



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

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

August 6, 2008

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

Dear Administrator Hill:

The Motor Carrier Safety Advisory Committee (MCSAC) accepted Task 08-01, Federal Surface Transportation Reauthorization, at its December 2007 meeting. The Workgroup on Task 08-01 was created to conduct work and submit a report for Committee review and approval.

The Workgroup was asked to:

Provide a priority list of safety provisions for inclusion in FMCSA's statutory program based on:

- a) Recommendations issued to the Agency from the Government Accountability Office (GAO), U.S. Department of Transportation Office of the Inspector General (OIG), and the National Transportation Safety Board (NTSB); and,
- b) Input from each committee member's respective constituency.

The Workgroup met in person, held conference calls and conducted work through e-mail. It was determined that the best way to address both parts of the task was to issue two reports, relating respectively to task (a) and (b) referenced above.

At the MCSAC June 2008 meeting, the Workgroup presented the Committee with a Report 1 of 2, which makes recommendations for both Agency response to open recommendations from GAO, OIG, and NTSB, and Agency consideration in reauthorization planning. The Committee approved the report and recommended FMCSA take the following 12 actions:

1. Provide to MCSAC a status report from FMCSA on the studies listed in the GAO report in order to determine any specific proposed course of action.
2. Provide to MCSAC and GAO specific program evaluation criteria for its new Quality Assurance Program and its New Entrant Program effectiveness study and implement a pilot pre-registration program in addition to the New Entrant Program.
3. Deploy the PRISM system nationally and implement the DIR.
4. Develop educational brochures and distribute them to religious organizations.
5. Define a nationwide program (with one name) incorporating aspects of Ticketing Aggressive Cars and Trucks (TACT) and Share the Road Safely (STRS).
6. Reform SafeStat.
7. Verify revocation of operating authority.
8. Improve data on Mexico-domiciled motor carriers operating in the U.S.
9. Comply with and Enforce "Pattern of Violations" Provision of MCSIA 1999.
10. Establish Federal standards to check social security numbers and for drivers to pass an English proficiency exam.
11. Make medical oversight a priority for FMCSA.
12. Establish a clearinghouse for drug testing results on CMV drivers.

The Workgroup also presented the Committee with Report 2 of 2, which makes recommendations for Agency consideration in reauthorization planning. The Committee approved the report and recommended FMCSA take the following 11 actions:

1. Establish a multimodal, multidisciplinary task force for improving positive driver performance.
2. Establish driver performance programs.
3. Create a program for ticketing aggressive car and truck drivers.
4. Identify repeat offenders in a timely and consistent manner.
5. Increase motor coach inspections.
6. Recommend a reauthorization directive for USDOT to initiate a rulemaking requiring use of speed governors and prescribing a maximum speed setting.
7. Authorize and properly fund the TACT program.
8. Recommend statutory language requiring a national motor carrier Employer Notification System (ENS).
9. Establish a clearinghouse for drug testing results on CMV drivers.
10. Require safety training for new-entrant carriers prior to obtaining operating authority.
11. Establish and properly fund a CMV parking grant program.

I respectfully submit the attached reports to FMCSA for joint and equal consideration as part of your ongoing reauthorization planning.

At its September 2008 meeting, the MCSAC will consider a supplemental report, which may include new recommendations. The MCSAC has asked FMCSA staff for certain data, research, and expert consultations in order to complete that report.

Sincerely,

//signed//

David R. Parker  
Chair  
Motor Carrier Safety Advisory Committee

Attachments

**FEDERAL SURFACE TRANSPORTATION  
REAUTHORIZATION**

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**Recommendations for Agency Response to Open  
Recommendations from GAO, OIG, and NTSB  
and Agency Consideration in Reauthorization Planning**

**Report from**

**Workgroup on Task 08-01**

**to the**

**Motor Carrier Safety Advisory Committee**

**of the**

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

**Report 1 of 2**

**August 6, 2008**

The Motor Carrier Safety Advisory Committee (MCSAC) unanimously accepted Task 08-01, Federal Surface Transportation Reauthorization, at its December 2007 meeting. The Workgroup on Task 08-01 comprises all MCSAC members and was tasked with the following:

Provide a priority list of safety provisions for inclusion in FMCSA's statutory program based on:

- a) Recommendations issued to the Agency from the Government Accountability Office (GAO), U.S. Department of Transportation Office of the Inspector General (OIG), and the National Transportation Safety Board (NTSB); and,
- b) Input from each committee member's respective constituency.

The Workgroup determined that the best approach to addressing the various GAO, OIG, and NTSB recommendations would be to divide the workgroup into three subgroups and assign each with a subset of recommendations to address. The Workgroups met in person and through conference calls and conducted work through e-mail. This report was presented at the MCSAC June 2008 meeting. The Committee unanimously approved the report and made 12 recommendations to FMCSA.

### Discussion

The Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; ISTEA) is a federal law that posed a major change to transportation planning and policy, as the first U.S. federal legislation on the subject in the post-Interstate Highway System era. It presented an overall intermodal approach to highway and transit funding with collaborative planning requirements, giving significant additional powers to metropolitan planning organizations. Signed into law on December 18, 1991, it expired in 1997. It was preceded by the Surface Transportation and Uniform Relocation Assistance Act of 1987 and followed by the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) and most recently in 2005, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU). TEA-21 was enacted on June 9, 1998, Public Law 105-178, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period from 1998-2003. SAFETEA-LU was enacted August 10, 2005, as Public Law 109-59, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period 2005-2009. SAFETEA-LU expires in 2009. FMCSA is in the planning phase for the next reauthorization cycle.

### Findings

MCSAC considered 93 open recommendations issued to FMCSA by GAO, OIG, and NTSB in defining the scope of this task. Of those 93 recommendations, MCSAC selected 16 specific recommendations to address and assigned each of them to one of the three Task 08-01 subgroups, which explored the issues and developed recommendations to the Agency. Below is a list of the recommendations addressed by each group:

Workgroup 08-01A	Workgroup 08-01B	Workgroup 08-01C
GAO-06-156, Rec. 1	GAO-07-585	MH-2002-093, A02 (OIG)
GAO-06-103, Rec. 1	GAO-07-584	MH-2002-093, A03 (OIG)
GAO-06-916, Rec. 1	MH-2005-032, C02 (OIG)	H-01-17 (NTSB)
MH-2006-046, A01 (OIG)	H-06-17 (NTSB)	H-01-23 (NTSB)
H-03-02 (NTSB)		H-01-25 (NTSB)
H-93-28 (NTSB)		
H-05-02 (NTSB)		

This report contains MCSAC's recommendations to the Agency regarding what steps it should take to address the issues raised in the GAO, OIG, and NTSB recommendations.

In addition, MCSAC considered and discussed issues of import to the constituencies of the committee members and developed recommendations to the Agency to address those issues. A separate report containing those recommendations was generated by MCSAC, and is being provided together with this report.

### **Recommendations**

The MCSAC hopes that FMCSA will consider the 12 recommendations contained in this report when addressing the open items discussed herein. The MCSAC recognizes that some of the recommendations may not be within the scope of reauthorization. However, as the Workgroups considered GAO, OIG, and NTSB recommendations to FMCSA as directed in the Task Statement, it identified items that it feels need to be addressed by the Agency. Because the Workgroup members were not certain as to which items should be addressed through reauthorization vs. regulatory, policy, or administrative actions, it developed recommendations to the Agency on each item and included them all in this report. The FMCSA will thus need to determine the appropriate means by which each item should properly be addressed.

### **Recommendations for Reauthorization Provisions and Follow-up Activities**

1. Provide to MCSAC a status report from FMCSA on the studies listed in the GAO report in order to determine any specific proposed course of action.
2. Provide to MCSAC and GAO specific program evaluation criteria for its new Quality Assurance Program and its New Entrant Program effectiveness study and implement a pilot pre-registration program in addition to the New Entrant Program.
3. Deploy the PRISM system nationally and implement the DIR.
4. Develop educational brochures and distribute them to religious organizations.
5. Define a nationwide program (with one name) incorporating aspects of Ticketing Aggressive Cars and Trucks (TACT) and Share the Road Safely (STRS).
6. Reform SafeStat.
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8. Improve data on Mexico-domiciled motor carriers operating in the U.S.
9. Comply with and Enforce "Pattern of Violations" Provision of MCSIA 1999.
10. Establish Federal standards to check social security numbers and for drivers to pass an English proficiency exam.
11. Make medical oversight a priority for FMCSA.
12. Establish a clearinghouse for drug testing results on CMV drivers.

