densely populated areas, bringing train service to far more Illinoisans and more easily connecting local economies," he said.



Delays causing disruptions for agriculture

Rail shortages in Midwest causing ripple effects throughout the nation

AG impacts

Randall Gordon, president of the National Grain and Feed Association submitted comments to the STB pointing out “the sheer gravity, magnitude and scope of rail service disruptions now being experienced are unprecedented, and have rippled through all sectors of grain-based agriculture.”

Gordon wrote, as a result:

- Country elevators and other originators of grain and grain products are extremely hesitant to price and book forward sales from farmers or commercial elevators because they cannot count on predictable rail service or reflect the current level of freight costs in their price bids.
- Grain processors and export elevators have idled or significantly reduced operating capacity because of an inability to predictably source sufficient quantities of grains and oilseeds.
- Millers in the upper and central Midwest are confronting facility shut-downs as they run out of raw commodities to process, including oats and certain classes of wheat.
- Still other grain processing and animal feeding operations, particularly in the Eastern United States, are shifting to comparatively inefficient and much more costly long-haul truck movements in an attempt to obtain sufficient quantities of grains and oilseeds. Still others are switching rail origination to other carriers in the limited instances where that is possible.
- And for the first time in a long time, the United States’ hard-

earned reputation as the world’s most reliable supplier of grains, oilseeds and grain products to export markets has been put at risk.

Grain elevator operators reported that elevators are full of grain and can’t get rail cars to ship it out, increasing the basis to 50 to 60 cents, almost double what it had been a year ago.

Ethanol delays

Ethanol spot prices have been on the rise since early February. That’s due primarily to logistical constraints involving railroads, which transport about 70 percent of ethanol produced in the nation, according to the U.S. Energy Information Administration (EIA). Officials there said in a report released April 4 that rail-car dwell times at BNSF Railway Co.’s Galesburg, Ill., terminal – which handles many ethanol cars from Iowa – nearly doubled in early 2014, reaching a peak of 60 hours in February.

The EIA also reported that ethanol stocks had been drawn down nationwide by nearly 2 million barrels from mid-February to mid-March, partially recovering to 15.9 million barrels on March 28 – more than 4 million barrels below typical March levels. They speculated that in the near term, prices might soon begin to level off.

The explosive growth in rail car shipments of Bakken and Canadian crude oil is a “more plausible explanation” for the first quarter rail delays in ethanol shipments, according to Bob Dinneen, president and CEO of the Renewable Fuels Association (RFA).

in a press release, Dinneen claimed

that the rail system “disarray” in the first quarter has forced ethanol producers to significantly cut back output. Onsite storage tanks were full and, in many cases, the rail cars and/or locomotives needed to ship ethanol weren’t available. “As a result, ethanol stocks in key regions have been depleted and prices have increased,” Dinneen said.

Contributing Factors

According to Burlington Northern Santa Fe Railway’s (BNSF) vice president of agricultural products, John Miller, there are a number of factors at play.

- Oil shipments had been expected to rise, but have shot up faster than projected. They will likely continue to increase for the next four or five years.
- Coal shipments, after predicted to drop by about 5 percent, instead rose 3 percent on the year when the price of gas increased and power generators substituted coal for natural gas, and homeowners and businesses used more energy to fight the bitter winter cold.
- Canadians, facing poor service in their own country, are attempting to compensate by moving more grain to the U.S.
- Shipments to the Pacific Northwest have spiked in response to demand for U.S. grain and other products in Asia.
- Agricultural crops have been increasingly larger, making shipments spike upward.
- The frigid weather this year was partly the cause of significant delays in the Chicago area.

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RAILROADS

Homework

(Continued from page 4)

and limited exemptions. Its two exemptions include the CDL and the medical card—for certain farmers only.

It was November of 2013 when some of the CFV exemptions kicked in for the first time in Illinois. That set of exemptions can be characterized as: more difficult to qualify for, and offering exemptions that are more generous. Two other important characteristics are that the CFV exemption is not yet fully implemented, and pickups and dual-lies are left out.

The CFV exemption is supposed to cover four major areas: the medical card, hours of service limitations, equipment inspection requirements, and the CDL. The first three of those are now in effect, but the CDL exemption is not. It's awaiting state legislation, which will likely be completed in the 2014 session.

Also pending is legislation that would allow small truck-trailer combinations to take advantage of

the CFV exemption, now limited to "farm"-plated trucks (16,000 pounds and up.) With any luck, legislation being pushed by Illinois Farm Bureau® will work its way through the General Assembly this spring to provide those small combinations the same CFV exemptions enjoyed by the larger trucks.

Still to Come

What about the specifics of those exemptions? Well, that's a topic for another time. You should already be familiar with the FVD exemptions that have been around for over 20 years. In a follow-up article, I'll recap the FVD and get into the specifics of the CFV, then compare and contrast the two.

And in later articles we'll consider newer regulations that have recently or will soon be added, such as the medical examiner certification requirement set to kick in May 21, and the proposal for electronic logging devices.

Let's see, when it comes to new regulations there's also the proposed hours of service changes, changes to the diabetic driver re-

striction, advent of the Unified Registration System, changes to the "Tank Vehicle" definition, minimum training requirements for entry-level drivers, reduction of post-trip inspection reporting, a revised Gross Combination Weight Rating definition, the new . . .

Stay tuned.



Delays

(Continued from page 7)

Miller indicated that BNSF is investing for the long-term. They're pumping in \$5 billion a year in capital investments compared with \$1 billion in the past.

In an April 5 report on BNSF service, the numbers indicate that North Dakota late rail cars accounted for 47 percent of those in the entire system, with the average delay there of 25.4 days. Montana's late cars average was 29 days late.



STB hearing on rail disruptions

Federal agency considers real-world impacts of reported service delays

The federal Surface Transportation Board (STB), the agency that oversees railroad operations, held a hearing April 10 to hear complaints about rail service for agriculture. The all-day event had 39 witnesses signed up on nine panels.

The primary point raised was the contention that railroads are dedicating too much of their resources the petroleum shipments in the Dakotas and container shipment to the

Pacific Northwest while underserving the Midwest's agricultural industry for both grain and ethanol. The resulting delays are driving up basis costs for grain (reportedly as much as \$1.70 per bushel) and causing shortages of ethanol and higher prices in other areas of the nation.

Grain elevators and ethanol producers are forced to idle production while fully-loaded rail cars sit for weeks at a time awaiting shipment.

Witnesses noted that some farmers have been forced to take out loans for planting because they've been unable to sell their grain.

Grain elevators, unable to move grain, are now hesitant to forward contract with farmers because they don't know what transportation they can count on at harvest time.

