

# Canadian Issues Study Final Project Report

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Submitted to the



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**Federal Motor Carrier Safety Administration**

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<b>7. Authors</b> Nicholas Owens (SAIC); Diane Newton (SAIC); April Armstrong (SAIC); Jennifer Symoun (SAIC); Aaron Zappone (SAIC); Carol Mitchell (SAIC); Rebecca Brewster (ATRI); Sean McAlister (CVSA); Joan Gay (NADSF); Jan Balkin (NADSF); and William Todd (NADSF)		<b>8. Performing Organization Report</b>	
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<b>16. Abstract</b> <p>This Canadian Issues Final Project Report presents the Final Project Report for the Federal Motor Carriers Safety Administration (FMCSA)-sponsored Canadian Issues Study. The Final Project Report is presented as an Executive Summary of previously submitted deliverables, with an emphasis on the overall applicable Study conclusions, findings, and recommendations. The Final Project Report draws information from the other deliverables prepared for the Study:</p> <ul style="list-style-type: none"> <li>• Deliverable #1 – Regulatory Review Report: This report presents an in-depth legislative/regulatory analysis comparing Federal Motor Carrier Safety Regulations (FMCSRs) with the Canadian National Safety Code (NSC) for motor carriers, and the status of provincial implementation of the NSC.</li> <li>• Deliverable #2 – Significant Issues Report: This report contains a summary of the major issues that are currently impacting the ability of the two countries to achieve harmony and reciprocity.</li> <li>• Deliverable #3 – Past, Present, and Future Collaborative Issues Report: This report presents a detailed history of past, present, and planned future collaborative efforts between the two countries at the Federal, State, and provincial levels of government.</li> <li>• Deliverable #4 – Regulatory Compliance Impact Analysis Report: This report analyzes the impact of compliance with FMCSRs on Canadian motor carriers.</li> <li>• Deliverable #5 – US/Canadian Cross-Border Motor Carrier Web Page: This is an interactive Web page that provides motor carriers with access to operating and regulatory requirements in each country.</li> <li>• Deliverable #6 – Outreach Brochure: This brochure presents information on Web page content, access and use and will be made available to the motor carrier industry in both countries.</li> </ul> <p>The report also describes the study objectives, provides a synopsis regarding the methodologies used to conduct study activities, and contains two appendices showing the resulting regulatory comparison between the FMCSA's Federal Motor Carrier Safety Regulations with Canada's National Safety Code, and a sample presentation of the Outreach Brochure that will provide information to US/Canadian drivers relating to commercial vehicle operations for both countries.</p>			
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**List of Abbreviations**

ATA	American Trucking Associations
ATRI	American Transportation Research Institute
CDL	Commercial Driver's License
CFR	Code of Federal Regulations
CMMTA	Canadian Council of Motor Transport Administrators
CMV	Commercial Motor Vehicle
CTA	Canadian Trucking Alliance
CVSA	Commercial Vehicle Safety Alliance
EOBR	Electronic On-Board Recorder
FMCSA	Federal Motor Carrier Safety Administration
FMCSRs	Federal Motor Carrier Safety Regulations
HOS	Hours of Service
MCMIS	Motor Carrier Management Information System
NADSF	North American Driver Safety Foundation
NSC	National Safety Code
PMVI	Periodic Motor Vehicle Inspections
SAIC	Science Applications International Corporations, Inc.
SOW	Statement of Work
SPP	Security and Prosperity Partnership Initiative
US	United States
USDOT	US Department of Transportation

## 1. Introduction

### **Background**

This report presents the Final Project Report for the Federal Motor Carriers Safety Administration (FMCSA)-sponsored Canadian Issues Study. The Final Project Report is presented as an Executive Summary of previously submitted deliverables, with an emphasis on the overall applicable Study conclusions, findings, and recommendations. The Final Project Report draws information from the other deliverables prepared for the Study:

- **Deliverable #1 – Regulatory Review Report:** This report presents an in-depth legislative/regulatory analysis comparing Federal Motor Carrier Safety Regulations (FMCSRs) with the Canadian National Safety Code (NSC) for motor carriers, and the status of provincial implementation of the NSC.
- **Deliverable #2 – Significant Issues Report:** This report contains a summary of the major issues that are currently impacting the ability of the two countries to achieve harmony and reciprocity.
- **Deliverable #3 – Past, Present, and Future Collaborative Issues Report:** This report presents a detailed history of past, present, and planned future collaborative efforts between the two countries at the Federal, State, and provincial levels of government.
- **Deliverable #4 – Regulatory Compliance Impact Analysis Report:** This report analyzes the impact of compliance with FMCSRs on Canadian motor carriers.
- **Deliverable #5 – US/Canadian Cross-Border Motor Carrier Web Page:** This is an interactive Web page that provides motor carriers with access to operating and regulatory requirements in each country.
- **Deliverable #6 – Outreach Brochure:** This brochure presents information on Web page content, access and use and will be made available to the motor carrier industry in both countries.

The Study Team has also prepared a ***Canadian Issues Study Annotated Bibliography***. This document offers a synopsis of eight of the more notable resource documents used for research, comparison between Canada and the United States, and used in the final analyses to provide the end results for both the ***Canadian Issues Study Regulatory Review Executive Summary*** and the ***Canadian Issues Study Significant Issues Report***.

### **Document Organization**

The remaining sections of this report are as follows:

- **Section 2 Study Objectives:** This section of the report summarizes the four study objectives identified by FMCSA in the original Statement of Work (SOW) for the Study.
- **Section 3 Methodology Synopsis:** This section summarizes the methodology used by the Study Team to complete the study and also discusses data sources and data collection.
- **Section 4 Conclusions, Findings, and Recommendations:** This section summarizes the applicable conclusions, findings, and recommendations from each of the four reports prepared during the course of the Study.

- **Appendix A:** This appendix presents the summary findings of the comparison of FMCSRs, the NSC, and provincial/territorial compatibility with the NSC.
- **Appendix B:** This appendix contains a copy of the Outreach Brochure, which also includes screen shots of the interactive United States (US)/Canadian motor carrier Web page.

