



**U.S. Department
of Transportation**

**Federal Motor Carrier
Safety Administration**

The Motorcoach Safety Action Plan Implementation Report

A Report Pursuant to Senate Report 112-83
Accompanying the Transportation, Housing and Urban Development,
and Related Agencies Appropriations Bill, 2012 (S. 1596)

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EXECUTIVE SUMMARY

Motorcoaches¹ provide approximately 750 million passenger trips each year. Over the 10-year period of 2001 through 2010, motorcoach crashes resulted in an average of 17 motorcoach occupant fatalities per year.² The U.S. Department of Transportation's (DOT) original Motorcoach Safety Action Plan reflected integrated activities involving five of DOT's operating administrations to improve safety in this sector of the industry. The original plan is available at http://www.fmcsa.dot.gov/documents/safety-security/MotorcoachSafetyActionPlan_finalreport-508.pdf.

The Federal Motor Carrier Safety Administration (FMCSA) remains committed to a sustained focus on motorcoach safety and to the completion of identified actions to prevent crashes, deaths, and injuries. In 2011, there were eight motorcoach crashes that resulted in 28 occupant fatalities. Two of the crashes in New York and Virginia accounted for 19 fatalities and multiple injuries. These crashes clearly illustrated the devastation that can occur when individuals and companies operate outside the statutory and regulatory safety requirements. As a result, FMCSA extended efforts to new levels.

The Agency uses this report to provide information on the actions the Agency committed to in the 2009 Plan. In addition, this report provides information on the status of current recommendations from the National Transportation Safety Board (NTSB), the Government Accountability Office (GAO), and the Department's Office of the Inspector General (OIG).

The Agency will continue to focus resources and coordination efforts to ensure that this important work is prioritized, crashes are avoided, and lives are saved.

¹ The term "motorcoach" is generally used in this plan to describe over-the-road buses, which are characterized by an elevated passenger deck over a baggage compartment. However, each agency is determining the appropriate vehicles to which its regulatory actions should apply. Thus, agencies may decide to apply their actions to over-the-road buses as well as to other buses.

² There was an average of 19 fatalities at the time of the original plan in 2009 (based on data from years 1999 to 2008).

MOTORCOACH SAFETY ACTION PLAN

ACCOMPLISHMENTS SINCE THE 2009 PLAN

The FMCSA was responsible for four priority action items in the original Plan. These actions were prioritized based on their impact on reducing motorcoach crashes, fatalities, and injuries. The priority action items from the original plan that have been completed include the following:

- Driver Fatigue – Initiate rulemaking to require electronic on-board recording devices on all motorcoaches to better monitor drivers' duty hours and manage fatigue.

The FMCSA published an Electronic On-Board Recorders (EOBR) final rule for companies violating the hours-of-service regulations on April 5, 2010. This rule, however, was vacated by the U.S. Court of Appeals for the Seventh Circuit on August 29, 2011. In addition, FMCSA published a notice of proposed rulemaking (NPRM) to propose installation of EOBRs on all motorcoaches titled "Electronic On-Board Recorders for Hours of Service Supporting Documents" on February 1, 2011. The Agency has determined that it must complete a supplemental NPRM to address issues raised in the Court decision and in response to certain issues raised by commenters to the NPRM. This supplemental rulemaking is one of FMCSA's top priorities for Fiscal Year (FY) 2012.

- Driver Behavior – Initiate rulemaking to prohibit use of cellular telephones and other devices by motorcoach drivers.

The FMCSA initiated and completed a study titled "Synthesis of Literature Relating to Cellular Telephone/Personal Digital Assistant Use in Commercial Truck and Bus Operations" that collected data and information on the risks associated with the use of cellular telephones and personal digital assistants (PDAs) in commercial truck and bus operations. The study included a review of similar completed research for automobiles, an investigation of commercial motor vehicle driver behavior with such devices, and current industry policies regarding their use. This study is available at <http://www.fmcsa.dot.gov/facts-research/research-technology/report/Cell-PDA-Use-in-Commercial-Truck-and-Bus-Operations.pdf>.

To combat distracted driving, FMCSA issued an NPRM titled "Limiting the Use of Wireless Communications Devices" on April 1, 2010. This rule was finalized on September 27, 2010. This rule prohibits truck and motorcoach drivers from texting while driving. The FMCSA also published an NPRM titled "Drivers of CMVs: Restricting the Use of Cellular Phones" on December 21, 2010. The final rule was published on December 2, 2011, and became effective on January 3, 2012. As a result, it is now illegal to talk on a handheld cellular phone while operating a commercial motor vehicle.

The Agency's other priority actions are in process as noted below:

- Operator Oversight – Enhance oversight of carriers attempting to evade sanctions and of other unsafe motorcoach companies.

A robust compliance and enforcement program is critical to ensuring that motorcoach carriers operate safely. To this end, FMCSA continues working to enhance its oversight of high-risk carriers and new entrants. In response to heightened concerns about unsafe motorcoach companies evading detection by shutting down one operation and starting another, FMCSA continues to enhance the Passenger Carrier Operating Authority Vetting Program. Through this program, the Agency identifies carriers that attempt to reinvent themselves, rather than correct identified safety deficiencies or pay penalties assessed by FMCSA. One of FMCSA's top priorities is raising the safety bar for entry into the industry. Since 2009, 20 percent or more of all motorcoach companies that applied for operating authority have been rejected due to evidence of an intent to reincarnate or incomplete disclosures on the application.

