



# **FMCSA Implementation of MAP-21**

September 28, 2012



# Agenda

- Welcome
- Introductory Remarks – Administrator Ferro
- MAP-21 Overview
- MAP-21 Provisions for Discussion
- Stakeholder Priorities and Feedback
- Closing Remarks



# **Introductory Remarks**

## ***Administrator Anne S. Ferro***



# MAP-21 Overview

# MAP-21 is a Strong Safety Bill

The Moving Ahead for Progress in the 21st Century Act (MAP-21) provides FMCSA with important new enforcement tools to take unsafe operators off of our roads.

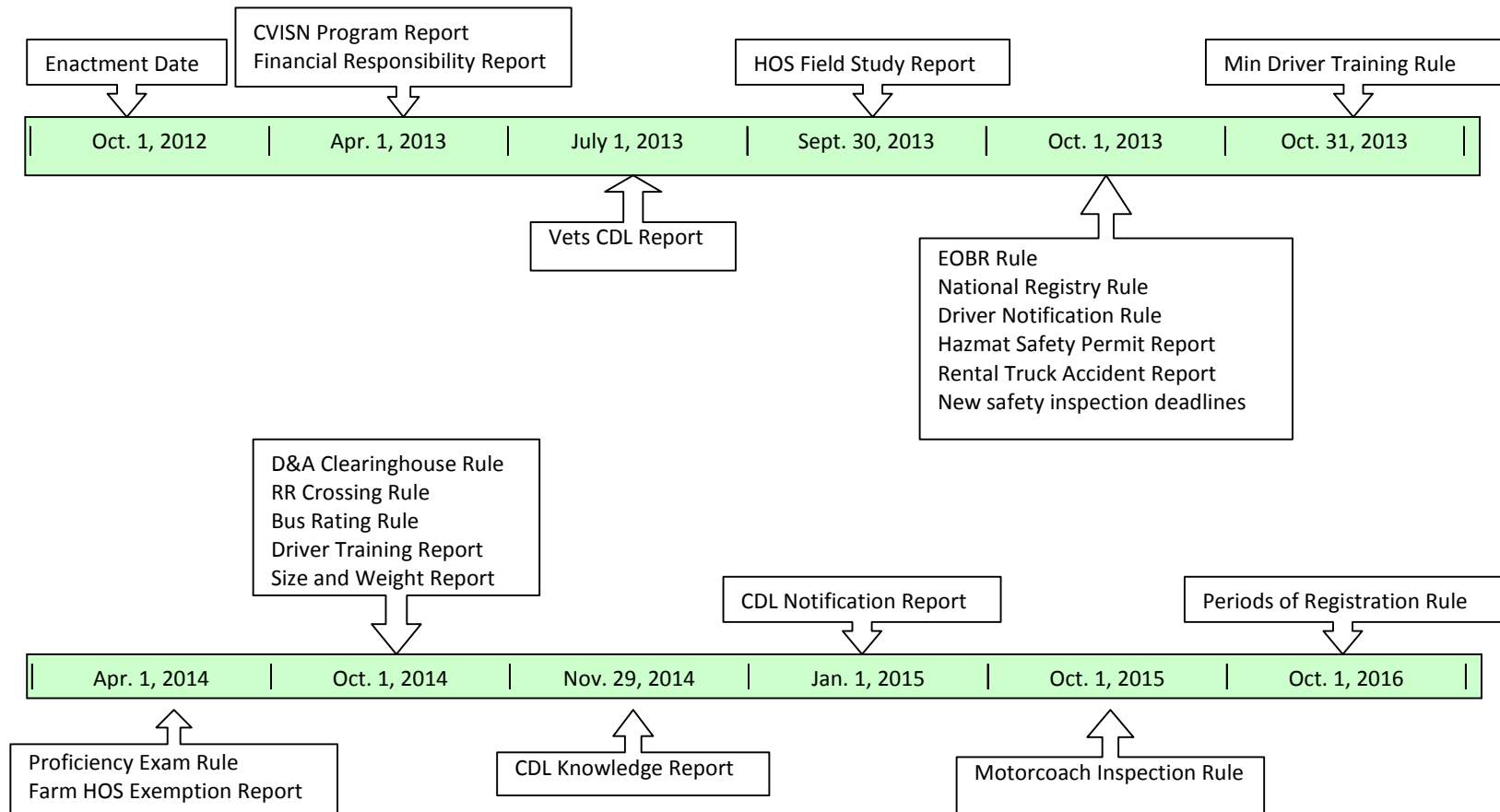
MAP-21 tracks FMCSA's strategic framework to improve CMV safety by supporting its three core principles:

- Raise the bar to enter the industry and operate on our roads;
- Hold motor carrier and drivers to the highest safety standards to continue operations; and
- Remove the highest risk drivers, vehicles, and carriers from our roads and prevent them from operating.

