

# **Analysis of FMCSA's Revised Civil Penalties (1995–2006): A Follow-up Study**



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

**August 2009**



## **FOREWORD**

This final report updates the results of a July 2004 report that was prepared in response to Section 222(d) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). Section 222(d) of the Act required the Secretary of Transportation to conduct a study of the effectiveness of the revised civil penalties established in the Transportation Equity Act for the 21st Century (TEA-21) in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws. The 2004 study focused primarily on the impact of the changes in the revised civil penalty schedule on the dollar amount of the fines assessed to the carrier and on the number of violations assessed. The primary objective of this follow-up report is to reevaluate the findings of the 2004 study, using a more comprehensive database that includes more years of data. The research was conducted by the Research and Innovative Technology Administration's (RITA's) John A. Volpe National Transportation Systems Center (The Volpe Center) under a project plan agreement with the FMCSA.

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# SI\* (MODERN METRIC) CONVERSION FACTORS

## APPROXIMATE CONVERSIONS TO SI UNITS

Symbol	When You Know	Multiply By	To Find	Symbol
<b>LENGTH</b>				
in	inches	25.4	millimeters	mm
ft	feet	0.305	meters	m
yd	yards	0.914	meters	m
mi	miles	1.61	kilometers	km
<b>AREA</b>				
in <sup>2</sup>	square inches	645.2	square millimeters	mm <sup>2</sup>
ft <sup>2</sup>	square feet	0.093	square meters	m <sup>2</sup>
yd <sup>2</sup>	square yard	0.836	square meters	m <sup>2</sup>
ac	acres	0.405	hectares	ha
mi <sup>2</sup>	square miles	2.59	square kilometers	km <sup>2</sup>
<b>VOLUME</b>				
fl oz	fluid ounces	29.57	milliliters	mL
gal	gallons	3.785	liters	L
ft <sup>3</sup>	cubic feet	0.028	cubic meters	m <sup>3</sup>
yd <sup>3</sup>	cubic yards	0.765	cubic meters	m <sup>3</sup>
NOTE: volumes greater than 1000 L shall be shown in m <sup>3</sup>				
<b>MASS</b>				
oz	ounces	28.35	grams	g
lb	pounds	0.454	kilograms	kg
T	short tons (2000 lb)	0.907	megagrams (or "metric ton")	Mg (or "t")
<b>TEMPERATURE (exact degrees)</b>				
°F	Fahrenheit	5 (F-32)/9 or (F-32)/1.8	Celsius	°C
<b>ILLUMINATION</b>				
fc	foot-candles	10.76	lux	lx
fl	foot-Lamberts	3.426	candela/m <sup>2</sup>	cd/m <sup>2</sup>
<b>FORCE and PRESSURE or STRESS</b>				
lbf	poundforce	4.45	newtons	N
lbf/in <sup>2</sup>	poundforce per square inch	6.89	kilopascals	kPa
<b>APPROXIMATE CONVERSIONS FROM SI UNITS</b>				
Symbol	When You Know	Multiply By	To Find	Symbol
<b>LENGTH</b>				
mm	millimeters	0.039	inches	in
m	meters	3.28	feet	ft
m	meters	1.09	yards	yd
km	kilometers	0.621	miles	mi
<b>AREA</b>				
mm <sup>2</sup>	square millimeters	0.0016	square inches	in <sup>2</sup>
m <sup>2</sup>	square meters	10.764	square feet	ft <sup>2</sup>
m <sup>2</sup>	square meters	1.195	square yards	yd <sup>2</sup>
ha	hectares	2.47	acres	ac
km <sup>2</sup>	square kilometers	0.386	square miles	mi <sup>2</sup>
<b>VOLUME</b>				
mL	milliliters	0.034	fluid ounces	fl oz
L	liters	0.264	gallons	gal
m <sup>3</sup>	cubic meters	35.314	cubic feet	ft <sup>3</sup>
m <sup>3</sup>	cubic meters	1.307	cubic yards	yd <sup>3</sup>
<b>MASS</b>				
g	grams	0.035	ounces	oz
kg	kilograms	2.202	pounds	lb
Mg (or "t")	megagrams (or "metric ton")	1.103	short tons (2000 lb)	T
<b>TEMPERATURE (exact degrees)</b>				
°C	Celsius	1.8C+32	Fahrenheit	°F
<b>ILLUMINATION</b>				
lx	lux	0.0929	foot-candles	fc
cd/m <sup>2</sup>	candela/m <sup>2</sup>	0.2919	foot-Lamberts	fl
<b>FORCE and PRESSURE or STRESS</b>				
N	newtons	0.225	poundforce	lbf
kPa	kilopascals	0.145	poundforce per square inch	lbf/in <sup>2</sup>

\*SI is the symbol for the International System of Units. Appropriate rounding should be made to comply with Section 4 of ASTM E380.  
(Revised March 2003)

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## **LIST OF ACRONYMS**

CDL	commercial driver's license
CR	compliance review
EMIS	Enforcement Management Information System
ETS	Enforcement Tracking System
FCPIAA	Federal Civil Penalties Inflation Adjustment Act of 1990
FMCSA	Federal Motor Carrier Safety Administration
FMCSR	Federal Motor Carrier Safety Regulation
MCSIA	Motor Carrier Safety Improvement Act of 1999
NOC	Notice of Claim
OCO	Order to Cease Operations
OOS	out of service
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
TEA-21	Transportation Equity Act for the 21st Century
UFA	Uniform Fine Assessment
USC	United States Code

# **EXECUTIVE SUMMARY**

## **BACKGROUND**

In July 2004, a report<sup>(1)</sup> was prepared in response to Section 222(d) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA), which required that the Secretary of Transportation “conduct a study of the effectiveness of the revised civil penalties” established in the Transportation Equity Act for the 21st Century (TEA-21) and MCSIA “in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver’s license laws.”

The civil penalty schedule sets forth the dollar amounts that the Federal Motor Carrier Safety Administration (FMCSA) can assess on carriers for violations found during compliance reviews (CRs). The TEA-21 revision was an increase in the maximum dollar amounts that could be assessed to carriers.

At the time of the 2004 study, the new penalty schedule had only recently been implemented, and the FMCSA enforcement data had not been collected at a sufficient level of detail or for a sufficient period of time to allow for a thorough analysis of the effects of the revised civil penalty schedule. More detailed enforcement data became available in 2002 with the development of FMCSA’s Enforcement Management Information System (EMIS). The new EMIS database made it possible to extend the analysis of the original report (originally extending from January 1994 to October 2001) to a broader time period, extending from January 1995 to December 2006 (note that EMIS does not capture data as far back as 1994).

## **OBJECTIVE**

The primary objective of this report is to reevaluate the findings of the 2004 study, using a more comprehensive database that includes more years of data.

The purpose of the original 2004 study was to evaluate the effectiveness of the revised civil penalty schedule established in TEA-21 in terms of a change in motor carrier safety performance. However, it was determined during the original analysis that it is not possible to isolate the effects of the revisions to the civil penalty schedule on carrier behavior from other elements of the CR program or other FMCSA programs (e.g., the roadside inspection program). Other actions that could be taken against a carrier as a result of a CR include: placing a carrier out of service (OOS) for reasons other than nonpayment of fines, and determining that a carrier is unfit to operate. Also, it is not possible to isolate the effects of TEA-21 penalty revisions from other civil penalty revisions that follow in later years. Therefore, the 2004 study focused primarily on the impact of the changes in the revised civil penalty schedule on the dollar amount of the fines assessed to the carrier and on the number of violations assessed.

## **SCOPE OF ANALYSIS**

Although this report focuses primarily on the revised civil penalty schedule established in TEA-21 (fines resulting from the revised civil penalty schedule are referred to as Penalty 1 throughout

this report), two other penalties established by MCSIA were also analyzed. The first is a financial penalty whereby FMCSA assesses the maximum fine if a pattern of violations or previously or previously committed violations exist. The second is not a financial penalty, but is related to civil penalties: FMCSA can suspend a carrier's interstate operations if the carrier does not pay a fine. These are referred to as Penalty 2 and 3 respectively throughout this report.

The revised civil penalty schedule includes penalties for carriers and drivers. Driver penalties, however, were not analyzed in this study, as there was not a sufficient number of these cases to analyze. The revised falsification penalty also could not be analyzed because the EMIS data did not identify which violations involved falsification.

## **RESULTS**

### **Penalty 1 – Revised Civil Penalty Schedule**

While both the 2004 analysis and the follow-up analysis showed a sharp increase in the amount of fines assessed to carriers immediately after implementation of the revised civil penalty schedule, the follow-up analysis revealed that, after an initial spike in 1999 and 2000, the average claimed penalty amount began a gradual decline beginning in 2001, and by 2005 the amount was actually lower than it was prior to the change in the penalty schedule. The average claimed civil penalty amount did increase slightly in 2006, when another change in the maximum recordkeeping penalties took effect.

### **Penalty 2 – Mandatory Maximum Civil Penalty for a Pattern of Violations or Previously Committed Violations**

A FMCSA policy memorandum dated September 8, 2000, set forth the method for assessing carriers the maximum civil penalty for having a pattern of violations or previously committed violations (Section 222, MCSIA): "A pattern of violations results from three enforcement cases within the past six years. The three cases must consist of two closed cases citing critical or acute regulations in the same Part (e.g., 395) followed by discovery of violations of critical or acute regulations in the same Part during a third or subsequent compliance review. The six year period is measured from the end of the first to the end of the third compliance review." This policy was clarified in a December 28, 2004, *Federal Register* that all three closed cases must have occurred after the September 8, 2000, memorandum.

In the original 2004 study very few years of data were available to assess effects of Penalty 2. The follow-up analysis used a snapshot of EMIS data that contained a field specifically identifying cases containing patterns of violations or previously committed violations. The follow-up analysis showed that less than one percent of the carrier enforcement cases in the period 2002–2006 resulting from CRs and roadside inspections had patterns of violations or previously committed violations. The total number of such cases decreased from 2003 to 2005 and then leveled off.

The small number of cases found involving patterns of violations or previously committed violations most likely resulted from the December 2004, policy clarification, stating that the agency will not use, as part of its three cases, any case that closed before the issuance of the September 8, 2000, policy statement. In addition, the policy clarification stipulated that any

violation referenced in a settlement agreement lacking admission of liability will not be considered a prior violation for purposes of Section 222, MCSIA. As a result, in many instances, much of the carrier's enforcement case history could not be considered by the investigator when looking for patterns of violations or previously committed violations. Until the Agency accumulates more post-2000 data over time, many carriers will continue not to be subject to the maximum fines under Section 222.

In CR cases, the average claimed amount for cases involving a pattern of violations or previously committed violations decreased from 2003 to 2005, and then rose sharply in 2006. This increase was probably the result of the increases in the maximum civil penalties for recordkeeping offenses that were implemented at the end of February 2006,<sup>\*</sup> because the civil penalty for a pattern of violations or previously committed violations is a function of the maximum civil penalty allowable.

### **Penalty 3 – Suspension of Interstate Operations if a Civil Penalty is Not Paid**

Effective with each notice of claim (NOC) issued April 16, 2001, or later, a carrier that fails to pay a civil penalty in full within 90 days after the date of the Final Agency Order or after missing an installment payment is prohibited from operating in interstate commerce, i.e., placed out of service, on the next (i.e., the 91st) day.

It was not possible to perform a “before and after” analysis of the effects of this new civil penalty in either the original report or this report, because the data in the DOT financial tracking system did not include payment due dates until April 2001, the month that the revised civil penalty was implemented.

The original analysis used data from a limited time period, May-November 2001, and only from cases resulting from CRs. The analysis showed that, during the period May-November 2001, the timeliness of payments made in cases resulting from CRs was as follows:

- In 78.5 percent of the cases, all payments were made *on time*.
- In 15.1 percent of the cases, payments were made late, but *within 90 days* of the due date.
- In 6.4 percent of the cases, payments were *not made within 90 days*, and the carriers were *placed out of service*.

The proportion of carriers paying on time increased from May 2001 to November 2001.

In the period 2002–2006, the timeliness of payments made in cases resulting from CRs was as follows:<sup>†</sup>

- In 65.2 percent of the cases, all payments were made *on time*.
- In 24.3 percent of the cases, payments were made late, but *within 90 days* of the due date.

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<sup>\*</sup> The Safe, Accountable, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) was enacted in August, 2005. SAFETELU increased the maximum recordkeeping penalties to twice the levels set by TEA-21.

<sup>†</sup> The percentages do not add to 100 due to rounding.

- In 10.4 percent of the cases, payments were *not made within 90 days*, and the carriers were *placed out of service*.

The percentage of carriers making payments on time for CR penalties dropped from 70.7 in 2002 to 63.3 in 2006. The findings of the follow-up analysis are believed to be more reliable than those of the original analysis because (1) the follow-up analysis used data from a much longer time period than did the original analysis and (2) the follow-up analysis used data from both CR and roadside inspection cases, while the original analysis used data from only CR cases.

Carriers do not appear to be responding to Penalty 3. While the percentage of carriers placed OOS is small (9–12 percent between 2002 and 2006), it remains relatively constant across all years. To address this issue, the agency is allowing motor carriers to divert a portion of a civil penalty into an investment in new technologies designed to improve their safety performance.

# 1. INTRODUCTION

## 1.1 BACKGROUND

In July 2004, a report<sup>(1)</sup> was prepared in response to Section 222(d) of the Motor Carrier Safety Improvement Act of 1999 (MCSIA), which required that the Secretary of Transportation “conduct a study of the effectiveness of the revised civil penalties established in” the Transportation Equity Act for the 21st Century (TEA-21) and the MCSIA “in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver’s license laws.” The Federal Motor Carrier Safety Administration (FMCSA) was assigned the responsibility for this study. The research was conducted by the John A. Volpe Transportation Systems Center (Volpe Center) in Cambridge, Massachusetts under a project plan agreement with the FMCSA.