To address the concerns expressed by Congress, NTSB, advocacy groups, the Motor Carrier Safety Advisory Committee (MCSAC), industry, and others, FMCSA continues a vigorous compliance review and inspection program using the components of Compliance Safety Accountability (CSA) designed to identify and take action against such unsafe operations. We are also using enforcement tools, such as unsatisfactory safety rating and imminent hazard out-of-service orders, administrative subpoenas, and cease-and-desist orders to a greater extent. Since the release of the original Motorcoach Safety Action Plan, FMCSA's imminent hazard out-of-service orders increased from 0 in 2009 to 28 in 2012.

In addition, FMCSA conducted best practice webinars with Federal, State, and local law enforcement to enhance uniformity of enforcement and updated the Passenger Carrier Resource Guide for enforcement personnel.

- Operator Oversight – Establish minimum knowledge requirements for people applying for authority to transport passengers.

The FMCSA published an Advance NPRM titled “New Entrant Assurance Process: Implementation of Section 210(b) of the Motor Carrier Safety Improvement Act of 1999” on August 25, 2009. In addition, the Agency is conducting research evaluating the effectiveness of an approach that could address various issues in the ANPRM's docket. The phased research is analyzing the cost effectiveness of fostering a safety culture in new entrants via training and testing, and its impacts on their safety performance, including crash rate.

Additional action items from the 2009 Plan that were completed include the following:

- Driver Fatigue – Accelerate research in fatigue issues relating to motorcoach drivers, including hours of service and technologies to detect driver fatigue.

One of FMCSA's State partners, Florida Department of Transportation, completed two reports on motorcoach driver fatigue titled “Potential Causes of Driver Fatigue: A Study on Transit Bus Operations in Florida” and “Analysis of the Relationship between Operator Cumulative Driving Hours and Involvement in Preventable Collisions” in May 2011. These reports are available at <http://www.fmcsa.dot.gov/facts-research/art-public-reports.aspx>.

- Driver Fatigue – Complete a multifaceted strategy to address sleep disorders.

The FMCSA completed a report on sleep disorders affecting safe driving titled “Evidence Report: Narcolepsy and CMV Driver Safety.” This report was published on the website at http://www.mrb.fmcsa.dot.gov/documents/PPP/01062010/Narcolepsy_CMV_Driver_Safety_1042010.pdf. Additionally, other reports on sleep apnea have also been published at <http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm>. Links to the Medical Expert Panel recommendations are located at <http://www.fmcsa.dot.gov/rules-regulations/topics/mep/mep-reports.htm>.

In June 2011, the Medical Review Board (MRB), one of FMCSA’s Federal Advisory Committees, met in a public forum to discuss three topics, one of which was obstructive sleep apnea. A summary of the June 30, 2011, MRB Public Meeting is found at <http://www.mrb.fmcsa.dot.gov/meetingSum2011.aspx>.

Most recently, FMCSA’s two Federal Advisory Committees, MCSAC and MRB, met to develop joint recommendations for the Agency regarding obstructive sleep apnea. Their proceedings and recommendations are online at <http://mcsac.fmcsa.dot.gov/meeting.htm>. Recommendations are listed under Task 11-05. The FMCSA also published driver-focused educational materials, created in partnership with the National Sleep Foundation on the prevention of fatigued driving, especially sleep apnea. Information is available at www.fmcsa.dot.gov/safety-security/sleep-apnea/sleep-apnea.aspx.

- Driver Behavior – Implement driver safety history Pre-employment Screening Program (PSP).

The FMCSA awarded a contract to support the PSP in July 2009. The program became operational in September 2009. As a result, employers can query the system for information about prospective drivers (once the drivers grant permission) in advance of hiring and see the driver’s safety history. Since the program was initiated, the average number of transactions each month is nearly 36,000. The website is available at <http://www.psp.fmcsa.dot.gov>.

- Driver Behavior – Accelerate research on driver distraction.

In support of FMCSA’s cellular phone rulemaking, the Agency completed research on the impacts of cellular phones and personal digital assistants when driving. The report, titled “Distraction in Commercial Trucks and Buses: Assessing Prevalence and Risk in Conjunction with Crashes and Near-Crashes” and dated September 2010, was included in the docket for the associated rulemaking.

- Driver Behavior – Increase outreach and enforcement activities emphasizing improving driver behavior.

The Commercial Vehicle Safety Alliance (CVSA) annually coordinates Operation Safe Driver across North America to increase commercial motor vehicle and non-commercial vehicle traffic enforcement. Activities include safety belt enforcement, driver roadside

inspections, driver regulatory compliance, implementation of commercial driver educational and awareness programs for the motor carrier population, and safety awareness initiatives to the motoring public about operations around commercial motor vehicles.

Passenger carrier strike force activities are one part of the overall compliance review and inspection program for motorcoach companies. The FMCSA, in partnership with State and local law enforcement, conduct the annual National Passenger Carrier Strike Force event. From September 23 to October 7, 2011, strike force inspections were conducted on 7,259 motorcoaches, buses, and vans. In addition, compliance reviews were conducted on 458 passenger carriers of all types.

