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U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

1200 New Jersey Avenue, SE
Washington, DC 20590

Refer to: MC-MMI
Control No. 2010-0757

VIA EMAIL ONLY

AUG 25 2010

This is in response to your letter dated November 10, 2009, which was received in our office on June 18, 2010, requesting any and all reports produced by the Federal Motor Carrier Safety Administration (FMCSA) for Congress, between November 10, 2006, and June 18, 2010, and which are not posted at <http://www.fmcsa.dot.gov/>.

In accordance with the Freedom of Information Act (FOIA), 5 U.S.C. § 552, we are enclosing, in their entirety, a copy of the following:

- Two correspondence letters dated March 28, 2006, and May 11, 2006, from the FMCSA to the Honorable Thad Cochran, Chairman of the Committee on Appropriations, United States Senate;
- Four correspondence letters dated June 17, 2008, October 30, 2008, November 6, 2008, and December 10, 2008, from the FMCSA to the Honorable Robert C. Byrd, Chairman of the Committee on Appropriations, United States Senate;
- Three correspondence letters dated January 16, 2009, April 24, 2009 and July 30, 2009, from the FMCSA to the Honorable Daniel K. Inouye, Chairman of the Committee on Appropriations, United States Senate;
- The Motorcoach Accessibility and Compliance with the Americans with Disabilities Act Report to Congress, December 2008;
- The Safety and Security of Transportation into the United States by Mexico-Domiciled Motor Carriers in Fiscal Year 2006 Report, September 2008; and
- The Drug and Alcohol National Database Report to Congress, March 2010.

This is all of the information we have which falls within the scope of your request and regret any inconvenience caused by the delay in responding to your request.

Sincerely yours,

Tiffanie C. Coleman
FOIA Officer

Enclosures

THE DRUG AND ALCOHOL NATIONAL DATABASE REPORT TO CONGRESS

Pursuant to the Joint Explanatory Statement accompanying the
Transportation, Housing and Urban Development, and
Related Agencies Appropriations Act, 2009 (P.L. 111-8)
March 2010

The Joint Explanatory Statement accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009 (P.L. 111-8, division I), requested the Federal Motor Carrier Safety Administration (FMCSA or Agency) to submit a report that provides a detailed timeline for the implementation of a national database of positive and refusal-to-test drug and alcohol test results of commercial drivers.

The successful implementation of the drug and alcohol test results database requires many steps, including notice and comment rulemaking and the development of a robust, secure information technology (IT) system. The FMCSA is in the initial phase of developing the notice and comment rulemaking to require motor carrier employers and, potentially, medical review officers (MROs) and other service agents, to provide information on positive test results and refusals-to-test to the Agency. As contemplated by the Agency, the proposed rule would mandate reporting requirements in order to assure that holders of commercial driver's licenses who test positive or refuse to test do not drive until they comply with the return-to-duty process prescribed in Title 49, Code of Federal Regulations (CFR), Part 40, Subpart O. In addition, the FMCSA proposed rule being developed would require that motor carrier employers access and review the relevant information contained in the database to ensure that a driver is in compliance with the U.S. Department of Transportation (DOT) drug and alcohol testing requirements before allowing the driver to perform safety-sensitive functions.

The drug and alcohol testing IT system is being designed to securely accept the drug and alcohol test results and refusals-to-test, track a driver's progress in completing the return-to-duty process, monitor motor carrier queries of the system in advance of hiring, and identify motor carriers failing to conduct drug and alcohol testing. As this database will contain very sensitive personal information, FMCSA is addressing security and privacy requirements as a key implementation factor. The FMCSA will also need to secure Paperwork Reduction Act approval from the Office of Management and Budget to collect the necessary data and information contemplated by the rulemaking.

A more detailed discussion of the critical project deliverables follows. Although discussed separately, the deliverables collectively provide the necessary framework to ensure success. Also, there are some existing limitations that impact FMCSA's ability to deliver the most comprehensive rulemaking and database.

REGULATORY REQUIREMENTS

To ensure a robust and accurate system, FMCSA plans on obtaining drug and alcohol information from appropriate sources. The Agency would require direct online reporting by motor carrier employers and consortia/third party administrators (C/TPAs) with respect to testing of owner-operators, and could also require reporting by other C/TPAs, MROs, and additional parties who participate as service agents under the DOT testing program. The purpose of this reporting would be to establish a complete, accurate, and timely drug and alcohol driver information system. Since this rulemaking is deemed significant, the Agency will prepare an accompanying cost/benefit analysis. The FMCSA estimates publishing the Notice of Proposed Rulemaking in the Federal Register by the end of 2010 and the Final Rule by the end of 2011.

DESIGNING AND BUILDING A DRUG AND ALCOHOL DRIVER DATA SYSTEM

Key capabilities of the proposed system include the submission of drug and alcohol data, support of queries and report generation, user account and access management, and interface with the existing FMCSA IT systems. The proposed system also will meet the overarching need for security and privacy to protect sensitive drug and alcohol testing results and personal driver information. The proposed FMCSA IT system will provide the ability for motor carrier employers and, if appropriate, other identified parties to submit drug and alcohol related information to the database.

The proposed system will allow authorized FMCSA and State enforcement personnel to access the data and create reports for enforcement and analysis activities. The data in the proposed system will be integrated with existing FMCSA field systems to provide FMCSA and State Motor Carrier Safety Assistance Program enforcement personnel the ability to identify unqualified drivers operating commercial motor vehicles.

Commercial motor carriers also will have access to the data to perform a pre-employment verification of drivers. The contemplated FMCSA system will provide the capability to manage the accounts, authorization, and access to the information. It will also include capabilities to ensure the confidentiality and integrity of the data. In summary, the system must ensure that accurate information is provided only to authorized persons that need to know the information, additionally meeting all of the requirements in the proposed regulations, as well as the existing Federal security and privacy requirements.

The FMCSA estimates implementing the envisioned system by the end of 2012.

FMCSA CIVIL PENALTY AUTHORITY

To ensure that the system includes complete, timely, and accurate information about drivers testing positive and refusing to test, it is critical that the regulated parties report as accurately and completely as possible. Any failure in meeting requirements to report information could result in noncompliant motor carrier employers and unqualified drivers operating on the Nation's highways undetected.

Currently, FMCSA only has authority to initiate enforcement action against a service agent through the labor-intensive Public Interest Exclusion process provided in Title 49 CFR Part 40, Subpart R. Ultimately, expanded civil penalty enforcement authority to cover all DOT service agents may be necessary to effectively implement the database system to strengthen the Agency's ability to ensure collection sites and all other service agents perform drug and alcohol testing responsibilities in accordance with Title 49 CFR Part 40.

SUMMARY

The FMCSA is working to create a national database of verified positive drug and alcohol test results and refusals. Changes to the existing regulations within Title 49 CFR Part 382 are necessary. A sophisticated IT system must be created. The FMCSA's goal is to implement a fully functional drug and alcohol national database by the end of calendar year 2012.

**THE SAFETY AND SECURITY OF TRANSPORTATION
INTO THE UNITED STATES BY MEXICO-DOMICILED MOTOR CARRIERS
IN FISCAL YEAR 2006**

A Report Pursuant to Section 120
of the Transportation, Treasury, Housing and Urban Development,
the Judiciary, the District of Columbia,
and Independent Agencies Appropriations Act, 2006
Public Law 109-115
September 2008

Program and Funding History

Since the early 1990s, the U.S. Department of Transportation (DOT) has actively pursued increased compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) by Mexico-domiciled motor carriers. In anticipation of passage of the North American Free Trade Agreement's (NAFTA) truck and bus access provisions, the Federal Motor Carrier Safety Administration (FMCSA), formerly the Office of Motor Carrier Safety in the Federal Highway Administration (FHWA), augmented the border States' basic Motor Carrier Safety Assistance Program (MCSAP) funds with additional grant monies for border enforcement activities. From Fiscal Year (FY) 1995 to FY 2001, \$34.9 million was allocated to the Southern border States for border operations and infrastructure grants. Starting in late 1994, the Office of Motor Carrier Safety deployed Federal personnel to the border to conduct inspections at locations where the States were not inspecting vehicles. This was the first time since MCSAP's establishment that Federal inspectors were used to conduct routine truck and bus inspections. The State and Federal motor carrier border enforcement presence along the Southern border has grown steadily since that time.

The requirements mandated in Section 350 of the FY 2002 Department of Transportation Appropriations Act (the Act) guide FMCSA's activities to improve the safety of commercial motor vehicles (CMVs) and drivers entering the United States from Mexico. Section 350 provided the impetus and resources needed to prepare for the border's opening. From FY 2002 to FY 2004, Congress provided \$76.3 million for State border operations, \$124.7 million for Federal border operations, and \$162.3 million for State border motor carrier safety inspection infrastructure. The 3-year State border infrastructure program ended in FY 2004. In FY 2005, Congress provided \$33 million for State border operations. That year, Federal border operations were integrated into the normal Federal operations funds.

Section 4101 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) authorizes \$32 million in each year from FY 2006 through FY 2009 for border enforcement grants to States or other entities (including those on the Northern border) "for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects." The SAFETEA-LU established a formula grant program under the administration of FHWA to provide funds for border infrastructure projects including, "construction of . . . safety enforcement facilities in a border region that facilitate motor vehicle

and cargo movements related to international trade.” The \$833 million authorized under the Coordinated Border Infrastructure Program (Section 1303 of SAFETEA-LU) applies to projects along the Northern and Southern borders.

Section 350 directed FMCSA to meet certain requirements before processing applications of Mexico-domiciled motor carriers to receive authority to operate beyond the commercial zones. The Act directed the Department’s Office of the Inspector General (IG) to conduct an initial comprehensive review of border operations and annual follow-up reviews. The IG completed its initial review in June 2002 (“Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border,” MH-2002-094), and a subsequent review in May 2003 (“Follow-up Audit on the Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border,” MH-2003-041). The January 2005 IG review (“Follow-up Audit of the Implementation of NAFTA’s Cross Border Trucking Provisions,” MH-2005-032), documents that “FMCSA has sufficient staff, facilities, equipment, and procedures in place to substantially meet the . . . Section 350 provisions for Mexican long haul trucks.” However, the IG expressed concerns about the lack of procedures and an international agreement to conduct onsite safety reviews of Mexico-domiciled motor carriers applying for long haul authority into the United States. The FMCSA continues to develop procedures to facilitate safety reviews of Mexico-domiciled motor carriers.