# MAP-21 Includes a Large Number of Mandates for FMCSA to Complete

- MAP-21 directs the Agency to complete 29 new rulemakings within 27 months (which does not include rulemakings already underway by the Agency).
- This compares to 12 for FHWA; 10 for FTA; 7 for NHTSA; and 2 for PHMSA.
- MAP-21 also requires FMCSA to implement 34 programmatic changes and complete 15 reports.

# Congress Set an Aggressive Schedule to Meet These Mandates



# MAP-21 Authorization Levels Are Largely Flat

- Two year and three month authorization.
- Authorization levels are mostly level:
  - *Administrative expenses* (\$244,144,000 in FY2012)
    - \$251,000,000 for FY 2013
    - \$259,000,000 for FY 2014
  - *Motor Carrier Safety Assistance Program* (\$212,000,000 in FY2012):
    - \$215,000,000 for FY 2013
    - \$218,000,000 for FY 2014
  - *CDL Program Implementation Grants* (\$30,000,000 in FY 2012)
    - \$30,000,000 for FYs 2013 and 2014
  - *Border Enforcement Grants* (\$32,000,000 in FY 2012)
    - \$32,000,000 for FYs 2013 and 2014
  - *Commercial Vehicle Information Systems and Networks Grants* (\$25,000,000 for fiscal year 2012)
    - \$25,000,000 for FYs 2013 and 2014
  - *Safety Data Improvement grant program* (\$3,000,000 enacted for fiscal year 2012)
    - \$3,000,000 for FYs 2013 and 2014
  - *New Entrant Audit program grants* (\$29,000,000 enacted for fiscal year 2012)
    - \$32,000,00 for FYs 2013 and 2014



# MAP-21 Overlaps with Many Agency Priorities

As a result, the Agency is already well underway on a number of MAP-21 mandates:

- Electronic Logging Devices (SNPRM due March 2013)
- Patterns of Safety Violations (NPRM due late 2012)
- Safety Fitness Determination (NPRM due January 2013)
- Drug & Alcohol Clearinghouse (NPRM scheduled late 2012)
- National Registry 2 (NPRM scheduled March 2013)

## **FMCSA is implementing a number of MAP-21 provisions that take effect Oct. 1, 2012**

- The Agency is incorporating new enforcement authorities and imminent hazard authority in its enforcement guidance
- The Agency issued notice to States regarding new standards for large truck and bus safety grants
- The Agency issued guidance on the exemptions for trucks hauling agricultural products and supplies
- The Agency is finalizing proposed rulemakings on Patterns of Safety Violations and a Drug and Alcohol Clearinghouse, among others

## Two New Rules to Help Implement MAP-21

1. Registration Rule – MAP-21 includes new registration requirements for motor carriers, brokers, and freight forwarders. This rulemaking will implement these new requirements.
2. MAP-21 Omnibus Rule – This rulemaking will revise the regulatory text to incorporate 16 MAP-21 provisions that are non-discretionary and self executing, like increased penalties and enhanced safety authorities.



# MAP-21 Provisions for Discussion

# Overview of Provisions

1. Electronic logging devices (formerly EOBRs)
2. Written proficiency examination
3. Financial responsibility requirements
4. Minimum entry level training requirements
5. Registration changes

# #1. Electronic Logging Devices - Overview

- Rulemaking must require use of electronic logging devices by carriers subject to the handwritten logbooks.
- Compliance date would be 2 years after the publication of the final rule.
- Devices must not be used to harass drivers.
- Information collected must only be used for enforcement of the HOS requirements.

## Electronic Logging Devices - Overview (cont'd)

- Performance and design standards:
  - FMCSA must define a standardized “user interface” to aid vehicle operator compliance and law enforcement review.
  - Unique vehicle operator identification
  - Data access, transfer for vehicle operators between vehicles, storage for a motor carrier, and transfer and transportability for enforcement officials
- Certification criteria:
  - FMCSA must establish the criteria and a process for the certification of the devices.
- Measures to preserve confidentiality of personal data.

## Electronic Logging Devices – Questions

- How should the Agency address the issue of driver coercion, in particular from other participants in the supply chain that the Agency has not traditionally regulated?
- Are stakeholders concerned with meeting the technical requirements of compliant EOBRs?