In FY 2012, additional focus was placed on intercity curbside operators. Strike force operations also addressed motorcoach transportation at casinos, theme parks, and similar destinations and are conducted across the Nation continuously. In February 2012, the Western Region completed a surprise overnight strike force inspecting northbound buses along the New Mexico Border. The Eastern Region conducted a regional strike force in the second quarter of 2012. The strike force focused on inspections of curbside operators in the inner cities and destination inspections related to year-end school field trips at popular locations along the East coast. In addition, high-risk motorcoach operations will be targeted for onsite investigations. Finally, concentrated traffic enforcement will be conducted in high-volume bus traffic corridors during the event.

- Medical Qualification – Conduct research on driver risk factors.

The FMCSA initiated a driver characteristics study in July 2009. The report was completed in January 2011 and is titled “The Safety Performance of Passenger Carrier Drivers.” The report was posted on FMCSA’s website in January 2013.

- Medical Qualification – Enhance driver medical oversight programs.

The FMCSA began addressing driver medical issues in April 2009 by working with CVSA to revise the North American Standard Out-of-Service Criteria to include operating a motorcoach with expired, invalid, or non-existent medical certifications as an out-of-service item. The FMCSA also took a number of additional actions to address driver medical issues, including: 1) initiating a study to identify safety risk factors, including driver age, medical condition, violation history, crash history, employment history, and years of experience; and 2) establishing training, testing, and certification standards for medical examiners responsible for certifying that interstate commercial motor vehicle drivers meet established physical qualifications standards and creating a database of medical examiners that meet the prescribed standards for use by motor carriers, drivers, and Federal and State enforcement personnel.

The FMCSA posted an online Medical Examiner Handbook to assist medical examiners who conduct examinations to determine physical fitness for duty for commercial motor vehicle drivers in interstate commerce, which is available at <http://nrcme.fmcsa.dot.gov/mehandbook/MEhandbook.aspx>. In addition, FMCSA provides

an online Sample Training Manual to assist organizations in developing curricula to train medical examiners.

The FMCSA published an NPRM titled “National Registry of Certified Medical Examiners” on December 1, 2008. The final rule was published in April 2012.

- Vehicle Maintenance – Complete strengthening of the new entrant safety audit guidance on motorcoach companies.

In December 2009, FMCSA revised the new entrant safety audit guidance to add questions specific to motorcoach operations. Two new questions were added to the safety audit to determine if an over-the-road bus (OTRB) company owns or leases a facility for inspection, repair, and maintenance or if a company has a contract or other arrangement for this work.

- Operator Oversight – Ensure compliance with the Americans with Disabilities Act (ADA).

In November 2009, FMCSA developed guidelines outlining conditions under which FMCSA will suspend or revoke operating authority based on ADA non-compliance. In 2009, FMCSA trained its Passenger Carrier Technical Advisory Group to conduct ADA reviews on OTRB companies. In addition, ADA requirements were integrated into the new entrant safety audit process so that auditors collect information regarding compliance during the audit. The ADA reviews are being fully integrated into FMCSA’s enforcement software and then additional FMCSA safety investigators will be trained to conduct ADA reviews.

Since March 2009, FMCSA has conducted 185 ADA reviews. The FMCSA and the Department of Justice (DOJ) have jointly entered into consent agreements with two companies that were found to be in serious violation of the ADA regulations. The DOJ fined each of these companies \$55,000 and has initiated separate actions on additional companies based on the information discovered during ADA investigations completed by FMCSA.

- Operator Oversight – Design and deploy a consumer complaint database that will allow the public to file complaints about specific bus companies with FMCSA.

To address concerns expressed by advocacy groups and MCSAC, FMCSA redesigned the passenger carrier information available on the FMCSA website. The new design can be viewed at www.fmcsa.dot.gov/safety-security/pcs/index.aspx.

In addition, FMCSA redesigned the National Consumer Complaint Database (NCCDB) to assist consumers in identifying motorcoach companies with safe operating histories and provide an easier online process for reporting complaints and problems. The NCCDB is available at <http://nccdb.fmcsa.dot.gov/HomePage.asp>.

- Operator Oversight – Request statutory authority to regulate companies that lease buses and drivers through the DOT reauthorization process.

In the technical assistance provided to the Senate Commerce Committee and the House Transportation and Infrastructure Committee in December 2011, FMCSA recommended language to close the loophole that allows companies that rent or lease buses, but that do not “assign” drivers to operate the vehicles, to remain outside the Secretary’s jurisdiction. These companies’ customers—often colleges, churches, scouting groups, and civic clubs, which rent the vehicles for their own use—may assume they are dealing with a charter bus company. The customers do not intend to take on such safety responsibilities themselves, nor are they often sufficiently trained or knowledgeable to do so. The result is a dangerous gap in safety regulation. The recommended change would broaden the definition of “employer” to include companies that rent or lease vehicles—whether or not for-hire—if from the same location or as part of the same business the company provides names or contact information of drivers, or holds itself out to the public as a charter bus company.

- Emergency Egress – Examine ways to convey safety information to passengers and improve evacuation for a diverse population.

In response to an NTSB recommendation, FMCSA published guidance on September 13, 2007, to the motorcoach industry for providing pre-trip safety information to motorcoach passengers. To assist motorcoach companies with implementation, FMCSA distributed safety brochures, posters, and an audio compact disc based on the published guidance. The original audio compact disc contained safety announcements in English. In response to requests from the motorcoach industry, FMCSA translated the safety announcements into six other languages and distributed the second audio compact disc with the safety announcements in all seven languages.