## **Provide to MCSAC a Status Report from FMCSA on the Studies Listed in the GAO Report in order to Determine any Specific Proposed Course of Action**

### **Issue**

The December 2005 GAO report titled "Large Truck Safety: Federal Enforcement Efforts Have Been Stronger Since 2000, but Oversight of State Grants Needs Improvement" contained several recommendations to FMCSA, including the following:

- To help ensure and demonstrate that FMCSA's enforcement programs contribute to the agency's goal to reduce the large truck fatality rate, we recommend that the Secretary of Transportation direct the FMCSA administrator to set goals for its enforcement programs that are designed to clearly demonstrate these contributions. (GAO-06-156, Recommendation 1)

The MCSAC supports FMCSA's efforts in conducting strong and vigorous enforcement programs to enhance motor carrier safety and to reduce the large truck fatality rate. In addition, we believe that it is also important to understand the effectiveness of FMCSA's existing programs, as well as understanding the impact of civil penalties. It is our understanding that FMCSA has planned or conducted studies regarding the effect of civil penalties and their structure.

The MCSAC recommends that FMCSA provide a status report on the studies listed in the GAO report (GAO-06-156) in order to determine any potential follow-up recommendations.

### **Implementation Strategies**

- Provide the requested status report to MCSAC for review and consideration.  
*The committee is still waiting to receive information from FMCSA on the studies listed in the GAO 06-156 report in order to determine any specific proposed course of action.*

### **Potential Benefits**

- Linking of enforcement activities to reduced fatalities.

## **Provide to MCSAC Specific Program Evaluation Criteria for its New Quality Assurance Program and its New Entrant Program Effectiveness Study and Implement a Pilot Pre-registration Program in Addition to the New Entrant Program**

### **Issue**

The December 2005 GAO report titled "Federal Motor Carrier Safety Administration: Education and Outreach Programs Target Safety and Consumer Issues, but Gaps in Planning and Evaluation Remain" contained two recommendations to FMCSA, including the following:

- To better demonstrate how FMCSA education and outreach programs contribute to achieving agency goals, we recommend that the Secretary of Transportation direct the Administrator of FMCSA to... Ensure that the agency describes and documents how education and outreach program activities link to and support broader program and agency goals in a planning, program, or budget document that is available to the public." (GAO-06-103, Recommendation 1)

The MCSAC recommends that FMCSA provide specific program evaluation criteria for its new Quality Assurance review program and its New Entrant Program effectiveness study, or a status update on the criteria and the effectiveness study. The program evaluation criteria will help MCSAC make further recommendations.

Following its investigation of a Greyhound motorcoach accident near Loraine, Texas on June 9, 2002, NTSB recommended that FMCSA "Require all new motor carriers seeking operating authority to demonstrate their safety fitness prior to obtaining new entrant operating authority by, at a minimum: (1) passing an examination demonstrating their knowledge of the Federal Motor Carrier Safety Regulations; (2) submitting a comprehensive plan documenting that the motor carrier has management systems in place to ensure compliance with the Federal Motor Carrier Safety Regulations; and (3) passing a Federal Motor Carrier Safety Administration safety audit, including vehicle inspections." (H-03-02)

The MCSAC recommends that FMCSA implement a pilot pre-registration program (in addition to the New Entrant Program) for all new entrants to exhibit proficiency and knowledge in safety management practices, operational needs, and regulatory compliance requirements prior to being able to register.

### **Implementation Strategies**

- Provide requested program evaluation criteria to MCSAC for review and consideration.
- Investigate and utilize the best of the existing State pre-training programs and include them in a national program as appropriate.
  - The program must be consistent and standardized among States in terms of content and questions and answers.

### **Potential Benefits**

- Safer carriers.

## Deploy the PRISM System Nationally and Implement the DIR

### **Issue**

The OIG April 2006 report (MH-2006-046) was titled "Significant Improvements in Motor Carrier Safety Program Since 1999 Act but Loopholes for Repeat Violators Need Closing." The report contained several recommendations, including a recommendation for FMCSA to: "Strengthen the repeat violator policy by... enhancing controls, such as automated notification of prior violations in enforcement case software, to ensure that all violations meeting the current three strikes criteria are assessed the maximum penalty allowed by law." (MH-2006-046, A01)

Following its investigation of a motorcoach accident near New York city on July 26, 1992, NTSB recommended that FHWA "Develop a systematic and continual process of identification of carriers subject to the Federal Highway Administration's jurisdiction that includes the immediate entry of new carriers onto the Motor Carrier Management Information System, systematically accessing available State record systems, and maintaining contact with the Interstate Commerce Commission concerning new motor carriers. Devise a method of verifying that the process results in the identification of the entire carrier population." (Class II, Priority Action) (H-93-28)

We understand that the PRISM system captures the social security numbers of the applicants, officers, directors, and owners, as well as DOT numbers and truck VIN numbers.

The MCSAC recommends that the PRISM system be deployed nationally.

The MCSAC recommends that FMCSA take statutory and regulatory steps to implement the Driver Information Resource (DIR).

### **Implementation Strategies**

- Expand PRISM to all States.
- Explore DIR implementation options.

### **Potential Benefits**

- Identification of repeat offenders in a timely and consistent manner (PRISM).
- Improved safety through informed employment decisions on the part of employers that will keep unqualified drivers off the road (DIR).



## Develop Educational Brochures and Distribute Them to Religious Organizations

### **Issue**

Following its investigation of a motorcoach accident near Tallulah, Louisiana, on October 13, 2003, NTSB recommended that FMCSA “Develop and distribute educational materials for nontraditional commercial vehicle owners, such as church groups, on how to comply with the Federal Motor Carrier Safety Regulations; at a minimum, the materials should be posted on the Federal Motor Carrier Safety Administration Web site.” (H-05-02)

The FMCSA had committed to develop educational brochures for private motor carriers of passengers on safety awareness and regulatory compliance; it was to partner with religious organizations to distribute brochures. The information is on FMCSA’s website but the brochure has not been distributed through any partnering process. The FMCSA decided that the website information had satisfied enough of the requirement and so did not develop the brochure. The FMCSA also has said that because of staffing shortages FMCSA could not develop and distribute a brochure. The MCSAC believes that religious (and other similar) groups are not likely to look for the information on FMCSA’s website, and that communication is very important and should go beyond organizations familiar with FMCSA. The MCSAC would like to see brochures distributed to religious and other organizations.

*Pursuant to a May 31, letter to the Administrator, H-05-2 is classified “closed-acceptable action.” The MCSAC, based on this action, considers the matter closed.*

### **Implementation Strategies**

- *Developed brochure content.*
- *Drafted brochures.*
- *Posted materials on website.*

### **Potential Benefits**

- Message delivered to a broad audience of carriers.

## **Define a Nationwide Program (with one name) Incorporating Aspects of Ticketing Aggressive Cars & Trucks (TACT) and Share the Road Safely (STRS)**

### **Issue**

The September 2006 GAO report titled "Truck Safety: Share the Road Safely Pilot Initiative Showed Promise, but the Program's Future Success is Uncertain" contained three recommendations to FMCSA, including the following:

- "Develop a comprehensive strategy describing how FMCSA will implement and fund an expansion of TACT-like initiatives from several pilots into a nationwide program and detail how STRS initiatives contribute to this goal." (GAO-06-916, Recommendation 1)
- "Monitor whether FMCSA has sufficient staff and expertise to successfully develop and administer future high-visibility law enforcement campaigns, and, if it does not, determine the best methods for DOT to use its resources and expertise to modify driver behavior and address the problem of aggressive driving around trucks." (GAO-06-916, Recommendation 3)

The MCSAC acknowledges that FMCSA is doing a good job of keeping poorly maintained commercial vehicles and trailers off the roads. The Committee also recognizes that the majority of the truck crashes are caused by driver behavior.

The MCSAC recommends that FMCSA develop an enforcement and education program that targets aggressive drivers of cars and trucks with one defined name that can be used for nationwide branding consistency.