At the time of the 2004 study, the new penalty schedule had recently been implemented, and the FMCSA enforcement data had not been collected at a sufficient level of detail or for a sufficient period of time to allow for a thorough analysis of the effects of the revised civil penalty schedule. More detailed enforcement data became available in 2002 with the development of FMCSA’s Enforcement Management Information System (EMIS). The new EMIS database made it possible to extend the analysis of the original report (originally extending from January 1994 to October 2001) to a broader time period, extending from January 1995 to December 2006 (note that EMIS does not capture data as far back as 1994).

## 1.2 OBJECTIVE

The primary objective of this report is to use the improved data to determine if penalties assessed to carriers increased as a result of the revised civil penalty schedule implemented in 1999. A secondary objective is to validate the penalty trends found in the original (2004) report.

The original objective of the study was to evaluate the effectiveness of the revised civil penalty schedule established in TEA-21. However, it was determined during the original analysis that it is not possible to isolate the effects of the revisions to the civil penalty schedule on carrier behavior from other elements of the compliance review (CR) program or other FMCSA programs (e.g., the roadside inspection program). Other treatments that could be applied to a carrier as a result of a CR include: placing a carrier out of service (OOS) for reasons other than nonpayment of fines, and determining that a carrier is unfit to operate. Also, it is not possible to isolate the effects of TEA-21 penalty revisions from other civil penalty revisions that follow in later years. Therefore, the study focused primarily on the extent to which the TEA-21 penalty revisions impacted upon the number of penalties found during CRs and upon the dollar amounts of these penalties.

Even if the above factors could be isolated from the effects on carrier behavior of the revised civil penalty schedule, other factors could compromise attempts to measure their effectiveness. These factors include the method used to determine the ultimate amount of a fine assessed during

a CR, and the practices that appeared to be used by some investigators to assign penalty amounts to specific violations.

During a CR, investigators use the Uniform Fine Assessment (UFA) model to assess the total penalty amount; however, it should be noted that although the investigator assigns fines for individual violations, the UFA model determines the ultimate total amount of a fine. The UFA model caps the total penalty amount that can be assessed to a carrier and uses various factors to determine the maximum amount. In addition, some violation types are easier for investigators to assess than others, leading some to favor assessing the easier ones as a way to streamline workload. Therefore, the violations, an important factor in an effectiveness study, would not truly represent the safety picture of the carrier, possibly misleading the results.

Section 1.3 defines certain terms that are used throughout this report. Section 1.4 presents the scope of the analysis, including identifying the revised civil penalties and describing the data available. Section 2 describes the analysis and results.

### **1.3 TERMS USED THROUGHOUT THIS REPORT**

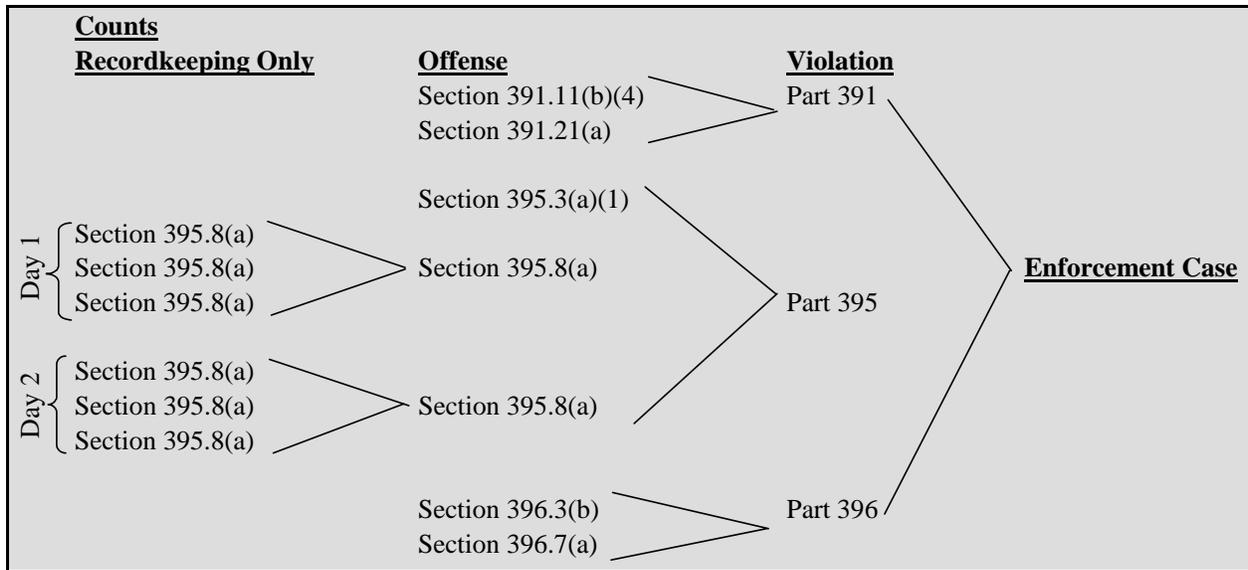
Throughout the report, references are made to ‘claimed’ civil penalties. This refers to the penalty amount included in a notice of claim (NOC) that the FMCSA serves to a carrier. This is the penalty amount the carrier is expected to pay.

Congress used the terms “offense” and “violation” interchangeably in 49 USC 521 to mean a breach of right, duty, or non-criminal law. For the purposes of this report, however, “offense” and “violation” have distinct definitions. The term “offense” is defined as a finding by the FMCSA that a carrier has not complied with a Section (e.g., Section 391.11(b)) of the Federal Motor Carrier Safety Regulations (FMCSR). A carrier may be cited for multiple offenses of the same Section, and there are maximum dollar amounts that can be assessed for each occurrence of the offense. In this report, recordkeeping offenses are further broken down into the number of counts of occurrence (or simply, “counts”). A single recordkeeping offense can be comprised of multiple counts. There are maximum dollar amounts that can be assessed per count.

The term “violation” is used more broadly, and refers to a general finding of noncompliance in a regulatory Part (e.g., Part 391), occurring as a result of one or more specific offenses having been committed by the carrier within that Part. There is no limit on the total dollar amount that can be assessed against a carrier for violating a Part.

Together, the violations for which there are civil penalties assessed make up an enforcement case. There is a cap placed on the total civil penalty assessment for each enforcement case.

Figure 1 provides an illustration of how the terms “count,” “offense,” “violation,” and “enforcement case” are used throughout this report.



**Figure 1. Terminology for “Count,” “Offense,” “Violation,” and “Enforcement Case” as Used throughout this Report**

As an example, a carrier may be assessed \$11,000 for each of three non-recordkeeping offenses against Section 395.13(c)(1), allowing an OOS driver to drive before the prescribed time is up. These offenses add up to a \$33,000 civil penalty for violating Part 395. Although the maximum dollar amount for these non-recordkeeping offenses is \$11,000 for each offense, there is no maximum number of offenses that can be found, or on the dollar amount that can be assessed for violating the Part within which the offenses are found.

To illustrate the relationship of recordkeeping counts and offenses, one infraction on a Monday can result in one count with up to a \$1,000 fine for that day. If not corrected by the next day, another ‘count’ could result in another \$1,000 fine, and so on for each day the infraction (from Monday) exists, up to a maximum of \$10,000. A new infraction found on the next day, Tuesday, could result in a maximum \$1,000 fine, with up to this amount fined for each day the infraction exists, up to \$10,000. There is no maximum dollar amount that can be assessed for violating the Part within which the offenses are found.

## 1.4 SCOPE OF THE ANALYSIS

### 1.4.1 Penalties Included in the Study

Although this report focuses primarily on the revised civil penalty schedule established in TEA-21 (fines resulting from the revised civil penalty schedule are referred to as Penalty 1 throughout this report), two other penalties established by MCSIA were also analyzed. The first is a financial penalty whereby FMCSA assesses the maximum fine if a pattern of violations or previously committed violations exist. The second is not a financial penalty, but is related to civil penalties: FMCSA can suspend a carrier’s interstate operations if the carrier does not pay a fine. These are referred to as **Penalty 2 and 3** respectively throughout this report.

The revised civil penalty schedule includes penalties for carriers and drivers. Driver penalties, however, were not analyzed in this study, as there were not a sufficient number of these cases to analyze. The revised falsification penalty also could not be analyzed because the EMIS data did not identify which violations involved falsification.

Penalties for violations of commercial driver’s license (CDL) regulations were not included in this report. By order of Congress (TEA-21), penalties related to violations of CDL regulations were moved from Section 521(b)(2) subparagraph (B) to Section 521(b)(2) subparagraph (C), but the dollar amount of the penalties did not change.

**1.4.2 Enforcement Data**

Table 1 summarizes the enforcement data used in the analysis of each revised penalty. Enforcement cases were classified by year according to the dates of their NOCs.

Trends in the period 1994–2001 shown in the original report were identified using enforcement data housed in a legacy system called the Enforcement Tracking System (ETS). In 2002, FMCSA developed EMIS, an Oracle-based information system, to replace the ETS. EMIS was populated with data dating back to 1995.

**Table 1. Enforcement Data Used in the Analysis of Revised Penalties 1–3**

	<b>Penalty 1 –  Revised Civil Penalty Schedule</b>	<b>Penalty 2 –  Maximum Civil Penalty for Showing a Pattern of Violations</b>	<b>Penalty 3 –  Suspension of Interstate Operations if a Civil Penalty is not Paid</b>
<b>Data Source</b> (ETS, EMIS)	EMIS (1995–2006)	ETS (1995–2001) EMIS (2002–2006)	ETS (2001) EMIS (2002–2006)
<b>Entity</b> (Carriers, Drivers, and Shippers)	Carriers	Carriers	Carriers
<b>Source of Penalty</b> (Compliance Reviews and Roadside Inspections)	Compliance Reviews	Compliance Reviews and Roadside Inspections	Compliance Reviews and Roadside Inspections
<b>Types of Enforcement Cases</b> (Open and Closed)	Open and Closed	Open and Closed	Closed

In the follow-up analysis, where feasible, a February 2007 snapshot of EMIS data was used to detect trends for all three penalties. While similar trends were found in both the original analysis and the follow-up analysis, there were differences in the magnitudes of some measures. It was decided to defer to EMIS, because its data were believed to more reliable than the ETS data. In addition, only EMIS contained enough years of data to conduct the follow-up analysis.

Congress revised the civil penalties in response to the fact that, at the time, the numbers of motor carrier-related crashes and fatalities were increasing while the number of all highway crashes was decreasing. In order to focus on motor carriers, violations by shippers were excluded from the analyses.

Data from enforcements that resulted from violations found in CRs and roadside inspections were examined. Roadside inspection results were not included in the Penalty 1 analysis, since the numbers of roadside inspections were too small to determine the existence of any trends over time.

The NOC amounts from open and closed cases were used in the analyses of Penalties 1 and 2. Settlement activities that go beyond the control of the investigator could change the penalty amount originally assessed. Using the NOC amount as opposed to the settled amount was seen as a better indicator of whether the FMCSA (i.e., the investigators) was assessing the new penalty amounts. Since the NOC amount remains the same once a case is closed, open cases were included to expand the population of enforcement cases analyzed.

## **2. ANALYSIS OF THE REVISED CIVIL PENALTIES**

### **2.1 OVERVIEW**

This section contains the analysis completed for Penalties 1–3. The characteristics of the enforcement data, implementation measures, and results are described for each penalty. Section 2.2 contains the summary of results for Penalties 1–3. Section 2.3 contains the analysis and results for Penalty 1, the revised civil penalty schedule. Penalty 2, assessing the maximum civil penalty for a pattern of violations or previously committed violations, is analyzed in section 2.4. Finally, section 2.5 contains the analysis and results for Penalty 3, suspending the interstate operations of carriers that did not pay their civil penalties.

### **2.2 SUMMARY OF RESULTS**

The results from this analysis are mixed. The dollar amount of fines rose immediately after implementation of the revised civil penalty schedule, only to fall again in subsequent years until another revision was implemented in 2006. The decline in fine amounts could point to carrier safety improving, however due to the reasons explained earlier, the effects of the revised civil penalty schedule can not be isolated from other FMCSA programs, so the reason for the decline remains unclear.

The results from the 1999–2001 analysis combined with the results from the 2002–2006 analysis show a decline in the number of cases resulting from the maximum penalty being assessed for demonstrating a pattern of violations or previously committed violations. The downward trend in the number of carrier enforcement cases that had patterns of violations or previously committed violations appears to validate the downward trend in the estimated percentage of violations constituting patterns of violations or previously committed violations that was observed in the original analysis. This trend, however, is likely to have resulted, at least in part, from a FMCSA December 2004 policy clarification, stating that the agency will not use, as part of its three cases, any case that closed before September 8, 2000, and that any violation referenced in a settlement agreement lacking admission of liability will not be considered a prior violation for purposes of Section 222, MCSIA (see section 2.4.3).

Finally, carriers do not appear to be responding to Penalty 3, being placed out of service for missed payments. While the percentage of carriers placed OOS is small, it remains consistent across all years.

### **2.3 PENALTY 1 – REVISED CIVIL PENALTY SCHEDULE**

#### **2.3.1 Overview**

This section first describes changes in the penalty schedule, then summarizes the original analysis results from the 2004 report, and finally, describes the follow-up analysis and results.

### 2.3.2 Background

Table 2 shows the civil penalty schedule that was in effect prior to the enactment of TEA-21 and the subsequent revision to that schedule.