In January 2003, the United States Court of Appeals for the Ninth Circuit set aside the application and safety monitoring rules necessary to implement the requirements of Section 350 of the Act on the grounds that DOT had failed to comply with applicable environmental review requirements. The FMCSA stopped processing Mexico-domiciled carrier applications to operate beyond the commercial zones due to this ruling. The DOT filed a petition for Supreme Court review of the Ninth Circuit decision, which was granted in December 2003. The Supreme Court heard oral arguments in the case on April 21, 2004, and on June 7, 2004, it reversed unanimously the lower court’s decision.

The FMCSA is evaluating what next steps are appropriate with respect to allowing the operation of Mexico-domiciled trucks and buses beyond the commercial zones. Information on the safety performance of these carriers will be included in future reports once these carriers begin operating throughout the United States.

The FMCSA’s primary mission is to reduce crashes, injuries, and fatalities involving CMVs. However, the Agency continues to augment the activities conducted by the enforcement agencies primarily responsible for addressing homeland security concerns. The FMCSA works closely with the U.S. Customs and Border Protection (CBP) within the U.S. Department of Homeland Security to ensure that Southern border safety inspection activities are compatible with border security and other CBP responsibilities. The FMCSA assists the Transportation Security Administration in implementing Section 1012 of the USA PATRIOT Act regarding the issuance of licenses to operate CMVs transporting hazardous materials. Other security-related actions include training agency personnel and border inspectors to assess a motor carrier’s security practices and providing the “Trucks and Terrorism Seminar/Workshop” for law enforcement and industry representatives. The FMCSA does not have a primary role in Southern border security and, therefore, does not address border security status in this report.

Safety Performance Data

This report is based on information from the major safety activities conducted at the Southern border to ensure Mexico-domiciled carriers are operating safely within United States commercial zones. These activities include: (1) inspections of Mexico-domiciled motor carriers along the Southern border, and (2) enforcement actions taken against Mexico-domiciled carriers operating within the commercial zones. Federal and State personnel perform inspections within the Federal inspection compounds, at State inspection facilities adjacent to these compounds, and in the surrounding counties. The enforcement actions are solely Federal actions. The FMCSA and the States are constantly improving their data gathering and reporting capabilities. Future reports will continue to reflect these improvements.

The percentage of inspected drivers and vehicles placed out of service is the primary measure of motor carrier, vehicle, and driver safety performance. Low and decreasing out-of-service (OOS) rates indicate greater compliance with FMCSRs and safer operation on the Nation's highways. Driver and vehicle OOS rates are quantifiable and comparable over time.

The following table presents OOS rates for Mexico-domiciled carriers in percentages from FY 1993 to FY 2006. The OOS rates for FY 1993 to FY 2005 have been updated from previous reports. This table indicates that driver and vehicle OOS rates for Mexico-domiciled carriers inspected along the Southern border decreased from 24.73 percent and 50.17 percent, respectively, in FY 1993, to 7.29 percent and 27.08 percent, respectively, in FY 2006. Inspections performed increased markedly over this period as additional safety compliance resources were directed to the Southern border. In the same period, truck and bus entries from Mexico into the United States increased 102 percent, from 2.51 million in FY 1993 to 5.07 million in FY 2006. The comparative national averages (based on all inspections performed throughout the United States) of driver and vehicle OOS rates in FY 2006 were 7.0 percent and 23.0 percent, respectively.

**Mexico-Domiciled (MX) Motor Carrier
Driver and Vehicle Out-of-Service (OOS) Rates – FY 1993 to FY 2006**

Federal Fiscal Year	Truck & Bus Entries from Mexico (millions)	Total Border Zone Inspections	MX Carrier Inspections	Percent of Total	MX Driver OOS Rate	MX Vehicle OOS Rate
1993	2.51	11,222	2,395	21.34%	24.73%	50.17%
1994	2.83	11,462	2,819	24.59%	22.47%	60.33%
1995	2.99	13,189	4,274	32.41%	20.83%	54.57%
1996	3.18	34,457	7,597	22.05%	17.68%	47.25%
1997	3.76	59,432	23,457	39.47%	11.41%	43.58%
1998	4.15	62,185	24,305	39.08%	9.90%	41.90%
1999	4.56	107,158	31,099	29.02%	8.10%	39.43%
2000	4.81	161,724	52,291	32.33%	6.89%	36.76%
2001	4.61	211,999	72,470	34.18%	7.70%	33.88%
2002	4.71	233,699	102,039	43.66%	7.29%	27.08%

Federal Fiscal Year	Truck & Bus Entries from Mexico (millions)	Total Border Zone Inspections	MX Carrier Inspections	Percent of Total	MX Driver OOS Rate	MX Vehicle OOS Rate
2003	4.58	306,131	160,864	52.55%	3.47%	23.57%
2004	4.74	320,707	165,770	51.69%	1.97%	23.29%
2005	4.84	356,929	192,835	54.03%	1.12%	20.43%
2006	5.07	427,353	210,881	49.35%	1.26%	20.94%

Sources: The CBP national and field offices data, FY 1993 through 2006; FMCSA Motor Carrier Management Information System analyses, February 2000 through January 2007

The Agency maintains a dynamic enforcement program based on a carrier's inspection data. Carriers with a poor inspection record are instructed to improve performance and may be placed out of service or ordered to pay a fine. After several attempts to collect fines, the Agency suspends the registration of those carriers whose fines are in arrears. This process prevents noncompliant and unsafe carriers from operating in the United States, thereby improving the safety of motor carrier transportation at the Southern border. In FY 2006, FMCSA closed 30 border enforcement cases after the carriers signed a settlement agreement or paid the civil penalty in full. In FY 2006, there were no Mexico-domiciled carriers for whom FMCSA suspended certificates of registration due to nonpayment of fines.

Summary

During the 14-year period from 1993 to 2006, Congress allocated substantial funding, which FMCSA and the States used to increase border enforcement and safety activities at the Southern border. In that period, the safety of Mexico-domiciled carriers operating along the Southern border has improved greatly as measured by the dramatic decrease in the drivers and vehicles placed out of service. In FY 2006, the driver and vehicle OOS rates were 1.26 percent and 20.94 percent, respectively, as opposed to 24.73 percent and 50.17 percent in FY 1993. These rates compare favorably with the FY 2006 national driver and vehicle OOS rates of 7.0 percent and 23.0 percent.

The FMCSA suspends registrations if motor carriers are in arrears for nonpayment of fines. In FY 2006, FMCSA suspended no Mexico-domiciled carrier certificates of registration due to nonpayment of fines. In recent years, the removal of noncompliant and unsafe carriers from cross-border operations and the significant decrease in OOS rates indicate that the safety of Mexico-domiciled carriers entering the United States continues to improve.

**THE SAFETY AND SECURITY OF TRANSPORTATION
INTO THE UNITED STATES BY MEXICO-DOMICILED MOTOR CARRIERS
IN FISCAL YEAR 2007**

A Report Pursuant to Section 130 of House Report 109-495
Accompanying the Revised Continuing Appropriations Resolution, 2007
Public Law 110-5
September 2008

Program and Funding History

Since the early 1990s, the U.S. Department of Transportation (DOT) has actively pursued increased compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) by Mexico-domiciled motor carriers. In anticipation of passage of the North American Free Trade Agreement's (NAFTA) truck and bus access provisions, the Federal Motor Carrier Safety Administration (FMCSA), formerly the Office of Motor Carrier Safety in the Federal Highway Administration (FHWA), augmented the border States' basic Motor Carrier Safety Assistance Program (MCSAP) funds with additional grant monies for border enforcement activities. From Fiscal Year (FY) 1995 to FY 2001, \$34.9 million was allocated to the Southern border States for border operations and infrastructure grants. Starting in late 1994, the Office of Motor Carrier Safety deployed Federal personnel to the border to conduct inspections at locations where the States were not inspecting vehicles. This was the first time since MCSAP's establishment that Federal inspectors were used to conduct routine truck and bus inspections. The State and Federal motor carrier border enforcement presence along the Southern border has grown steadily since that time.

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and cargo movements related to international trade.” The \$833 million authorized under the Coordinated Border Infrastructure Program (Section 1303 of SAFETEA-LU) applies to projects along the Northern and Southern borders.

Section 350 directed FMCSA to meet certain requirements before processing applications of Mexico-domiciled motor carriers to receive authority to operate beyond the commercial zones. The Act directed the Department’s Office of the Inspector General (IG) to conduct an initial comprehensive review of border operations and annual follow-up reviews. The IG completed its initial review in June 2002 (“Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border,” MH-2002-094), and subsequent reviews in May 2003 (“Follow-up Audit on the Implementation of Commercial Vehicle Safety Requirements at the U.S.-Mexico Border,” MH-2003-041) and January 2005 (“Follow-up Audit of the Implementation of NAFTA’s Cross Border Trucking Provisions,” MH-2005-032). In August 2007, the IG presented its “Follow-up Audit on the Implementation of the North American Free Trade Agreement’s Cross-Border Trucking Provisions” (MH-2007-062). The audit found that FMCSA has continued to make improvements to the border safety program, addressing all of the nine recommendations agreed upon in the January 2005 report. The audit recommended further improvements in the quality of the Mexico-domiciled commercial driver data and data systems and emphasized the need to ensure adequate capacity at border facilities to inspect Mexico-domiciled buses. The FMCSA concurred with all of the IG recommendations in the report and addressed them through subsequent actions.

In January 2003, the United States Court of Appeals for the Ninth Circuit set aside the application and safety monitoring rules implementing the requirements of Section 350 of the Act on the grounds that DOT had failed to comply with applicable environmental review requirements. The FMCSA stopped processing Mexico-domiciled carrier applications to operate beyond the commercial zones due to this ruling. The DOT filed a petition for Supreme Court review of the Ninth Circuit decision, which was granted in December 2003. The Supreme Court heard oral arguments in the case on April 21, 2004, and on June 7, 2004, it reversed unanimously the lower court’s decision.

On February 23, 2007, the DOT Secretary announced plans for a demonstration project that would examine how Mexico-domiciled motor carriers can operate in the United States, simultaneously providing an opportunity for United States-domiciled motor carriers to operate in Mexico. This followed an announcement that Mexico would begin to permit onsite safety inspections of Mexico-domiciled motor carriers by FMCSA personnel. The demonstration project allows up to 100 Mexico-domiciled motor carriers to begin operating beyond the border commercial zone in the United States for one year. Up to 100 United States-domiciled motor carriers would also be allowed to operate in Mexico. The FMCSA began implementation of this program on September 6, 2007, in accordance with the requirements of Section 6901 of the U.S. Troop Readiness, Veterans’ Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. Section 6901 established several conditions regarding use of the demonstration program to test the operational and safety performance of Mexico-domiciled motor carriers operating beyond the municipalities and commercial zones on the United States-Mexico border. Future IG audits are planned to assess whether mechanisms

established by FMCSA are sufficient to apply Federal motor carrier safety laws and regulations to Mexico-domiciled motor carriers operating in the United States.