## 2. Study Objectives

Recognizing the need to better understand the differences in rulemaking between the United States and Canada, and to identify and understand the major issues that continue to impact harmonization and reciprocity, FMCSA developed the following objectives for the study:

1. To ensure motor carriers with cross-border operations in Canada and the US have access to information on the requirements of operating in both countries including Commercial Motor Vehicle (CMV) safety regulatory variances through the development of outreach materials such as Web pages for Canadian and American (US) motor carriers.
2. To provide the FMCSA with a comprehensive report of historical, current, and future planned FMCSA-Canada activities and initiatives.
3. To identify significant issues that would impact FMCSA's ability to work toward harmonization and reciprocal recognition of programs, policies, regulations, and standards with Transport Canada and other Canadian governmental agencies relating to CMV safety.
4. To provide assistance to FMCSA in evaluating the effect of FMCSA regulatory proposals and policy initiatives on Canadian motor carriers and drivers operating in the United States. Additionally, evaluate the effect of regulatory proposals and policy changes on current FMCSA's initiatives with Transport Canada and other Canadian government organizations, and bi-lateral agreements with Transport Canada, including Departmental agreements.



### 3. Methodology Synopsis

#### **Background**

Following is a brief description of the methodology that was used to collect data for the Regulatory Review, Significant Issues, and Past, Present and Future Collaborative Efforts studies and subsequent reports. Data collection for all Study tasks was done on a concurrent basis to ensure cost effectiveness and reduce the potential for redundancy. The Study Team used four basic methods to compile the data for this project:

1. A comprehensive Literature Review of source documents and Websites was initially conducted to obtain background on previous studies, issues, cooperative initiatives, and other subjects relative to the study.
2. Focus groups were conducted in conjunction with Commercial Vehicle Safety Alliance (CVSA) meetings in 2006 to solicit input on significant issues and areas of concern.
3. Pre-site visit interviews with key Canadian/US Stakeholders were then conducted to complete the identification of issues and to identify areas of concern that would require additional follow-up and research.
4. The results of steps 1 through 3 were then used to develop a Site Visit Interview Guide consisting of a number of surveys for on-site data collection.<sup>1</sup> The Study Team also developed a Regulatory Inventory Review Document template that was used to track and compare individual FMCSRs, NSC, and provincial regulations and requirements to assess compatibility.<sup>2</sup>
5. The Study Team conducted site visits in each of the 10 Canadian provinces and the Yukon Territory. The Interview Guide and Regulatory Inventory Review documents were provided to each province and the Yukon Territory prior to the actual site visit. The site visits were used to gather additional information, review findings, and address any information gaps.

The Regulatory Compliance Impact Analysis Report is based on the outcomes of several motor carrier and driver outreach initiatives. The Research Team collaborated with the Canadian Trucking Alliance (CTA), and through CTA, the Canadian provincial trucking associations, as well as the American Trucking Associations (ATA) to solicit carrier input to both the significant issues and the prototype FMCSA Cross-Border Operations Website developed under a separate task in this research. Specifically, the following activities were conducted to complete this report:

1. Canadian carrier focus group held February 7, 2008 at the Ontario Trucking Association.
2. Driver input solicited through an XM Satellite Radio program on February 21, 2008, hosted by the American Transportation Research Institute (ATRI).
3. Input of Canadian and US carriers on the prototype FMCSA Cross-Border Operations Website solicited through Canadian trucking associations and the ATA's Cross-Border Operations Committee.

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<sup>1</sup> See the *Canadian Issues Study Regulatory Review Appendices and Working Papers* document published under separate cover and delivered to FMCSA by SAIC in January 2008.

<sup>2</sup> Ibid.

4. Vetting and ranking of significant issues with Canadian carriers through the memberships of CTA and provincial trucking associations.
5. Case studies conducted with select Canadian carriers.

## 4. Conclusions, Findings, and Recommendations

### **Introduction**

This section presents the applicable conclusions, findings, and recommendations derived from the following four study area reports:

- Regulatory Review Report.
- Significant Issues Report.
- Past, Present, and Future Collaborative Efforts Report.
- Regulatory Compliance Impact Analysis Report.

While all four reports contained conclusions and recommendations, only the Regulatory Review Report included findings, which are defined as those areas of compatibility or incompatibility between the US and Canadian regulations with respect to commercial vehicle operations

### **Regulatory Review Report**

The *Canadian Issues Study Regulatory Review Executive Summary*<sup>3</sup> presents the findings of the legislative/regulatory review and analysis. This analysis compared the FMCSA-developed FMCSRs, the Canadian Council of Motor Transport Administrators (CCMTA)-developed National Safety Code (NSC) Standards, and provincial implementation of the NSC. The report also provides an overview of the history of motor carrier regulation in Canada and the motor carrier safety regulation processes. The report also outlines the relative powers exercised by both the federal government (Transport Canada) and the provinces/territories in regulating the motor carrier industry in Canada. These agencies also have an impact and influence on the operations of US motor carriers in Canada.

### **Regulatory Review Conclusions**

The main conclusion developed by the Study Team is that the Canadian regulatory requirements, as established in the NSC and adopted by the provinces and territories, are equivalent to the US requirements codified in the FMCSRs. The Study Team found that the Canadian Motor Vehicle Transportation Act (MVTA), NSC standards, and the provincial/territorial regulations match up well with respect to the FMCSA's Code of Federal Regulations (CFR) 49 Parts 383-397. Although the requirements are not identical and probably never will be due to different institutional, legislative, cultural, and historical factors, there are a number of similarities.

