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MOTOR CARRIER SAFETY: THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION'S OVERSIGHT OF HIGH-RISK CARRIERS

(110–57)

HEARING

BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

JULY 11, 2007

Printed for the use of the
Committee on Transportation and Infrastructure

U.S. GOVERNMENT PRINTING OFFICE

36–688 PDF WASHINGTON : 2007

For sale by the Superintendent of Documents, U.S. Government Printing Office
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July 9, 2007

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Highways and Transit

FROM: Subcommittee on Highways and Transit Staff

SUBJECT: Hearing on "Motor Carrier Safety: the Federal Motor Carrier Safety Administration's Oversight of High-Risk Carriers"

PURPOSE OF HEARING

The Subcommittee on Highways and Transit is scheduled to meet on Wednesday, July 11, 2007 at 2:00 p.m., to receive testimony on the Federal Motor Carrier Safety Administration's ("FMCSA") oversight of high-risk motor carriers. The Subcommittee will hear from Federal and State witnesses on the performance measures, monitoring tools, and enforcement programs, including compliance reviews, which FMCSA and its State partners utilize to examine a motor carrier's operations to determine the carrier's safety fitness and to target those operators who pose a safety risk.

BACKGROUND

FMCSA Mission

The Federal Motor Carrier Safety Administration is the Federal agency responsible for commercial motor vehicle safety, including trucks and buses. In 1999, Congress passed the Motor Carrier Safety Improvement Act (MCSIA), which established FMCSA as a modal agency within the U.S. Department of Transportation ("DOT"). Prior to 1999, the Office of Motor Carriers, an office within the Federal Highway Administration ("FHWA"), regulated commercial motor vehicle safety.

Congress charged FMCSA with a strong safety mission in MCSIA: "(T)he Administration shall consider the assignment and maintenance of safety as the highest priority."[1] Specifically,

[1] Public Law 106-159; 49 U.S.C. 113 note

Congress cited a number of problematic findings related to DOT's oversight of motor carrier safety as the reason for FMCSA's founding, including:

- "The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable."
- "The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations."
- "Too few motor carriers undergo compliance reviews and the Department's data bases and information systems require substantial improvement to enhance the Department's ability to target inspection and enforcement resources toward the most serious safety problems and to improve States' ability to keep dangerous drivers off the roads."[2]

The year MCSIA was passed into law, then-DOT Secretary Slater announced a goal to reduce fatalities involving commercial motor vehicles by 50 percent within a decade. Section 223 of MCSIA further required DOT to submit a report to Congress on the Department's "quantitative progress toward reducing motor carrier fatalities by 50 percent by the year 2009." In 1999, 5,362 individuals lost their lives in crashes involving large trucks, and an additional 142,000 were injured.[3] In 2005, according to the National Highway Safety Administration's (NHTSA) National Center for Statistics and Analysis, 5,212 people were killed in crashes involving large trucks, and an additional 114,000 were injured.

In 2003, in an effort to provide a more accurate reflection of the roadway conditions and accounting for the increase in miles traveled by roadway vehicles, FMCSA shifted its fatality reduction goal for large trucks crashes from the total number of fatalities to the rate of fatalities, or the number of fatalities in large truck crashes divided by the number of vehicle miles. In 2000, the fatality rate was 2.57 per 100 million miles traveled. This rate improved to 2.34 in 2005. Preliminary data for 2006 show the fatality rate at 2.20. However, these rates fall well short of the target fatality rates set forth by FMCSA: 1.96 in 2005 and 1.85 in 2006.[4]

The Government Accountability Office ("GAO"), the Department of Transportation's Office of Inspector General ("OIG"), and the National Transportation Safety Board ("NTSB") have issued numerous studies, reports, and investigative findings regarding the FMCSA's enforcement programs and activities over the past eight years, and in particular the agency's efforts to target carriers that are at a high risk of an accident. At this hearing, Members of the Subcommittee will receive testimony on FMCSA's oversight of high-risk motor carriers, and the agency's efforts to identify carriers that are not in compliance with Federal motor carrier safety laws and regulations.

Overview: Identification of High-Risk Carriers

FMCSA oversees an industry of over 700,000 active motor carriers that operate nearly five million vehicles and employ over seven million drivers.[5] The vast majority of these operators are

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[2] Public Law 106-159; 49 U.S.C. 113 note

[3] http://ai.volpe.dot.gov/CrashProfile/National_Profiles/1999LargeTruckCrashFacts.htm

[4] FMCSA 2006-2011 Strategic Plan; DOT Performance And Accountability Report FY 2006, http://www.dot.gov/perfacc2006/safety.htm

[5] The latest available FMCSA data indicates there are 707,604 registered and active motor carriers; data taken from FMCSA Motor Carrier Management Information System (MCMIS) December 22, 2006 snapshot.

property-carrying motor carriers, or trucking companies. The trucking industry transported 9.8 billion tons of freight in 2004, representing 68 percent of total domestic tonnage shipped.[6] There are approximately 4,000 motorcoach companies in the U.S., which provided nearly 631 million passenger bus trips in 2005.[7]

To target its monitoring and enforcement activities over this vast industry, FMCSA utilizes several tools. Assessments of carriers' compliance with safety and hazardous materials regulations occur through Compliance Reviews conducted by the agency and its State partners; roadside inspections; and citations issued when a carrier is stopped for a traffic violation. A carrier is selected for a Compliance Review based on a risk assessment conducted by the agency that draws on data in the Motor Carrier Safety Status Measurement System (SafeStat). In addition, the agency conducts safety audits of "new entrants", or carriers granted new authority to operate, within the first 18 months of their operation. If violations of Federal motor carrier safety, vehicle, or driver regulations are found during any of these monitoring and enforcement activities, the agency may assess penalties or place a carrier out of service until the carrier corrects the deficiencies. Several of these tools are discussed in greater detail below.

Compliance Reviews

One of the primary enforcement tools used by FMCSA is the Compliance Review process. According to the agency, a Compliance Review is an on-site examination of a motor carrier's records and operations to determine whether the carrier meets Federal safety fitness standards, and whether adequate safety management controls are in place to ensure compliance with safety requirements related to areas such as drug and alcohol testing, commercial driver's licensing, financial responsibility, vehicle safety and maintenance, hours of service for drivers, record-keeping, and hazardous materials regulations. A Compliance Review is a scheduled review of a motor carrier's operations. Carriers are given notice and opportunity to select a time and mutually agreeable location with FMCSA. According to the agency, carriers receive written confirmation of when and where the Compliance Review will be conducted.

FMCSA cannot conduct Compliance Reviews of all carriers annually due to resource constraints. Currently, FMCSA conducts a Compliance Review of less than two percent of carriers annually. In 2006, of the 707,604 registered carriers, only 10,353 carriers received Compliance Reviews by FMCSA. This represents 1.46 percent of the total population regulated by the agency. In 2006, State inspectors conducted 5,672 additional Compliance Reviews nationwide. The number of reviews conducted in recent years is significantly higher than in 1999, when FMCSA conducted only 5,990 Compliance Reviews.[8]

Based on the findings of a Compliance Review, a carrier receives one of three safety ratings: satisfactory, conditional, or unsatisfactory.[9] To arrive at this rating, FMCSA assesses a motor carrier's performance in six general areas or factors: general safety management, driver, operations, vehicle, accident rate, and hazardous materials. Within each factor, FMCSA assesses the carrier's

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[6] American Trucking Association's *Standard Trucking and Transportation Statistics, Volume 12, Issue 2.*

[7] American Bus Association's *Motorcoach Census 2005*, available at www.buses.org.

[8] Office of Inspector General, *Significant Improvements in Motor Carrier Safety Program Since 1999 Act but Loopholes for Repeat Violators Need Closing;* Report No. MH-2006-046.

[9] In small number of cases, FMCSA conducts a Compliance Review but does not assign the carrier a safety rating. In 2006, 2.4 percent of carriers that underwent a review did not receive a safety rating from FMCSA.

compliance with the applicable regulations, and categorizes any violations found as "acute" or "critical" based on which regulation was violated. Each factor is assigned a rating of satisfactory, conditional, or unsatisfactory and each factor is weighed equally. In order for a carrier to receive an overall rating of unsatisfactory, the carrier must either have an unsatisfactory rating in one factor and conditional ratings in two or more additional factors, or unsatisfactory ratings in at least two factors.[10] Carriers that receive conditional safety ratings have violated several critical violations in more than one factor and may have an unsatisfactory rating in one factor.

Under the existing system, very few carriers receive unsatisfactory safety ratings as a result of a Compliance Review. In 2006, out of 10,353 reviews, only 659 carriers were deemed unsatisfactory. Because the current system requires a carrier to have acute or critical violations in multiple factors to receive an overall unsatisfactory rating, a carrier can violate all regulations within one factor, even if such violations are "acute", and still be permitted to operate. For instance, a carrier could violate all driver regulations, including hours of service, licensing, drug and alcohol testing, and other regulations.

Carriers that receive an unsatisfactory or conditional safety rating are notified within 45 days and must take corrective action within 30 days or FMCSA revokes the carrier's authority to operate. A recent review by GAO found that although FMCSA aims to conduct follow-up compliance reviews on all carriers that receive a conditional rating, the agency does not have a specific time frame in which it must follow up with such carriers.

A carrier must undergo a review to obtain a safety rating. Given the low percentage of Compliance Reviews that FMCSA conducts, the majority of motor carriers registered with the agency are not assigned a safety rating. By FMCSA's own admission, the Compliance Review process needs to change: "At present staffing levels FMCSA can perform CRs [Compliance Reviews] on only a small portion of the 700,000 active interstate motor carriers. These factors have made it increasingly difficult to make sustained improvements to motor carrier safety using existing programs and information systems."[11] The agency is working on a revised system to monitor and inspect motor carriers as part of its CSA 2010 initiative.

Roadside Inspections

Another enforcement tool used by FMCSA is the roadside inspection. Roadside inspections are checks conducted by Federal and State inspectors and law enforcement personnel to determine if a motor carrier is in compliance with Federal motor carrier safety and hazardous materials regulations. The inspections follow the guidelines set forth under the North American Standard, which was developed by the Commercial Vehicle Safety Alliance. There are five levels of inspections including a vehicle component and a driver component.[12] The inspection results are used to identify motor carriers who may pose a safety risk due to non-compliance with regulations. In 2006, FMCSA and its State partners conducted over 3.3 million roadside inspections.

If a serious violation of vehicle, driver, or hazardous materials regulations is discovered as part of a roadside inspection, the motor carrier can be ordered out of service until the violation is

[10] The Compliance Review process is outlined in regulations under 49 CFR Part 385.
[11] http://www.fmcsa.dot.gov/safety-security/safety-initiatives/csa2010/csa2010listening.htm
[12] http://www.cvsa.org/programs/04index_inspections.cfm

corrected. In 2006, nationwide, 7.1 percent of driver inspections and 22.9 percent of vehicle inspections resulted in an out-of-service order. This means that almost one-fourth of all trucks stopped were found to have violations serious enough to be taken off the road.

In addition to its ongoing roadside inspection program, FMCSA has recently begun to utilize a series of "strike forces" to target motorcoach operators in the Northeast, to both enforce compliance by bus operators and to gather additional data on these operators. The agency has conducted three of these enforcement blitzes since 2005, which include roadside inspections and some compliance reviews. Roadside inspections take place in locations where charter, tour, fixed route, and curbside buses frequent, including bus terminals, amusement parks and other tourist destinations, and city streets to target curbside operators. The most recent strike force targeted operators in advance of the Memorial Day holiday, and occurred from May 14 – 25, 2007. During this strike force, 22 Federal and State agencies, including 200 officers, conducted 1,160 roadside inspections.

Motor Carrier Safety Status Measurement System (SafeStat)

To determine which carriers will be subject to a Compliance Review, FMCSA utilizes an analysis system, the Motor Carrier Safety Status Measurement System, or SafeStat. SafeStat is a model of the relative safety of motor carriers that uses data submitted from State enforcement authorities on crashes, violations that result in out of service orders, and other information. SafeStat uses this data, on a weighted basis, to automatically generate a numerical score for a motor carrier. The system then ranks carriers relative to each other, to prioritize carriers for a compliance review.

There are several problems with this system that hinder FMCSA's ability to effectively identify and target high-risk carriers, including the model itself and serious data quality problems. In fact, in a 2004 report, the Inspector General recommended, "while SafeStat is sufficient for internal use, its continued public dissemination and external use require prompt corrective action."[13] FMCSA has temporarily stopped posting crash and safety data about motor carriers on its website for public use and is working to improve the system.

The system is a relative comparison of carriers, and not an absolute or objective assessment of a carrier's history of crashes or violations. Yet the majority of carriers registered with FMCSA have not received a SafeStat score. In a recent report on SafeStat, the GAO found that based on 2004 data, of the 622,000 motor carriers listed in the system as having one or more vehicles, only 140,000 – or 23 percent – had been assigned a SafeStat score. Further, FMCSA does not have any crash, roadside inspection, or enforcement data on 58 percent of the carriers it regulates.[14] This lack of data limits the effectiveness of a model that is based on relative rankings. In this same report, the GAO recommended further improvements to the SafeStat model, to utilize statistical methods to better identify high-risk carriers than the current system, which is based on judgments by FMCSA on how to weigh specific factors in the model.

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[13] Office of Inspector General, *Improvements Needed in the Motor Carrier Safety Status Measurement System*, MH-2004-034; February 13, 2004.
[14] General Accountability Office, *Identifying High Risk Motor Carriers*; GAO-07-585, June 2007.

The agency has faced chronic problems in receiving timely, accurate, and complete data from States, even for the carriers for which it does have data. In 2005, in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109-59), Congress provided $11 million for discretionary grants to States to improve the completeness, timeliness, and accuracy of data that States submit to FMCSA for inclusion in SafeStat.

According to recent analyses by both the OIG and the GAO, FMCSA has taken steps to improve the quality of data the agency receives from States for use in SafeStat, but problems remain. The OIG found in a report in April 2006 that FMCSA has not sufficiently enforced its rules that motor carriers periodically update their census data every two years, to ensure that the agency has an accurate accounting of motor carriers. The OIG recommends that FMCSA implement a program to use civil penalties or other measures against these carriers. Accuracy of crash reporting remains a problem. FMCSA does not have a way to measure whether States are submitting complete data that includes non-fatal crashes. Without accurate data on non-fatal crashes, which make up the bulk of crashes, significant impediments remain to improving SafeStat.[15]

Recent Crashes

Wilmer, Texas

On September 23, 2005, 44 residents of an assisted living facility near Houston, Texas, were being evacuated out of the path of Hurricane Rita when a fire started in the right wheel tire hub. As a result of the fire, 23 passengers were fatally injured, two were seriously injured, and 19 received minor injuries. The NTSB recently released its report with the findings of their investigation of this crash. NTSB determined that the cause of the fire was insufficient lubrication of the right-rear axle wheel bearing. Additionally, NTSB determined that the motorcoach operator, Global Limo, failed to conduct proper vehicle maintenance, pre-trip driver inspections, and post-trip driver reports. Prior to the accident, Global Limo was subject to two separate State and Federal Compliance Reviews and had received satisfactory ratings in 2002 and 2004, despite being cited for numerous violations. One of the conclusions that NTSB drew from this investigation was that FMCSA's compliance review system "does not effectively identify unsafe motor carriers and prevent them from operating."[16] The Board further recommended that FMCSA immediately issue regulations so that all violations, despite the level of violation, are reflected in the calculation of a motor carrier's rating in a Compliance Review.

Oakland, California

On the morning of April 29, 2006, a tank truck loaded with 8,600 gallons of gasoline hit a guardrail, overturned, and burst into flames on a busy "maze" interchange of Interstate 80, Interstate 880, and Interstate 580 in Oakland, California. This single-car crash melted the roadway on which the crash occurred and caused an overhead ramp connecting the other two roadways to collapse. The State of California set aside $20 million to repair the significant damage to these major thoroughfares, although actual costs for the repair have been assessed as far lower.

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[15] Office of Inspector General briefing, May 7, 2007.
[16] National Transportation Safety Board, *Motorcoach Fire on Interstate 45 During Hurricane Katrina Evacuation Near Wilmer, Texas, September 23, 2005*; Accident Report PB2007-916202.

According to press accounts, both the owner of the tank car, Sabek Transportation, or the driver of the vehicle had been cited for violations numerous times since 2004. The California Highway Patrol allegedly issued at least 60 violations in the last three years during roadside inspections for unsafe brakes and violations of hazardous materials regulations, yet the carrier was permitted to continue to operate. Because Sabek is an intrastate carrier, FMCSA had not conducted a Compliance Review or had any other contact with the carrier. After the accident, FMCSA's California division conducted a post-accident Compliance Review, and found violations of drug testing requirements and a variety of hazardous materials regulations violations. FMCSA assessed a penalty against the company in June.

Capital Beltway, outside of Washington, D.C.

On March 19, 2006, a truck crashed into a passenger vehicle on the Capital Beltway (Interstate 495) outside of Washington, D.C., fatally injuring one person, and injuring two others. At the time of the accident, the driver was operating with a suspended Commercial Driver's License (CDL), and had a long history of traffic violations in seven states, with convictions in at least two states. The company that hired the driver to deliver the load, B.K. Trucking, was not aware that the driver had a suspended license. According to FMCSA, trucking companies are legally obligated to check a driver's background, but only once a year. Otherwise, it is the responsibility of the driver to inform his or her employer of a suspended license, by the end of the next business day. Carriers who knowingly use a driver with a suspended license are subject to civil or criminal penalties.

According to FMCSA, the agency has conducted at least nine Compliance Reviews of B.K. Trucking since the early 1990s, and the company has received satisfactory, conditional, and unsatisfactory ratings in these reviews. FMCSA conducted a Compliance Review after the beltway crash, in April 2007, and found driver-related violations, violations of drug and alcohol testing regulations, and vehicle maintenance problems. The agency assigned the company an unsatisfactory rating. FMCSA officials have indicated that the carrier did not correct deficiencies within 60 days, as required. As a result, FMCSA issued an order for the company to shut down on June 10, 2007. A follow up review on June 25, 2007 revealed that the carrier had not made sufficient changes to have its operating status altered.

PREVIOUS SUBCOMMITTEE ACTION

The Subcommittee on Highways and Transit held a hearing on Motorcoach Safety on March 20, 2007. While this hearing focused on the safety of passenger motor carriers in light of several fatal accidents, questions regarding the effectiveness of FMCSA's monitoring and enforcement tools and activities were raised and discussed during the hearing.

WITNESS LIST

The Honorable John H. Hill
Federal Motor Carrier Safety Administration
Administrator
Washington, DC

The Honorable Calvin L. Scovel III
U.S. Department of Transportation
Inspector General
Washington, DC

The Honorable Deborah A.P. Hersman
National Transportation Safety Board
Member
Washington, DC

Ms. Susan A. Fleming
U.S. Government Accountability Office
Director
Physical Infrastructure Issues
Washington, DC

Chief Steve Vaughn
California Highway Patrol
Enforcement Services Division
Sacramento, CA

Captain Ken Urquhart
Minnesota State Patrol
Commercial Vehicle Enforcement
Mendota Heights, MN

HEARING ON MOTOR CARRIER SAFETY: THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION'S OVERSIGHT OF HIGH-RISK CARRIERS

Wednesday, July 11, 2007

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
Washington, DC.

The Subcommittee met, pursuant to call, at 2:00 p.m., in Room 2167, Rayburn House Office Building, the Honorable Peter A. DeFazio [Chairman of the Subcommittee] presiding.

Mr. DEFAZIO. The Committee will come to order.

Thank you all for being here.

I will keep my opening remarks brief in the interest of hoping to hear from all of you at least initially before the votes, which inevitably interrupt all of these proceedings.

When Congress created the Federal Motor Carrier Safety Administration in 1999, we had some pretty specific objectives in mind in terms of cutting the rate of accident fatality, and we have fallen short of those goals. I am holding this hearing in the hope of determining what we might do to move us along more expeditiously toward meeting those goals.

There are a number of concerns that I will express later in the hearing, particularly in questioning, but witnesses may want to anticipate and address those a bit. One thing that concerns me a lot is when we actually physically do roadside inspections, which is a very small minority of the operations on an annual basis, we find pretty consistently that we are taking about a quarter of the trucks out of service. That causes me a lot of concern: how might we better address that?

Then I have other concerns about FMCSA's rating system and when and how they determine someone to be unsatisfactory and what remedies are taken after that point, but we will get into that more later.

With that, I would turn to the Ranking Member, Mr. Duncan.

Mr. DUNCAN. Well, thank you, Mr. Chairman, and thank you for calling this very important hearing on the Federal Motor Carrier Safety Administration's oversight of high-risk carriers.

With 5,212 fatalities and 114,000 injuries related to trucks in 2005, truck safety is an area which should remain a top priority for our Subcommittee and for this Congress. Overall, moving goods by trucks on our Nation's highways is very safe. In 2005, trucks

traveled more 220 billion miles and transported more than 10 billion tons of goods to people all over the Country. In fact, 84 percent of all the goods we use and consume get to us by truck. A strong trucking industry is essential to our economy and our daily life.

Despite all the benefits we receive from trucks and from the trucking industry, work still needs to be done to improve truck safety. In 2005, there were 2.34 fatal crashes per 100 million miles traveled by trucks. This rate has greatly improved over the years. The number of fatalities is still too high. It is important that we try to develop strategies to further reduce this rate.

Today's hearing on the Government's targeting of high-risk carriers is very important. By targeting these high-risk companies, we have a chance to make the highways safer for everyone, not just drivers of passenger vehicles for truck drivers as well.

I look forward to hearing from all of the witnesses to tell us how we can do a good job, make good work even better in this area.

I yield back. Mr. Chairman, thank you.

Mr. DEFAZIO. I thank the gentleman.

With that, again in the interest of getting in your testimony, we will move right to the testimony from the witnesses, and we would first hear from Administrator Hill.

Mr. Hill.

TESTIMONY OF THE HONORABLE JOHN H. HILL, ADMINISTRATOR FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION, WASHINGTON, D.C.; THE HONORABLE CALVIN L. SCOVEL, III, INSPECTOR GENERAL, U.S. DEPARTMENT OF TRANSPORTATION, WASHINGTON, D.C.; THE HONORABLE DEBORAH A.P. HERSMAN, MEMBER, NATIONAL TRANSPORTATION SAFETY BOARD, WASHINGTON, D.C.; SUSAN A. FLEMING, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE, WASHINGTON, D.C.; CHIEF STEVE VAUGHN, ENFORCEMENT SERVICES DIVISION, CALIFORNIA HIGHWAY PATROL, SACRAMENTO, CALIFORNIA; CAPTAIN KEN URQUHART, COMMERCIAL VEHICLE ENFORCEMENT, MINNESOTA STATE PATROL, MENDOTA HEIGHTS, MINNESOTA

Mr. HILL. Good afternoon, Chairman DeFazio and Ranking Member Duncan and Members of the Subcommittee.

I am pleased to describe how the Federal Motor Carrier Safety Administration is working to make the Nation's highways safer through better commercial vehicle safety operations, and I also want to commend the Subcommittee for choosing State MCSAP agencies to testify today. Improving CMV safety without their strong involvement would not be possible.

2005 had one of the lowest truck fatality rates in 30 years. This means that despite more trucks traveling more miles, the proportion of fatalities is down. In addition, preliminary numbers for 2006 indicate the number of people killed in large truck related crashes decreased by an estimated 3.7 percent. However, we know that despite these gains, the drop in overall highway deaths involving commercial vehicles has still been too high.

FMCSA uses available highway performance data to identify high-risk carriers using a program called the Safety Status Meas-

urement System or SafeStat. Both the DOT Office of Inspector General and the Government Accountability Office have reviewed SafeStat and, while identifying ways the system can be improved, they have consistently concluded SafeStat is successful in identifying high-risk carriers. The Agency appreciates the constructive nature of their recommendations and is taking steps to implement the findings of their reviews.

In fiscal year 2006, FMCSA and our State partners conducted over 15,000 compliance reviews, a 33 percent increase over 2004, and 3.3 million roadside inspections, an increase of 9 percent. While it is extremely difficult to measure deaths that were prevented, we know from past independent analysis that carriers improve safety after a compliance review or a roadside inspection.

Working with States on complete, accurate and timely crash and inspection data from several years, we have implemented a variety of data programs to improve reporting and we have seen improvement. Between 2004 and 2007, the number of large truck crashes reported increased by 32 percent and the number of States achieving a good progress rating from our Agency has increased from 25 to 40 and the number of States needing improvement has been reduced from 12 to 3. We are committed to continuing our work with the States in this endeavor.

States have roles in regulating and enforcing commercial vehicle transportation. That makes them uniquely able to implement key safety programs, and I would like to highlight just one.

SAFETEA-LU authorized the Motor Carrier Safety Assistance Program (or MCSAP) to be used as a traffic enforcement tool while not having to conduct a commercial vehicle safety inspection. The authority also allows reimbursement of State traffic and enforcement activities against non-commercial vehicles when the conditions exist in and around a commercial vehicle that would create a crash. This new initiative you authorized allows FMCSA and the States to involve a broader population of law enforcement to expand enforcement and reduce commercial vehicle related crashes.

In cooperation with NHTSA, we recently implemented the Ticketing against Aggressive Cars and Trucks TACT program in the State of Washington. NHTSA's success in combining education and enforcement has been proven successful in increasing seatbelt usage, and this similarly structured program of evaluating how well TACT works is something that we are seeing as an effective tool to use in our enforcement endeavor.

GAO also has recently audited the program and has recommended that we do a national rollout. Currently, there are 22 States that are involved in some manner of doing non-commercial vehicle enforcement activities with their grants.

The last thing I want to mention briefly is that CSA 2010 is a key component of our future focus for improving identifying high-risk carriers. CSA stands for Comprehensive Safety Analysis. We hope to have it fully operational by the year 2010.

FMCSA will use all safety violations to assess carrier safety in identified areas, not just a limited list of violations that have been determined to be critical or acute and by including all violations in a motor carrier safety fitness determination, we will be addressing

one of the National Transportation Safety Board's most wanted items for FMCSA.

Another important feature of this new model is that safety assessments and fitness determinations will be updated monthly based upon performance data. FMCSA will no longer rely solely on the results of an onsite compliance review to make a safety fitness determination when CSA 2010 is invoked. This will allow the carrier's safety fitness status to reflect ongoing performance, not a snapshot of the operational safety at the time of the onsite review.

In conclusion, Mr. Chairman, I appreciate the Committee's support of commercial vehicle safety. I look forward to working with you to achieve our mutual goals and would be happy to respond to your questions.

Mr. DEFAZIO. Thank you, Mr. Administrator.

With that, I would turn to Calvin Scovel, Inspector General, Department of Transportation.

Mr. Scovel.

Mr. SCOVEL. Chairman DeFazio, Ranking Member Duncan, Members of the Subcommittee, thank you for the opportunity to testify today on actions taken by FMCSA to improve its oversight of high-risk motor carriers.

FMCSA's primary purpose is to reduce crash related injuries and fatalities involving the Nation's over 700,000 registered motor carriers. My testimony today is based on our extensive body of work over the past several years.

FMCSA has made and continues to make important progress, but further reductions in the fatality rate will be difficult to achieve. A plateau has been reached, and in some years the number of annual fatalities has actually increased. Since its establishment in 1999, FMCSA has dramatically increased its oversight activity.

It can, however, take further steps in three specific areas. One, it can better target carriers for enhanced oversight through the use of more complete crash data. Two, it can look for ways to strengthen its compliance reviews when vulnerabilities are identified. Three, it can close a loophole that allows repeated violations of safety rules by the same carriers.

First, better targeting for enhanced oversight: FMCSA uses a safety measurement system called SafeStat that primarily utilizes crash data along with other factors to identify motor carriers whose history suggests the need for greater oversight. However, many non-fatal crashes are missing from its database because they are not reported to FMCSA by the States. Such missing data can skew SafeStat results, so that lower risk companies are targeted for more oversight. FMCSA is currently working with the States to ensure that all reportable crashes are included in the risk ranking.

Two, enhancing compliance reviews: While we have not examined the compliance review process in detail, a recent accident here in the Washington area highlights how compliance reviews could be strengthened to increase the likelihood that all safety issues will be addressed. This past March, a large truck owned by BK Trucking of New Jersey crashed on Interstate 495 while on its way to Virginia, killing a local resident, the father of two young children.

The driver was operating the truck on a suspended commercial driver's license.

Due to its SafeStat ranking, BK Trucking had undergone a compliance review by FMCSA the previous month. We were told that while the driver's name did surface during the review, he was identified as an independent owner-operator and therefore not subject to a driver's license check. This was in accord with FMCSA's process.

As a result, however, the driver's poor record which included citations in six States for speeding, defective brakes and a previous charge of driving with a suspended license was not uncovered during the compliance review.

The case indicates how difficult and complex FMCSA's responsibilities can be and that additional guidance may be needed on determining whether drivers are actually owner-operators or rather have simply been classified as such to avoid closer scrutiny by FMCSA. We further believe that FMCSA should consider expanding its compliance review to include sampling of all drivers including owner-operators to determine whether they hold valid driver's licenses.

Stopping repeat violators: A loophole in FMCSA's enforcement policy has allowed hundreds of repeat violators of safety rules to escape the maximum civil penalties that by law can be assessed when a pattern of violations is noted on enforcement claim documents provided to the carrier. If certain mitigating factors exist, however, such as a carrier's inability to pay a civil fine, then penalties are waived.

When no penalty is assessed, FMCSA does not document the violation in its notice of claim. Consequently, it appears that no violation occurred. In such cases, a pattern of violations can be difficult to establish. A carrier with limited ability to pay then can repeatedly violate the same rule yet avoid a more serious penalty as a repeat violator.

This happens often. Between September, 2000 and October, 2004, only 33 out of 533 motor carriers or 6 percent that repeatedly violated either hours of service or drug and alcohol regulations received the maximum penalty.

It is important that FMCSA establish some method to deter those repeat offenders who are able to avoid fines due to an inability to pay. FMCSA has addressed this problem.

Finally, a new compliance enforcement model is expected to be deployed by 2010. FMCSA has been working since 2004 on a new model that will overhaul its systems that identify and target high-risk motor carriers and monitor their performance.

While we have not extensively reviewed the new model, any data driven model would benefit from improved data completeness. Strong enforcement will also need to remain a significant element of FMCSA oversight.

Mr. Chairman, this completes my statement. I would be happy to answer any questions that you or other Members of the Subcommittee may have.

Mr. DEFAZIO. I thank the gentleman.

Next will be the Honorable Deborah Hersman, National Transportation Safety Board.

Ms. Hersman.

Ms. HERSMAN. Good afternoon, Chairman DeFazio, Ranking Member Duncan and Members of the Subcommittee. Thank you all for inviting the National Transportation Safety Board to testify on FMCSA's oversight of high-risk carriers.

When transportation tragedies occur, the Safety Board helps restore the public's confidence in our systems by conducting thorough objective investigations and making recommendations so that those accidents don't happen again.

One year ago, Congress turned to the Safety Board to investigate the collapse of the ceiling panels in the Big Dig tunnel in Boston because of our reputation for thorough independent investigations. Yesterday, the Board completed our work on this tragedy, citing a failure of materials and management oversight and making recommendations regarding tunnel safety.

This Committee can assist the Federal Highway Administration in ensuring tunnel safety by making sure they have the adequate authority to require regular inspections of tunnels.

Everyday there are approximately 19,000 accidents on our Nation's highways, causing over 43,000 fatalities and 3 million injuries every year. Accidents involving large trucks comprised about 10 percent of those fatal accidents.

Motor carrier accidents that we investigate are typically not caused by one thing. They are a chain of causes or events that ultimately result in fatal accidents. Often, these accidents involve poor performing carriers. It is not unusual for us to find that carriers involved in accidents have a number of problems. They may have high out of service rates, undisclosed medical conditions of their drivers and/or falsified logbooks.

These traits are very telling to us because they are precursors to an accident. Understanding the significance of these poor safety conditions is the first step in preventing future accidents.

Today, I would like to focus on three areas in which the FMCSA has proposals pending for improvements: the compliance review process, medically unqualified drivers and electronic data recorders for hours of service. These initiatives could make the difference in effectively removing unsafe carriers from the road.

One of the major issues surrounding FMCSA's oversight role is the effectiveness of the compliance review process. Carriers are rated on six safety fitness factors. In a Safety Board study of motor coach accidents from 1999, the Board made recommendations to elevate the factors for vehicles and drivers to ensure that carriers with poor ratings in either of these critical areas would not receive a satisfactory rating overall.

Earlier this year, the Board completed an investigation into a motor coach fire near Dallas, Texas that killed 23 passengers during the evacuation for Hurricane Rita. In this particular accident, numerous safety violations were uncovered prior to the accident, yet this carrier still had a satisfactory rating.

Another major oversight issue for the Board concerns medically unqualified drivers. Following a 1999 Mother's Day bus crash in New Orleans in which 22 people were killed, the Safety Board issued eight recommendations to the Federal Motor Carrier Safety

Administration. We outlined a comprehensive medical oversight program.

Although the FMCSA has made progress on one of these recommendations, seven remain classified in an unacceptable status. The Safety Board is convinced that for any commercial vehicle driver oversight program to be effective, it is necessary for there to be a systemic approach that addresses all of the issues conveyed in the eight recommendations.

Finally, I must talk to you about how technology can help prevent fatigue related accidents. As you know, paper logbooks offer many opportunities for drivers to play fast and loose with the hours of service rules. Recognizing this lack of accountability, the Safety Board has recommended tamper-proof data recorders for over 30 years for motor carriers.

The FMCSA this year issued an NPRM on EOBRs, Electronic On-Board Recorders. However, it does not apply to all carriers. The program relies on the FMCSA's ability to catch poor performers through its compliance review program. Given the current problems with the compliance review program and the fact that FMCSA can only audit about 1 percent of all carriers annually, we don't believe that this is the most effective way to address hours of service issues.

In summary, the Board urges the Congress to support the FMCSA in its efforts to improve the compliance review program, to establish effective medical oversight and to require on-board recorders for all motor carriers. Taken together, these changes will begin to remove high-risk carriers from our Nation's highways.

Thank you.

Mr. DEFAZIO. Thank you.

Now we turn to Ms. Susan Fleming from the Government Accountability Office.

Ms. FLEMING. Good afternoon, Chairman Oberstar, Chairman DeFazio and Members of the Subcommittee.

Thank you for the opportunity to discuss FMCSA's oversight of motor carriers that pose high crash risk. This is an important issue. About 5,500 people die each year as a result of crashes involving large commercial trucks or buses and about 160,000 more are injured.

Due to the size of the motor carrier industry, FMCSA is only able to conduct a small percentage of compliance reviews. It is therefore crucial that FMCSA identify the most unsafe carriers to either improve their operations or to prohibit them from operating.

My testimony today has three parts: the extent to which FMCSA identifies carriers that subsequently have high crash rates; how FMCSA ensures that its compliance reviews are conducted thoroughly and consistently; and the extent to which FMCSA follows up with carriers with serious safety violations. By and large, FMCSA does a good job in each of these areas.

That being said, we have identified areas that could be improved. First SafeStat, the data driven model that FMCSA uses to identify carriers that pose a high crash risk, is nearly twice as effective as random selection. Therefore, it has value for improving safety.

However, its effectiveness could be improved through either of two enhancements that we analyzed. One entails implying a statis-

tical approach called the regression analysis instead of relying on expert judgment to apply weights to each of the four areas. The other uses the existing SafeStat design but selects more carriers that scored the worst in the accident evaluation area.

Both enhancements perform better than the current SafeStat approach. In fact, the regression approach identified carriers that had twice as many crashes in a subsequent 18 months than did SafeStat. We have recommended that FMCSA adopt this approach.

I will now turn to my second topic, compliance reviews. We took a high level look at how FMCSA manages its compliance reviews and found that the Agency does so in a fashion that meets GAO standards for internal control thereby ensuring consistency and thoroughness in these reviews. It does so through establishing compliance review policies and procedures, classroom and on-the-job training of inspectors, and using an information system to document the results of its reviews, and also monitoring for performance.

We also found that compliance reviews almost completely cover the nine major areas of the Agency's safety regulations.

Moving on to my third point, in fiscal year 2005, FMCSA followed up with 99 percent of carriers with serious safety violations to determine whether they had improved or to prohibit them from operating. In addition, FMCSA monitors carriers to identify those that are violating out of service orders.

However, it does not take additional action against many violators of out of service orders that it identifies. It cited only 26 of the 768 carriers that had a crash or roadside inspection while under an out of service order. FMCSA told us that it does not have enough resources to determine whether all of these carriers were indeed violating out of service orders. For example, some of these carriers may have leased their vehicles to others.

Furthermore, FMCSA does not assess maximum fines against all carriers that we believe the law requires partly because FMCSA does not distinguish between carriers with a pattern of serious safety violations and those that repeat a serious violation.

Finally, FMCSA assesses maximum fines only for the third instance of a serious violation. We read the statute as requiring FMCSA to assess the maximum fine if a serious violation is repeated once, not only after it is repeated twice.

We are considering a recommendation that FMCSA revise these policies in our report that will be issued later this summer.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions that you or Members of the Subcommittee might have.

Mr. DEFAZIO. Thank you, Ms. Fleming.

Chief Steve Vaughn, California Highway Patrol. Chief?

Chief VAUGHN. Thank you, Mr. Chairman. I would like to thank you for the opportunity to speak before this Committee today. Especially to Congresswoman Napolitano, long-time friend of the CHP, thank you, ma'am.

CHP provides service to the commercial vehicle industry through promulgation of regulations pertaining to vehicle safety, driver fitness and transportation of hazardous and other materials requiring special load securement.

The department's on-highway commercial enforcement program consists of 248 officers and 257 non-uniformed commercial vehicle inspection specialists which operate 16 inspection facilities and 34 platform scales. These personnel are focused on the inspection of commercial motor vehicles and their drivers.

An additional 138 personnel are assigned as mobile road enforcement officers to allow for the inspection of commercial vehicles that purposely avoid or due to delivery routes do not traverse inspection facilities or platform scales.

The CHP's off-highway motor carrier safety program is staffed by non-uniformed motor carrier specialists that are dedicated to the inspection of both truck and bus terminals. There are 246 personnel dedicated to this program.

California's BIT program, Biennial Inspection of Terminals, is very similar to the compliance review program conducted by the Feds, but there are some differences. The BIT mandates an inspection of every terminal in California once every 25 months. The Department conducts approximately 20,000 BIT inspections annually.

In addition, we have some other responsibilities and program authorities. They fall in the annual inspection and certification of school bus, school pupil activity bus, youth bus and tour bus operators. There are over 26,000 school buses, 1,600 school pupil activity buses, 500 youth buses, 9,400 tour buses and 4,000 bus terminals that are inspected and certified annually by the CHP.