The legality of the demonstration program was challenged by several safety, trucking, environmental, and labor interest groups, but their request for a preliminary injunction was rejected by the Courts. Oral arguments were scheduled for February 12, 2008, in the Ninth Circuit Court of Appeals.

In accordance with the Consolidated Appropriations Act, 2008, the Department is not to establish any new demonstration programs with Mexico. The cross-border trucking demonstration project established in September 2007 will continue to operate in a manner that emphasizes safety and compliance, with participating Mexico-domiciled carriers subject to all Federal safety standards.

The FMCSA's primary mission is to reduce crashes, injuries, and fatalities involving CMVs. However, the Agency continues to augment the activities conducted by the enforcement agencies primarily responsible for addressing homeland security concerns. The FMCSA works closely with the U.S. Customs and Border Protection (CBP) within the U.S. Department of Homeland Security to ensure that Southern border safety inspection activities are compatible with border security and other CBP responsibilities. The FMCSA assists the Transportation Security Administration in implementing Section 1012 of the USA PATRIOT Act regarding the issuance of licenses to operate CMVs transporting hazardous materials. Other security-related actions include training agency personnel and border inspectors to assess a motor carrier's security practices and providing the "Trucks and Terrorism Seminar/Workshop" for law enforcement and industry representatives. The FMCSA does not have a primary role in Southern border security and, therefore, does not address border security status in this report.

Safety Performance Data

This report serves to update and summarize information drawn from the major safety activities conducted at the Southern border to ensure that Mexico-domiciled carriers are operating safely within United States commercial zones. These activities include: (1) inspections of Mexico-domiciled motor carriers along the Southern border; (2) license checks of Mexico-domiciled drivers conducted during roadside and border facility safety inspections; and (3) enforcement actions taken against Mexico-domiciled carriers. Federal and State personnel perform inspections and driver's license checks within the Federal inspection compounds, at State inspection facilities adjacent to these compounds, and in the surrounding counties. The enforcement actions are solely Federal actions. The FMCSA and the States are constantly improving their data gathering and reporting capabilities. Future reports will continue to track and report these improvements.

The percentage of inspected drivers and vehicles placed out of service is the primary measure of motor carrier, vehicle, and driver safety performance. Low and decreasing out-of-service (OOS) rates indicate greater compliance with FMCSRs and safer operation on the Nation's highways. Driver and vehicle OOS rates are quantifiable and comparable over time.

The following table presents OOS rates for Mexico-domiciled carriers in percentages from FY 1993 to FY 2007. The OOS rates for FY 1993 to FY 2006 have been updated from previous reports. This table indicates that driver and vehicle OOS rates for Mexico-domiciled carriers inspected along the Southern border decreased from 24.73 percent and 50.17 percent, respectively, in FY 1993, to 1.03 percent and 21.57 percent, respectively, in FY 2007. Inspections performed increased markedly over this period as additional safety compliance resources were directed to the Southern border. In the same period, truck and bus entries from Mexico into the United States increased 103 percent, from 2.51 million in FY 1993 to 5.11 million in FY 2007. The comparative national averages (based on all inspections performed throughout the United States) of driver and vehicle OOS rates in FY 2007 were 7.17 percent and 21.59 percent, respectively.

**Mexico-Domiciled (MX) Motor Carrier
Driver and Vehicle Out-of-Service (OOS) Rates – FY 1993 to FY 2007**

Federal Fiscal Year	Truck & Bus Entries from Mexico (millions)	Total Border Zone Inspections	MX Carrier Inspections	Percent of Total	MX Driver OOS Rate	MX Vehicle OOS Rate
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1996	3.18	34,457	7,597	22.05%	17.68%	47.25%
1997	3.76	59,432	23,457	39.47%	11.41%	43.58%
1998	4.15	62,185	24,305	39.08%	9.90%	41.90%
1999	4.56	107,158	31,099	29.02%	8.10%	39.43%
2000	4.81	161,724	52,291	32.33%	6.89%	36.76%
2001	4.61	211,999	72,470	34.18%	7.70%	33.88%
2002	4.71	233,699	102,039	43.66%	7.29%	27.08%
2003	4.58	306,131	160,864	52.55%	3.47%	23.57%
2004	4.74	320,707	165,770	51.69%	1.97%	23.29%
2005	4.84	356,929	192,835	54.03%	1.12%	20.43%
2006	5.07	427,353	210,881	49.35%	1.26%	20.94%
2007	5.11	424,480	214,870	50.62%	1.03%	21.57%

Sources: The CBP national and field offices data, FY 1993 through 2007; FMCSA Motor Carrier Management Information System analyses, February 2000 through January 2008

Driver's license check data are provided for FY 2004 through FY 2007. These data were collected through the gateway that counts and classifies transactions in the electronic interface between Mexico's Federal commercial driver's license system, Licencia Federal Information System (LIFIS), and the Commercial Driver's License Information System (CDLIS) or the International Justice and Public Safety Network (Nlets). During the course of roadside or border facility inspections, Federal inspectors can access the system to determine the current license status of any Mexico-domiciled driver. The system returns codes to indicate whether a driver record is found and if the license is denoted as valid, expired, or disqualified. The data presented

indicate a marked increase in total license checks of Mexico-domiciled drivers from FY 2004 to FY 2007 and an increase in the percentage of valid licenses from 95.1 percent to 98.3 percent over the 4-year period.

**Mexico-Domiciled Commercial Drivers' License Checks from CDLIS and Nlets
FY 2004 to FY 2007**

Federal Fiscal Year	2004		2005		2006		2007	
Status	count	%	count	%	count	%	count	%
Valid	98,141	95.1%	113,067	96.7%	178,189	97.7%	180,163	98.3%
Expired ✓	5,010	4.9%	3,881	3.3%	4,157	2.3%	2,999	1.6%
Disqualified	58	0.1%	25	0.0%	25	0.0%	174	0.1%
Total	103,209	100.0%	116,973	100.0%	182,371	100.0%	183,336	100.0%

Source: The FMCSA Gateway to LIFIS, TML Information Services, Inc., May 2008

The FMCSA maintains a dynamic enforcement program based on motor carrier inspection and compliance review data. Carriers with a poor inspection record are instructed to improve performance and may be ordered to pay a fine or placed out of service. These actions by FMCSA prevent noncompliant and unsafe carriers from operating in the United States, thereby improving the safety of motor carrier transportation at the Southern border.

In FY 2007, FMCSA initiated 427 enforcement cases for Mexico-domiciled motor carriers based on safety performance data indicating that the carrier had committed an infraction deemed serious enough to warrant a civil penalty. This compares to 338 enforcement cases initiated in FY 2006. The FMCSA issued OOS orders to 88 Mexico-domiciled carriers during FY 2007 due to unsatisfactory or unfit safety ratings or failure to pay fines. In FY 2007, certificates of registration were suspended for eight Mexico-domiciled motor carriers, denying them the privilege to operate in the United States.

Summary

During the 15-year period from 1993 to 2007, Congress allocated substantial funding, which FMCSA and the States have used to increase border enforcement and safety activities at the Southern border. In that period, the safety of Mexico-domiciled carriers operating along the Southern border has improved greatly as measured by the dramatic decrease in the drivers and vehicles placed out of service. In FY 2007, the driver and vehicle OOS rates were 1.03 percent and 21.57 percent, respectively, as opposed to 24.73 percent and 50.17 percent in FY 1993. These rates compare favorably with the FY 2007 national driver and vehicle OOS rates of 7.17 percent and 21.59 percent.

Safety inspectors use CDLIS and Nlets to check the license status of Mexico-domiciled drivers during the course of roadside and border facility inspections. From FY 2004 to FY 2007, there has been a marked increase in the number of license checks conducted by roadside and border facilities inspectors and a concurrent increase in the rates of valid licenses presented for review. In FY 2007, FMCSA initiated 427 enforcement cases, issued 88 OOS orders, and suspended

eight certificates of registration for Mexico-domiciled motor carriers. The removal of noncompliant and unsafe carriers from cross-border operations, the significant decrease in OOS rates, and the increasing rate of valid licenses presented during driver inspections in recent years, indicate that the safety of Mexico-domiciled carriers entering the United States continues to improve.

The cross-border demonstration project initiated by FMCSA in September 2007 will allow the Agency to test the operational and safety performance of Mexico-domiciled motor carriers operating beyond the commercial zones on the United States-Mexico border. It will also allow FMCSA to test the quality of the monitoring procedures in place to ensure the safety compliance of Mexico-domiciled motor carriers. Future reports will include data derived from these efforts, which are used to ensure that Federal motor carrier safety laws and regulations are rigorously applied to Mexico-domiciled motor carriers operating in the United States.



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

July 30, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Daniel K. Inouye
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009 (P.L. 111-8, division I), directs the Federal Motor Carrier Safety Administration (FMCSA) to submit semiannual reports on the Agency's ability to meet its requirement to conduct compliance reviews (CR) on high-risk motor carriers (SafeStat category A and B). This letter report fulfills that directive for the 1st and 2nd quarters of Fiscal Year (FY) 2009.


In FY 2009, the FMCSA's budget goal is to conduct 10,000 CRs. During the 1st quarter of FY 2009 from October 1 to December 31, 2008, 2,479 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,060, or 83 percent, of these high-risk carriers. During the 2nd quarter of FY 2009 from January 1 to March 31, 2009, 2,995 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,551, or 85 percent, of these high-risk carriers. Therefore, for the 1st and 2nd quarters of FY 2009, FMCSA completed CRs on 4,611, or 84 percent, of the 5,474 high-risk carriers.

Consistent with congressional mandates, FMCSA has improved the identification of high-risk carriers and increased the number of CRs conducted on these and other carriers. This is evidenced by the 81 percent increase in CRs conducted on high-risk carriers during the 1st quarter and the 124 percent increase during the 2nd quarter of FY 2009, over the 1,136 CRs conducted during the 6-month period cited in the Government Accountability Office's (GAO) report "Motor Carrier Safety: Federal Safety Agency Identifies Many High-Risk Carriers But Does Not Assess Maximum Fines as Often as Required by Law" (GAO-07-584, August 2007). In addition, FMCSA had reduced the backlog of 1,114 carriers cited in the GAO report to 444 carriers at the end of March 2009. The FMCSA will continue reducing the backlog for the remainder of FY 2009.