**Table 2. Civil Penalty Schedules prior to Enactment of TEA-21**

<b>Legal Basis</b>	<b>49 USC 521(b)</b>	<b>FCPIAA*</b>
<b>Date of Implementation</b>		March 13, 1998
<b>Penalty Range for: Non-Recordkeeping—Substantial Health or Safety</b>	\$0–\$10,000 per offense	\$0–\$11,000 per offense
<b>Penalty Range for Non-Recordkeeping—Serious Patterns of Safety</b>	\$0–\$1,000 per offense, up to 10,000 per pattern	\$0–\$1,100 per offense, up to 11,000 per pattern
<b>Penalty Range for Recordkeeping offenses</b>	\$500 per count, up to \$2,500 for all counts of a single offense	\$550 per count, up to \$2,750 for all counts of a single offense

\* Federal Civil Penalties Inflation Adjustment Act of 1990

Prior to TEA-21, non-recordkeeping violations of the FMCSRs were classified as either Substantial Health or Safety violations or Serious Patterns of Safety violations.\* Few civil penalties were assessed under the Substantial Health or Safety category. These civil penalties were for offenses that could reasonably have led to, or had resulted in, serious personal injury or death. Most non-recordkeeping offenses were cited under the Serious Patterns of Safety category, with its smaller maximum civil penalty of \$1,000, because of the restrictive requirements of the Substantial Health or Safety category.

In 1998, the penalties were adjusted for inflation in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIAA), as amended by the Debt Collection Improvement Act of 1996. The maximum amount for each penalty was increased by 10 percent as of March 13, 1998. At the same time, the civil penalty schedule was removed from the U.S. Code (49 USC 521(b)) and placed in the newly created Appendix B to Part 386.

Table 3 shows the civil penalty schedule that was established by TEA-21 and the two subsequent revisions to that schedule.

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\* In all analyses in this report, non-recordkeeping violation data prior to 1999 were comprised of data on these two violation types.

**Table 3. Civil Penalty Schedules after Enactment of TEA-21**

<b>Legal Basis</b>	<b>TEA-21</b>	<b>FCPIAA*</b>	<b>SAFETEA-LU</b>
<b>Date of Implementation</b>	1999	March 31, 2003	February 28, 2006
<b>Penalty Range for Non-Recordkeeping</b>	\$0–\$10,000 per offense	\$0–\$11,000 per offense	\$0–\$11,000 per offense
<b>Penalty Range for Recordkeeping offenses</b>	\$500 per count, up to \$5,000 for all counts of a single offense	\$550 per count, up to \$5,500 for all counts of a single offense	\$1,000 per count, up to \$10,000 for all counts of a single offense

\* Federal Civil Penalties Inflation Adjustment Act of 1990

TEA-21 eliminated the restrictive Substantial Health or Safety and Serious Patterns of Safety civil penalty categories, and created a new Non-Recordkeeping civil penalty type. This new category and the associated maximum civil penalty allowed more violations to be assessed at higher amounts, up to \$10,000 per offense for carriers. The maximum civil penalty for recordkeeping violations was reset to \$500 per count, while the maximum that could be assessed for all counts related to a single offense increased from \$2,750 to \$5,000 (double the 49 USC 521(b) level of \$2,500). The TEA-21 changes were incorporated into the UFA model\* during 1999.

Subsequent to the mandate in MCSIA to assess the impact of the civil penalty changes made by TEA-21, additional changes were made to the civil penalty schedule as a result of the following laws:

- The FCPIAA, as amended by the Debt Collection Improvement Act of 1996.
- The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

In 2003, the penalties were adjusted for inflation in accordance with the FCPIAA, as amended by the Debt Collection Improvement Act of 1996. The maximum amount for each penalty was increased by 10 percent as of March 31, 2003.

SAFETEA-LU, which was enacted on August 10, 2005, increased the maximum recordkeeping penalties to twice the levels set by TEA-21. The maximum civil penalty for recordkeeping violations increased from \$550 per count to \$1,000 per count (double the TEA-21 level of \$500), while the maximum that could be assessed for all counts related to a single offense increased from \$5,500 to \$10,000 (double the TEA-21 level of \$5,000). These changes became effective on August 10, 2005, but were not implemented in the UFA model until February 28, 2006.

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\* Investigators use the UFA model to recommend the of civil penalty amounts to assess carriers for violations of the Federal Motor Carrier Safety Regulations. See Appendix A for more information on the UFA model.

### 2.3.3 Original Analysis

The original analysis used an April 2002 snapshot of FMCSA enforcement data from the ETS legacy system to identify trends in the period 1994–2001. Almost all of the data were from enforcements resulting from violations found in CRs.

#### *Results*

**Claimed Civil Penalties at the Enforcement Case Level:** After decreasing from 1994 to 1998, the average claimed civil penalty amount per case increased by 39.7 percent in 1999 (when the revised civil penalty schedule was implemented) and by 11.3 percent in 2000, and then stabilized.

The portion of the average claimed amount per enforcement case from *non-recordkeeping* penalties increased from 52.9 percent in 1998 to 69.7 percent in 1999 (when the Non-Recordkeeping civil penalty type was established), and to 76.1 percent in 2000. The much smaller portion of the average claimed amount per case that was attributable to *recordkeeping* penalties decreased from 40.7 percent in 1998 to 22.6 percent in 1999, and to 16.9 percent in 2000. There was little change in either portion from 2000 to 2001.

**Non-Recordkeeping (Carrier) Civil Penalties:** The average civil penalty assessed per non-recordkeeping offense more than doubled (an increase of 115.9 percent) from 1998 to 1999, increased by 29.3 percent in 2000, and then stabilized. The average number of non-recordkeeping offenses per 100 CRs peaked in 1998, and then decreased.

**Recordkeeping (Carrier) Civil Penalties:** The average civil penalty assessed per recordkeeping count showed little change from 1994 to 2001. The average number of recordkeeping counts per 100 CRs peaked in 1996 and 1997, decreased by 8.2 percent in 1998 and 20.4 percent in 1999, and then stabilized.

### 2.3.4 Follow-up Analysis

#### *Enforcement Data*

As previously stated, a February 2007 snapshot of FMCSA enforcement data from the EMIS database was used to analyze all penalties. The original results for the period 1994–2001 (which were from ETS data) were compared to the new trend results for the same years (which were from EMIS data). While similar trends were found in both the original analysis and the follow-up analysis, there were differences in the magnitudes of some measures. It was decided to defer to EMIS, because its data were believed to more reliable than the ETS data. In addition, only EMIS contained a sufficient number of years of data to conduct the follow-up analysis.

Violations were grouped into three categories for analysis:

- Recordkeeping.
- Non-Recordkeeping.
- Other.

The EMIS data classify offenses as recordkeeping or non-recordkeeping. In some instances, the offense classifications in EMIS did not agree with the classifications shown in the UFA documentation.<sup>(2)</sup> After consulting with FMCSA staff, it was decided that the data for those offenses that were misclassified (i.e., did not agree with the UFA classifications) would not be used in the analysis. The number of offenses that were not included was minimal.

The analysis used the entire total claimed penalty amount in each enforcement case, which included only violations of the FMCSR Parts that are covered by the revised civil penalty schedule. Although the revised civil penalty schedule pertains to violations of Parts 40, 382, 385, and 390–399, offenses were found only in the following Parts:

- Part 382 – Controlled Substances and Alcohol Use and Testing.
- Part 390 – FMCSR; General.
- Part 391 – Qualifications of Drivers.
- Part 392 – Driving of Commercial Motor Vehicles.
- Part 393 – Parts and Accessories Necessary for Safe Operation.
- Part 395 – Hours of Service of Drivers.
- Part 396 – Inspection, Repair, and Maintenance.
- Part 397 – Transportation of Hazardous Materials; Driving and Parking Rules.

The following Parts were not included in the study because there were no offenses from these Parts to analyze:

- Part 40 – Procedures for Transportation Workplace Drug and Alcohol Testing Programs.
- Part 385 – Safety Fitness Procedures.
- Part 398 – Transportation of Migrant Workers.
- Part 399 – Employee Safety and Health Standards.

### ***Measure of Implementation***

Trend analysis was performed over the twelve-year period (1995–2006) to observe penalty activity. For all civil penalty types, the *average civil penalty per case* for a given year was calculated by dividing the sum of all civil penalties for that year by the sum of all cases for that year. The total number of unique cases in a particular year was the number of cases in that year with at least one violation in one of the eight Parts listed in the previous section.

To better understand the cause of changes in any identified trends, the analysis was completed at the offense level (see Figure 3) for non-recordkeeping violations. Total offenses and total dollar amounts claimed for each offense were used to calculate the *average claimed civil penalty amount (per offense)* and the *average number of offenses per 100 CRs* for each year from 1995 to 2006.

In the case of recordkeeping violations, it was not possible to calculate the penalty amount at the offense level, because the EMIS database does not associate counts with particular offenses.

Therefore, the analysis was conducted at the count level (see figure 6) for recordkeeping violations. Total counts and the total dollar amounts claimed for each count were used to calculate the *average claimed civil penalty amount (per count)* and the *average number of counts per 100 CRs* for each year from 1995 to 2006.

It should be noted that in the original report, the recordkeeping violation data were shown as being summarized by offense. This depiction was not accurate. The data were actually summarized by count.

### **Results**

This section contains the results of the follow-up analysis. The results are first presented at the enforcement case level, then by penalty type, and finally, by regulatory part.

**Claimed Civil Penalties at the Enforcement Case Level:** As shown in Table 4, the average claimed civil penalty amount per case decreased from \$6,679 in 1995 to \$4,572 in 1998, and then increased in 1999, the year the revised civil penalty schedule was implemented. The average peaked at \$6,586 in 2000, and then decreased to \$4,480 in 2005. This average was lower than the averages in the years (1995–1998) before the revised schedule was implemented. Therefore, the implementation of the revised civil penalty schedule had no lasting effect on the average claimed amount per case. The average claimed amount per case increased to \$4,927 in 2006, the year that the maximum recordkeeping penalties were increased. This average was higher than the average claimed amount per case in 1998, but was still lower than the average claimed amounts in the period 1995–1997.

**Table 4. Average Claimed Civil Penalty Amount per Case by Type of Violation (Carrier)**

Year	Recordkeeping	Non-Recordkeeping	Other	Total
1995	\$2,553	\$1,391	\$2,735	\$6,679
1996	\$2,719	\$1,475	\$1,713	\$5,907
1997	\$2,070	\$1,783	\$1,322	\$5,175
1998	\$1,782	\$1,904	\$886	\$4,572
1999 <sup>*</sup>	\$1,454	\$3,644	\$329	\$5,427
2000	\$1,231	\$5,066	\$289	\$6,586
2001	\$1,223	\$4,655	\$336	\$6,213
2002	\$1,018	\$4,393	\$405	\$5,816
2003	\$968	\$3,797	\$455	\$5,220
2004	\$1,157	\$3,927	\$480	\$5,564
2005	\$1,101	\$2,963	\$416	\$4,480
2006 <sup>†</sup>	\$1,421	\$2,938	\$569	\$4,927

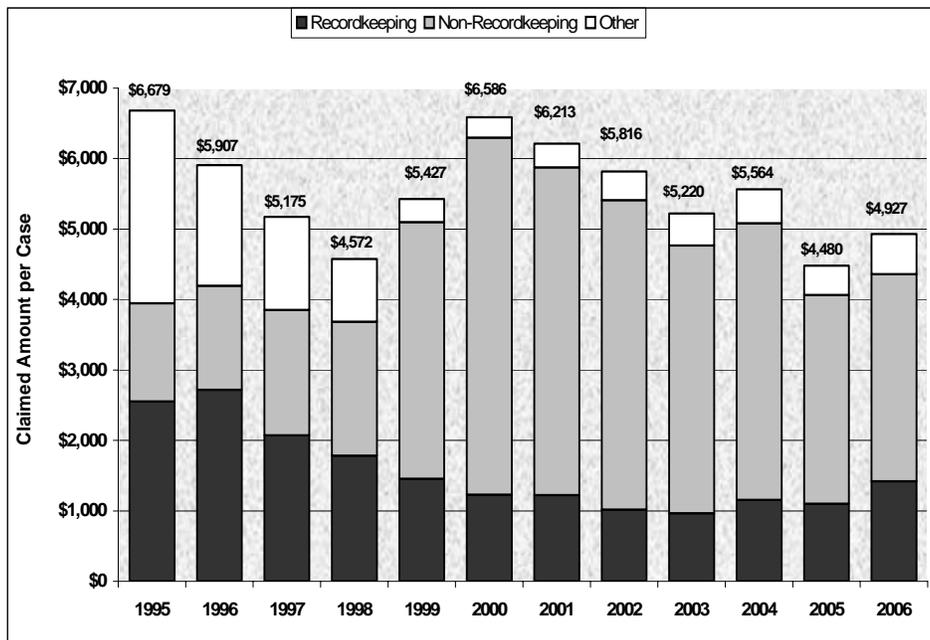
<sup>\*</sup> The year that the revised civil penalty schedule was implemented.

<sup>†</sup> The year that the maximum recordkeeping penalties were increased.

Table 4 also shows the contribution to the average claimed civil penalty amount per case by type of violation.\* The highlighted rows show the years in which FMCSA implemented penalty increases (1999 and 2006). The average claimed civil penalty amount per case increased in each of those years. The increase in 1999 was the result of the increase in the maximum that could be assessed for non-recordkeeping penalties and the establishment of the Non-Recordkeeping civil penalty type. As shown in the table, the non-recordkeeping portion of the average claimed civil penalty amount per case increased from \$1,904 in 1998 to \$5,066 in 2000, and then declined in subsequent years.