We also look for motor carrier compliance with the controlled substances and alcohol testing of commercial drivers. We conduct over 11,000 inspections annually in that area.

We also monitor the motor carriers enrollment into the California Electronic Pull Notice, a system which requires motor carriers to register their drivers with DMV and allows them to receive automated notifications upon changes to the drivers' status.

The efforts of the CHP has resulted in the most productive on-highway commercial enforcement program in North America. Between 2004 and 2006, the CHP conducted an average of 45,313 on-highway inspections each month. We believe a clear correlation can be drawn between our continued reduction in commercial motor vehicle mileage death rate and the program that we have.

I was also asked to provide some thoughts based on California's experience in the area of motor carrier safety on how we can improve safety across the Nation.

First, I would recommend that FMCSA serve as a conduit between Congress and the States and industry. FMCSA needs to serve more as a safety agency and less as an enforcement agency.

They should work closely with the States, which I will say they do, various associations such as the Commercial Vehicle Safety Alliance, AAMVA and the American Trucking Association to develop new ideas for legislation and programs. This serves as a ground-up approach to implementing safety initiatives and allows for the inclusion of the primary stakeholders prior to the passage of new laws, regulations or programs.

New technology has also provided us with some excellent opportunities to improve safety. I believe Congress should consider new laws to equip commercial motor vehicles with safety technologies at the time of manufacture, items such as lane departure warning

systems, rollover protection, radar forward-looking infrared systems and computer enhanced braking systems.

At the very least, consideration should be given to applying tax credit incentives for motor carriers and manufacturers in this area. Motor carriers that are taking this upon themselves and have equipped their commercial motor vehicles with these technologies have reported a reduction in traffic collisions and maintenance costs.

Also, I believe FMCSA should provide States with additional funding to improve or upgrade existing commercial vehicle inspection technologies.

Finally, in cooperation with the States and motor carrier associations, FMCSA should develop a better electronic system to identify unsafe commercial drivers. I understand they are currently in the midst of prototyping an electronic driver notification system similar to the California Pull Notice program. I would encourage them to expedite the nationwide development of this system while at the same time being careful and mindful of the consideration of the fiscal impacts on the States and their existing programs.

We need to retool the commercial driver's license program for drivers and how it is administered by the States. I am hopeful that the recommendations of the Commercial Driver's License Advisory Committee will be strongly considered when presented. There needs to be tougher medical qualifications for drivers and doctors and they need to be held accountable. There also needs to be mandatory driver training.

Finally, I appreciate the Committee holding this hearing today and the opportunity to speak on California's experience, and I will welcome any questions. Thank you.

Mr. DEFAZIO. Thank you, Chief.

I now turn to Captain Ken Urquhart with the Minnesota State Patrol.

Mr. URQUHART. Good afternoon.

Mr. DEFAZIO. Chairman Oberstar, do you have anything you want to say at this point? You might be good to him in case you get pulled over going too fast on your bicycle some day.

[Laughter.]

Mr. OBERSTAR. I welcome you to the hearing and thank you for making the trip from Minnesota. You will probably be very happy to get back there given the temperature and the humidity out here.

Mr. URQUHART. You're absolutely right, Mr. Chairman. This weather you have today is weather we had the other day.

Mr. Chairman, Mr. DeFazio and Mr. Oberstar, thank you for allowing me to address the Committee today.

My name is Ken Urquhart. I am the Commander of our Commercial Vehicle Enforcement Division in the Minnesota State Patrol. We are the lead MCSAP agency in Minnesota. We do subgrant about 35 percent of those resources to a partner agency in our State, the Minnesota Department of Transportation.

Just to kind of set the tone here, Minnesota in the year 2006 had reached a number of fatalities in our State that was lower than World War II. So we had not seen that level of fatalities at that low point since World War II, 1945.

Along with that, truck fatality crashes from 2005 to 2006 were reduced 17 percent, injury crashes, 14 percent and overall crashes, 12 percent. So we are seeing a steady decline not only in our truck crashes but crashes across the board.

FMCSA has set a goal for 2011 for the States to achieve a .16 fatality rate for vehicle miles traveled. We reached .12 in 2006, and we have steadily declined since the year 2000. So we believe that our comprehensive truck safety program is working.

I am not going to claim all the credit for the reduced fatalities. There are a number of variables that go into that. We all know that. But Minnesota is on the right track, and we are quite proud of that.

As far as our data, one of the things we put into place during our legislative session in 2002 was to require all trucks that exceed 10,000 pounds to register and obtain a U.S. DOT number, whether they operate interstate or intrastate. Along with that, these owners or these motor carriers that operate these vehicles even intrastate are not even allowed to re-register their vehicles until they update their MCS150. Basically, what we have accomplished there is we have identified the bulk of our motor carriers no matter how they operate in Minnesota.

This is done us a great service in the quality and accuracy of our data. I think Mr. Hill talked about how States have been improving data. This was the primary reason that Minnesota saw an improvement in our crash data accuracy and timeliness along with our inspection data and citations.

The other thing that Minnesota historically does is we adopt Federal regulation by chapter. So if there are changes through rulemaking or from Congress, we adopt those by chapter. We don't have to return to our legislature generally every year, year after year, to adopt new regulations to remain harmonious with our Federal colleagues. I think this is a very efficient way to do things. We are lucky on that fact.

Some of the newer programs that we have in place that we do give credit to reducing crashes is we implemented two years ago strictly a driver focused enforcement program, and that cuts across all lines, not only roadside enforcement with inspections but also with compliance reviews, follow-up compliance reviews on crashes.

One of the things we demand is that when we have a significant crash, whether it is a personal injury or fatalities, we ask our Federal colleagues or our DOT colleagues in Minnesota to conduct a follow-up compliance review to determine what type of philosophy that motor carrier is operating. Did they contribute to that crash with a poor safety philosophy or was it strictly related to some driver decisions?

We are trying to send a message to the motor carrier industry in our State that if you are involved in one of these things, you will go under the microscope. We have had a great deal of success with our driver focused program.

We have instituted a fatigue detection program, and subsequently our driver out of service rate has doubled. We went from approximately 8 percent to 16 percent out of service on drivers.

The industry is responding. I left Minnesota this morning, and in the paper yesterday was an article about a large carrier from a

neighboring State that employs 15,000 drivers. Of the 15,000 drivers, they identified 10 percent of them are dealing with sleep apnea. What was the carrier doing about it? They got proactive, and they are assisting those drivers with getting treatment.

Now we are going to see drivers with sleep apnea machines in their sleepers, but we all know that sleep apnea is just one of the issues these drivers deal with when it comes to fatigue, and we all know that drivers can log legitimately and still be fatigued. It is all based on their lifestyle. So we have implemented this program, and we believe that we have had great successes by removing some of these at-risk drivers.

As far as our compliance reviews, we perform a significant number of compliance reviews in Minnesota. Of the State partners that have State personnel inputting those reviews to the Federal system, we are one of the leaders in that area.

We feel it is very important to touch the industry on multiple levels again and again, and we do this not only with the implementation of the U.S. DOT number but also with our annual inspection program, when we recertify their maintenance personnel through compliance reviews, through our required inspections and audits on all passenger carriers, school bus operators and limo operators.

Basically, in a nutshell, Members, I have given you what Minnesota is doing as of today, and we feel that we are on the right track to reducing crashes. Thank you for this opportunity to visit with you today.

Mr. DEFAZIO. Thank you, Captain.

Mrs. Napolitano had wanted to introduce the chief, and I had neglected to let her do that and also she wanted to make a brief opening statement. So, at this point, I am going to recognize her to go first with questions.

Mrs. Napolitano.

Mrs. NAPOLITANO. Thank you, Mr. Chairman. It really wasn't necessary, but I thank you for the opportunity.

Number one, thank you for the hearing because I think this is something that is in the mind of many citizens throughout the United States about the safety on the roads. Truck traffic certainly, especially in California, in my area is just 25,000 trucks a day on I-5 and 47,000 trucks on one of the other freeways in my district, and these are expected to double by 2015. So it is an issue that is of great concern, not only to my constituency but to the rest of the Nation.

I certainly want to give a warm welcome to Mr. Vaughn and regards to Commissioner Brown. We go back many years since I sat on Transportation in California, overlooking the use of tandem trailers and safety on the California highways. They do an excellent job, and I am so happy that you are here, sir, to share with us the experiences of the highway patrol, what I consider to be the preeminent law enforcement agency at least in California.

With that, thank you, Mr. Chair. I have questions, but I will wait my turn. Thank you.

Mr. DEFAZIO. Okay, Mr. Duncan.

Mr. DUNCAN. Well, thank you, Mr. Chairman.

Now, Administrator Hill, did I read that your Agency did 40,000 new entrant reviews last year?

Mr. HILL. You read that there were 40,000 done, but we did not do them all ourselves. The States did the vast majority of the new entrant audits, sir.

Mr. DUNCAN. Oh, I see. But you have increased your compliance reviews by a third?

Mr. HILL. Yes, we have significantly increased our compliance reviews since 2004. We have increased it, I think, about 30, 34, 40 percent since that time. So we are making gains, and one of the things I am pleased about is the States are much more involved in the compliance review process.

When MCSAP, the Motor Carrier Safety Assistance Program, began in the eighties, it was fashioned primarily as a roadside inspection program, and so most of the resources that were given to the States allowed them to build an infrastructure that would do inspections. But States like Minnesota and California have been very proactive to start getting into the compliance review arena, and so I am pleased that the States also have expanded.

Mr. DUNCAN. You heard Inspector General Scovel say that he thinks you are working with the States to try to get more information about non-fatal crashes. Is that correct and are you close to achieving that goal?

Are you receiving a lot of information from some States and no information from other States or what is the situation there?

Mr. HILL. Okay. Data quality and completeness is a very important issues, and I would answer you a couple ways.

First of all, on the 2004 review SafeStat, I think the Inspector General at that time encouraged us to increase our attention with data sufficiency. Since that report was issued in 2004, we have seen the number of large truck related crashes improve 32 percent. It went from about 100 and I think 7,000 up to 144,000. So we are pleased with the amount of improvement that has been made.

The problem is we still have pockets of the Country that we have not been able to see that kind of data improvement. What we are doing internally is trying to develop programs to augment that. For example, States are not eligible to use some of their high priority funding for related activities in the MCSAP program unless they first use that money to address data quality. So we are using MCSAP data to address it.

Then secondly, we also have created some measurement tools that allow the States to have a pictorial view through a map—green, yellow and red—and determine how they are meeting data sufficiency.

Then back to your original question about the non-fatal crashes, this is the next arena that we need to move into because we have not seen the kind of non-fatal crash data improvements that we would like. That is the next frontier for us, and we are going to retool our measurement system beginning later this year. We have got the States now, about 41 of them, are green. So now we are going to probably see that degrade a little bit because of the non-fatal crashes.

I would say to you that the congress has been giving grants to us through the Motor Carrier Safety Assistant Program to the tune of $3 million this year in SAFETEA-LU, and we had $6 million of requests for those kinds of grants. There is a lot of interest in the

States. We are trying to get the money out to them, so they can change their reporting systems.

Mr. DUNCAN. I know that you also heard Inspector General Scovel say that we basically had reached a flatlined level and that it was going to be very difficult to get much more of a decrease or much more of an improvement in the fatality rate. Do you agree with that?

In a way, it is saying that you are doing a really good job. In another way, it is saying there is not much room for improvement. What do you say about that?

Mr. HILL. Well, it is a fair question, and it is what we are here for. We are supposed to be seeing the numbers go down, not just plateau. I would say to you a couple things.

First of all, one of the concerns that I have is that we still have about 46 percent of the trucking population out there that don't use safety belts, and so we have been trying to work with that. If we could save 300 and some lives every year of truckers not losing using their lives just by clicking their safety belt. So we are trying to move that agenda forward.

I would say to you that I really believe that the future of large reductions in fatalities involving commercial vehicles are going to be technology system that Chief Vaughn referred to in his opening statement. I think as we see more vehicles equipped with devices that give the driver additional help in alerting them to upcoming traffic or to not deviate from their departure of their lane, I think we are going to see real reductions in crashes and fatalities. I would like to see some kind of discussion, meaningful discussion about incentives that would encourage companies to want to do that.

Mr. DUNCAN. All right, thank you very much.

I will come to other questions later. Go ahead, Mr. Chair.

Mr. DEFAZIO. Thank you, Mr. Duncan.

The GAO found that 38 percent of the carriers, I believe, (768 of 1,996) were subject to an out-of-service order in 2005 and 2006 and were found at roadside inspection to be out of compliance with an out-of-service order or were involved in a crash. Yet, FMCSA only cited 26 of the 768.

I guess my question would be if someone has an out-of-service order and they are found at a roadside inspection or cause a crash, why were such a minuscule percentage of them fined? It doesn't seem like a big deterrent to me, and it seems like a license to ignore an out-of-service order.

Mr. Administrator.

Mr. HILL. Mr. Chairman, I would say a couple of things in response to that.

First of all, there is a mechanism for States to place a driver and a vehicle out of service at the roadside independent of us doing it through a compliance review. I don't know if the GAO study really addressed the roadside out of service issue or not.

But in terms of ours, we certainly take action when we determine that it has occurred but verifying that that is happening is a very labor intensive process. For example, when we find that a carrier has been having inspection activity after they have been

placed out of service, we have just begun here in the last two years to start citing those people for violating their out of service order.

So we are starting to infuse this into our enforcement process, but in the past it was simply whenever we went in and did a compliance review did we find that occurring with the carriers that we were addressing and we did not.

Mr. DEFAZIO. Do you have any kind of a real time system so that your inspectors can input into a computer and find out that that carrier is out-of-service?

Mr. HILL. Yes.

Mr. DEFAZIO. Okay. Now if they find that, on the spot, I would assume they would probably do two things: impound the truck and fine them because the truck, it seems to me, would be not safe to continue since they are out of service.

Mr. HILL. If the carrier is out of service, the vehicle cannot be moved until that is remedied and that is done at the roadside and that is a process that occurs consistently throughout this Country. I believe that the amount of penalty they are subject to is $10,000 for doing that.

Mr. DEFAZIO. Basically, the GAO numbers of 2005 and 2006 don't reflect the fact that in 2006 and 2007 that this has been a much more active enforcement against out-of-service companies when found to be out of service.

Mr. HILL. We are beginning to address that much more rigorously as a result of the work that we are doing with the GAO and Inspector General.

Mr. DEFAZIO. Okay. Does the GAO have any comment on that?

Ms. FLEMING. We haven't looked at the 2006, 2007 numbers.

Mr. DEFAZIO. Okay, all right.

Another concern that was raised which I find of great concern, I believe this was raised by the NTSB, was the issue of what criteria would cause someone to become unsatisfactory. I guess the question is here, and I direct it first to NTSB and then ask Administrator Hill to comment, but I would agree with the NTSB who has a most wanted safety improvement saying if either a vehicle or a driver is in serious noncompliance, that that should result in an unsatisfactory rating.

It seems to me that, gee, we have got some really great drivers driving really unsafe vehicles or we have got some really substandard drivers driving really spiffy new trucks. Neither of those should be rated, it seems to me, either conditional or satisfactory. Would you comment on that, Ms. Hersman?

Ms. HERSMAN. Yes, Mr. Chairman. You have stated it well. On our most wanted list, we have had a recommendation that we issued in 1999, and it is in an unacceptable status. We believe that drivers and vehicles are the best indicators of how a company is going to perform.

We have looked at numerous accidents including the recent Wilmer, Texas accident involving the bus operator. In that situation, we had a driver who had been pulled over for three roadside inspections. In two of those, he was placed out of service for hours of service violations.

We have had companies that we have looked at that were involved in accidents. For example, in Indianapolis, a motor coach op-

erator, Hammond Yellow Coach, was inspected nine times in the eight years prior to their fatal accident. Their post-accident compliance review revealed that 10 out of 10 of the vehicles reviewed were out of service. They were still given a conditional rating.

Mr. DEFAZIO. Also, perhaps for another question later, but the whole issue of when one is moved from unsatisfactory to conditional, what sort of oversight is conducted?

Anybody else want to comment on this before I turn to the Administrator for his response? Does anybody else have feelings about the fact that if either there are significant driver problems or vehicle problems, that that should result in an unsatisfactory rating as opposed to having to have both?

Okay, Administrator Hill. I am going to say that their silence means that they all agree with me, so you know.

Mr. HILL. Well, you certainly have that prerogative, Mr. Chairman. I understand.

I would just say to you that is one of the reasons why, in my opening statement, we are trying to deal with the NTSB recommendations through the Comprehensive Safety Analysis 2010.

Mr. DEFAZIO. Let me just interrupt for a moment. But they also recommended, given the fact that there are questions about whether you will make 2010 and even if you made 2010, they are saying perhaps, in fact, I don't think they said perhaps; they said there should be an interim rule addressing specifically this question. Wasn't that correct, Ms. Hersman?

Ms. HERSMAN. We would actually love for them to address this, but in addition we ask them to look at all violations, not just the acute or critical as well. This recommendation has been outstanding on the drivers and vehicles since 1999. We feel that even if they accomplish their goal, which we think is ambitious for 2010, it is still 11 years after we made our recommendation.

Mr. DEFAZIO. Okay, Mr. Administrator.

Mr. HILL. Okay. We believe that CSA 2010 will take that into account. What it will do is allow for violations to be determining the fitness status of a motor carrier as opposed to what we are doing now through a compliance review. Because we will be doing monthly runs of the available data, we will be able to determine the fitness status in a carrier monthly as opposed to having to wait and do an onsite review.

The second thing I would say to you is that if you start adding infusing all of the violations in our current system, it is going to exacerbate the number of AB carriers and it is going to make it extremely difficult for us, for the resources that we have in place to get through all those carriers. Then you are going to be calling me up and asking me, well, why aren't you getting all the AB carriers?

What you are going to be doing is adding several what I would consider violations that certainly are serious but may not point to the crash problem that GAO is pointing out in some of their work where they want us to focus on the crash data in SafeStat as opposed to just all these other violations. So I have got to walk between both recommendations, focusing on all violations and focusing on serious crash data as well because generally we think that the crash data contributes most to the future prediction of what is going to happen.

Mr. DEFAZIO. I understand the GAO's position on the algorithms or whatever it was they want to develop, as I was falling asleep reading it on the airplane. It is very important, but I was having a little trouble. It must take special writing classes to work at GAO, but the information is there if you can stay awake through it.

It just seems to me though, and it is kind of a common sense point that I think NTSB is making here. I don't know whether GAO would even disagree with that. They want to use the crash data as an indicator, but if either the trucks or the drivers aren't safe, it seems to me those are two pretty darn critical factors.

I don't know if there is anybody up there who wants to disagree with that. I mean having one or the other, either people who have repeated violations and/or suspended licenses and are still operating or having trucks that have been found to be unsafe to operate, either of those seem to be pretty darn critical.

Would GAO, even though you want to look at the crash data and analyze backwards from that, is there any disagreement with that common sense approach which is not quite as scientific as yours?

Ms. FLEMING. Compliance with safety regulations basically helps predict future crash risk. We just found that past crashes are a stronger predictor of future crashes than compliance with the safety violations.

Mr. DEFAZIO. Okay. I think they made a movie about this where the policemen arrested people before they committed crimes, and I can't remember the name of it.

Mr. Administrator, if you were to go back and apply this to a couple, the Beltway crash here, the bus crash in Texas, you would say, gee, those companies should have been and in fact I believe at least one of them was a number of times unsatisfactory because of these problems.

Mr. HILL. Mr. Chairman, I agree with you.

Here is my dilemma. If we implement an interim final rule right now and change the system, it is going to create quite a bit of disruption, I think, in the way that we do this with the industry.

I am trying to focus on getting the CSA 2010 done because I don't really want to be judged on not getting it done. I want to be judged because I think we are going to get it done. We have met every time line internally. We are on budget. We are moving forward. We are going to pilot test this next year in four States.

So we are committed to getting this safety fitness determination remedied as the NTSB wants it done. I just think we need to do it in a very open manner.

Mr. DEFAZIO. My last question, because I am over my time: Can you move to full implementation, without legislative changes, to the CSA 2010?

Mr. HILL. We believe that we can.

Mr. DEFAZIO. That sounds a little tentative.

Mr. HILL. Well, no. Here is what I want. We believe we can, but we are also in the process of developing three rules. We don't believe we can with our current regulatory scheme. We do believe we can statutorily.

Mr. DEFAZIO. Okay.

I guess I didn't get the order on your side. Who was here first?

Mr. Poe was here first. Okay, Mr. Poe.

Mr. POE. Thank you, Mr. Chairman.

I have some questions, a lot of them. I will try to get through as many of them as I can.

On March 29th, 2006, 26 girls from Beaumont West Brook High School in my Congressional district were riding a coach, a motor coach, to the Texas State Soccer Playoffs, and the bus flipped over on its side, killed two of them. Most of the others were injured. Some of them lost their limbs. I met with those parents yesterday in my office to discuss safety of school kids on buses.

I, like any parent, always assumed coach, a motor coach, was safer than an old-fashioned yellow school bus. It turns out that is not true. School buses are safer than motor coaches because of the way they are built with these massive windows that break and kids go flying out which is what happened with these soccer players.

My concern is two-fold. One, what is being done, if anything, to implement lap seatbelts on school buses or buses period that transport school kids, not just the yellow school buses but motor coaches?

Texas actually has passed a law now that school buses that transport kids are going to have to have lapbelts for 2010, I think. So I would like to know if we are moving in that direction.

I have heard all the arguments. It costs too much and all of that, $6,000 a school bus to implement these belts. But when you start transporting kids, I think their safety is paramount to the cost and if there is anything on the national movement that is being done to implement this.

Then I have a question or comment about the bus that was transporting more people from my district during the Rita situation that caught fire and people burned to death on the bus because they couldn't get off. The driver was illegally in the Country, and the bus didn't pass any inspections. So we will get to that question second.

Who wants to weigh in on the seatbelts or lapbelts as they are called?

Mr. HILL. Well, I will start, and they can fill in.

Mr. POE. I will start picking on you if you don't volunteer.

Mr. HILL. I would just say to you that there has been a considerable amount of discussion about this. The manufacturing standards dealing with safety belts in commercial vehicles are handled by the National Highway Traffic Safety Administration. I know that they are currently looking at several different related recommendations as a result of the Wilmer incident that Ms. Hersman referred to in her opening statement.

Secondly, from our perspective in the Motor Carrier Safety Administration, we enforce the operational regulation. Our role would be consultive and not to be prescriptive.

Mr. POE. Do you have an opinion? Yes or no, do you think they ought to be on motor coaches?

Mr. HILL. No, I don't have an opinion at this point. I would have to look at some of the data.

Ms. HERSMAN. Congressman Poe, I will jump in here. I actually this morning spoke at a summit that NHTSA is holding on seatbelts on school buses, and the Safety Board has taken a position

regarding occupant protection both in school buses as well as motor coaches. These issues are on our most wanted list.

The motor coach issues deal with keeping passengers inside the vehicle, addressing the windows, roof crush strength and redesign of the passenger seating compartment to restrain passengers.

With respect to school buses, the Safety Board has launched on a number of school bus accidents. We have quite a bit of information about those investigations. Last November, we elevated to our most wanted list a recommendation to NHTSA to redesign the passenger seating compartment for school buses in an effort to try to make them safer. School buses are very safe, but any fatality is one too many when it comes to the children that we transport.

Mr. POE. In the redesigning of the school bus, are you talking about using these lapbelts? Is that what you are talking about or something else?

Ms. HERSMAN. No. The Safety Board is not prescriptive with respect to the type of restraint or occupant protection standard that might exist.

As you are very familiar with—it sounds like you have focused on this issue—compartmentalization is the current passive form of restraint on school buses. The Safety Board has recommended that they look at occupant protection, potentially a redesign of the entire seating compartment.

There were presentations today at the safety summit about seatbelts, but we think that there are a number of issues including sides of the buses, the roof, coming in contact with other children, the sides of seats. All of these materials are not designed to absorb impact energy in a lateral crash or a rollover. We think that they need to look at the entire system.

Mr. POE. Thank you, Mr. Chairman.

Mr. DEFAZIO. I thank the gentleman.

We are going to have to recess. They have called a series of votes. Unfortunately, because of the way they have set it up, there is going to be a motion to recommit, a couple of 15 minute votes. It is going to take 50 minutes, 50, and as soon as possible we will return.

I hope all the members of the panel can stay. I have had a number of people including the Chairman express very strong interest in having a round of questions. So if you absolutely have to go, we might understand anyway.

With that, the Committee stands in recess.

[Recess.]

Mr. DEFAZIO. Thanks for your tolerance of our ways around here on the schedule. It seems we could condense some of that. But, in any case, I have a few more questions, and I know other Members will be arriving shortly and they do. We wanted to make the best of your time that we could.

Oh, I see Mrs. Napolitano, and she hasn't had her turn yet.

So I will turn to you, Mrs. Napolitano. Thanks. I was just going to fill up the time, hopefully productively.

Mrs. NAPOLITANO. Thank you.

Mr. DEFAZIO. But you are recognized.

Mrs. NAPOLITANO. Thank you, Mr. Chair. I was unavoidably detained speaking to highway patrol, one of our guests.

Mr. Scovel, listening with great intent, the number of accidents that you say that are happening, what are the major causes?

We know fatigue. We know the training. We know the truck maintenance, all of that. What is the major issue and how can we address it?

How can we without adding more laws? There are already enough laws on the book.

Is it personnel? What is it that we need to be able to address what everybody has identified is an issue?

Mr. SCOVEL. Thank you, Mrs. Napolitano.

Based on the work that my office has done both on the investigation side and on the program audit side, we believe a prime focus should be on the driver. We concur with NTSB that certainly a significant concern is with the vehicle and vehicle maintenance and integrity, but for us our attention has been focused on the driver.

When we talk about the improvements that FMCSA and the Department and the industry and our State partners have made in driving down fatality rates and fatality numbers and the fact that we may now have seen that curve bottom out, we look to see where improvements may still be achieved. We think by focusing on human factors.

You mentioned fatigue. Inattention, speeding, use of illegal drugs or alcohol, those are all areas where we should focus as well as technology, electronic on-board recorders and perhaps collision avoidance systems should also, well, we believe they must be implemented as well and industry-wide to the extent possible.

Mrs. NAPOLITANO. Well, Ms. Hersman had indicated that 30 years ago, it was recommended that tamper-proof safety logging design be used. Is that something that might help be able to reduce fatigue, the driver malfunction, if you will?

Mr. SCOVEL. I think she was referring to tamper-proof electronic on-board recorders.

Mrs. NAPOLITANO. Right.

Mr. SCOVEL. Which would help us in terms of documenting hours of service and preventing falsification of logbook entries. In my notes today, I have half a dozen large truck fatality cases that my office has recently worked or that are still open, and a consistent theme in every one is hours of service violations coupled with false logbook entries.

Mrs. NAPOLITANO. Mr. Vaughn, not too long ago, California had a problem with a truck that missed a turn somewhere in California and burnt down a whole segment of a freeway. Could you tell me what the findings were in relation to the driver?

Was it the design? Was it driver fatigue? What did you find or can you talk about it?

Chief VAUGHN. That investigation is still continuing at this time. What I can say about that was the driver had a very clean driving record. He had no citations or accidents on his record.

At the time of the accident, we had GPS that we were able to go back and look at. He was maintaining a speed of 62 miles per hour which is greater than the speed limit for commercial vehicles—they are 55—but it is not an excessive speed by any means at that time in the morning with traffic out on the roadway.

We found that the driver did take an action, a turning movement to move into a traffic lane, went a little bit further than he intended, shifted back to the left, and it was at that point, we believe, that the fuel shifted, causing the vehicle to go onto its side.

That is not a final. That is a preliminary. The final investigation will be completed here shortly.

Mrs. NAPOLITANO. So, in essence, it could have been the shift of not just cargo but the fuel itself.

Chief VAUGHN. Yes, ma'am.

Mrs. NAPOLITANO. Thank you.

Ms. Fleming, you indicated the statistical approach has been helpful in being able to bring down the number of fatalities. Are the fines not enough to be able to get some of these folks to understand how serious it is that they put not only their own lives in jeopardy but others?

Ms. FLEMING. I think it is a function largely of the nature of the commercial trucking industry. You have millions of drivers, hundreds of thousands of carriers out there, and FMCSA basically can only conduct a small percentage of compliance reviews on an annual basis.

So what they really have to do and what we recommend is that they have to look for the most effective means to target their resources. What we have found with our statistical approach as well as an alternative enhancement is that past crashes are the best predictor of future crashes, and so we believe that targeting those very scarce resources both at the State and Federal levels in that regard is likely to result in more compliance with safety and better or I should say less accidents.

Mrs. NAPOLITANO. Do you have enough support system and infrastructure personnel to be able to do follow up on those?

Ms. FLEMING. You mean in terms of FMCSA? Again, I think it is because they have only have a small set of resources, and so it is very important for them to target those resources.

It is promising that with CSA 2010, their initiative, they are looking for ways to, if you will, get the biggest bang for their buck. We think that is a promising step, so that they can get a better sense and touch most unsafe drivers and carriers, and they are looking for ways to more effectively do that.

Mrs. NAPOLITANO. Thank you.

Thank you, Mr. Chair. I will wait for the next round.

Mr. DEFAZIO. Thank you.

Mr. Platts.

Mr. PLATTS. Thank you, Mr. Chairman. I appreciate your chairing this hearing and all the witnesses' testimony.

I apologize with not being here earlier as many of my colleagues, having to be in several different spots at once.

I have a question to Administrator Hill, and it is a follow-up to a conversation we had earlier this year that relates to motor carrier safety and not necessarily high risk as directly focused here but the general issue of safety, and that is the CDL licensing process.

When we talked back in March, the Agency was looking at the revisions to the CDL requirements with the thought that perhaps late spring or early summer, we would see a proposed rule on new

regulations that would, in my word, toughen the requirements and strengthen the requirements to ensure that our drivers out there of the heavy trucks are well qualified and well trained.

Can you just give me an update of where we stand on that issue with those proposed new regulations?

Mr. HILL. Yes, Congressman Platts. I believe that when we had our conversation, you were talking specifically about two issues, if I remember correctly, the merger of the medical piece to the CDL process. We did issue a notice of proposed rulemaking concerning merging those two items together which is something that we haven't had in the past.

Right now, if a driver has a medical qualification, he is required to have that every two years. That is done separately than the licensing process. So that will merge that.

The other thing that we talked about, I think, was the driver training.

Mr. PLATTS. Right, right.

Mr. HILL. We are in the process of finalizing that. In fact, I believe it has just cleared within the Department. We will be sending that to OMB for a notice of proposed of rulemaking and once they get done with the review, there should be a notice of proposed rulemaking out very shortly on the training of entry level drivers.

Mr. PLATTS. Right, the primary focus is the training of that entry level driver.

Mr. HILL. That is correct.

Mr. PLATTS. With that going to OMB, is there a time frame? I know it is out of your control when it goes to OMB, but do you have an estimate?

Mr. HILL. Well, generally, they take the 90 days to review a proposed rule. I am hoping that later this year we can have that on the streets and get it open for the public to comment on. We believe. There has already been testimony today, and I believe that the industry is very interested in this issue.

I am excited about seeing how they respond to the proposed rule in light of how the court admonished us to take into consideration certain factors that were not in the previous rule.

Mr. PLATTS. As far as your sending it over, would that be before the end of this month that it will go to OMB?

Mr. HILL. I believe that is an accurate statement. Could I get back to you faithfully on that?

Mr. PLATTS. Yes.

Mr. HILL. I would like to check with somebody in the Department to make sure, but I was told verbally yesterday that it had cleared the Department and will be going to OMB.

Mr. PLATTS. Okay. I appreciate that. I think it ties into the better job we do up front with that entry level driver and the training, then that ultimately addresses the broader issue here of high-risk carriers and their ability from the get-go that they then build on. I think it is important that we move forward certainly in a responsible but as expedited as possible process as we can.

Mr. HILL. Congressman, I would just say to you that in addition to that, later this year we are hoping to have a notice of proposed rulemaking out that will deal with the commercial driver's license learner permit process, which is also going to be very important be-

cause it incorporates some of the requirements from the SAFE Port Act for trucking that was passed in 2006 that specifically talked about the three recommendations that the Inspector General made to us about CDL fraud and addressing fraudulent activity.

We are going to build that into that rule as well. We think that these two rules will strengthen the entry level piece of the commercial driver's license process.

Mr. PLATTS. You or your staff, when they follow up with the specifics on the time frame, if they could also provide additional information on that aspect of the second proposed rule, that would be great.

Mr. HILL. Okay. You are welcome, sir.

Mr. PLATTS. Thank you, Mr. Administrator.

Thank you, Mr. Chairman.

Mr. DEFAZIO. I thank the gentleman.

For Inspector General Scovel, the question is about crash data and my understanding is that you have reported on problems with the reporting by the various States to the Feds. Now GAO is recommending that we put greater weight on crash data. I guess I would like both of you to respond to that.

It seems to me, first, we need to be assured that we are getting the most accurate, up to date and timely crash data if we were looking at that sort of a change. What are we doing to remedy this problem with the States, Mr. Scovel?

Mr. SCOVEL. Thank you. I would agree with you that it ought to be a stepped process. It would seem to me to be most advantageous if data quality were to be maximized to the greatest extent possible and then weighted appropriately to reflect the degree to which accident information is a predictor of future accidents and safety problems.

If it were to be the other way around, I think we would be magnifying the impact of incorrect data which certainly would be to the detriment of the industry, to the traveling public and to FMCSA certainly eventually.

Our focus has been specifically on the quality of non-fatal crash data.

Administrator Hill has talked about the State safety data quality map which right now looks pretty good. It is important for the Committee to note that the data that is represented on that map that has been provided by the States specifically regarding crashes pertains only to fatal crashes. It doesn't yet reflect non-fatal crash data. Non-fatal crash data is important because it is a determinant of what motor carriers will undergo compliance reviews.

We believe what is needed and we have recommended to FMCSA that they follow up and it is currently an effort that is underway to undertake a data quality study by the University of Michigan Transportation Research Institute, determine what the quality of data submitted by the States has been. We are informed that FMCSA proposes to complete that by the end of 2008. Based on that, clearly there are initiatives that can be undertaken in connection with CSA 2010.

But, in the meantime, a kind of back to basics approach would also be helpful, we believe, and that means working with State officials to improve the training that they provide to their people in

the field when they are reporting crashes and also simply by looking at the forms that the States use in reporting this information to FMCSA. All of those, we think, would be helpful in improving the data quality that is so important in terms of determining which carriers will undergo compliance reviews.

Mr. DEFAZIO. Okay. Ms. Fleming, do you share some of those concerns about the quality of the data?

Ms. FLEMING. Yes, sir, we do. Our results pretty much mirror the DOT's results, the IG's results. We found problems with the timeliness, the accuracy and completeness of the data.

In terms of how we were using the data, which again was to try to identify the high crash carriers we found that late reported crashes had minor effects to the SafeStat model as well as a regression approach.

Mr. DEFAZIO. Okay. Another point I believe you raised, Mr. Scovel, was you mentioned something about compliance reviews looking at all drivers, I believe. Did you not?

Mr. SCOVEL. Yes, Mr. DeFazio, we did. We made that recommendation—I should offer this caveat—based not on a full-scale audit but based on our observations of the BK Trucking accident case this past March here in the Washington, D.C. area.

Mr. DEFAZIO. I am not that familiar with this kind of contract status or owner-operator status that the person involved had and how that company related to them. Is this legitimate arms-length contracting or is this something like we find in some other areas of industry where essentially you are kind of complying, trying to beat IRS rules here and determine who is contracting, who isn't?

For instance, all the cab drivers in New York are contractors, but they go and get the cabs from the same place every day. Is it something like that we are looking at here?

Mr. SCOVEL. Regrettably, it may be. I confess that my office hasn't done an in-depth study. We don't know the extent of the problem in the industry, but we think it is worthy of FMCSA's attention that their inspectors, first of all, get some guidance, some detailed guidance as best we can prepare it on delving into the relationship between drivers and a company undergoing a compliance review.

Right now, FMCSA's process is that company drivers, that is, company employees only are subject to commercial driver license checks. The loophole, as we have identified it, is that companies undergoing compliance reviews, if they have bona fide contractors or if as you say it is more of a subterfuge, then they know that under current FMCSA process, those contractors, independent owner-operators aren't subject to license checks.

That is specifically what happened in the BK Trucking case. Compliance review completed in February. Accident, tragic accident with fatality in March. Driver surfaced in the February review but didn't undergo a license check because he was listed by the company as an independent owner-operator.

Mr. DEFAZIO. Now what do you mean surfaced, meaning the company has to list all of their company drivers and their contract drivers at the time of the compliance review?

Mr. SCOVEL. Correct.

Mr. DEFAZIO. Okay, so the name was known.

Mr. SCOVEL. The name was known. He was known to be a driver for this company.

Mr. DEFAZIO. So why, Administrator Hill, wouldn't we, if we knew that someone was contracting with someone who has such a bad driving record, somehow take that into account?

Mr. HILL. I think that is the important point to start with. First of all, when our safety investigator went in, they have to establish a relationship that there is in fact an owner-operator. What we found was the investigator went into the company owner, and the owner said those people don't work for me. They are independent operators.

We said, well, they are showing up on the profile. We looked at the lease agreements, and that was our flaw. We did not have the kind of detailed assessment of that lease agreement that really bound them together in that contractual relationship.

As a result of that, we are now instituting training all across the Country for all of our safety investigators to better understand leases which is a part of the legacy of the old ICC that we really didn't follow through on as well when we moved into the safety environment.

The second thing that we have done as a result of the BK Trucking issue is that we sample now. Any company with 20 drivers or less, we are going to run CDLIS list checks or commercial driver's license checks on all of those drivers, period. What happened also is that in this case, this driver might not have been a part of our sampling protocol because we had such a small sample.

We are just saying, look, 20 drivers or less, we are going to run all of them on the CDLIS check. We are not going to mess around with this.

Mr. DEFAZIO. Okay. If there were more than 20, why wouldn't you run them all through that checklist?

Mr. HILL. Based upon our data and the MCMIS file, 90 percent of the carriers have 10 trucks or less, and so it is a function of workload frankly. I mean if you go into Schneider and you have 1,500 drivers, it is going to be a little tough to do all their drivers.

Mr. DEFAZIO. Right. We know about problems with drivers that come to the attention of Federal inspectors, but what about the State data? As with the accident reporting, is it incomplete in terms of violations and suspensions within States?

I mean is there a good national clearinghouse where any and all the States report any and all violations by any and all commercial drivers within their States, and you have a centralized record that your folks can refer to?

Mr. HILL. There are two ways, and I would also certainly welcome the other two participants to communicate on this.

Violations are recorded through our Motor Carrier Management Information System which is a compendium of all inspections done in the Country, and they have access to that at the roadside. That is assuming they have connectivity and can access it. So they have access to all the commercial vehicle violations on an inspection report.