An identical letter has been sent to the Ranking Member of the Senate Committee on Appropriations and to the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in black ink that reads "Terry Shelton". The script is fluid and cursive, with the first letter of each word being capitalized and prominent.

 Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

July 30, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Cochran:

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009 (P.L. 111-8, division I), directs the Federal Motor Carrier Safety Administration (FMCSA) to submit semiannual reports on the Agency's ability to meet its requirement to conduct compliance reviews (CR) on high-risk motor carriers (SafeStat category A and B). This letter report fulfills that directive for the 1st and 2nd quarters of Fiscal Year (FY) 2009.

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An identical letter has been sent to the Chairman of the Senate Committee on Appropriations and to the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in cursive script that reads "Terry Shelton".

for Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

July 30, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Patty Murray
Chairman
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Madam Chairman:

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009 (P.L. 111-8, division I), directs the Federal Motor Carrier Safety Administration (FMCSA) to submit semiannual reports on the Agency's ability to meet its requirement to conduct compliance reviews (CR) on high-risk motor carriers (SafeStat category A and B). This letter report fulfills that directive for the 1st and 2nd quarters of Fiscal Year (FY) 2009.

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Sincerely yours,

Terry Shelton

Sr Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

July 30, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Christopher Bond
Ranking Member
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Bond:

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2009 (P.L. 111-8, division I), directs the Federal Motor Carrier Safety Administration (FMCSA) to submit semiannual reports on the Agency's ability to meet its requirement to conduct compliance reviews (CR) on high-risk motor carriers (SafeStat category A and B). This letter report fulfills that directive for the 1st and 2nd quarters of Fiscal Year (FY) 2009.

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Sincerely yours,

A handwritten signature in black ink that reads "Terry Shelton". The script is fluid and cursive, with the first letter of each word being capitalized and prominent.

for Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

July 30, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable David R. Obey
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

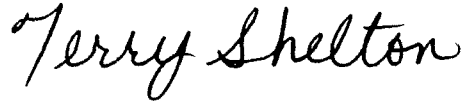
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for Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

July 30, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Jerry Lewis
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Lewis:

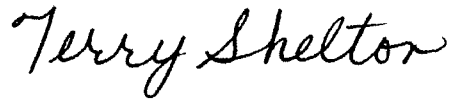
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Sincerely yours,

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for Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

July 30, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable John W. Olver
Chairman
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

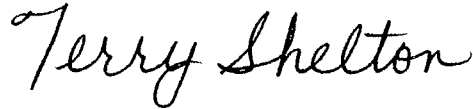
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Sincerely yours,

A handwritten signature in black ink that reads "Terry Shelton". The signature is written in a cursive, flowing style.

~~for~~ Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

Office of the Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

**Federal Motor Carrier
Safety Administration**

July 30, 2009

The Honorable Tom Latham
Ranking Member
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Latham:

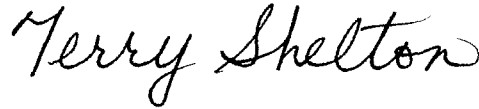
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Sincerely yours,

A handwritten signature in black ink that reads "Terry Shelton". The script is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

for Rose A. McMurray
Acting Deputy Administration



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Daniel K. Inouye
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59). The Fiscal Year (FY) 2008 Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B). This letter report fulfills that request.

This letter report covers the 4th quarter of FY 2008 from July 1 to September 31, 2008. During this quarter, 2,526 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,166, or 86 percent, of these high-risk carriers.

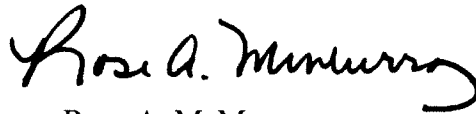
Based on the October 10, 2007, Compliance Review Cost Estimation conducted by Econometrica, Inc., the average cost for FMCSA to conduct a CR is \$1,133.29. Based on this estimate, the additional \$1,000,000 provided in FY 2008 was used in the 2nd quarter to fund 882 high-risk carrier CRs. General operating expense funds were used to conduct the 4th quarter high-risk carrier CRs.

Consistent with congressional mandates, FMCSA has improved the identification of high-risk carriers and increased the number of CRs conducted on these and other carriers. The Agency has continued to meet budget estimates for CRs of motorcoach, hazardous materials, and household goods carriers. This is evidenced by the 90 percent increase in CRs conducted on high-risk carriers during the 4th quarter of FY 2008 over the 1,136 CRs conducted during the 6-month period cited in the Government Accountability Office's (GAO) report "Motor Carrier Safety:

Federal Safety Agency Identifies Many High-Risk Carriers But Does Not Assess Maximum Fines as Often as Required by Law” (GAO-07-584, August 2007). In addition, FMCSA has reduced the backlog of 1,114 carriers cited in the GAO report to 360 carriers at the end of September 2008. The backlog consists entirely of high-risk carriers identified for the second consecutive month during FY 2008. The FMCSA, through improved technology and increased management emphasis, reduced the backlog during each quarter of FY 2008 and expects to continue reducing the backlog during FY 2009.

An identical letter has been sent to the Ranking Member of the Senate Committee on Appropriations and to the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in black ink, reading "Rose A. McMurray". The signature is fluid and cursive, with the first name "Rose" being particularly prominent.

Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

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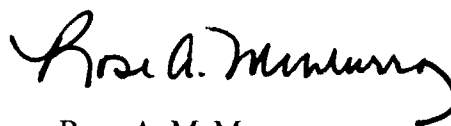
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Sincerely yours,

A handwritten signature in black ink, reading "Rose A. McMurray". The signature is fluid and cursive, with the first name "Rose" being the most prominent.

Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Patty Murray
Chairman
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Madam Chairman:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59). The Fiscal Year (FY) 2008 Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B). This letter report fulfills that request.

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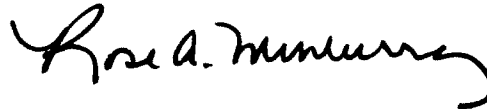
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Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Christopher Bond
Ranking Member
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Bond:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59). The Fiscal Year (FY) 2008 Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B). This letter report fulfills that request.

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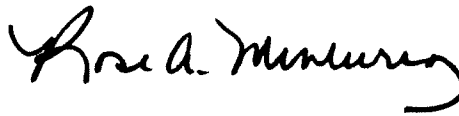
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Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable David R. Obey
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59). The Fiscal Year (FY) 2008 Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B). This letter report fulfills that request.

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Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Jerry Lewis
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Lewis:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59). The Fiscal Year (FY) 2008 Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B). This letter report fulfills that request.

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Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable John W. Olver
Chairman
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

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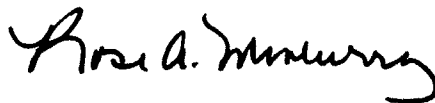
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Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Office of the Administrator

April 24, 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Tom Latham
Ranking Member
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Latham:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (P.L. 109-59). The Fiscal Year (FY) 2008 Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B). This letter report fulfills that request.

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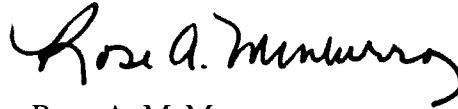
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Rose A. McMurray
Acting Deputy Administrator



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

JAN 16 2009

The Honorable Daniel K. Inouye
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This letter report fulfills that request. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B).

This letter report covers the 3rd quarter of Fiscal Year (FY) 2008 from April 1 to June 30, 2008. During this quarter, 2,482 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,021, or 81 percent, of these high-risk carriers.

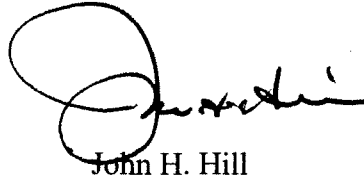
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Sincerely yours,

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John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

JAN 16 2009

The Honorable Thad Cochran
Ranking Member
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Cochran:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This letter report fulfills that request. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B).

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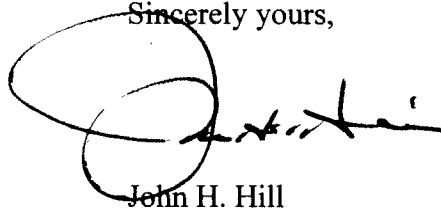
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John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

JAN 16 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Patty Murray
Chairman
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Madam Chairman:

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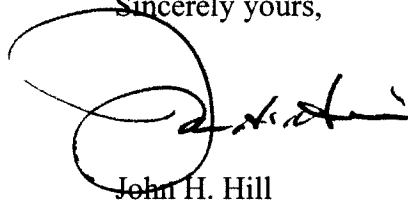
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Consistent with congressional mandates, FMCSA has improved the identification of high-risk carriers and increased the number of CRs conducted on these and other carriers. The Agency has continued to meet budget estimates for CRs of motorcoach, hazardous materials, and household goods carriers. This is evidenced by the 78 percent increase in CRs conducted on high-risk carriers during this quarter over the 1,136 CRs conducted during the 6-month period cited in the Government Accountability Office's (GAO) report entitled "Motor Carrier Safety: Federal

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An identical letter has been sent to the Ranking Member of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations and to the Chairmen and Ranking Members of the Senate Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John H. Hill", is written over a large, stylized circular flourish.

John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

JAN 16 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Christopher Bond
Ranking Member
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Senator Bond:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This letter report fulfills that request. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B).

This letter report covers the 3rd quarter of Fiscal Year (FY) 2008 from April 1 to June 30, 2008. During this quarter, 2,482 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,021, or 81 percent, of these high-risk carriers.

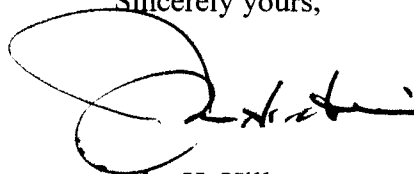
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John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

JAN 16 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable David R. Obey
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This letter report fulfills that request. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B).

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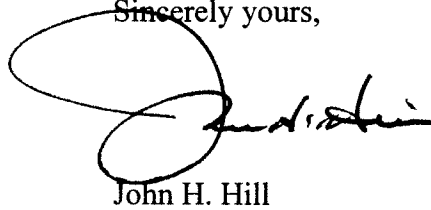
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Sincerely yours,

A handwritten signature in black ink, appearing to read "John H. Hill", is written over the typed name. The signature is stylized with a large loop at the beginning and a cursive script.

John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

JAN 16 2009

The Honorable Jerry Lewis
Ranking Member
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Lewis:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This letter report fulfills that request. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B).

This letter report covers the 3rd quarter of Fiscal Year (FY) 2008 from April 1 to June 30, 2008. During this quarter, 2,482 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,021, or 81 percent, of these high-risk carriers.