The MCSAC recommends that FMCSA develop pilot programs that specifically target driver behavior.

### **Implementation Strategies**

- Obtain funding from an appropriate line item.
- Partner with NHTSA, States, and others including CVSA-certified personnel to encourage the development of new driver behavior programs.
- Conduct the pilot programs in three to four States and model the programs after similar programs, such as TACT and Employer Notification System (ENS).

### **Potential Benefits**

- Improved driver behavior.

## Reform SafeStat

### **Issue**

GAO's June 2007 report (GAO-07-585) was titled "Motor Carrier Safety: A Statistical Approach Will Better Identify Commercial Carriers That Pose High Crash Risks Than Does the Current Federal Approach." GAO suggests that FMCSA's system for identifying high risk carriers has severe problems that actually prevent it from identifying high risk carriers. Some of these issues will be addressed by the Administration's Comprehensive Safety Analysis 2010 (CSA 2010) initiative. State data are still underreported, are misreported, and are not provided to FMCSA in a timely manner to identify motor carriers as high safety risk companies.

The MCSAC recommends SafeStat reforms.

### **Implementation Strategies**

- Improve data accuracy and timeliness for SafeStat.
- Use vehicle miles traveled (VMT) instead of power units.
- Only crashes resulting in convictions should affect score.
- Make Data Q's module consistent from State to State and establish due process after a decision has been made.
- Evaluate methodology issues with OOS rates and correct unbalanced weighting among driver, vehicle, and hazmat OOS rates.
- Mandate State use of PRISM, especially to ensure that carriers violating operating authority requirements are placed out of service and are no longer allowed to operate, and provide Federal resources to comply with the requirement.
- Penalize drivers and carriers – determine when carrier policy (or lack thereof) affects driver compliance (e.g., log book violations) and develop ticketing and citation policy (FMCSA Enforcement).
- Develop objective algorithm that does not rely on consensus or subjective views of violation category (acute vs. critical) and violation severity.
- Continue to encourage inclusion of intrastate carriers in the Agency's safety data collection efforts to determine risks to highway and motor carrier safety from intrastate motor carriers violating equivalent State motor carrier safety laws and regulations, and provide Federal resources to States.
- Bring shippers, freight forwarders, brokers, and consignees into the scope of SafeStat.
- Determine which issues will be captured in CSA 2010, such as whether BASICS sufficiently identifies data showing carriers employing unsafe drivers.

### **Potential Benefits**

- Earlier detection of unsafe motor carriers through timely, accurate data and an objective measure of motor carriers at high safety risk.
- Non-complying motor carriers stopped more quickly from operating through use of PRISM to ensure operating authority violations are rapidly detected.

## Verify Revocation of Operating Authority

### **Issue**

NTSB Safety Recommendation H-06-17 was that FMCSA should establish a program to verify that motor carriers have ceased operations after the effective date of revocation of operating authority. The recommendation notes that the CSA 2010 project will develop a more effective operational model for FMCSA's enforcement and compliance activities, but NTSB was concerned that a long time frame jeopardizes the safety of the traveling public through unnecessary exposure to possibly unsafe commercial motor vehicles.

FMCSA's response points out that PRISM links FMCSA databases with State motor vehicle registration systems and roadside inspection personnel to help identify vehicles operated by motor carriers that have been issued out-of-service orders. Through PRISM, motor carriers prohibited by FMCSA from operating in interstate commerce may have their registration suspended or revoked or may have their ability to register vehicles denied.

The MCSAC recommends that FMCSA use PRISM to ensure that carriers whose operating authority is rescinded do not re-incorporate as new companies and are not awarded new operating authority.

### **Implementation Strategies**

- Adopt a requirement that States must implement the PRISM program at a certain time in order to receive Federal assistance.

### **Potential Benefits**

- More effective detection and enforcement of operating authority violations prior to implementation of CSA 2010.
- Increased ability of FMCSA and the States to identify companies that have re-incorporated after having their operating authority rescinded (through PRISM data and enforcement improvements).

## Improve Data on Mexico-Domiciled Motor Carriers Operating in the U.S.

### **Issue**

The U.S. Department of Transportation Office of Inspector General (OIG) January 2005 report (MH-2005-032) was titled "Follow-up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross Border Trucking Provisions." There are several defects on Mexican motor carriers' adherence to U.S. regulations that have not been corrected. There are also deficient data. The report contained several recommendations, including a recommendation to implement information exchange from Mexican motor carriers to FMCSA database. (MH-2005-032, C02)

The MCSAC recommends that FMCSA improve data on Mexico-domiciled motor carriers operating in the U.S.

### **Implementation Strategies**

- Implement some form of verification to corroborate hours of service submitted by drivers of Mexico-domiciled motor carriers seeking entry into the U.S. in order to avoid fatigued, sleep-deprived Mexican drivers operating commercial motor vehicles in the U.S.
- Urge Mexican motor carriers to adhere to U.S. drug and alcohol testing requirements to ensure that no fraud is committed and that the chain of custody on samples for laboratory assay is not compromised.
- Ensure that 1) Mexican motor carriers and driver databases in Mexico are completely populated with timely, complete, and accurate data to identify high-risk Mexican motor carriers and drivers seeking entry into the U.S. and 2) U.S. enforcement authorities have rapid access to these data.
- Verify what physical fitness standards are required in Mexico. The Agency, to date, has not demonstrated what these standards are and to what extent they conform to U.S. physical fitness standards.
- Improve databases showing timely and complete information on Mexican motor carrier and driver violations.
- Re-evaluate the declared equivalence between the U.S. Commercial Driver License (CDL) and the Mexican Licencia Federal de Conductor (LFC).
- Ensure that the upgraded CDL test and pending entry-level driver training requirements are used to qualify Mexican drivers seeking to operate commercial motor vehicles in the U.S.

### **Potential Benefits**

- Help in meeting legal requirements adopted by Congress regarding the opening of the U.S.-Mexico border and improving compliance in general with U.S. Standards and regulations.
- Reduced potential future problems with Mexican carriers.

## Comply with and Enforce “Pattern of Violations” Provision of MCSIA 1999

### **Issue**

GAO's August 2007 report (GAO-07-584) was titled “Motor Carrier Safety: Federal Safety Agency Identifies Many High-Risk Carriers but Does Not Assess Maximum Fines as Often as Required by Law.” FMCSA currently is not complying with section 222 of MCSIA 1999 for enforcing patterns of violations and repeat violations after the second offense (rather than third offense) and is not assessing maximum fines as the statute requires. The GAO report contained three recommendations:

- GAO previously recommended that FMCSA apply a regression model approach to identify carriers that pose high crash risks. If FMCSA decides not to implement that recommendation, GAO recommends that FMCSA improve its targeting of carriers that pose a high crash risk, by prioritizing compliance reviews for carriers with very poor scores (such as the worst 5 percent) in the accident safety evaluation area, so that these carriers will be selected for compliance reviews, regardless of their scores in the other evaluation areas. (GAO-07-584, Recommendation 1)
- To help ensure that carriers rated conditional make safety improvements in a timely manner, establish a reasonable time frame within which FMCSA should conduct follow-up compliance reviews. (GAO-07-584, Recommendation 2)
- To meet the Motor Carrier Safety Improvement Act's requirement to assess maximum fines and improve the deterrent effect of these fines, revise FMCSA's related policy to include (1) a definition for a pattern of violations that is distinct from the repetition of the same or related violations and (2) a two strikes rule rather than a three strikes rule. (GAO-07-584, Recommendation 3)

FMCSA concurred with GAO's recommendations, but before implementing changes to its enforcement policy, the Agency will consider (during calendar year 2008) the potential safety benefits to be derived from these changes, the cost of implementation, and the overall impact on the motor carrier industry.

### **Implementation Strategies**

- Comply with FMCSA's statutory obligation to assess the maximum fines for each serious violation for motor carriers with repeat violations or with a pattern of violations.
- Address the issue of establishing a reasonable time frame for follow-up compliance reviews.
- Revise FMCSA's definition of “pattern of violations” so that higher risk motor carriers are assessed maximum fines to promote deterrence of safety regulation violations.
- Assess maximum penalties for repeat violations after a second violation, rather than third offense, as section 222 clearly requires.