The second piece is if a driver is convicted of an offense, that goes to their CDL record, and so violations to the driving record are

available through another program called CDLIS which is the driver, and all States can access that as well.

Mr. DEFAZIO. All States are required to report to it.

Mr. HILL. That is correct.

Mr. DEFAZIO. Are they generally faithfully reporting on a timely basis?

Mr. HILL. We do compliance reviews. That is a different term now.

We go in and do a review of States on their CDL compliance with these issues, and we have found some problems. But it is getting much better because MCSIA when it was passed, it required States to do that. We have found several States to be in what we would consider substantial non-compliance which means they were in jeopardy of losing highway funding, not just MCSAP funding, and they rallied around the pole and became compliant.

We are seeing improvement in that area, but it is still something that we are watching during a compliance review process. We do 15 States a year in that review process. So every three years, a State gets reviewed.

Mr. DEFAZIO. Anybody else on the panel have any thoughts on the drivers, driver's licenses, or reporting offenses?

Mr. URQUHART. Mr. Chairman?

Mr. DEFAZIO. Yes.

Mr. URQUHART. Since we have adopted the matrix on critical violations that impact a commercial driver's license holder's record, we have seen an increase in our State of masking and deferring, and generally that comes from our court system. Those drivers convince the court that there is a livelihood issue there, and so the reporting is interrupted well before it gets to the Department.

Just to add to this discussion, aside from CDLIS, we are still dealing with commercial operators that aren't required to have commercial driver's licenses when they operate vehicles above 10,000. What we do see in our State from time to time is local law enforcement doesn't recognize what a commercial vehicle really is in accordance with the definition.

So we do miss some of those things, and it is an educational thing both on the side of the courts and also with local law enforcement.

Mr. DEFAZIO. To Mr. Vaughn, in California, you actually go out to each of the sites of the trucking companies and do on-site inspections. I am curious—there is probably no way we could do it here, but I was looking at your roadside out-of-service rates comparable to the Federal statistic.

Then I am trying to figure out, well, if they are actually going to the sites, has that diminished the number of trucks that are found out of service that are California-registered or California-based versus those that are transiting your State? Is the fact that you have a comparable number due more to the transiting trucks or is there the same percentage of trucks that are domiciled in the State?

Do you know what I am getting at? I am trying to figure since FMCSA doesn't come anywhere near that and you are doing it, I am wondering if it has any sort of preventive effect.

Chief VAUGHN. We believe that it does, but again we would have to go back and look at that statistically.

Mr. DEFAZIO. We would have to do a regression analysis on it or something.

Chief VAUGHN. Yes. What we do know is we do not do compliance reviews in California. We do the BITs as you indicated, and we are out there once every 25 months. There are approximately 1.3 million vehicles that are registered in California and 1.8 that can pass through from out of the State.

To determine that, we would have to go back and back some runs, but we can do that because that is an interesting point.

Mr. DEFAZIO. Yes, I am just wondering if we can show that it has an impact. Then we would perhaps want to incent other States to do that somehow and help deal with it because I find it disturbing when you find that large of a percentage of trucks that until the moment they were stopped and looked at, they had a potential for a defect. It just seems like a high number.

If I could just go back to the Administrator, a question about the BK issue that is not clear in anything I have received. It was in and out of compliance: it was rated unsatisfactory; it was conditional. it was satisfactory a number of times over a number of years. But then as soon as the fatal accident occurred, inspectors returned and they were then out of service.

I am just curious. I mean, I am disturbed about that because it seems almost to represent what those of us who are familiar with the FAA have called the tombstone mentality which is we get there after the fact and we begin to apply extra scrutiny that wasn't applied before the fact. The unfortunate thing is someone died in the interim.

Can you address that issue with that company: How someone moves back and forth so much; what sort of scrutiny or additional scrutiny is put on the conditional folks; how it was that they had a relatively recent inspection and they were not put out of service but then as soon as the fatal happened, they were put out of service?

Mr. HILL. Okay. First of all, I would just say that when a carrier is rated as unsatisfactory, we are required then to put them out of service within 61 days if they are a freight carrier or 45 if they are hauling passengers or hazardous material.

Therefore, the company has significant impetus to want to get that remedied. They are going to be very responsive to the requirements that we put on them because they know that they can't make any money and generate revenue while they are out of business. So they are going to be responsive.

Then once they get into, as you just described, the conditional mode, then we put them into a categorization that we have, a group of people dedicated to do conditional carrier reviews. Frankly, Mr. Chairman, they are competing for the workload of those SafeStat A and B carriers that we are also required to do which you have read in the GAO report and other things as well.

Let me address specifically the BK trucking and why that happened the way it did. When our investigators went in, in April, the owner of the company withheld information and said the owner-operators are not representative or a group, and therefore their data

was not considered as a part of our safety assessment of that company. When we went back in and included those owner-operators, there were problems that began to filter into the process that were not in existence before.

Mr. DEFAZIO. Right, but your normal procedure would not, for trucking companies of more than 20, include owner-operators.

Mr. HILL. Yes.

Mr. DEFAZIO. It would not include them. You don't rate them.

Mr. HILL. No, no. We rate anyone, anyone that we go in and do a compliance review for, regardless.

Mr. DEFAZIO. Well, I thought that that was the issue here, that because they were owner-operators, that person's name had come to the attention of the inspector, but they said, okay, well, we won't look at that person because they are an owner-operator.

Mr. HILL. And so, the violations associated with those owner-operators were not held against the carrier.

Mr. DEFAZIO. Right, but they weren't held by your policy before the accident, but they were after.

Mr. HILL. That is because we established a relationship during the subsequent interview, and a more in-depth analysis of those lease agreements bound those two together which we did not find in the first. I told you earlier that we identified it as a deficiency.

Mr. DEFAZIO. So there is a policy change here.

Mr. HILL. It is really a training issue. I mean the policy didn't change. It is just that our people should have detected that lease arrangement and then made the motor carrier responsible for those owner-operators which they did not do in the first case.

Mr. DEFAZIO. Okay. Basically, when the company owns the vehicles and is leasing them to someone, they would be now considered part of that company's record. If it was legitimately just a contractor, legitimate owner-operator, someone who is truly independent, they wouldn't be considered.

Mr. HILL. That is correct. The owner-operator typically moves. They are going to work for either themselves, the owner-operators, or they are going to be working under someone else's authority wherever they can get the loads. What typically happens is they work in these relationships with the motor carrier, and the motor carrier becomes responsible then for that owner-operator's driving and operational activities.

Mr. DEFAZIO. They would then have an obligation. Do they have access to the database to determine whether this person has violations or suspensions elsewhere?

Mr. HILL. Before they ever bring them on in that relationship, they are required to have a driver qualification file and do a records check. They are supposed to establish they have drug testing. They are supposed to monitor that driver's performance, absolutely. They become responsible for that driver.

Mr. DEFAZIO. In this case, the owner had knowledge of this person's problems, but didn't take any action and allowed the person to operate.

Mr. HILL. I would just say I don't believe that. They had done a driver qualification check on that license before the employer hired that owner-operator which they are required to do once a year. But after the person has a suspended license, the driver, the

onus is on the driver to notify the employer or the carrier, that they have had an action taken, and that is a problem.

Mr. DEFAZIO. The once a year, I assume is this a relatively routine inputting of the CDL number into a computer?

Mr. HILL. They are supposed to do it. Actually, you get a motor vehicle check from the DMV.

Mr. DEFAZIO. Right, so I mean it isn't costly. It is not particularly time-consuming.

Mr. HILL. No. He did that, but this suspension occurred after he had done that initially.

Mr. DEFAZIO. Right, but that is because of the once a year.

Mr. HILL. That is correct.

Mr. DEFAZIO. What I am getting at is maybe we want to require that this be done with more frequency rather than depending upon the driver to self-report.

Mr. HILL. Well, I will tell you that we are working to try to provide access to our system to the motor carriers that will allow them to have much more ready access to driver information. I am hoping that later this year we are going to be able to explain to the industry how we are going to make this information available to them.

We already have done it with law enforcement through something called our Driver Information Resource, and we have categorized all the driver violations. Instead of doing it by carrier, we have done it by the driver. So now there is going to be much more ready access, and we are going to try to roll that out to the industry next year.

Mr. DEFAZIO. I would be very interested in that, and I would want to encourage and help facilitate that in any way possible. I think it would be very valuable information for the industry to have. I mean there are a few bad apples out there, and we want to get those off the road and not have them impugn the rest of the industry and the rest of the drivers. That is what we need to target.

If there are any problems moving that forward, I would be very interested and I would like to help deal with that.

I have some questions about basically the limited ability to pay issue, in the case of serious violations and how that works. I mean, what we consider to be limited ability to pay. Obviously, you don't want to take a true independent who has a violation and put him out of business for that.

But where you have serious offenses, repeat offenses, how much does this ability to pay weigh in? If someone is so fragile that they can't pay a substantial fine for a serious violation, then you have to question what other corners might they be cutting.

Mr. HILL. As you have referred to, there are statutory factors that we have to consider when we make fines make fines and penalties. Based on that general guidance, several years ago, the Agency drew up what they call the Uniform Fine Assessment Program. I am going to tell you that I am not real deep on this, but I will be glad to get with your staff and provide them the information.

It is a factor. I don't think it would be characterized as being as seriously flawed as maybe your question would indicate, but it is a factor that we have to consider. What we could do is we could show your staff how that plays out and how that Uniform Fine As-

sessment works with all I think it is nine statutory factors that we have to consider, and some of them are subjective.

Mr. DEFAZIO. All right, okay. All right, I think, although the staff may have an important question. Hold on one moment.

Well, Chairman Oberstar had hoped to get back but has been unavoidably detained by other business, so he won't. He wanted to express his regrets and again wanted to thank the Captain because he wants to make sure that when he is going really fast on his bicycle downhill sometime and you guys clock him, he won't get in big trouble for it.

Does anybody else on the panel have something that they weren't asked about that they really think would benefit the Committee, open-ended?

Okay, all right. Well, with that, I again want to thank you for your patience and your time and your expertise, and we all hope to have a safer system in the future. Thank you.

[Whereupon, at 4:50 p.m., the Subcommittee was adjourned.]

Committee on Transportation and Infrastructure

Hearing on "Motor Carrier Safety: the Federal Motor Carrier Safety Administration's Oversight of High-Risk Carriers"
Wednesday, July 11, 2007

Statement – Congressman Jason Altmire (PA-04)

Thank you, Mr. Chairman, for holding this hearing today to examine the Federal Motor Carrier Safety Administration's (FMCSA) oversight of high-risk carriers. Earlier this year, we held a hearing on Motorcoach Safety and had the opportunity to focus on the safety of passenger motor carriers. During the March hearing, questions arose on the effectiveness of FMCSA's oversight and I commend the Chairman for following through on his commitment to ensuring the proper operation of the federal government's transportation agencies.

FMCSA is responsible for commercial motor vehicle safety and oversees an industry of over 700,000 active motor carriers that operate nearly five million vehicles and employ over seven million drivers. Through compliance reviews, roadside inspections, SafeStat technology, and other measures, FMCSA seeks to meet its mission in which safety is its highest priority.

I look forward to hearing from FMCSA and thank the Chairman again for his attention to this issue. I yield back the balance of my time.

# # #

1

Statement of Rep. Harry Mitchell
House Transportation and Infrastructure Committee
Subcommittee on Highways and Transit
7/11/07

--Thank you Mr. Chairman.

--Arizona ranks 16th in the nation in population [source: U.S. Census], but, 12th in the total number of traffic fatalities. [source: Federal Highway Administration 2005 statistics]

--I believe we need to do a better job of keeping our roads safe.

2

--One of the best ways to ensure that motorists and their passengers remain safe, is to collect and review information about accidents in a timely and efficient manner.

--One of the best ways to ensure their safety is to collect and review information about accidents in a timely and efficient manner.

--Unfortunately, when it comes to motor carriers, it appears this is not always happening.

3

--The Department of Transportation Inspector General, the Government Accountability Office, and the National Transportation Safety Board have all expressed concern about the process for collecting, reviewing, and distributing motor carrier safety information.

--Even more alarming, these same independent review panels are reporting problems with the enforcement of safety standards.

4

--We have an obligation to look into these warnings, and find ways to improve the safety of our nation's roads.

--I look forward to hearing from today's witnesses, and I yield back the balance of my time.

United States Government Accountability Office

GAO

Testimony
Before the Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, House of Representatives

For Release on Delivery
Expected at 2:00 p.m. EDT
Wednesday, July 11, 2007

MOTOR CARRIER SAFETY

Preliminary Information on the Federal Motor Carrier Safety Administration's Efforts to Identify and Follow Up with High-risk Carriers

Statement of Susan A. Fleming, Director
Physical Infrastructure Issues

GAO-07-1074T

GAO
Accountability · Integrity · Reliability

Highlights

Highlights of GAO-07-1074T, a testimony before the Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, House of Representatives

Why GAO Did This Study

The Federal Motor Carrier Safety Administration (FMCSA) has the primary federal responsibility for reducing crashes involving large trucks and buses. FMCSA uses its "SafeStat" tool to select carriers for reviews for compliance with its safety regulations based on the carriers' crash rates and prior safety violations. FMCSA then conducts these compliance reviews, and can place carriers out of service if they are found to be operating unsafely.

This statement is based on a recent report (GAO-07-585) and other nearly completed work. GAO assessed (1) the extent to which FMCSA identifies carriers that subsequently have high crash rates, (2) how FMCSA ensures that its compliance reviews are conducted thoroughly and consistently, and (3) the extent to which FMCSA follows up with carriers with serious safety violations. GAO's work was based on a review of laws, program guidance, and analyses of data from 2004 through early 2006.

What GAO Recommends

In June, GAO recommended that FMCSA use a regression model approach to identify high risk carriers. FMCSA agreed that this approach looks promising but is concerned that it results in less emphasis in other regulatory areas. GAO is considering several recommendations, including that FMCSA assess maximum penalties in situations which GAO believes the law requires.

www.gao.gov/cgi-bin/getrpt?GAO-07-1074T.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Susan A. Fleming at (202) 512-2834 or flemings@gao.gov.

July 11, 2007

MOTOR CARRIER SAFETY

Preliminary Information on the Federal Motor Carrier Safety Administration's Efforts to Identify and Follow Up with High-risk Motor Carriers

What GAO Found

FMCSA generally does a good job in identifying carriers that pose high crash risks for subsequent compliance reviews, ensuring the thoroughness and consistency of those reviews, and following up with high risk carriers.

SafeStat is nearly twice as effective (83 percent) as random selection in identifying carriers that pose high crash risks. However, its effectiveness could be improved by using a statistical approach (negative binomial regression), which provides for a systematic assessment to apply weights to the four SafeStat safety evaluation areas (accidents and driver, vehicle, and safety management violations) rather than FMCSA's approach, which relies on expert judgment. The regression approach identified carriers that had twice as many crashes in the subsequent 18 months as did the carriers identified by the current SafeStat approach. FMCSA is concerned that adopting this approach would result in it placing more emphasis on crashes and less emphasis on compliance with its safety management, vehicle, and driver regulations. GAO believes that because the ultimate purpose of compliance reviews is to reduce the number and severity of truck and bus crashes, and GAO's and others' research has shown that crash rates are stronger predictors of future crashes than is poor compliance with FMCSA's safety regulations, the regression approach would improve safety.

GAO's preliminary assessment is that FMCSA promotes thoroughness and consistency in its compliance reviews through its management processes, which meet GAO's standards for internal controls. For example, FMCSA uses an electronic manual to record and communicate its compliance review policies and procedures and teaches proper compliance review procedures through both classroom and on-the-job training. Furthermore, investigators use an information system to document their compliance reviews, and managers review these data, helping to ensure thoroughness and consistency between investigators. For the most part, FMCSA and state investigators cover the nine major applicable areas of the safety regulations (e.g., driver qualifications and vehicle condition) in 95 percent or more of compliance reviews, demonstrating thoroughness and consistency.

GAO's preliminary assessment is that FMCSA follows up with almost all carriers with serious safety violations, but it does not assess the maximum fines against all serious violators that GAO believes the law requires. FMCSA followed up with at least 1,189 of 1,196 carriers (99 percent) that received proposed unsatisfactory safety ratings from compliance reviews completed in fiscal year 2005. For example, FMCSA found that 873 of these carriers made safety improvements and it placed 306 other carriers out of service. GAO also found that FMCSA (1) assesses maximum fines against carriers for the third instance of a violation, whereas GAO reads the statute as requiring FMCSA to do so for the second violation; and (2) does not always assess maximum fines against carriers with a pattern of varied serious violations, as GAO believes the law requires.

Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to participate in this hearing to discuss the Federal Motor Carrier Safety Administration's (FMCSA) oversight of motor carriers that pose high crash risks. This is an important issue because each year about 5,500 people die as a result of crashes involving large commercial trucks or buses,[1] and about 160,000 more people are injured. These crashes may result from errors by truck, bus, or passenger vehicle drivers; vehicle condition; and other factors. Effective oversight is important because of the large size of the motor carrier industry (over 700,000 carriers are registered with FMCSA[2]) compared to the number of compliance reviews—reviews of carriers at their bases of operations for compliance with FMCSA's safety regulations–that FMCSA and its state partners are able to conduct each year (about 15,000 in 2006). As a result, it is crucial that FMCSA identify the most unsafe carriers so that the carriers either improve their operations or they are put out of service.

My remarks are based on work we have recently completed for this Subcommittee and the full committee[3] and on the preliminary results of our ongoing work for the Chairman of the full committee. This latter work is nearing completion, and we expect to report on our final results on these and other topics later this summer. Specifically, we have been assessing (1) the extent to which FMCSA identifies carriers that subsequently have high crash rates, (2) how FMCSA ensures that its compliance reviews are conducted thoroughly and consistently, and (3) the extent to which FMCSA follows up with carriers with serious safety violations.

Our work was based on a review of laws, regulations, program guidance, analyses of data, and discussions with FMCSA. To determine the extent to which FMCSA identifies carriers that subsequently have high crash rates, we analyzed data from FMCSA's Motor Carrier Management Information System for its June 2004 assessment of carriers and compared it to data on crashes the carriers experienced over the subsequent 18 months (July 2004 through December 2005).[4] To assess how FMCSA ensures that its compliance reviews are completed thoroughly and consistently, we identified our key internal control standards related to the communication of policy, documentation of results, and monitoring and reviewing of activities and findings.[5] We gathered information on these

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[1]Large trucks are those with a gross vehicle weight greater than 10,000 pounds. A bus is a motor vehicle that is used to carry more than 8 people.

[2]This figure includes an unidentified number of carriers that are registered but are no longer in business. Carriers continually enter and exit the industry. Since 1998, the industry has increased in size by an average of about 29,000 interstate carriers per year.

[3]GAO, *Motor Carrier Safety: A Statistical Approach Will Better Identify Commercial Carriers That Pose High Crash Risks Than Does the Current Federal Approach*, GAO-07-585 (Washington, D.C.: June 11, 2007).

[4]FMCSA requires that states report crashes within 90 days. Sometimes states report crashes late. To allow for this occurrence, we analyzed data on crashes occurring from June 2004 through December 2005 that may have been reported as late as June 2006.

[5]GAO, *Internal Control: Standards for Internal Control in the Federal Government*, GAO/AIMD-00-21.3.1 (Washington, D.C.: Nov. 1999). In assessing the extent to which FMCSA's management of its compliance reviews is consistent with our internal controls, we were not able to verify the statements made by FMCSA and state officials and investigators about their performance and management of compliance reviews because doing so was not practicable given our time and resource constraints.

key internal controls through discussions with FMCSA officials in its headquarters as well as in 7 of FMCSA's 52 field division offices and reviews of policy documents and reports. To assess the extent to which FMCSA follows up with carriers with serious violations and assesses maximum fines in certain situations, we reviewed regulations and FMCSA policies directing how FMCSA must follow up and track these violators, analyzed data to determine if FMCSA had met these requirements, and held discussions with FMCSA officials. As part of our review, we assessed internal controls and the reliability of FMCSA's data on motor carriers' safety history and compliance review and enforcement activities pertinent to this effort. While there are known problems with the quality of the crash data reported to FMCSA, we determined that the data were sufficiently reliable for our use, which was to assess whether different approaches to categorizing carriers could lead to better identification of carriers that subsequently have high rates of crashes. We conducted our work from February 2006 through July 2007 in accordance with generally accepted government auditing standards.

By and large, FMCSA does a good job of identifying carriers that pose high crash risks for subsequent compliance reviews, ensuring the thoroughness and consistency of those reviews, and following up with high risk carriers. That being said, we have identified areas that could be improved. In summary:

- Overall, the data-driven model that FMCSA uses to identify carriers that pose high crash risks—the Motor Carrier Safety Status Measurement System (SafeStat)—does a good job of identifying carriers that pose high crash risks. In this regard, we found that it is nearly twice as effective (83 percent) as random selection in identifying carriers that pose high crash risks. Thus, in our view, it has value for improving safety. However, we believe that its effectiveness could be improved through either of two enhancements that we analyzed. One enhancement- entails applying a statistical approach, called the negative binomial regression model, to the four SafeStat safety evaluation areas (accidents and driver, vehicle, and safety management violations) instead of its current approach, which relies on expert judgment to assign weights to each of the four areas.[6] The other enhancement—the results of which are preliminary–uses the existing SafeStat overall design but places greater weight on carriers that scored among the worst in the accident safety evaluation area. Both enhancements performed better than the current SafeStat approach. For example, the regression approach identified carriers that had twice as many crashes in the subsequent 18 months than the current SafeStat approach identified. We believe that the negative binomial regression model approach offers a greater potential for improving safety over the other enhancement that we analyzed and the current SafeStat approach because it provides for a systematic assessment of the relative contributions of accidents and driver, vehicle, and safety management violations rather than the use of expert judgment to apply weights to these areas. FMCSA agreed that our approach looks promising but believes that placing more emphasis on crashes is counterproductive, in part, because it would have to place less emphasis on compliance with its safety management, vehicle, and driver regulations. We

[6]Negative binomial regression is often used to model count data (e.g., crashes).

disagree because the ultimate purpose of compliance reviews is to reduce the number and severity of truck and bus crashes, and high crash rates are stronger predictors of future crashes than is poor compliance with safety regulations.

- Our preliminary assessment showed that FMCSA's management of its compliance reviews meets our standards for internal controls, thereby promoting thoroughness and consistency. FMCSA records its compliance review policies and procedures in an electronic operations manual and distributes the manual to investigators and managers. FMCSA also trains investigators on these policies and procedures. Investigators we spoke with found both the electronic manual and the training to be effective means of communicating policies and procedures. FMCSA and state investigators use an information system to document the results of the compliance reviews. This information system supports thoroughness and consistency by alerting investigators if they are not following key policies or if data appears suspect; the system also provides managers readily available data to review. For the most part, FMCSA and state investigators cover the nine major applicable areas of the safety regulations (e.g., driver qualifications and vehicle repair and maintenance) in 95 percent or more of compliance reviews, demonstrating thoroughness and consistency.

- Our preliminary assessment showed that FMCSA follows up with many carriers with serious safety violations, but it does not assess maximum fines against all serious violators, as we believe is required by law. Following compliance reviews completed in fiscal year 2005, FMCSA followed up with at least 1,189 of 1,196 carriers (99 percent) that received a proposed safety rating of unsatisfactory following a compliance review that was completed in fiscal year 2005. For example, FMCSA found that 873 of these carriers made safety improvements and it placed 306 other carriers out of service. FMCSA monitors carriers to identify those that are violating out-of-service orders, but in fiscal years 2005 and 2006, it cited only 26 of 768 carriers that its monitoring showed had a roadside inspection or crash while subject to an out-of-service order. An FMCSA official told us that some of the 768 carriers, such as carriers that were operating intrastate,[7] may not have been violating the out-of-service order and that FMCSA did not have enough resources to determine whether each of the carriers was violating an out-of-service order. Finally, we found that while FMCSA assesses maximum fines against carriers that repeat a serious violation, it does not, as we believe federal law requires, assess maximum fines against carriers with a pattern of serious violations. In addition, FMCSA assesses maximum fines only for the third instance of a violation. We read the statute as requiring FMCSA to assess the maximum fine if a serious violation is repeated once—not only after it is repeated twice.

In our June report we recommended that FMCSA use a negative binomial regression model approach to identify carriers that pose high crash risks. We are considering

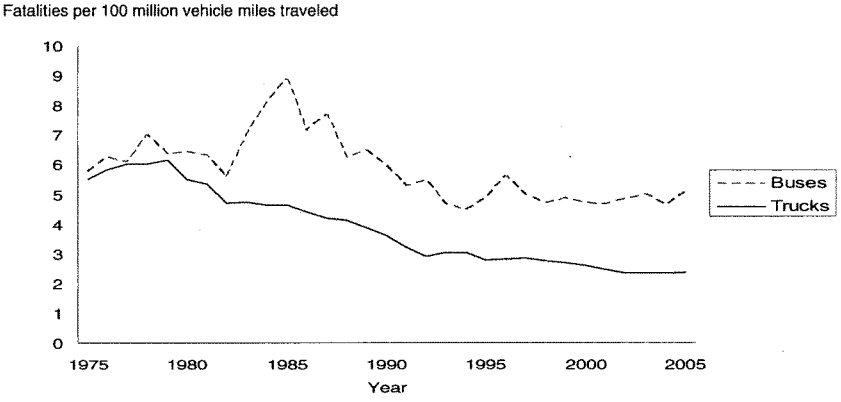
[7]Except for carriers of hazardous materials, FMCSA does not have the authority to prohibit motor carriers from operating intrastate.

making several recommendations based on our ongoing work, including that FMCSA assess maximum fines, as discussed above, in circumstances that we believe the law requires it to do so. Finally, we have also reported on other aspects of FMCSA's operations within the past 18 months. These products are listed at the end of this statement.

Background

In the United States, commercial motor carriers account for less than 5 percent of all highway crashes, but these crashes result in about 13 percent of all highway deaths, or about 5,500 of the approximately 43,000 nationwide highway fatalities that occur annually. In addition, about 160,000 of the approximately 3.2 million highway injuries per year involve motor carriers. While the fatality rate for trucks has generally decreased over the past 30 years, it has been fairly stable since 2002. (See fig. 1.) The fatality rate for buses decreased slightly from 1975 to 2005, but it has more annual variability than the fatality rate for trucks due to a much smaller total vehicle miles traveled.

Figure 1: Commercial Motor Vehicle Fatality Rate, 1975 to 2005



Source: GAO presentation of Department of Transportation data.

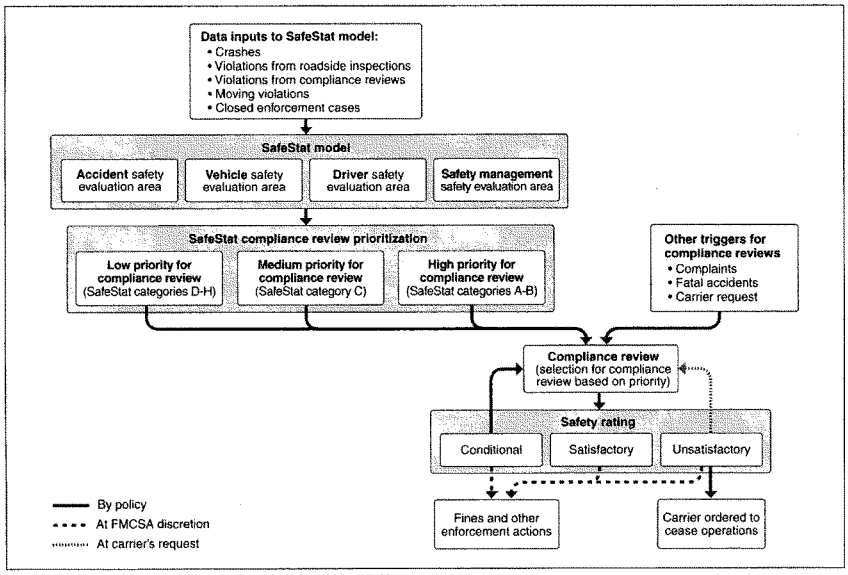
Notes: Fewer buses are involved in fatal or non-fatal accidents than large trucks, but they tend to involve more people. The latest year for which data were available was 2005.

FMCSA's primary mission is to reduce the number and severity of crashes involving large trucks and buses. FMCSA relies heavily on the results of compliance reviews to determine whether carriers are operating safely and, if not, to take enforcement action against them. FMCSA conducts these on-site reviews to determine carriers' compliance with safety regulations that address areas such as alcohol and drug testing of drivers,

driver qualifications, driver hours of service, vehicle maintenance and inspections, and transportation of hazardous materials.

FMCSA uses a data-driven analysis model called SafeStat to assess carriers' risks relative to all other carriers based on safety indicators, such as their crash rates and safety violations identified during roadside inspections and prior compliance reviews. A carrier's score is calculated based on its performance in four safety evaluation areas: accidents and driver, vehicle, and safety management violations. (See fig. 2.)

Figure 2: FMCSA's Safety Oversight Approach



Source: GAO and FMCSA.

FMCSA assigns categories to carriers ranging from A to H according to their performance in each of the safety evaluation areas. (See table 1.) Although a carrier may receive a value in any of the four safety evaluation areas, the carrier receives a SafeStat score only if it is deficient in two or more safety evaluation areas. The calculation used to determine a motor carrier's SafeStat score is:

SafeStat Score = 2 x accident value + 1.5 x driver value + vehicle value + safety management value

Table 1: SafeStat Categories

Category	Condition	Priority for compliance review
Deficient in two or more areas		
A	Deficient in all 4 safety evaluation areas or deficient in 3 safety evaluation areas that result in a weighted SafeStat score of 350 or more	High
B	Deficient in 3 safety evaluation areas that result in a weighted SafeStat score of less than 350 or deficient in 2 safety evaluation areas that result in a weighted SafeStat score of 225 or more	High
C	Deficient in 2 safety evaluation areas that result in a weighted SafeStat score of less than 225	Medium
Deficient in one area only		
D	Deficient in the accident safety evaluation area (area value between 75-100)	Low
E	Deficient in the driver safety evaluation area (area value between 75-100)	Low
F	Deficient in the vehicle safety evaluation area (area value between 75-100)	Low
G	Deficient in the safety management safety evaluation area (area value between 75-100)	Low
Not deficient in any area		
H	Not deficient in any of the safety evaluation areas	Low

Source: GAO summary of FMCSA data.

Based on the results of a compliance review, FMCSA assigns the carrier a safety rating of satisfactory, conditional, or unsatisfactory. The safety rating, which is distinct from a carrier's SafeStat category, reflects FMCSA's determination of a carrier's fitness to operate safely. FMCSA issues out-of-service orders to carriers rated unsatisfactory, and these carriers are not allowed to resume operating until they make improvements that result in an upgraded safety rating. Carriers rated conditional are allowed to continue operating, but FMCSA aims to conduct follow-up compliance reviews on these carriers. Regardless of a carrier's safety rating, FMCSA can assess a fine against a carrier with violations, and it is more likely to assess higher fines when these violations are serious.

SafeStat Identifies Many High-risk Carriers, but Enhancements Could Identify Carriers with Even Higher Risks

SafeStat identifies many carriers that pose a high risk for crashes and is about twice as effective (83 percent) as randomly selecting carriers for compliance reviews. As a result, it has value for improving motor carrier safety. However, two enhancements that we analyzed could lead to FMCSA identifying carriers that pose greater crash risks overall. These approaches entail giving more weight to crashes than the current SafeStat model does. FMCSA has concerns about these approaches, in part, because placing more emphasis on accidents would require it to place less emphasis on other types of problems. FMCSA recognizes that SafeStat can be improved, and as part of its Comprehensive Safety Analysis 2010 reform initiative–which is aimed at improving its processes for identifying and dealing with unsafe carriers–the agency is considering replacing SafeStat by 2010.

Using Either a Statistical Approach or Modifying Existing SafeStat Categorization Rules Could Improve Identification of High-risk Carriers

In June 2007, we reported that FMCSA could improve SafeStat's ability to identify carriers that pose high crash risks if it applied a statistical approach, called the negative binomial regression model, to the four SafeStat safety evaluation areas instead of its current approach.[8] We used this approach to determine whether systematic analyses of data through regression modeling offered improved results in identifying carriers that pose high crash risks over FMCSA's model, which uses expert judgment and professional experience to apply weights to each of the safety evaluation areas. The negative binomial model results in a rank order listing of carriers by crash risk and the predicted number of crashes. This differs from SafeStat's current approach, which gives the highest priority to carriers that are deficient in three or more safety evaluation areas or that score over a certain amount—SafeStat categories A and B. (See table 1.)

The other enhancement that we analyzed—the results of which are preliminary– utilized the existing SafeStat overall design but examined the effect of providing greater priority to carriers that scored among the worst 5 percent of carriers in the accident safety evaluation area (SafeStat category D). We chose this approach because we found that while the driver, vehicle, and safety management evaluation areas are correlated with the future crash risk of a carrier, the accident evaluation area correlates most with future crash risk.[9] This approach would retain the overall SafeStat framework and categorization—categories A through G for carriers with safety problems—but would substitute carriers in category D (the accident category) for carriers in categories A and B that have either (1) lower overall SafeStat scores or (2) lower accident area scores.

We compared the performance of our regression model approach and placing greater weight on carriers that scored among the worst 5 percent of carriers in SafeStat category D to the current SafeStat model. The comparison showed that both these approaches performed better than the current SafeStat approach. (See table 2.) For example, the regression model approach identified carriers with an average of 111 crashes per 1,000 vehicles over an 18-month period compared with the current SafeStat approach which identified carriers for compliance reviews with an average of 102 crashes per 1,000 vehicles. This 9 percent improvement would have enabled FMCSA to identify carriers with almost twice as many crashes in the following 18 months as those carriers identified in its current approach (19,580 v. 10,076).[10] Placing greater emphasis on carriers in category D provided superior results to the current SafeStat approach both in terms of identifying carriers with higher crash rates (from 6 to 9 percent higher) and greater number of crashes (from about 600 to 800 more). In addition, the regression approach also performed at least as well as placing greater emphasis on carriers in category D in

[8]GAO-07-585.

[9]These results corroborate studies performed by the Volpe National Transportation Systems Center and Oak Ridge National Laboratory. See GAO-07-585.

[10]On average, the negative binomial regression model approach identified larger motor carriers than did SafeStat, which is how a 9 percent increase in the crash rate translated into 9,500 additional crashes.

terms of identifying carriers with the highest crash rates and much better than the alternatives in identifying carriers with the greatest number of crashes.

Table 2: Regression Model Approach Compared With Refined Categorizations of SafeStat Results and with Current SafeStat Approach

Approach	Crash rate[a]	Number of crashes in 18 months
Regression model approach	111.4	19,580
Refined categorization alternative 1: substitute SafeStat category D (accident) carriers for category A and B carriers with the lowest overall SafeStat scores	111.0	10,682
Refined categorization alternative 2: substitute SafeStat category D (accident) carriers for category A and B carriers with the lowest accident area scores	107.8	10,887
Current SafeStat approach	102.2	10,076

Source: GAO analysis of FMCSA data.

[a]Crash rates are crashes per 1,000 vehicles in the 18 months following the June 2004 SafeStat categorization.

Note: The relationship between number of crashes and the crash rate is not linear because the different analyses identified carriers with different fleet sizes as posing a high crash risk.

Because both the approaches that we analyzed would result in a larger number of carriers that pose high crash risks, FMCSA would choose the number of carriers to review based on the resources available to it, much as it currently does.

We believe that our statistically based regression model is preferable to placing greater weight on carriers in category D because it provides for a systematic assessment of the relative contributions of accidents and driver, vehicle, and safety management violations. We recommended that FMCSA adopt such an approach. That is, by its very nature the regression approach looks for the "best fit" in identifying the degree to which prior accidents and driver, vehicle, and safety management violations identify the likelihood of carriers having crashes in the future, compared to the current SafeStat approach, in which the relationship among the four evaluation areas is based on expert judgment. In addition, because the regression model could be run monthly—as is the current SafeStat model—any change in the degree to which accidents and driver, vehicle, and safety management violations better identify future crashes will be automatically considered as different weights to the four evaluation areas are assigned. This is not the case with the current SafeStat model, in which the evaluation area weights generally remain constant over time.[11]

FMCSA agreed that use of a negative binomial regression model looks promising but officials said that the agency believes that placing more emphasis on the accident area would be counterproductive. First, FMCSA is concerned that this would require placing correspondingly less emphasis on the types of problems the compliance review is designed to address so that crashes can be reduced (i.e., the lack of compliance with

[11]The weights on the safety evaluation areas have remained unchanged since September 1999, when the weight on the driver area was increased from 1.0 to 1.5.

safety regulations related to drivers, vehicles, and safety management that is captured in the other evaluation areas). Along this line, FMCSA said that compliance reviews of carriers in SafeStat category D have historically resulted in fewer serious violations than compliance reviews of carriers in SafeStat category A or B. We agree with FMCSA that the use of the approaches that we are discussing here today could tilt enforcement heavily toward carriers with high crash rates and away from carriers with compliance issues. We disagree, however, that this would be counterproductive. We found that while driver, vehicle, and safety management evaluation area scores are correlated with the future crash risk of a carrier, high crash rates are a stronger predictor of future crashes than poor compliance with safety regulations. FMCSA's mission—as well as the ultimate purpose of compliance reviews—is to reduce the number and severity of truck and bus crashes.

Second, FMCSA officials said that placing more emphasis on the accident evaluation area would increase emphasis on the least reliable type of data used by SafeStat—crash data—and in so doing, it would increase the sensitivity of the results to crash data quality issues. However, in June 2007 we reported that FMCSA has made considerable efforts to improve the reliability of crash data. The report also concluded that as FMCSA continues its efforts to have states improve crash data, any sensitivity of results from our statistically based model to crash data quality issues should diminish.

FMCSA Is Considering Replacing SafeStat with a New Tool by 2010

As part of its Comprehensive Safety Analysis 2010, a reform initiative aimed at improving its processes for identifying and dealing with unsafe carriers and drivers, FMCSA is considering replacing SafeStat with a new tool by 2010. The new tool could take on greater importance in FMCSA's safety oversight framework because the agency is considering using the tool's assessments of carriers' safety to determine whether carriers are fit to continue operating. In contrast, SafeStat is primarily used now to prioritize carriers for compliance reviews, and determinations of operational fitness are made only after compliance reviews are completed. FMCSA also plans to develop a tool to assess the safety status of individual drivers, along with tools for dealing with unsafe drivers. Even though FMCSA is considering replacing SafeStat, we believe that implementing either of the approaches discussed in this statement would be worthwhile because it would be relatively easy to do and result in immediate safety benefits that could save lives.