The 2006 increase in the average claimed civil penalty amount per case was primarily due to the increase in the maximum that could be assessed for recordkeeping penalties. The recordkeeping portion of the average claimed civil penalty amount per case decreased from \$2,553 in 1995 to \$968 in 2003, and then fluctuated. The increase in the recordkeeping portion from \$1,101 in 2005 to \$1,421 in 2006 was the result of the increases in the maximum recordkeeping penalties that were implemented in 2006. This increase (of \$320) accounted for most of the increase (of \$447) in the total average claimed amount that occurred in 2006.

Figure 2 graphically displays the information in Table 4.



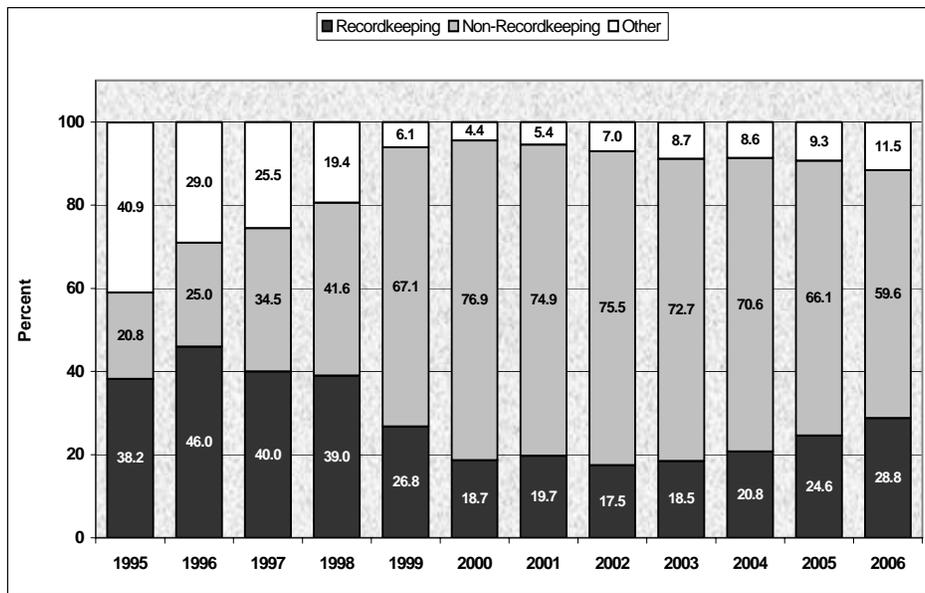
**Figure 2. Average Claimed Civil Penalty Amount per Case by Type of Violation (Carrier)**

\* The violation type averages in 2001 and 2006 do not add to the overall averages due to rounding.

Figure 3 graphically displays the information in Table 4 on a percentage basis. The percentage numbers are given in Table 5.\*

**Table 5. Percent of Average Claimed Civil Penalty Amount per Case by Type of Violation (Carrier)**

Year	Percentage Recordkeeping	Percentage Non-Recordkeeping	Percentage Other	Percent Total <sup>†</sup>
1995	38.2	20.8	40.9	99.9
1996	46.0	25.0	29.0	100.0
1997	40.0	34.5	25.5	100.0
1998	39.0	41.6	19.4	100.0
<b>1999*</b>	<b>26.8</b>	<b>67.1</b>	<b>6.1</b>	<b>100.0</b>
2000	18.7	76.9	4.4	100.0
2001	19.7	74.9	5.4	100.0
2002	17.5	75.5	7.0	100.0
2003	18.5	72.7	8.7	99.9
2004	20.8	70.6	8.6	100.0
2005	24.6	66.1	9.3	100.0
<b>2006<sup>†</sup></b>	<b>28.8</b>	<b>59.6</b>	<b>11.5</b>	<b>99.9</b>



**Figure 3. Percent of Average Claimed Civil Penalty Amount per Case by Type of Violation (Carrier)**

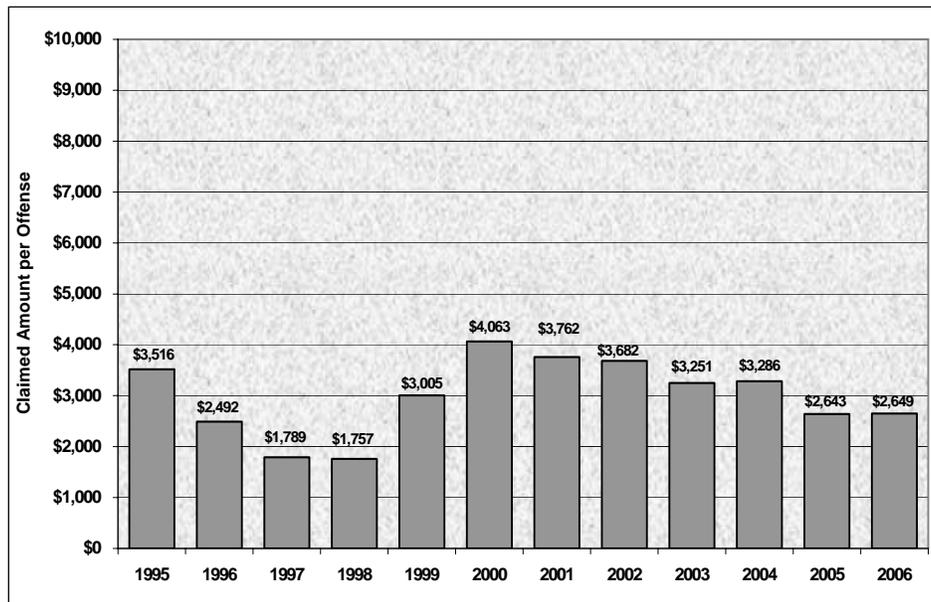
\* The percentages for 1995, 2003, and 2006 do not add to 100 due to rounding.

**Non-Recordkeeping (Carrier) Civil Penalties:** This section measures the effects of the higher maximum civil penalties on the average civil penalty amount (per offense) and the average number of offenses (per 100 CRs) for non-recordkeeping civil penalties.

TEA-21 eliminated the Substantial Health or Safety and Serious Patterns of Safety civil penalty types and created a new Non-Recordkeeping (Carrier) civil penalty type. This new category and the associated maximum civil penalty allowed a wider variety of regulatory Parts to be assessed at higher amounts, up to \$10,000 per offense, in 1999.

In addition, in accordance with the FCPIAA, as amended by the Debt Collection Improvement Act of 1996 the maximum civil penalty for carriers for non-recordkeeping offenses increased from \$10,000 per offense to \$11,000 per offense as of March 31, 2003.

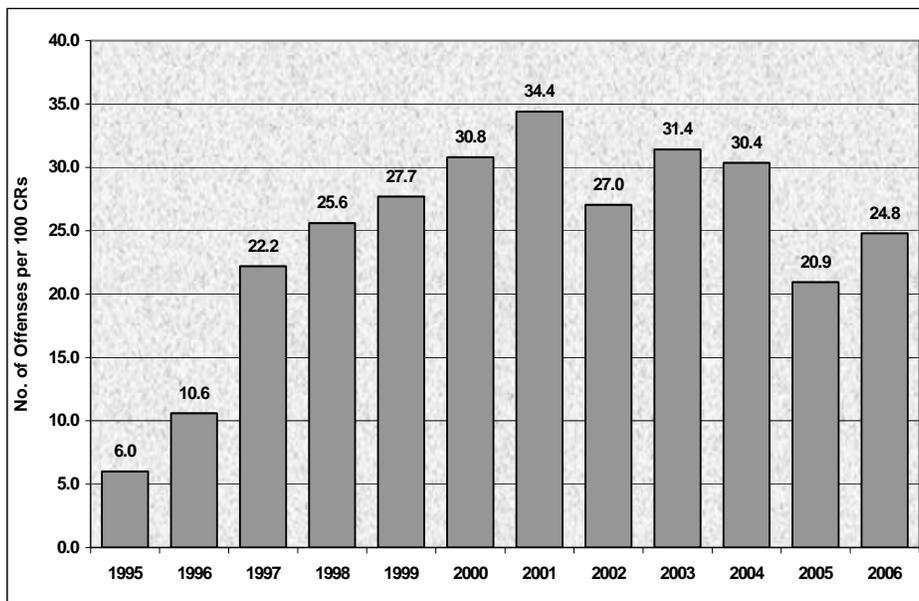
Figure 4 shows the average claimed civil penalty amount per offense by year for non-recordkeeping (carrier) violations. As shown in the figure, the average civil penalty per offense decreased from \$3,516 in 1995 to \$1,757 in 1998. The amount increased to \$3,005 in 1999, and peaked at \$4,063 in 2000. After 2000, the average exhibited a downward trend to a level below \$2,700 in 2005 and 2006, but still remained substantially higher (i.e., 50.8 percent) in 2006 than the average claimed amount prior to the implementation of the revised civil penalty schedule (\$2,649 in 2006 vs. \$1,757 in 1998).



**Figure 4. Average Claimed Civil Penalty Amount per Offense: Non-Recordkeeping (Carrier)**

The average for each year in Figure 4 was well below the maximum civil penalty that could have been assessed, although the averages remained higher than in 1998, suggesting that the change in the penalty schedule has had some impact upon the average claimed amount. This finding could be explained by the limitation placed by the UFA model on the maximum penalty that can be assessed per enforcement case. (See Appendix A for more information about the UFA model.)

Figure 5 shows the average number of offenses per 100 CRs by year for non-recordkeeping violations.



**Figure 5. Average Number of Offenses per 100 Compliance Reviews: Non-Recordkeeping (Carrier)**

As shown in the figure, the average number of non-recordkeeping offenses per 100 CRs increased each year from 6.0 offenses in 1995 to 34.4 offenses in 2001. After 2001, the average exhibited a downward trend. The 2006 average of 24.8 offenses per 100 CRs was lower than the 1998 average of 25.8 offenses per 100 CRs.

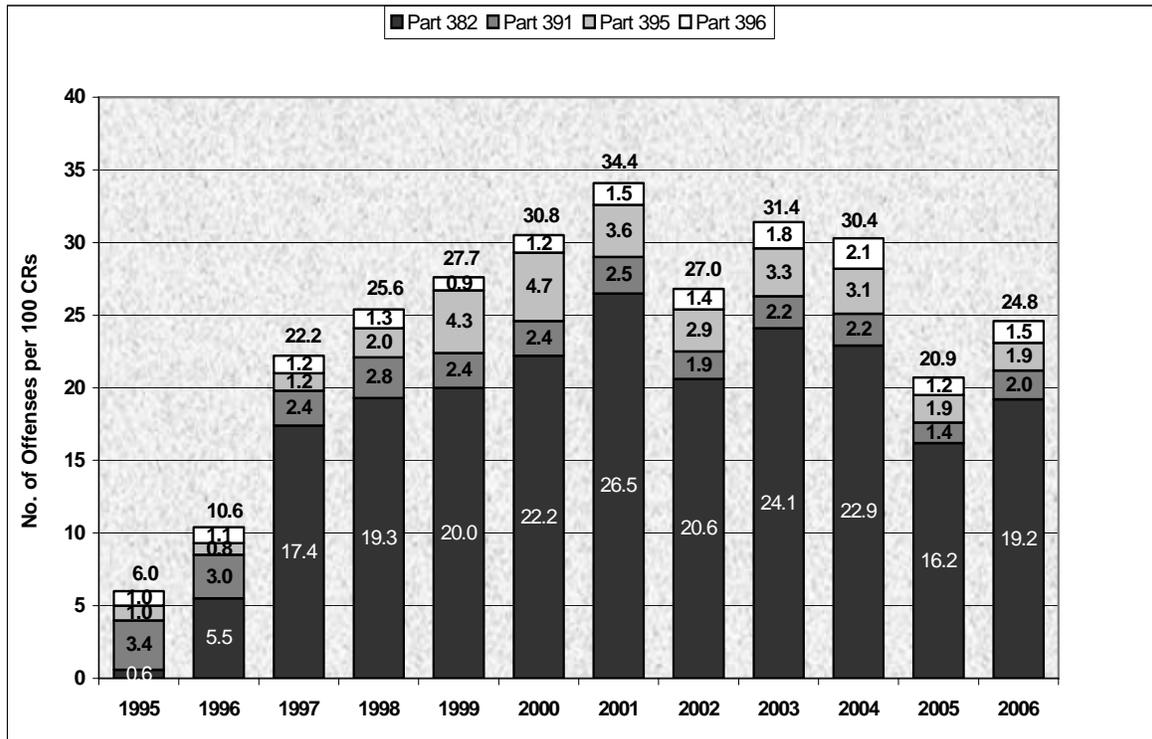
Taken together, figures 4 and 5 show that, while carriers were assessed higher civil penalties (per offense) for non-recordkeeping violations beginning in 1999, the penalties were well below the \$10,000 maximum set by TEA-21. At the same time, the average number of non-recordkeeping offenses per 100 CRs decreased. These trends could have resulted from a number of factors. First, carriers could have been responding to the higher civil penalties by making a greater effort to comply with the non-recordkeeping FMCSRs. Second, the increased maximum civil penalty that could be assessed for non-recordkeeping violations may have resulted in the UFA model penalty limitation per case being reached with fewer violations.

It should be noted that the averages for the years 1995–2001 were lower than the comparable averages that were calculated in the original analysis. These differences may be due to the fact that different databases were used to conduct the two analyses. The database used for the follow-up analysis, EMIS, is considered to be the better data source, because it covers more years of data, which makes it possible to detect longer trends in the data.