### **Potential Benefits**

- Strengthened FMCSA enforcement regime through earlier detection of violations and imposition of maximum penalties in order to improve compliance with the Federal Motor Carrier Safety Regulations and deter future violations.

## **Establish Federal Standards to Check Social Security Numbers and for Drivers to Pass an English Proficiency Exam**

### **Issue**

In Audit Report MH-2002-093 Issued on May 8, 2002, OIG recommended that the FMCSA Administrator “Strengthen the framework for State CDL programs by issuing new or clarifying existing Federal standards that require: verification of a CDL applicant’s Social Security Number before a license is issued; and testing protocols and performance-oriented requirements for English language proficiency for CDL applicants” (among other elements).

The MCSAC sees a need to establish a legal presence requirement for obtaining a commercial driver’s license and unanimously recommends that FMCSA establish Federal standards in these two areas.

### **Implementation Strategies**

- Determine the extent to which FMCSA’s proposed rule on Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators [FMCSA-2007-27748-0018] addresses these issues.
- To the extent that these issues are not sufficiently addressed in FMCSA’s proposed rule on Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators, seek to establish standards through legislative or regulatory channels, as appropriate.

### **Potential Benefits**

- Reduced illegal workforce.
- Easier driver identification and rating.
- Safer driver pool.

## **Make Medical Oversight a Priority for FMCSA**

### **Issue**

Following its investigation of a motorcoach run-off-the-road accident at New Orleans, Louisiana, on May 9, 1999, NTSB recommended that FMCSA “Develop a comprehensive medical oversight program for interstate commercial drivers that contains the following program elements:

- Individuals performing medical examinations for drivers are qualified to do so and are educated about occupational issues for drivers. (H-01-17)
- Enforcement authorities can prevent an uncertified driver from driving until an appropriate medical examination takes place. (H-01-23)”  
(among others)

The MCSAC believes FMCSA should make medical oversight a priority for the Agency.

### **Implementation Strategies**

- Ensure these issues are addressed in regulation per statutory requirements.

### **Potential Benefits**

- Safer driver pool.
- More effective enforcement.
- More consistent and better qualified doctors.



## Establish a Clearinghouse for Drug Testing Results on CMV Drivers

### **Issue**

Following its investigation of a motorcoach run-off-the-road accident at New Orleans, Louisiana, on May 9, 1999, NTSB recommended that FMCSA “Develop a system that records all positive drug and alcohol test results and refusal determinations that are conducted under the U.S. Department of Transportation testing requirements, require prospective employers to query the system before making a hiring decision, and require certifying authorities to query the system before making a certification decision. (H-01-25)”

The MCSAC believes FMCSA should establish a clearinghouse as described in the NTSB recommendation.

### **Implementation Strategies**

- Research existing rules regarding privacy that must be followed for a Federal implementation program.
- Seek OMB approval for clearinghouse.
- Include reporting positive results to the clearinghouse as one of the investigative steps by the Medical Review Official (MRO).
  - Use electronic reporting.
- Include the carrier name in the clearinghouse as well as the driver name.
  - Review the Office of the Secretary of Transportation (OST) guidelines and rules regarding MROs.
  - Determine whether conflict of interest issues with respect to carrier-employed MROs and reporting requirements preclude this.
- The MCSAC also agrees that CSA 2010 should include data linking drug and alcohol testing results to carrier responsibility.

### **Potential Benefits**

- Better compliance with current rules.
- Safer, more alert drivers.
- Enhanced carrier accountability.
- Irresponsible drivers kept out of driver pool.

# APPENDIX I

## **Motor Carrier Safety Advisory Committee (MCSAC) Task Statement Task #08-01**

### **I. TASK TITLE**

Federal Surface Transportation Reauthorization

### **II. BACKGROUND**

The Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; ISTEA) is a federal law that posed a major change to transportation planning and policy, as the first U.S. federal legislation on the subject in the post-Interstate Highway System era. It presented an overall intermodal approach to highway and transit funding with collaborative planning requirements, giving significant additional powers to metropolitan planning organizations. Signed into law on December 18, 1991, it expired in 1997. It was preceded by the Surface Transportation and Uniform Relocation Assistance Act of 1987 and followed by the Transportation Equity Act for the 21st Century (TEA-21) and most recently in 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). TEA-21 was enacted on June 9, 1998, Public Law 105-178, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period from 1998-2003. SAFETEA-LU was enacted August 10, 2005, as Public Law 109-59, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period 2005-2009. SAFETEA-LU expires in 2009. The Federal Motor Carrier Safety Administration (FMCSA) is in the planning phase for the next reauthorization cycle.

### **III. TASK**

The Committee should provide a priority list of safety provisions for inclusion in FMCSA's statutory program based on:

- a. recommendations issued to the Agency from the Government Accountability Office (GAO), U.S. Department of Transportation Office of Inspector General (OIG), and the National Transportation Safety Board (NTSB); and,
- b. input from each committee member's respective constituency.

### **IV. ESTIMATED TIME TO COMPLETE TASK**

1. The Committee should submit a report on recommendations issued to the Agency from GAO, OIG, and NTSB, that should be included in FMCSA's statutory program at the March 2008 meeting.
2. The Committee should submit a report outlining the priority list of safety provisions for inclusion in FMCSA's statutory program at the June 2008 Committee meeting.

### **V. FMCSA TECHNICAL REPRESENTATIVES**

- Pam Pelcovits, Director, Office of Policy Plans and Regulations (MC-PR), FMCSA, 202-366-5370, pamela.pelcovits@dot.gov.
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## Open GAO, OIG, and NTSB Recommendations Issued to FMCSA

(As of December 5, 2007)