FMCSA's Management of Its Compliance Reviews Promotes Thoroughness and Consistency

Our preliminary assessment is that FMCSA manages its compliance reviews in a way that meets our standards for internal control, thereby promoting thoroughness and consistency in the reviews.[12] It does so by establishing compliance review policies and procedures through an electronic manual and training, using an information system to document the results of its compliance reviews, and monitoring performance. We also

[12]See GAO/AIMD-00-21.3.1.

found that compliance reviews cover most of the major areas of the agency's safety regulations.

FMCSA Communicates Its Compliance Review Policies and Procedures through an Electronic Manual and Training

FMCSA's communication of its policies and procedures related to conducting compliance reviews meets our standards for internal control. These standards state that an organization's policies and procedures should be recorded and communicated to management and others within the entity who need it and in a form (that is, for example, clearly written and provided as a paper or electronic manual) and within a time frame that enables them to carry out their responsibilities. FMCSA records and communicates its policies and procedures electronically through its *Field Operations Training Manual*, which it provides to all federal and state investigators and their managers. The manual includes guidance on how to prepare for a compliance review (for example, by reviewing information on the carrier's accidents, drivers, and inspections), and it explains how this information can help the investigator focus the compliance review. It also specifies the minimum number of driver and vehicle maintenance records to be examined and the minimum number of vehicle inspections to be conducted during a compliance review. FMCSA posts updates to the manual that automatically download to investigators and managers when they connect to the Internet. In addition to the manual, FMCSA provides classroom training to investigators and requires that investigators successfully complete that training and examinations before they conduct a compliance review. According to FMCSA officials, investigators then receive on-the-job training, in which they accompany an experienced investigator during compliance reviews. Investigators can also take additional classroom training on specialized topics throughout their careers.

FMCSA Investigators Use an Information System to Document the Results of Compliance Reviews

FMCSA's documentation of compliance reviews meets our standards for internal control. These standards state that all transactions and other significant events should be clearly and promptly documented, and the documentation should be readily available for examination. FMCSA and state investigators use an information system to document the results of their compliance reviews, including information on crashes and any violations of the safety regulations that they identify. This documentation is readily available to FMCSA managers, who told us that they review it to help ensure completeness and accuracy. FMCSA officials told us that the information system also helps ensure thoroughness and consistency by prompting investigators to follow FMCSA's policies and procedures, such as requirements to meet a minimum sample size. The information system also includes checks for consistency and reasonableness and prompts investigators when the information they enter appears to be inaccurate. FMCSA said managers may assess an investigator's thoroughness by comparing the rate of violations the investigator identified over the course of several compliance reviews to the average rate for investigators in their division office; a rate that is substantially below the average suggests insufficient thoroughness.

FMCSA Monitors the Performance of Its Compliance Reviews and Has Taken Actions to Address Identified Issues

FMCSA's performance measurement and monitoring of its compliance review activities meet our standards for internal control. These standards state that managers should compare actual performance to planned or expected results and analyze significant differences. According to FMCSA and state managers and investigators, the managers review all compliance reviews in each division office and state to ensure thoroughness and consistency across investigators and across compliance reviews. The investigators we spoke with generally found these reviews to be helpful, and several investigators said that the reviews helped them learn policies and procedures and ultimately perform better compliance reviews.

In addition to assessing the performance of individual investigators, FMCSA periodically assesses the performance of FMCSA division offices and state agencies and conducted an agencywide review of its compliance review program in 2002. According to officials at one of FMCSA's service centers, the service centers lead triennial reviews of the compliance review and enforcement activities of each division office and its state partner. These reviews assess whether the division offices and state partners are following FMCSA policies and procedures, and they include an assessment of performance data for items such as the number of compliance reviews conducted, rate of violations identified, and number of enforcement actions taken. The officials said that some reviews identify instances in which division offices have deviated from FMCSA's compliance review policies but that only minor adjustments by the division offices are needed. The officials also said that the service centers compile best practices identified during the reviews and share these among the division offices and state partners.

FMCSA's review also concluded that most investigators were not following FMCSA's policy requiring them to perform vehicle inspections as part of a compliance review if the carrier had not already received the required number of roadside vehicle inspections.[13] Since conducting its 2002 review, FMCSA changed its policy so that inspecting a minimum number of vehicles is no longer a strict requirement—if an investigator is unable to inspect the minimum number of vehicles, he or she must explain why in the compliance review report.[14]

Each of the Major Applicable Areas of the Safety Regulations Is Consistently Covered by Most Compliance Reviews

From fiscal year 2001 through fiscal year 2006, each of the nine major applicable areas of the safety regulations was consistently covered by most of the approximately 76,000 compliance reviews conducted by FMCSA and the states. (See table 3.) For the most

[13]The required number of inspections is based on the number of vehicles operated by the carrier and subject to federal regulations.

[14]An inspector would not be able to inspect the minimum number of vehicles if, for example, fewer than the minimum number of vehicles were available on-site for inspection.

part, 95 percent or more of the compliance reviews covered each major applicable area in the agency's safety regulations.

Table 3: Percentage of Compliance Reviews for Fiscal Years 2001 through 2006 That Covered Each of the Major Applicable Areas of the Safety Regulations

Regulatory area	Percent
Procedures for handling and evaluating accidents	97
Drivers' qualifications	96
Drivers' hours of service	96
Inspection, repair, and maintenance of vehicles	96
Drug and alcohol use and testing	95
Commercial driver's license standards	95
Driving of motor vehicles	94
Minimum insurance coverage	90
Vehicle parts and accessories necessary for safe operation	80

Source: GAO analysis of FMCSA data.

An FMCSA official told us that not every compliance review is required to cover these nine areas. For example, follow-up compliance reviews of carriers rated unsatisfactory or conditional are sometimes streamlined to cover only the one or a few areas of the regulations in which the carrier had violations. As another example, minimum insurance coverage regulations apply only to for-hire carriers and private carriers of hazardous materials; they do not apply to private passenger and nonhazardous materials carriers.

However, according to an FMCSA official, the area of these regulations that had the lowest rate of coverage—vehicle parts and accessories necessary for safe operation—is required for all compliance reviews except streamlined reviews. Vehicle inspections are supposed to be a key investigative technique for assessing compliance with this area, and an FMCSA official said that the lower rate of coverage for the parts and accessories area likely reflects the small number of vehicle inspections that FMCSA and the states conduct during compliance reviews.

FMCSA Follows Up with Many Carriers with Serious Safety Violations but Does Not Assess Maximum Fines for All of the Violations Required by Law

Our preliminary assessment is that FMCSA placed many carriers rated unsatisfactory in fiscal year 2005 out of service and followed up with nearly all of the rest to determine whether they had improved. In addition, FMCSA monitors carriers to identify those that are violating out-of-service orders. However, it does not take additional action against many violators of out-of-service orders that it identifies. Furthermore, FMCSA does not assess maximum fines against all carriers, as we believe the law requires, partly because FMCSA does not distinguish between carriers with a pattern of serious safety violations and those that repeat a serious violation.[15]

[15]In December 2005, we reported more fully on FMCSA's enforcement activities. See GAO, *Large Truck Safety: Federal Enforcement Efforts Have Been Stronger Since 2000, but Oversight of State Grants Needs Improvement*, GAO-06-156 (Washington, D.C.: Dec. 15, 2005).

FMCSA Followed Up with Almost All Carriers That Received a Proposed Safety Rating of Unsatisfactory

FMCSA followed up with at least 1,189 of 1,196 carriers (99 percent) that received a proposed safety rating of unsatisfactory following compliance reviews completed in fiscal year 2005. These follow-ups resulted in either upgraded safety ratings or the carriers being placed out of service. Specifically,

- Based on follow-up compliance reviews, FMCSA upgraded the final safety ratings of 658 carriers (325 to satisfactory and 333 to conditional).

- FMCSA assigned a final rating of unsatisfactory to 309 carriers. FMCSA issued out-of-service orders to 306 of these carriers. An FMCSA official told us that it did not issue out-of-service orders to the remaining three carriers either because the agency could not locate them or because the carrier was still subject to an out-of-service order that FMCSA issued several years prior to the 2005 compliance review.

- After FMCSA reviewed evidence of corrective action submitted by carriers, it upgraded the final safety ratings of 214 carriers (23 to satisfactory and 191 to conditional).

- Due to an error in assigning the proposed safety rating to one carrier, FMCSA upgraded its final safety rating to conditional.

For the remaining 14 carriers, FMCSA did not (1) provide us information on whether and how it followed up with 7 carriers in time for us to incorporate it in this statement and (2) respond to our request to clarify its follow-up approach for another 7 carriers in time for us to incorporate it in this statement.

Under its policies, FMCSA is generally required to assign the carrier a final rating of unsatisfactory and to issue it an out-of-service order after either 45 or 60 days, depending on the nature of the carrier's business.[16] Of the about 300 out-of-service orders that FMCSA issued to carriers rated unsatisfactory following compliance reviews conducted in fiscal year 2005, FMCSA told us that 89 percent were issued on time, 9 percent were issued between 1 and 10 days late, and 2 percent were issued more than 10 days late. We are working with FMCSA to verify these numbers. An FMCSA official told us that in the few instances where an out-of-service order was issued more than 1 week late, the primary reason for the delay was that the responsible FMCSA division office had difficulty scheduling follow-up compliance reviews and thus held off on issuing the orders.

[16]Under certain circumstances (for example, if the carrier is making good faith efforts to improve its safety), FMCSA may allow a carrier with a proposed rating of unsatisfactory to continue to operate for a limited time.

FMCSA Monitors Carriers to Identify Those That Are Violating Out-of-Service Orders, but It Does Not Take Additional Action against Many of the Violators It Identifies

FMCSA uses two primary means to try to ensure that carriers that have been placed out of service do not continue to operate. First, FMCSA partners with states to help them suspend, revoke, or deny vehicle registration to carriers that have been placed out of service. FMCSA refers to these partnerships as the Performance and Registration Information Systems Management program (PRISM). PRISM links FMCSA databases with state motor vehicle registration systems and roadside inspection personnel to help identify vehicles operated by carriers that have been issued out-of-service orders. As of January 2007, 45 states had been awarded PRISM grants and 27 states were operating with PRISM capabilities.

Second, FMCSA monitors carriers for indicators—such as roadside inspections, moving violations, and crashes—that they may be violating an out-of-service order and visits some of the suspect carriers to examine their records to determine whether they did indeed violate the order. FMCSA told us it is difficult to detect carriers operating in violation of out-of-service orders because its resources do not allow it to visit each carrier or conduct roadside inspections on all vehicles, and we agree. In fiscal years 2005 and 2006, 768 of 1,996 carriers (38 percent) that were subject to an out-of-service order had a roadside inspection or crash; FMCSA cited only 26 of these 768 carriers for violating an out-of-service order. An FMCSA official told us that some of these carriers, such as carriers that were operating intrastate or that had leased its vehicles to other carriers, may not have been violating the out-of-service order. He said that FMCSA did not have enough resources to determine whether each of the carriers was violating an out-of-service order.

FMCSA Conducted Compliance Reviews on About Half of All High-risk Carriers That It Was Required to By Statute

From August 2006 through February 2007, FMCSA data indicate that the agency performed compliance reviews on 1,136 of the 2,220 (51 percent) carriers that were covered by its mandatory compliance review policy.[17] The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users act requires that FMCSA conduct compliance reviews on carriers rated as SafeStat category A or B for 2 consecutive months. In response to this requirement, FMCSA implemented a policy in June 2006 requiring a compliance review within 6 months for any such carrier unless the carrier had received a compliance review within the previous 12 months. An FMCSA official told us that the agency did not have enough resources to conduct compliance reviews on all of the 2,220 carriers within 6 months.

In April 2007, FMCSA revised the policy because it believes that it required compliance reviews for some carriers that did not need them, leaving FMCSA with insufficient

[17]An FMCSA official told us that the agency believes that these data overestimate the number of carriers that were required to but did not receive a compliance review, primarily because FMCSA has indications that some carriers are actually inactive.

resources to conduct compliance reviews on other carriers that did need them. Specifically, FMCSA believes that carriers that had already had a compliance review were targeted unnecessarily after they had corrected identified violations, but these violations continued to adversely affect their SafeStat rating because SafeStat penalizes carriers for violations regardless of whether they have been corrected. The new policy requires compliance reviews within 6 months for carriers that have been in SafeStat category A or B for 2 consecutive months and received their last compliance 2 or more years ago (or have never received a compliance review) and offers some discretion to FMCSA division offices. For example, division offices can decide not to conduct a compliance review if its SafeStat score is based largely on violations that have been corrected or on accidents that occurred prior to the carrier's last compliance review. We believe that these changes are consistent with the act's requirement and give FMCSA appropriate discretion in allocating its compliance review resources.

FMCSA Does Not Assess Maximum Fines for All the Violations Required by Law

FMCSA does not assess the maximum fines against all carriers that we believe the law requires. The law requires FMCSA to assess the maximum allowable fine for each serious violation by a carrier that is found (1) to have committed a pattern of such violations (pattern requirement) or (2) to have previously committed the same or a related serious violation (repeat requirement).[18] However, FMCSA's policy on maximum fines does not fully meet these requirements. FMCSA enforces both requirements using what is known as the "three-strikes rule," applying the maximum allowable fine when it finds that a motor carrier has violated the same regulation three times within a 6-year period. FMCSA officials said they interpret both parts of the act's requirements to refer to repeat violations, and because they believe that having two distinct policies on repeat violations would confuse motor carriers, it has chosen to address both requirements with its single three-strikes policy.

FMCSA's interpretation does not carry out the statutory mandate to impose maximum fines in two different cases. In contrast to FMCSA, we read the statute's use of the distinct terms "a pattern of violations" and "previously committed the same or a related violation" as requiring FMCSA to implement two distinct policies. A basic principle of statutory interpretation is that distinct terms should be read as having distinct meanings. In this case, the statute not only uses different language to refer to the violations for which maximum fines must be imposed, but also sets them out separately and makes either type of violation subject to the maximum penalties. Therefore, one carrier may commit a variety of serious violations and another carrier may commit the same or a substantially similar serious violation as a previous violation; the language on its face requires FMCSA to assess the maximum allowable fine in both situations—patterns of violations as well as repeat offenses.

FMCSA could define a pattern of serious violations in numerous ways that are consistent with the act's pattern requirement. Our assessment of eight potential definitions shows

[18]Motor Carrier Safety Improvement Act of 1999, Pub. L. 106-159, § 222(b)(2), 113 Stat. 1748, 1769 (49 U.S.C.A. § 521 Note).

that the number of carriers that would be subject to maximum fines depends greatly on the definition. (See table 4.) For example, a definition calling for two or more serious violations in each of at least four different regulatory areas during a compliance review would have made 38 carriers subject to maximum fines in fiscal year 2006. In contrast, a definition calling for one or more serious violations in each of at least three different regulatory areas would have made 1,529 carriers subject to maximum fines during that time.[19]

Table 4: Number of Motor Carriers That Would Have Been Subject to Maximum Fines under Various Definitions of a Pattern of Serious Violations, Fiscal Years 2004 through 2006

	Number of carriers in 2004 with		Number of carriers in 2005 with		Number of carriers in 2006 with	
Regulatory areas with serious violations	1 or more serious violations per area	2 or more serious violations per area	1 or more serious violations per area	2 or more serious violations per area	1 or more serious violations per area	2 or more serious violations per area
2 or more	2,935	177	3,004	158	3,348	225
3 or more	1,372	64	1,430	58	1,529	114
4 or more	494	16	557	25	530	38
5 or more	83	2	115	9	115	7

Source: GAO analysis of FMCSA data.

We also interpret the statutory language for the repeat requirement as calling for a "two-strikes" rule as opposed to FMCSA's three-strikes rule interpretation. FMCSA's interpretation imposes the maximum fine only after a carrier has twice previously committed such violations. The language of the statute does not allow FMCSA's interpretation; rather, it requires FMCSA to assess the maximum allowable fine for each serious violation against a carrier that has previously committed the same serious violation.[20]

In fiscal years 2004 through 2006, more than four times as many carriers had a serious violation that constituted a second strike than carriers that had a third strike. (See table 5.) For example, in fiscal year 2006, 1,320 carriers had a serious violation that constituted a second strike, whereas 280 carriers had a third strike.

[19]Our definitions are for analysis purposes only. We are not suggesting which, if any, of these pattern definitions FMCSA should adopt as its policy, nor is our exclusive focus on patterns involving only violations identified during a single compliance review meant to suggest that the definition of pattern could not require that serious violations occur over multiple compliance reviews.

[20]The statute (section 222(c)) does allow the Secretary to determine and document that extraordinary circumstances merit a lower than maximum fine in a particular case, if for example a carrier can establish that repetition was not a result of its failure to take appropriate remedial action.

Table 5: Number of Motor Carriers That Would Have Been Subject to Maximum Fines under Two-strikes and Three-strikes Repeat Violator Policies, Fiscal Years 2004 through 2006

Policy	2004	2005	2006	Total
Two strikes	1,251	1,292	1,320	3,863
Three strikes[a]	269	284	280	833

Source: GAO analysis of FMCSA data.

[a]FMCSA's policy currently assesses the maximum fine for 3 violations in the same regulatory area.

Up to 43 percent of carriers in each of the eight definitions of pattern we developed also had a second strike violation. For example, three of the seven (43 percent) carriers that had two or more serious violations in each of at least five different regulatory areas also had a second strike in fiscal year 2006. Were FMCSA to make policy changes along the lines discussed here, we believe that the new policies should address how to deal with carriers with serious violations that both are part of a pattern and repeat the same or similar previous violations.

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Mr. Chairman, this concludes my prepared statement. I would be pleased to respond to any questions that you or other Members of the Subcommittee might have.

GAO Contacts and Staff Acknowledgement

For further information on this statement, please contact Susan Fleming at (202) 512-2834 or flemings@gao.gov. Individuals making key contributions to this testimony were David Goldstein, Eric Hudson, and James Ratzenberger.

Related GAO Products

Motor Carrier Safety: A Statistical Approach Will Better Identify Commercial Carriers That Pose High Crash Risks Than Does the Current Federal Approach. GAO-07-585. Washington, D.C.: June 11, 2007.

Unified Motor Carrier Fee System: Progress Made but Challenges to Implementing New System Remain. GAO-07-771R. Washington, D.C.: May 25, 2007.

Consumer Protection: Some Improvements in Federal Oversight of Household Goods Moving Industry Since 2001, but More Action Needed to Better Protect Individual Consumers. GAO-07-586. Washington, D.C.: May 16, 2007.

Transportation Security: DHS Efforts to Eliminate Redundant Background Check Investigations. GAO-07-756. Washington, D.C.: April 26, 2007.

Truck Safety: Share the Road Safely Pilot Initiative Showed Promise, but the Program's Future Success Is Uncertain. GAO-06-916. Washington, D.C.: September 8, 2006.

Federal Motor Carrier Safety Administration: Education and Outreach Programs Target Safety and Consumer Issues, but Gaps in Planning and Evaluation Remain. GAO-06-103. Washington, D.C.: December 19, 2005.

Large Truck Safety: Federal Enforcement Efforts Have Been Stronger Since 2000, but Oversight of State Grants Needs Improvement. GAO-06-156. Washington, D.C.: December 15, 2005.

Highway Safety: Further Opportunities Exist to Improve Data on Crashes Involving Commercial Motor Vehicles. GAO-06-102. Washington, D.C.: November 18, 2005.

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Testimony of
Deborah A. P. Hersman, Member
National Transportation Safety Board
before the
Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
U.S. House of Representatives
"Motor Carrier Safety: The Federal Motor Carrier Safety Administration's Oversight of High Risk Carriers"
July 11, 2007

Good afternoon Chairman DeFazio, Ranking Member Duncan, and Members of the Subcommittee. Thank you for allowing me the opportunity to present testimony on behalf of the National Transportation Safety Board regarding the Federal Motor Carrier Safety Administration's (FMCSA) Oversight of High Risk Carriers. I am privileged to represent an agency that is dedicated to the safety of the traveling public.

Overview

As you know, the Safety Board is charged with investigating major transportation accidents, including highway accidents, determining their probable cause, and making recommendations to prevent similar accidents from happening again. Changes in highway or vehicle design, driver training, occupant protection, and regulatory oversight are frequently recommended.

Environment

Every day there are approximately 19,000 accidents on our nations highways causing over 43,000 fatalities and 3 million injuries each year. The economic cost of these accidents is estimated to be about $231 billion a year, or over $800 for every person living in the United States. Without even attempting to calculate the emotional losses to the families of these victims, just the economic cost is a tremendous burden on our society. Accidents involving large trucks comprise approximately 10% of the fatalities on our highways.

Highway accident investigations present their own set of unique circumstances for the Board. As you know, the regulation and oversight of the aviation industry is solely a Federal function and receives oversight solely from the Federal Government through the Federal Aviation Administration and accident investigation by the NTSB.

In contrast, highway accident investigation and regulation is very decentralized. Virtually all of the 7 million highway accidents are investigated at the state and local level by over 18,000 police departments who employ some 800,000 staff. They

investigate the majority of these accidents and provide an invaluable service to the safety community by documenting the circumstances of these accidents. Their hard, dedicated work greatly assists the Board in our investigations and the data they gather feeds into national databases that assists in the decision making of federal regulator agencies such as the National Highway Traffic Safety Administration (NHTSA), the FMCSA, the Federal Highway Administration (FHWA) and others.

However, in this highly decentralized environment, the Safety Board provides a unique service. The Board is virtually the only organization that conducts comprehensive, thorough highway accident investigations that drill down into the root cause of accidents. These investigations are conducted in the same objective, comprehensive, and independent manner as the NTSB's aviation investigations and we usually find root causes that are not readily apparent from more cursory investigations conducted by state and local governments. Our investigations afford us the opportunity to make safety recommendations on highway safety issues that other organizations may be unaware of or may have overlooked.

Accident Selection Criteria

Because of the Board's small size our effectiveness depends on our ability to select the most appropriate accidents and safety issues to investigate each year; issues and accidents that will lead to recommendations that will make a substantial contribution to the safety of the nation's highway system. Given the volume of highway accidents, this is not an easy task, and precludes any rote formula for selecting accidents.

Recognizing this, the Board's mandate in Chapter 11 of *United States Code* 49 is very broad. It charges the NTSB with investigating "highway accidents, including railroad grade crossing accidents, the Board selects in cooperation with a State." With 7 million accidents per year (19,000 per day), the Board must be highly selective in choosing accidents that will identify nation-wide highway safety issues. Therefore, before we launch on an accident, we ask four basic questions:

- Is there high public interest?
- Are there potentially new issues, which we or others have not addressed?
- Can we make a difference?
- Do we have the resources?

Recent Safety Issues Uncovered

The Board's small highway staff delivers considerable value for the citizens of the United States by thoroughly investigating selective accidents and identifying new safety issues. Just in the past year the Safety Board has addressed a number of important highway safety issues including highway median barriers, toll plaza designs, collision warning systems, heavy vehicle and passenger vehicle incompatibility highway construction oversight, cell phone use by bus drivers, motorcoach occupant protection,

inconsistencies in Federal accident databases, emergency egress from motorcoaches, fire resistance of motorcoach materials and designs, motorcoach wheel bearing maintenance, transportation of aluminum cylinders, emergency transportation of persons with special needs, and motorcycle safety.

Today I would like to focus on the following issues involving truck and motorcoach safety:

- FMCSA Oversight
- FMCSA's Compliance Review Process
- Motorcoach Maintenance and Oversight by FMCSA
- Medically Unqualified Drivers
- EOBRS for HOS

One of the reasons I am particularly proud to work for the Safety Board is that when tragedies do occur, the Safety Board restores the public's confidence in our transportation systems by conducting thorough, objective and transparent investigations. Ultimately the Safety Board issues recommendations to fix the system so similar tragedies can be prevented in the future.

Boston "Big Dig" Tunnel Accident

For example, when the ceiling panels collapsed in one of the Big Dig tunnels in Boston last year, the Congress immediately turned to the Safety Board to investigate this tragedy because of our reputation for thorough, independent accident investigations; and our independence is the key. Any number of other organizations could have conducted an investigation, and many still are, but for such a high-profile, high-cost, high-visibility project as the Big Dig, with all the problems that it has had, the Congress recognized that the public needed an independent body to lead this investigation.

Just yesterday the Board met to discuss the final report for this complex investigation. The Board had excellent cooperation and invaluable assistance from the U.S. Department of Justice – U.S. Attorney's Office for Massachusetts, the Department of Transportation, Office of the Inspector General, the FHWA, the Office of the Massachusetts Attorney General, and the Massachusetts State Police.

As you may recall, the accident occurred on July 10, 2006 when a section of the ceiling panels of the D Street portal of the I-90 connector tunnel became detached from the tunnel and fell onto the roof of a sedan, killing one of the two occupants. A total of about 26 tons of concrete and suspension hardware fell onto the vehicle.

This investigation presented its own unique set of issues, including:

- Understanding the basic structural properties of epoxy that was used to suspend the concrete panels;

- Understanding the differences between different types of epoxy and how they perform over time;
- Tunnel inspection requirements;
- Tunnel ceiling designs and construction; and
- The decision process in determining the design, materials, and construction of the tunnel ceiling.

The 30 NTSB staff that worked on this investigation (almost 10 percent of the agency) examined the role of 24 organizations (15 of which were potentially associated with the cause), sifted through 400,000 documents, and completed the investigation and report in one year (roughly half the time of an average investigation).

FMCSA Compliance Review Process

In 2000, the Board added the issue area of commercial truck and bus safety to our "Most Wanted List of Transportation Safety Improvements". Since that time, the issues within this broad category have changed somewhat, however, the Board continues to address a number of critical issues regarding trucks, buses, and the safety of our nations highways.

One issue in this area is motor carrier safety fitness ratings. The recommendation on the Most Wanted List urges the FMCSA to:

> "Change the way safety fitness ratings are determined so adverse vehicle and driver performance alone are sufficient to result in an overall unsatisfactory rating for the carrier."

The Board originally issued this recommendation in 1999 in a Special Study on Selective Motorcoach Issues. We reiterated the recommendation in 2002 in our Mountainburg, Arkansas truck/school bus accident report and again in our 2007 report on the motorcoach fire that occurred near Dallas, Texas killing 23 passengers. Our goal is to prevent motor carriers from putting vehicles with mechanical problems on the road and unqualified drivers behind the wheel.

Currently, motor carriers are given safety ratings based on compliance reviews conducted by the FMCSA. Carriers are rated on six safety fitness factors:

- General – including financial responsibility, insurance coverage, drug and alcohol programs
- Driver – including qualifications and training
- Operations – including management controls, scheduling practices, allowing violations of rules, false reports, failing to maintain records
- Vehicle – including maintenance
- Hazardous materials – including failure to follow regulations, and
- Accident rate

A motor carrier can receive an unsatisfactory overall rating if two elements are rated unsatisfactory. An overall unsatisfactory rating can lead to a carrier being ordered to cease operations.

However, the Safety Board's investigations have demonstrated that the two most important factors in safe motor carrier operations are the operational condition of the vehicles, and the performance of the drivers who drive them.

Since this recommendation was originally issued and later reiterated in two accident reports, the FMCSA has planned or carried out a variety of efforts to address our concerns. For example, there was a proposed NPRM in 2003, and a review of the SafeStat system in 2004 (SafeStat is the system that helps determine which companies should be subject to compliance reviews). However, the same system is still in place and the recommendation has not yet been satisfied.

For the safety of all highway users, the Board continues to believe that a motor carrier that does not ensure either the safe operation of its vehicles or drivers should receive an overall unsatisfactory safety rating.

In June of last year, the FMCSA briefed the Safety Board on their "Comprehensive Safety Analysis (CSA) 2010 Initiative" which they indicated would include a complete evaluation of the compliance review process leading to the development of a new performance based operational model for determining motor carrier safety, emphasizing preventative measures and early detection for unsafe driver and carrier conditions. Under CSA 2010, the FMCSA plans to decouple the safety fitness rating from the compliance review. They have started the process of developing a new safety fitness rating methodology that would be based on an objective measure of a driver or carrier's safety performance data. These safety ratings would be issued to all drivers and carriers. FMCSA expects to begin pilot testing the new rating system in fiscal year 2008.

Although late in coming, the Board believes FMCSA's current efforts represent a comprehensive review of the process of determining the safety of commercial motor carriers and the development of new system to accomplish that. Still, the Board continues to monitor FMCSA's actions and is concerned that accidents continue to occur involving motor carriers with poor oversight of their drivers and vehicles.

Oversight of Motorcoach Maintenance and Operations

As an illustration of the potential consequences of poor oversight of motorcoach operations, especially concerning the vehicle, the Board recently completed an investigation into a motorcoach fire near Dallas, Texas.

On September 23, 2005, a fire engulfed a motorcoach carrying elderly evacuees away from the predicted path of Hurricane Rita near Dallas, Texas. The 44 passengers

were from an assisted-living facility in Bellaire, Texas, and many needed to be carried or assisted onto the motorcoach by firefighters or nursing staff. Boarding took almost 2 hours. Twenty-three elderly passengers were unable to escape the blaze and died.

The following safety issues, related to the fire, were identified in this investigation and the Board made recommendations in each of these areas:

- Emergency egress from motorcoaches;
- Fire resistance of motorcoach materials and designs;
- Transportation of partially pressurized aluminum cylinders; and
- Vehicle fire reporting and inadequate and inconsistent data within Federal accident databases.

However, the fire in this accident would not have occurred had the motorcoach been properly maintained. The Safety Board determined that the cause of the fire was insufficient lubrication in the right-side tag axle wheel bearing assembly of the motorcoach, which resulted in increased temperatures and subsequent failed wheel bearings. The high temperatures resulting from the friction led to the ignition of the tire and a catastrophic fire. This occurred because the motorcoach operator, Global Limo, Inc., failed to detect this lack of lubrication and FMCSA failed to provide proper oversight of the motor carrier through its compliance review process.

Here is what the Board found:

- The accident motorcoach was mechanically unsafe because the right-side tag axle wheel bearing assembly lacked sufficient lubrication, which resulted in high frictional forces and high temperatures, causing the wheel bearings to fail, overheat and ignite the tire.

- Because neither Global nor its employees routinely inspected the hub oil level or undercarriage of the wheel well, they did not discover the lack of lubrication of the tag axle wheel bearings. This disregard for vehicle maintenance, pre-trip inspections, and post-trip driver vehicle inspection reports led to a wheel bearing failure that resulted in a catastrophic fire and loss of life.

- Global Limo Inc. violated several Federal safety regulations pertaining to its drivers and vehicles, thereby exhibiting a lack of concern for safety management controls. For example, with reference to driver violations, they did not ensure that their drivers were properly licensed to drive a motorcoach in the United States, and failed to conduct the required post-accident alcohol and illicit drug testing. With reference to vehicle violations, they operated a passenger-carrying commercial vehicle, which had an expired temporary trip tag, was not registered in the United States, displayed the license plate from another vehicle, and had not been systematically or adequately maintained. These violations especially concern the Safety Board because we have repeatedly made recommendations

to FMCSA to place greater emphasis on driver and vehicle violations in its compliance review process.

- Federal regulations and inspection criteria do not require inspection of wheel bearings to ensure adequate lubrication and thereby prevent wheel bearing failure and resulting wheel well fires.

- Most motorcoach maintenance manuals do not provide a specific warning of the danger of inadequate wheel bearing lubrication and the potentially serious consequences of wheel bearing failures.

- Although FMCSA collects data on numerous safety violations when it conducts compliance reviews of motor carriers, ironically, approximately 85% of those violations are not included in the calculations of the motor carriers' rating. By not recognizing these violations in its calculations, FMCSA is allowing potentially unsafe carriers to continue to operate without consequence.

- Finally, as we have done in several accident investigations over the past 8 years, the Safety Board again concluded that the current FMCSA compliance review process does not effectively identify unsafe motor carriers and prevent them from operating, especially when violations are found in the areas of driver and vehicle safety.

Unfortunately, FMCSA is only able to conduct compliance reviews for a small fraction of the almost 911,000 motor carriers in this country. However, in this particular accident, numerous driver and vehicle safety violations were uncovered in a review performed by the Texas Department of Public Safety (DPS) in April 2002. At the time, the Texas DPS had no authority to force Global to cease operations. In February 2004, FMCSA conducted a compliance review of Global in which it found similar violations pertaining to drivers and vehicles. However, FMCSA rated Global as "satisfactory." Finally, 19 months later, after the bus fire near Dallas, FMCSA went back to Global and conducted another compliance review in September 2005. In this review, FMCSA found many of the same violations as in its previous compliance review; however, this time FMCSA gave Global a safety rating of "unsatisfactory" and declared that Global's operations created an "imminent hazard" to public safety. FMCSA issued an order for Global to cease operations.

Concerned that motor carriers with significant regulatory violations for drivers and vehicles are still receiving satisfactory ratings, the Safety Board once more focused on Federal standards for determining the safety fitness of carriers. As a result, the Board made the following recommendations:

- The Safety Board asked FMCSA to revise the Federal Motor Carrier Safety Regulations to prohibit a commercial vehicle from operating with wheel seal or other hub lubrication leaks.

- To protect the traveling public until FMCSA completes and implements its Comprehensive Safety Analysis 2010 Initiative, the Board asked FMCSA to issue an Interim Rule to include all Federal Motor Carrier Safety Regulations in the current compliance review process so that all violations of regulations are reflected in the calculation of a carrier's final rating.

- The Board asked that motorcoach maintenance manuals be revised to emphasize the importance of wheel bearing lubrication. These manuals need specific warnings that daily inspection of hub oil levels and wheel seals is vital to preventing wheel bearing failure and that bypassing this requirement is a dangerous practice that can lead to a wheel fire or other serious consequences.

- Finally, the Board reiterated its long-standing recommendation to FMCSA to change the safety fitness rating methodology so that adverse vehicle or driver performance-based data alone are sufficient to result in an overall unsatisfactory rating for a carrier.

Medically Unqualified Drivers

Another major oversight issue for the Board concerns medically unqualified drivers.

The Safety Board has long had an interest in the link between commercial driver fitness and transportation safety. Following its investigation of a Mothers Day, 1999 motorcoach accident in New Orleans involving a medically unfit driver that resulted in 22 fatalities, the Safety Board issued 8 recommendations to the FMCSA outlining a comprehensive medical oversight program for interstate commercial drivers. These recommendations have been on the Board's Most Wanted List for several years. They include:

Develop a comprehensive medical oversight program for interstate commercial drivers that contains the following program elements:

- Medical certification regulations are updated periodically to permit trained examiners to clearly determine whether drivers with common medical conditions should be issued a medical certificate. (H-01-19)

- Individuals performing medical examinations for drivers are qualified to do so and are educated about occupational issues for drivers. (H-01-17)

- A tracking mechanism is established that ensures that every prior application by an individual for medical certification is recorded and reviewed. (H-01-18)

- Individuals performing examinations have specific guidance and a readily identifiable source of information for questions on such examinations. (H-01-20)

- The review process prevents, or identifies and corrects, the inappropriate issuance of medical certification. (H-01-21)

- Mechanisms for reporting medical conditions to the medical certification and reviewing authority and for evaluating these conditions between medical certification exams are in place; individuals, health care providers, and employers are aware of these mechanisms. (H-01-22)

- Enforcement authorities can identify invalid medical certification during safety inspections and routine stops. (H-01-23)

- Enforcement authorities can prevent an uncertified driver from driving until an appropriate medical examination takes place. (H-01-24)

As you know, the Safety Board tracks and classifies the recipient's responsiveness to our recommendations. In the case of the above recommendations to the FMCSA, only the first recommendation (H-01-19) is classified as an "Acceptable Response". The others are all currently classified as "Unacceptable Response".

The FMCSA issued a Notice of Proposed Rulemaking (NPRM) in November of 2006 on, *Medical Certification Requirements as Part of the Commercial Driver's License (CDL)*. This NPRM proposes to amend the Federal Motor Carrier Safety Regulations to merge information from the medical certificate into the CDL process – a concept the Board has long advocated.

FMCSA's NPRM, to a certain extent, addresses two of the recommendations noted above: Safety Recommendations H-01-23 and -24. The NPRM proposes allowing enforcement authorities to identify, during safety inspections and routine stops, those drivers who fail to submit either an original or a copy of their latest medical certificate to the State Driver Licensing Agency (SDLA). As currently written, it would permit authorities to place out of service such drivers and those for whom 60 days had elapsed from the expiration date of their latest submitted certificate. However, the NPRM does not establish a comprehensive medical oversight program as recommended by the Safety Board.

The Board made the following observations in reviewing the NPRM:

Track Medical Certification Examinations

In general, neither the NPRM, nor any other publicly announced FMCSA initiatives, create a process to review or track medical certification examinations or decisions, as recommended in H-01-18 and -21 or to create a mechanism for reporting medical conditions identified between examinations, as recommended in H-01-22. The Safety Board is convinced that for any commercial driver medical oversight program to be effective, a systematic approach is necessary that addresses all of the issues in the

eight recommendations. Accordingly, these deficiencies in the NPRM may limit its effectiveness.

No Mechanism to Ensure Medical Certificate Validity

The Safety Board is concerned that, because the certificate form is not a controlled document, has no standard appearance, and may be freely reproduced; a means is needed for the SDLA to verify that forms submitted by drivers are issued in accordance with existing regulations. In at least one instance, an insulin-dependent bus driver who was involved in a single-vehicle, run-off-the-road accident possessed an expired medical certificate that had been altered to indicate that it was current (Bay St. Louis, Mississippi accident, May 2001, Safety Board accident number HWY01IH024).

Additionally, because drivers are not prevented from visiting multiple examiners ("doctor shopping") in their attempts to obtain medical certificates, the Safety Board believes that a means is necessary for the SDLA to establish that a driver has not previously been denied a medical certificate.

The Safety Board also noted in its comments on the NPRM that the proposed rule does not include the commercial driver medical examiner's phone number, currently included on the medical certificate, as one of the required CDLIS (Commercial Driver's License Information System) data fields, which may hinder authorities from calling medical examiners to confirm that they have actually issued medical certificates.

Sixty-Day Period to Downgrade the CDL

The Safety Board is also concerned about the proposed 60-day window during which the CDL may not be downgraded for drivers who have received a medical certification status of "not-qualified." The Board is aware that examiners may time-limit certificates to periods considerably shorter than 2 years, particularly when they find medical conditions that may change over a relatively short time, or when they are awaiting additional medical information from the driver. However, the proposed 60-day window would increase such a limitation by as much as 2 months, potentially thwarting the examiner's intent to limit the certificate of a driver with a worrisome medical condition. Although the Safety Board supports the addition of driving while in a "not qualified" status during the 60-day window as a disqualifying offense (that is, by adding it to table 2 of §383.51(c)), the Board is concerned that such an addition would not automatically permit the authorities to take an unqualified driver out of service, which could allow an identified potential safety risk to persist for as long as 60 days.