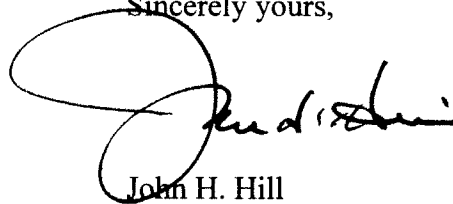
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Consistent with congressional mandates, FMCSA has improved the identification of high-risk carriers and increased the number of CRs conducted on these and other carriers. The Agency has continued to meet budget estimates for CRs of motorcoach, hazardous materials, and household goods carriers. This is evidenced by the 78 percent increase in CRs conducted on high-risk carriers during this quarter over the 1,136 CRs conducted during the 6-month period cited in the Government Accountability Office's (GAO) report entitled "Motor Carrier Safety: Federal

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Sincerely yours,

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John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

JAN 16 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable John W. Olver
Chairman
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This letter report fulfills that request. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B).

This letter report covers the 3rd quarter of Fiscal Year (FY) 2008 from April 1 to June 30, 2008. During this quarter, 2,482 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,021, or 81 percent, of these high-risk carriers.

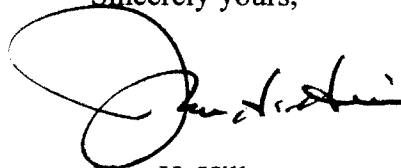
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Consistent with congressional mandates, FMCSA has improved the identification of high-risk carriers and increased the number of CRs conducted on these and other carriers. The Agency has continued to meet budget estimates for CRs of motorcoach, hazardous materials, and household goods carriers. This is evidenced by the 78 percent increase in CRs conducted on high-risk carriers during this quarter over the 1,136 CRs conducted during the 6-month period cited in the Government Accountability Office's (GAO) report entitled "Motor Carrier Safety: Federal

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An identical letter has been sent to the Ranking Member of the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations and to the Chairmen and Ranking Members of the House Committee on Appropriations; the Senate Committee on Appropriations; and the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

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John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

JAN 16 2009

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Tom Latham
Ranking Member
Subcommittee on Transportation, Housing and
Urban Development, and Related Agencies
Committee on Appropriations
U.S. House of Representatives
Washington, DC 20515

Dear Congressman Latham:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. This letter report fulfills that request. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B).

This letter report covers the 3rd quarter of Fiscal Year (FY) 2008 from April 1 to June 30, 2008. During this quarter, 2,482 carriers met the definition of high-risk carriers. The FMCSA completed CRs on 2,021, or 81 percent, of these high-risk carriers.

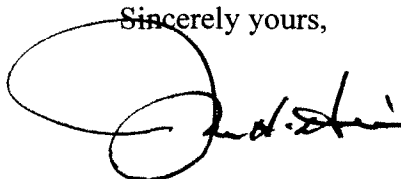
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Consistent with congressional mandates, FMCSA has improved the identification of high-risk carriers and increased the number of CRs conducted on these and other carriers. The Agency has continued to meet budget estimates for CRs of motorcoach, hazardous materials, and household goods carriers. This is evidenced by the 78 percent increase in CRs conducted on high-risk carriers during this quarter over the 1,136 CRs conducted during the 6-month period cited in the Government Accountability Office's (GAO) report entitled "Motor Carrier Safety: Federal

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An identical letter has been sent to the Chairman of the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations and to the Chairmen and Ranking Members of the House Committee on Appropriations; the Senate Committee on Appropriations; and the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

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John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

OCT 30 2008

The Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

House Conference Report 110-446 and Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K) requested the Federal Motor Carrier Safety Administration (FMCSA) to provide quarterly reports to the House and Senate Committees on Appropriations on the high-risk carriers compliance review (CR) requirements contained in Section 4138 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. The Appropriations Act made available an additional \$1,000,000 from FMCSA's Motor Carrier Safety Operations and Program account to ensure that the Agency is conducting CRs on high-risk carriers (SafeStat category A and B). This letter report fulfills that request.

This letter report covers the 2nd quarter of Fiscal Year (FY) 2008 from January 1 to March 31, 2008. During this quarter, 2,449 carriers met the definition of high-risk carriers. The FMCSA conducted 1,698 CRs or 69 percent of these high-risk carriers.

Based on the October 10, 2007, Compliance Review Cost Estimation conducted by Econometrica, Inc., the average cost for FMCSA to conduct a CR is \$1,133.29. Based on this estimate, the additional \$1,000,000 provided in FY 2008 funded 882 high-risk carrier CRs. The majority of high-risk carrier CRs were funded with general operating expense funds. These funds were not available until the 2nd quarter as FMCSA was operating under a continuing resolution during the 1st quarter.

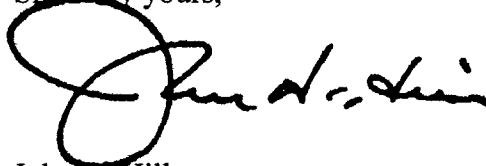
Consistent with congressional mandates, FMCSA has improved the identification of high-risk carriers and increased the number of CRs conducted on these and other carriers. The Agency has continued to meet budget estimates for CRs of motorcoach, hazardous materials, and household goods carriers. This is evidenced by the 50 percent increase in CRs conducted on high-risk carriers during this quarter over the 1,136 CRs conducted during the 6-month period cited in the Government Accountability Office's (GAO) report entitled "Motor Carrier Safety: Federal

Safety Agency Identifies Many High-Risk Carriers But Does Not Assess Maximum Fines as Often as Required by Law” (GAO-07-584, August 2007). In addition, FMCSA has reduced the backlog of 1,114 carriers cited in the GAO report to 751 carriers at the end of March 2008. The backlog consists entirely of high-risk carriers identified for the second consecutive month during FY 2008.

The FMCSA, through improved technology and increased management emphasis, expects to continue reducing the backlog during the remainder of FY 2008.

An identical letter has been sent to the Ranking Member of the Senate Committee on Appropriations; and the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

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John H. Hill

**THE MOTORCOACH ACCESSIBILITY AND COMPLIANCE
WITH THE AMERICANS WITH DISABILITIES ACT
REPORT TO CONGRESS**

A Report Pursuant to Senate Report 110-131 and House Report 110-238
Accompanying the Transportation, Housing and Urban Development,
and Related Agencies Appropriations Act, 2008
(P.L. 110-161, Division K)
December 2008

INTRODUCTION

Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K), requested that the Secretary of the U.S. Department of Transportation (DOT) provide a report explaining how DOT has implemented the decision of the U.S. Court of Appeals for the D.C. Circuit regarding the Federal Motor Carrier Safety Administration's (FMCSA or the Agency) authority to deny operating authority to interstate bus companies that are unwilling or unable to comply with DOT regulations implementing the Americans with Disabilities Act (ADA). House Report 110-238 requested that the Secretary provide a report detailing specific actions DOT will take to improve accessibility for the disabled. This report responds to the requests in both the Senate and House reports.

The Court of Appeals directed the Agency to reexamine its statutory authority to consider ADA compliance as an element of a passenger carrier's fitness to conduct interstate transportation. The Agency implemented this directive by issuing a decision on October 26, 2007, concluding that it did not have the authority to deny operating authority to interstate bus companies that are unwilling or unable to comply with the bus accessibility provisions of the ADA. This decision is attached to this report.

The FMCSA strongly supports the bus accessibility provisions of the ADA and has done much to improve bus accessibility for the disabled. The FMCSA has collected and analyzed passenger carrier ADA compliance data, partnered with the U.S. Department of Justice (DOJ) to provide ADA compliance and forward ADA complaints, and plans to include ADA compliance verification as part of the new entrant safety assurance process.

After briefly describing the Court of Appeals decision, the Agency response, and other actions, FMCSA describes activities and actions that the Agency has taken or plans to put in place to improve interstate over-the-road bus (OTRB) accessibility for the disabled. (An OTRB is a bus characterized by an elevated passenger deck over a baggage compartment.)

THE COURT OF APPEALS DECISION AND SUBSEQUENT ACTION

The December 16, 2006, decision of the U.S. Court of Appeals for the D.C. Circuit did not find that the Agency had statutory authority to deny operating authority to interstate bus companies based on ADA noncompliance. Rather, it concluded that the Agency erred in initially finding the governing statute to be unambiguous and required the Agency to reexamine the statute based on its experience and expertise. The Court further held that the Agency's decision following reexamination of its statutory authority will be entitled to deference by the Court, as long as the Agency's reading of the statute is reasonable.

Based upon extensive research and legal analysis, FMCSA concluded in a decision issued on October 26, 2007, that it did not have statutory authority to deny operating authority to interstate bus companies that are unwilling or unable to comply with the bus accessibility provisions of ADA. Based on this decision, no additional action by the Agency was necessary or appropriate at that time. A copy of the Agency's decision is attached to this report.

On July 30, 2008, the President signed into law the Over-the-Road Bus Transportation Accessibility Act of 2007 (P.L. 110-291), which provides FMCSA with the authority to deny or revoke interstate operating authority to OTRB operators that are not in compliance with bus accessibility provisions of ADA. It also authorizes the Agency to suspend, amend, or revoke a motor carrier's registration in the event of a willful failure to comply with DOT's ADA regulations.

FMCSA ACTIONS TO IMPROVE BUS ACCESSIBILITY FOR THE DISABLED

The Appropriations Committee also requested FMCSA to detail the specific actions the Agency will take to improve accessibility for the disabled. The FMCSA has undertaken a variety of significant actions to improve bus accessibility for the disabled. Those activities are described below.

Receive and Compile ADA Compliance Data

Prior to the recent statutory changes, FMCSA's primary role with the ADA regulations was receiving and processing compliance data that are required to be reported by OTRB companies. The FMCSA compiles and provides such data to DOJ. For every year starting in 2004, FMCSA has done a mailing to OTRB companies informing them of their ADA compliance responsibilities and the annual reporting requirements. As a result of the mailings, FMCSA handles numerous telephone and e-mail inquiries from OTRB companies about how to comply with the ADA regulations. The data that OTRB companies are required to report can be grouped into the following three broad categories: (1) an annual summary of the accessible bus service requests that were received; (2) an overall bus fleet data report including buses purchased and leased during the past year; and (3) an annual summary of the number of passengers with disabilities who used a lift to board an accessible bus. Demand responsive bus companies (i.e., charter and tour bus operators) are required to submit the first two reports. Fixed route bus companies are required to submit all three reports. The reports must be submitted to FMCSA annually by the last Monday of October. In 2006, FMCSA placed ADA regulatory compliance information on its Web site.