1	GAO	Prioritization of OMCHS' (FMCSA) safety plan for reducing the number of crashes and deaths. Undertake only those items that can be completed within available budgetary/human resources. (RCED-99-182)
2	GAO	Under the direction of the Secretary of Transportation, undertake and complete study of alternative dispute mechanism required by ICC termination act of 1991. (GAO-01-318, Recommendation 1)
3	GAO	To help ensure and demonstrate that FMCSA's enforcement programs contribute to the Agency's goal to reduce the large truck fatality rate, GAO recommends that the Agency set goals for its enforcement programs that are designed to clearly demonstrate these contributions. (GAO-06-156, Recommendation 1)
4	GAO	To improve FMCSA's ability to establish the most effective structure of civil penalties, GAO recommends that the Agency develop and implement one or more measures of the effectiveness of its civil penalties against motor carriers. (GAO-06-156, Recommendation 2)
5	GAO	To improve accountability for use of MCSAP grant funds, GAO recommends that FMCSA ensure existing mechanisms, such as planning sessions, reviews of draft State plans, and periodic monitoring of States' progress, to the extent possible, are carried out and result in clarity of goals and performance measures and assessments of safety improvements made. (GAO-06-156, Recommendation 4)
6	GAO	To improve FMCSA's oversight of MCSAP grantees, GAO recommends that FMCSA: (1) assess, upon implementation, whether the improved performance reviews of State activities are meeting the Agency's intended goals; (2) incorporate MCSAP oversight as a segment of the effectiveness study of division offices; and (3) assess the oversight activities of service centers. (GAO-06-156, Recommendation 1)
7	GAO	Ensure that the Agency describes and documents how education and outreach program activities link to and support broader program and Agency goals in a planning, program, or budget document that is available to the public. (GAO-06-103, Recommendation 1)
8	GAO	Evaluate the effectiveness of the education and outreach of the New Entrant program, assessing the extent to which the Education and Technical Assistance Package and safety audits are helping new carriers learn and understand FMCSA requirements. (GAO-06-103, Recommendation 2)
9	GAO	Develop a comprehensive strategy describing how FMCSA will implement and fund an expansion of TACT-like initiatives from several pilots into a nationwide program and detail how STRS initiatives contribute to this goal. (GAO-06-916, Recommendation 1)
10	GAO	Complete and execute plans to evaluate STRS outreach activities that are purely educational and discontinue activities with no demonstrable impact on behavior. (GAO-06-916, Recommendation 2)
11	GAO	Monitor whether FMCSA has sufficient staff and expertise to successfully develop and administer future high-visibility law enforcement campaigns, and, if it does not, determine the best methods for DOT to use its resources and expertise to modify driver behavior and address the problem of aggressive driving around trucks. (GAO-06-916, Recommendation 3)
12	GAO	Develop a strategy with performance goals and measures that delineates how its oversight and enforcement activities related to household goods movers will improve consumer protection. The strategy and performance goals and measures should delineate a method for monitoring and evaluating FMCSA's performance against set goals and timelines to improve consumer protection. (GAO-07-586, Recommendation 1)
13	GAO	In developing its strategy, FMCSA should assess the potential advantages and disadvantages, including the cost-effectiveness, for consumers and movers of the following: <ul style="list-style-type: none"> <li>• Determining whether implementing additional licensing and registration requirements would be effective in reducing the number of illegitimate movers performing interstate moves, and</li> <li>• Determining whether interstate movers should be required to place a Web address link to FMCSA's "Protect your Move" Web site in all their online advertising and place the Web address in all print advertising to aid consumers in making more informed decisions about choosing and contracting with a mover.</li> </ul> (GAO-07-586, Recommendation 2)
14	GAO	In developing and implementing an outreach plan to enhance coordination and effective enforcement of federal laws and regulations between and among federal and state law enforcement and consumer protection authorities, FMCSA should include guidance to state officials on what is required to enable them to enforce the federal laws in this area, including laws regarding holding goods hostage in their state. (GAO-07-586, Recommendation 3)
15	GAO	Direct the Administrator of FMCSA to apply a negative binomial regression model, such as the one discussed in this report, to enhance the current SafeStat methodology. (GAO-07-585)
16	GAO	GAO previously recommended that FMCSA apply a regression model approach to identify carriers that pose high crash risks. If FMCSA decides not to implement that recommendation, GAO recommends that FMCSA improve its targeting of carriers that pose a high crash risk, by prioritizing compliance reviews for carriers with very poor scores (such as the worst 5 percent) in the accident safety evaluation area, so that these carriers will be selected for compliance reviews, regardless of their scores in the other evaluation areas. (GAO-07-584, Recommendation 1)
17	GAO	To help ensure that carriers rated conditional make safety improvements in a timely manner, establish a reasonable time frame within which FMCSA should conduct follow-up compliance reviews. (GAO-07-584, Recommendation 2)
18	GAO	To meet the Motor Carrier Safety Improvement Act's requirement to assess maximum fines and improve the deterrent effect of these fines, revise FMCSA's related policy to include (1) a definition for a pattern of violations that is distinct from the repetition of the same or related violations and (2) a two strikes rule rather than a three strikes rule. (GAO-07-584, Recommendation 3)
19	OIG	Issue new/clarified Federal standards to require CDL applicants to demonstrate citizenship/legal presence in U.S. and state of examination. (MH-2002-093, A01)
20	OIG	Issue new/clarified Federal standards to require verification of CDL applicants SSN before issuing license. (MH-2002-093, A02)
21	OIG	Issue new/clarified Federal standards to require English language proficiency for CDL applicants. (MH-2002-093, A03)

22	OIG	Issue new/clarified Federal standards to require successful completion of CDL knowledge test by applicants before State issues learners' permit. (MH-2002-093, A04)
23	OIG	Issue new/clarified Federal standards to require information on individuals holding CDL learners' permits be included in CDLIS. (MH-2002-093, A05)
24	OIG	Issue new/clarified Federal standards to require specific training/qualification standards for State and third-party CDL examiners. (MH-2002-093, A06)
25	OIG	Issue new/clarified Federal standards to require use of covert procedures for monitoring a portion of State or third-party CDL examiners. (MH-2002-093, A07)
26	OIG	Provide periodic reports that reevaluate overall resource requirements for US/Mexico border, including staff/facilities at border crossings, based on actual and projected long-haul and CZ traffic. (MH-2002-094, A08)
27	OIG	Include in the reevaluation of resource requirements at U.S./Mexico border (see MH-2002-094, A08), an assessment of crossings where passenger buses are expected to enter the U.S. (MH-2002-094, A03)
28	OIG	Establishment of a memorandum of understanding with Mexico to conduct on site inspections. (MH-2005-032, A01)
29	OIG	Set agreements for Mexican domiciled carriers in relation to hazardous material endorsements and the hauling of hazardous waste out of Mexican commercial zones. (MH-2005-032, A02)
30	OIG	Revise policies and procedures to accommodate buses at southern border crossings consistent with FMCSA policies and Section 350 requirements. (MH-2005-032, B01)
31	OIG	Universal adoption of August 2002 rule on enforcing operating authority. (MH-2005-032, B02)
32	OIG	Identification of actions and milestones needed to make WIMS fully operable. (MH-2005-032, B03)
33	OIG	Ensure that a comprehensive system for monitoring Mexican drivers is in place. (MH-2005-032, B04)
34	OIG	Establish procedures to ensure that Mexican Motor Carriers supply accurate information when applying for long-haul authority. (MH-2005-032, C01)
35	OIG	Implement information exchange from Mexican motor carriers to FMCSA database. (MH-2005-032, C02)
36	OIG	Establish milestones in conjunction with ODAPC and other DOT staff. (MH-2005-032, C03)
37	OIG	Strengthen the repeat violator policy by developing a procedure to count toward a "pattern of violations" under MCSIA Section 222, irrespective of how the violations are treated under UFA, all acute and critical violations that FMCSA discovers during future compliance reviews and either documents for inclusion on the Notice of Claim or obtains the motor carrier's signed admission. (MH-2006-046, A02)
38	OIG	Take firm action to increase compliance with the census data updating requirement by intensifying efforts to fine motor carriers that resist compliance or by taking other measures that can be demonstrated to be effective. (MH-2006-046, B01)
39	OIG	Establish a system to track attendance for the crash data training course and visits to the crash data web site, and compare the results to changes in crash data reporting by states to assess whether training efforts are successful. (MH-2006-046, B02)
40	OIG	Transmit the Large Truck Crash Causation Study results to Congress, and develop milestones for completing the required legislative recommendations. (MH-2006-046, B04)
41	OIG	Continue monitoring state safety audit activity to ensure timely completion of all safety audits. (MH-2006-046, C01)
42	OIG	Continue ongoing efforts to identify needed changes in the new entrant program to increase the enforcement component that would improve safety. (MH-2006-046, C02)
43	OIG	Expediently complete the driver medical certificate rulemaking. (MH-2006-046, D01)
44	OIG	Direct the states to report on the final disposition of all suspect drivers identified by the states. These disposition reports should emphasize but not necessarily be limited to instances where there is specific or direct evidence that the driver participated in a fraudulent activity to obtain the CDL. (MH-2006-037, A01)
45	OIG	Determine that state CDL programs are out of compliance, under Federal regulations, if the state fails to impose adequate internal controls to prevent fraud or fails to take or propose necessary corrective action. (MH-2006-037, B01)
46	OIG	Improve the comprehensiveness and consistency of conviction data on Mexican commercial drivers in the 52nd State System by ensuring that the corrective action plans on data reporting problems provided by Arizona, California, New Mexico, and Texas are completed as scheduled. (MH-2007-062, A01)
47	OIG	Improve the comprehensiveness and consistency of conviction data on Mexican commercial drivers in the 52nd State System by developing a process to periodically (at least quarterly) identify and notify states of inconsistencies in 52nd State System data and ensure that states take immediate steps to correct the inconsistencies. (MH-2007-062, A02)
48	OIG	Ensure that adequate space is available to conduct bus inspections by working on a site-specific basis with the U.S. Customs and Border Protection to modify the Southern Border Commercial Bus Inspection Plan with respect to providing adequate inspector coverage at the Lincoln-Juarez crossing in Laredo, Texas, during holidays or other periods of peak bus traffic. (MH-2007-062, B01)
49	OIG	Ensure that adequate space is available to conduct bus inspections by working on a site-specific basis with the U.S. Customs and Border Protection to modify the Southern Border Commercial Bus Inspection Plan with respect to periodically determining the effectiveness of the bus inspection plan by surveying field personnel or through other methods. (MH-2007-062, B02)
50	OIG	Address our findings on issues that are not related to Section 350 by implementing a policy on the use of vehicle model year to indicate compliance with vehicle safety standards and record vehicle identification numbers as part of a safety inspection. (MH-2007-062, C01)
51	OIG	Address our findings on issues that are not related to Section 350 by establishing an action plan, in coordination with other Department of Transportation offices, to address concerns regarding drug and alcohol testing of all Mexican commercial drivers. (MH-2007-062, C02)
52	OIG	Impose sanctions, under Federal regulations, against those states that fail to establish adequate fraud control measures for their CDL programs. (MH-2006-037, B02)
53	NTSB	H-02-08: Amend 49 CFR 383.51(e) to add violation when driver fails to notify RR of oversize/overweight vehicle crossings.
54	NTSB	H-02-15: Amend 49 CFR 396.13 to require pre-trip brake adjustment inspection procedures.
55	NTSB	H-01-17: Develop medical oversight program to ensure only qualified individuals perform medical exams.
56	NTSB	H-01-19: Develop medical oversight program to periodically update medical certifications regulations.