Unclear Employer Responsibilities

The Safety Board is concerned that the proposed rule contains no requirement for the SDLA to notify the employer if a driver's CDL is downgraded due to an outdated medical certificate. Therefore, motor carriers may not know if a particular driver's certificate has expired. As a result, this rule, as proposed, could hinder the FMCSA

from holding carriers responsible for ensuring that all their drivers are qualified beyond the time of initial hire. This creates a situation where the majority of a carrier's employees could have outdated or invalid medical certificates, and the carrier would not be required to have timely knowledge of that situation.

No Provision for State Revocation of CDL

The Safety Board is aware that several states have procedures for reporting and subsequently investigating CDL holders with medical conditions that would potentially prevent them from operating commercial motor vehicles safely, and if necessary, revoking their CDLs. However, the proposed rule does not provide for states to change the medical certification to "not qualified" when they learn that CDL holders have medical conditions incompatible with safe commercial vehicle operation.

No Provision for States or Employers to Retain Long Form

The Safety Board is concerned that the proposed rulemaking does not specifically permit states and/or employers to require copies of the medical certificate or examination form (that is, the long form) to be provided and retained for review. The Safety Board therefore suggests that the rule require (as several states already do) that the entire long form (and not just the certificate) be submitted to and retained by the SDLA for review as necessary. At an absolute minimum, the rule should clarify that states and employers be expressly *permitted* to require submission of the long form and to retain the information indefinitely.

No Provision for Medical Examiners to Retain Long Form

The Safety Board is concerned that the proposed rulemaking does not clarify that medical examiners are still required to retain the long form. This requirement currently exists only in the "Instructions for Performing and Recording Physical Examinations," which follows 49 *Code of Federal Regulations* 391.43, and there are no other requirements for this form to be retained. If the long form is not retained, medical examiners, SDLAs, and accident investigation authorities are among those who would not be able to obtain the records necessary to document drivers' known medical conditions, should the need arise.

It is also unclear why the proposed rule allows examiners to routinely eliminate medical certificates from their records once they expire, making subsequent verification difficult or impossible. As in the example above from the Bay St. Louis, Mississippi accident, a simple forged date might not be traceable because the original expired certificate would not be on file.

No Requirement for Indefinite Retention of Certificate

Finally, although the NPRM has specified a 6-month period for retaining a copy or image of the medical examiners' certificate, it is unclear to the Safety Board why the

SDLA would not be required to maintain a copy of each submitted medical certificate indefinitely. Under current regulations, this might be the only historical record of these certificates.

In general the Safety Board is disappointed at the length of time taken by the FMCSA to generate this NPRM. However, if modified to address the concerns noted above, the proposed rule may make some nominal steps towards improving safety. Unfortunately, it does not represent considerable progress toward the goal of a comprehensive medical oversight program for interstate commercial drivers that was envisioned in the Board's recommendations on this topic. This is why the Board classified the majority of the recommendations associated with this issue as "Unacceptable Action". Accordingly, the Board encourages the FMCSA to develop a more robust framework for such oversight.

Electronic On-Board Recorders (EOBR) for Hours of Service (HOS)

The final topic I would like to mention today is how technology can help prevent fatigue-related accidents by improving commercial driver compliance with the HOS regulations.

First, I would like to complement the FMCSA on beginning this process and framing the public debate by issuing an NPRM on EOBRs for HOS on January 18, 2007. Although rulemaking on this issue has the potential to greatly improve the compliance with hours-of-service rules, and ultimately reduce fatigue-related accidents, the Board believes that the currently proposed NPRM will not accomplish these goals in its present form.

The Board has a long history on this issue and continues to investigate accidents where fatigue and violations of the hours of service regulations are present.

For the past 30 years, the Safety Board has advocated the use of on-board data recorders to increase hours-of-service compliance of commercial drivers. As you know, commercial drivers are currently required to keep logbooks on the hours they drive. However, for many reasons these log books often do not reflect the true hours of operation. Because most drivers are paid by the mile, and motor carriers make more money the more miles that are driven by their drivers, neither party has adequate incentives for compliance with the hours-of-service rules. The current system of paper logbooks offers many opportunities to play fast and loose with these rules. Some unscrupulous drivers write down hours different from those that they actually drive, some maintain multiple logbooks, and some outright falsify the information. In addition, some motor carriers do not closely monitor their drivers' compliance with the rules and some may actually coach their drivers on how to fudge their logbook. It is not comical, but many in the truck and bus industry call these logbooks "comic books".

Let me summarize some of the key events that have led to the Board's position on HOS compliance.

In 1977, the Safety Board issued its first recommendation on the use of on-board recording devices for commercial vehicle hours-of-service compliance. It was in response to the FHWAs withdrawal of an Advance Notice of Proposed Rulemaking concerning the installation of tachographs in interstate buses. That recommendation proposed that the FHWA:

Conduct scientifically controlled studies to determine the effects and merits of the use of tachographs on commercial vehicles in reducing accidents. (H-77-32)

Although FHWA studied the issue, they did not make any changes.

During the 1980's, the technology for onboard recorders for hours-of-service improved dramatically. In 1990, the Safety Board first urged the FHWA to mandate the use of on-board recorders. The Board made this recommendation in its 1990 safety study on Fatigue, Alcohol, Drugs, and Medical Factors in Fatal-to-the-Driver Heavy Truck Crashes. This study concluded that on-board recording devices could provide a tamper-proof mechanism to enforce the hours-of-service regulations. The study also found that, of the 182 accidents investigated, the most frequently cited factor or probable cause in these accidents was fatigue, cited in 31 percent the cases. Alcohol was second at 29 percent. Therefore, the Safety Board recommended that the FHWA:

Require automated/tamper-proof on-board recording devices such as tachographs or computerized logs to identify commercial truck drivers who exceed hours-of-service regulations. (H-90-28)

An identically worded companion recommendation was made to the States, the Commonwealth of Puerto Rico, the Virgin Islands, and the Territories (H-90-48).

This recommendation was rejected by the FHWA and the states.

In 1995, the Board reiterated this safety recommendation (H-90-28) in its safety study on "Factors That Affect Fatigue in Heavy Truck Accidents" in which 107 heavy truck accidents were studied. The study also noted that the incidence of driver fatigue is underrepresented in the Fatality Analysis Reporting System (FARS) database.

Both the FHWA and the states failed to act on this recommendation.

In 1998, the Safety Board again advocated industry-wide use of on-board recording devices after investigating a multiple-vehicle accident that occurred in Slinger, Wisconsin, on February 12, 1997 in which 8 persons died. This time, the Board tried a different approach and made recommendations directly to industry by way of the American Trucking Associations, the International Brotherhood of Teamsters, the Motor Freight Carriers Association, the Independent Truckers and Drivers Association, the National Private Truck Council, and the Owner-Operator Independent Drivers Association, Inc. The recommendation was:

Advise your members to equip their commercial vehicle fleets with automated and tamper-proof on-board recording devices, such as tachographs or computerized recorders, to identify information concerning both driver and vehicle operating characteristics. (H-98-26) (H-98-23)

This recommendation was opposed by the industry.

In August 12, 2001, the Safety Board reiterated its position regarding the use of on-board recorders for hours-of-service compliance in its response to the FMCSA's NPRM on Hours-of-Service of Drivers. In our response, the Safety Board again requested that the FMCSA strongly consider mandatory use of EOBRs by all motor carriers to help improve hours-of-service compliance.

FMCSA did not incorporate this suggestion into the NPRM.

Finally, in April 18, 2007 the Board expressed its disappointment with FMCSA's NPRM entitled "Electronic On-Board Recorders for Hours-of-Service Compliance". Let me highlight some of the reasons why the Board felt the NPRM fell short of its intended target.

As you know, the NPRM focuses on three elements:

1. Performance-oriented standards for EOBR technology;
2. Mandatory use of EOBRs by motor carriers who are found to exhibit a pattern of violations of HOS regulations; and
3. Development of incentives anticipated to encourage voluntary industry-wide use of EOBRs.

With respect to the first element, the Safety Board is generally satisfied with the direction proposed by the FMCSA except in the area of crash protection. Performance standards offer flexibility in the face of rapid technological advances; thereby requiring minimal-to-no changes to pertinent regulations. The NPRM makes several proposals designed to ensure the security and validity of EOBR data, but it fails to address EOBR damage resistance and data survivability. Naturally, the survival of the data is important, not only for regulatory compliance, but also to assist accident investigators determine the influence of fatigue on the driver and the cause of the accident. Therefore, in its comments on FMCSA's NPRM, the Safety Board asked FMCSA to add performance standard factors that consider these issues.

Concerning the second element, the Safety Board believes onboard recorder technology should be applied to all carriers, subject to the hours-of-service regulations. We are disappointed that the proposed rules will only require EOBRs for carriers who are identified through the compliance review process as "pattern violators" of the hours-of-service regulations.

Identifying such carriers seems problematic. For example, for a carrier to be identified as such, the FMCSA must perform at least two compliance reviews on that carrier within a 2-year span. In 2005, the FMCSA was only able to perform a total of 8,097 compliance reviews on a population of approximately 911,000 active and registered carriers, meaning that less than 1 percent of all carriers were assessed for safety and fitness. Although the FMCSA uses a computerized rating methodology (SafeStat) to target potentially unsafe carriers for compliance reviews, flaws in the compliance review system guarantee that many unsafe carriers continue to evade even initial identification as an hours-of-service violator. The Safety Board has documented several instances in which carriers have received favorable compliance review ratings despite long and consistent histories of driver- and vehicle-related violations. For example, this was the case for the operator and vehicle involved in the recent investigation of the motorcoach fire that fatally injured 23 people near Dallas, Texas.

In light of the proven deficiencies in the FMCSA motor carrier compliance program, this program should not be the triggering mechanism to initiate a requirement for EOBRs. The Safety Board does not believe that the FMCSA has the resources or processes necessary to identify and discipline all carriers and drivers who are pattern violators of the hours-of-service regulations.

Consequently, a program to impose EOBRs on pattern violators that relies on the compliance program to identify such carriers seems unlikely to succeed. In addition, pattern violators of hours-of-service regulations are the carriers least likely to choose to install and use EOBRs voluntarily. The Safety Board is therefore convinced that the only effective way in which EOBRs can help stem hours-of-service violations, which the Board has linked to numerous fatigue-related accidents, is to mandate EOBR installation and use by all operators subject to hours-of-service regulations.

Additionally, the Safety Board is concerned that the NPRM proposes using EOBRs as a form of remediation or punishment, when the technology has significant potential for increasing the safety of all motorists. According to the NPRM, "... motor carriers that have demonstrated a history of serious noncompliance with the hours-of-service (HOS) rules would be subject to mandatory installation of EOBRs meeting the new performance standards." The Safety Board believes that encouraging motor carriers to perceive EOBRs primarily as a means of punishment would undermine the goal of achieving voluntary industry-wide acceptance. In fact, progressive motor carriers are using EOBRs as an effective tool in shipment tracking, equipment maintenance, and operator scheduling. In addition, EOBRs provide a more efficient and reliable way for enforcement agencies to monitor hours-of-service compliance. Finally, the Europeans for decades have required the use of digital tachographs for hours of service.

With respect to the NPRM's third element, the proposed rulemaking outlines several incentives that the FMCSA hopes will promote the voluntary installation and use of EOBRs. Among these incentives are new compliance review procedures and exemptions for certain supporting documentation requirements. The Safety Board is in favor of any incentive that fosters use of EOBRs without undermining safety; however,

the Board is skeptical whether the incentives currently proposed would be strong enough to override the financial motivation some carriers and drivers have for continuing to circumvent the HOS regulations and not use EOBRs.

In summary, the Safety Board is convinced that the regulations proposed in the current NPRM:

- Will not result in the timely and effective adoption of EOBR technology by all motor carriers,
- May serve to depict EOBRs as a punitive device rather than as one that promotes safety, and
- Will ultimately fail to reduce the number of carriers and drivers who exceed Federal hours-of-service limits.

Accordingly, the Safety Board urges the FMCSA to revise the NPRM to require that all motor carriers, subject to the HOS regulations, install and use EOBRs.

The trucking industry in the United States has already installed hundreds of thousands of devices capable of recording hours-of-service information. We believe it is past time to act and that the use of EOBRs should be mandatory throughout the industry, as are similar devices required in most of Europe.

Fatigue-related accidents continue to plague our nations highways and because fatigue, unlike alcohol or speeding, is extremely difficult to detect. In fact, fatigue is probably the most underreported causal factor in highway accidents. Electronic on-board recorders hold the potential to efficiently and accurately collect and verify the hours of service for all drivers. They will also establish the proper incentives and a level playing field for compliance with hours-of-service rules and will ultimately make our highways safer for all drivers.

Thank you again for the opportunity to testify before this committee. I would be delighted to respond to any questions you may have.

STATEMENT OF JOHN H. HILL
ADMINISTRATOR
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

BEFORE THE HOUSE TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

JULY 11, 2007

Good afternoon, Chairman DeFazio, Ranking Member Duncan, and Members of the Subcommittee. Thank you for inviting me to testify before you. I am pleased to describe how the Federal Motor Carrier Safety Administration (FMCSA) is working to make the nation's highways safer through better commercial vehicle operations. 2005 enjoyed one of the lowest large-truck fatality rates in 30 years. This means that despite more trucks traveling more miles, the proportion of fatalities was down. In addition, preliminary numbers for 2006 indicate that the number of people killed in commercial motor vehicle (CMV) crashes decreased for the second consecutive year. There are estimated to be 3.7 percent fewer deaths attributed to crashes involving commercial vehicles in 2006 than in 2005. However, we know that despite these gains, the drop in overall highway fatalities has not been consistent.

To meet this challenge we are expanding the use of proven strategies while simultaneously developing and implementing new and improved approaches. We are increasing our effectiveness and efficiency as we continue to coordinate safety strategies with our State partners. We are working closely with stakeholders from the trucking and motorcoach industries and the committed safety organizations through our newly chartered Motor Carrier Safety Advisory Committee.

TARGETING HIGH RISK CARRIERS

The FMCSA is committed to saving additional lives on our nation's highways. Our approach is risk-based – targeting carriers with poor performance and placing special emphasis on motorcoach companies and carriers registered as hauling hazardous materials.

Identifying motor carriers that pose the greatest risk to the motoring public and applying a vigorous compliance review (CR) and enforcement program are integral parts of the strategy FMCSA and its State partners use to reduce crashes involving CMVs. Through the use of available highway performance and compliance data, FMCSA's Motor Carrier Safety Status Measurement System (SafeStat) continues to serve as a valuable tool to identify high-risk motor carriers for prioritization of CR resources.

SafeStat is a reliable tool for identifying high-risk carriers. FMCSA's research has shown this conclusively and it has been confirmed by the Department of Transportation (DOT) Office of Inspector General (OIG) and the Government Accountability Office (GAO). The 2004 OIG report noted that CR results support the ability of SafeStat to

identify high risk carriers and in a June 19, 2007, letter to Congressman Thomas Petri (WI), the OIG noted that FMCSA has made improvements in the underlying data quality that supports SafeStat. In addition, in a June 2007 report on SafeStat, the GAO indicated that SafeStat works approximately twice as well as selecting carriers randomly and, therefore, has value for improving safety.

The GAO has also suggested methods of improving SafeStat. The Agency appreciates the constructive nature of the GAO recommendations and is examining how to best implement the findings of that review into our targeting system. FMCSA has been involved in a continuous process of examining the results of SafeStat and studying and implementing improvements to the system since it was originally developed in the mid-1990s. In 2002, the agency lowered the threshold for identifying high-risk hazardous materials carriers to address the additional risk posed by the materials being transported in these trucks. We are implementing a change to the targeting system to better identify unsafe passenger carrier operations.

While SafeStat is FMCSA's primary method of identifying high-risk carriers, it is not the Agency's only method of identifying unsafe carriers. FMCSA also conducts CRs in response to complaints received by the Agency, serious crashes, or to support other initiatives such as our current national initiative to conduct CRs of approximately 1,700 unrated and high priority motorcoach companies by the end of 2007.

ENFORCEMENT PROGRAMS

The FMCSA partners with the States to enforce commercial truck and motorcoach safety laws through roadside inspections, CRs, and new entrant safety audits.

The FMCSA's oversight programs are producing results. In Fiscal Year (FY) 2006, FMCSA and our State partners conducted 15,177 CRs – a 33 percent increase over the number conducted in 2004. As a result of these CRs, FMCSA initiated 4,195 enforcement actions. FMCSA found 1,035 companies so deficient that we placed their operations out-of-service. We know from past analysis that carriers improve their safety operations after a CR. We estimate that the CRs conducted in 2004 resulted in over 2,700 fewer crashes, approximately 1,900 fewer injuries, and over 100 fewer fatalities.

In addition to conducting reviews of carrier operations, the FMCSA and our State partners conducted almost 3.3 million roadside inspections on vehicles of high risk carriers during FY 2006, a 9 percent increase over 2004. As a result of these inspections, we placed approximately 220,000 drivers out-of-service until serious violations could be remedied. We also removed approximately 547,000 unsafe vehicles from our highways. Again, we know from previous analysis that roadside inspections prevent crashes and save lives. We estimate that roadside inspections conducted in 2005 resulted in over 18,000 fewer crashes, approximately 13,000 fewer injuries, and approximately 700 fewer fatalities.

In addition to these proven enforcement tools, in 2003 the FMCSA implemented a program to address the safety of new motor carriers entering the industry. In 2006, FMCSA and our State partners conducted almost 40,000 new entrant safety audits. This program ensures that all new motor carriers become aware of the safety regulations. FMCSA has also proposed revisions to strengthen this program; we are analyzing comments to the Notice of Proposed Rulemaking (NPRM) with our goal that a final rule will be issued in 2008, and ensure that new entrant audits – like CRs and roadside inspections – result in unsafe carriers being removed from service.

The FMCSA relies on enforcement tools provided by Congress. In FY 2006, we placed 531 carriers out of service for receiving an Unsatisfactory Safety Rating, 943 carriers out of service for failing to pay fines, and one carrier out of service for imminent hazard for a total of 1,475 carriers. We have also implemented the maximum penalty provisions contained in Section 222 of the Motor Carrier Safety Improvement Act of 1999. This section allows FMCSA to assess maximum penalties for carriers that demonstrate a pattern of non-compliance. In 2006, FMCSA used this authority to assess maximum penalties against 21 carriers and 7 drivers with demonstrated patterns of safety violations. In addition, we are working to strengthen this program to address recommendations by the Office of the Inspector General and anticipated recommendations from an almost completed audit of our enforcement programs by GAO.

The FMCSA is actively evaluating our enforcement tools and corresponding limitations with an eye toward developing a reauthorization proposal that will continue to strengthen our enforcement posture and ensure that, when appropriate, the agency can take focused action to change unsafe carrier or driver behavior.

DATA QUALITY

The enforcement programs discussed previously generate and rely on safety performance data to target carriers that pose a high crash risk. Therefore, it is appropriate to discuss what FMCSA has done and will do to ensure that the data we rely upon to direct our resources is as complete, timely, and as accurate as possible.

The FMCSA has been working with States on complete, accurate, and timely reporting of large truck crash and inspection data for several years and has implemented a variety of data quality programs and efforts to improve reporting. Since the beginning of these efforts, there has been significant improvement in State-reported large truck and bus crash and inspection data. Specifically, between calendar years 2001 and 2006, large truck crashes reported to FMCSA's Motor Carrier Management Information System (MCMIS) database have increased from 109,248 to more than 144,000 annually, an increase of 32 percent. During this same period, the total number of large truck fatal and injury crashes has actually decreased according to the National Highway Traffic Safety Administration (NHTSA), demonstrating that the increase in crashes shown in the MCMIS database represents more complete and accurate reporting by the States to FMCSA than in the past.

One of the most important aspects of our State Data Quality Program has been the State Safety Data Quality Map, or SSDQ, which displays the performance of individual State crash and inspection reporting efforts according to measures of accuracy, timeliness and completeness of reporting. Ratings are updated each quarter and individual State performance is portrayed through a color-coded map, with ratings of Green (good progress), Yellow (marginal progress), and Red (improvement needed) based on overall performance. Between 2004 (the date of inception) and 2007, the number of States achieving "green" on the map has increased from 25 to 40, while the number of States rated as red has been reduced from 12 to 3[1]. Specifically, between 2004 and 2006:

- The percentage of crashes matched to a motor carrier increased from 87% to 93%;
- The percentage of crashes reported within 90 days increased from 69% to 89%; and
- The percentage of inspections reported within 21 days increased from 80% to 87%.

States have made significant progress in recent years to improve the accuracy, timeliness and completeness of large truck crash and inspection data reported to the Agency.

However, we recognize that the reporting of large truck crash data in particular States is still incomplete, particularly regarding **non-fatal** large truck and bus crashes. Working with the University of Michigan Transportation Research Institute (UMTRI), FMCSA will be adding a new performance measure to the SSDQ map that focuses on the reporting of non-fatal large truck crashes by States, something not previously captured. The new measure represents a ratio of non-fatal to fatal crashes reported by States to FMCSA. States will be rated via the standard green, yellow, red scale based on the number of non-fatal large truck crashes, measured as a percent of fatal crashes, reported to FMCSA.

The FMCSA has developed two new performance measures, both of which address the completeness of data within individual crash and inspection records. Focusing on driver-specific and vehicle-specific information, respectively, States will be rated on the completeness of the data contained in crash and inspection records reported to FMCSA. The new measures will be implemented in FY 2008, incrementally weighting the new values in order to allow States time to make improvements. Beginning in FY 2009, the relative weight of the new non-fatal crash completeness measure will increased.

Other FMCSA Data Quality Efforts to Assist States

The FMCSA is engaged in many efforts to improve the quality of State reported crash and inspection data. The following are a few examples:

[1]In FY 2007, the FMCSA has provided over half a million dollars in MCSAP High Priority Grants to the 3 remaining "red" States to assist in data improvements.

- DataQs is an online system developed by FMCSA to facilitate data correction and to track corrective actions. DataQs, available since 2004, provides a single web-based location that allows the public and industry to file and monitor challenges concerning Federal and State data released to the public by FMCSA. Since its inception, 24,393 challenges have been entered into the system and 98% have been resolved.

- FMCSA conducts on-site visits to individual States to review process information system flows in order to assist States in identifying key problem areas involving collection and reporting.

- FMCSA offers on-going technical assistance to the States, at no cost, to help them identify, address, and monitor possible errors in the transfer of data from the State files to MCMIS.

- FMCSA conducts analyses of the Police Accident Report (PAR) forms and makes recommendations on how to improve data collection.

- FMCSA offers State-specific training on what crash data to collect and how it is coded

- Regional Operations Managers are being assigned to States to act as points of contact and to work with, and if necessary assist, the States in monitoring data and performance.

- State Safety Data Improvement Program (SaDIP) grant funding is available to help States improve traffic safety records systems, with an emphasis on improving data reported to FMCSA. FMCSA will award the SAFETEA-LU authorized $3 million in FY 2007 to improve crash and inspection data, but had requests from States for six million dollars.

SAFETY PARTNERSHIPS WITH STATES

As mentioned previously, FMCSA's efforts to improve commercial vehicle safety are conducted in coordination and partnership with the States. The States represent a "force multiplier" and maximize the impact of FMCSA programs. In addition, States have roles in regulating commercial vehicle transportation that make them uniquely able to implement key safety programs.

TACT Programs

SAFETEA-LU authorized Motor Carrier Safety Assistance Program (MCSAP) grants to be used for traffic enforcement on CMVs without an accompanying safety inspection. The authority also allows reimbursement of State traffic enforcement activities against non-CMVs when such actions are necessary to improve CMV safety (i.e., cars driving unsafely around trucks).

This new option is consistent with the findings of the FMCSA's Large Truck Crash Causation Study (LTCCS), and related research that have identified driver behavior as the leading factor in crashes. These studies have also revealed that the non-CMV driver is a causal factor in a majority of CMV/non-CMV crashes. By expanding MCSAP traffic enforcement authority, FMCSA and its State-partners are able to reach out to a broader population of law enforcement organizations in an effort to improve program delivery and reduce CMV-related fatal crashes.

In cooperation with the NHTSA, we recently piloted the Ticketing Aggressive Cars and Trucks or "TACT" program in the State of Washington. Working with the State trucking association, troopers conducted a high visibility enforcement campaign to reduce unsafe driving behavior in and around large trucks. The program included a high profile media campaign to build awareness and educate drivers about the hazards of driving around CMVs. Combining education and enforcement has been proven successful at increasing seat belt usage and reducing drunk driving. FMCSA is now applying it to the commercial vehicle safety problem in this country.

The first TACT pilot program was successful in large part due to the cooperative efforts of DOT, State, and local law enforcement agencies that were involved. The evaluation showed a considerable reduction in unsafe driving behaviors on the designated enforcement corridors. Based upon TACT's initial success, FMCSA is expanding the program to States with the highest fatality and crash rates. TACT is currently underway in Georgia, Pennsylvania, North Carolina, and Kentucky. Kansas, Missouri, and Ohio are also implementing traffic enforcement programs with many features of the TACT program and 13 other States[2] are conducting traffic enforcement aimed at unsafe behaviors by non-CMVs around trucks and buses.

To assist the States, the FMCSA is printing and disseminating a TACT "How To" guide to State Agencies nationwide. We are encouraging all MCSAP States to adopt this successful program or some form of non-CMV enforcement allowed by SAFETEA-LU. FMCSA is also moving forward with development of the TACT State Peer Exchange Network (SPEN). The purpose of the group is to share best practices and strategies to reduce crashes between passenger vehicles and CMVs. SPEN will be comprised of States conducting TACT programs currently as well as States with low to moderate crash rates.

Performance and Registration Information Systems Management (PRISM)

PRISM began as a pilot project mandated by Congress under ISTEA in 1991. The goal was to explore the benefits of using State commercial vehicle registration sanctions as an incentive to improve motor carrier safety. Congress authorized funding through the TEA-21 and SAFETEA-LU to expand PRISM nationally on a voluntary basis.

[2] See attached map for complete list of States conducting traffic enforcement aimed at unsafe behaviors by non-commercial vehicles around trucks or buses.

The FMCSA provides PRISM grant funding to the States primarily to enable each State to establish information system connections among vehicle registration agencies, roadside law enforcement, and FMCSA. This allows States to check the safety status of motor carriers prior to issuing or renewing International Registration Plan (IRP) license plates and during roadside inspections. PRISM grant funds are also used to deploy roadside technologies such as bar-code readers that automate the population of data requirements in roadside inspection software and wireless access to our Query Central system for more efficient roadside inspections.

PRISM creates a new Federal-State partnership that improves safety and strengthens Congressionally-mandated enforcement policies such as those related to the consequences of unsatisfactory safety ratings (Section 4009 of TEA-21), failure to meet new entrant requirements, and failure to pay civil penalties (Section 206 of MCSIA). One of the fundamental tenets of the PRISM program is that State vehicle registration agencies will suspend a motor carrier's IRP license plates in conjunction with an FMCSA order to cease interstate operation and/or deny renewal of IRP license plates to any motor carrier that is prohibited from operating in interstate commerce by FMCSA.

The Federal-State PRISM partnership provides an automated enforcement mechanism to ensure that motor carriers meet the requirements for biennial data updating under Section 217 of MCSIA (Form MCS-150). Put simply, participating State systems automatically check the carriers "MCS-150 date of last update" and deny renewal of IRP license plates if the MCS-150 data of the carrier responsible for the safety of a vehicle will expire (i.e., exceed 24 months) before the new license plate expires.

To date, 45 States plus the District of Columbia have signed grant agreements with the FMCSA to implement the PRISM program and twenty-seven States are presently PRISM capable, with four states in the process of implementation, with fourteen states and DC committed to implementing the program in the near future. Of critical importance, 23 States now actively exercise their authority to deny, revoke, and or suspend a carrier's registration, and four states await enabling legislation to impose registration sanctions.

FUTURE FOCUS

As we move forward, the FMCSA will be addressing key priorities to increase safety including: 1) testing our Comprehensive Safety Analysis 2010 (CSA 2010) initiative, which will provide a new approach to the safety fitness rating – and allowing a broader enforcement exposure to the motor carrier industry; 2) continuing our focus on driver safety in all programs, by conducting even more driver roadside enforcement and inspections in cooperation with our State and local partners; and 3) intensifying our focus on motorcoach safety by prioritizing our MCSAP and Federal activities in this area, while also focusing enforcement efforts on high-risk curbside bus operators.

CSA 2010

The FMCSA strives to improve how it does business. While our enforcement programs have been successful in improving safety, we recognize that we need to do more if the

Department is to meet its safety goals. With that in mind, FMCSA is nearly midway through development of its CSA 2010 effort, which generates a more comprehensive, effective and efficient approach to carrying out compliance and enforcement programs. CSA 2010's goal is to contact more regulated entities through a broader array of enforcement and educational interventions while optimizing FMCSA resources.

The CSA 2010 Operational model that has been developed and will be pilot tested in 4 States during 2008 will measure carrier performance in seven Behavioral Analysis and Safety Improvement Categories (known as BASICs). They are unsafe driving, fatigued driving, driver fitness (training/experience/physical qualifications), drugs/alcohol, vehicle maintenance, improper loading/cargo issues (including hazardous materials violations), and crashes. FMCSA will use all safety violations to assess carrier safety in these areas, not just a limited list of violations that have been determined to be "critical" or "acute." By including all violations in a motor carrier's safety fitness determination, we will be addressing one of the National Transportation Safety Board's (NTSB's) Most Wanted items for FMCSA.

The use of these BASICs will also allow FMCSA to identify and focus its efforts on addressing specific safety problems, and will result in the Agency's employment of a systematic, progressive set of interventions designed to change unsafe behavior. Additionally, their use could result ultimately in a carrier being declared "unfit" and placed out-of-service if there is no demonstrated improvement in performance.

Another important feature of this new model is that safety assessments and fitness determinations will be updated monthly based on performance data. FMCSA will no longer rely solely on the results of an on-site CR to make a safety fitness determination. This will allow the carrier's safety fitness status to reflect on-going activity, not a "snapshot" of the operational safety at the time of an on-site review.

Driver Focus

Recent studies, including the LTCCS, continue to emphasize the part that drivers play in crash causation and avoidance. In the LTCCS, CMV driver action or inaction was determined to be the "critical reason" for the crash in 87% of the crashes where the responsibility for the crash was attributed to the CMV. In FY 2008, FMCSA will address driver safety knowledge "gaps" found by the National Agenda for Safe Driving, a technical working group of government and private partners. The working group will hold public listening sessions and a major public conference to define actions that will address these knowledge gaps and obtain stakeholder commitments to partner with FMCSA to act quickly and efficiently on yet to be identified items. FMCSA will also work with our State partners to ensure that they conduct driver inspections at the roadside as specified in their respective Commercial Vehicle Safety Plans.

Medical Oversight Program

The FMCSA's focus on drivers also includes initiatives to improve oversight of medical conditions that affect CMV safety. These initiatives will increase safety by helping to reduce the number of drivers with medical conditions which adversely impact their ability drive safely. Additionally, NTSB's Most Wanted List contains several recommendations which will be addressed by these activities. We currently have three major initiatives under way:

Medical Review Board (MRB)

FMCSA is evaluating all of its medical regulations to ensure that they reflect the most up to date scientific information. The MRB is a five-member panel of experts, authorized by SAFETEA-LU, who advise FMCSA on medical standards and emerging medical issues. We announced the selection of the MRB members last year and the Board will be holding its fourth public meeting later this month. Presently, the Board's agenda includes review of diabetes, cardiovascular issues, and Schedule II controlled substance medications.

National Registry of Certified Medical Examiners

Our second initiative, also supported by SAFETEA-LU, is the rulemaking establishing a National Registry of Certified Medical Examiners. The Registry will provide a list of medical examiners who are authorized to perform the physical qualification examinations for the more than 6 million truck and motorcoach drivers operating in interstate commerce. Our goal is to require ongoing competency of medical examiners through training, testing, certification and recertification. This will ensure that medical examiners fully understand, and remain competent to perform medical examinations for commercial vehicle drivers.

Merger of the CDL and Medical Certificate

The Notice of Proposed Rulemaking (NPRM) published by the Agency will merge drivers' medical information with the CDL data system. Under the new system, a driver's medical certification would be sent to the State's division of motor vehicles, which would then be required to include on the CDL record that the driver continues to be medically certified. If a driver's medical certificate expired, the State would be required to downgrade the CDL until the driver provided proof of his or her medical qualification to operate commercial vehicles in interstate commerce. Presently, we are analyzing comments made to the NPRM as we finalize the Final Rule.

Commercial Driver's License Information System (CDLIS) Modernization

The modernization of CDLIS required by SAFETEA-LU will enable FMCSA and the States to take advantage of new technological advances and expand CDLIS storage capacity while increasing system performance, responsiveness and adaptability to meet current and future requirements. Related to this effort is the development of the CDL learner's permit rule to establish uniform procedures for State issuance of learner's permits and CDLs, including Social Security Number verification requirements and fraud prevention initiatives. Publication of the CDL learner's permit rule will also address the trucking requirements of the SAFE Ports Act of 2006. Finally, a CDL Task force has been established to take advantage of the knowledge, experiences, and energies of various interest groups to identify ways to improve the effectiveness of the CDL program.

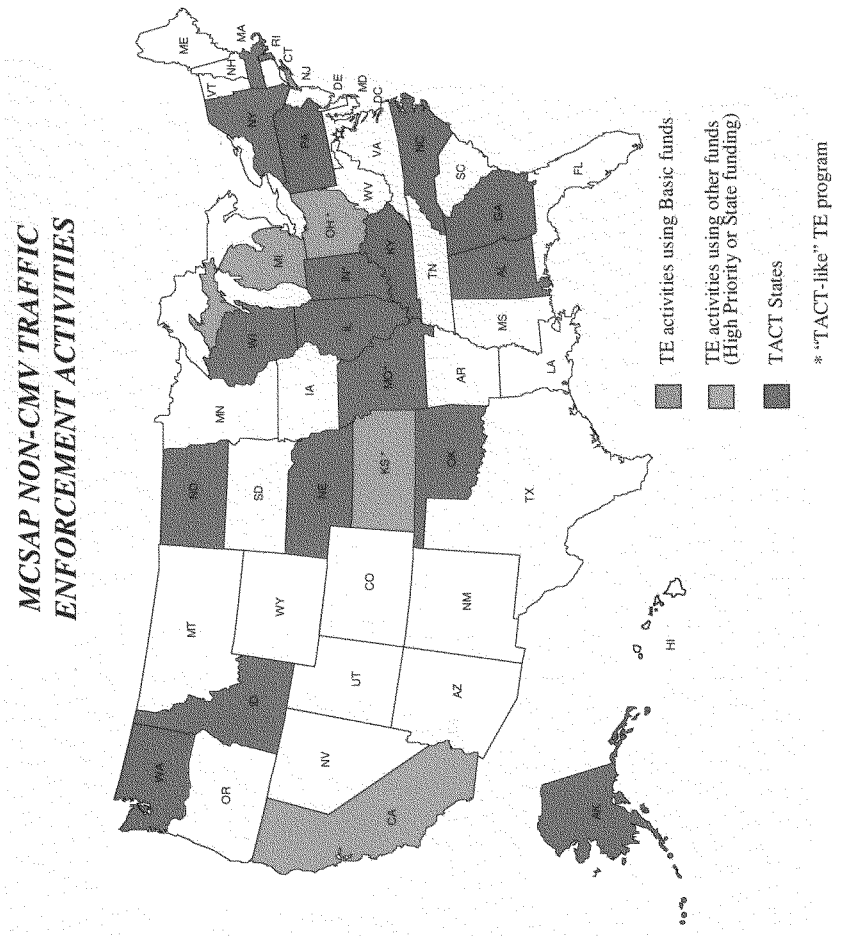
Motorcoach Safety

Several highly visible and tragic incidents underscored for all of us the importance of motorcoach passenger safety. Even so, we should keep in mind that mile for mile, motorcoaches are the safest form of commercial passenger transportation. Motorcoaches account for more passenger traffic in the United States than all other commercial modes of transportation combined. In response to recent motorcoach incidents, FMCSA has increased its motorcoach safety enforcement activities by increasing MCSAP and Federal activities in this area; by improving the method for selecting passenger carriers to inspect; by performing more CRs of motorcoach companies; and by improving training for motorcoach drivers.

In FY 2006 the FMCSA and our State partners conducted over 125,000 bus inspections. By the end of 2007, we expect to conduct a CR on every motorcoach operator that has not been rated. In addition, the FMCSA has taken important steps to focus on enforcing regulations that apply to curbside bus operators providing fixed-route service among major cities in the northeast such as New York, Boston, Philadelphia, and Washington, DC. FMCSA and a coalition of State and local police agencies have formed a strike force performing both roadside inspections and CRs and, where necessary, taking enforcement actions against these companies. This initiative will continue into 2008.

CONCLUSION

Mr. Chairman, I wish to express my appreciation for all that the Committee has done in supporting the FMCSA. In our seven years as an independent modal Agency within DOT, the dedicated women and men of FMCSA and our partners in State and local law enforcement agencies have made substantial progress in reducing fatalities and injuries on our nation's highways. Your continued investment in the Agency will enhance these efforts, further increasing safety. I look forward to working with you to achieve our mutual goals and would be happy to respond to any questions you may have.


MCSAP NON-CMV TRAFFIC ENFORCEMENT ACTIVITIES
TE activities using Basic funds
TE activities using other funds (High Priority or State funding)
TACT States
* "TACT-like" TE program
ME
VT
NH
MA
RI
CT
NJ
DE
MD
DC
NY
PA
VA
WV
NC
SC
GA
FL
OH*
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Questions for the Record for Administrator John H. Hill
Representative Vern Buchanan
Hearing on Motor Carrier Safety: FMCSA's Oversight of High-Risk Carriers
Subcommittee on Highways and Transit
July 7, 2007

QUESTION 1: The number of trucks on our nation's highways continues to grow, increasing the societal need to consider new innovations and alternatives as part of the overall safety debate. Particularly as the number of fatalities associated with large truck accidents remains considerable. In the fall of 2006, you and Transportation Secretary Peters publicly announced your support for the use of "incentives" to help accelerate the deployment of advanced safety technologies on heavy trucks in the United States. Please describe what the agency is doing to provide these types of incentives to the industry and what specific form these incentives will take (tax incentives, regulatory relief, etc...)?

ANSWER:
FMCSA supports the use of incentives and education to help accelerate the deployment of advanced safety technologies on heavy trucks. In the Notice of Proposed Rulemaking for Electronic On-board Recorders (EOBRs) for Hours of Service Compliance, FMCSA provides incentives for voluntary, industry-wide use of EOBRs. The incentives include certain regulatory relief, such as reduced requirements for maintaining hours-of-service supporting documents, to motor carriers that install, use and maintain EOBRs. FMCSA's jurisdiction over transportation does not include regulatory authority concerning tax or investment credits. We regularly hear from trucking interests that such incentives are important for ensuring wide-spread deployment of such technologies. Also, the Commercial Vehicle Safety Alliance and Motor and Equipment Manufacturers Association are promoting legislation to establish tax credits for carriers to encourage the purchase of safety technologies by motor carriers.