ADA Component of the New Entrant Safety Audit Process

The FMCSA announced in the New Entrant Final Rule, currently under review by the Office of Management and Budget (OMB), that the Agency intends to include an ADA compliance verification and education component as part of a new entrant safety audit of OTRB companies. The Agency's safety audit program for new entrants does not currently address compliance with the ADA regulations. The FMCSA has proposed to modify its safety audit process to educate OTRB companies about the ADA regulations and determine whether such companies have violated such regulations. If ADA noncompliance is discovered in the course of a new entrant safety audit, FMCSA will forward the information to DOJ. Appropriate action by DOJ or DOT will be taken pursuant to the Memorandum of Understanding (MOU) to be established between DOJ and DOT as directed by P.L. 110-291.

Support of Regulatory Review

The DOT is required by Title 49 Code of Federal Regulations Section 37.215 to review its ADA requirements for OTRB companies. As part of this review, DOT is required to consider certain factors including the percentage of accessible buses in the fleets of OTRB companies, the success of such companies at meeting the requests of passengers with disabilities for accessible buses in a timely manner, ridership of buses by passengers with disabilities, volume of complaints by passengers with disabilities, and the cost and service impacts of these requirements. After the review, DOT is required to decide whether it is appropriate to revise its ADA regulations (i.e., whether certain provisions of the regulations should be removed, modified, or made more stringent). For the Section 37.215 review, FMCSA is providing data and analytical support to the DOT's Office of the Secretary. Additional data collection from OTRB companies is necessary in order for DOT to conduct an effective review and make an informed regulatory policy decision. The FMCSA is in the process of obtaining OMB's approval to conduct this necessary data collection.

Procedural Guidance on Gathering OTRB Company ADA Compliance Information During an FMCSA Compliance Review

The DOT strongly believes in providing increased passenger vehicle mobility services for the Nation's disabled citizens. This commitment is reflected in the Department's 2006-2011 Strategic Plan. The section entitled "Increased Access for All Americans" identifies achieving ADA bus accessibility compliance by 2011 as one of DOT's primary goals.

The FMCSA intends to do its part to support the Department's efforts to reach this goal by ensuring better industry understanding and compliance with the ADA regulations for OTRB companies. The DOJ is the Federal agency with enforcement authority regarding such regulations. The FMCSA can do much to improve DOJ's enforcement efforts by gathering ADA compliance information during onsite compliance reviews of OTRB companies and pursuing the development of the MOU with DOJ. The compliance information will be provided to DOJ to identify OTRB companies that have committed violations. When appropriate, FMCSA will exercise its authority to revoke operating authority based on ADA noncompliance.

Partner with DOJ

The ADA did not provide DOT with enforcement authority for the ADA regulations for OTRB companies. Enforcement of such regulations must be initiated by DOJ. The FMCSA has established a cooperative working relationship with DOJ. The Agency provides DOJ with the reported ADA-related data, forwards any received ADA complaints to DOJ for possible investigation, and responds to DOJ's requests for information about specific OTRB companies under investigation. The MOU with DOJ, mandated by P.L. 110-291, will enhance this partnership.

SUMMARY

The FMCSA implemented the Court of Appeals decision by reexamining its statutory authority and concluding, following an extensive legal analysis, that it lacked the necessary statutory authority to deny operating authority to interstate bus companies that do not comply with ADA requirements. Accordingly, FMCSA did not develop procedures to deny applications for operating authority filed by such carriers based on ADA noncompliance. However, following enactment of P.L. 110-291, the Agency will incorporate allegations of ADA noncompliance as a factor to consider in determining whether to withhold new operating authority. Also, as indicated above, action to be taken as a result of evidence of ADA noncompliance received by FMCSA in the course of conducting new entrant safety audits of OTRB companies will be addressed in the MOU with DOJ.

The Agency has done much to improve bus accessibility for the disabled through data collection and analysis, partnering with DOJ, and including ADA compliance verification as part of the new entrant safety assurance and compliance review processes.



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator
DEC 10 2008

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Senate Report 110-131 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K), requested the Federal Motor Carrier Safety Administration (FMCSA) to provide a report to the House and Senate Committees on Appropriations describing a plan for the establishment and implementation of quantifiable measures of agency effectiveness that incorporate the Agency's enforcement and inspection data. This letter report fulfills that request.

The FMCSA is responsible for reducing the number of fatalities and injuries from crashes involving large trucks and buses. One of the major safety strategies the Agency employs to achieve its mission is to enforce the Federal Motor Carrier Safety Regulations (FMCSRs) and the Hazardous Materials Regulations (HMRs). In Fiscal Year (FY) 2007, FMCSA and its State partners conducted over 3.3 million roadside inspections of drivers and commercial motor vehicles (CMVs) and over 16,000 onsite compliance reviews (CRs) of large truck and bus companies. Table 1 illustrates the increase in CRs conducted each year, the corresponding number of violations, and the rate of violations per CR.

The number of overall violations per CR has increased over the years, but the number of acute, critical, and serious violations per CR has decreased. This demonstrates that more thorough CRs have been conducted with more violations found, and the industry is improving compliance with the rules that FMCSA determined have the greatest impact on safety. Acute violations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the motor carrier's overall safety posture. For example, an acute violation occurs when a motor carrier allows, requires, permits, or authorizes an employee with more than one commercial driver's license to operate a CMV, in violation of Title 49 Code of Federal Regulations (CFR) Sections 383.21 and 383.37(b). Critical violations relate breakdowns in a carrier's management controls. For example, a critical violation occurs when a motor carrier requires or permits a property-carrying CMV driver to drive more than 11 hours in a 24-hour period, in violation of 49 CFR Section 395.3(a)(1). Serious violations are those that violate HMRs.

Table 1: Federal and State Compliance Reviews and Violations from 1997 to 2007

Fiscal Year	Number of CRs	Number of Violations	Rate of Violations	Number of Acute Violations	Rate of Acute Violations	Number of Critical Violations	Rate of Critical Violations	Number of Serious Violations	Rate of Serious Violations
1997	6,674	47,963	7.19	1,697	0.25	8,151	1.22	720	0.11
1998	6,398	49,081	7.67	1,714	0.27	8,556	1.34	581	0.09
1999	8,714	68,422	7.85	1,891	0.22	11,767	1.35	628	0.07
2000	13,261	104,021	7.84	2,395	0.18	16,885	1.27	800	0.06
2001	13,451	100,373	7.46	2,571	0.19	14,387	1.07	807	0.06
2002	10,471	80,362	7.67	2,029	0.19	10,577	1.01	643	0.06
2003	12,758	99,119	7.77	2,575	0.20	12,444	0.98	690	0.05
2004	11,355	87,920	7.74	2,200	0.19	10,807	0.95	566	0.05
2005	12,580	95,456	7.59	2,614	0.21	11,053	0.88	795	0.06
2006	15,193	113,883	7.50	3,125	0.21	12,080	0.80	796	0.05
2007	16,109	123,011	7.64	3,321	0.21	13,381	0.83	764	0.05

Source: Motor Carrier Management Information System, May 2008

Roadside inspections of drivers and CMVs are the most frequent interaction FMCSA has with motor carriers. From these inspections in 2007, 6.9 percent of drivers and 23.2 percent of CMVs were placed out of service (OOS), meaning that the driver or vehicle could not continue operating until particular violations were remedied. Compliance of carriers with regulatory requirements has improved over the years through increased enforcement activities and improved targeting of high-risk drivers, CMVs, and motor carriers.

From 1997 to 2007, driver OOS rates dropped by 10 percent, and vehicle OOS rates declined by 11 percent. At the same time, FMCSA and its State partners conducted over a million more inspections in 2007 as in 1997.

Table 2 illustrates the increase in inspections conducted each year, the corresponding number of violations, and the rate of violations per inspection. (The roadside inspections described above are a subset of the total inspections documented in Table 2). As shown in Table 2, the number of violations per inspection and the OOS violations per inspection has decreased since 1997 resulting in an average rate of OOS violations per inspection of 35 percent. This indicates that the industry's level of compliance has been improving. The FMCSA does not set performance goals based only on OOS rates. These rates, which are derived from enforcement data, would not constitute an accurate depiction of the CMV safety environment, nor would they reflect the full impact of the FMCSA's activities on all motor carriers. Violation rates from inspections and CRs are similarly not necessarily reflective of overall industry safety performance because these enforcement activities are purposely initiated. Roadside inspections are initiated by defects detected visually by inspectors or by using previous safety data on the motor carrier. Likewise, FMCSA and its State partners focus their CRs on motor carriers with poor safety histories identified in the Agency's safety database (SafeStat) and recent fatal crashes or validated complaints from the public.

Table 2: Federal and State Roadside Inspections and Violations from 1997 to 2007

Fiscal Year	Number of Inspections	Number of Violations	Average Rate of Violations Per Inspection	Number of OOS Violations	Average Rate of OOS Violations Per Inspection
1997	2,205,815	5,255,332	2.38	936,076	0.42
1998	2,216,765	5,101,132	2.30	952,002	0.43
1999	2,310,564	5,157,130	2.23	950,759	0.41
2000	2,442,346	5,486,553	2.25	969,366	0.40
2001	2,665,473	6,101,456	2.29	1,035,787	0.39
2002	2,941,666	6,434,188	2.19	1,051,782	0.36
2003	3,037,807	6,980,633	2.30	1,090,992	0.36
2004	3,008,872	7,165,540	2.38	1,157,313	0.38
2005	3,017,366	7,109,703	2.36	1,109,687	0.37
2006	3,280,431	7,599,380	2.32	1,196,669	0.36
2007	3,375,215	7,432,478	2.20	1,184,251	0.35

Source: Motor Carrier Management Information System, May 2008

Development of New Performance Measures for the Comprehensive Safety Analysis

In 2005, FMCSA began a major new initiative called the Comprehensive Safety Analysis 2010 (CSA 2010). The CSA 2010 will lead the Agency to a more cost effective approach to carrying out its compliance and enforcement programs. Conducting a CR is very labor intensive. During a CR, a safety investigator examines a motor carrier's safety management practices and compliance with the FMCSRs at the carrier's place of business. Although very effective, CRs require approximately one-half of the Agency's human resources, while touching only about 2 percent of all motor carriers. The goal of CSA 2010 is to touch more regulated entities through a broader array of enforcement interventions, while optimizing FMCSA resources. With the growing body of research and crash data suggesting that driver behavior is the predominant and critical contributing factor in fatal crashes, CSA 2010 is also looking at ways to change unsafe driver behavior through new interventions. The CSA 2010 is not a stand-alone initiative, but a "comprehensive safety analysis" involving the entire Agency in a collaborative effort. When fully implemented, CSA 2010 will provide FMCSA with a new operational model that will greatly enhance the Agency's efficiency to reach and thoroughly evaluate a significantly larger portion of the regulated population, both carriers and drivers.