The FMCSA is concerned that motorcoach passengers are not receiving pre-trip safety awareness and emergency preparedness information. To better understand the level of voluntary compliance by the industry in providing this information to its customers, FMCSA collected data on this issue during strike force operations and other motorcoach related activities. The data showed a voluntary adoption rate of 23 percent in 2008 (the baseline collection year), 69 percent in 2009, and 76 percent in 2010. Although the survey data showed increased adoption levels, this data is based solely on input from the motorcoach companies and not actual passengers.

The Agency is in the process of seeking the Office of Management and Budget’s approval for a robust survey of motorcoach passengers in 2013.

The Agency made progress on the following commitments from the 2009 Plan. The updated timeframes for completion are provided below.

- Driver Fatigue – Accelerate research into fatigue issues relating to motorcoach drivers, including hours of service and technologies to detect driver fatigue.

The FMCSA initiated a three-phase motorcoach driver fatigue study to examine operating practices and driver schedules in the various types of service including charter, tour, regular route, and commuter. All phases of the study are complete, and the final study report was released and posted on the FMCSA website in January 2013.

- Driver Behavior – Develop national drug and alcohol testing database to assist carriers in identifying drivers with a history of drug or alcohol abuse.

The FMCSA continues to develop an NPRM for the drug and alcohol database. The current rulemaking schedule projects publication of the NPRM in 2013.

- Vehicle Maintenance – Strengthen State bus inspection programs.

The FMCSA continues working with its State and local enforcement partners to improve bus inspection programs by emphasizing uniformity and sharing relevant safety information. This is being done through several of the other efforts outlined in the plan, including enhanced outreach and additional training for our State partners.

- Vehicle Maintenance – Initiate rulemaking to support the development and implementation of the new enforcement model to better identify and address high-risk carriers and drivers.

The FMCSA continues work on an NPRM regarding the Agency's Carrier Safety Fitness Determination process. The current rulemaking schedule projects publication of the NPRM in 2013.

- Operator Oversight – Enhance oversight of carriers attempting to evade sanctions and of other unsafe motorcoach companies.

The FMCSA continues work on the automation of its operating authority vetting process. In addition, the Agency published an NPRM on December 13, 2011, proposing procedures to place reincarnated motor carriers out of service. The final rule was published on April 26, 2012, with an effective date of May 24, 2012.

Further, the Agency is developing an NPRM to implement the provisions of 49 U.S.C. 31135, which authorizes the Agency to suspend or revoke the operating authority of motor carriers that employ officers who have shown egregious disregard for safety compliance. The Agency published the NPRM in November 2012.

On May 31, 2012, FMCSA shut down 26 bus operations, declaring them imminent hazards to public safety. This action is the largest single safety crackdown in the Agency's history. Additionally, FMCSA ordered 10 individual bus company owners, managers, and employees to cease all passenger transportation operations, which includes selling bus tickets to passengers. The bus companies that were shut down transported over 1,800 passengers a day along Interstate-95 from New York to Florida. These actions were the result of a year-long investigation. Federal safety investigators found all of the carriers had multiple safety violations, including a continuous pattern of using drivers without valid commercial driver's

licenses and failure to have alcohol and drug testing programs. In addition, the companies operated vehicles that had not been regularly inspected and repaired. The companies' drivers also had serious hours-of-service and driver qualification violations. These many safety deficiencies, individually and in combination, posed a serious safety threat to passengers and motorists on the roadways.

- Data – Supplement FMCSA motorcoach data to improve performance monitoring of carriers.

To augment the data it currently collects on motorcoach drivers and operators, FMCSA will continue to explore other passenger carrier data sources to determine the feasibility of adding them to FMCSA's existing motorcoach data.

The Agency also conducted regional roundtables to discuss motorcoach safety and a National Motorcoach Safety Summit in September 2011. At these forums, the goal was to identify the challenges related to motorcoach safety and develop solutions. Participants including drivers, company owners, safety managers, tour group organizers, safety advocates, and educators helped shape this updated plan by identifying actions necessary to increase motorcoach safety awareness, enforcement, and education. The Department was able to forge new, collaborative partnerships that resulted in agreement to standardize data sets and develop innovative and collaborative approaches.

Additionally, in March 2012, FMCSA unveiled its *SaferBus* iPhone/iPad application—a first-of-its-kind app that gives bus riders a quick and free way to review a bus company's safety record before buying a ticket or booking group travel. *SaferBus* provides access to safety records of nearly 6,000 interstate commercial passenger carriers operating in the United States today, which includes privately operated motorcoach, school bus, and tour bus companies. Information like this is especially important as more Americans turn to motorcoaches to meet their transportation needs. A *SaferBus* app search will provide the following:

- **Bus Company Safety Record:** The app gives access to up to 24 months of a bus company's safety performance record. These data provide insight into a bus company's performance in five safety-critical areas including unsafe driving, fatigued driving/hours-of-service compliance, driver fitness, controlled substances/alcohol, and vehicle maintenance. Percentiles in any area can range between 0 (best) and 100 (worst) and are based on the company's compliance with Federal safety standards. This information is also available online at FMCSA's Compliance, Safety, Accountability website at: <http://ai.fmcsa.dot.gov/SMS/Default.aspx>.
- **Bus Company Operating Authority:** In addition to providing a bus company's safety record, the app will also notify users if that company is an illegal bus company that has been shut down by FMCSA with this language: "NOT ALLOWED TO OPERATE." Bus riders should not use interstate bus companies that do not have valid USDOT operating authority.