The Study Team has established that the two countries regulate the same driver, vehicle, and motor carrier activities. All provinces have developed and implemented a safety rating regime based on the MVTA and are issuing safety ratings on base-plated motor carriers. The Study Team is satisfied that the methodologies used by all jurisdictions can consistently identify motor carriers with poor safety (accident) and compliance records (inspections and convictions). All jurisdictions are sending and receiving accident, inspection, and conviction information from other jurisdictions. This information is being used to change safety ratings and trigger interventions. Many of the concepts, provisions, and enforcement options are quite similar due

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<sup>3</sup> See the *Canadian Issues Study Regulatory Review Executive Summary* document published under separate cover and delivered to FMCSA by SAIC in January 2008.

in large part to the historically open and fluid relations in motor carrier transportation between the two countries and evidenced by the multiple reciprocity agreements.

The Study Team offers the following conclusions:

- **Conclusion #1: The results of the Study Team's analysis show that all jurisdictions have implemented the general provisions of the NSC.** All jurisdictions issue NSC numbers to motor carriers base-plated in their jurisdiction that contain unique identifiers so that accidents, inspections, and convictions can be assigned to the driver and carrier profiles. Each motor carrier's NSC number includes a prefix (i.e., BC for British Columbia or ON for Ontario) to indicate in which jurisdiction the motor carrier is base plated and to facilitate information exchange between jurisdictions.
- **Conclusion #2: The Study Team found the MVTA and NSC standards and the provincial/territorial regulations match up closely with respect to CFR 49 Parts 383-397.** Where the requirements differ in each country, they are generally covered by existing reciprocity agreements that minimize the impact and reduce the compliance burden placed on motor carriers with operations in both countries. The Study Team notes that some of the agreements have not been reviewed or revised in a number of years.
- **Conclusion #3: The prohibition on ex-parte communications during the rulemaking process in the United States significantly limits the ability of Canadian officials to resolve potentially adverse impacts of potential rulemakings.** An earlier interpretation indicated government to government communications could continue during the US rulemaking process, thus allowing discussions on how to minimize or accommodate the impact of the rule on trans-border operations between the Notice of Proposed Rulemaking and the issuance of the Final Rule. The new interpretation forces Canadian government officials to communicate with FMCSA by filing formal comments to the Federal Register during the formal rulemaking process and there do not seem to be opportunities to clarify or resolve issues informally prior to the final rulemaking. Canadian officials interviewed during the course of the study expressed concern that this interpretation of ex-parte communication may create new challenges to reciprocity/harmonization discussions underway between the two countries.
- **Conclusion #4: In the overall comparison between the US and Canadian safety rating systems, the most significant and striking difference is that in the United States one agency, FMCSA, is responsible for administering the safety rating system, while in Canada, the 10 provinces and 3 territories assume this function under the delegated authority of the MVTA 2006.** The FMCSA system is applied to all interstate and international motor carriers. Full application of the Part 385 rules does not extend to US intra-state motor carriers. In Canada, the provisions of the MVTA and Canadian safety rating system applies to both inter- and intra-provincial motor carriers and is administered and enforced by the provinces and territories on behalf of Transport Canada.
- **Conclusion #5: A review of the Canadian safety rating system as implemented by jurisdictions to the safety rating system implemented by FMCSA indicated more similarities than differences.** It would appear the compliance review (facility audit) conducted to establish the safety rating and to initiate or conclude enforcement actions in each country are nearly identical in terms of the factors reviewed. The methodologies used by both countries appear to be very similar. There is often a tendency when reviewing different regulations in countries to focus on the differences rather than the similarities and thus not recognize that a shared safety objective can be met by different

means. This suggests that future safety rating discussions should focus at a higher level and the objectives that each country is trying to achieve, while recognizing that different legislative, cultural, and historical factors may make it difficult to harmonize the requirements. Achieving reciprocity will be no small feat, but is a goal worth pursuing. It will likely reduce the additional compliance burden placed on motor carriers that operate in both countries, create a level playing field and may encourage more carriers to become involved in the trans-border trade.

### Regulatory Review Findings

The Study Team notes three significant findings with respect to the status of the Canadian safety rating systems that demonstrate the degree to which the United States and Canadian systems are compatible

The Study Team offers the following findings:

- **Finding #1: Canadian jurisdictions have implemented a carrier safety rating system pursuant to the revised MVTA of 2006 and the NSC.** As a result of collaborative efforts over the past 5 years, all Canadian provinces have developed and implemented a safety rating regime based on the MVTA 2006 and are issuing safety ratings on base-plated motor carriers. The study results indicate that with the exception of the Yukon Territory, all Canadian jurisdictions have established safety rating regimes pursuant to and compatible with the MVTA and NSC Standards 7, 14, and 15, and have achieved a high degree of consistency. The Yukon Territory is awaiting enabling legislation to be passed by the Territorial legislature to implement the carrier monitoring standards of the NSC.
- **Finding #2: Canadian jurisdictions are exchanging accident, inspection, and conviction (violation) information to provide an accurate picture of the safety performance of base-plated carriers.** All jurisdictions per the MVTA and NSC are sending and receiving accident, inspection, and conviction information from the other jurisdictions. This information is being used to populate the driver and carrier profiles maintained by each jurisdiction and to set and change the safety ratings of motor carriers base-plated in each jurisdiction. This information is also being used to trigger interventions and sanction Canadian motor carriers in a consistent manner.
- **Finding #3: The jurisdictional systems are able to identify carriers with poor safety and compliance records.** Despite minor variations in the methodologies used by all Canadian jurisdictions, the safety rating system implemented in the provinces can consistently and reliably identify Canadian motor carriers with poor safety (accident) and compliance records (inspections and convictions).

### Regulatory Review Recommendations

There exists a satisfactory degree of compatibility between the regulatory requirements in Canada and the United States. Both countries regulate the same driver, vehicle, and motor carrier issues. Moreover, the regulatory processes are similar and are transparent with changes being proposed for public comment. From the Study Team's analysis, there appears to be a greater degree of uniformity in regulatory requirements in the Canadian jurisdictions than at any time in the 30-year history of the NSC.

