June 9, 2014

The Honorable Anne S. Ferro
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Administrator Ferro:

As instructed by the Federal Motor Carrier Safety Administration (FMCSA), the Motor Carrier Safety Advisory Committee (MCSAC) created the Compliance, Safety, Accountability (CSA) Subcommittee (Subcommittee) and tasked it with providing feedback and suggestions on the CSA program and how it could be more effective as a tool for identifying unsafe motor carriers. FMCSA tasked the Committee with providing periodic letter reports to the Agency recommending prioritized actions, with supporting data, to improve the CSA program.

The Subcommittee first met in public meetings on October 16-17, 2012, and continued to meet in public meetings where the Subcommittee identified, discussed, and recommended enhancements to the CSA program. The MCSAC met in a public meeting on April 9, 2013, to discuss the Subcommittee's initial recommendations and advanced them to you for consideration. In a public meeting on May 20, 2014, the MCSAC considered and discussed the Subcommittee's final set of recommendations and is sending them forward to the Agency for its consideration. Because the MCSAC supports the general goals and objectives of CSA and that its methodology is risk-based and data-driven, the Subcommittee's and MCSAC's efforts have been to improve upon the existing process. The results of the CSA program are an improvement over what FMCSA has had in the past, as evidenced by the positive conversation regarding safety and compliance it has stimulated in the motor carrier industry.

On behalf of the MCSAC, I submit these recommendations to the FMCSA for its consideration.

Sincerely,

Stephen C. Owings
Chairman, Motor Carrier Safety Advisory Committee

Enclosure

MCSAC Task 12-03: Evaluation of and Recommendations on the Compliance, Safety, Accountability (CSA) Program
CSA Subcommittee Recommendations

I. Improving Data
  A. Severity Violation Weightings
   1. Subcommittee Recommendations: FMCSA should explore further improving the correlation of violation groupings within Behavior Analysis and Safety Improvement Categories (BASICs) to crash risk. For example, a modification of severity weightings from 1 through 10 weightings to Low/Medium/High violation severity weighting.
      a. The current weighting scheme involves a level of precision (1-10) that it is not possible to confirm with the available data.
      b. Another approach that FMCSA could explore would be a two-level weighting scheme under which certain violations (e.g., those directly correlated to crash risk) would be weighted more heavily than others. For example, insurance industry-identified ("lightening rod") violations could be weighted 2 and all other violations could be weighted 1.
      c. FMCSA should run the severity weightings provided by the MCSAC in its Task 11-02 letter report and the severity weightings provided by California Highway Patrol to see if those weightings improve the correlation of violation groupings to crash risk. The Agency should share these results with the enforcement community and other stakeholders.
   2. Time weighting (i.e., weighing more recent crashes and violations more heavily than older) should remain a part of violation weightings within BASICs.
      a. FMCSA Comment (Bill Quade): If you over emphasize time weighting and assign more recent violations a much greater value than older violations, a carrier is only as good as its last inspection. FMCSA has explored varying the time weighting methodology. Currently, violations are time weighted on three levels (i.e., violations are weighted either 1, 2, or 3, weighting more recent violations greater than older violations).
  B. Peer Groupings/Safety Event Grouping Improvements
   1. Subcommittee Recommendation: FMCSA should implement dynamic peer groupings for inspections, as discussed in Dave Madsen's (Volpe Center) presentation in the April 29-30, 2014, subcommittee meeting.
   2. Other potential ideas for peer grouping changes:
      a. Some subcommittee members expressed concerns with the relative scale of comparison within a peer grouping.
      b. Subcommittee Recommendation: FMCSA should consider changing the peer group being compared more broadly beyond current exposure measures (i.e., number of inspections/power units/vehicle miles traveled (VMT)). For example, other peer grouping considerations could include characteristics of operations, routes, number of violations, geography of where carrier received inspection, etc.
   3. Subcommittee Recommendation: FMCSA should consider separating motorcoach operations from truck operations by creating a separate peer grouping using all

carriers that have passenger carrier authority. This is especially important to attempt in the Crash Indicator BASIC.

    a. In addition to passenger carrier authority, the Agency should place additional criteria in the peer grouping because you would not want to include carriers such as FedEx that have passenger carrier authority but it is not their primary business.

    b. This exercise may highlight data sufficiency issues in the motorcoach industry.

C. Examine Results of Crash Weighting Study

    1. <u>Subcommittee Recommendations</u>: FMCSA should take action in response to the Crash Weighting Study, as appropriate.

        a. Depending on the results of the study, FMCSA should consider making the Crash Indicator BASIC public information. Many customers ask carriers for this information during carrier selection.

        b. The Agency should weigh the benefits of making the Crash Indicator BASIC scores public against the concerns that the non-enforcement public could misinterpret such ratings.

D. DataQs Process

    1. <u>Subcommittee Recommendation</u>: FMCSA should develop an escalation/appeals process that goes beyond the original officer that issued the violation. This could take the form of new federal guidelines that would require States to follow certain procedures.

        a. FMCSA should require minimum elements that should be included in the appeals process.

        b. Rationale: This would standardize divergent processes among States, which would reduce complexity for carriers.

    2. The Commercial Vehicle Safety Alliance (CVSA) is working on a revised policy that would relate to this.

E. Expiration Dates for Safety Ratings

    1. Some carrier safety ratings are very outdated (e.g., 20 years +), which make those safety ratings less relevant than recent performance data (i.e., Safety Measurement System (SMS) data).

    2. However, customers and the tort law consider government safety determinations significant evidence of safety performance.