- Report a Bus Safety Complaint: *SaferBus* links to FMCSA's National Consumer Compliant Database, enabling users to instantly submit any bus safety-related concern.

On May 1, 2012, FMCSA launched a contest that challenges student software developers to use the Agency's raw performance data on commercial bus companies to create new apps and online solutions that enable consumers to make smart safety decisions when booking their bus travel. It is hoped that the challenge will also raise public awareness about the availability and usefulness of FMCSA's bus safety data. The FMCSA's Motorcoach Safety Data Utilization Student Challenge is open to all U.S. citizens and permanent residents who are 18 years or older and enrolled at a fully-accredited higher education institution, or planning to enroll in the fall of 2012 or winter of 2013. Submissions were due December 31, 2012. Winners will be announced on February 28, 2013.

ADDITIONAL MOTORCOACH SAFETY COMMITMENTS

Through the work initiated under the 2009 plan and the collaboration that has occurred in the 3 years since, the Agency identified the following additional actions to improve motorcoach safety. The focus of these efforts is on preventing crashes, fatalities, and injuries.

Preventing Crashes

- Publish a Supplemental NPRM concerning EOBRs on all motorcoaches (2013).
- Hosted a joint meeting with the Federal Advisory Committees focusing on obstructive sleep apnea (2012).
- Develop an NPRM on Knowledgeability (2013).
- Complete integration of ADA reviews into FMCSA's enforcement software (2013).
- Implemented enhancements to the NCCDB (2012).
- Continued strike forces (ongoing).
- Hosted public listening session(s) focusing on the hours of service for motorcoach operators at the American Bus Association meeting in Texas (2012).
- Hosted public listening session(s) focusing on the hours of service for motorcoach operators at the California Bus Association meeting in California (2012).
- Initiated a rulemaking implementing the requirements for bus leasing (2012).
- Update and publish the passenger carrier driver fatigue video (2013).
- Update the Model Training Curriculum for Motorcoach Drivers (2014).
- Updated the Passenger Vehicle Inspection Course for Federal, State, and local law enforcement (2012).
- Complete the Patterns of Safety Violations final rule (2014).
- Hosted public listening session(s) on Entry Level Driver Training at the American Bus Association meeting in North Carolina (2013).

Preventing Fatalities and Injuries

- Initiated research to determine how often the pre-trip safety information is being provided to passengers (2012).
- Complete the Motorcoach Safety Data Challenge (2013).

STATUS OF RECOMMENDATIONS

The FMCSA continues to address previous and new recommendations regarding motorcoach safety. The Agency's current recommendations and statuses are as follows:

OPEN GAO RECOMMENDATIONS RELATED TO MOTORCOACHES

The FMCSA has no active recommendations from GAO pertaining to motorcoach and passenger carrier safety.

OPEN OIG RECOMMENDATIONS RELATED TO MOTORCOACHES

“Follow-Up Audit on the Implementation of NAFTA's Cross-Border Trucking Provisions, MH-2009-068, August 17, 2009”

- MH-2009-068, B01: Improve the capacity to perform bus inspections at United States-Mexico border bus crossings by adding to its Southern Border Bus Inspection Plan the frequency of required bus inspections at non-commercial crossings and inspections during any hour the border crossing is opened, to include evening and weekend hours. Include in the plan actions to eliminate obstacles to achieving inspection coverage during all open periods.

Status: The inspection plan has been updated and provided to OIG. The recommendation is pending closure.

- MH-2009-068, B02: Improve the capacity to perform bus inspections at United States-Mexico border bus crossings by working with U.S. Customs and Border Protection (CBP), and other agencies as appropriate, to assess the safety and efficiency of bus inspection locations and space at all non-commercial border crossings at the southern border.

Status: The inspection plan has been updated and addresses the recommendation. The plan was provided to OIG and the recommendation is pending closure.

“Timely and Targeted FMCSA Action Is Needed to Fully Address Safety Board Recommendations for Improving Passenger Carrier Oversight, MH-2012-087, April 17, 2012”

- MH-2012-087, A01: Strengthen FMCSA's ability to identify and take action against reincarnated carriers by refining the new applicant screening tool to provide risk-based targeting of operating authority applicants who are likely to be reincarnations of suspect passenger carriers.

Status: The FMCSA expanded the new applicant screening (NAS) tool in December 2011 which now includes a check against the Agency's entire past and present carrier population and the ability to search for specific carriers. The Agency is also developing a plan to enhance its ability to identify unsafe motor carriers that try to reincarnate. One element of the plan includes the development of a risk-based algorithm to enhance the automated

segment of the vetting process. The Agency expects to complete the development of the risk-based algorithm by June 2013. While FMCSA is working to enhance the vetting process, it will continue to use the NAS tool in addition to performing manual searches of other sources of information, including sources available through the internet, to review all passenger and HHG carriers seeking operating authority.

- MH-2012-087, B01: Publish a final rule on passenger carrier leasing with requirements similar to those for property carriers.

Status: In September 2011, the Agency initiated a rulemaking that would create vehicle lease and interchange regulations for passenger-carrying vehicles subject to the Agency's safety oversight. The Agency anticipates issuing an NPRM in 2013 and a final rule in 2014.