57	NTSB	H-01-20: Develop medical oversight program to provide individuals performing medical exams with specific guidance and source of information for questions.
58	NTSB	H-01-24: Develop medical oversight program to include mechanisms for reporting medical conditions to authorities and for evaluating medical conditions between exams.
59	NTSB	H-01-18: Develop medical oversight program to ensure all prior applications for medical certification are recorded and reviewed.
60	NTSB	H-01-21: Develop medical oversight program to prevent or identify and correct inappropriate issuance of medical certificates.
61	NTSB	H-01-22: Develop medical oversight program to ensure enforcement authorities can identify invalid medical certificates during inspections/routine stops.
62	NTSB	H-01-23: Develop medical oversight program to ensure enforcement authorities can prevent uncertified driver from driving.
63	NTSB	H-03-02: Require all new carriers seeking operating authority to demonstrate safety skills prior to obtaining new entrant authority.
64	NTSB	H-02-16: Require that vehicle inspections of a motor carrier's fleet occur during compliance reviews.
65	NTSB	H-02-17: During CR's, rate companies Unsat in the vehicle factor category if brake inspectors are not qualified.
66	NTSB	H-02-18: Revise 49 CFR 396.25 (Qualifications of Brake Inspectors) to require formal training and certification as prerequisites for qualification.
67	NTSB	H-01-25: Develop a system that records all positive drug/alcohol test results and refusal determinations.
68	NTSB	H-99-07: Provide guidance on minimum information to be included in safety briefing materials for motorcoach operations.
69	NTSB	H-99-08: Require motorcoach operators to provide passengers with pretrip safety information.
70	NTSB	H-02-33: Develop/distribute in cooperation with UMA and the ABA, a booklet to educate motorcoach drivers on the different types of retarders and their use in slipper road conditions.
71	NTSB	H-99-06: Change the safety fitness rating methodology so that adverse vehicle/driver performance-based data alone are sufficient to result in overall UNSAT rating.
72	NTSB	H-93-28: Develop systematic process to identify carriers subject to FMCSA's jurisdiction, including immediate entry of new carriers into MCMIS.
73	NTSB	H-98-08: Work with NHTSA, ATA, Teamsters, and MFCA to encourage development/use of simulator-based training for heavy truck operators.
74	NTSB	H-04-18: Require posting of emergency phone number on interior of motorcoaches for passenger use in the event of an emergency with the driver.
75	NTSB	H-04-19: Revise SafeStat to compare passenger carriers to other passenger carriers to ensure accurate safety ratings.
76	NTSB	H-05-02: Develop and distribute educational materials for non traditional commercial vehicle owners, on how to comply with FMCSR's.
77	NTSB	H-05-03: Revise the FMCSR's appendix G to subchapter B, "Minimum Periodic Inspection Standards" part 10 "Tires", Sections A(5) and B(7), to address tire's speed rating.
78	NTSB	H-05-04: Safety Analysis on the effectiveness of the self inspection and certification process motor carriers use in order to comply with annual inspection requirements.
79	NTSB	H-05-05: Revise FMCSR's appendix G to subchapter B, "Minimum Periodic Inspection Standards." Develop method of inspecting motorcoach seat anchorages.
80	NTSB	H-05-18: Modify tread depth requirements after NHTSA completes research recommended by H-05-017.
81	NTSB	H-06-01: Work with Commercial Vehicle Safety Alliance to develop and add to the North American Standard Inspection training materials a module that emphasizes that manually adjusting automatic slack adjusters is dangerous and should not be done, except during installation or in an emergency to move the vehicle to a repair facility.
82	NTSB	H-06-02: Require drivers of commercial vehicles that weigh less than 26,000 pounds and are equipped with air brakes to undergo training and testing to demonstrate proficiency in the inspection and operation of air-braked vehicles.
83	NTSB	H-06-17: Establish a program to verify that motor carriers have ceased operations after the effective date of revocation of operating authority.
84	NTSB	H-00-12: Establish, with assistance from experts on the effects of pharmacological agents on human performance and alertness, procedures or criteria by which vehicle operators who medically require substances not on the U.S. Department of Transportation's list of approved medications may be allowed, when appropriate, to use those medications when driving.
85	NTSB	H-00-13: Develop, then periodically publish, an easy-to-understand source of information for highway vehicle operators on the hazards of using specific medications when driving.
86	NTSB	H-00-14: Establish and implement an educational program targeting highway vehicle operators that, at a minimum, ensures that all operators are aware of the source of information described in Safety Recommendation H-00-13 regarding the hazards of using specific medications when driving.
87	NTSB	H-00-15: Establish, in coordination with the U.S. DOT, FRA, FTA, and USCG, comprehensive toxicological testing requirements for an appropriate sample of fatal highway, railroad, transit and marine accidents to ensure the identification of the role played by common prescription and over-the-counter medications. Review and analyze the results of such testing intervals not to exceed every five years.
88	NTSB	H-06-27: Publish regulations prohibiting cellular telephone use by commercial driver's license holders with a passenger-carrying or school bus endorsement, while driving under the authority of that endorsement, except in emergencies.
89	NTSB	H-07-01: Establish a process to continuously gather and evaluate information on the causes, frequency, and severity of bus and motorcoach fires and conduct ongoing analysis of fire data to measure the effectiveness of the fire prevention and mitigation techniques identified and instituted as a result of the Volpe National Transportation Systems Center fire safety analysis study.
90	NTSB	H-07-02: Revise the Federal Motor Carrier Safety Regulations at 49 CFR 393.205 to prohibit a commercial vehicle from operating with wheel seal or other hub lubrication leaks.
91	NTSB	H-07-03: To protect the traveling public until completion of the Comprehensive Safety Analysis 2010 Initiative, immediately 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.
92	NTSB	H-07-TBD: Because information on paper logs can be so easily tampered with, FMCSA should mandate the industry-wide installation and use of EOBRs as a more accurate, valid, and secure method of recording driver hours of service information.
93	NTSB	H-07-TBD: As an interim measure, the FMCSA should mandate that carriers adopt a more tamper-proof paper log system that, at a minimum, includes the retention of all original and corrected paper logs and the use of bound and sequentially numbered logs.

## APPENDIX 2

### Work Group on 08-01 Federal Surface Transportation Reauthorization

David Parker, Chair, *Great West Casualty Company*

\* \* \*

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Michael Greene, *Columbia Machine Works*

Clyde Hart, *American Bus Association*

Michael Irwin, *Michigan Center for Truck Safety*

Terry Maple, *Kansas Highway Patrol*

David Osiecki, *American Trucking Associations*

Steven Owings, *Road Safe America*

Robert Petrancosta, *Con Way Freight*

Robert Powers, *Michigan State Police*

Karen Sain, *North Carolina Highway Patrol*

Lester Sokolowski, *National Safety Council*

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

Judith Stone, *Advocates for Highway and Auto Safety*

Roger Vanderpool, *Arizona Department of Public Safety*

<b>Workgroup 08-01A</b>	<b>Workgroup 08-01B</b>	<b>Workgroup 08-01C</b>
<p><b><i>Les Sokolowski, Chair</i></b> Clyde Hart Mike Irwin Terry Maple Dave Parker</p>	<p><b><i>Judie Stone, Chair</i></b> Todd Spencer Mike Green Bob Petrancosta Robert Powers</p>	<p><b><i>Dave Osiecki, Chair</i></b> John Bauer Roger Vanderpool Steve Owings Karen Sain</p>

**FEDERAL SURFACE TRANSPORTATION  
REAUTHORIZATION**

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**Recommendations for Agency Consideration in  
Reauthorization Planning**

**Report from**

**Workgroup on Task 08-01**

**to the**

**Motor Carrier Safety Advisory Committee**

**of the**

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

**Report 2 of 2**

**August 6, 2008**

The Motor Carrier Safety Advisory Committee (MCSAC) unanimously accepted Task 08-01, Federal Surface Transportation Reauthorization, at its December 2007 meeting. The Workgroup on Task 08-01 comprises all MCSAC members and was tasked with the following:

Provide a priority list of safety provisions for inclusion in FMCSA's statutory program based on:

- a) Recommendations issued to the Agency from the Government Accountability Office (GAO), U.S. Department of Transportation Office of the Inspector General (OIG), and the National Transportation Safety Board (NTSB); and,
- b) Input from each committee member's respective constituency.