Figure 6 shows the average number of non-recordkeeping offenses per 100 CRs by FMCSR Part. The numerical data is given in Table 6.\*

**Table 6. Average Number of Non-Recordkeeping Offenses per 100 Compliance Reviews by Federal Motor Carrier Safety Regulation Part (Carrier)**

Year	Part 382	Part 391	Part 395	Part 396	Total*
1995	0.6	3.4	1.0	1.0	6.0
1996	5.5	3.0	0.8	1.1	10.6
1997	17.4	2.4	1.2	1.2	22.2
1998	19.3	2.8	2.0	1.3	25.6
1999	20.0	2.4	4.3	0.9	27.7
2000	22.2	2.4	4.7	1.2	30.8
2001	26.5	2.5	3.6	1.5	34.4
2002	20.6	1.9	2.9	1.4	27.0
2003	24.1	2.2	3.3	1.8	31.4
2004	22.9	2.2	3.1	2.1	30.4
2005	16.2	1.4	1.9	1.2	20.9
2006	19.2	2.0	1.9	1.5	24.8



**Figure 6. Average Number of Non-Recordkeeping Offenses per 100 Compliance Reviews by Federal Motor Carrier Safety Regulation Part (Carrier)**

\* The numbers for all years except 2003 do not add to the totals due to FMCSR Parts that are not shown in the graph.

As shown in the figure and supporting table, Part 382 (Controlled Substances and Alcohol Use and Testing) accounted for most of the offenses. Parts 395 (Hours of Service of Drivers), 391 (Qualifications of Drivers), and 396 (Inspection, Repair, and Maintenance) accounted for much smaller portions of the averages. Parts 390, 392, 393, and 397 each accounted for no more than 0.2 percent of the average in any year, and are not shown in the graph.

In conclusion, raising the maximum non-recordkeeping civil penalties in 1999 resulted in higher average civil penalties assessed per non-recordkeeping offense (Figure 4). This result, in turn, led to higher civil penalties assessed per enforcement case (Figure 2). A comparison of the penalty amounts in Figure 2 and Figure 4 show a similar pattern: an increase in 1999, a peak in 2000 followed by a downward trend. Figure 5 shows that the number of non-recordkeeping offenses rose from 1995 to 2000. This increase began before the revised civil penalty schedule was implemented in 1999. Yet, there was no lasting effect on the average claimed civil penalty per (non-recordkeeping) offense or on the average claimed civil penalty per case. This result supports the conclusion that the upward trend in the average claimed civil penalty per case was influenced more by the increase in the maximum that could be assessed for non-recordkeeping offenses and less by the number of offenses that were assessed.

**Recordkeeping (Carrier) Civil Penalties:** The analysis in this section measures the effects of the higher maximum civil penalties on average civil penalty amounts (per count) and average number of counts (per 100 CRs) for recordkeeping civil penalties. (See Figure 1 for a description of counts.)

Under TEA-21, the maximum civil penalty a carrier could be assessed for recordkeeping violations was reset to \$500 (from \$550) per count, while the maximum penalty for all counts of a single offense increased from \$2,750 to \$5,000. These changes were implemented by the FMCSA during 1999. In accordance with the FCPIAA, as amended by the Debt Collection Improvement Act of 1996 the maximum civil penalty for carriers with recordkeeping violations was changed back to \$550 per count, while the maximum that could be assessed for all counts related to a single offense increased further to \$5,500. These changes became effective on March 31, 2003.

Under SAFTEA-LU, the maximum civil penalty for recordkeeping violations increased again from \$550 per count to \$1,000 per count, while the maximum that could be assessed for all counts related to a single offense increased from \$5,500 to \$10,000. These changes were implemented by the agency in late February 2006.

It was not possible to calculate the penalty amounts for individual recordkeeping offenses to determine if the maximum penalty of \$10,000 was being reached, because EMIS does not associate counts with offenses. Therefore, the analysis of recordkeeping violations was performed at the count level.

Figure 7 shows the average claimed civil penalty amount per count by year for recordkeeping (carrier) violations.

As shown in Figure 7, the average claimed civil penalty per count remained between \$424 and \$463 from 1995 to 2005. The average increased to \$610 in 2006, as a result of the increase in the

maximum penalty per count from \$550 to \$1,000 at the end of February 2006. The 2006 average penalty was still \$390 below the new maximum. It appears that while FMCSA investigators did assess higher civil penalties in 2006, limitations placed by the agency's UFA model kept the maximum below \$1,000.

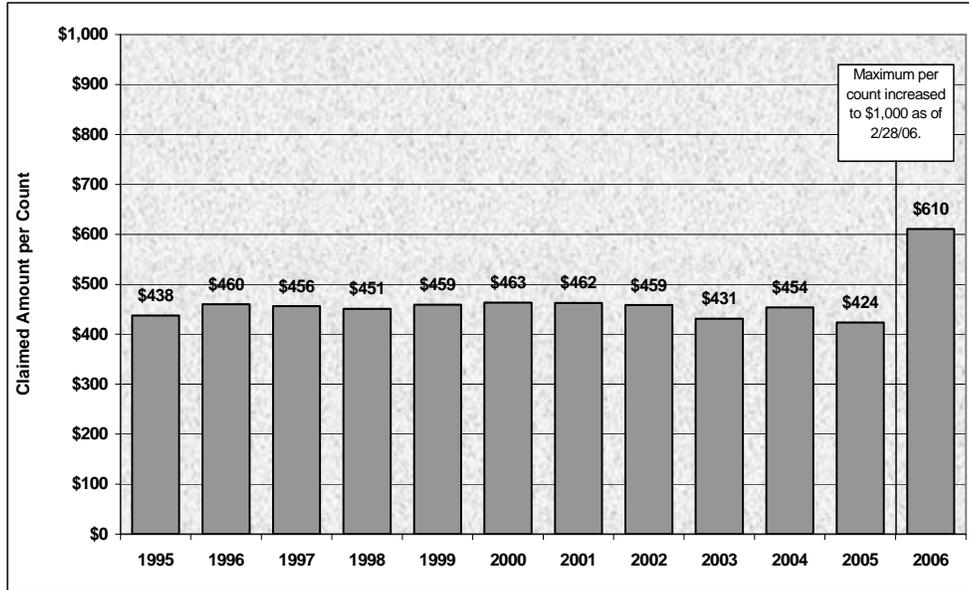


Figure 7. Average Claimed Civil Penalty Amount per Count: Recordkeeping (Carrier)

Figure 8 shows that the average number of counts per 100 CRs by year for recordkeeping violations.

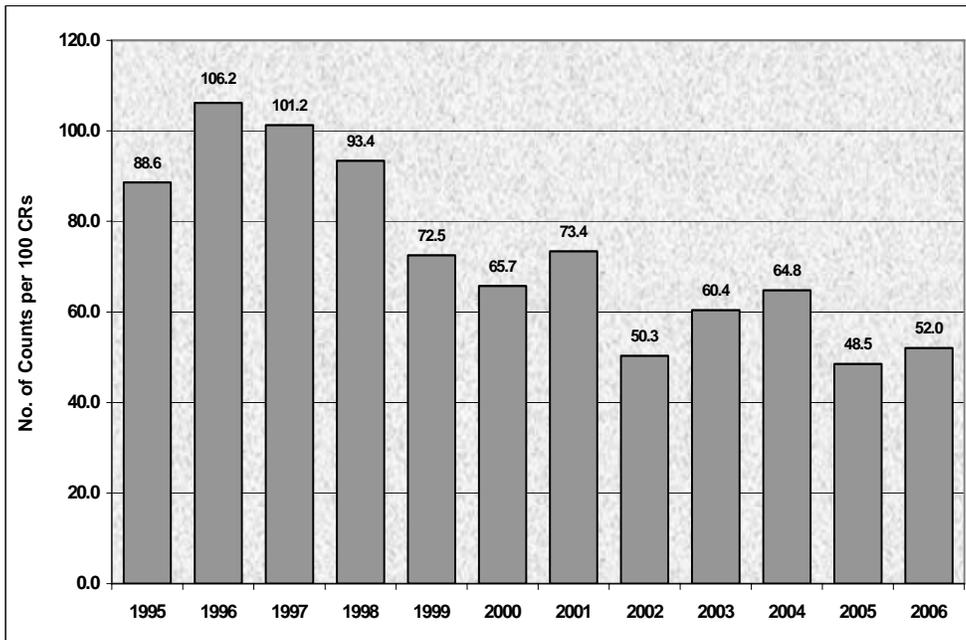


Figure 8. Average Number of Counts per 100 Compliance Reviews: Recordkeeping (Carrier)

As shown in Figure 8, the average number of counts per 100 CRs peaked at 106.2 in 1996, decreased to 50.3 in 2002, and then fluctuated. The greatest decrease occurred from 1998 (93.4) to 1999 (72.5), the year the revised civil penalty schedule was implemented.

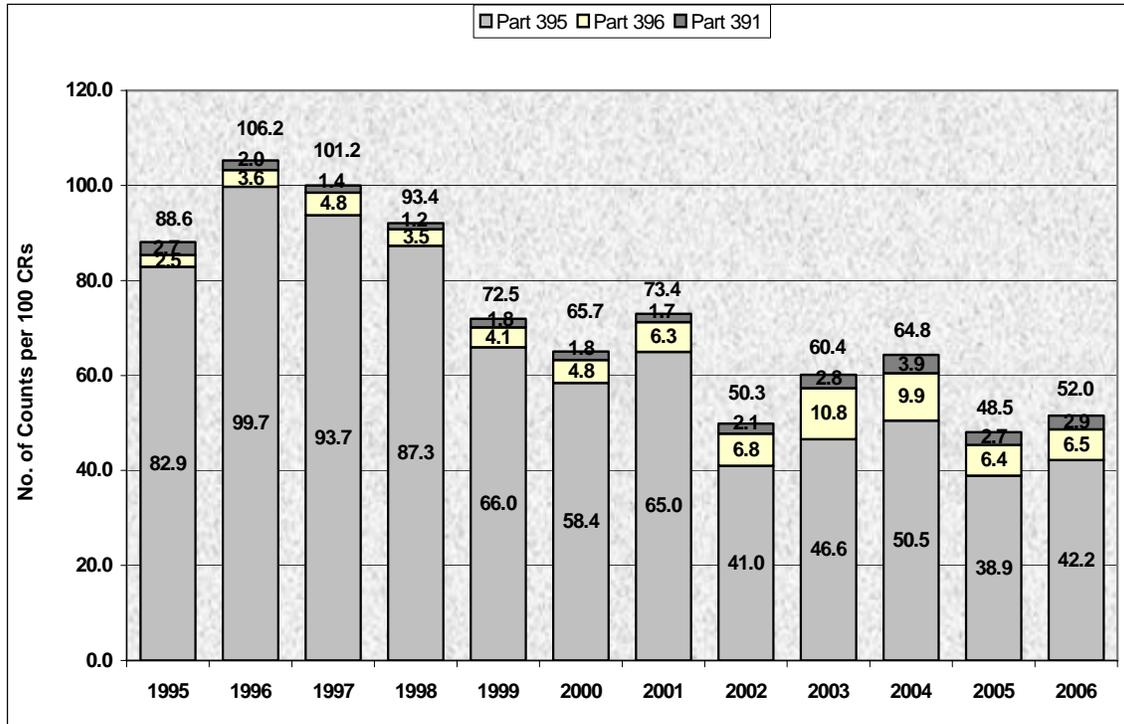
Figure 9 shows the average number of recordkeeping counts per 100 CRs by year broken out by FMCSR Part.\* As shown in the figure, Part 395 (Hours of Service of Drivers) accounted for most of the counts. Parts 391 (Qualifications of Drivers) and 396 (Inspection, Repair, and Maintenance) accounted for much smaller portions of the averages. These numerical data are given in Table 7. Parts 382, 390, and 397 each accounted for no more than 0.8 percent of the average in any year, and are not shown in the graph.

**Table 7. Average Number of Recordkeeping Counts per 100 Compliance Reviews by Federal Motor Carrier Safety Regulation Part (Carrier)**

Year	Part 395	Part 396	Part 391	Total
1995	82.9	2.5	2.7	88.6
1996	99.7	3.6	2.0	106.2
1997	93.7	4.8	1.4	101.2
1998	87.3	3.5	1.2	93.4
1999	66.0	4.1	1.8	72.5
2000	58.4	4.8	1.8	65.7
2001	65.0	6.3	1.7	73.4
2002	41.0	6.8	2.1	50.3
2003	46.6	10.8	2.8	60.4
2004	50.5	9.9	3.9	64.8
2005	38.9	6.4	2.7	48.5
2006	42.2	6.5	2.9	52.0

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\* The numbers in each year do not add to the total due to FMCSR Parts that are not shown in the graph.



**Figure 9. Average Number of Recordkeeping Counts per 100 Compliance Reviews by Federal Motor Carrier Safety Regulation Part (Carrier)**

Using data at the count level, it was possible to infer that the average claimed recordkeeping penalty per offense declined from 1996 to 2005, and then increased in 2006. Figure 7 shows that the average recordkeeping penalty amount per count remained constant over the years, with an increase in 2006 when the maximum was increased. Figure 8 shows that, over the same period, the average number of recordkeeping penalty counts generally declined. With the average penalty amount per count remaining relatively constant and the number of counts declining, the amount assessed per CR for record keeping violations also declined.

**Summary of Results – Penalty 1:** In summary, the follow-up analysis of Penalty 1 showed the following:

- For the period 1995–2001, the results of the follow-up analysis of the revised civil penalty schedule exhibited the same trends as those found in the original (2004) analysis.
- The implementation initially resulted in higher penalties assessed to carriers in 1999 and 2000. The follow-up analysis, however, shows that penalties declined from 2000 to 2005. On average, carriers were assessed lower civil penalties in 2005 than they were in 1995–1998.
- The average claimed civil penalty amount per case increased in 2006, the year that the maximum penalties for recordkeeping offenses were increased.
- Non-recordkeeping civil penalties comprised a large portion of the average civil penalty claimed per case beginning in 1999, and therefore, were the primary influence on the trend of the average claimed civil penalty per case from 1999 to 2005. The recordkeeping

portion of the average civil penalty claimed per case decreased dramatically from 1996 to 2002, fluctuated for three years, and then increased sharply in 2006 (the year that the increases in the maximum recordkeeping penalties took effect).