FMCSA is involved in the testing and evaluation of on-board safety systems, as well as advocating their voluntary use in the industry due to promising results from these tests. FMCSA is engaged in promoting information exchange in industry-government partnerships and education about on-board safety systems to accelerate their voluntary deployment.

Questions for the Record for Administrator John H. Hill
Hearing on Motor Carrier Safety: FMCSA's Oversight of High-Risk Carriers
Subcommittee on Highways and Transit
Rep. Christopher Carney
July 7, 2007

QUESTION 1: Of the 4,195 enforcement actions you took in FY2006, you indicated that these resulted in 1,035 motor carriers being placed out-of-service; what happened to the other 3,000 plus? Anything? How long is a deficient carrier placed out-of-service? What do they have to do to get back into service?

ANSWER:
The 1,035 out-of-service orders referenced in the question refer to orders issued as a result of a carrier's or driver's failure to pay a civil penalty fine. Unless the carrier receives an unsatisfactory safety rating or is declared an imminent hazard, an enforcement action will not result in an out-of-service order unless the carrier fails to pay its civil penalty. About 3,000 plus carriers were not placed out-of-service because they made full payment of the fine, or entered into a settlement agreement with the Agency. Under the final rule implementing Section 206 of the Motor Carrier Safety Improvement Act of 1999, an owner or operator of a commercial motor vehicle that fails to pay an FMCSA civil penalty, or negotiate an installment payment plan, within 90 days of the date specified for payment will be prohibited from operating in interstate commerce on the 91st day and may not resume interstate operations until the original civil penalty amount is paid in full.

QUESTION 2: Why does the Federal Motor Carrier Safety Administration conduct so few Compliance Reviews (CRs) with respect to the number of motor carriers in service nationally; is it strictly a matter of lack of sufficient funding? Are there any additional measures you think Congress should take beyond increasing funding that would ensure the completion of more CRs?

ANSWER:
FMCSA's goal is to reduce fatalities, injuries, and commercial motor vehicle (CMV) crashes. FMCSA reduces the number and severity of large truck-involved crashes through CMV roadside driver/vehicle inspections and onsite (terminal) vehicle inspections, motor carrier compliance reviews (CRs), new entrant safety audits, and enforcement actions against violators. Currently, CRs and new entrant safety audits are among the agency's most powerful tools in accomplishing this goal.

FMCSA's compliance and safety programs improve and promote safety performance. However, because of increases in our regulated population as well as added programmatic responsibilities, the Agency's resources available for these efforts have remained relatively constant over time. In its present structure, FMCSA's CR program is resource-intensive and reaches only a small percentage of motor carriers. Onsite CRs take a safety investigator an average of three to four days to complete. FMCSA can perform CRs on only a small percentage of the approximately 700,000 active interstate motor carriers, but our SafeStat system enables the Agency to target the highest-risk carriers for those reviews.

Currently, FMCSA assigns safety fitness ratings (Satisfactory, Conditional, or Unsatisfactory) only to those motor carriers whose operations have been subjected to CRs conducted either by FMCSA safety investigators or its State partners. FMCSA is developing a new operational model through its Comprehensive Safety Analysis (CSA) 2010 initiative. The goal of CSA 2010 is to develop and implement more effective and efficient ways for FMCSA, its State partners, and industry to reduce commercial motor vehicle crashes, fatalities, and injuries by helping FMCSA and its State partners to identify poor driver and carrier performance early and intervene before small violations become larger safety problems. Under CSA 2010, the safety fitness determination would be based on a continuous assessment of a carrier's performance data. As a result, FMCSA would be able to issue a significantly larger number of safety fitness determinations.

QUESTION 3: Wouldn't Compliance Reviews be more effective if they were randomly administered as opposed to being scheduled in advance? Wouldn't CRs be much more effective if they were a surprise even though they account for such a miniscule percentage of motor carriers?

ANSWER:
FMCSA's policy states that an appointment should be made prior to conducting a compliance review. Scheduling the review in advance ensures that the necessary personnel and records will be available upon the investigators arrival at the place of business.

FMCSA recognizes, however, that there may be instances where an appointment would compromise the quality of the investigation. In those cases, investigators should visit the carrier without warning. Other factors are also considered when preparing to conduct a compliance review (e.g., there were prior contacts by the FMCSA Division office or Service Center, and the carrier was unresponsive, or there were indications that records had been disordered or destroyed). In these instances an appointment is not made.

Move to submission for the record

Questions for John H. Hill
Administrator, Federal Motor Carrier Safety Administration
Highways and Transit Subcommittee Hearing
Chairman Peter DeFazio
July 7, 2007

QUESTION 1: Administrator Hill, you previously testified before this committee regarding safety concerns surrounding "curbside bus" operators. How many Compliance Reviews has the agency conducted on these carriers in the last five years? How many of these operators has FMCSA shut down as a result of a Compliance Review?

ANSWER:
FMCSA has conducted 66 Compliance Reviews (CRs) on 36 curbside bus operators during the period of July 2002 through July 2007. As a result of the CRs, FMCSA issued 8 operational out-of-service orders to curbside bus operators.

QUESTION 2: More generally, how many truck and bus companies did FMCSA shut down in 2005 and 2006? How many were assigned unsatisfactory safety ratings after a Compliance Review? How many had that rating changed to Satisfactory or Conditional so that the company could begin operations again?

ANSWER:
Enforcement is essential to FMCSA's safety program. Each year, FMCSA initiates thousands of enforcement cases and places thousands of carriers out-of-service for violations of our safety regulations at the roadside and as a result of a CR. When the FMCSA issues an unsatisfactory safety rating following a compliance review, passenger or hazardous materials carriers have 45 days, and all other carriers 60 days, to improve their rating to conditional or satisfactory; otherwise the carrier cannot operate in interstate commerce. During fiscal years 2005 and 2006, FMCSA assigned 1,207 and 1,174 unsatisfactory safety ratings to motor carriers after a compliance review. Of those, FMCSA upgraded 1,004 carriers to satisfactory or conditional during fiscal year 2005 and 949 to satisfactory or conditional during fiscal year 2006.

QUESTION 3: FMCSA's budget submission for Fiscal Year 2008 indicates that it will conduct about 7,000 new entrant motor carrier Safety Audits in FY 2007 and about 5,000 in FY 2008. However, it is my understanding that FMCSA has about 60,000 new entrant applicants each year. Please confirm these figures. Does the agency have a plan to keep up with the growing number of U.S. new entrant applications for operating authority? How will it be possible, given the agency's existing budget submission, for your inspectors to conduct a safety audit of each carrier within 18 months?

ANSWER:
These numbers reflect the number of safety audits conducted by Federal inspectors, or contractors, and do not include the number of safety audits expected to be completed by State personnel. In FY 2007, a total of 29,950 audits were donethrough July 31. State, Federal, and contractor inspectors completed approximately 26,000, 1,700, and 2,250 safety audits, respectively. The FMCSA anticipates that States will conduct an increasing number

of safety audits, either with their own personnel or with contractor support where the States either lack the authority, or do not have adequate resources, to do all the assigned safety audits within the 18 month period (nine months for passenger carriers since March 1, 2005). Each year, our State partners have increased their participation in the safety audit program by over 15 percent. Based on current trends, in FY 2008 the majority of our State partners will be conducting over 90 percent of the new entrant safety audits.

Nationwide, there are over 60,000 commercial motor carriers registered each year. Of these, about 45 percent either go out of business prior to having an audit conducted, never begin operations in interstate commerce, or registered by mistake. Carriers that have not conducted interstate operations, but intend to do so at a later date, are removed from the list of carriers requiring safety audits until they actually begin interstate operations.

QUESTION 4: Congress specified in the Motor Carrier Safety Act of 1984 that there should be a motorcoach inspection at least once a year. How many states currently have an FMCSA-approved bus inspection program? What does FMCSA plan to do to ensure that every state has a program to guarantee a safety inspection at least once a year in accordance with 49 CFR Part 396?

ANSWER:
Section 396.17 of title 49 of the Code of Federal Regulations requires periodic inspections at least once every 12 months on commercial motor vehicles including motorcoaches. Although States are not required to establish periodic inspection programs equivalent to the Federal standards, twenty-five States have done so.

Motorcoach companies domiciled in States without a Federal equivalent inspection program may perform required periodic inspections themselves, but persons performing such inspections must meet certain qualification standards. During CRs, field investigators check compliance with the Federal periodic inspection requirement. Ensuring all commercial motor vehicles have evidence of a current periodic inspection is also a part of the North American Standard Inspection procedures for roadside inspections.

QUESTION 5: Among the primary concerns associated with high risk carriers is a lack of proper vehicle maintenance. One of the safety-critical components of a vehicle that is most susceptible to failure due to lack of maintenance is the braking system. A 1992 study by the National Transportation Safety Board (NTSB) found that "most brakes on heavy vehicles are not well maintained, often resulting in out-of-adjustment brakes." FMCSA's Large Truck Crash Causation Study found that deficient or out of adjustment brakes were a factor in over 27 percent of the fatal crashes the agency investigated. Please explain the FMCSA's plan of action related to the vehicle out-of-service rate, particularly related to brakes. What protections are in place to help prevent this type of mechanical problem from impacting the safety performance of the vehicle? How is the agency seeking to reduce the number of vehicles with brake deficiencies that are operating out on the roads, given that brake deficiencies can significantly impact a vehicle's stopping distance as well as its overall stability?

ANSWER:
The agency works closely with our State safety partners as well as safety groups such as the Commercial Vehicle Safety Alliance (CVSA) to identify unsafe commercial vehicles operating on our Nation's highways. In addition to the routine roadside safety inspections conducted everyday across the country, which generate approximately 2.4 million vehicle inspections annually, the agency supports various strike force activities held throughout the year, such as Roadcheck and Brake Safety Awareness Week, which focus even more resources on unsafe commercial vehicles through increased roadside inspection activities targeted to equipment necessary for safe operation (brakes, tires, etc.). Maintenance requirements are also checked during the 15,000 total Federal/State compliance reviews conducted annually to ensure that routine preventive maintenance programs are in place to identify vehicles in need of repair and to ensure that they are repaired prior to being redispatched. The FMCSA encourages States to utilize available safety technologies that will enhance the efficiency and effectiveness of commercial vehicle safety programs. An example of such technology are Performance Based Brake Testers (PBBTs). These devices are utilized in some States during vehicle inspections. PBBTs allow an inspector to check vehicle-braking capability quickly and efficiently and determine whether the brakes comply with safety regulations.

QUESTION 6: Federal regulations, as well as the Commercial Driver's License manual, require commercial drivers to check their brake adjustment every day as part of their pre-trip inspection, yet it is my understanding that many carriers do not require their drivers to complete this task or they do not pay them for the extra time required to thoroughly complete the inspection. This problem is compounded by the fact that checking brake adjustment using current methods is not a simple, straightforward process. A 2006 study sponsored by FMCSA and the Commercial Vehicle Safety Alliance (CVSA) found that even fully trained commercial vehicle inspectors were unable to measure adjustment without a significant amount of variability. What is FMCSA doing, in coordination with State partners, to help increase awareness and understanding of this problem?

ANSWER:
The FMCSA's regulations require that drivers ensure that the commercial motor vehicle they are about to operate is in safe and proper working order. The regulations also require that the driver review the vehicle inspection report from the previous work day to ensure that any defects or deficiencies noted on that report have been corrected or repaired. However, the current safety regulations do not require that drivers measure the brake adjustment levels on their vehicles.

Motor carriers are required to ensure that all vehicles under their control are in safe and proper operating condition at all times. They are also required to have a systematic inspection, repair and maintenance program. Under the current regulations, the motor carrier is held accountable for ensuring proper brake adjustment. Motor carriers may require drivers to check brake adjustment when they perform pre-trip inspections. If they do, the time the driver spends conducting the pre-trip inspection must be recorded as on-duty, not driving, for the purposes of the Agency's hours-of-service regulations.

The FMCSA is working with brake experts in the private sector to develop a brake visor card

to instruct commercial drivers how to determine whether the service brakes on a commercial motor vehicle are within readjustment limits. The visor card would advise drivers to seek assistance from a qualified brake technician if they determine the brakes are out of adjustment. The Agency plans to publish the visor card later this year.

Also, the FMCSA is working with the CVSA to develop training materials for State motor carrier safety enforcement personnel to ensure that State officials are aware that drivers should not routinely adjust the brakes on vehicles equipped with automatic slack adjusters (ASAs). If an ASA-equipped vehicle has brakes that are out of adjustment, it is usually an indicator the ASA is not working properly, so readjusting the brakes may not correct the underlying problem that caused the brakes to go out of adjustment. Also, drivers may inadvertently damage the internal components of the ASA by manually adjusting the brakes. The training will enable the State officials who observe brake adjustment problems during roadside inspections to advise the drivers of the risks of damaging the ASAs, and the importance of having a qualified mechanic examine the brake system to determine the underlying cause for the brake adjustment problem.

QUESTION 7: Please provide the Committee with a list of states that require that a medical certification be provided as a condition of obtaining a commercial drivers license. Of these states, which states require just the certificate and which require the long medical form?

ANSWER:
As of March 2006, twelve States reported that they require the driver medical certificate before licensing commercial drivers – Alabama, Arizona, California, Indiana, Louisiana, Maryland, Massachusetts, Nevada, New Mexico, Rhode Island, Utah and West Virginia.

Of these States, all except Maryland also require the driver medical examination report form (long form) as a condition for issuance of the commercial drivers license (CDL). The State of Alabama requires only the medical examination report form upon initial application for the CDL.

QUESTION 8: For states that require evidence of medical certification as part of the licensing process, how do the states verify that the certificates are legitimate?

ANSWER:
State processes vary and are driven in part by those who have the authority to issue licenses. The CDL and medical certification processes are not always centralized within a single agency.

For example, the State of Indiana verifies that the determination of the medical examiner is consistent with Federal and State regulations prior to the issuance of the license; it is the only State to do so. Indiana personnel screen all medical examination report forms, reviewing patterns of errors or using cues such as whether a disqualifying condition is noted on a form when an individual is qualified by the examiner. The systematic review of these types of records is similar to methods used by motor carriers, medical insurance

companies, or other groups who audit medical charts.

If there is an error or a problem with a medical examiner's determination of driver medical fitness, the State can verify the practitioner's license on-line and contact the medical examiner directly. If there is fraud on the part of the driver, the State can disqualify the driver (or downgrade the license) and FMCSA can impose fines and penalties.

In addition, there is a roster of practitioners, and Indiana verifies medical fitness for duty on a case-by-case basis for approximately 220,000 drivers annually.

QUESTION 9: How do FMCSA inspectors verify that a medical certificate carried by a commercial driver is actually a legitimate certificate? Do they verify with the doctor or medical professional?

ANSWER:
FMCSA and State inspectors review the medical examination certificate during roadside inspections and compliance reviews. Drivers are required to retain a copy of the medical certificate while operating a commercial motor vehicle, and motor carriers are required to maintain a copy of the certificate in the driver qualification file. There are many ways for FMCSA or State investigators to identify false medical certificates. Frequently there is other paperwork in a driver's file regarding medical conditions or the condition can be identified through observation or interviews. In cases where the legitimacy of the certificate is in question, an inspector will contact the medical examiner directly.

QUESTION 10: What is FMCSA doing to ensure that a driver who fails a medical exam does not just go from doctor to doctor until someone signs the driver's certificate? Is FMCSA able to track if a driver has been previously denied a medical certificate?

ANSWER:
FMCSA is in the process of implementing a comprehensive solution to the problem of drivers who engage in "doctor shopping" in order to become qualified. Drivers are required by the Federal Motor Carrier Safety Regulations to fully disclose their medical history to the medical examiner during the physical qualification examination. Currently, FMCSA detects this practice through examination of the "long form" of the medical examination and noting indicators of disqualifying medical conditions. When discovered, drivers with disqualifying medical conditions are prohibited from operating a commercial motor vehicle.

To improve our ability to detect "doctor shopping" in the future, the FMCSA is developing the Final Rule to merge the medical certificate status and commercial driver licensing information system. This creates the State infrastructure for electronically storing the driver medical certificate information, including medical examiner identifying information.

The FMCSA is also developing a Notice of Proposed Rulemaking to establish the National Registry of Medical Examiners. The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) directed the Secretary of Transportation to

establish this program. This system will enable the Agency to monitor medical examiner performance and can be linked to the driver and commercial driver licensing information systems.

Finally, FMCSA is completing planning and development for the medical examination reporting system, also a SAFETEA-LU requirement. This system will allow monitoring of about 300,000-400,000 medical examination reports per month.

When linked, these three systems will enable FMCSA to comprehensively monitor the driver, the medical examiner, and the medical examination (reporting) process.

QUESTION 11: Are drivers required to notify a medical examiner if they are receiving medical disability benefits from social security or another provider of disability benefits? Does FMCSA verify that drivers are not receiving disability benefits for medically disqualifying conditions?

ANSWER:
No, drivers are not specifically required to notify the medical examiner about disability benefits. However, drivers are required by the Federal Motor Carrier Safety Regulations to fully disclose their medical history to the medical examiner, and to report any illness or injury that occurs that may affect their medical fitness for duty.

Drivers with medical conditions that would prevent them from being medically certified are prohibited from operating commercial vehicles in interstate commerce.

Questions for John H. Hill
Administrator, Federal Motor Carrier Safety Administration
Highways and Transit Subcommittee Hearing
Rep. Grace F. Napolitano
July 7, 2007

QUESTION: 1 Administrator Hill, what is the Motor Carrier Safety Administration doing to invest in collision avoidance technologies, such as lane departure warning systems, roll-over protection, radar and forward looking infrared systems, and computer enhanced braking? What steps are being taken to require commercial motor carriers to implement collision avoidance technologies?

ANSWER:
Over the past several years, FMCSA has been involved in the testing and evaluation of on-board safety systems, including lane departure warning systems, forward collision warning systems, and stability systems. FMCSA also promotes industry-government partnerships to accelerate the voluntary deployment of on-board safety systems that have significant potential to reduce truck- and bus-related crashes. Below are some examples:

- In cooperation with trucking industry stakeholders, FMCSA developed functional specifications to relay a better understanding of the functionality of on-board safety systems and to provide insight into their safety benefits. The American Trucking Associations' Technology and Maintenance Council used this information to develop Recommended Practices for the on-board safety systems.

- FMCSA has developed Commercial Motor Vehicle On-board Safety and Security Systems Technology Product Guides that are posted on our website. These guides provide a portfolio of existing and emerging safety and security system technology for the motor carrier industry. This information assists carriers, drivers, fleet managers, and other interested individuals to learn more about available safety and security systems.

- FMCSA has conducted webinars on lane departure warning systems, stability control systems, and collision warning systems. The primary focus of these sessions is to highlight real world safety technology experiences by motor carriers using these systems. This provides trucking firms and their safety officials an opportunity to learn about on-board safety systems and their application in different motor carrier operations.

- FMCSA participates in the Department's Integrated Vehicle-Based Safety System (IVBSS) initiative. This effort will develop information on how to best communicate warnings from an integrated system covering multiple hazards to the driver. Both light and heavy vehicle platforms are included in the testing. This initiative builds on completed and ongoing field operational tests and results from naturalistic driving studies. Objective tests and criteria will be developed for systems that simultaneously address rear-end, road departure, and lane change/merge crashes.

- FMCSA will be completing analyses of the costs and benefits of on-board safety systems for motor carriers, and assessing the use of these systems by the industry. FMCSA plans to

perform expanded testing of current and next-generation on-board safety systems to identify and resolve technology adoption issues, confirm and extrapolate safety and productivity benefits to the broader industry, and promote expanded adoption of the systems by industry.

- FMCSA and the National Highway Traffic Safety Administration (NHTSA) have undertaken complementary and coordinated research in the area of improving highway safety through the use of on-board safety systems on large trucks. NHTSA may use information from these projects as supporting documentation for any potential proposed rulemaking decisions requiring motor carriers to implement these technologies.

QUESTION 2: Over 100,000 trucks move through my district every day on the 5, 605, 60, and 10 freeways. This number is expected to double by 2015. What is being done to increase safety as we foresee a dramatic increase in freight movement on our freeways?

ANSWER:
The growing volume of freight has increased commercial motor vehicle (CMV) traffic on our nation's roadways. This increase puts a strain on the ability of enforcement personnel to ensure the safety and security of CMVs and other vehicles. It also requires innovative technology and methods to best identify the highest risk vehicles and drivers.

FMCSA is developing a new operational model through its Comprehensive Safety Analysis (CSA) 2010 initiative. The goal of CSA 2010 is to develop and implement more effective and efficient ways for FMCSA, its State partners, and industry to reduce commercial motor vehicle crashes, fatalities, and injuries by helping FMCSA and its State partners to identify poor driver and carrier performance early and intervene before small violations become larger safety problems. An intervention, as used in this context, refers to any action FMCSA would take to correct unsafe behavior and achieve compliance. Aside from roadside inspections and new entrant safety audits, the primary compliance intervention used currently is the compliance review. Under CSA 2010, FMCSA would have a broader array of interventions, including warning letters, targeted roadside inspections, off-site investigations, cooperative safety plans, notices of violations, focused onsite investigations, comprehensive onsite investigations, and enforcement actions.

FMCSA recognizes that advances of on-board and infrastructure-based technologies will allow the Agency to use technology to augment traditional enforcement and security models, drastically improving the way roadside operations are designed, and thereby enhance commercial vehicle safety and security. These technologies offer an opportunity to improve mobility of our nation's freight through improved operations at freight/intermodal terminals, border crossings, and points of entry and to better preserve the nation's infrastructure.

FMCSA is developing a data-driven framework under which roadside and vehicle-based technologies can be coordinated. This Smart Roadside for Commercial Vehicle Operations initiative will address the most important factors affecting commercial vehicle safety, security, and mobility, avoid duplication of effort, and target resources/funding at countermeasures (technological or process-oriented) that are most likely to deliver operational benefits to public- and private-sector stakeholders.

A number of FMCSA's current research and technology projects fall under the framework of this initiative. They include the Untethered Trailer Tracking project; the Enhanced Rear-end Signaling project; the Wireless Truck and Bus Inspection project; the Motor Carrier Efficiency Study, and the Smart Park program.

In addition, FMCSA is investigating the technical and operational feasibility of conducting electronic truck and bus inspections at highway speeds as frequently as once a week per vehicle. The Wireless Roadside Inspection Program has the potential to check driver, vehicle, and carrier identification and hours of service the same number of times trucks are currently weighed—up to 177 million times per year.

The system could connect an Electronic On-Board Recorder with a transponder (much like the one used with an EZ-Pass toll tag) in trucks and motorcoaches and wirelessly transmit driver, vehicle, and carrier safety status data to roadside inspection sites, whether on major highways or remote by-pass routes. FMCSA has estimated that a nationally deployed system could prevent injury-related crashes and save lives annually.

FMCSA demonstrated the technical capability of this system during the launching of the Commercial Motor Vehicle Roadside Technology Corridor on August 7th in Eastern Tennessee. The goal of this long-term collaborative effort among FMCSA and its close partners, the Tennessee Department of Safety, the Tennessee Department of Transportation, the Oak Ridge National Laboratory, and the University of Tennessee, is to develop and promote advanced truck and bus safety inspection and enforcement technologies while using existing inspection resources.

Before the Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
United States House of Representatives

For Release on Delivery
Expected at
2 p.m. EDT
Wednesday
July 11, 2007
CC-2007-078

Motor Carrier Safety: Oversight of High-Risk Trucking Companies

Statement of
The Honorable Calvin L. Scovel III
Inspector General
U.S. Department of Transportation

Chairman DeFazio, Ranking Member Duncan, and Members of the Subcommittee:

Thank you for the opportunity to testify today on the Federal Motor Carrier Safety Administration's (FMCSA) actions to improve oversight of high-risk motor carriers. As you know, we have testified many times on motor carrier safety issues, and we appreciate the continued interest and strong support that Congress has shown in improving motor carrier safety.

Crashes causing injury and death are a constant concern. For Fiscal Year (FY) 2005, there were nearly 2.7 million injuries and over 43,000 fatalities on our nation's highways, of which over 5,000 were related to crashes involving large trucks.

My testimony today draws from our extensive body of work on the motor carrier safety program over the last several years. Since 2000, we have issued 24 reports and testimony statements on FMCSA initiatives. One particular focus has been the agency's operation of the system it uses to identify high-risk carriers—the Motor Carrier Safety Status Measurement System, or *SafeStat*. We have also reviewed commercial driver's licenses, and implementation of the Motor Carrier Safety Improvement Act of 1999 (MCSIA), as well as cross-border trucking issues related to the North American Free Trade Agreement (NAFTA).

Fraud against the motor carrier safety program has been an investigative priority for our office for the last 10 years, targeting such crimes as false driver logs, fraudulent commercial driver's licenses, and falsified drug testing. Since FY 1997, our criminal investigations in this area have resulted in 533 indictments, 464 convictions, and nearly $41 million in fines, restitution, and civil recoveries.

FMCSA was created by Congress in 1999 to save lives and reduce injuries related to crashes involving large trucks. In carrying out its mission, FMCSA is involved in a wide range of activities, including issuing and enforcing rules and regulations in critical areas such as hours of service, sponsoring research, providing grants to the states for conducting roadside inspections and new-entrant safety audits, and monitoring state licensing of commercial drivers.

With over 700,000 registered motor carriers, it is essential to examine ways to better target FMCSA's resources to those motor carriers presenting the greatest risk. Yet simply targeting the highest risk carriers will not be enough. To be effective in reducing crashes, FMCSA must combine its targeting efforts with effective review of high-risk motor carriers for compliance with safety regulations, followed by strong enforcement action as warranted.

Today I will discuss our observations about FMCSA's progress as well as the challenges FMCSA faces in formulating programs to help it achieve its mission. Specifically:

1. FMCSA has made important progress in improving motor carrier safety and has plans for continued improvement, but further reductions in the fatality rate will be difficult to achieve.

2. FMCSA must obtain more complete information on motor carrier crashes to more effectively target the highest risk carriers for compliance reviews.

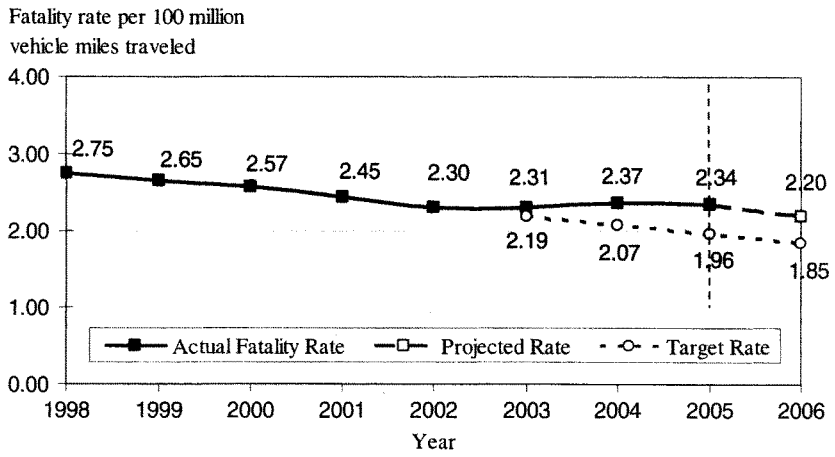
3. FMCSA must reassess and strengthen the compliance review process as vulnerabilities are identified.

4. FMCSA must ensure that enforcement actions are taken against repeat violators.

FMCSA Has Made Important Progress in Improving Motor Carrier Safety and Has Plans for Continued Improvement, But Further Reductions in the Fatality Rate Will Be Difficult to Achieve

Significant challenges remain as FMCSA continues its progress in improving motor carrier safety. As shown in Figure 1, the large-truck fatality rate has decreased about 15 percent from 1998 to 2005. The number of large-truck-related fatalities decreased from about 5,400 in 1998 to about 4,900 in 2002; FMCSA estimates just over 5,000 fatalities for 2006. Even during years with increased numbers of fatalities, the fatality rate per vehicle miles traveled has declined.

Figure 1. Fatality Rate for Large-Truck-Related Crashes



Source: FMCSA and OIG based on National Highway Traffic Safety Administration data.

While progress has been made in reducing the large-truck fatality rate, the Department will have difficulty attaining its goal set in the 2006 Strategic Plan. The plan set an ambitious goal to reduce the large-truck fatality rate to 1.65 fatalities per 100 million vehicle miles traveled by 2011. For 2006, the most recent year for which data are available, the preliminary fatality rate was 2.20 deaths per 100 million miles, well short of the goal of 1.85 established for that year. Had the 2006 target rate been achieved, 807 fewer lives would have been lost.

The Department believes that additional improvements will be increasingly more difficult to achieve. In its November 2006 Performance and Accountability Report, the Department stated that "gains have reached a plateau, and further reductions in the fatality rate are becoming harder and harder to attain."[1]

Our April 2006 audit of FMCSA's implementation of MCSIA found that FMCSA had significantly improved oversight of motor carrier safety since our 1999 audit. FMCSA and the states had stepped up enforcement of the regulations through compliance reviews, inspections, and other enforcement activities. Enforcement actions include levying civil penalties, imposing out-of-service orders against specific trucks/drivers, and shutting down a motor carrier's entire operation.

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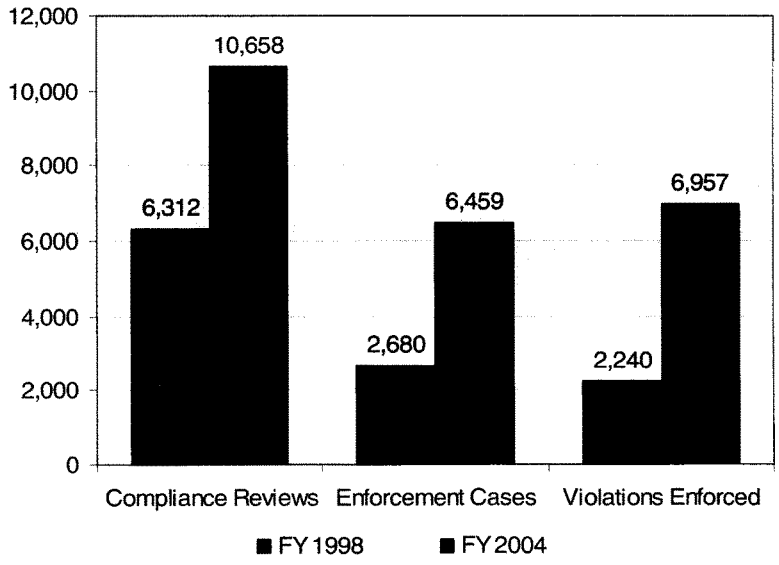
[1] *United States Department of Transportation Performance and Accountability Report, FY 2006,* November 15, 2006.

Since FY 1998, FMCSA has conducted more compliance reviews, opened more enforcement cases, and increased civil penalties for violations of safety regulations. The agency significantly increased its enforcement actions against serious motor carrier violations related to limits on driver hours of service, use of controlled substances and alcohol, vehicle inspection and maintenance, and driver qualifications. It also expanded its use of consent[2] and out-of-service orders for motor carriers with unsatisfactory ratings and those that fail to pay civil penalties. The value of civil penalties assessed increased from $11 million in 1998 to $29 million in 2004. As a result, the proportion of rated motor carriers with a rating of "satisfactory" increased from 44 percent in 1998 to 61 percent in 2004. In addition, the percentage of motor carriers rated "conditional" or "unsatisfactory" decreased from 46 percent in FY 1998 to 36 percent in FY 2004. Figure 2 provides details about the expansion of oversight and enforcement activities.

Figure 2. Increases in Oversight and Enforcement Activities[a]



[a] FY 2004 is the most recent year for which data confirmed through our audit work are available.
Source: FMCSA.

[2] FMCSA uses consent orders in a negotiated settlement agreement that commits the carrier to taking specific actions to achieve full compliance with Federal regulations.

Since 2004, FMCSA has been developing a new compliance and enforcement model to more effectively oversee the motor carrier industry and further reduce commercial motor vehicle crashes, fatalities, and injuries. This new model, which FMCSA plans to deploy in 2010, is expected to retool its systems for identifying and targeting high-risk motor carriers and for monitoring their safety performance. To implement this new model, FMCSA must define and develop data systems and software; draft necessary rulemakings, legislation, and policies; and conduct training. FMCSA believes the new model will allow the agency to contact more motor carriers and drivers, improve data to better identify high-risk carriers and drivers, and apply a wider range of interventions to correct high-risk behavior.

We have not audited FMCSA's plans for the new model, and are not in a position to discuss its specific details. However, based on our work on FMCSA's existing data systems, any data-driven model would benefit from improvement in the completeness of data.

FMCSA Must Obtain More Complete Information on Motor Carrier Crashes to More Effectively Target the Highest Risk Carriers for Compliance Reviews

FMCSA can improve its oversight of high-risk motor carriers by obtaining more complete information about crashes for use in targeting motor carrier reviews. Because FMCSA reviews less than 2 percent of active interstate motor carriers each year, it is important that it select for compliance review the carriers that pose the greatest safety risk.

FMCSA uses the Motor Carrier Safety Status Measurement System, or *SafeStat*, to rank and prioritize high-risk motor carriers for compliance review. *SafeStat* is an automated, data-driven system for ranking motor carriers using current safety performance data on crashes, inspections of trucks and drivers, results of compliance reviews, and enforcement actions recorded in FMCSA's database. FMCSA also uses *SafeStat* to generate warning letters advising carriers that continued performance problems may result in compliance reviews and potential state vehicle registration sanctions. *SafeStat* is also used to prioritize trucks and buses for roadside inspection.

Our February 2004 audit of *SafeStat* found significant weaknesses in the underlying data reported by states and motor carriers and with FMCSA's processes for correcting and disclosing data problems. We did, however, find that the system was an improvement over previous systems, and was useful for internal

targeting of FMCSA's enforcement efforts. Since 2004, FMCSA has taken action to improve reporting by the states, and more crashes are being reported. Fifteen state data quality reviews have been completed; FMCSA must ensure that the remaining ones are completed by the end of 2008, as promised.

Motor carriers are required to submit periodic updates to census data, including information on the number of drivers and vehicles used in *SafeStat* calculations. FMCSA cannot effectively rank the safety performance of motor carriers without complete and accurate census information. In the worst case, motor carriers with incorrect census records showing "zero" power units can have crashes, including fatalities, without it negatively impacting their safety ranking. Outdated census data have been identified in our audit work as an area of weakness. In response to a recommendation in our April 2006 report, FMCSA agreed to reduce the incidence of outdated census data by taking enforcement action against motor carriers that resist compliance with census-updating requirements.

At the request of Congressman Thomas Petri, we conducted a follow-up review on FMCSA's actions to improve the data relied upon in *SafeStat* and provided a letter and briefing with our results. Specifically, we noted improvements in the quality of the data and the creation of a system to correct certain data errors. However, significant numbers of nonfatal crashes are still not included in the calculation of risk because the crashes are not being reported to FMCSA by the states. The reasons that crashes are not reported vary by state and include the need for additional training for officials who prepare crash reports and problems with state crash reporting forms.

The quality of safety performance data is vital to ensuring that high-risk motor carriers are targeted for additional oversight, and crash data are the most important factor in the overall *SafeStat* score. Crash data are weighted twice as heavily as either the vehicle inspection history or the results of the most recent compliance review. Thus, missing crash data can seriously affect the ranking of a motor carrier, leading to either more or less oversight than is appropriate. For example, a high-risk carrier with many unreported nonfatal crashes might not be targeted for FMCSA's attention, even when it should be.

We do not know how many nonfatal crashes are missing from the FMCSA data, but independent assessments of crash data completeness for 15 states have shown that only 64 percent of the nonfatal large truck crashes that should have been reported were included in FMCSA's database. FMCSA's reviews of each state are intended to resolve this problem.

FMCSA Must Reassess and Strengthen the Compliance Review Process As Vulnerabilities Are Identified

FMCSA can enhance its compliance review process by periodically reassessing and strengthening its procedures when potential vulnerabilities are identified. We have not examined the compliance review process in detail, so we cannot provide an overall assessment at this time. However, a recent fatal crash points out how complex and difficult FMCSA's responsibilities can be, and that selecting a company for review may not always guarantee that safety problems are identified.

This past March, a tragic fatal crash occurred on the Washington, D.C., beltway (Interstate 495) involving a large truck operated by B.K. Trucking of New Jersey. B.K. Trucking is a small, interstate trucking corporation, which—before its recent shutdown—delivered bananas and pineapples up and down the East Coast. The driver of the truck had a suspended commercial driver's license when involved in the crash that killed a husband and father of two small children. The driver had previously received driving citations in six states, including citations for speeding, careless driving, inattentive driving, driving with defective brakes, and driving with a suspended license. B.K. Trucking had been selected for and subjected to a compliance review by FMCSA in February of this year based on its ranking in *SafeStat*. Nevertheless, the compliance review did not disclose the serious problems with this driver.

FMCSA's compliance review identified company drivers as well as drivers that the owner claimed were leased operators, operating under their own authority. The driver involved in the fatal crash was reported to be an owner-operator. Since compliance reviews procedures concentrate on company drivers, this driver was not included when license checks were conducted. As a result, this driver's poor driving record was not uncovered during the B.K. Trucking compliance review. B.K. Trucking has been ordered out of service. Both the company and the driver remain under investigation by FMCSA and our office and we have been informed that FMCSA is addressing lessons learned from this incident in its ongoing training of compliance review investigators.

We recognize that it is not practical for FMCSA to review every aspect of a motor carrier's operation during the limited time normally allotted to carry out its compliance review. However, we believe that FMCSA needs to continually reassess its compliance review process. This case, for example, shows that additional guidance may be needed on determining whether drivers are actually valid owner-operators or have only been classified by the carrier as owner-operators to avoid closer FMCSA scrutiny.

FMCSA should also consider expanding the compliance review to include sampling of all drivers, including owner-operators, to determine whether they hold a valid commercial driver's license.

FMCSA Must Ensure That Enforcement Actions Are Taken Against Repeat Violators

Another way that FMCSA can improve its oversight is to ensure that motor carriers are sanctioned when rules are repeatedly broken. Section 222 of MCSIA requires the Secretary of Transportation to assess the maximum civil penalty when a motor carrier or individual is found to have committed a pattern of violations.

FMCSA's key enforcement tool, the compliance review, examines a motor carrier's operations to determine whether the carrier and its trucks and drivers meet safety requirements. If violations are found, enforcement action may be initiated, such as the levying of fines. To be counted toward a pattern of violations, these enforced violations must be documented on a Notice of Claim, which is a legal document issued to the carrier to assess the fine.