The Study Team offers the following recommendations:

- **Recommendation #1: Pursue further reciprocity and harmonization initiatives.** Past efforts at reciprocity and harmonization have served to reduce impediments to

trans-border trade. The analysis in this report suggests the timing may be appropriate to pursue further reciprocity and harmonization initiatives. It would appear from the preliminary analysis conducted on the joint regulatory efforts undertaken by both countries to develop reciprocity or harmonization agreements that these have met with success when desired by government agencies and motor carriers in both countries. It is recommended that officials in both countries commit to the joint review and updating of each country's safety regulations.

- **Recommendation #2: Coordinate periodic and scheduled reviews pertaining to driver, vehicle, and motor carrier regulations.** Mechanisms in both countries call for periodic review of driver, vehicle, and motor carrier regulations. To the extent possible, it is recommended that these schedules be coordinated to foster information exchange, promote joint research, and ultimately joint regulatory activity as specified under the Security and Prosperity Partnership (SPP) of North America cooperative regulatory framework.<sup>4</sup> Given the scope and size of the trans-border traffic, a more coordinated and dedicated effort should be taken by transportation officials to minimize the impact that different regulatory provisions have on motor carriers that operate in both countries.
- **Recommendation #3: Develop a formalized work plan and timeline for issue resolution and work plan endorsement from senior US/Canada decision makers.** The Study Team notes that there is at present no formalized mechanism or work plan at present to resolve outstanding issues. The scope and magnitude of the trade between US/Canada and the number of drivers, vehicles, and motor carriers involved in trans-border operations would suggest there would be regular and ongoing meetings between the countries to resolve trans-border issues. The continuing dialogue about the recent SPP framework between the two countries may serve to galvanize a more structured and formalized approach to these issues as some of the policy directions have been endorsed by the US Secretary of Transportation and the Canadian Minister of Transport. It is recommended that a formalized work plan be developed between officials from both countries; a timeline be established for issue resolution; adequate resources be devoted to the issues; and that the work plan receive endorsement from senior decision makers in both countries.

### **Significant Issues Report**

The *Canadian Issues Study Significant Issues Report*<sup>5</sup> summarizes the key significant issues that have impacted reciprocity and harmonization between Canada and the United States. The Report includes recommendations developed by the Study Team intended to promote further harmonization and reciprocity between the two countries, with the goals of ensuring the continued prosperity of both countries and improving motor carrier safety in both countries.

Under separate cover, the Study Team also submitted appendices containing reference materials and working papers developed in support of the Significant Issues Study,<sup>6</sup> to provide additional information and detail on the significant issues. While not a project-required deliverable, the document does provide resource materials for FMCSA to utilize as necessary.

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<sup>4</sup>An Informational fact sheet on the SPP framework and the regulatory commitments among the US, Canada, and Mexico, can be found at: <[http://www.spp.gov/pdf/spp\\_reg\\_coop\\_fact\\_sheet.pdf](http://www.spp.gov/pdf/spp_reg_coop_fact_sheet.pdf)>.

<sup>5</sup>See the *Canadian Issues Study Significant Issues Report* document published under separate cover and delivered to FMCSA by SAIC in January 2008.

<sup>6</sup>See the *Canadian Issues Study Significant Issues Appendices and Working Papers* document published under separate cover and delivered to FMCSA by SAIC in January 2008.

## Significant Issues Conclusions

The Canadian system is highly decentralized in comparison to the US system. Through Transport Canada, the federal government has the legislative authority to regulate extra-provincial (interstate) motor carriers—those that cross provincial or international boundaries. The provincial/territorial governments have the legislative authority to regulate intra-provincial (intra-state) motor carriers. Since 1954, the Canadian federal government has delegated the regulation of extra-provincial carriers back to the provinces. Consequently, the regulations promulgated at the provincial level apply to extra-provincial and international (US) motor carriers as there is a regulatory void at the federal level with the exception of the MVTA and federal Hours of Service (HOS) regulations. As a result of the regulatory divide and constitutional arrangements implemented since 1954, the provincial/territorial governments have a larger role to play in the regulation, administration, and management of motor carriers than do the US States.

The Study Team offers the following conclusions:

- **Conclusion #1: FMCSA and Canadian jurisdictions share similar vision statements, missions, and objectives in reducing commercial vehicle accidents.** The decision making and rulemaking processes were compared and contrasted and it was found there are more similarities than differences.
- **Conclusion #2: The Canadian National Safety Code for Motor Carriers matches up well with regulatory requirements under the US Code of Federal Regulations (CFR) 49 Parts 383-397.** In fact, the regulatory requirements may be closer than at any time in the history of collaboration between the two countries. If one considers the starting point as the Brock-Gotlieb agreement,<sup>7</sup> then the progress to achieve reciprocity and harmonization has been real, tangible, and provided benefits to motor carriers in both countries. Where the requirements differ they appear to be covered by reciprocity agreements that have served to facilitate cross border movement of drivers and motor carriers. The results suggest that some of these agreements need to be reviewed and updated to reflect current regulatory requirements:
  - A high degree of compatibility between the regulatory requirements in Canada and the United States has been documented. Both countries regulate the same driver, vehicle, and motor carrier issues. The regulatory processes are similar and are transparent with both countries adopting a process whereby changes being proposed are presented for public comment.
  - Since 2004, Canadian jurisdictions have made great progress in eliminating variances in safety rating systems and implementing the legal requirements of the MVTA 2006. While some slight variations in methodologies were noted, the systems implemented within Canadian jurisdictions can consistently and reliably identify and sanction Canadian motor carriers with poor safety and compliance records.
  - All Canadian jurisdictions are now exchanging accident, inspection, and violation data, thereby enhancing their ability to take remedial action against base plate motor carriers that are involved in accidents or commit infractions in other Canadian jurisdictions.

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<sup>7</sup> See the See the *Canadian Issues Study Significant Issues Appendices and Working Papers, Appendix C: Brock-Gotlieb Agreement* document published under separate cover and delivered to FMCSA by SAIC in January 2008.