The Workgroup determined that the best approach to addressing the various issues would be to divide the workgroup into three subgroups and assign each with a subset of issues to address. The Workgroups met in person and through conference calls and conducted work through e-mail. This report was presented at the MCSAC June 2008 meeting. The Committee unanimously approved the report and made 11 recommendations to FMCSA.

### **Discussion**

The Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; ISTEA) is a federal law that posed a major change to transportation planning and policy, as the first U.S. federal legislation on the subject in the post-Interstate Highway System era. It presented an overall intermodal approach to highway and transit funding with collaborative planning requirements, giving significant additional powers to metropolitan planning organizations. Signed into law on December 18, 1991, it expired in 1997. It was preceded by the Surface Transportation and Uniform Relocation Assistance Act of 1987 and followed by the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21) and most recently in 2005, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA-LU). TEA-21 was enacted on June 9, 1998, Public Law 105-178, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period from 1998-2003. SAFETEA-LU was enacted August 10, 2005, as Public Law 109-59, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period 2005-2009. SAFETEA-LU expires in 2009. FMCSA is in the planning phase for the next reauthorization cycle.

### **Findings**

MCSAC considered and discussed issues of import to the constituencies of the committee members and developed recommendations to the Agency to address those issues. This report contains those recommendations.

In addition, MCSAC considered 93 open recommendations issued to FMCSA by GAO, OIG, and NTSB in defining the scope of this task. Of those 93 recommendations, MCSAC selected 16 specific recommendations to address and explored the issues and developed recommendations to the Agency. A separate report containing those recommendations was generated by MCSAC, and is being provided together with this report.

### **Recommendations**

The MCSAC hopes that FMCSA will consider the 11 recommendations contained in this report when planning for reauthorization and in developing Agency program priorities. The MCSAC recognizes that



some of the recommendations may not be within the scope of reauthorization. However, as the Workgroups considered issues raised by their constituencies as directed in the Task Statement, it identified items that it feels need to be addressed by the Agency. Because the Workgroup members were not certain as to which items should be addressed through reauthorization vs. regulatory, policy, or administrative actions, it developed recommendations to the Agency on each item and included them all in this report. The FMCSA will thus need to determine the appropriate means by which each item should properly be addressed.

## **Recommendations for FMCSA Consideration in Reauthorization and Program Planning**

1. Establish a multimodal, multidisciplinary task force for improving positive driver performance.
2. Establish driver performance programs.
3. Create a program for ticketing aggressive car and truck drivers.
4. Identify repeat offenders in a timely and consistent manner.
5. Increase motor coach inspections.
6. Recommend a reauthorization directive for USDOT to initiate a rulemaking requiring use of speed governors and prescribing a maximum speed setting.
7. Authorize and properly fund the TACT program.
8. Recommend statutory language requiring a national motor carrier Employer Notification System (ENS).
9. Establish a clearinghouse for drug testing results on CMV drivers.
10. Require safety training for new-entrant carriers prior to obtaining operating authority.
11. Establish and properly fund a CMV parking grant program.

## **Establish a Multimodal, Multidisciplinary Task Force for Improving Positive Driver Performance**

### **Issue**

This workgroup believes that improving the skills and knowledge of all drivers of all vehicles is a basic way of reducing fatalities and injuries on the Nation's highways. Given this committee's experience, we think that the issue of turning out safer drivers could benefit from a multimodal, multidisciplinary task force to consider ways to positively influence driver performance. This workgroup believes that the present modal "stove-piping" (an organizational structure where agencies focus narrowly on their missions rather than keeping a global perspective of wider issues) that divides driver performance between FMCSA, FHWA, and NHTSA at the federal level can impede the progress on improving performance for drivers of all vehicles. Therefore, workgroup 08-01A recommends development of a multimodal, multidisciplinary task force to address ways of improving driver performance for drivers of all vehicles.

### **Implementation Strategies**

- This task force needs to look at state, local, public, private, and all other programs that show promise in increasing positive driver performance as a guide to developing new programs that would positively affect driver performance.
- This task force needs to include other traffic safety professionals including, but not limited to law enforcement, safety experts, safety advocates, insurance industry, and the commercial motor carrier industry.

### **Potential Benefits**

- Reduction of crashes on the Nation's highways.
- Reduction of injuries and fatalities.
- Support and protection of law enforcement and other highway workers.
- Increased efficiencies as they relate to the elimination of duplication of efforts and unworkable and unnecessary programs.
- Utilization of both education and enforcement initiatives for all vehicle drivers.

## Establish Driver Performance Programs

### **Issue**

Given this workgroup's belief that improving driver performance is critical to reducing crashes on the Nation's highways, and that the implementation of the recommendation for a multimodal task force could take some time, we believe that FMCSA should move forward on the development of driver performance programs that address driver recognition and driver decision errors that result in injuries or fatalities from crashes. The workgroup expects that if the multimodal task force is implemented, this initiative should be folded into that task force.

### **Implementation Strategies**

- Programs must be designed and implemented to focus on truck driver and passenger vehicle driver performance.
- Programs must be designed and implemented to improve risk perception, risk identification, and decision-making of drivers.

### **Potential Benefits**

- Reduction of crashes on the Nation's highways.
- Reduction of injuries and fatalities.
- Support and protection of law enforcement and other highway workers.
- Increased efficiencies as they relate to the elimination of duplication of efforts and unworkable and unnecessary programs.
- Utilization of both education and enforcement initiatives for all vehicle drivers.

## Create a Program for Ticketing Aggressive Car and Truck Drivers

### **Issue**

Develop a nation wide program that will integrate education, publicity, and enforcement activities that targets aggressive car and truck drivers.

### **Implementation Strategies**

- Develop a standardized educational and enforcement model that would reduce aggressive driving around large vehicles.
- This program needs to have one defined name that can be used for Nation-wide program branding consistency.
- The program needs to have a dedicated funding source to ensure the opportunity for nationwide implementation.

### **Potential Benefits**

- Increased driver awareness and performance.
- Decreased crashes, fatalities, and injuries.

## Identify Repeat Offenders in a Timely and Consistent Manner

### **Issue**

The need for identification of repeat offenders in a timely and consistent manner is crucial to improving safety on the highways. The Performance and Registration Information Systems Management (PRISM) system, by which social security numbers and truck VIN numbers are tracked, is a good tool for ensuring that only safe operating companies are on our highways. On the other side of the coin, the Drivers Information Resource (DIR) system addresses the issue of unsafe drivers on the Nation's highways. Therefore, like the National Driver Register (NDR) and Commercial Driver License Information System (CDLIS), we believe that the PRISM and DIR systems should be deployed nationally and made accessible to both enforcement and industry.

### **Implementation Strategies**

- Implement PRISM and DIR nationally.

### **Potential Benefits**

- Removal of unsafe companies from operation.
- Timely identification of repeat offenders.

## Increase Motor Coach Inspections

### **Issue**

The MCSAC supports increased inspections of buses and motor coaches, especially Level I evaluations, while ensuring the convenience and safety of passengers. Motor coaches or buses identified by enforcement personnel as operating as imminent hazards should be stopped to protect passengers and the traveling public.

### **Implementation Strategies**

- Conduct inspections at destinations or where the vehicle is housed or maintained when possible.
- Alternatively use State-approved rest areas and weigh stations to conduct inspections.
- Request CVSA to develop and distribute guidelines for State DOTs to identify safe areas for inspections.
- FMCSA should ensure that each State has an approved bus inspection program.