- The average non-recordkeeping penalty per offense increased in 1999 due to the implementation of the revised civil penalty schedule that year, increasing the maximum penalty that could be assessed for non-recordkeeping offenses. After peaking in 2000, the average penalty declined to a level in 2005-2006 that was still higher than in 1998. The average number of non-recordkeeping offenses per case increased from 1995 to 2001 and then exhibited a downward trend.
- While carriers were assessed higher civil penalties (per offense) for non-recordkeeping violations beginning in 1999, the penalties were well below the \$10,000 maximum set by TEA-21. At the same time, the average number of non-recordkeeping offenses per 100 CRs decreased. These trends could have resulted from carriers complying more closely with the non-recordkeeping FMCSRs, or the increased penalties resulting in the UFA model penalty limitation per case being reached with fewer violations.
- Part 382 (Controlled Substances and Alcohol Use and Testing) accounted for most of the non-recordkeeping offenses.
- The average claimed civil penalty amount per count for recordkeeping penalties remained steady from 1995 to 2005, and then increased in 2006, the year the maximum penalties for recordkeeping offenses were increased. The average number of recordkeeping counts per 100 CRs was higher before the revised civil penalty schedule was implemented in 1999. The average peaked in 1996, declined until 2000 and then fluctuated.
- Part 395 (Hours of Service of Drivers) accounted for most of the recordkeeping counts.

## **2.4 PENALTY 2 – MANDATORY MAXIMUM CIVIL PENALTY FOR A PATTERN OF VIOLATIONS OR PREVIOUSLY COMMITTED VIOLATIONS**

### **2.4.1 Background**

A FMCSA policy memorandum dated September 8, 2000 set forth the method for assessing carriers the maximum civil penalty for having a pattern of violations or previously committed violations (Section 222, MCSIA): “A pattern of violations results from three enforcement cases within the past six years. The three cases must consist of two closed cases citing critical or acute regulations in the same Part (e.g., 395) followed by discovery of violations of critical or acute regulations in the same Part during a third or subsequent compliance review. The six-year period is measured from the end of the first to the end of the third compliance review.” This policy was clarified in a December 28, 2004, *Federal Register* that all three closed cases must have occurred after the September 8, 2000 memorandum. This policy clarification also specifically interpreted Section 222 of MCSIA as requiring a previous enforcement case to include one of the following:

- An explicit adjudication finding of a violation by the agency (Assistant Administrator or a US Department of Transportation Administrative Law Judge).
- An express admission of liability by the motor carrier in its reply to the NOC or in a settlement agreement.

- A final Agency Order issued based on the motor carrier’s failure to reply to the NOC.
- Payment in response to a NOC that advises the motor carrier that payment constitutes an express admission of liability.

#### 2.4.2 Original Analysis

When the original analysis was conducted, a “pattern of violations” field was present in the enforcement data. This field, however, could not be used to count the number of patterns before or after the penalty went into effect, because safety investigators did not use the field consistently. The investigators’ inconsistent use of the field may have stemmed from the fact that the definition of a pattern was not well defined before TEA-21. Supplemental guidance in the September 8, 2000, memorandum subsequently clarified some of the ambiguities.

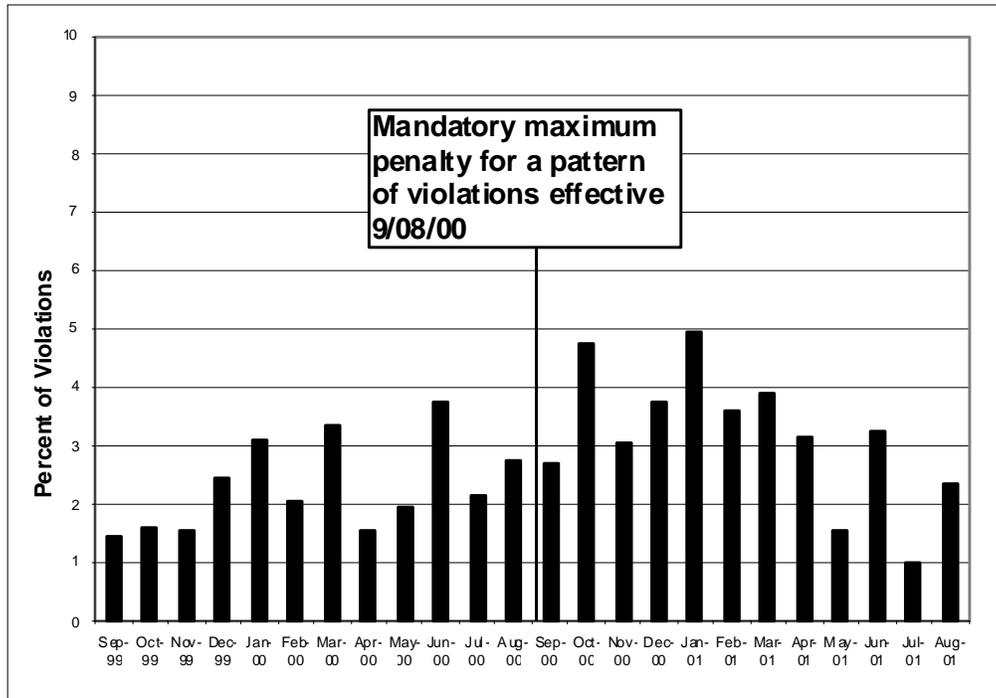
Since a data field identifying violations that resulted in patterns was unavailable, an attempt was made to estimate the number of violations that would have resulted in patterns for each month in the time frame being studied. The following conditions were used to identify patterns of violations or previously committed violations in the data:

- Include only violations of critical and acute regulations.
- Include only adjudicated enforcement cases with settled amounts greater than zero and the number of offenses greater than zero.
- Identify all third enforcement cases that meet the first two criteria and that all occur within 6 years of one another.

These conditions were part of the FMCSA’s definition of a pattern of violations or previously committed violations that was adopted after TEA-21. These conditions were applied to the enforcement data for the entire time frame being analyzed, both before and after this definition was adopted. The conditions were used to *estimate* the number of violations *that would have resulted* in the maximum civil penalty (had the penalty been implemented at the time) for the period September 1999 to August 2001.

In the 12 months before the penalty was implemented (September 1999–August 2000), an estimated 2.4 percent of the violations met the conditions for receiving the maximum civil penalty. In the 12 months after the penalty was implemented (September 2000–August 2001), an estimated 3.2 percent of the violations met the conditions for receiving the maximum civil penalty.

Figure 10 shows the estimated percentage of violations that met the conditions for receiving the maximum civil penalty by month for the period September 1999 to August 2001.



**Figure 10. Percent of Violations that Met the Conditions for Receiving the Mandatory Civil Penalty for a Pattern of Violations or Previously Committed Violations – September 1999–August 2001**

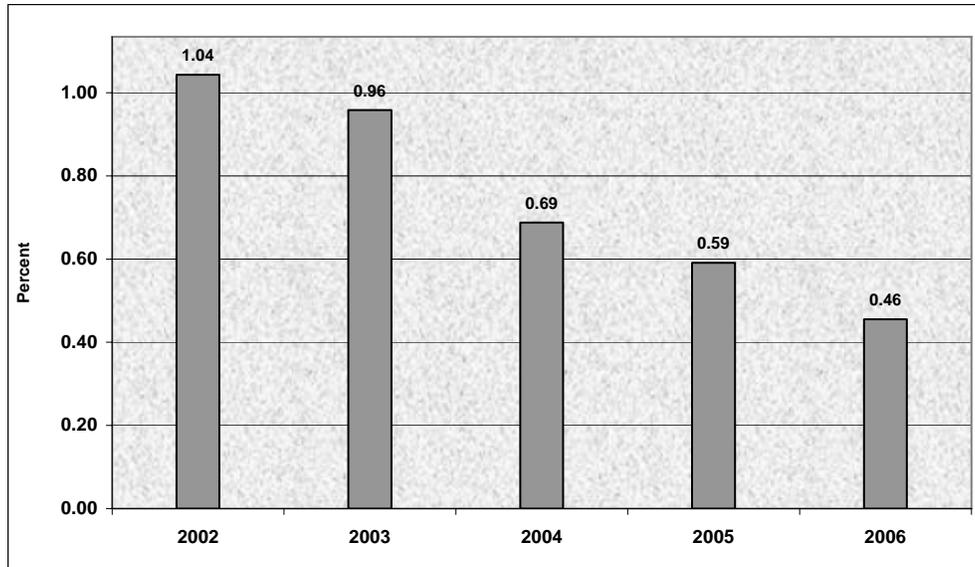
Figure 10 shows an upward trend in the estimated percentage of violations that met the conditions for receiving the maximum civil penalty through January 2001, when the proportion peaked at 5.0 percent. A downward trend started in the following month, February 2001. At the time of the original analysis, it was thought that this downward trend may have been the result of carriers responding to the potential of receiving the maximum civil penalty mandated by the MCSIA.

### 2.4.3 Follow-up Analysis

The February 2007 EMIS snapshot was used as the source to identify patterns of violations or previously committed violations originating from CRs or roadside inspections for the years 2002-2006. The date for a case was based on when a NOC was officially served. The analysis included each case that was open or closed with enforcement, and contained a pattern of violations or previously committed violations, as indicated by a field in EMIS called “Third Strike Indicator.” This particular field did not exist when the original analysis was performed in 2004.

For the purpose of this analysis, all violations, regardless of Part number, were included and no distinction was made as to the type of offense (i.e., recordkeeping, non-recordkeeping, or other). The total claimed amount for each offense constituting a pattern or previously committed violation was calculated at the offense level, rather than at the case level, since cases may have additional offenses other than those that were identified as constituting a pattern of violations or previously committed violations.

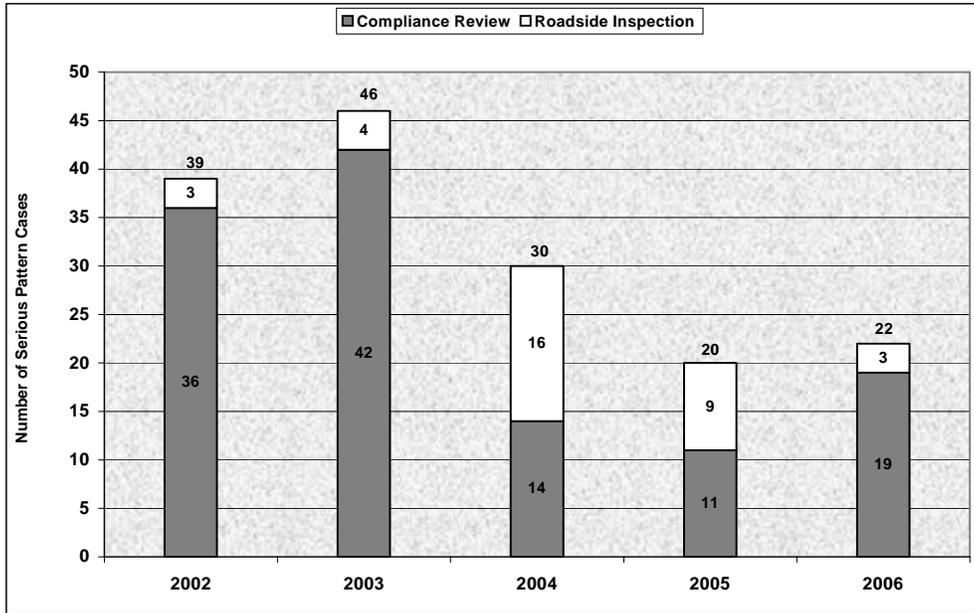
Figure 11 shows the proportion of carrier enforcement cases per year stemming from CRs and roadside inspections that had patterns of violations or previously committed violations. The proportion decreased from 1.04 percent in 2002 to 0.46 percent in 2006.



**Figure 11. Percent of Compliance Review and Roadside Inspection Cases with Patterns of Violations or Previously Committed Violations (Carrier)**

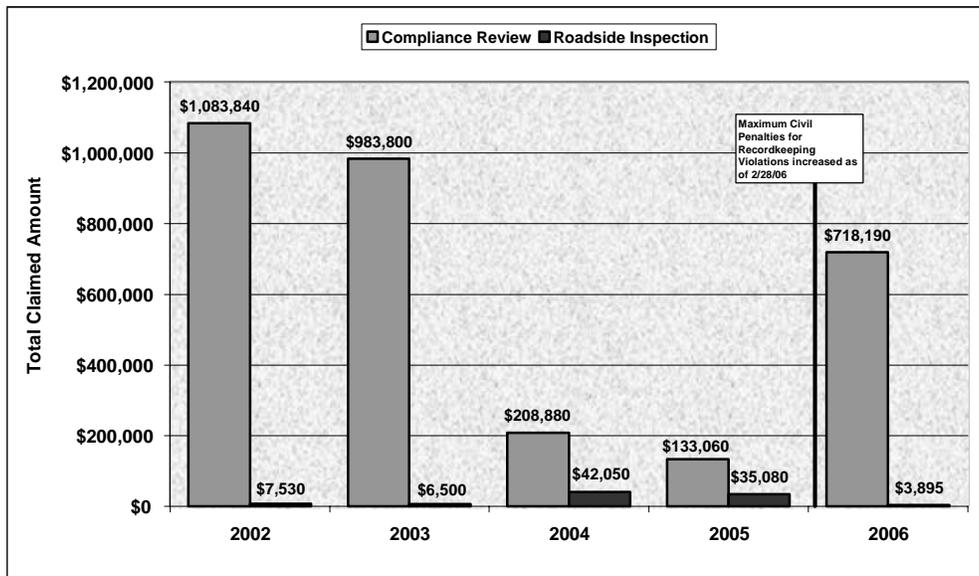
The decline in cases found involving patterns of violations or previously committed violations may have resulted, in part, from the FMCSA December 2004 policy clarification, stating that the agency will not use, as part of its three cases, any case that closed before September 8, 2000, and that any violation referenced in a settlement agreement lacking admission of liability will not be considered a prior violation for purposes of Section 222, MCSIA. As a result, in many instances, much of the carrier’s enforcement case history could not be considered by the investigator when looking for patterns of violations or previously committed violations.