## Significant Issues Recommendations

With respect to the major issues identified during the study, the Study Team offers the following recommendations for consideration by FMCSA. The Study Team offers the following conclusions, which were developed for consideration in addressing the issues that currently impede harmonization and reciprocity between the two countries:

- **Recommendation #1 – Safety Rating Reciprocity:** The Study Team recommends that transportation officials in both countries work to establish Safety Rating Reciprocity to consider and address the following issues:
  - **Data Exchange:** Provide the ability to exchange accident, inspection, and violation data followed by exchanging safety rating and real-time roadside data to assist roadside enforcement efforts in both countries.
  - **Violation Equivalency Table:** Develop and map violations in each country to establish a violation equivalency code table to foster the exchange of violations and enhance the safety rating systems in both countries.

Establishing safety rating reciprocity and enabling data exchange would not only resolve the most significant issues identified during the study, but also has the potential for the development of and commitment to a process for addressing future issues between the two countries as well. These actions will likely have a significant impact on the ability of both countries to identify unsafe and noncompliant motor carriers, thus significantly improving overall safety.

- **Recommendation #2 – Joint Review of Safety Regulations:** The Study Team recommends that officials in both countries commit to the joint review and updating of their safety regulations. Mechanisms in both countries call for periodic review of driver, vehicle, and motor carrier regulations. To the extent possible, these schedules need to be coordinated to foster information exchange, promote joint research, and ultimately joint regulatory activity as called for by the SPP framework. Given the scope and size of the trans-border traffic, a more coordinated and dedicated effort needs to be taken by transportation officials to minimize the impact that different regulatory provisions have on motor carriers that operate in both countries.
- **Recommendation #3 – Establish a Process for Resolving Outstanding Issues:** At present, there is no formalized mechanism or work plan to resolve outstanding issues. The scope and magnitude of the trade between US/Canada and the number of drivers, vehicles, and motor carriers involved in trans-border operations would suggest there would be regular and ongoing meetings between the countries to resolve trans-border issues. The recent SPP framework between the two countries may serve to galvanize a more structured and formalized approach to these issues as some of the policy directions have been endorsed by the Secretary of Transportation and the Canadian federal Minister of Transport. The Study Team recommends that a formal process be established with the support of CCMTA, Transport Canada, and FMCSA. The Study Team recommends that as part of this process, a work group should be appointed to develop a formal work plan to define and establish the timelines necessary to resolve the issues; identify sources to provide adequate resources to aid in resolving the issues, and establish a means through which endorsement for the activities conducted can be received from senior decision makers in both countries.



### **Past, Present, and Future Collaborative Efforts Report**

The ***Canadian Issues Study Summary of Past, Present, and Future US/Canadian Collaborative Efforts Report***<sup>8</sup> presents the past, present, and future (planned) collaborative efforts undertaken by the United States and Canada. The summary includes a discussion of these collaborative efforts at the Federal and state/provincial levels of government.

The purpose of the referenced report is to document past, present, and future collaborative initiatives. This report is intended as a reference document for future discussions by including the past agreements made by the two countries. In addition, both countries have benefited from sharing information on research, policies, program evaluations, and working together to address common motor carrier safety issues. In some instances, Canadian jurisdictions have redeveloped and deployed programs that were originally developed in the United States and have improved on them (i.e., elements of the Premier Carrier program have been deployed as the “Partners in Compliance” program in Alberta). In other instances, programs initially developed and piloted in Canada (i.e., Operation Air Brake) have now become important components of US motor carrier education and enforcement campaigns.

### **Past, Present, and Future Collaborative Efforts Conclusions**

The Study Team notes that the United States and Canada have a long history of collaboration at both the national and State/provincial levels. As noted in this report’s preceding sections, the two countries have established reciprocity agreements on a number of complicated issues, such as the Commercial Driver’s License (CDL) and Medical reciprocity agreements. Further, a number of provinces and States are continuing to jointly invest in technology applications and operational improvements that are of benefit to both industry and enforcement.

The Study Team offers the following conclusions:

- **Conclusion #1: The Study Team further notes that recent efforts by the two countries at the national level to achieve harmonization and reciprocity on motor carrier issues have not met with the success of previous efforts.** Notwithstanding the North American Free Trade Agreement (NAFTA) and the SSP Initiative, the commitment to encourage regulatory compatibility, recent rulemaking initiatives undertaken by the two countries appear to be moving away from harmonization and reciprocity, thus increasing the risk of an operating scenario where motor carriers will operate under two sets of rules. Examples of this include:
  - **Hours of Service:** The United States and Canada have adopted new HOS regulations. The new rules in both countries place emphasis on drivers getting more rest (i.e., 10 consecutive hours). In brief, the rules in the respective countries differ with respect to maximum driving time, sleeper berth provisions, cycles, reset provisions, cycle switching, record keeping, and daily log requirements.<sup>9</sup>
  - **Cargo Securement:** Despite the two countries jointly funding the research and working together in open meetings over a 10-year period to harmonize the requirements, a number of variances have emerged in the cargo securement regulations that have been implemented in both countries resulting from

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<sup>8</sup> See the *Draft Canadian Issues Study Summary of Past, Present, and Future US/Canadian Collaborative Efforts Report* document published under separate cover and delivered to FMCSA by SAIC in June 2008.

<sup>9</sup>A comparison of the requirements in each country is provided in appendix D, Comparison of Canadian and US Hours of Service Regulations, published in the *Canadian Issues Study Significant Issues Appendices and Working Papers* document, provided under separate cover, and submitted to the FMCSA by SAIC in January 2008.

supplementary US rulemaking or differences in interpretation between the two countries. Following a meeting by a senior FMCSA official with Canadian officials, the collaborative efforts have renewed this initiative, and work is underway through CVSA to resolve outstanding issues.