### **Potential Benefits**

- Completion of more bus inspections.

## **Recommend a Reauthorization Directive for USDOT to Initiate a Rulemaking Requiring Use of Speed Governors and Prescribing a Maximum Speed Setting**

### **Issue**

All Class 7 and 8 trucks produced since 1992 are equipped with speed governors. Many fleets use them to restrict speed for economic and safety benefits. There is no standard speed setting in the industry. Research shows that the likelihood of crashes increases exponentially as vehicle speed deviates (up or down) from the average vehicle speed on a given road segment. This is especially true for heavy trucks on the high end due to the additional distance required to stop them.

Petitions were filed with FMCSA and NHTSA in 2006. Little to no regulatory action has occurred at either agency.

### **Implementation Strategies**

- Draft statutory language.

### **Potential Benefits**

- Improved safety by keeping all trucks within a narrow speed range.
- Fuel conservation and reduced emissions.
- Financial benefits for carriers.
- Prevention of use of speed as a competitive advantage at the expense of safety.

## Authorize and Properly Fund the TACT Program

### **Issue**

Since 2005, at least five States (WA, GA, KY, NC, and KS) have conducted high-visibility traffic enforcement programs aimed at changing unsafe behavior for of drivers of commercial vehicles and passenger vehicles operating around CMVs. These programs have been funded using FMCSA grant funds that are not program-specific.

### **Implementation Strategies**

- Before creating a national program, evaluate TACT to determine its effectiveness and crash reduction benefits.
- If TACT is found to be effective:
  - Establish a dedicated funding source at a minimum level of \$50 million per year with an appropriate funding allocation formula.
  - Develop and implement an application process open to every State.
  - Publicize the benefits of the program.

### **Potential Benefits**

- Changed unsafe driver behaviors.
- Educated drivers.
- Establishment of relationships between industry and enforcement.
- Shared accountability for safety.



## **Recommend Statutory Language Requiring a National Motor Carrier Employer Notification System (ENS)**

### **Issue**

FMCSA is currently conducting a pilot test in two States (Colorado and Minnesota) to address this issue. The pilot test is evaluating different approaches to addressing it. It is unlikely that FMCSA will implement a national ENS without a statutory basis.

### **Implementation Strategies**

- Draft statutory language.

### **Potential Benefits**

- Improved safety by allowing employers to more timely take disqualified drivers off the road.

## Establish a Clearinghouse for Drug and Alcohol Testing Results on CMV Drivers

### **Issue**

The MCSAC believes FMCSA should establish a clearinghouse that records all positive drug and alcohol test results and refusal determinations that are conducted under the U.S. Department of Transportation testing requirements, require prospective employers to query the system before making a hiring decision, and require certifying authorities to query the system before making a certification decision.

### **Implementation Strategies**

- Research existing rules regarding privacy that must be followed for a Federal implementation program.
- Seek OMB approval for clearinghouse.
- Include reporting positive results to the clearinghouse as one of the investigative steps by the Medical Review Official (MRO).
  - Use electronic reporting.
- Include the carrier name in the clearinghouse as well as the driver name.
  - Review the Office of the Secretary of Transportation (OST) guidelines and rules regarding MROs.
  - Determine whether conflict of interest issues with respect to carrier-employed MROs and reporting requirements preclude this.
- The MCSAC also agrees that CSA 2010 should include data linking drug and alcohol testing results to carrier responsibility.

### **Potential Benefits**

- Better compliance with current rules.
- Safer, more alert drivers.
- Enhanced carrier accountability.
- Irresponsible drivers kept out of driver pool.

## Require Safety Training for New-Entrant Carriers Prior to Obtaining Operating Authority

### **Issue**

New motor carriers have more pronounced patterns of critical violations of safety regulations, more acute violations, and higher crash rates in the first year of operation.

FMCSA currently grants operating authority to new carriers prior to determining whether they know or understand the Federal safety regulations applicable to them. FMCSA has up to 18 months after a new carrier begins operations to perform an initial safety audit.

### **Implementation Strategies**

- Require that all new motor carriers seeking operating authority complete a safety training course and pass an exam that demonstrates their knowledge of the FMCSRs and good safety management practices prior to obtaining operating authority.
- Develop course curriculum and exams.

### **Potential Benefits**

- Prevention of potentially unsafe motor carriers from obtaining operating authority.

## Establish and Properly Fund a CMV Parking Grant Program

### **Issue**

SAFETEA-LU established a new truck parking pilot grant program to address the shortage of long-term parking for CMVs on the NHS. Projects eligible for pilot programs include, but are not limited to: constructing safety rest areas, constructing parking facilities adjacent to commercial truck stops and travel plazas, opening existing facilities to CMV parking, including inspection and weigh stations and park-and-ride facilities, promoting the availability of publicly or privately provided parking on the NHS using ITS and other means.

### **Implementation Strategies**

- Turn existing pilot program (SAFETEA-LU) into permanent program.
- Use technology to provide information to drivers.

### **Potential Benefits**

- HOS compliance easier for carriers to achieve.
- Reduced crashes.

# APPENDIX I

## Motor Carrier Safety Advisory Committee (MCSAC) Task Statement Task #08-01

### **I. TASK TITLE**

Federal Surface Transportation Reauthorization

### **II. BACKGROUND**

The Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; ISTEA) is a federal law that posed a major change to transportation planning and policy, as the first U.S. federal legislation on the subject in the post-Interstate Highway System era. It presented an overall intermodal approach to highway and transit funding with collaborative planning requirements, giving significant additional powers to metropolitan planning organizations. Signed into law on December 18, 1991, it expired in 1997. It was preceded by the Surface Transportation and Uniform Relocation Assistance Act of 1987 and followed by the Transportation Equity Act for the 21st Century (TEA-21) and most recently in 2005, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). TEA-21 was enacted on June 9, 1998, Public Law 105-178, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 6-year period from 1998-2003. SAFETEA-LU was enacted August 10, 2005, as Public Law 109-59, and authorized the Federal surface transportation programs for highways, highway safety, and transit for the 5-year period 2005-2009. SAFETEA-LU expires in 2009. The Federal Motor Carrier Safety Administration (FMCSA) is in the planning phase for the next reauthorization cycle.

### **III. TASK**

The Committee should provide a priority list of safety provisions for inclusion in FMCSA's statutory program based on:

- a. recommendations issued to the Agency from the Government Accountability Office (GAO), U.S. Department of Transportation Office of Inspector General (OIG), and the National Transportation Safety Board (NTSB); and,
- b. input from each committee member's respective constituency.

### **IV. ESTIMATED TIME TO COMPLETE TASK**

1. The Committee should submit a report on recommendations issued to the Agency from GAO, OIG, and NTSB, that should be included in FMCSA's statutory program at the March 2008 meeting.
2. The Committee should submit a report outlining the priority list of safety provisions for inclusion in FMCSA's statutory program at the June 2008 Committee meeting.

### **V. FMCSA TECHNICAL REPRESENTATIVES**

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## APPENDIX 2

### Work Group on 08-01 Federal Surface Transportation Reauthorization

David Parker, Chair, *Great West Casualty Company*

\* \* \*

John Bauer, *Kohl's Corporation*

Michael Greene, *Columbia Machine Works*

Clyde Hart, *American Bus Association*

Michael Irwin, *Michigan Center for Truck Safety*

Terry Maple, *Kansas Highway Patrol*

David Osiecki, *American Trucking Associations*

Steven Owings, *Road Safe America*

Robert Petrancosta, *Con Way Freight*

Robert Powers, *Michigan State Police*

Karen Sain, *North Carolina Highway Patrol*

Lester Sokolowski, *National Safety Council*

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

Judith Stone, *Advocates for Highway and Auto Safety*

Roger Vanderpool, *Arizona Department of Public Safety*

<b>Workgroup 08-01A</b>	<b>Workgroup 08-01B</b>	<b>Workgroup 08-01C</b>
<b><i>Les Sokolowski, Chair</i></b> Clyde Hart Mike Irwin Terry Maple Dave Parker	<b><i>Judie Stone, Chair</i></b> Todd Spencer Mike Green Bob Petrancosta Robert Powers	<b><i>Dave Osiecki, Chair</i></b> John Bauer Roger Vanderpool Steve Owings Karen Sain