The FMCSA is targeting 2010 for full deployment of this new operational model. In FY 2008, the Agency began an operational model test and evaluation of the CSA 2010 approach in four States. This operational model will allow us to test the concepts of CSA 2010 and improve it for

full implementation. As part of the analysis and evaluation phase, FMCSA will develop new data resources, systems, and software that can be used to set a baseline and targets for future performance measures to be implemented in 2010, along with CSA 2010. Until better performance data are available from the operational model, FMCSA cannot develop consistent and informative performance measures. The Agency plans to develop a full set of performance measures that will align with CSA 2010 and the newly implemented operational model in FY 2010.

FMCSA Performance Measurement Working Group

Since April 2008, FMCSA has been engaged in a top to bottom review of the current performance measures attributed to all of our strategic goals. The goal of this initiative is to evaluate, validate, and enhance the existing FMCSA performance measures. These performance measures are included in the budget submissions, Performance and Accountability Reports, Program Assessment Rating Tool, FMCSA Strategic Plan, U.S. Department of Transportation Strategic Plan, and individual performance plans and agreements.

The FMCSA must develop performance measures that evaluate the effectiveness of its programs. The results of these performance measures will be used to make future management decisions. The Agency plans to develop a comprehensive performance measurement construct, a matrix of actionable performance measures, and consistent timelines and practices for measurement.

Other Options for Performance Measurement Explored by FMCSA

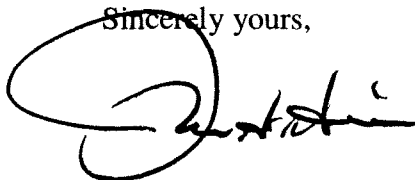
In order to measure improvement of overall industry compliance with safety regulations, FMCSA would have to expand its targeting of compliance among all carriers rather than the current focus on high-risk carriers. There are not recent, statistically valid, national studies that compare the issue of motor carrier compliance with the FMCSRs and HMRs.

Establishing and consistently tracking such an unbiased performance measure would require FMCSA to establish a new costly and labor-intensive regime of data collection. To produce statistically valid results, FMCSA and its State partners would have to randomly select CMVs for roadside inspections on a nationwide basis at the expense of the current approach that targets interventions at carriers with known compliance issues. Any such shift in focus away from the highest-risk carriers would likely detract from program effectiveness.

In summary, the FMCSA's top priority is safety on the Nation's highways. In the FY 2009 budget submitted to Congress, FMCSA committed \$340.5 million or 63 percent of the Agency's budget towards the strategies that increase compliance with the FMCSRs. The FMCSA targets its enforcement activities toward high-risk carriers for whom compliance with Federal regulations is a problem. If the Agency were to establish performance goals for particular types of FMCSR violations, it would need to ensure that a program based on these goals does not detract from our focus on high-risk motor carriers.

An identical letter has been sent to the Ranking Member of the Senate Committee on Appropriations; and the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John H. Hill", written over the "Sincerely yours," text.

John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator
NOV 6 2008

1200 New Jersey Avenue, SE
Washington, DC 20590

The Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

House Conference Report 110-446 accompanying the Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2008 (P.L. 110-161, Division K), requested that the Federal Motor Carrier Safety Administration (FMCSA) provide a report to the House and Senate Committees on Appropriations delineating the number of planned and completed compliance reviews (CR) in Fiscal Year (FY) 2007. This letter report fulfills that request. The report also includes the results of the Agency's review of the fatal crash that occurred on the Capital Beltway on March 19, 2007, and any requisite impact on the CR process, particularly as it relates to investigator training.

Compliance Activities

The FMCSA continues to execute compliance and enforcement programs to improve safety performance. During FY 2007, FMCSA and its Motor Carrier Safety Assistance Program partners exceeded the established goals for CRs as planned in FMCSA's Performance Budget Estimates. The following table compares the number of planned and completed CRs for FY 2007.

Fiscal Year 2007

ACTIVITY	PERFORMANCE GOAL	ACTUAL	PERCENTAGE OF GOAL
Federal Compliance Reviews	10,000	10,244	102%
State Compliance Reviews	3,700	5,858	158%
Total Compliance Reviews	13,700	16,102	118%

Source: Motor Carrier Safety Progress Report, March 31, 2008

Fatal Crash Involving B K Trucking, Inc.

The FMCSA's review of the fatal accident involving B K Trucking, Inc., of Newfield, New Jersey, revealed the following facts:

- On March 19, 2007, Roger C. Scofield, Jr., crashed his tractor-trailer into the back of a car on the Capital Beltway in Prince George's County, Maryland, at 11:00 pm. The crash resulted in one fatality and two injuries. Mr. Scofield faces charges of reckless driving and driving with a suspended license, as well as a possible vehicular homicide charge.
- Mr. Scofield has a documented history of traffic citations, default, or failure to appear in Maryland, Virginia, Delaware, New Jersey, New York, Connecticut, and Rhode Island, with convictions in at least two of these States. The citations include speeding, careless driving, inattentive driving, driving with defective brakes, and driving with a suspended license.
- The FMCSA completed a CR on April 9, 2007, resulting in an unsatisfactory safety rating. It was discovered that Mr. Scofield was under lease to B K Trucking, Inc., and he was operating under its authority.
- An out-of-service (OOS) order based on an unsatisfactory rating issued by FMCSA became effective June 10, 2007. To determine whether the rating should be changed, a subsequent CR was completed on June 25, 2007, and resulted in another unsatisfactory safety rating, thus sustaining the OOS order.
- The carrier's OOS order was lifted on July 27, 2007, after it demonstrated to FMCSA that it had taken action to correct all violations.
- A Notice of Claim, the official charging document of an enforcement case, was issued to B K Trucking, Inc., on May 15, 2007, in the amount of \$49,670 for violations related to improper lease agreements, failing to conduct the minimum rate for random drug and alcohol testing, use of a driver with a suspended Commercial Driver's License (CDL), failing to conduct driver background checks, false records of duty status (RODS), missing RODS, and failing to complete driver vehicle inspection reports.
- Another Notice of Claim was issued as a result of the June 25, 2007, CR in the amount of \$14,470 for violations of pre-employment drug testing, false medical records, and missing RODS. The notice was paid in full as of January 14, 2008. In addition, an enforcement case was initiated against another driver for falsifying his medical examiner's certificate. The driver agreed to a settlement executed on October 15, 2007, and made his final payment on May 16, 2008.
- The FMCSA initiated an enforcement case, which is currently awaiting a decision within the Agency, against B K Trucking, Inc., for false RODS on six of its drivers. The FMCSA also initiated an enforcement case against Mr. Scofield for false RODS and driving on a suspended license. Mr. Scofield was issued a Notice of Default and Final Agency Order on July 16, 2007. When he failed to pay, he was issued an Order to Cease operations in interstate commerce effective October 22, 2007.

Because of this crash investigation and the subsequent CRs, FMCSA implemented program improvements in two areas. First, FMCSA reexamined its procedures for conducting CRs on motor carriers that utilize leased equipment or drivers in the operation of their business. The Agency is currently completing a formal policy on this issue. In addition, FMCSA added a lease agreement module to its annual in-service training program.

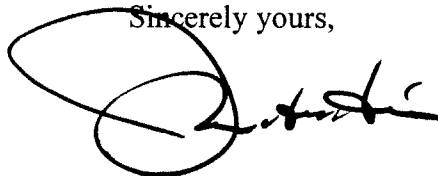
In addition, FMCSA has historically used sampling standards for the review of driver qualification files for CDL compliance. In the case of B K Trucking, Inc., the sampling criteria required a CDL Information System (CDLIS) check of only five drivers, which may not have included a driver with a CDL violation.

To improve its safety oversight, FMCSA immediately implemented a policy change to ensure 100 percent checks of CDLIS records for all companies with 20 or fewer drivers, which represents over 90 percent of the carrier population. Data reveals that, as a result of this change, FMCSA has significantly increased its enforcement of Title 49 Code of Federal Regulations Part 383 – Commercial Driver's License Standards; Requirements and Penalties. A 10-month data query taken before and after implementation of the policy revealed a 26 percent increase in the number of enforcement cases issued against motor carriers and drivers with CDL violations.

The FMCSA is incorporating both program improvements into its electronic Field Operations Training Manual and Academy training.

An identical letter has been sent to the Ranking Member of the Senate Committee on Appropriations; and the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "J. Hill", with a large, loopy initial "J" that loops around the first part of the name.

John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

1200 New Jersey Avenue, SE
Washington, DC 20590

JUN 17 2008

The Honorable Robert C. Byrd
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

House Report 109-495 to the Departments of Transportation (DOT), Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies Appropriations Bill, 2007, requested the Administrator of the Federal Motor Carrier Safety Administration (FMCSA) to report to the House and Senate Committees on Appropriations "... how it will revise the compliance review process to improve detection of motor carriers with poor safety practices and cease their operations." This letter is submitted in response to that request.

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

Compliance Reviews

A CR is an onsite examination of a motor carrier's operations by a certified Federal or State safety investigator to determine the motor carrier's safety fitness. The CR focuses on the motor carrier's safety management controls, operational performance, and regulatory compliance. The CRs help determine whether the company's operations are in regulatory compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and the applicable Hazardous Materials Regulations. Based on the results of a CR, the motor carrier is assigned a safety rating of Satisfactory, Conditional, or Unsatisfactory. If a CR reveals safety violations, FMCSA can initiate an enforcement action, which may lead to civil penalties against the motor carrier.

The FMCSA's compliance and safety programs improve and promote safety performance. However, despite increases in the regulated population, as well as increased programmatic responsibilities, the Agency's resources available for these efforts have remained relatively

constant over time. In its present structure, the FMCSA's CR program is resource-intensive and reaches only a small percentage of motor carriers. Onsite CRs take a safety investigator an average of 3 to 4 days to complete. Hence, FMCSA performs CRs on a small percentage of the approximately 700,000 active interstate motor carriers.

However, FMCSA research has shown the CR to be an effective tool in saving lives. The FMCSA developed the CR Effectiveness Model to determine the safety impact of performing CRs. The model compares a motor carrier's crash rate in the 12 months following an onsite CR to its crash rate in the 12 months prior to that review. The model uses crash data reported by the States and power unit data reported by carriers or obtained during CRs to calculate the pre- and post-CR crash rates. The model estimated that the average crash rate for motor carriers receiving CRs decreased by 21.1 percent for carriers receiving CRs conducted in 2004. As a result of this crash rate reduction, the model estimated that 2,720 crashes were avoided, 1,889 injuries were prevented, and 107 lives were saved in the 12 months immediately following the 2004 CRs.