## #2. Written Proficiency Examinations – Overview

- MAP-21 mandates new written proficiency examination requirement as a condition for a person to be registered as a motor carrier, broker, freight forwarder, and household goods motor carrier.
  - For a motor carrier the written proficiency examination shall test a person's knowledge of applicable safety regulations, standards, and orders of the Federal government.
  - Each broker and freight forwarder will be required to employ, as an officer, an individual who provides to the Secretary with satisfactory evidence of related rules, regulations, and industry practices.
  - MAP-21 also requires a household goods motor carrier to successfully complete a proficiency examination demonstrating knowledge and intent to comply with applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage.

# Written Proficiency Examinations - Questions

- Who should be required to pass the test on behalf of the motor carrier?
- Should the Agency consider requiring someone who passed the proficiency exam to be on duty at all times?
- Is there a large testing program that the Agency should use as a model in developing its plans and concept?
- How often and at what intervals should a person be allowed to re-test if he/she does not pass an exam?

### 3. Financial Responsibility Requirements - Overview

- MAP-21 directs the Agency to issue a report on the appropriateness of the current minimum financial responsibility requirements under sections for motor carriers, brokers, and freight forwarders.
- The report is due to Congress on April 1, 2013 and every four years thereafter.
- The Agency maintains its authority to raise financial responsibility requirements for the motor carrier industry.

## Financial Responsibility Requirements - Questions

- Do many carriers, brokers, and freight forwarders maintain liability levels above the current regulatory minimums?
- Is there sufficient availability of coverage to support brokers and freight forwarders to increase their financial responsibility levels to \$75,000 by October 1, 2013?

## 4. Entry Level Training Requirements - Overview

- MAP-21 requires the Secretary to establish, through rulemaking, minimum entry-level training requirements for all commercial motor vehicle operators.
- The rulemaking shall address –
  - knowledge and skills for motor vehicle operation,
  - specific requirements for hazmat endorsements,
  - create a certificate system for meeting requirements, and
  - require training providers to demonstrate that their training meets uniform federal standards.

# Entry Level Training Requirements - Questions

- Does the industry prefer hiring formally trained drivers?
- What kind of training schools are attractive to the industry?
- Do drivers with such formal training perform better than other drivers?
- Do formally trained drivers demonstrate an advantage in terms of average crash rate and compliance compared to other drivers? What is the measurable difference between the two groups?
- Does the industry offer or require refresher training to its drivers? How often and on what terms? How long is the training?

## 5. Registration Requirements - Overview

- MAP-21 includes a large number of new registration requirements intended to ensure only responsible carriers, brokers, and freight forwarders enter the industry.
- MAP-21 places three new requirements for registration as a motor carrier:
  - successfully complete a written proficiency examination to demonstrate knowledge of commercial motor carrier safety regulations;
  - being issued a USDOT number;
  - disclosing any relationship involving common stock, common ownership, common management, or common familial relationship between that person and any other motor carrier, freight forwarder, or broker, if the relationship occurred in the 3-year period preceding the date of the filing of the application for registration; and
- MAP-21 require motor carriers, freight forwarders and brokers to update their registrations within 30 days of the change of certain essential information.

# Registration Requirements – Overview (cont'd)

- MAP-21 directs the Secretary to issue a distinctive registration number to a person for each authority to provide transportation or service for which the person is registered (i.e. brokering, freight forwarder, transportation).
- MAP-21 prohibits a motor carrier from brokering transportation services unless the motor carrier has registered as a broker.
- MAP-21 establishes experience and training requirements for freight forwarders and brokers and it requires brokers to register separately in order to provide transportation as a motor carrier. This section clarifies that a freight forwarder may not provide transportation as a motor carrier unless the freight forwarder has already registered to provide transportation as a motor carrier.
- MAP-21 directs the Secretary to determine through rulemaking an effective period of registration that shall not exceed five years. This section also directs the Secretary to require a freight forwarder or broker to renew its registration not later than four years after the date of enactment of MAP-21.



# Registration Requirements - Questions

- **General:**
  - What information should FMCSA require during the registration application / registration update process?
- **Sufficient Period of Registration:**
  - Are there advantages to staggering the registration period so all carriers are not re-applying at the same time?
  - Would the frequency of the re-registration time frame have an impact on small carriers?
- **Registration fees**
  - What is the impact, particularly on small companies, of an increase in the \$300 registration fee currently charged?
- **Registration Numbers**
  - How are distinctive registration numbers useful to the public? If so, in what way?
  - What is the impact of requiring carriers to re-mark their vehicles with distinctive registration numbers?
  - What would be the most informative way to distinguish the numbers and what would be the length limitations if a distinctive numbering system is adopted?



# Stakeholder Priorities and Feedback



# Closing Remarks