- **Conclusion #2: Some agreements previously reached by the two countries have not been fully implemented, with the most significant of these being safety rating reciprocity.** A number of Canadian jurisdictions built their carrier safety rating systems to meet the requirements of the 1994 agreement on Audits and Safety Ratings, specifically in reciprocity for safety ratings. Therefore, in anticipation of reciprocity, with the exception of Ontario and Quebec, all jurisdictions do not require US motor carriers that operate in their territory to be registered in their carrier monitoring systems. A number of Canadian government and industry representatives interviewed for this study indicated that not requiring US motor carriers to register in jurisdictional programs provides these US carriers with a competitive advantage vis à vis Canadian carriers who are required to register in the US safety rating system.
- **Conclusion #3: A number of current reciprocity agreements that have worked well are in need of updating.** A related concern expressed during interviews was that US and Canadian officials are not, at present, meeting on a regular basis with the end result that there is not forum for updating agreements and addressing issues.<sup>10</sup> An example of this type of agreement is the Medical Reciprocity Agreement. The general consensus among the government and industry stakeholders consulted by the Study Team during this project was that the existing Canada/US agreement on medical reciprocity has worked well over the years, but needs to be updated.

### Past, Present, and Future Collaborative Efforts Recommendations

The Study Team offers the following recommendations:

- **Recommendation #1: The US and Canada should create a forum that supports regular meetings to discuss and resolve outstanding issues between the two countries.** The Study Team recommends that a formal process be established with the support of CCMTA, Transport Canada and FMCSA. The Study Team further recommends that a formalized work plan be developed between officials from both countries, a timeline be established for resolution of the issues, adequate resources be devoted to the issues, and that the work plan receive endorsement from senior decision makers in both countries.<sup>11</sup> The work plan should identify all reciprocity agreements currently in effect and determine if these should be updated or revised. The work plan should further identify additional areas where reciprocity would be beneficial to both countries.
- **Recommendation #2: The Study Team recommends that FMCSA review and consider the manner in which it participates in the decentralized Minister/Deputy Minister and CCMTA structure within Canada.** The Study Team believes that there are opportunities to further Canada/US collaboration within the existing structure within Canada. Participation of the FMCSA Administrator in the annual and semi-annual meetings of the Council of Ministers/Deputy Ministers should be considered as a means to foster closer collaboration on regulatory initiatives. FMCSA also should consider having senior FMCSA officials participate in meetings of the CCMTA Board of Directors on an ongoing rather than ad hoc basis. To benefit from information exchange

<sup>10</sup> A discussion of these reciprocity agreements is included in the *Canadian Issues Study Significant Issues Report*.

<sup>11</sup> See the *Canadian Issues Study Legislative/Regulatory Review Volume I: Executive Summary*, (January 2008), p. 45.

opportunities, FMCSA should further consider sending representatives to participate in the meetings of all three CCMTA Standing Committees.

### **Regulatory Compliance Impact Analysis Report**

#### **Regulatory Compliance Impact Analysis Conclusions**

The ranking/vetting process of the top issues reveals that “Driver-Related” issues have the highest impact on operations. “Safety Rating/Data Exchange” issues have a moderate impact on carrier operations, while “Vehicle-Related” issues have the least impact on carrier operations. Carrier case studies provide insight into the specific operational areas affected by compliance with FMCSA safety regulations. The case studies identify job functions specific to FMCSA regulatory compliance. The Study Team found that FMCSA regulatory compliance functions are typically bundled with inter-provincial compliance functions, with carriers generally devoting similar resources to ensuring FMCSA compliance and inter-provincial compliance. Table 1 presents the ranking of significant issues by motor carriers with carrier impacts ranked as High, Medium, and Low.

**Table 1. Motor Carrier Significant Issue Rankings**

Significant Issue and Ranking	Carrier Impact
<b>Driver-Related</b>	
HOS (1)	High
Driver Behavior/Human Factors/CDL Enhancements/Training (3)	High
Medical Reciprocity/Fitness to Drive (5)	Medium
<b>Safety Rating/Data Exchange</b>	
Data Exchange (2)	High
Safety Rating Reciprocity (7)	Medium
<b>Vehicle-Related</b>	
Pre-Trip versus Post-Trip Inspections (4)	Medium
Speed Limiters/Electronic On-Board Recorders (EOBRs) (6)	Medium
Periodic Motor Vehicle Inspections (PMVI) (8)	Low
Cargo Securement (9)	Low

The Study Team offers the following conclusions:

- **Conclusion #1: Driver-Related issues are the top area of concern for motor carriers and drivers alike.** Within this focus area, outreach efforts and carrier case studies indicate HOS regulatory compliance as the top issue. Four of the seven case study carriers noted HOS as the top area of concern. Carriers have attempted to reduce driver confusion and streamline efforts to comply with two different HOS regulatory frameworks by adopting the strictest standards of each jurisdiction’s regulations, regardless of the country of operation. For example, several carriers indicated adoption of Canada’s more stringent 36-hour restart provision as well as the US HOS provision for contiguous hours in a sleeper berth. Other motor carriers have adopted a policy of HOS compliance with the jurisdiction of vehicle operation. This policy requires both

carrier operations groups and drivers to receive adequate training on the HOS provisions of Canada and the US. Case studies reveal these two groups must frequently verify a driver's HOS availability during trans-border operations. Carriers and drivers experience other inefficiencies related to HOS compliance. Two sets of HOS regulations hinder technological advancements in the automation of driver log auditing. In addition, driver confusion may cause driver log "false violations," while inconsistent enforcement creates erroneous enforcement citations. This results in motor carriers having to document and manually reconcile these violations.

- **Conclusion #2: Data exchange limitations and a lack of Safety Rating Reciprocity routinely impact many areas of operation.** Several case study carriers noted that these limitations divert carrier resources from improving fleet safety to reconciling disparate data sources. Three case study carriers rated this as a top issue affecting operations. Case study carriers categorized data issues as incomplete data, inconsistent data, and inaccurate data, and quantified for the Research Team the impact each has on operations. Given the role of agency data in determining carrier safety ratings, case study participants highlighted concern over these data limitations.