- MH-2012-087, C01: Work with the National Highway Traffic Safety Administration (NHTSA) and CBP to develop and implement a risk-based solution, in compliance with the National Traffic and Motor Vehicle Safety Act of 1966, to target enforcement against U.S.-domiciled passenger carriers whose vehicles do not meet Federal Motor Vehicle Safety Standards (FMVSS).

Status: By December 2013, the Agency plans to develop an enforcement policy that will require FMCSA enforcement officials to inspect passenger carrying commercial motor vehicles operated by U.S.-domiciled motor carriers for FMVSS certification labels. The Agency will begin checking vehicles operated by U.S.-domiciled carriers during roadside inspections to identify carriers operating commercial vehicles that do not display an FMVSS certification label affixed by the vehicle manufacturer. The Agency will then share this information with NHTSA and CBP, for appropriate action concerning the potential improper importation into the United States of vehicles that may not comply with the FMVSSs in effect on the date of manufacture.

- MH-2012-087, C02: Incorporate NHTSA training modules on visually identifying vehicles' compliance with FMVSSs into training provided to FMCSA enforcement officials through the National Training Center.

Status: The Agency will incorporate the NHTSA training modules on inspecting vehicles for the FMVSS certification label in the inspector training program to support implementation of the enforcement policy concerning the inspection of vehicles operated by U.S. - domiciled carriers by December 2013. The Agency's National Training Center will provide the training to FMCSA and State enforcement personnel.

OPEN NTSB RECOMMENDATIONS RELATED TO MOTORCOACHES

Report Number: SIR-99-01, Special Investigation Report, Selective Motorcoach Issues, Rec #: H-99-008: Require motorcoach operators to provide passengers with pre-trip safety information.

NTSB Status: Open – Unacceptable Response

Status: The FMCSA is currently finalizing its information collection request package for submission to the Office of Management and Budget for approval of its motorcoach passenger survey. Upon submission, the Agency will also publish a new 60-day Federal Register notice seeking public comment. Upon project completion, NTSB will be provided with a summary of results.

Report Number: HAR-05-01, Motorcoach Run-Off-The-Road Accident, Tallulah, Louisiana (Tallulah, LA), Rec #: H-05-005: Develop a method for inspecting motorcoach passenger seat mounting anchorages and revise the Federal Motor Carrier Safety Regulations, Appendix G to Subchapter B, Minimum Periodic Inspection Standards, to require inspection of these anchorages.

NTSB Status: Open – Unacceptable Response

Status: The Agency tasked its MCSAC to provide ideas and concepts for addressing this and certain other open NTSB recommendations. The Agency will consider the findings of MCSAC in determining future actions to address this recommendation.

Report Number: HAR-07-01, Motorcoach Fire on Interstate 45 During Hurricane Rita Evacuation (Wilmer, TX), Rec #: H-07-001: 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.

NTSB Status: Open – Unacceptable Response

Status: The FMCSA has conducted two studies involving commercial motor vehicles and the incidence of fire. The first study, *Motorcoach Fire Safety Analysis: The Causes, Frequency, and Severity of Motorcoach Fires in the United States (2009)*, FMCSA's Vehicle and Roadside Operations Division contracted the Volpe National Transportation Systems Center to collect and analyze information from government, industry, and media sources on the causes, frequency, and severity of motorcoach fires in the United States, and to identify potential risk reduction measures. The second study, *Risk of Commercial Truck Fires in the United States: An Exploratory Data Analysis*, currently in Agency review, analyzes the incidence of fire on commercial motor vehicles other than motorcoaches. The FMCSA continues to work with its industry partners to facilitate ideas and concepts to improve data quality and provide tools and reports that would improve vehicle identification and make future vehicle fire analysis easier to perform.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-032: Update and redistribute your Driver Fatigue Video to include current information on fatigue and fatigue countermeasures and make the video available electronically. Implement a plan to regularly update and redistribute the video.

NTSB Status: Open – Unacceptable Response

Status: Based on the motorcoach operator fatigue research, FMCSA will update its “Driver Fatigue Video,” to reflect the latest data and research on fatigue countermeasures for motorcoach operators in 2013.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-033: Revise 49 Code of Federal Regulations (CFR) to require that passenger motor carriers are subject to the same limitations on the leasing of equipment as interstate for-hire motor carriers of cargo.

NTSB Status: Open – Acceptable Response

Status: In September 2011, the Agency initiated a rulemaking that would create vehicle lease and interchange regulations for passenger-carrying vehicles subject to the Agency’s safety oversight. The Agency anticipates issuing an NPRM in 2013 and a final rule in 2014.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-034: Seek statutory authority to deny or revoke operating authority for commercial interstate motor carriers found to have applications for operating authority in which the applicant failed to disclose any prior operating relationship with another motor carrier, operating as another motor carrier, or being previously assigned a USDOT number.

NTSB Status: Open – Acceptable Response

Status: Applicants for passenger carrier operating authority are required to disclose affiliations with any other motor carrier regulated by FMCSA. As a part of the Agency's vetting program, applications for passenger carrier operating authority (OP-I(P)) are scrutinized using the NAS tool and manual processes to determine if a new applicant motor carrier is affiliated with any other motor carrier. Further, on April 26, 2012, the Agency issued a final rule establishing Federal procedures for addressing reincarnated carriers including placing them out of service.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-036: Establish a requirement to review all passenger carrier lease agreements during new entrant safety audits and compliance reviews to identify and take action against carriers that have lease agreements that result in a loss of operational control by the certificate holder.