To determine the amount of the fine, FMCSA uses its Uniform Fine Assessment software (UFA). The UFA considers nine statutorily-mandated factors in determining the amount of the fine, such as the nature and circumstances of the violation, the history of prior offenses, and the motor carrier's ability to pay the civil penalty. These factors usually limit the fine to an amount less than the maximum allowed by law. Because of the fine limit, although all violations are recorded during the compliance review, the penalties assessed may relate only to one or two of the most egregious violations.

Based on our work in 2006, we noted a loophole in FMCSA's enforcement policy that allowed hundreds of motor carriers to repeatedly violate significant safety rules without exposure to maximum penalties. The loophole comes into play when FMCSA identifies violations during a motor carrier's compliance review, but omits the violations from the Notice of Claim.

If a violation is not documented in the Notice of Claim, even if subsequent compliance reviews identify repeated violations of the same regulation, the earlier violations are not considered in establishing the pattern of violations necessary to invoke the maximum penalty provision. As a result, a motor carrier with limited ability to pay a fine could violate the same rule over and over, without running the risk of being penalized as a "repeat offender."

Our analysis of two categories of regulations showed that such repeat violations occurred frequently. Between September 2000 and October 2004, 533 motor carriers repeatedly violated either hours of service or drug and alcohol regulations,

and 67 repeatedly violated both. Yet because some violations were not documented in the enforcement claim, only 33 (6 percent) of the 533 motor carriers received the maximum penalty.

While it is necessary to consider a motor carrier's ability to pay a fine when taking enforcement action, this consideration should not be allowed to override the necessity for dealing appropriately with repeat violators. Closing this loophole will allow FMCSA to further deter violations of important safety regulations. FMCSA agreed to address this concern by June 2008, pending issuance of an upcoming Government Accountability Office (GAO) report on this issue. GAO is examining FMCSA actions against repeat offenders as part of a more comprehensive review of motor carrier oversight. FMCSA must act as soon as possible to implement changes once the GAO report is issued.

The attachment provides a list of our motor carrier safety reports and testimony and includes our work on implementation of the cross-border trucking provisions of NAFTA.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you or other members of the Subcommittee may have at this time.

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ATTACHMENT

OFFICE OF INSPECTOR GENERAL WORK ON FEDERAL MOTOR CARRIER SAFETY ISSUES

OIG Memorandum, 2006-041, "Improvements in the Quality of the Underlying Data Used by the Motor Carrier Safety Status Measurement System (SafeStat)," June 19, 2007.

OIG Testimony, CC-2007-029, "Status of Safety Requirements for Cross-Border Trucking With Mexico Under NAFTA," March 13, 2007

OIG Testimony, CC-2007-026, "Status of Safety Requirements for Cross-Border Trucking With Mexico Under NAFTA," March 8, 2007

OIG Statement, "DOT Announcement of Cross-Border Truck Safety Pilot Plan, February 26, 2007

OIG Report No. MH-2006-046, "Significant Improvements in Motor Carrier Safety Since 1999 Act but Loopholes for Repeat Violators Need Closing," April 21, 2006

OIG Report No. MH-2006-037, "Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program," February 7, 2006

OIG Testimony, CC-2005-038, "Background Checks For Holders of Commercial Drivers Licenses With Hazardous Materials Endorsements," May 11, 2005

OIG Testimony, CC-2005-024, "Reauthorization of TEA-21 Safety Programs," April 5, 2005

OIG Report No. MH-2005-032, "Follow-up Audit of the Implementation of the North American Free trade Agreement's (NAFTA) Cross Border Trucking Provisions", January 3, 2005

OIG Report No. MH-2004-068, "Report on Investment Review Board Deliberations on the Motor Carrier Management Information System," June 29, 2004

OIG Memorandum, CC-2004-054, "Need to Establish a Legal Presence Requirement for Obtaining a Commercial Driver's License," June 4, 2004

OIG Report No. MH-2004-034, "Improvements Needed in the Motor Carrier Safety Status Measurement System," February 13, 2004

OIG Report No. MH-2003-041, "Follow–up Audit on the Implementation of Commercial Vehicle Safety Requirements at the U.S.–Mexico Border," May 16, 2003

OIG Memorandum, CC-2002-163, "Locations of Safety Inspection Sites for Mexican Trucks," September 6, 2002

OIG Testimony, CC-2002-179, "Implementation of Commercial Motor Carrier Safety Requirements at the U.S.-Mexico Border," June 27, 2002

OIG Report No. MH-2002-094, "Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexican Border," June 25, 2002

OIG Report No. MH-2002-093, "Improving the Testing and Licensing of Commercial Drivers," May 8, 2002

OIG Report No. CR-2002-073, "Review of Department Oversight for Transportation of Nuclear Waste," January 10, 2002

OIG Report No. MH-2001-096, "Motor Carrier Safety at the U.S.-Mexico Border," September 21, 2001

OIG Testimony, CC-2001-244, "Motor Carrier Safety at the U.S.-Mexico Border," July 18, 2001

OIG Report No. MH-2001-059, "Interim Report on Status of Implementing the North American Free Trade Agreement's Cross- Border Trucking Provisions," May 8, 2001

OIG Report No. PT-2001-017, "Top DOT Management Challenges Report," Surface Transportation Safety excerpt, January 18, 2001

OIG Report No. MH-2000-106, "Disqualifying Commercial Drivers," June 30, 2000

OIG Testimony, TR-2000-059, "Motor Carrier Safety," March 2, 2000

OIG Report No. TR- 2000-013, "Mexico-Domiciled Motor Carriers," November 4, 1999

OIG Testimony, TR-1999-134, "S.1501 The Motor Carrier Safety Improvement Act of 1999," September 29, 1999

OIG Testimony, TR-1999-091, "Motor Carrier Safety Program," April 27, 1999

OIG Report No. TR-1999-091, "Motor Carrier Safety Program," April 26, 1999

OIG Testimony, TR-1999-055, "Surface Transportation Safety/Motor Carrier Safety and Related Matters," February 23, 1999

OIG Report No. TR-1999-034, "Motor Carrier Safety Program for Commercial Trucks at the U.S. Border," December 28, 1998

OIG Report No. AS-FH-7-006, "Motor Carrier Safety Program," March 26, 1997

OIG reports, testimony, and correspondence can be accessed on the OIG website at www.oig.dot.gov .

Written Testimony

Captain Ken Urquhart

Commander

Commercial Vehicle Section

Minnesota State Patrol

Overview of Commercial Vehicle Safety Program

Hearing before the

United States House of Representatives

Subcommittee on Highway and Transit

July 11, 2007

Minnesota
Commercial Vehicle Safety Operations
Table of Contents

Executive Summary

The Minnesota State Patrol Commercial Vehicle Section, as lead agency, administers federal Motor Carrier Safety Assistance Program (MCSAP) funds provided to the state by the Federal Motor Carrier Safety Administration (FMCSA). These funds are employed to enhance Commercial Motor Vehicle (CMV) highway safety through a wide range of education and enforcement activities including Driver/Vehicle inspections, Compliance Review Activities, Safety Education Outreach, and CMV Traffic enforcement activities. The Patrol works closely with and shares these federal funds with the Minnesota Department of Transportation Office of Freight and Commercial Vehicle Operations (OFCVO). Although the Patrol does not share direct funding with agencies other than the OFCVO, MCSAP resources are also made available to other divisions in DPS, other state and federal agencies, county and local units of government, and private organizations & individuals in an effort to improve CMV safety throughout Minnesota.

Data provided by FMCSA's Large Truck Crash Causation Study indicate the CMV driver is assigned a critical reason in 46% of CMV crashes. In addition unsafe operations in close proximity to large CMV's by non-CMV drivers plays a large part of our CMV crash picture. This indicates driver issues, rather than vehicle equipment issues, are the key element contributing to CMV crashes and our Commercial Vehicle Safety Plan focuses a large portion of our CMV education/enforcement resources on driver related safety activities. Minnesota will focus its efforts on these driver issues through the following activities; Driver/Vehicle Inspections, Reviews, Safety Education & Outreach, and Traffic Enforcement. This will ensure we reach as many driver focal issues as possible.

Truck Crashes Decrease
There were 4,558 truck-involved traffic crashes in 2006—a 14% decrease from the total number of crashes in the previous year.

Fatalities and Injuries Decrease
Minnesota currently has a CMV fatality rate of 0.12 (100M VMT) and exceeds the National goal of 0.16 by 25%. Minnesota believes that this low rate is a direct result of effective our CMV safety programs including inspection, review, safety education & outreach, and CMV traffic enforcement. Minnesota hopes that by continuing these CMV safety programs we will continue with this downward trend in the CMV fatality numbers.

CMV Fatality Rate per 100M VMT

Year	2000	2001	2002	2003	2004	2005	2006
MN	0.18	0.13	0.17	0.13	0.14	0.14	0.12
National	0.20	0.19	0.18	0.18	0.19	0.18	?

In 2006, there were 62 fatal truck crashes, killing 65 people. The number of fatalities was a 17% decrease from the previous year. There were 1,544 persons injured in 2006. This was a 12% decrease from the previous year.

The above successes have occurred at a time when our CMV safety staffing levels are decreasing annually with limited replacements. We believe by focusing our existing personnel resources we can continue to maintain our ability to positively impact our CMV crash ratios.

Motor Carrier Safety Assistance Program (MCSAP)

Driver/Vehicle Inspections

The State Patrol has the primary responsibility for CMV inspections in the state. The Patrol's Commercial Vehicle Section has divided the state into 7 separate regions, each managed by a Lieutenant. The state operates 5 fixed scales across the state and performs approximately 25% of all inspections at these fixed locations with the other 75% performed as a result of roadside activities. Six Regional Lieutenants and 3 CVI-IIIs (lead workers) devote approximately 10% of their time to performing inspection monitoring activities and inspection quality control.

Reviews

Minnesota has an active review program, participates in the Federal Compliance Review program, conducts NESAP audits, performs HM shipper reviews, cargo tank facility reviews, and HM security reviews. In addition, Minnesota has an active Intrastate Review program, including Minnesota Compliance Reviews (MCRs), Minnesota Passenger Reviews (MPRs), and audits of limousine operators and Special Transportation Service Providers. Minnesota intrastate reviews are patterned after the Federal Compliance Review program, and most reviews are uploaded to the Federal database. Minnesota law requires entry safety audits of intrastate for-hire passenger carriers, and requires that these carriers be reviewed at least every four years. Minnesota's Mandatory Passenger Reviews are not MCSAP reimbursable activities per FMCSA guidelines

Federal and State information shows there are 41,904 (16,296 interstate + 25,608 intrastate) carriers based in Minnesota. With limited resources, Minnesota and the FMCSA officers based in the state are not able to examine the operations of all of these carriers. Existing Compliance Review assignment criteria did not always focus activity on those carriers most in need of a review.

Minnesota has worked closely with FMCSA to target those carriers with significant safety issues. Minnesota is focusing its review efforts on FMCSA Category A & B carriers, those carriers with high driver violation values, and carriers referred for review because of crashes or legitimate complaints. Minnesota Intrastate reviews are based on the intrastate SafeStat list from FMCSA. Minnesota performed 309 CRs and 111 MCRs in 2006. Enforcement cases were taken on 99 CRs and 34 MCRs.

Minnesota has been refining its passenger carrier review program since 1998. During the past few years the program has been transformed into a performance based selection process for selecting carriers for a review of their safety management practices. Included in this process was the migration to an electronic process for capturing the data collected during these reviews. These streamlining processes has allowed staff to focus on working with carriers who need to improve upon existing safety management practices and to identify other individuals providing passenger transportation that may not be certified to do so, thus posing a potential threat to passengers.

During this past year Minnesota has partnered with the FMCSA to expand the focus of the performance based passenger program to include carriers, who provide passenger transportation in interstate and/or intrastate commerce.

Safety Education and Outreach

Minnesota has been providing safety education & outreach to carriers, hazmat shippers, and the general public for over 20 years. Minnesota's safety education program includes classroom training, group presentations, and E-learning opportunities. In 2006 Minnesota delivered 98 classes and presentations regarding CMV safety issues and 26 hazmat classes and presentations. Some of these educational programs are focused at specific segments of the transportation industry and may be narrow in focus or very broad-based. We have been partnering with FMCSA & PHMSA to increase public awareness of motor carrier and hazmat safety issues.

The Large Truck Crash Causation Study indicates that both industry and the general motoring public are still in need of safety related information and guidelines when operating vehicles in close proximity to other vehicles. The real challenge seems to be in developing outreach materials and methodologies that are both interesting and informative for their intended audience.

The state has developed safety education classes and materials. The state will continue to provide training to the industry and outreach to the motoring public through formal presentations and web-based information and training sites.

Online Learning

This type of training allows you to learn from the comfort of your home or place of work, you can learn at your own pace, it is available 24 hours a day from your computer, and it saves on time, travel and lodging. There is no cost for training.

CD-Rom Learning

This training also allows you to learn from the comfort of your home or place of work, you can learn at your own pace, it is available 24 hours a day from your computer, and it saves on time, travel and lodging. There is no cost for training. We offer two types of CD Rom Learning.

MCSAP Financial Health

Because the Minnesota commercial vehicle enforcement program received no additional funding from the legislative session recently adjourned, state agencies will be required to operate through the upcoming state fiscal year with the same funding level provided in the previous year. Because of these financial constraints we are uncertain Minnesota will have the ability to meet both the 20% state match as well as the state's Maintenance of Effort, and therefore may not be able to claim the FFY 2008 MCSAP allotment in its entirety.

Motor Carrier Safety Assistance Program (MCSAP)
National Program Emphasis Areas

Increased Driver Focus

Minnesota has recognized the CMV driver is a major contributing factor to CMV crashes and has made the conscious decision to re-focus resources from vehicle equipment to examination of the driver. Minnesota's increased driver focus is referenced in the sections describing state efforts in inspections, reviews, traffic enforcement, and safety education & outreach.

CMV and Non-CMV Traffic Enforcement
The state is continuing its CMV traffic enforcement program and is adding a non-CMV traffic enforcement effort for FFY 2008. These highly visible programs will be focused in high-risk locations with the goal of reducing CMV crashes.

Data Quality
Minnesota continues to meet all of the guideline criteria for data timeliness and accuracy with the exception of Crash Data Accuracy". Minnesota has experienced difficulty with crash data accuracy because there are conflicts within the SafetyNet software that do not allow all of the correct motor carrier information to be input, therefore SafetyNet and MCMIS do not always match the census. In addition, many crash reports are submitted by local governmental agencies, over whom the state has limited control as to the content of the report.

Passenger Carrier Inspections
Minnesota has historically placed a high priority on inspection & review of passenger carriers. In 2006 Minnesota inspected 1,155 bus/motor coaches plus an additional 17,509 inspections on school buses. In addition, the state performs approximately 200 reviews annually on passenger carrier operations.

Compliance Reviews
Minnesota currently requires intrastate freight haulers to obtain a US/DOT number. The state performed 309 CRs in calendar year 2006 and projects a similar total for 2007. Minnesota conducts MN Compliance Reviews (MCRs) and MN Passenger Reviews (MPRs) on intrastate carriers. These reviews are based on the federal CR model and utilize FMCSA SafeStat data to determine assignments. Minnesota has an on-going productivity and cost management study of all review programs, to ensure effective use of staff time and resources.

The state files the required Annual Compatibility Report with its Commercial Vehicle Safety Plan annually. The Patrol and OFCVO work closely with the state legislature to eliminate state incompatibilities with the FMCSRs. Intrastate reviews are uploaded to the federal database however the state currently has no authority to assign intrastate carrier safety ratings.

Hazardous Material Program
The state has adopted the federal Hazardous Materials Regulations by statutory reference. Minnesota participates in the COHMED and on the CVSA Hazmat committee and work closely with the FMCSA Hazmat Specialist.
Minnesota has performed hazmat cargo inspections since 1990 and actively participates in the HM Package Inspection Program. The state performs Shipper Reviews throughout the year and has an ongoing Cargo Tank inspection special initiative.

Seat Belts
The state has not yet adopted a "Primary Seat Belt" law but has adopted the federal regulations for seat belt usage by CMV drivers as contained in 392.16. Minnesota will continue to promote greater safety belt usage among CMV drivers through enforcement, education, and outreach activities.

Electronic Verification of CDL Status
All officers performing inspections and/or reviews throughout the state now have electronic access to the state CDL system. Each officer is instructed to avail him/herself of this information when performing inspections/reviews and, when necessary, take the appropriate enforcement action relating to violations of CDL regulations.

New Entrant Safety Assurance Program (NESAP)

To date, Minnesota has completed approximately 4,330 NESAP audits and re-classified an additional 2900 motor carriers as part of the project. Each NESAP audit requires an average of approximately 6 hours to complete and the re-classification effort requires about 3 hours for completion. When calculated alone, the state spends approximately $790 to complete each NESAP audit but when the re-classification activities are added to the total, the cost of each motor carrier contact drops to approximately $400.

The significant number of New Entrant motor carriers identified in Minnesota throughout the first 36 months of our program were largely attributed to a new state statute *(enclosed for review)* effective August 2002, requiring owners of trucks and truck tractors to report their US DOT numbers at the time of their registering for Minnesota license plates.

This new statute cannot be cited alone for the continuing influx of requests by Minnesota-based motor carriers for new USDOT numbers however. It appears the message is being spread by word-of-mouth from many of those carriers already visited by NESAP auditors to others within the same industries. We feel this may be due, in large part, to the positive impression made on those carriers visited by our NESAP auditors. By taking the time to explain the rules/regulations and how they apply to each individual carriers' operation, the industry as a whole, is left with the feeling that the comment "I'm from the government and I'm here to help" is really a true statement.

The overall objective of the program is to ensure new motor carriers have a knowledge base adequate to allow them to operate safely within the existing regulatory framework. This can be accomplished by personally visiting each new motor carrier applicant and reviewing managerial practices to ensure he/she understands the meaning and applicability of the regulations. Additionally, during our visit educational and technical

assistance materials are provided including a current copy of the Minnesota New Entrant CD ROM, a copy of the FMCSRs, several educational brochures and a number of contact phone numbers and website addresses whereby regulatory information may be obtained. The CD ROM provided the applicant during the visit contains a myriad of information in addition to sample forms that may be customized to meet individual preferences or utilized as is to meet many regulatory requirements.

The re-classification process includes correcting the applicants' form MCS 150 to accurately reflect the motor carriers' true classification. Corrections such as interstate vs. intrastate operation, applicants leased to another motor carrier, and deactivation/removal due to improper registration, are all issues that will affect the carriers' requirement for a New Entrant Safety Audit.

Minnesota's Intrastate USDOT number requirement

On August 1st, 2002, this registration requirement went into effect in an overall effort to identify motor carriers operating strictly within the borders of Minnesota. This provision identified and enhanced the delivery of commercial motor vehicle safety information to the industry.

Minnesota Statute 168.185 USDOT numbers.

(a) An owner of a truck or truck-tractor having a gross vehicle weight of more than 10,000 pounds, as defined in section 169.01, subdivision 46, other than a farm truck, shall report to the registrar at the time of registration its USDOT carrier number. A person subject to this paragraph who does not have a USDOT number shall apply for the number at the time of registration by completing a form MCS-150 Motor Carrier Identification Report, issued by the Federal Motor Carrier Safety Administration, or comparable document as determined by the registrar.

(b) Assigned USDOT numbers need not be displayed on the outside of the vehicle, but must be made available upon request of an authorized agent of the registrar, peace officer, other employees of the state patrol authorized in chapter 299D, or employees of the Minnesota department of transportation. The vehicle owner shall notify the registrar if there is a change to the owner's USDOT number.

(c) If an owner fails to report or apply for a USDOT number, the registrar shall suspend the owner's registration.

(d) Until October 1, 2003, paragraphs (a) to (c) do not apply to an agricultural fertilizer or agricultural chemical retailer while exclusively engaged in delivering fertilizer or agricultural chemicals to a farmer for on-farm use.

Border Enforcement Program

We have a significant number of CMVs entering the state directly from the provinces of Manitoba and Ontario through eight crossings. Due to the remote nature and relatively small population of the border area it is relatively easy for CMV drivers to avoid examination by enforcement officers when operating in the border region. Many CMV drivers have little knowledge of the characteristics of the cargo they are transporting across our border. There is also an added potential for fatigued and/or unqualified drivers to enter Minnesota along with improperly transported dangerous goods, contraband, and unsafe vehicles. Only 22% of Minnesota's CMV enforcement officers have the authority to make "probable cause" traffic stops of CMVs. This tends to skew our inter/intrastate crash ratio because we do not have a proactive multi-faceted traffic enforcement program. The remote location of the border area also limits real-time exchange of inspection data. All of these concerns are directly related to both highway safety and homeland security.

The primary objectives of this proposal are:

1. Performing additional CMV safety inspections focusing on those items known to be primary crash-causation issues;
2. Inspecting freight on board CMVs to ensure proper load securement and to ensure the trans-border shipments are what they say they are and contain no contraband, the inspectors will also enter the cargo area of the vehicles to match the cargo with the shipping documents;
3. Fostering an improving relationship between enforcement agencies interested in CMV traffic safety;
4. Increasing our enforcement visibility in the border area;
5. Continue to explore an improved data uplink system in the remote border region.

Performance Registration Information Systems Management (PRISM)

The Performance and Registration Information Systems Management Program (PRISM) originated as a pilot project mandated by Congress under section 4003 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). The goal of the project was to explore the potential benefits of using State commercial vehicle registration sanctions as an incentive to improve motor carrier safety.

The PRISM pilot demonstration project was developed through a cooperative agreement between the Federal Motor Carrier Safety Administration (Former FHWA, OMC) and the Iowa Department of Transportation (DOT). In addition to Iowa, four other States--Colorado, Indiana, **Minnesota** and Oregon, participated in the PRISM pilot demonstration project.

The pilot officially ended on September 30, 1997. A final report assessing the feasibility, costs, and benefits of the PRISM program was submitted to Congress in 1998. The report proved conclusively that the possibility of State commercial vehicle registration sanctions could, indeed, serve as a powerful enforcement tool in Federal and State motor carrier safety improvement efforts.

In 1998 Congress authorized additional funding through the Transportation Equity Act for the 21st Century (TEA-21) to implement the PRISM program nationwide

Minnesota is fully compliant with the elements of the PRISM Program

(1) Signing of PRISM agreement: **September 19, 2002**
(2) MCS-150 update requirement for carriers: **January 1, 2004**
(3) Updating SAFER with IRP vehicle data: **February 15, 2006**
(4) IRP system performs automated safety status checks (DOT Number & VIN): **July 1, 2005**
(5) Invoking of registration sanctions when carrier is under an OOS order: **August 1, 2004**

Aerial Crash Mapping

The focus of this program is to develop an expedient & comprehensive Commercial Motor Vehicle crash investigation process involving aerial photographic reconnaissance and photo storage capabilities, reducing on-scene investigation time. This will minimize the time spent in harms' way by our officers while gathering crash information and will make the highway safer for the motoring public by reducing the traffic delay and mitigating residual crashes in the back-up. By expediting the on scene investigative process, this will minimize the amount of commercial motor vehicle traffic attempting to bypass crash scenes by utilizing secondary routes not primarily designed for truck traffic.

Our Accident Reconstructionists will utilize the photos taken to render scale drawings of the crash scene including benchmark and final rest locations of the vehicles involved. The software used by the Accident Reconstructionists allows them to depict the crash in an animated format utilizing the aerial photographs of the scene. Of particular interest is the speed in which this process can be brought to fruition on an individual case. As an example, it is estimated a fatal crash involving a Commercial Motor Vehicle can now be mapped, reconstructed, and put into an animation within two days by utilizing the aerial images taken of the scene. This is a process that will take several weeks or longer without these digital images.

Fuel Compliance

The Red-Dyed Fuel Enforcement Project is for the detection and enforcement of off road fuel tax evasion violations by commercial vehicle operators using public roadways. The MN Department of Revenue estimates this type of tax evasion costs the Minnesota Highway User Trust Fund in excess of $1,500,000^{00}$ annually.

This proposed project continuation will allow approximately 30 trained officers the time to look for and identify those violators while on Minnesota highways. These officers will work closely with and act as a conduit to both the Minnesota Department of Revenue and the Internal Revenue Service, who will each bring a tax collection action against those individuals and businesses identified as using fuel for on-road operations without paying the appropriate road taxes required by state and federal law. (100% of all road use taxes recovered by the MN/DOR are deposited directly into the Minnesota Highway User Trust Fund.)

As part of this project, the State Patrol has worked cooperatively with the MN DOR and devoted approximately 2200 man-hours in each of the past three years to help identify and detect red-dyed fuel users. As you know, over the past few years, this project has made this type of interdiction a priority in Minnesota and the state enjoys one of the most aggressive Red-Dyed Fuel detection projects in the nation.

Civil Weight Enforcement

Relevant Evidence (Civil Weight)

Minnesota State Statutes, Sections 169.851; 169.871; and 169.872 identify the concept of "relevant evidence." These statutes provide that bills of lading, weight tickets, volume documents and other records may be used as relevant evidence in establishing that a weight violation has taken place. MSS 169.851(4) reads: "A document evidencing the receipt of goods issued by the person consigning the goods for shipment or a person engaged in the business of shipping or forwarding goods, which states a gross weight of the vehicle and load or the weight of the load when combined with the empty weight of the vehicle that is in excess of the prescribed maximum weight limitation permitted by this chapter is relevant evidence that the weight of the vehicle and load is unlawful." A violation is established in a civil action.

Mobile / Fixed Weight Enforcement

Permanent Scales

- 7 Permanent scales statewide
  - 3 Interstate locations
  - Two facilities utilize WIM technology for screening purposes.

Portable Scales

The Minnesota State Patrol currently has 250 Haenni wheelload weighers. Minnesota has 15 teams devoted specifically to weight enforcement. The teams are comprised of at least one Trooper and 1-3 CVIs with at least 4 portable scales each. Teams are able to work together in one specified location or because they each have scales, they may split up to saturate a larger geographical area.

Mandatory Inspection Program

In 1989 Minnesota made application to FMCSA to create a mandatory inspection program. In 1990 it was approved and made into law under Minnesota State Statute 169.781. The Minnesota Mandatory Inspection Program (MIP) requires that all commercial vehicles (over 26,000#) registered in Minnesota, must past the inspection and display a current decal in order to be operated in Minnesota. The standards adopted by Minnesota for commercial vehicle inspections are the same standards prescribed in Code of Federal Regulations, title 49, section 396.17, and in chapter III, sub chapter b, appendix G.

Minnesota Statute 169.781 Annual commercial vehicle inspection; inspectors, fee, penalty.

Subd. 2. **Inspection required.** It is unlawful for a person to operate or permit the operation of:

(1) a commercial motor vehicle registered in Minnesota; or

(2) special mobile equipment as defined in section 168.011, subdivision 22, and which is self-propelled, if it is mounted on a commercial motor vehicle chassis, unless the vehicle displays a valid safety inspection decal issued by an inspector certified by the commissioner, or the vehicle carries (1) proof that the vehicle complies with federal motor vehicle inspection requirements for vehicles in interstate commerce, and (2) a certificate of compliance with federal requirements issued by the commissioner under subdivision 9.

Commercial Vehicle Post Crash Requirements

Every commercial motor vehicle involved in a crash which meet the statutory requirements must either be inspected or have a waiver issued by the State Patrol.

Minnesota Statue 169.783 Commercial vehicle accident; reinspection.

Subd. 1. **Postcrash inspection.** A peace officer responding to an accident involving a commercial motor vehicle must immediately notify the State Patrol if the accident results in death, personal injury, or property damage to an apparent extent of more than $4,400. It is a misdemeanor for a person to drive or cause to be driven a commercial motor vehicle after such an accident unless the vehicle.

Subd. 2. **Waiver.** A state trooper or other authorized person called to the scene of an accident by a responding peace officer under subdivision 1 may waive the inspection requirement of that subdivision if the person determines that a post crash inspection is not needed or cannot be accomplished without unreasonable delay. A person who grants a waiver must provide to the driver of the commercial motor vehicle for which the waiver is granted a written statement that the inspection has been waived. The written statement must include the incident report number assigned to the accident by the State Patrol.

School bus

The Minnesota State Patrol personnel inspect every vehicle defined as a school bus used to transport children to and from school and school related activities.

Minnesota Statute 169.451 Inspecting school and Head Start buses; rules;

Subd. 1. **Annual requirement.** The Minnesota State Patrol shall inspect every school bus and every Head Start bus annually to ascertain whether its construction, design, equipment, and color comply with all provisions of law.

The Commander of the Commercial Vehicle Section of the Minnesota State Patrol serves as the "Pupil Transportation Safety Director" on behalf of the Commissioner of Public Safety.

Minnesota Statute 169.435 State school bus safety administration.

Subd. 1. **Responsibility; Department of Public Safety.**

The Department of Public Safety has the primary responsibility for school transportation safety. The commissioner or the commissioner's designee shall serve as state director of pupil transportation according to subdivision 3.

Subd. 3. **Pupil transportation safety director.**

(a) The commissioner of public safety or the commissioner's designee shall serve as pupil transportation safety director. (b) The duties of the pupil transportation safety director shall include:

(1) overseeing all department activities related to school bus safety;

(2) assisting in the development, interpretation, and implementation of laws and policies relating to school bus safety;

(3) supervising preparation of the School Bus Inspection Manual; and

(4) in conjunction with the Department of Education, assisting school districts in developing and implementing comprehensive transportation policies.

Initial Motor Carrier Contact (IMCC)

One of the requirements to obtain Minnesota For-hire Operating Authority is to attend an Initial Motor Carrier Contact (IMCC) training class. This online training course fulfills the compliance standards as required by Minnesota Statutes 221.124. You must take this course within 90 days of being issued a certificate or your authority will be cancelled. The IMCC training course includes a general overview of the safety regulations, operating authority, and registration requirements.

Minnesota Statute 221.124 Initial motor carrier contact program.

Subd. 1. **Initial motor carrier contact.** The initial motor carrier contact program consists of an initial contact, for educational purposes, between a motor carrier required to participate and representatives of the Department of Transportation. The initial contact may be through an educational seminar or, at the discretion of the department, through a personal contact with a representative of the department. The initial contact must consist of a discussion of the statutes, rules, and regulations that apply to motor carriers. Topics discussed must include: insurance requirements; accident reporting; accident countermeasures; identification of vehicles; driver qualifications; maximum hours of service of drivers; the safe operation of vehicles; equipment, parts, and accessories; and inspection, repair, and maintenance. The department shall provide written documentation of proof of compliance with the requirements of subdivision 2 and shall give a copy of the document to the motor carrier.

Subd. 2. **Participation required.** A motor carrier that first registers with or receives a permit from the commissioner after January 1, 2000, shall participate in the initial motor carrier contact program. A motor carrier required to participate in the program must have in attendance at least one motor carrier official having a substantial interest or control, directly or indirectly, in or over the operations conducted or to be conducted under the carrier's registration or permit.

Subd. 3. **Time for compliance.** A motor carrier required by subdivision 2 to participate in the program must do so within 90 days of the service date of the order granting the permit or within 90 days of registering, unless the commissioner extends the time for compliance. Failure to comply with the requirement of subdivision 2 makes the order granting the permit or the carrier's registration void upon expiration of the time for compliance.

Passenger Carrier / Special Transportation Safety Program (STS)

Motor Carriers of Passengers

Motor Carriers of Passengers are persons engaged in the for-hire transportation of passengers in vehicles designed to transport 8 or more passengers, including the driver.

Minnesota Statute 221.0252 Passenger carrier; registration, exemptions.

Note: "Small vehicle passenger service" is a service provided by a person engaged in the for-hire transportation of passengers in a vehicle designed to transport 7 or fewer persons including the driver. The cities in which they operate and the Metropolitan Commission regulate small vehicle passenger service.

Special Transportation Service Operators (STS)

A person who receives state or federal funding to assist in providing transportation that is designed primarily or exclusively to serve the elderly or disabled.

Minnesota Statute 174.30 Operating standards for special transportation service.

Minnesota Rule 8840.5100 Definitions and 8840.6300 Variance

Subd. 1. **Applicability.** (a) The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

(1) a common carrier operating on fixed routes and schedules;

(2) a volunteer driver using a private automobile;

(3) a school bus as defined in section 169.01, subdivision 6; or

(4) an emergency ambulance regulated under Chapter 144

Passenger Carrier Limousine Inspections

Limousine Operators

Limousine transportation is provided in a luxury passenger automobile that does not have a meter, where the service in prearranged, the seating capacity is not more that 12 passengers, and which charges more than a taxicab for a comparable trip

Minnesota Statute 221.84 Limousine

Minnesota Rule Part 8880 in its entirety

State of California—Business, Transportation and Housing Agency ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
Enforcement Service Division
444 N. Third Street, Suite 310
Sacramento, CA 95811
916-445-3253

(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)

Testimony of Chief Steve Vaughn
California Highway Patrol

Before the

Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
July11, 2007

CALIFORNIA HIGHWAY PATROL (CHP)
COMMERCIAL ENFORCEMENT PROGRAM (CEP)

On August 14, 1929, the CHP was created within the Department of Motor Vehicles and was provided statewide authority to enforce traffic laws on county and State Highways. The primary function of the CHP is "the management and regulation of traffic to achieve safe, lawful, and efficient use of the highway transportation system." As a major statewide law enforcement agency, the secondary mission of the Department is to assist in emergencies exceeding local capabilities. The CHP also provides disaster and lifesaving assistance. In October 1947, the Department of the California Highway Patrol was established and the position of commissioner was created to head the new Department. Currently the CHP has over 10,000 authorized positions: over 7,385 uniformed (or sworn), and over 3,375 civilian (non-sworn) positions.

The CHP performs its mission on all state highways constructed as freeways in both incorporated and unincorporated areas of the state. These freeways include interstate routes, U.S. highways, and state routes. The CHP also performs its mission on all streets and highways in unincorporated areas of the state. This jurisdiction encompasses highways under the control of both state and county government maintenance authorities. In total, the CHP currently patrols approximately 104,000 miles of roadway throughout California.

The primary function of the CHP is traffic enforcement and general law enforcement services along the roadways within its jurisdiction. The Department does have the authority to enforce all code sections, pertaining to traffic and law enforcement, on all public roadways within the state. As emergency first-responders, CHP personnel provide emergency medical assistance and aid to victims of traffic collisions as well as complete detailed investigations of these incidents.

As a result of the consolidation of the California State Police (CSP) with the CHP in 1995, the Department provides protective services for the Governor and other constitutional and state officials. The CHP also provides protective and other law enforcement services to all state employees and facilities.

Since the terrorist attacks on September 11, 2001, the CHP has expanded its role in providing security for state assets and infrastructure. The Department participates in various joint terrorism task forces comprised of federal, state, and local law enforcement representatives. The Department also established the Emergency Notification and Tactical Alert Center (ENTAC) located at CHP Headquarters in Sacramento. ENTAC acts as an emergency notification and information conduit for Executive Management. ENTAC provides a means for coordinating departmental response to major incidents occurring with CHP's jurisdiction.

The CHP provides service to the commercial vehicle industry through promulgation of regulations pertaining to vehicle safety, driver fitness, and the transportation of hazardous

and other materials requiring special load securement. The CHP also regulates the operation of specialized vehicles (e.g., ambulances, armored cars, and school buses). These requirements are intended to facilitate the safe and efficient delivery of passengers, property, goods, and services thereby enhancing commerce and the quality of life in general.

The CHP monitors compliance with these requirements through periodic terminal inspections, aided by on-highway inspections at fixed facilities or by specially trained mobile road enforcement (MRE) officers. Specialty vehicles, such as privately owned or operated ambulances, authorized emergency vehicles, armored cars, hazardous materials transporters, and contract school buses are subject to licensing and/or permitting by the CHP. Similarly, privately owned or operated ambulances and specified vehicles used to transport school pupils or farm laborers are subject to annual inspection and certification by the CHP. The CHP also works closely with industry organizations to foster cooperative initiatives to further transportation safety.

STATUTORY MANDATES

In accordance with Sections 2400 and 34501 of the Vehicle Code (VC), the Department administers an internationally recognized CEP in an on-going effort to improve commercial motor vehicle safety on California's highway transportation system through enforcement, training, education and new technologies. Section 34501 VC mandates the department to adopt regulations designed to promote the safe operation of commercial motor vehicles. Section 34501.5 VC mandates the department to adopt regulations designed to promote the safe operation of school buses.

Per Title 49, Code of Federal Regulations (49 CFR), Part 350.201(c), the CHP is designated by the Governor as the lead State agency responsible for implementing a Commercial Vehicle Safety Plan (CVSP) in which the Department' goals and mission are a required element (49 CFR, Part 350.213). Title 49 CFR, Part 350 also requires the CHP to "Allocate adequate funds for the administration of the CVSP..."

GOALS AND OBJECTIVES

The goal of the CHP's CEP is to contribute to a lower statewide Mileage Death Rate (MDR) (fatalities per 100 million miles) by utilizing the CVSP to target those areas with an above average rate of commercial motor vehicle collisions. A high priority is also placed on random, on and off-highway inspection programs for vehicles and containers transporting flammable and/or combustible liquids, placardable amounts of other hazardous materials and hazardous wastes.

On-Highway Vehicle and Driver Inspections: The CHP has primary regulatory responsibility over the commercial motor vehicle industry in California. Its importance

to California's economy and the severity of collisions involving commercial motor vehicles make the safe operation of commercial motor vehicles a vital element of the CHP's traffic safety efforts. The Department's on-highway CEP currently consists of approximately 248 officers and 257 non-uniformed Commercial Vehicle Inspection Specialists (CVIS) dedicated to the Department's on-highway commercial enforcement program at 16 Inspection Facilities and 34 platform scales. These officers and CVISs are wholly focused on inspection of commercial motor vehicles and their drivers. An additional 138 personnel are assigned as MRE officers. MRE positions were established to allow for the inspection of commercial motor vehicles that purposely avoid, or due to delivery routes, do not traverse Inspection Facilities or platform scales. Accordingly, MRE officers have the dual responsibility of conducting commercial motor vehicle inspections and enforcing rules-of-the-road violations.

Despite the steady annual increase in the number of commercial motor vehicles registered in California, commercial motor vehicles traversing the highways, and commercial motor vehicle-involved collisions, California has experienced a continued reduction in the commercial motor vehicle MDR from 3.03 to 2.10 between 1997 and 2004. A decrease in the MDR is a direct result of the increased random, on-highway vehicle and driver inspections performed by the CHP and the continued focus on enforcement of passenger vehicle violations around commercial motor vehicles.

In recent years, there has been a dramatic increase in the number of miles traveled by commercial motor vehicles throughout California. In 2004, there were 18.9 billion commercial motor vehicle-miles traveled, as compared to 14.4 billion commercial motor vehicle-miles traveled in 1997. The number of miles traveled by commercial motor vehicles will continue to increase in the upcoming years; therefore, the CHP has implemented several strategies to ensure California's highways remain safe for travel by all motorists. The CVSP and the CHP's Strategic Plan is used by CHP commanders to annually evaluate the needs of the Department for better training and operational issues. As problem areas are identified, commanders evaluate possible solutions, identify training needs, and adjust personnel deployment strategies to accomplish the Department's goals.