Two sources of incomplete data were identified as problematic by Canadian carriers, who believe that SafeStat and the Motor Carrier Management Information System (MCMIS) provide an incomplete summary of their US operations. The 60- to 90-day delay in the posting of vehicle inspection reports in SafeStat makes it difficult for carriers to identify and quickly address problem areas or promptly discipline drivers for inadequate vehicle inspections. In addition, to ensure company-contracted owner-operators maintain company standards for safe vehicle operations, carriers must manually reconcile hard copies of inspection reports. Carriers noted other limitations of SafeStat as not containing complete citation and accident data; one carrier estimated as much as 40 percent of current fleet information is not contained in the dataset. Incomplete data from agency reporting systems require carriers to manually reconcile and compare driver paperwork, company operations reports, and government data sources to accurately assess fleet safety performance.

Inconsistent data definitions between government reporting systems present a similar challenge for carrier fleet safety efforts. The lack of a Violation Equivalency Table with standardized points between Canada and the US has prompted several carriers to develop proprietary safety performance metrics, which must be reconciled with both US and provincial reporting systems. For example, points for a speeding violation in the United States may cause the fleet to incur one point against their US safety rating, while the same violation assesses one or more points against the carrier's provincial safety rating. Carriers note comparable difficulty is caused by the variance between the Canadian and US accident definitions. Again, this lack of standardization has prompted carriers to rely on internally developed metrics to better assess crash involvement and the effectiveness of crash reduction initiatives.

Inaccurate data may be contained in multiple agency reporting systems or caused by inconsistent enforcement in the United States. Carriers must "cleanse" all "false" elements of data inaccuracy before effectively monitoring safety performance or instituting mechanisms for driver discipline.

- **Conclusion #3: Of the significant issues identified, "Vehicle-Related" FMCSA compliance issues have the least impact on motor carrier operations.** While carriers cite comparatively few job functions or administrative burdens resulting from "Vehicle-Related" issues, carriers did point to mandated use of "Speed Limiters and/or EOBRs" as having the greatest potential to affect motor carriers. The remaining Vehicle-

Related issues cause carriers less concern. “Cargo Securement” issues impact a relatively small segment of the overall trucking industry and therefore did not rank very high. Varying trip inspection requirements cause few additional compliance job functions as the majority of case study carriers require drivers to conduct both a pre- and post-trip inspection.

### **Regulatory Compliance Impact Analysis Recommendations**

Results of the carrier ranking/vetting process identified the top issues of concern for Canadian carriers operating within the United States. Carrier case studies provided a more granular level of the details behind the significant issues ranking while offering potential opportunities for FMCSA. Using the results of these, the following three recommendations were identified by carriers as priority items for the trucking industry.

The Study Team offers the following conclusions:

- **Recommendation #1:** FMCSA and CVSA should jointly investigate additional training assistance for the States and provinces through in-service training, training tools, and processes for evaluating training effectiveness to ensure consistency in HOS enforcement.
- **Recommendation #2:** FMCSA, CVSA, and the Canadian jurisdictions should develop the ability to exchange safety-related and other data—inspection, traffic convictions, and accident data.
- **Recommendation #3:** FMCSA should work with the Canadian jurisdictions to develop a Violation Equivalency Table for use by enforcement to ensure consistency in safety ratings.

## Appendix A: Summary Comparison of FMCSRs and the NSC

This appendix presents the summary findings of the 14 assessment components involved in a comparison of FMCSRs, the NSC, and provincial/territorial compatibility with the NSC.

**Table 1. Results of Canadian/US Regulatory Comparison Matrix Based on 14 Assessment Components**

Joint FMCSA / NSC Assessment Components	Transport Canada	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT
1. General Carrier def. Accident def.	Motor Vehicle Transport Act (MVTA)	E H H	E E H	E E H	E H H	E H H	E H E	E H H	E H H	E H H	E H H	E L L
2. SC/Operating Authority Application Process	E	E	E	E	E	E	E	L	E	E	E	L
3. Financial Responsibility Insurance (1)	E	E	E	E	E	E	E	E	E	E	E	E
4. Safety Fitness Ratings	E	E	E	E	E	E	E	E	E	E	E	L
5. FMCSA Regulations (2)	N/A	E	E	E	E	E	E	E	E	E	E	E
6. Driver Qualifications (2)	N/A	E	E	E	E	E	E	E	E	E	E	E
7. Medical Standards – Control Frequency	N/A	H L	H L	H L	H L	H L	H L	H L	H L	H L	H L	H L
8. Commercial Driver's License Standards (3)	N/A	E	E	E	E	E	E	E	E	E	E	E
9. Controlled Substances and Alcohol Use and Testing	None	L	L	L	L	L	L	L	L	L	L	L
10. Driving of CMVs (2)	N/A	E	E	E	E	E	E	E	E	E	E	E

Joint FMCSA / NSC Assessment Components	Transport Canada	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL	YT
11. Parts and Accessories	N/A	E	E	E	E	E	E	E	E	E	E	E
12. Hours of Service of Drivers Max. hours	L	L	L	L	L	L	L	L	L	L	L	L
13. Inspection, Repair, and Maintenance Frequency # of items inspected Failure Criteria Control of Inspections (4)	N/A	H H H H H	H H H H H	H H H H H	H H H H H	H H H H H	H H H H H	H H H H H	H H H H H	H H H H H	H H H H H	L L L L L
14. Transportation of Hazmat; Parking and Driver Rules <sup>(2)</sup>	E	E	E	E	E	E	E	E	E	E	E	E