Figure 12 shows the numbers of carrier enforcement cases per year (stemming from CRs and roadside inspections) that had patterns of violations or previously committed violations. As shown in the figure, there were 157 such cases, 122 resulting from CRs and 35 resulting from roadside inspections. Of the 122 CR cases, 78, or 63.9 percent, occurred in 2002 and 2003. Nearly half (16) of the 35 roadside inspection cases occurred in 2004. The total number of cases increased from 39 in 2002 to 46 in 2003. The number of cases then decreased in the following 2 years (to 30 in 2004 and 22 in 2005), before increasing slightly (to 22) in 2006.



**Figure 12. Number of Compliance Review and Roadside Inspection Cases with Patterns of Violations or Previously Committed Violations, by Source (Carrier)**

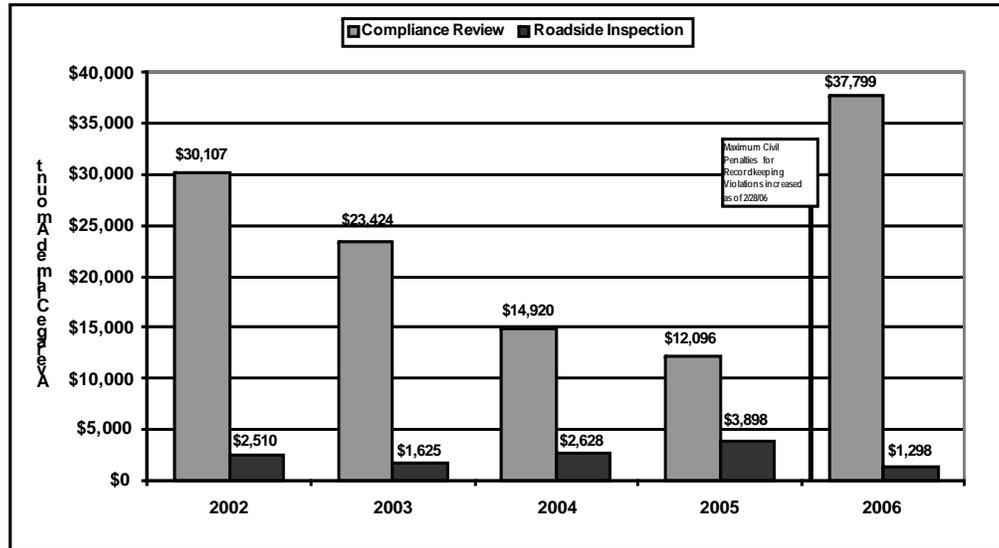
Figure 13 shows the total claimed amounts per year in carrier enforcement cases with patterns of violations or previously committed violations resulting from CR s and roadside inspections.



**Figure 13. Total Claimed Amount in Cases with Pattern of Violations or Previously Committed Violations, by Source (Carrier)**

As shown in Figure 13, in cases originating from CRs, the total claimed amount was about \$1 million in both 2002 and 2003. The claimed amount dropped sharply to \$208,880 in 2004 and \$133,060 in 2005, before rebounding to \$718,190 in 2006. The largest total claimed amounts in roadside inspection cases occurred in 2004 and 2005.

Figure 14 shows the average claimed amounts per year in carrier enforcement cases with patterns of violations or previously committed violations resulting from CRs and roadside inspections.



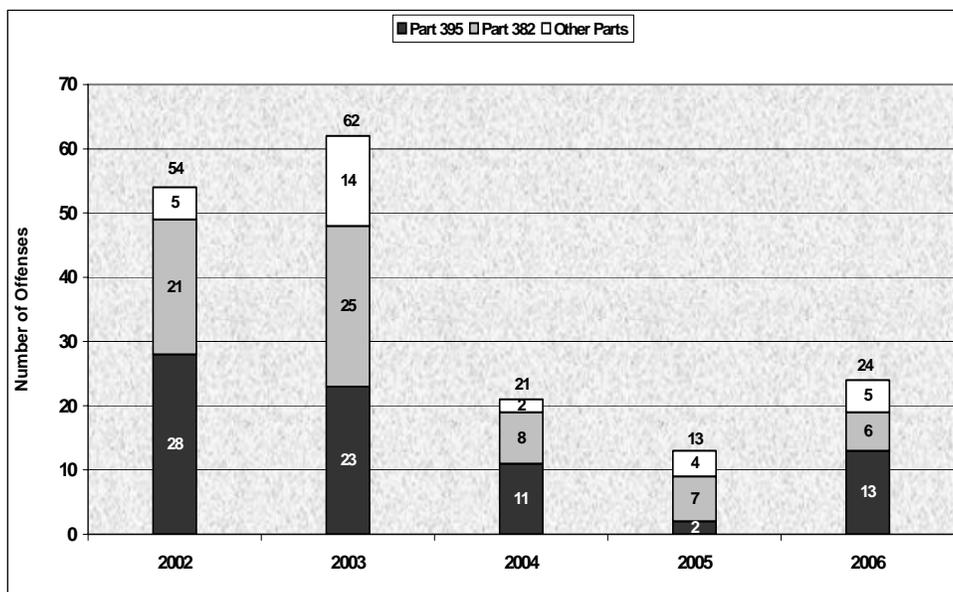
**Figure 14. Average Claimed Amount in Cases with Patterns of Violations or Previously Committed Violations, by Source (Carrier)**

As shown in Figure 14, in cases originating from CRs, the average claimed amount decreased from \$30,107 per case in 2002 to \$12,096 per case in 2005, but then increased to \$37,799 per case in 2006. The increase in 2006 was the reason for the large increase in the total claimed amount in CR cases in 2006, as shown in Figure 13.

The increase in the average claimed amount in 2006 was probably the result of the increase in the maximum civil penalty for recordkeeping offenses that was implemented in the UFA model on February 28, 2006, since the civil penalty for a pattern of violations or previously committed violations is a function of the maximum civil penalty for those offenses.

In roadside inspection cases, the average claimed amount increased peaked at \$3,898 per case in 2005, but then decreased to \$1,298 per case in 2006.

Figure 15 shows the number of offenses constituting patterns of violations or previously committed violations, in cases resulting from CRs by year broken out by Part number.



**Figure 15. Number of Offenses in Cases with Patterns of Violations or Previously Committed Violations Resulting from Compliance Reviews by Federal Motor Carrier Safety Regulation Part (Carrier)**

Note: Other is defined as Parts 172, 180, 386, 387, 391, 392, 396, other.

As expected, the offense numbers in Figure 15 are highly correlated with the case numbers in Figure 12. From 2002 to 2006, there were 174 offenses constituting patterns of violations or previously committed violations, 116 (66.7 percent) of which occurred in 2002 and 2003. After 2003, the number of offenses decreased to 21 in 2004 and 13 in 2005, before increasing to 24 in 2006. Part 382 (Controlled Substance and Alcohol Use and Testing) and Part 395 (Hours of Service of Drivers) accounted for 144, or 82.8 percent, of the offenses.

In summary, the results from the 1999–2001 analysis combined with the results from the 2002–2006 analysis show a decline in the number of cases resulting from the maximum penalty being assessed for demonstrating a pattern of violations or previously committed violations. The downward trend in the number of carrier enforcement cases that had patterns of violations or previously committed violations, as seen in Figure 11, appears to validate the downward trend that was observed in Figure 10 in the original analysis. This trend, however, is likely to have resulted, at least in part, from a FMCSA December 2004 policy clarification, stating that the agency will not use, as part of its three cases, any case that closed before September 8, 2000, and that any violation referenced in a settlement agreement lacking admission of liability will not be considered a prior violation for purposes of Section 222, MCSIA. Until the Agency accumulates more post-2000 data over time, many carriers will continue not to be subject to the maximum fines under Section 222.

The average claimed amount in cases originating from CRs decreased from 2002 to 2005, before increasing sharply in 2006. This increase was likely the result of the increase in the maximum civil penalty for recordkeeping offenses that took effect at the end of February 2006.

## 2.5 PENALTY 3 – SUSPENSION OF INTERSTATE OPERATIONS IF A CIVIL PENALTY IS NOT PAID

### 2.5.1 Background

As specified in a regulation (49 CFR, Part 386.84) mandated by MCSIA, effective with all NOCs issued on April 16, 2001 or later, a carrier that fails to pay a civil penalty in full within 90 days after the date of the Final Agency Order, or fails to pay a civil penalty in full within 90 days after missing an installment payment, is prohibited from operating in interstate commerce (i.e., placed out of service) on the next (i.e., the 91st) day.

This analysis examined the timeliness with which carriers made payments, namely the percentages of cases in which carriers:

- Paid on time.
- Paid after the due date, but before the 90-day deadline.
- Did not pay before the 90-day deadline, and were placed out of service.

### 2.5.2 Original Analysis

At the time that the original analysis was conducted, only a limited amount of useable civil penalty payment data was available for analysis. The data in the DOT financial tracking system did not include payment due dates until April 2001, the month that the revised civil penalty was implemented. Therefore, it was not possible to assess the true impact of this revised civil penalty. Since no data were available before the penalty was implemented, it was impossible to tell whether or not the timeliness of payments improved after the penalty was implemented.

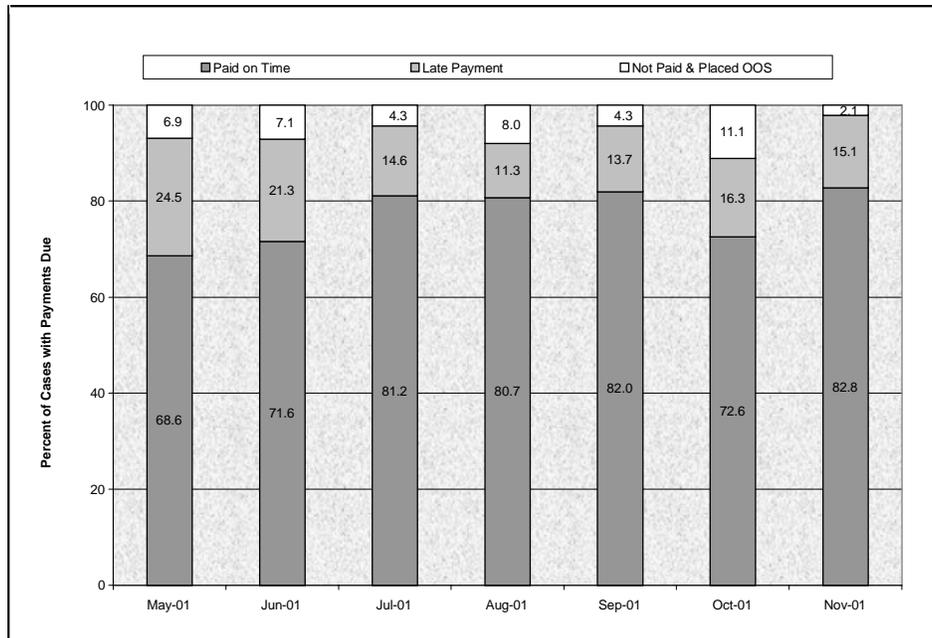
Data from May to November 2001 were used in the timelines of payment analysis in the original report. The number of payments for which data were available rose from over 100 in May to more than 600 in August and then stabilized. This finding suggests that the data for May, June, and July were not complete.

All of the data analyzed were from closed enforcement cases resulting from CRs.

During the period May–November 2001, the timeliness of payments made in cases resulting from CRs was as follows:

- In 78.5 percent of the cases, all payments were made *on time*.
- In 15.1 percent of the cases, payments were made late, but *within 90 days* of the due date.
- In 6.4 percent of the cases, payments were *not made within 90 days*, and the carriers were *placed out of service*.

Figure 16 shows the proportions of CR cases by timeliness of payment for the period May–November 2001.



**Figure 16. Percent of Cases by Timeliness of Civil Penalty Payments (Compliance Reviews): May–November 2001**

Figure 16 shows that, in every month except October, 90 percent of all payments due were made either on time or before the 90-day grace period ended. The proportion of carriers paying on time steadily increased over the months, from 68.6 percent in May 2001 to 82.8 percent in November 2001. The proportion of carriers making payments late, but within the 90-day grace period, declined from 24.5 percent in May 2001 to 15.1 percent in November 2001. The small proportion of carriers placed out of service as a result of not paying within 90 days showed no distinct trend, ranging from a low of 2.1 percent in November to a high of 11.1 percent in October.

### 2.5.3 Follow-up Analysis

Carrier cases for this analysis were identified based on the February 2007 EMIS snapshot. Cases that originated from CRs, roadside inspections, or other sources for the period 2002-2006 were identified based on whether or not an official NOC was served in those years. Cases that were closed with enforcement were included, regardless of the regulation part numbers that were violated.