NTSB Status: Open – Acceptable Response

Status: In September 2011, the Agency initiated a rulemaking that would create vehicle lease and interchange regulations for passenger-carrying vehicles subject to the Agency's safety oversight. The Agency anticipates issuing an NPRM in 2013 and a final rule in 2014. When FMCSA adopts new regulations concerning lease agreements for certain passenger carriers, the Agency will modify its new entrant and intervention policies to require Federal and State personnel to review these agreements.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-037: Assist NHTSA in developing a Web-based database of FMVSS-compliant passenger-carrying commercial motor vehicles that can be utilized by Federal, State, and local enforcement inspection personnel to identify non-FMVSS-compliant passenger-carrying commercial motor vehicles so that these vehicles (other than exempted vehicles) are placed out of service and cease operating in the United States. Implement a process to periodically update this database.

NTSB Status: Open – Unacceptable Response

Status: By December 2013, the Agency plans to develop an enforcement policy that will require FMCSA enforcement officials to inspect passenger carrying commercial motor vehicles operated by U.S.-domiciled motor carriers for FMVSS certification labels. The Agency will begin checking vehicles operated by U.S.-domiciled carriers during roadside inspections to identify carriers operating commercial vehicles that do not display an FMVSS certification label affixed by the vehicle manufacturer. The Agency will then share this information with NHTSA and CBP, for appropriate action concerning the potential improper importation into the United States of vehicles that may not comply with the FMVSSs in effect on the date of manufacture.

The discussions and responses received to date regarding Safety Recommendations H-09-37 through -41 have not, according to NTSB, addressed the intent of these recommendations. As a result, the Agency tasked its MCSAC to provide ideas and concepts for addressing this and certain other open NTSB recommendations. The Agency will consider the findings of MCSAC in determining future actions to address this recommendation.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-038: Require that federal and state inspectors utilize the database requested in Recommendation H-09-37 during both roadside and compliance review inspections of passenger-carrying commercial motor vehicles to identify and place out of service non-FMVSS-compliant vehicles.

NTSB Status: Open – Unacceptable Response

Status: The discussions and responses received to date regarding Safety Recommendations H-09-37 through -41 have not, according to NTSB, addressed the intent of these recommendations. As a result, the Agency tasked its MCSAC to provide ideas and concepts for addressing this and certain other open NTSB recommendations. The Agency will

consider the findings of MCSAC in determining future actions to address this recommendation.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-039: Institute a requirement for Federal and State enforcement officials to obtain training on a procedure to physically inspect passenger-carrying commercial motor vehicles for an FMVSS compliance label, and work with CVSA to develop and provide this training.

NTSB Status: Open – Unacceptable Response

Status: The Agency will incorporate the NHTSA training modules on inspecting vehicles for the FMVSS certification label in the inspector training program to support implementation of the enforcement policy concerning the inspection of vehicles operated by U.S. - domiciled carriers by December 2013. The Agency's National Training Center will provide the training to FMCSA and State enforcement personnel.

The discussions and responses received to date regarding Safety Recommendations H-09-37 through -41 have not, according to NTSB, addressed the intent of these recommendations. As a result, the Agency tasked its MCSAC to provide ideas and concepts for addressing this and certain other open NTSB recommendations. The Agency will consider the findings of MCSAC in determining future actions to address this recommendation.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-040: Require that passenger motor carriers certify on their OP-1(P) forms (Application for Motor Passenger Carrier Authority) and initial MCS-150 form (Motor Carrier Identification Report [Application for USDOT Number]) and subsequent required biennial submissions that all vehicles operated, owned, or leased per trip or per term met the FMVSSs in effect at the time of manufacture.

NTSB Status: Open – Unacceptable Response

Status: The discussions and responses received to date regarding Safety Recommendations H-09-37 through -41 have not, according to NTSB, addressed the intent of these recommendations. As a result, the Agency tasked its MCSAC to provide ideas and concepts for addressing this and certain other open NTSB recommendations. The Agency will consider the findings of MCSAC in determining future actions to address this recommendation.

Report Number: HAR-09/03, Motorcoach Rollover on U.S. Highway 59 (Victoria, TX), Rec #: H-09-041: Seek statutory authority to suspend, revoke, or withdraw a motor carrier's operating authority upon discovering the carrier is operating any non-FMVSS-compliant passenger-carrying commercial motor vehicles, a violation of the FMVSS-compliant certification requested in Safety Recommendation H-09-40.

NTSB Status: Open – Unacceptable Response

Status: The discussions and responses received to date regarding Safety Recommendations H-09-37 through -41 have not, according to NTSB, addressed the intent of these recommendations. As a result, the Agency tasked its MCSAC to provide ideas and concepts for addressing this and certain other open NTSB recommendations. The Agency will consider the findings of MCSAC in determining future actions to address this recommendation.