In an ongoing effort to improve commercial motor vehicle safety and enhance the safety of the motoring public, the CHP has implemented various enforcement, training, and educational programs. In addition, we have submitted legislative proposals to change and/or improve existing laws and regulations regarding commercial motor vehicles.

To further strengthen the goal of saving lives on California's highway transportation system, the CHP has established strong interagency partnerships with other interested stakeholders such as the Office of Traffic Safety, California Department of Transportation (Caltrans), Department of Motor Vehicles, Heavy Vehicle Electronic License Plate, Inc., trucking associations, and local unions. The CHP also collaborates with the Federal Motor Carrier Safety Administration (FMCSA), the Federal Highway Administration, the Federal Railroad Administration and other federal agencies with

jurisdictional authority in California's ports to ensure we are addressing safety issues in a coordinated effort.

The Commercial Industry Education Program (CIEP) was established in September 1999, and is an on-going complimentary education program designed to provide information on various laws and regulations, as well as safety awareness and rules-of-the-road education for anyone who operates, or causes the operation of, commercial motor vehicles. The CIEP has been successful since its inception in meeting, and often exceeding, its goals and objectives. In 2005, CIEP personnel administered 1,340 seminars for California motor carriers, 26 seminars for Mexican motor carriers and 177 hazardous materials security seminars. In 2006, 1,080 seminars were administered for California motor carriers, 203 seminars for Mexican motor carriers, 39 hazardous materials security seminars, one security seminar for handler/transporters of poison inhalation hazards and six security seminars for handlers/transporters of radioactive materials. Additionally, the commercial industry and various professional associations/organizations fully support and encourage the CIEP, not only because valuable safety and educational information is provided, but because a local working relationship has been developed between the CHP and the commercial industry, a relationship which creates a win-win situation.

The CHP hosted its second annual Commercial Vehicle Safety Summit (CVSS) in San Diego, CA from June 13-15, 2007. The summits brought different safety oversight agencies (i.e., DMV, Caltrans, BOE, FMCSA, FHWA) together with many facets of the commercial industry. Mr. John Hill, FMCSA Administrator, was a keynote speaker at this year's summit and representatives of his California staff were also present. Additionally, representatives from the Commercial Vehicle Safety Alliance and the Nevada Department of Public Safety also attended.

During the annual summits, one hour block sessions are held featuring specific subjects (loading regulations, Compliance Reviews, Intelligent Technology Systems, hours-of-service). The first fifteen minutes of each session consists of subject matter experts explaining new laws, regulations, programs, etc., and the remaining time is devoted to an exchange of ideas, recommendations and information with industry. This free exchange of ideas and suggestions promote a partnership in achieving the best procedures and practices for government and industry while ensuring public safety is maintained. Many recommendations initiated during the 2006 CVSS have been forwarded and/or implemented as appropriate.

The efforts of the CHP have resulted in the most productive commercial program in North America. Between 2004 and 2006, the CHP conducted an average of 45,313 on-highway commercial inspections every month. These inspections resulted in approximately 3.2 percent of drivers and approximately 24 percent of vehicles being placed out of service. This compares to the national average of 8 percent of drivers and 24 percent of vehicles out of service. We believe a clear correlation can be drawn between California's lower out of service average and the large number of random vehicle and driver inspections performed by our on-highway inspection personnel.

Off-Highway Terminal Inspections: In 1963, the Public Utility Commission's administration of motor carrier safety regulation was transferred to the CHP by act of the Legislature. Today, the CHP's Motor Carrier Safety Program is staffed by non-uniformed Motor Carrier Specialists (MCS) dedicated to the off-highway inspection of both truck and bus terminals. Currently, there are 205 MCS I allocated positions statewide, in addition to 30 MCS IIs (Field Supervisors), 10 MCS IIIs (Unit Supervisors), and one Program Manager. The primary purpose of the Motor Carrier Safety Program is the off-highway inspection of motor carriers' vehicle/driver safety programs, with the objective of reducing collisions and injuries attributed to vehicle mechanical defects, excessive drivers' hours of service, or the misuse of alcohol or controlled substances by commercial drivers. Inspecting motor carriers at their places of business is the Department's pro-active approach to obtaining and maintaining compliance through education or by taking subsequent enforcement against non-compliant motor carriers.

The CHP's off-highway inspection program is driven in large part by legislative mandates as well as the segments of the transportation industry which have been identified as high-profile elements of public safety. California's off-highway inspection program is similar to Compliance Review (CR) conducted by FMCSA and other states. However, there are a few differences between the Biennial Inspection of Terminal (BIT) and federal compliance review. California inspectors do not look at the Traffic collision (accident) register, the Driver employment history file, or proof of financial responsibility. Furthermore, the California program conducts a representative number of vehicle inspections at each terminal, where the CR focuses on the paper aspects of the business. Finally, the biggest difference between a California BIT and a CR is the fact that California conducts an inspection on every terminal a motor carrier operates from within the state; while the CR is conducted only at a motor carrier's principle place of business.

There are several statutes which require the CHP to inspect motor carriers for compliance with safety-related requirements. The following motor carrier safety inspection programs represent a major portion of the overall mandated workload of the Department, and are high-profile elements of the Department's commitment to public safety and reduction of the overall highway MDR. These program goals are as following:

1. The requirement to inspect every truck terminal in the state, every 25-months under the Biennial Inspection of Terminals (BIT) program pursuant to California Vehicle Code (VC) Section 34501.12. There are currently 77,260 fee-paid BIT terminals requiring inspection. The CHP has established the goal to inspect 100 percent of these fee-paid BIT terminals by the end of 2009, utilizing additional resources recently approved by the Legislature (55 additional MCS Is, 5 additional MCS IIs and 11.5 additional clerical staff). Currently, the percentage of BIT inspections completed is 64 percent within the 25 month period.

2. The inspection and certification of every school bus annually, and the inspection of every school bus terminal every 13 months, pursuant to Sections

2807 and 34501 VC. There are over 26,000 school buses inspected and certified annually.

3. The inspection of every School Pupil Activity Bus (SPAB) pursuant to Section 2807.1 VC. There are over 1,600 SPABs inspected and certified annually.

4. The inspection of every Youth Bus pursuant to Section 2807.3 VC. There are over 500 Youth Buses inspected and certified annually.

5. Conducting an annual safety evaluation of every bus operator (those not requiring Public Utilities Commission operating authority), pursuant to Section 34501 VC. There are approximately 3,000 bus terminal inspections conducted each year which includes the random inspection of over 7,000 buses.

6. Conducting an annual safety inspection of every tour bus operator in the state, pursuant to Section 34500.1 VC. There are over 1,000 tour bus terminals inspected annually which includes the random inspection of over 2,700 tour buses.

7. The inspection of motor carriers that transport hazardous materials, pursuant to Section 32000 VC.

8. The inspection of every shipper of hazardous materials, pursuant to Title 13, California Code of Regulations (13 CCR), Section 1160.4(e), including proper packaging, labeling, marking, and shipping paper preparation.

9. The inspection of every motor carrier for compliance with the controlled substances and alcohol testing of commercial drivers, pursuant to Section 34520 VC, of which over 11,000 of these inspections are conducted annually.

10. The annual inspection and certification of every General Public Paratransit vehicle, pursuant to Section 34501.8 CVC. There are 73 terminals and the inspection of 900 vehicles.

In addition to specific commercial (truck/bus) programs both on- and off-highway, the Department oversees the following:

Hazardous Materials Transportation Licenses: This license is required to transport HM in California under certain conditions (placardable amounts of HM or transporting more than 500 pounds of HM for-hire)

Inspection Maintenance Station Licenses: Trucking companies with high compliance ratings are licensed and thereby authorized by CHP to sign-off equipment related citations upon repair.

Authorized Emergency Vehicles: Headquarters staff coordinates the inspection and licensing of any private company operating fire fighting vehicles and any private company operating ambulances.

School Pupil Transportation: Headquarters staff facilitates the background/fingerprint requirements for potential school bus drivers. Coordinators throughout the state conduct testing and recommend approval of specific required certificates/endorsements to transport school pupils.

DISCIPLINARY, ADMINISTRATIVE, PUNITIVE, STATUTORY, REGULATORY ACTION BY THE DEPARTMENT

Statutory authority, provided the Legislature, permits the Department to recommend the suspension of registration and/or operating authority of a motor carrier (truck and bus) when we find, through inspection, any violation(s) that presents an imminent danger to public safety. Those statutes are:

1. Section 34505.1 VC - Suspension of Tour Bus Operating Authority through the Public Utilities Commission (PUC);
2. Section 34505.6 VC - Suspension of Motor Carriers of Property Operating Authority (for-hire) through Department of Motor Vehicles (DMV);
3. Section 34505.7 VC - Suspension of private motor carriers (truck and bus) private carrier registration through either DMV (truck) or PUC (bus);
4. Section 34623 VC - Suspension of operating authority for violations of controlled substances and alcohol random testing of commercial driver requirements;
5. Section 2417 VC - suspension of permit to operate authorized emergency vehicles;
6. Section 2531 VC - Suspension of license to transport hazardous materials (requires a "hearing" prior to suspension);
7. Section 32002.5 VC - CHP Commissioner's authority to suspend HM license in the interest of public safety, prior to a "hearing" (this authority was used by Commissioner Brown to suspend Sabek Transportation's HM license).

Effective September 20, 2005, Section 2800 VC was amended by the Legislature to allow California law enforcement to enforce any lawful out of service order issued by the United States Secretary of the Department of Transportation. Effective January 1, 2007, Section 2800 VC additionally allows California law enforcement to enforce specific lawful out of service orders [49 CFR, Part 395.13 (HOS) and Part 396.9 (vehicle maintenance)] issued by a peace officer of, or commercial vehicle inspector of, any state, any province of Canada, or the Federal Government of the United States, Canada or Mexico.

RECOMMENDATIONS TO IMPROVE MOTOR CARRIER SAFETY

In an effort to provide Congress with balanced, knowledgeable, and informed information regarding new legislation, FMCSA should serve as a conduit between Congress, the States and industry. FMCSA needs to serve more as a safety agency and less like an enforcement agency. They should work closely with the States, various associations, such as the Commercial Vehicle Safety Alliance, American Association of Motor Vehicle Administrators, the American Trucking Association (ATA), etc., to develop new ideas for legislation. This allows for a group endorsement for improving highway safety which could be carried forward to Congress for the passage of new laws or inclusion into the reauthorization bills. This approach serves as more of a ground up approach to implementing safety processes and allows for the inclusion of the primary stakeholders prior to the passage of new laws or regulations.

We have seen safety equipment in passenger vehicles mandated which has contributed to the decrease of fatalities on our nations highways. Equipment such as seat belts, air bags, and ABS brake systems has been instrumental in improving occupant protection and safety on those vehicles. New technology has provided us with new opportunities to improve safety. Congress should consider new laws to mandate commercial motor vehicles to be equipped with collision avoidance technologies (e.g., lane departure warning systems, roll-over protection, radar and forward looking infrared systems, computer enhanced braking) at the time of manufacture. At the very least, consideration should be given to applying tax credit incentives for motor carriers and manufacturers. Currently, the use of these systems is market driven. Motor carriers that have equipped their commercial motor vehicles with collision avoidance technologies have reported a reduction in traffic collisions and maintenance costs.

Additional funding to states to upgrade existing commercial vehicle inspection technologies (i.e., computers, inspection software, safety databases, pathways to transmit data) should be made available through FMCSA. Many law enforcement jurisdictions are already overwhelmed with commercial motor vehicle traffic due to increases in commercial motor vehicle transportation, the lack of trained staffing and revenue, and antiquated computer equipment and software. While three million annual roadside inspections seem to be significant, it represents only a fraction of the number of vehicles and truck trips completed annually. Estimates range from 500 million to one billion trips annually on the nations roadways by commercial motor vehicles. A greater presence of enforcement personnel and technology on the roadways is needed.

FMCSA, in cooperation with the States and motor carrier associations, should develop an electronic system to identify unsafe commercial drivers. The system would allow motor carriers, commercial vehicle inspectors and driver licensing agencies to take necessary action (i.e., provide necessary training, take administrative or judicial action to suspend, revoke or cancel a commercial driver license) to remove unsafe drivers from the highway.

Finally, we need to revamp the CDL Program for drivers and how it is administered by the states. There needs to be tougher medical qualifications for drivers and doctors need to be held accountable. There needs to be mandatory driver training. I am hopeful that the recommendations from the Commercial Drivers License (CDL) Advisory Committee will be strongly considered when presented.

CALIFORNIA COMMERCIAL ENFORCEMENT PROGRAM (CEP) STATISTICS

CHP COMMERCIAL ENFORCEMENT BUDGET

06/07	$ 161,410,000	(CA Fiscal year is July 1 though June 30)
07/08	$ 182,703,000	

MCSAP FUNDS

Basic 06/07	$ 8,225,322
Public Law 107-87	$ 5,300,000 (HR 2299 – additional border personnel)
Border Enforcement '07	$ 2,959,000
NESAP '07	$ 933,333
PACT	$ 929,904 (Public Awareness of Commercial Trucks)
CHP 555D Training	$ 98,756
Total MCSAP Funds	$ 18,446,315

CEP PERSONNEL – FEBRUARY 2007

ON – HIGHWAY

Commercial Vehicle Inspection Specialist	267
Facility Officers	248
Mobile Road Enforcement Officers	133
MCP, FLV, CIEP Officers	38
Sergeants	63
Lieutenants	16
CVS	38
Total On – Highway Personnel	803

Inspection Facilities	16
Platform Scales	34
Pit Scales	59
PrePass® sites	34

OFF-HIGHWAY

Motor Carrier Specialist 1s	205
Motor Carrier Specialist 2s	30
Motor Carrier Specialist 3s	10
Program Manager	1
Total Off-Highway Personnel	246
Total Commercial Enforcement Personnel	1049

COMMERCIAL DRIVERS – JANUARY 1, 2007

Class A	450,681
Class B	249,420
Total Class A & B	700,101
Haz Mat Endorsements	8,167
Tank Veh Endorsements	27,200

REGISTERED COMMERCIAL MOTOR VEHICLES – JANUARY 1, 2007

Total	7,860,152 (estimated 60 percent are pickup trucks)
CA CMVs	1,337,427 (estimated)
IRP foreign-based	1,806,629
CMV miles traveled	18.902 billion ('04)
CMV MDR	2.10 ('04)

CALIFORNIA POPULATION – US CENSUS BUREAU

36,452,549

STATEWIDE TOTALS FOR BEATS 850 -890
1998 - 2006

CATEGORY	STATEWIDE TOTALS								
	1998	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**
Level I Inspections	329,863	318,703	289,840	285,173	283,726	307,408	326,433	330,858	300,859
Level II Inspections	40,542	44,229	33,420	35,681	35,730	45,003	44,613	49,633	48,683
Level III Inspections	82,541	88,469	109,974	179,934	174,713	167,641	205,793	165,509	159,748
Total Inspections	**452,856**	**451,401**	**433,234**	**500,788**	**494,169**	**520,052**	**576,839**	**546,000**	**509,290**
Trucks Out-of-Service	102,331	95,577	102,531	109,711	112,743	118,248	122,638	131,940	126,292
Drivers Out-of-Service	26,600	21,867	21,148	19,340	16,680	16,999	17,338	18,651	16,616
Trucks Weighed	8,384,961	7,140,627	15,533,906	20,297,825	18,575,936	16,806,088	15,769,023	15,648,681	14,599,628
Weight Violations	49,664	46,776	56,537	47,388	41,082	64,294	41,739	79,556	38,910
Commercial Movers	10,926	14,470	12,829	16,557	19,563	19,872	17,712	20,272	17,019
CHP 215s Issued	182,770	170,677	166,102	160,093	154,261	170,208	170,196	173,711	163,832
CHP 281s Issued	92,829	72,988	76,434	76,004	79,201	95,037	92,704	90,687	73,294

State of California—Business, Transportation and Housing Agency ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL
Enforcement Services Division
P.O. Box 942898
Sacramento, California 95814-0227
(916) 445-3253
(800) 735-2929 (TT/TDD)
(800) 735-2922 (Voice)

August 7, 2007

File No.: 060.9716.062.2007-2-0256

The Honorable Peter DeFazio
United States House of Representatives
Committee on Transportation and Infrastructure
Washington, DC 20515

Dear Chairman DeFazio:

This is in response to your letter dated July 25, 2007, requesting additional information with regard to California requirements for medical qualification forms. In the interest of clarity, questions will be answered in the order provided.

(1) California is one of the few states that require the long medical form to be submitted as part of an individual's application for a commercial drivers license. What is your rationale for requiring evidence of medical qualifications as part of the licensing process, and the long form in particular?

A. Title 49, Code of Federal Regulations (49 CFR), Part 384.201 mandates States "...to adopt and administer a program for testing and ensuring the fitness of persons to operate commercial motor vehicles (CMV) in accordance with the minimum Federal standards contained in part 383 of this title." Title 49 CFR, Part 350.217 and subpart C of Part 384 provide consequences if a State is not in substantial compliance with Federal commercial driver license (CDL) provisions, including Decertification of a State CDL Program (49 CFR, Part 384.405).

Section 12804.9(c) of the California Vehicle Code (VC) requires a copy of a driver's medical certification (long form), from which the medical card was issued, to be forwarded to, and kept on file by California's Department of Motor Vehicles (DMV).

(2) What steps do DMV officers take to validate medical certificates submitted as part of the commercial drivers license process? What steps do your inspectors take to validate medical certificates during roadside inspections?

A. The DMV technicians or driver licensing examiners review the long form to ensure all required information is completed and review the form for accuracy. Additionally, the long form is reviewed to ensure a person is medically qualified to operate a CMV under 49 CFR, Part 391, subpart E. Questionable medical long forms are forwarded to DMV Medical Review Unit, located in Sacramento, for any necessary administrative action.

Departmental commercial enforcement personnel who are assigned to a Commercial Vehicle Enforcement Facility (CVEF) that is equipped with computers may query a California driver's history record (DHR) to determine compliance with Section 12804.9(c) VC. Enforcement personnel who are assigned to a CVEF, that is not equipped with a computer, and our Mobile Road Enforcement officers, whose vehicles are not equipped with a computer, normally require a commercial driver to present his/her medical card. If a presented medical card appears fraudulent, officers may request a query of a specific DHR through a dispatch center.

Furthermore, Section 12804.9(c) VC mandates specific drivers to have a medical certification or a medical card in their immediate possession. If a California driver does not have a medical certification or card in his or her immediate possession, then his or her CDL is only valid for operating class "C" vehicles that do not meet the definition of a CMV, as described in Section 15210(b) VC. A California driver is subject to being placed out of service if that driver does not have a medical certification or card in his or her immediate possession when operating a CMV.

(3) Does the state maintain a database that documents medical certification for commercial drivers?

A. California's DMV maintains the medical status of a commercial driver on each driver's DHR. If a DHR does not contain current medical certification information for a specific commercial driver, that driver's commercial driving privilege is medically suspended. A driver's medical suspension remains in effect until that driver submits a valid medical certification to DMV.

(4) How are your inspectors able to validate medical certification for out of state drivers?

A. Our inspectors normally require out of state drivers to present their medical cards for inspection (Section 12502(b) VC). If an out of state driver cannot produce a medical certification or card, the driver is subject to receiving a citation. If an out of state driver cannot present a medical certification or card, or presents a medical certification or card that appears fraudulent, inspectors may contact that driver's motor carrier and require the motor carrier to provide a copy via facsimile. If the motor carrier cannot provide a valid medical certification, the driver is subject to being placed out of service.

Thank you for allowing me the opportunity to provide information to your committee. If I can provide further information or assistance, please do not hesitate to contact me or Sergeant Pete Camm, at (916) 445-1965.

Sincerely,

S. J. VAUGHN, Chief
Enforcement Services Division

Submitted to the:

SUBCOMMITTEE ON HIGHWAYS AND TRANSIT
OF THE
U.S. HOUSE OF REPRESENTATIVES
TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

Written Statement of

THE AMERICAN TRUCKING ASSOCIATIONS

on

"MOTOR CARRIER SAFETY: THE FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION'S OVERSIGHT OF HIGH RISK CARRIERS"

Held on:

July 11, 2007

Driving Trucking's Success

950 North Glebe Road, Suite 210
Arlington, VA 22203-4181
703-838-1996

Introduction

Chairman DeFazio, Congressman Petri, and other Members of the Subcommittee, thank you for the opportunity to express the American Trucking Associations' (ATA)[1] perspectives on "Federal Motor Carriers Safety Administration's (FMCSA) Oversight of High Risk Carriers" through this written statement.

ATA's comments are directed primarily at the Motor Carrier Safety Status Measurement System (SafeStat). ATA and its member carriers support the overall goals and objectives of the SafeStat system. These are:

- To maximize the use of data available to FMCSA.
- To measure the relative safety status of motor carriers allowing FMCSA and the States to better utilize their limited program and enforcement resources.
- To provide information to motor carriers to benchmark and improve their safety performance.

SafeStat scores are used by FMCSA to identify motor carriers for on-site safety compliance audits. The scores are also used by State roadside vehicle inspectors to determine which trucks to inspect as these enter weigh stations and other inspection locations.

Although SafeStat has proven to be more efficient than simple random selection, it has not provided reliable comparative information about motor carrier safety performance. From our member company's shared experiences and based on an analysis done by ATA, the SafeStat data is still significantly incomplete; it is still filled with errors; and the SafeStat model remains less than optimal for successfully targeting at-risk carriers.

Important Past Government Studies Indicating Need for Safety Data Improvement

Upon the request of Congressman Petri (R-WI), the U.S. Department of Transportation's (DOT) Inspector General (IG) conducted a comprehensive audit of the SafeStat system between October 2002 and August 2003. Consequently, the IG issued its final audit report in February 2004 entitled "Improvements Needed in the Motor Carrier

[1] ATA is a united federation of motor carriers, state trucking associations, and national trucking conferences created to promote and protect the interests of the trucking industry. Its membership includes more than 2,000 trucking companies and industry suppliers of equipment and services. Directly and indirectly through its affiliated organizations, ATA encompasses over 34,000 companies and every type and class of motor carrier operation.

Safety Status Measurement". This report documented and reported substantial problems with much of the data utilized by the system, particularly, the State-reported crash data which was as much 60% incomplete. Large holes in the motor carrier census data provided was also found.

The IG's report concluded that over 270,000 or 42% of the motor carriers failed to provide the driver and equipment count records necessary to do a proper safety comparison among motor carriers. Maybe even more important, the IG report also concluded that about one-third of the truck crashes were unreported by the States with a few States reporting no crashes in a six-month period, thus introducing a geographic bias into the data. The IG found that even for the crashes and inspections reported there were significant inaccuracies in the data. In total, the IG report's sample showed that 13% of crash-related data had significant errors and 7% of the inspection reports had erroneous information, such as misidentification of the motor carrier. The problems with the motor carrier census information and crash data were so significant that FMCSA discontinued public posting of the crash data, crash scores and overall SafeStat scores on its A & I [2] website in 2004.

The IG also found that FMCSA's systems for correcting inaccurate data were inadequate, and recommended a new system to facilitate data correction to be established. The IG also suggested that the SafeStat scoring methodology be validated by an independent third-party contractor. (The report contained numerous other findings and recommendations regarding safety data quality).

Some of these same data failings were reiterated in a November 2005 Government Accountability Office (GAO) report "Further Opportunities Exist to Improve Data on Crashes Involving Commercial Motor Vehicles". The GAO deduced that "[t]he completeness, timeliness, accuracy, and consistency of CMV crash data is currently not meeting generally accepted data quality standards." In its report, GAO also stated that "[b]ecause the data is used in both federal and State decision-making on a variety of safety-related issues, it is important that it adequately meets data quality standards" and emphasized the need for data completeness, timeliness, accuracy, and consistency. They cited examples of problems with commercial vehicle crashes, such as:

- FMCSA estimated that as of 2004 one-third of reportable crashes were not being submitted to their data system.
- The time it took the agency to upload crash data was 99 days.
- In fiscal year 2004, 15 percent of the CMV crash records could not be matched to a carrier's DOT number.
- From an FMCSA report of August 2005, 33 of 50 States having crash reports do not adequately follow the criteria for reporting CMV crashes.

[2] See http://www.ai.volpe.dot.gov/.

The GAO found that FMCSA was beginning to make changes in SafeStat data quality, but concluded more had to be done and made specific recommendations to the Secretary of Transportation to improve data quality.

FMCSA Actions in Response to Early Oversight Studies of SafeStat

In December 2005, FMCSA released an independent study, which was commissioned by the agency and performed by Oak Ridge National Laboratory (ONRL), on the effectiveness of the SafeStat algorithm. The conclusions of the agency's contractor, the Oak Ridge National Laboratory's Center for Transportation Analysis are important background for reform of the SafeStat system. ONRL in its report "Review of the Motor Carrier Safety Status Measurement System (SafeStat)" revealed significant deficiencies in the SafeStat algorithm. Both the IG and GAO reports recognized that problem and the ORNL confirmed it. ONRL found that about 90 percent of carriers identified as at-risk did not have a high crash risk. It discovered that most carriers were identified as at-risk by SafeStat due to random variations in the source data rather than a significant change in carrier risk. They also found that geographic and year-to-year variations in missing and late data were likely to bias the SafeStat rankings, and there were other statistical methods that were 30% better in making predictions than the current SafeStat algorithm.

FMCSA has taken other steps to try and verify whether the data they are receiving in regards to crashes is adequate. The agency has commissioned studies by the University of Michigan Transportation Research Institute (UMTRI) to find out the level of crash reporting by States.[3] Beginning in August 2003, UMTRI has since studied 14 States and found widespread underreporting of fatal and non-fatal crashes—with non-fatal crashes continuing to be the biggest problem. Early studies revealed that in one State FMCSA received only 9% of the crash data, while in nine States there was on average a 50% underreporting. Also, UMTRI has found distressing amount of misreporting and incomplete data reported for individual crashes.

FMCSA has been responding positively to the findings in other ways through program implementation of new data quality improvements. These have included:

- Placing significant pressure on the States to improve their data collection and reporting abilities.
- Instituting the DataQs correction system[4].
- Improving agency databases to better integrate information submitted by States and their local jurisdictions.

[3] See UMTRI at http://www.umtri.umich.edu.

[4] FMCSA web page: https://dataqs.fmcsa.dot.gov/login.asp.

- Offering a training program to law enforcement personnel to aid in proper completion of accident reports involving trucks.

- Soliciting public comments via a Federal Register notice of May 1, 2006 on a proposal to make enhancements to the SafeStat methodology.

- Issuing on July 5, 2007 a final rule that incorporates requirements for safety data improvements by States to qualify for MCSAP funding, in keeping with Congressional direction within the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) legislation.

FMCSA also has embarked on a new initiative to assess motor carriers' and drivers' safety performances among a larger segment of the motor carrier industry, while finding ways to optimize the use of agency resources.

This new operational model called Comprehensive Safety Analysis (CSA 2010) is under development and proposes use of a broader array of compliance interventions.[5] CSA 2010 may help FMCSA and its State partners contact more carriers and drivers, use improved data to better identify high risk carriers and drivers, and apply a wider range of interventions to correct high risk behavior. Effectiveness in development of the program will depend heavily upon FMCSA's incorporation of stakeholder input, which is being solicited by the agency.[6]

Success of the program will rest on several factors. Especially critical to the program will be:

(1) Data utilized in evaluation elements are accurate, timely and complete.

(2) There are built-in and accepted data quality standards, which have been tested prior to implementation.

(3) The assessment methodology is rooted in acceptable statistical standards.

(4) Adequate program measures are established to assure the actual quality of each State's safety data collection and reporting.

(5) Data incorporated into the CSA 2010 model is transparent to enable drivers and motor carriers to utilize outputs for needed safety program intervention purposes, and to correct errors in data inputs.

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[5] FMCSA web page: http://www.fmcsa.dot.gov/safety-security/safety-initiatives/csa2010/csa2010listening.htm.

[6] See http://dms.dot.gov/search/searchResultsSimple.cfm for the CSA 2010 Docket #18898.

(6) The driver and motor carrier scoring systems are instituted at the same time, since driver performance fitness needs to be determined and driver fitness determinations are also an integral part of evaluating motor carrier performance.

We want to emphasize, though, that the more data sources used in the CSA 2010 program, the larger the challenge will be for the agency to assure that there is accurate, timely and complete data, and assessment methodologies meet data and statistical quality standards.

In meeting this future challenge, FMCSA must conform to the DOT "Information Dissemination Quality Guidelines (IDQG)".[7] These apply to all its agencies and all media formats—printed, electronic, or otherwise including SafeStat. The guidelines advise FMCSA to "assess the usefulness of the information to be disseminated to the public" and "ensure information is accurate, clear, complete, and unbiased, both as to substance and presentation, and in proper context".

The DOT guidelines are built on those of the Office and Management and Budget (OMB). OMB defined for DOT what is "influential" information as information that can be reasonably determined "will have or does have a clear and substantial impact on important public policies or important private sector decision." Clearly FMCSA must assure that SafeStat has utility, and is accurate, complete and objective; especially, since it is influential information, which can impact motor carriers' selection for compliance audits and roadside inspections, business opportunities in the shipping community, rating by insurance carriers, potentially affect stock values for publicly traded companies, and add new levels of indirect regulatory compliance-related costs.

FMCSA has been challenged in meeting the DOT and OMB data quality standards. The agency has expended a great deal of time and effort in assuring the quality measure standards are being met by State reporting agencies in regards to SafeStat.[8]

There has been apparent improvement as revealed in State Safety Data Quality (SSDQ) Quarterly Map. It is notable that although the State data quality improvements efforts have been underway for some time, as of June 22, 2007, only 38 of the 51 jurisdictions (75%) are achieving the currently established "90% Confidence Level" for reporting fatal crash and inspection data (and this does not include reporting of non-fatal incidents, which make up 96% of the reportable crashes).[9]

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[7] See http://dms.dot.gov/ombfinal092502.pdf for the DOT Information Dissemination Quality Guidelines.

[8] See FMCSA web page http://www.ai.volpe.dot.gov/DataQuality/DataQuality.asp?redirect=intro.asp.

[9] These performance levels have been established by FMCSA and can be found at the following A&I webpage http://www.ai.volpe.dot.gov/DataQuality/dataquality.asp?redirect=methodology.asp#ssr.

The "90% Confidence Level" are based upon program measures and specific acceptance levels for each measure. These are:

- Fatal Crash Completeness Measure 90%
- Fatal Crash Timeliness Measure 85%
- Inspection Timeliness Measure 85%
- Fatal Crash Accuracy Measure 95%
- Inspection Accuracy Measure 95%
- Also, all States must obtain at least a 50% rating for the Crash Consistency Overriding Indicator.

It is important to bear in mind that current FMCSA crash data rating and measures are based on fatal incidents. This is significant in that ninety-six percent (96%) of DOT reportable incidents are made up of non-fatal occurrences. FMCSA had claimed that that the agency is now receiving 99% of crash reports. Recent government oversight reports have found this assertion to be inaccurate as it relates to non-fatal crash incidents.

In a June 16, 2007 report to Congressman Petri, Ranking Member of the Subcommittee on Aviation Committee on Transportation and Infrastructure, the DOT Inspector General's (IG) office released its latest findings on crash data used in the SafeStat. The letter stated that the effectiveness of the SafeStat scoring and ranking calculations is highly dependent the quality of the crash data file. The primary finding is that improvement in SafeStat data quality is still needed, particularly for non-fatal crash data. The IG pointed to UMTRI studies of nine States, which found that only 60% of reportable crashes were being reported by these States to the agency. The IG has therefore called for study of all States for such reporting shortfalls. Because of the current level of non-fatal crash data problems, the IG recommended that prior to considering renewed public access to motor carrier SafeStat scores, steps be taken by FMCSA to assure completeness of crash data[10] and to better assess data quality standards including establishment of a non-fatal crash incident measure.

Also in June 2007, the GAO issued another report to Congress on SafeStat entitled "A Statistical Approach Will Better Identify Commercial Carriers That Pose High Crash Risks Than Does the Current Federal Approach".[11] SafeStat was found by GAO to be 83% better than random selecting motor carriers. However, GAO determined that a statistical (binomial regression) model could increase FMCSA's ability to spot high-risk motor carriers and recommended that FMCSA adopt the use of the regression model at least until the agency completes its planned overhaul of compliance intervention strategies under the CSA 2010 program. GAO did acknowledge FMCSA's on-going efforts to improve data quality and to implement measures to correct inaccurate data.

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[10] Publication of SafeStat crash data, which does not meet minimal data quality guidelines, advances neither public nor safety interests. Unfortunately, all publication does is harm the reputations and businesses of many responsible motor carriers.

[11] See www.gao.gov/cgi-bin/getrpt?GAO-07-585 for the GAO report.

However, in regards to a long-standing problem of late-reported, incomplete and inaccurate data reported to FMCSA by the States, GAO reported mixed findings. There would have been 6% more motor carriers classified as high crash risks if the States filed all crash data within the prescribed 90 days. As for completeness, GAO determined that data for about 21% of the crashes had problems that hampered linking crashes to motor carriers. Also, GAO cited the studies of 14 States by the UMTRI, which found widespread incorrect reporting of crash data (i.e. crashes that did not meet the reportable definition were reported) raising accuracy concerns.

Some ATA Insights into Safety Data Quality

All of this would be concern enough if all SafeStat did was identify motor carriers for heightened FMCSA attention and possible compliance reviews.

Unfortunately, as previously stated, that is not all it does when the data is posted for public viewing. When that happens, it affects a wide range of motor carrier business interests, including shipper and freight broker perceptions and attendant business opportunities, insurance costs, stock values, and other related interests. The affect of SafeStat on these business considerations is not lost on FMCSA.

DOT has labeled SafeStat data as "influential". The 2004 and 2007 IG reports similarly recognized the impact SafeStat information can have on motor carriers' businesses. One of these reports stated "[m]otor carriers may lose business or be placed at a competitive disadvantage by inaccurate SafeStat results." The IG report also noted that "firms involved with motor carriers, such as shippers, insurers, and lessors" use SafeStat "when making business decisions" and that it will have "an economic impact on motor carriers".

Also, in assessing overall how to best identify high risk motor carriers and drivers it is very important to keep in mind that regulatory violations alone are not adequate predictors of future crash occurrence.

In October 2005, the American Transportation Research Institute (ATRI)[12] with its research partners the North Dakota State University Upper Great Plains Transportation Institute (UGPTI)[13] and the Commercial Vehicle Safety Alliance (CVSA)[14] published a study "Predicting Truck Crash Involvement: Developing a Commercial Driver Behavior-Based Model and Recommended Countermeasures". The study's analysis determined a range of statistically significant driving behaviors and events – including violations, convictions, and past crashes – with associated future crash likelihood increases ranging from 18 to 325 percent. (Individual behaviors and events were statistically analyzed

[12] See http://www.atri-online.org/ for information on ATRI and access to the mentioned report.

[13] See http://www.ugpti.org/about/ for information about UGPTI.

[14] See http://www.cvsa.org/ for information about CVSA.

independently to allow for improved targeting by behavior. For instance, drivers who had a previous crash were 87 percent more likely to have a future crash.)

Additionally, the importance of motor carriers having access to existing and future databases and data clearinghouses cannot be understated, particularly, for the evaluation of driver performance.

Motor carrier access to FMCSA's Driver Information Resource (DIR) database could prove useful in better identifying high risk drivers and taking preemptive action.

Furthermore, ATA has determined the need for national data clearinghouses to allow motor carriers immediate and on-going access to CMV drivers' motor vehicle records (MVR) and past positive drug and alcohol test results. In February 2007, ATA filed a petition of rulemaking with FMCSA to allow motor carriers greater use of commercial and State employer notification systems that continuously access driver MVR information.

In the same light, simultaneous activation of the future CSA 2010 of motor carrier and driver scoring systems by FMCSA with employer access provided could prove to be very beneficial in being proactive in regards to safety management practices and performance and ultimately crash avoidance.

The importance of such database access to evaluate CMV driving performance can not be understated. FMCSA expressed in the conclusions section of its report on the Large Truck Crash Causation Study's [15] filed with Congress on March 2006 that:

> "For all crashes in the study (single and multiple vehicle crashes), trucks were assigned the critical reason in 55 percent of the cases. Driver reasons accounted for 87 percent of the reasons, and most involved failure to correctly recognize the situation or poor driving decisions."
>
> "For two-vehicle crashes involving a truck and a passenger vehicle, trucks were assigned the critical reason in 44 percent of the crashes and passenger vehicles in 56 percent. Driver reasons accounted for the overwhelming majority of the critical reasons—88 percent for the trucks assigned reasons and 89 percent of the passenger vehicles assigned reasons."

ATA Recommendations to Improve Identification of High Risk Motor Carriers

1. FMCSA should complete the UMTRI crash reporting studies for all states, as recommended by GAO.

[15] See http://www.fmcsa.dot.gov/facts-research/research-technology/report/ltccs-2006.htm for the FMCSA study.

2. FMCSA should add an acceptable crash measure for non-fatal incidents as recommended by the GAO.

3. FMCSA should implement an acceptable statistical model in the SafeStat program, consistent with the recommendations made by Oak Ridge National Laboratory and GAO.

4. FMCSA should place less reliance on regulatory violations in its assessments and more of past crash occurrence and other meaningful predictors as recommended by the GAO and the American Transportation Research Institute. Regulatory non-compliance does not necessary predict future crash occurrence. However, an improved methodology focusing on certain violations and past crash history could prove helpful in aiding the agency to identify high risk carriers.

5. Adequate funding should be provided by Congress to FMCSA and States through the MCSAP program, to improve data collection, reporting, storage, and analysis.

6. FMCSA must assure that the "90% Confidence Level" is obtained and maintained for all State safety data quality measures. This should include random field audits of States each year to assure quality standards are being met against the State safety data quality measures.

7. FMCSA should refrain from public posting of SafeStat scores until at least a "90% Confidence Level" is reached for all safety data quality measures and DOT's and OMB's information dissemination quality guidelines are met.

8. The DOT's IG should continue to audit FMCSA to assure that the conditions have been and continue to be met and that there are active intervention measures in place to address deficiencies.

9. FMCSA should continue to assess the viability of CSA 2010 in improving future determination of high risk carriers and incorporate stakeholder input.

10. FMCSA should provide for motor carrier access to the Driver Information Resource (DIR), as required by SAFETEA-LU, as soon as possible.

11. FMCSA should provide and allow for motor carrier use of national clearinghouses to check past driver safety performance.

Mr. Chairman and Members of the Subcommittee, thank you for the opportunity for ATA to offer its views on SafeStat and the identification of high risk motor carriers and drivers. We look forward to working with this Subcommittee, the Congress, FMCSA, and other reasoned stakeholders to improve the safety and productivity of our Nation's highway transportation system.

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