    3. <u>Subcommittee Recommendations</u>: FMCSA should consider removing safety ratings beyond a certain vintage (i.e., safety ratings should have expiration dates). Alternatively, the Agency could display safety ratings beyond a certain age as "previous safety rating" and have a vacant "current safety rating" if the carrier does not have a more recent rating.

        a. Some motor carriers would be concerned about not having a current safety rating if it was needed for insurance or other business filings.

        b. This could be addressed in the Safety Fitness Determination (SFD) rulemaking or a separate rulemaking.

        c. Possible interim solutions: If FMCSA determines that implementing an expiration date for safety ratings must be accomplished via a rulemaking,

there are interim measures that the Agency could take to address the concern about outdated safety ratings, including the following:

    i.   Public display changes that include instructions that outdated safety ratings may be less relevant than more recent SMS data.

    ii. Additionally, the public display could encourage customers to request crash data from a carrier.

F. Options for Obtaining more Motorcoach Inspections/Violations Data

    1. Subcommittee Recommendation: FMCSA should tie a requirement through the Commercial Vehicle Safety Plan (CVSP) to conduct a certain number of CVSA inspections on motorcoaches. Such a requirement should encourage States to focus on motorcoach companies for which data does not exist.

G. Crash Reports

    1. Subcommittee Recommendation: FMCSA should make an effort to achieve more uniform crash reporting from States. Ideas for accomplishing this include requiring crash reports to Model Minimum Uniform Crash Criteria (MMUCC) standards or pushing training out through the International Association of Chiefs of Police (IACP).

       a. This may involve working with the National Highway Traffic Safety Administration (NHTSA) to modify the MMUCC standards to produce more useful crash report data.

       b. Additional data on reasons for tow-away crashes would be helpful.

H. Crash Exposure

    1. Subcommittee Recommendations: FMCSA should explore ways to account for crash exposure in the Crash Indicator BASIC. Adequately accounting for crash exposure involves more than just weighting based on VMT data. For example, if a motor carrier operates primarily in high-traffic areas, crash risk is higher and the Crash Indicator SMS scores should account for this type of increased crash risk.

       a. FMCSA should explore how the higher injury risk for motorcoach operations impacts the Crash Indicator BASIC.

II. High-risk Carriers

A. The definition of what the Agency considers high-risk is public, but not the current list of high-risk carriers itself. FMCSA has given some thought to display changes that would make this information public.

    1. Current definition of "high risk" is a carrier that scored 85 percent or higher in the Hours of Service, Unsafe Driving, or Crash Indicator BASICs and has one other BASIC above threshold or a carrier that has scored above the threshold in four BASICs.

    2. Approximately 5-6,000 high-risk carriers are on that list at any given time.

B. Subcommittee Recommendations: FMCSA should consider requesting additional resources for and shifting resources to address the following priorities:

    1. The Agency should be able to address high-risk carriers sooner and quicker.

    2. FMCSA should increase barriers for re-entry into the industry (after a carrier has been taken out of service).

    3. The Agency should increase requirements for initial entry into the industry, particularly in relation to financial responsibility.

4. FMCSA should consider shifting the new entrant program to third party inspectors, who would follow federal guidelines and who would interact with (and possibly charge) the new entrants. This would free up Agency resources to focus on more compliance reviews.
   a. The subcommittee recognizes that this would require a legislative change because currently new entrant audits are funded through State grants.
C. Subcommittee Non-consensus Recommendation: FMCSA should make available on public display a regularly updated list of high-risk carriers. Such a list would be useful for the public.
   1. Some subcommittee members expressed concerns that the publication of a high-risk carriers list would effectively put those carriers out of business. These members expressed concern regarding the possibility that a carrier could end up on that list erroneously. These members would support publication of the high-risk carriers list if FMCSA addresses the underlying data concerns.

III. Interpretation and Use of CSA Data
   A. SMS data is being used in more ways than just prioritizing FMCSA interventions, and the public's use of the data is not always consistent. The public availability and use of the SMS data is still a concern for motor carriers.
   B. Who (other than enforcement) is looking at the data and what are they using it for?
      1. Non-enforcement business use of SMS data often involves the inappropriate interpretation of SMS scores as safety ratings.
      2. Subcommittee Recommendations: FMCSA should change the underlying calculation of SMS scores so that there are less inexplicable jumps in scores (e.g., implement dynamic safety event groups). However, in the meantime the SMS website should better explain what the data is and how it should be used (i.e., the data should not be used alone to judge a motor carrier's safety and reliability).
         a. The SMS website should explain that the data is not intended to label a carrier as safe or unsafe.
      3. Businesses selecting carriers have concerns about SMS ratings being used against them in determining issues of liability. These customers want more certainty in their understanding of the ratings.
   C. Public availability of the data is important to safety advocates.
      1. The SFD rule may contribute to a better contrast between safety ratings and SMS.
   D. Subcommittee Recommendations: FMCSA should consider revising the public display of SMS data to include the following:
      1. Examples of how the different BASIC ratings can be used to make interpretations about comparative crash risk between carriers with different ratings.
      2. Address how the public should interpret carriers with no score in one or more BASICs in relation to carriers that do have scores.
      3. Explanation of the primary purpose of SMS for enforcement and why BASIC ratings might not be the only way for customers to select a "safer" carrier.
      4. Improved explanation of the measures scores (i.e., raw scores) and how they can or should be used by the public.

E. <u>Subcommittee Recommendation</u>: FMCSA should include specific language in the SFD rulemaking regarding how SFD relates to SMS ratings and how the non-enforcement public might use both types of information.

IV. Isolating Motorcoach Crashes

A. <u>Subcommittee Recommendation</u>: In the Crash Indicator BASIC, the Agency should study and examine different ways to distinguish motorcoaches from trucks and consider piloting a separate peer grouping category for passenger carriers.