Cases were categorized into the following three groups for the purpose of this analysis:

- Type I: Cases in which payments were made on time (paid within 30 days of the NOC). This includes cases in which full payments were made or payments were made for a specific year with no payments missed and no default occurred after a NOC was served.
- Type II: Cases in which payments were made, but made late and the carrier was not placed out of service (paid within 90 days of the NOC). This includes cases in which a payment was missed or there was a default after a NOC was served, but no Order to Cease Operations (OCO) with an effective date for the same year was served.

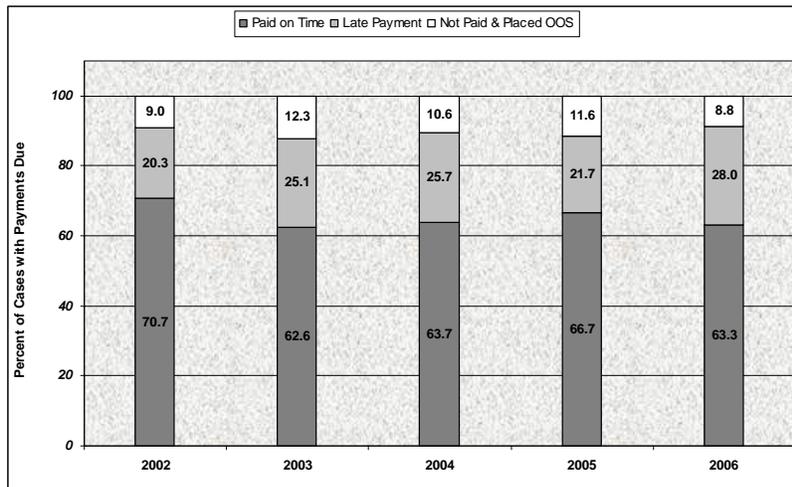
- Type III: Cases in which payments were made after 90 days or not made and the carrier was placed out of service. This includes those cases in which there was an OCO served with an effective date for a given year.

Cases resulting from CRs and roadside inspections were analyzed. In the period 2002–2006, cases resulting from CRs accounted for 78.2 percent of the cases with civil penalty payments due, while cases resulting from roadside inspections accounted for 20.4 percent of the cases with civil penalty payments due.\*

During the period 2002–2006, the timeliness of payments made in cases resulting from CRs was as follows:†

- In 65.2 percent of the cases, all payments were made *on time*.
- In 24.3 percent of the cases, payments were made late, but *within 90 days* of the due date.
- In 10.4 percent of the cases, payments were *not made within 90 days*, and the carriers were *placed out of service*.

Figure 17 shows the proportion of CR cases falling into each timeliness category for the years 2002 to 2006.‡ The figure shows that these proportions remained close to the five-year category averages (shown above) throughout the period. The proportion of cases in which all payments were made on time varied from 62.6 to 70.7 percent. The proportion of cases with payments made late but within the 90-day grace period varied from 20.3 to 28.0 percent. The proportion of cases with carriers placed out of service as a result of not paying within 90 days varied from 12.3 percent in 2003 to 8.8 percent in 2006. Conversely, the proportion of cases with payments made on time or before the end of the 90-day grace period varied from 87.7 percent in 2003 to 91.2 percent in 2006.



**Figure 17. Percent of Cases by Timeliness of Civil Penalty Payments (Compliance Reviews): 2002–2006**

\* Cases resulting from other sources accounted for 1.4 percent of the cases with civil penalties due.

† The percentages do not add to 100 due to rounding.

‡ The percentages for the year 2006 do not add to 100 due to rounding.

Table 8 shows the timelines of payments in cases resulting from CRs in the original and new analyses.\*

**Table 8. Timeliness of Payment in Cases Resulting from Compliance Reviews – Original and New Analyses**

<b>Timeliness</b>	<b>Original Analysis (May–November 2001)</b>	<b>Follow-up Analysis (2002–2006)</b>
Paid on Time	78.5%	<b>65.2%</b>
Paid Late	15.1%	<b>24.3%</b>
<b>Not Paid within 90 Days, Placed Out of Service</b>	<b>6.4%</b>	<b>10.4%</b>

As shown in Table 8, the proportion of carriers paying on time was lower in 2002–2006 than it was in May–November 2001, while the proportion of carriers paying late (i.e., within 90 days) was higher in 2002–2006 than it was in May–November 2001. The proportion of carriers placed out of service as a result of not paying within 90 days was low in both periods (6.4 percent in May–November 2001 and 10.4 percent in 2002–2006). Conversely, the proportion of carriers paying on time or within 90 days was only slightly lower in 2002–2006 than it was in May–November 2001 (89.6 percent vs. 93.6 percent).

As was noted in Section 2.4.2, the data used in the original analysis were not complete until August 2001. It is not known how the incompleteness of the data from the earlier months might have affected the results.

During the period 2002–2006, the timeliness of payments made in cases resulting from roadside inspections was as follows:†

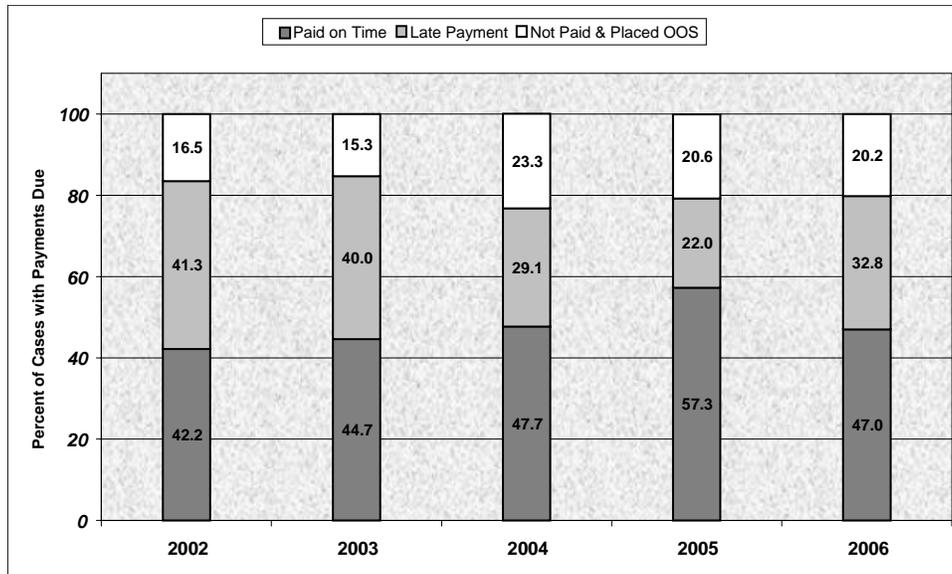
- In 48.8 percent of the cases, all payments were made *on time*.
- In 31.2 percent of the cases, payments were made late, but *within 90 days* of the due date.
- In 20.1 percent of the cases, payments were *not made within 90 days*, and the carriers were *placed out of service*.

Figure 18 shows the proportions of roadside inspection cases by timeliness of payment for the years 2002–2006.‡

\* The percentages for the follow-up analysis do not add to 100 due to rounding.

† The percentages do not add to 100 due to rounding.

‡ The percentages for the years 2004 and 2005 do not add to 100 due to rounding.



**Figure 18. Percent of Cases by Timeliness of Civil Penalty Payments (Roadside Inspections): 2002–2006**

Figure 18 shows that the proportion of cases in which all payments were made on time in cases resulting from roadside inspections was much lower than the comparable proportion of cases resulting from CRs. The proportion of cases in which all payments were made on time was between 42.2 and 47.7 percent in each year but 2005, when it was 57.0 percent. The proportion of cases with payments made late but within the 90-day grace period varied from 22.0 to 41.3 percent. The proportion of cases with carriers placed out of service as a result of not paying within 90 days was much higher than the comparable proportion of cases resulting from CRs. The proportion of such cases resulting from roadside inspections varied from 15.3 to 23.3 percent. Conversely, the proportion of cases in which payments were made on time or before the end of the 90-day grace period varied from 76.7 to 84.7 percent.

In summary, during the period 2002–2006, few carriers were placed out of service for not making payments within 90 days in cases resulting from CRs. Carriers in cases resulting from roadside inspections paid on time less often than did carriers in cases resulting from CRs. Carriers in roadside inspection cases were put of service for not paying within 90 days at nearly twice the rate as were carriers in CR cases. In cases resulting from CRs, fewer carriers paid on time and more carriers paid late in 2002–2006 than did carriers in May–November 2001.

The follow-up analysis used five years of data from both CR and roadside inspection cases, while the original analysis used seven months of data from only CR cases. Therefore, the findings of the follow-up analysis are believed to be more reliable than those of the original analysis.

Carriers do not appear to be responding to Penalty 3. While the percentage of carriers placed OOS is small (9–12 percent between 2002 and 2006), it remains relatively constant across all years. To address this issue, the agency is allowing motor carriers to divert a portion of a civil penalty into an investment in new technologies designed to improve their safety performance.

## APPENDIX A. THE UNIFORM FINE ASSESSMENT MODEL

FMCSA investigators use the UFA model to recommend the amount of civil penalties to assess carriers for non-recordkeeping and recordkeeping offenses, and to recommend the total assessment for enforcement cases. The UFA model helps FMCSA field staff to assess penalties in a consistent and uniform manner.

A financial cap imposed by FMCSA limits the total assessment that can be recommended per enforcement case. This financial cap is determined by the UFA model, which evaluates nine legislative criteria specified in 49 USC 521(b) to recommend a penalty range for each enforcement case. The nine legislative criteria are the following:

- The nature of the violation.
- The circumstances of the violation.
- The extent of the violation.
- The degree of the culpability.
- The gravity of the violation.
- The ability to pay.
- The effect on the ability to continue to do business.
- The history of prior offenses.
- Such other matters as justice and public safety may require.

Minimum and maximum assessment amounts for different civil penalty types are defined by legislation, with the minimums being zero.\* The minimum civil penalty amounts applied in the UFA model, however, are greater than zero. The UFA model places limits on the maximum that can be assessed based on the nature of the violation and prior enforcement case history.†

Table 9 and Table 10 show the minimum and maximum civil penalty amounts applied in the UFA model and the ranges of civil penalties that can be assessed for specific violations. Table 9 shows the penalty amounts in effect prior to the enactment of TEA-21. Table 10 shows the penalty amounts in effect after the enactment of TEA-21.

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\* The exceptions are penalties related to transporting hazardous materials. These penalties have a minimum of \$250.

† In no event are penalties assessed above the maximum statutory amounts.

**Table 9. Civil Penalty Ranges Used in the Uniform Fine Assessment Model prior to Enactment of TEA-21**

Legal Basis	49 USC 521(b)	FCPIAA*
Date of Implementation		March 13, 1998
Penalty Range (\$): Substantial Health or Safety (Non-Recordkeeping)	3,000–10,000	3,300–11,000
Penalty Range (\$): Serious Patterns of Safety (Non-Recordkeeping)	500–1,000	550–1,100
Penalty Range (\$): Recordkeeping	300–500 per offense, up to 2,500	330–550 per offense, up to 2,750

\* —Federal Civil Penalties Inflation Adjustment Act of 1990

**Table 10. Civil Penalty Ranges Used in the Uniform Fine Assessment Model after Enactment of TEA-21**

Legal Basis	TEA-21	FCPIAA*	SAFETEA-LU
Date of Implementation	1999	March 31, 2003	February 28, 2006
Penalty Range (\$): Non-Recordkeeping (Carrier)	<p>Low 500–1,000—1st case 1,000–3,000—2nd case 3,000–5,000—3rd case†</p> <p>Medium 1,000–3,000—1st case 3,000–5,000—2nd case 5,000–10,000—3rd case</p> <p>High 1,000–10,000</p>	<p>Low 500–1,100—1st case 1,000–3,300—2nd case 3,300–5,500—3rd case</p> <p>Medium 1,100–3,300—1st case 3,300–5,500—2nd case 5,500–11,000—3rd case</p> <p>High 1,100–11,000</p>	<p>Low 500–1,100—1st case 1,000–3,300—2nd case 3,300–5,500—3rd case</p> <p>Medium 1,100–3,300—1st case 3,300–5,500—2nd case 5,500–11,000—3rd case</p> <p>High 1,100–11,000</p>
Penalty Range (\$): Recordkeeping	300–500 per count, up to 5,000	330–550 per count, up to 5,500	600–1,000 per count, up to 10,000

\* Federal Civil Penalties Inflation Adjustment Act of 1990

† The third enforcement case penalty range does not apply to violations found under Section 222 of the MCSIA (maximum penalty for pattern of violations).

The definitions for Low, Medium, and High non-recordkeeping violations are defined in the UFA model as follows:

- Low—Offenses of the safety regulations that do not fall within the medium or high definitions, but are still a non-recordkeeping offense. These offenses generally are unlikely to cause a crash.
- Medium—Safety offenses that are serious in nature and may lead to a serious crash. Offenses found in percentages of 10 percent and greater generally represent a significant

breakdown in a carrier's safety management and require enforcement. Many offenses defined as “critical” are in this category, such as failing to conduct drug and alcohol tests, or driving over hours.

- **High**—The worst type of safety offense, which generates the highest civil penalties. Many offenses defined as “acute” are in this category, such as drivers who test positive for alcohol/controlled substances, disqualified drivers, and violating an out-of-service order.



## REFERENCES

1. John A. Volpe National Transportation Systems Center, Motor Carrier Safety Assessment Division, DTS-47, *Implementation of the Revised Civil Penalties Resulting from Violations of Federal Motor Carrier Safety Regulations*, July 2004
2. U.S. Department of Transportation, Office of Motor Carrier Safety, Uniform Fine Assessments for Violations of the Federal Motor Carrier Safety and Hazardous Materials Regulations, December 15, 1999.