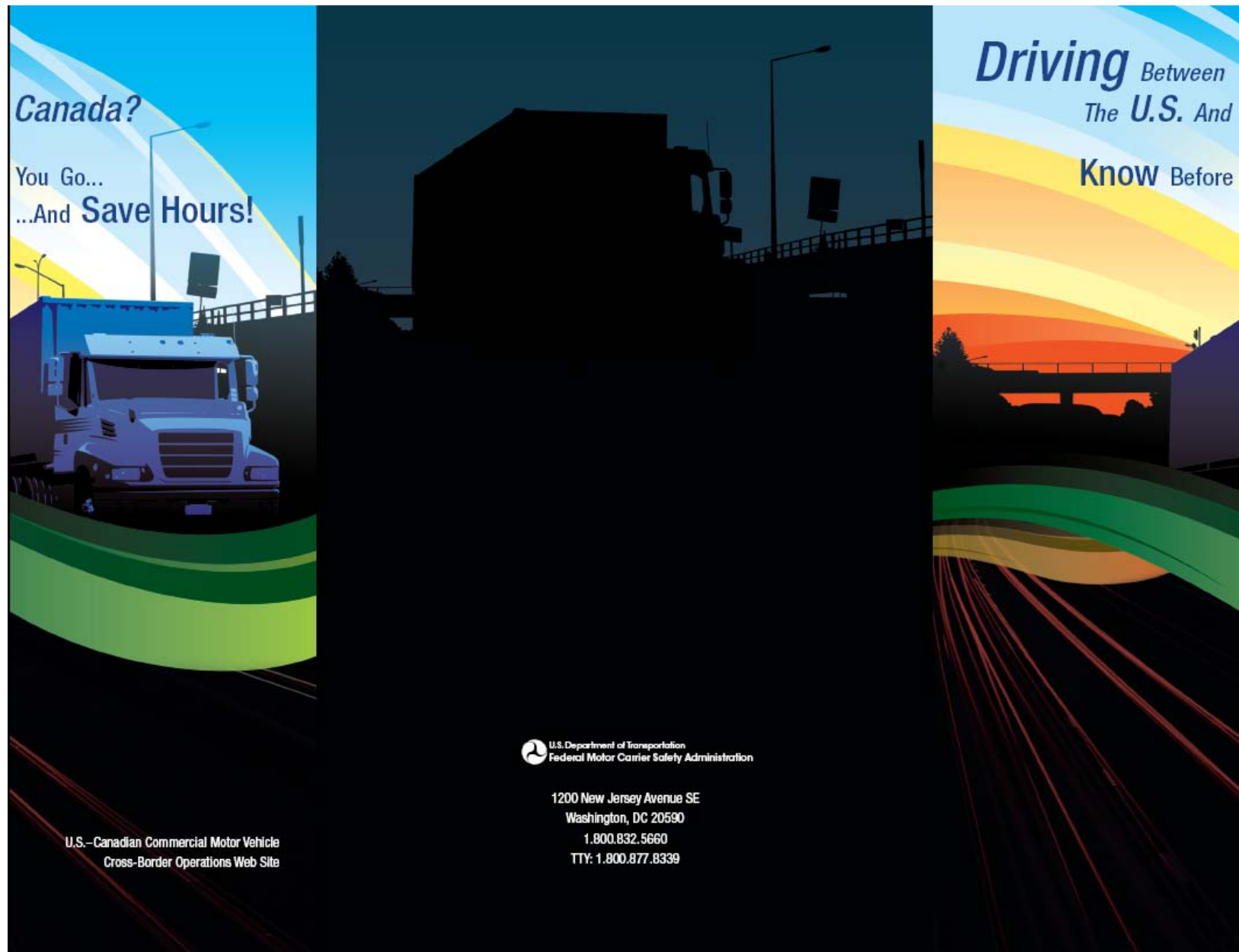
**LEGEND:** E = Equivalent; H = Higher; L = Lower; N/A = Not Applicable

- 1) CA – Minimum for Hire, Private, etc., \$1,000,000, US: \$750,000 – TDG/Hazmat – CA: \$2 million – US \$1 million to \$5 million.
- 2) Difficult to compare/assess because matching Canadian requirements appear in different legislation/regulation in each province.
- 3) Deemed equivalent by CDL reciprocity agreement between Canada/US. Many acute/critical violations apply to all drivers in Canada not just CDL holders.
- 4) US has 11 inspection categories, no method of inspection prescribed, no rejection criteria whereas Canada has 8 inspection categories, 477 prescribed inspection criteria and 1,377 rejection conditions. Buses require semi-annual inspection. Some jurisdictions not accepting CVSA decal as proof of compliance with Part 396 requirements.



## Appendix B: Outreach Brochure

Appendix B presents the Outreach Brochure that will be distributed to US and Canadian drivers to provide general information and refer them to the interactive US/Canadian motor carrier Web page for detailed information. The Outreach Brochure contains screen shots of the Web Page to provide users with awareness and familiarity with respect to the online resource.



## U.S. - Canadian Commercial Motor Vehicle Cross-Border Operations Web Site

Convenient quick links to Federal, state and provincial commercial motor vehicle regulatory requirements in the U.S. and Canada...

Sample regulatory areas:

- Hours of Service
- Cargo Securement
- Electronic Credentialing
- Oversize/Overweight Permitting
- And More!

2



If my load meets Canadian cargo securement requirements, can I legally operate in the US?

3



What credentials do I need to operate legally in New York State?

4

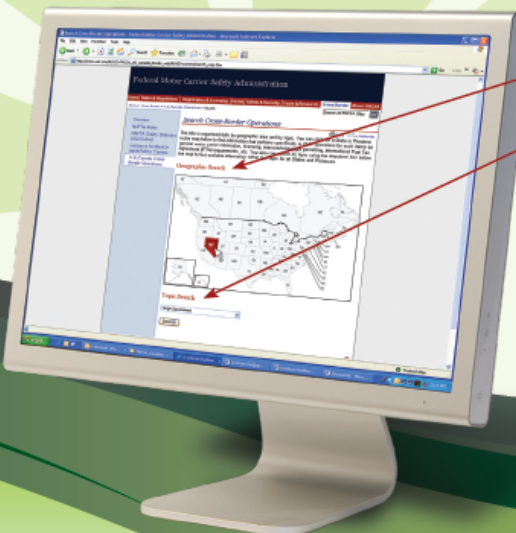


What are the current regulations governing transport of hazardous goods in Canada?

1



What are the periodic motor vehicle inspection requirements in Ontario?



Geographic Search

Topic Search

...make operating cross-border in the United States and Canada easier!

Features:

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- Consolidated links to FMCSA and Canadian Federal motor carrier safety regulations
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