Report Number: SR-11/01, Report on Curbside Motorcoach Safety, Rec #: H-12-007: Revise the MCS-150 reporting requirements, as specified in 49 Code of Federal Regulations 390.19, to require that motor carriers report fleet mileage, by year, for the 2-year reporting period.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: SR-11/01, Report on Curbside Motorcoach Safety, Rec #: H-12-008: Develop and implement a plan for consistent, nationwide enforcement of the MCS-150 reporting requirements, as specified in 49 Code of Federal Regulations 390.19, among interstate passenger carriers.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: SR-11/01, Report on Curbside Motorcoach Safety, Rec #: H-12-009: Revise the safety measurement system for passenger carrier risk assessment and ranking to include an analysis that uses only passenger carrier data for performance comparisons, to ensure accurate and comparable safety rankings.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: SR-11/01, Report on Curbside Motorcoach Safety, Rec #: H-12-010: Revise the passenger carrier safety information posted on the Federal Motor Carrier Safety Administration website and SaferBus mobile application to assist consumers in interpreting safety information. The revisions should (1) address means to assist consumers in locating and interpreting information about passenger carrier safety, (2) enable consumers to compare the safety of two or more passenger carriers, (3) assist consumers in understanding the percentage safety ranking scales, and (4) incorporate easy-to-use ranking methods, such as quantitative star ratings.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: SR-11/01, Report on Curbside Motorcoach Safety, Rec #: H-12-011: Evaluate (1) whether passenger carrier consumers, drivers, and operators can easily find and use the National Consumer Complaint Database (NCCDB) and (2) whether conducting additional advertising of the NCCDB and providing additional instructions on its use could ensure that passenger carrier consumers, drivers, and operators are aware of and able to use the NCCDB reporting system.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: SR-11/01, Report on Curbside Motorcoach Safety, Rec #: H-12-012: Develop and implement a system for incorporating information about passenger carriers, derived from the National Consumer Complaint Database, for use in prioritizing passenger carrier inspections.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/01, Motorcoach Run-Off-the-Road and Collision With Vertical Highway Signpost Interstate 95 Southbound, Rec #: H-12-013: Develop and disseminate guidance for motor carriers on how to most effectively use currently available onboard monitoring systems and develop a plan to periodically update the guidance.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/01, Motorcoach Run-Off-the-Road and Collision With Vertical Highway Signpost Interstate 95 Southbound, Rec #: H-12-014: Upon completion of the field operational tests for onboard monitoring systems, determine whether test results indicate that such systems would reduce accidents or injuries, and, if so, require commercial motor carriers to use these systems to improve driver safety.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/01, Motorcoach Run-Off-the-Road and Collision With Vertical Highway Signpost Interstate 95 Southbound, Rec #: H-12-015: Revise 49 Code of Federal Regulations 391.23 to require that motor carriers obtain a 10-year driving history for all prospective commercial vehicle drivers.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/01, Motorcoach Run-Off-the-Road and Collision With Vertical Highway Signpost Interstate 95 Southbound, Rec #: H-12-016: Revise 49 Code of Federal Regulations 384.225 to require that States retain on the Commercial Driver's License Information System driver record all convictions, disqualifications, and other licensing actions for violations during the prior 10 years.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/01, Motorcoach Run-Off-the-Road and Collision With Vertical Highway Signpost Interstate 95 Southbound, Rec #: H-12-017: Include safety measurement system rating scores in the methodology used to determine a carrier's safety fitness to operate in the safety fitness rulemaking for the new Compliance, Safety, Accountability initiative.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/01, Motorcoach Run-Off-the-Road and Collision With Vertical Highway Signpost Interstate 95 Southbound, Rec #: H-12-018: Include in the safety fitness rating rulemaking for the new Compliance, Safety, Accountability initiative a structured process, such as the Safety Management Cycle, to be used by Federal Motor Carrier Safety Administration investigators and their State Motor Carrier Safety Assistance Program agents, as an audit tool for investigators to (1) identify the root cause of safety risks found during compliance reviews, and (2) deliver constructing guidance to motor carriers to ensure the promotion of safety management.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/01, Motorcoach Run-Off-the-Road and Collision With Vertical Highway Signpost Interstate 95 Southbound, Rec #: H-12-019: Include information regarding the Safety Management Cycle in your "Safety is Good Business" motor carrier website.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/02, Motorcoach Roadway Departure and Overturn on Interstate 95, Rec #: H-12-029: Establish an ongoing program to monitor, evaluate, report on, and continuously improve fatigue management programs implemented by motor carriers to identify, mitigate, and continuously reduce fatigue-related risks for drivers.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/02, Motorcoach Roadway Departure and Overturn on Interstate 95,
Rec #: H-12-030: Incorporate scientifically based fatigue mitigation strategies into the hours- of-
service regulations for passenger carrying drivers who operate during the nighttime window of
circadian low.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

Report Number: HAR-12/02, Motorcoach Roadway Departure and Overturn on Interstate 95,
Rec #: H-12-031: As a component of your new entrant safety audits, review with each new
entrant motor carrier a structured process, such as the Safety Management Cycle, to (1) identify
the root cause of safety risks and (2) maintain an effective safety assurance program.

NTSB Status: Open – Await Response

Status: The Agency is in the process of formally responding to this recommendation.

CONCLUSION

The FMCSA recognizes that its focus on motorcoach safety must remain steady and strong. As FMCSA implements the action items identified in the Motorcoach Safety Action Plan, it will be periodically updated to reflect our progress and any new information about this segment of the passenger transportation industry. The Agency will remain dedicated to ensuring that motorcoach travel remains a very safe mode of highway transportation for the more than 750 million passengers each year.