



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

C/O: Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Room W64-232
Washington, DC 20590

August 6, 2008

The Honorable John H. Hill
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Hill:

The Motor Carrier Safety Advisory Committee (MCSAC) accepted Task 07-04, Employer Notification System (ENS), at its September 2007 meeting. The Workgroup on Task 07-04, chaired by Mr. Robert Petrancosta, was created to conduct work and submit a report for Committee review and approval.

The Workgroup was asked to:

- a) Examine the feasibility of establishing a National ENS, to include institutional barriers and privacy concerns; and,
- b) Examine potential incentives to States to promote its use, including authorization to provide grants to States to implement a National ENS.

The Workgroup conducted work through e-mail and by teleconference, and met in person at the March 2008 and June 2008 MCSAC meetings. At the latter meeting, the Workgroup presented the Committee with a report outlining its findings and recommendation. The Committee unanimously approved the report and made the following recommendations:

1. A national ENS is feasible and should be a state-based program administered with the assistance of a third-party and supported by the Federal Motor Carrier Safety Administration.
2. The Comprehensive Safety Analysis (CSA 2010) initiative should include data linking driver performance to carrier responsibility.

I respectfully submit the report to FMCSA for consideration.

Sincerely,

//signed//

David R. Parker
Chair
Motor Carrier Safety Advisory Committee

Attachment

EMPLOYER NOTIFICATION SYSTEM (ENS)

Report from

Workgroup on Task 07-04

to the

Motor Carrier Safety Advisory Committee

of the

**Federal Motor Carrier Safety Administration
U.S. Department Of Transportation**

August 6, 2008

At its September 2007 meeting, the Motor Carrier Safety Advisory Committee (MCSAC) unanimously accepted Task 07-04, Employer Notification System (ENS). Workgroup 07-04 was established and asked to:

- a) Examine the feasibility of establishing a National ENS, to include institutional barriers and privacy concerns; and,
- b) Examine potential incentives to States to promote its use, including authorization to provide grants to States to implement a National ENS.

The workgroup met to discuss the tasking at the March 2008 and June 2008 MCSAC meetings.

Discussion

Existing FMCSA regulatory requirements place the burden for obtaining driver motor vehicle records on motor carrier employers and rely on drivers to voluntarily notify their employers of convictions for any traffic violations that occur while they are driving either commercial or personal vehicles. Because of the problems associated with drivers not reporting convictions to their employers, some States have instituted ENS programs, where the States proactively send updates to a driver's record to the employing motor carriers. In this way, carriers have better safety data to manage their drivers. Analysis of current State ENS programs is providing a basis for assessing how well these programs work. FMCSA safety research has shown that truck and bus drivers with past convictions are at a statistically significant higher risk for future commercial vehicle crashes.

Findings

The Workgroup agrees that a national ENS is feasible and should be a state-based program administered with the assistance of a third-party and supported by FMCSA. The Workgroup agrees that participation from all 50 states should be mandatory over a phase-in period. Also, the Workgroup agrees that participation from industry should be voluntary over the phase-in period; the results of the program should be evaluated to determine if industry participation should be mandatory.

The Workgroup discussed the following benefits to this approach:

- A state-based third-party administered program has the advantage of building upon existing state ENS programs and would thus require less time and financial resources to implement than a federally implemented system.
- Accordingly, highway safety benefits could be achieved more quickly through this approach.
- This approach would allow for market-driven benefits, such as lower cost, increased flexibility, and broad coverage among and between states.

The Workgroup agrees that the national ENS must include the following elements:

- Standardized functionality requirements
- Standardized reporting, including violation type and time frames
- Data privacy safeguards consistent with the existing Fair Credit Reporting Act and Driver Privacy Protection Act

The Workgroup identified the following potential incentives to states to participate in a national ENS:

- Possibility of Federal grants to states to implement and participate in a national ENS.
- States will not need to provide additional staff under a national ENS.
- States will receive positive revenue and will be able to determine the price structure.

The Workgroup identified the following institutional barriers to prevent states from participating in a national ENS:

- Initial start-up costs for development, technology, training, etc.
- Limited fiscal and staffing capacity of States to undertake additional information technology project priorities within a State

The Workgroup also agrees that CSA 2010 should include data linking driver performance to carrier responsibility.

Recommendations

The Workgroup recommends that MCSAC approve the following recommendations for ENS for submission to FMCSA.

1. A national ENS is feasible and should be a state-based program administered with the assistance of a third-party and supported by FMCSA.
2. CSA 2010 should include data linking driver performance to carrier responsibility.

APPENDIX 1

Motor Carrier Safety Advisory Committee (MCSAC) Task Statement Task 07-04

I. TASK TITLE

Employer Notification Service (ENS)

II. BACKGROUND

The Employer Notification Service (ENS) is a system that will notify employers of any events that affect the driving status of the CDL holder (including CDL withdrawals for any reason) and can be implemented through a variety of systems approaches. ENS systems may provide opportunities for employers to take action against drivers in advance to reduce high-risk driver behavior.

III. PROBLEM STATEMENT

Existing FMCSA regulatory requirements place the burden for obtaining driver history on motor carrier employers and rely on drivers to voluntarily notify their employers of convictions for any traffic violations that occur while they are driving either commercial or personal vehicles. Because of the problems associated with drivers not reporting violations to their employers, some States have instituted ENS programs, where the States proactively send updates to a driver's record to the employing motor carriers. In this way, carriers have better safety data to manage their drivers. Analysis of current State ENS programs is providing a basis for assessing how well these programs work. FMCSA safety research has shown that truck and bus drivers with past convictions and the companies that hire them are at a statistically significant higher risk for future commercial vehicle crashes.

IV. TASK

The Committee should:

- a) Examine the feasibility of establishing a National ENS, to include institutional barriers and privacy concerns; and
- b) Examine potential incentives to States to promote its use, including authorization to provide grants to States to implement a National ENS.

V. ESTIMATED TIME TO COMPLETE TASK

The Committee should submit a report to the Federal Motor Carrier Safety Administration outlining findings and recommendations at the December 2007 Committee meeting.

VI. FMCSA TECHNICAL REPRESENTATIVE

Christopher Flanagan, Technology Division (MC-RRT), FMCSA, 202-385-2382,
Christopher.Flanagan@dot.gov

Attachment:

Driver Violation Notification Service Feasibility Study, July 2005

APPENDIX 2

Workgroup on 07-04 Employer Notification System

Robert Petrancosta, Chair, *Con-way Freight*

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Clyde Hart, *American Bus Association*

Michael Irwin, *Michigan Center for Truck Safety*

Terry Maple, *Kansas Highway Patrol*

David Osiecki, *American Trucking Associations*

David Parker, *Great West Casualty Company*

Karen Sain, *North Carolina Highway Patrol*

Lester Sokolowski, *National Safety Council*

J. Todd Spencer, *Owner-Operator Independent Drivers Association*

Roger Vanderpool, *Arizona Department of Public Safety*

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Chris Flanagan, Technical Representative, *Federal Motor Carrier Safety Administration*