



**U.S. House of Representatives**  
**Committee on Transportation and Infrastructure**

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July 9, 2007

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**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."<sup>1</sup> Specifically,

<sup>1</sup> 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."<sup>2</sup>

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.<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> The vast majority of these operators are

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<sup>2</sup> Public Law 106-159; 49 U.S.C. 113 note

<sup>3</sup> [http://ai.volpe.dot.gov/CrashProfile/National\\_Profiles/1999LargeTruckCrashFacts.htm](http://ai.volpe.dot.gov/CrashProfile/National_Profiles/1999LargeTruckCrashFacts.htm)

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

<sup>5</sup> 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.<sup>6</sup> There are approximately 4,000 motorcoach companies in the U.S., which provided nearly 631 million passenger bus trips in 2005.<sup>7</sup>

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.<sup>8</sup>

Based on the findings of a Compliance Review, a carrier receives one of three safety ratings: satisfactory, conditional, or unsatisfactory.<sup>9</sup> 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

<sup>6</sup> American Trucking Association's *Standard Trucking and Transportation Statistics, Volume 12, Issue 2*.

<sup>7</sup> American Bus Association's *Motorcoach Census 2005*, available at [www.buses.org](http://www.buses.org).

<sup>8</sup> 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.

<sup>9</sup> 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.<sup>10</sup> 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.”<sup>11</sup> 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.<sup>12</sup> 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

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<sup>10</sup> The Compliance Review process is outlined in regulations under 49 CFR Part 385.

<sup>11</sup> <http://www.fmcsa.dot.gov/safety-security/safety-initiatives/csa2010/csa2010listening.htm>

<sup>12</sup> [http://www.cvsa.org/programs/04index\\_inspections.cfm](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.”<sup>13</sup> 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.<sup>14</sup> 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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<sup>13</sup> Office of Inspector General, *Improvements Needed in the Motor Carrier Safety Status Measurement System*, MH-2004-034; February 13, 2004.

<sup>14</sup> 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.<sup>15</sup>

### 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."<sup>16</sup> 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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<sup>15</sup> Office of Inspector General briefing, May 7, 2007.

<sup>16</sup> 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  
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**Ms. Susan A. Fleming**  
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