Out-of-Service Orders

a. Safety Fitness Ratings

At the conclusion of an onsite CR, the motor carrier is assigned a safety fitness rating of Satisfactory or Conditional or a proposed rating of Unsatisfactory. If the onsite CR results in a proposed Unsatisfactory safety rating, the motor carrier is informed that it is "unfit" to continue operating in interstate commerce. This prohibition takes effect, by statute, within 45 days for carriers transporting passengers or placardable quantities of hazardous materials, or 60 days for all other carrier operations, unless the motor carrier takes the necessary steps to improve the rating to Conditional or Satisfactory.

If the motor carrier has taken action to improve its compliance, it may request a change to its safety rating based on corrective action taken [Title 49 Code of Federal Regulations (CFR) 385.17]. Such a request may be made in writing to FMCSA. The request must be based upon evidence that the carrier has taken corrective actions and that its operations meet the safety fitness standards and factors specified in 49 CFR 385.5 and 49 CFR 385.7. The FMCSA will make a final determination based upon the submitted documentation and any other additional relevant information. Upon review of this information, FMCSA will issue a written decision. Any motor carrier whose request for change is denied will be issued an Order to Cease Interstate Operations on the 46th day (for carriers transporting passengers or placardable quantities of hazardous materials) or the 61st day (for all other carrier operations).

b. Nonpayment

If, at the conclusion of a CR, an enforcement case is initiated against a motor carrier, the motor carrier must pay the civil penalty levied against it in full no later than 90 days after the date specified for payment by FMCSA's final agency order. Nonpayment of the civil penalty within 90 days will result in FMCSA's issuing an Out-of-Service (OOS) Order requiring the motor carrier to cease its interstate operations until FMCSA receives full payment of the penalty.

The FMCSA may allow the motor carrier to pay the civil penalty in installments. However, if the motor carrier fails to make an installment payment on schedule, the payment plan is null and void and the entire debt is payable immediately. A motor carrier who fails to pay the full outstanding balance of its civil penalty within 90 days of the missed installment payment will be issued an OOS Order by FMCSA. The motor carrier will be required to stop all of its interstate operations until FMCSA has received full payment of the entire outstanding penalty.

c. Imminent Hazard

The FMCSA may also issue an “Imminent Hazard” OOS Order. Under the FMCSRs, an Imminent Hazard is a violation of certain statutes and their implementing regulations which is so serious that a vehicle, employee, or CMV operations committing that violation substantially increases the likelihood of serious injury or death if not discontinued immediately. In FMCSA making such an order, no restrictions shall be imposed on any employee or employer beyond that which is required to abate the hazard.

Performance and Registration Information Systems Management

The Performance and Registration Information Systems Management (PRISM) is a 100 percent federally funded voluntary public safety program that links a State’s motor carrier registration process [via USDOT number or its vehicle identification number (VIN)] with FMCSA’s databases to determine a carrier’s safety fitness prior to issuing vehicle registrations. This enables a State to deny, suspend, and revoke CMV registrations of OOS carriers, improve a carrier’s safety performance, and enhance data quality. In addition, PRISM identifies potentially unsafe carriers for safety monitoring and treatment. The PRISM’s registration sanctions are a powerful tool in deterring and addressing carriers who otherwise ignore orders to cease interstate operations. The PRISM vehicle link to the VIN helps identify those motor carriers who change their names to avoid detection and continue operating in interstate commerce after being served with an OOS Order issued by FMCSA. As of June 2007, the District of Columbia and 45 States were participating at one of the five PRISM implementation levels. Only Maryland, Michigan, Nevada, North Dakota, and Wisconsin are not participants.

Comprehensive Safety Analysis

The Comprehensive Safety Analysis program (CSA) is a comprehensive review and analysis of FMCSA’s current CMV safety compliance and enforcement programs. The goal of CSA is to develop and deploy a new operational model—a new approach to using FMCSA resources to identify drivers and operators who pose safety problems and to intervene to address those problems. The goal is to develop and implement more effective and efficient ways for FMCSA, its State partners, and industry to reduce CMV crashes, fatalities, and injuries. The FMCSA has actively sought, and continues to seek, feedback from its partners, the public, and stakeholders—industry executives, truck and bus drivers, insurance and safety advocacy groups, State and local government officials, and enforcement professionals—and to incorporate that feedback into the new operational model. The CSA will help FMCSA and its State partners contact more carriers and drivers, use improved data to better identify high-risk carriers and drivers, and apply a wider range of interventions to correct high-risk behavior.

Safety data will be collected, analyzed, and scored on all regulated entities. This data will then be categorized automatically into those behavioral areas (called Behavioral Analysis and Safety Improvement Categories or BASICS) that represent behaviors that lead to or increase the likelihood of crashes. Currently, the following seven BASICS are being considered: unsafe driving, fatigued driving, driver fitness, controlled substances and alcohol, vehicle maintenance, improper loading and cargo securement, and crash and incident experience. The goal of the BASICS is to provide an objective, performance-based measure for each motor carrier and driver. The measurement would be updated monthly and made publicly available.

The goal of CSA is to identify poor performance early and to intervene before small violations become larger safety problems. An “intervention,” as used in this context, refers to any action FMCSA would take to correct unsafe behavior and to achieve compliance. Aside from roadside inspections, the primary compliance intervention used currently is the CR. Under CSA, FMCSA would have a broader array of interventions, including warning letters, targeted roadside inspections, off-site investigations, onsite investigations (focused and comprehensive), cooperative safety plans, notices of violations, notices of claims, and consent agreements.

Currently, FMCSA assigns safety fitness ratings (Satisfactory, Conditional, or Unsatisfactory) only to those motor carriers whose operations have been subjected to CRs conducted either by FMCSA safety investigators or its State partners. Under CSA, the safety fitness determination would be based on performance data without the need to first conduct a CR. As a result, FMCSA would be able to issue a significantly larger number of safety fitness determinations in a more timely manner.

The FMCSA began an operational model test, which is being carried out in Colorado, Georgia, Missouri, and New Jersey by approximately 26 Federal and State investigators who have been trained in CSA processes. The first phase, a startup period that began in January 2008, will be followed by a second phase commencing in September 2008, at which time the test will become fully operational in the four States. The test is scheduled to run for 30 months into mid-2010, at which time FMCSA is planning to begin full implementation.

Information Technology Modernization and Business Optimization Program

The FMCSA’s information technology (IT) modernization and business optimization program entitled COMPASS (Creating Opportunities, Methods, and Processes to Secure Safety) is an agency-wide initiative to optimize business processes and leverage new technologies to improve the efficiency and effectiveness of safety activities. The ultimate goal of COMPASS is to implement an IT solution that improves the FMCSA’s ability to save lives.

The COMPASS initiative will improve the detection and monitoring of motor carriers with poor safety practices by consolidating and modernizing the compliance monitoring system process in conjunction with CSA business improvements. The new IT solution will directly support implementation of the CSA safety fitness methodology through improved data quality, integration of key monitoring processes, and the addition of several external data sources.

Faster, easier access to improved data and analysis reporting will help enforcement staff identify high-risk carriers more effectively and allow them to apply a wider range of interventions to correct high-risk behavior early.

The Portal Access Release, the first major release of COMPASS, is already in operation and delivers new functionality for assigning CRs. This provides a standardized online CR assignment process that is more efficient and effective, while also providing a framework to accommodate the new CSA operational model. In addition, COMPASS will improve the detection and monitoring of poor safety practices by improving users' decisionmaking capabilities through better information that is relevant and comprehensive. Over time, improvements will be phased into COMPASS to address business processes, including CRs, safety audits, driver and vehicle inspections, enforcement actions, crash data collection, and analysis.

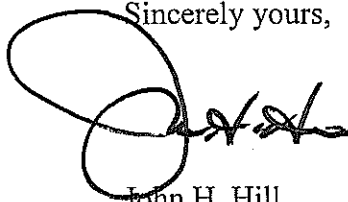
Summary

The Motor Carrier Safety Improvement Act of 1999 (P.L. 106-159) created FMCSA to ensure the safe operation of CMVs on America's highways. The FMCSA takes this responsibility seriously. All of the FMCSA's programs share the goal of reducing fatalities, injuries, and CMV crashes.

In pursuit of this goal, FMCSA develops programs that facilitate the identification of unsafe motor carriers and drivers. These programs interact with those carriers and drivers to ensure that they comply with Federal laws and FMCSA regulations or that they cease operating.

An identical letter has been sent to the Ranking Member of the Senate Committee on Appropriations; and the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John H. Hill", is written over a large, stylized circular flourish.

John H. Hill



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

MAR 28 2006

400 Seventh St., S.W.
Washington, D.C. 20590

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

Pursuant to the Conference Report (H. Rpt. 108-792) accompanying the Departments of Transportation, Treasury, Independent Agencies, and General Government Appropriations Act, 2005, Division H of the Consolidated Appropriations Act, 2005 (P.L. 108-447), the Federal Motor Carrier Safety Administration (FMCSA) submitted a report on October 13, 2005, to the House and Senate Committees on Appropriations. The report detailed the number of compliance reviews and new entrant safety audits conducted in Fiscal Years (FY) 2001 to 2004, the decline in compliance reviews, the issues impacting future compliance reviews, and the goals to overcome current problems.

The Senate Report (S. Rpt. 109-109) accompanying the Transportation, Treasury, Housing Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006 (P.L. 109-115), requested FMCSA submit a report to the House and Senate Committees on Appropriations on the number of completed compliance reviews and new entrant safety audits as a follow-up to the 2005 report. This letter fulfills that request.

The FMCSA's goal is to reduce fatalities, injuries, and commercial motor vehicle (CMV) crashes by 41 percent from 1996 to 2008. The overall departmental goal is to reduce CMV fatalities to 1.65 per 100 million miles of truck travel. The FMCSA reduces the number and severity of large truck-involved crashes through CMV roadside and onsite inspections, motor carrier compliance reviews, and enforcement measures against violators. Compliance reviews and new entrant safety audits are among the Agency's most powerful tools in accomplishing this goal.

Compliance Reviews

A compliance review is an onsite examination of a motor carrier's operations by a United States Federal or State safety investigator to determine a motor carrier's safety fitness. The compliance review focuses on the motor carrier's safety management controls, operational performance, and

regulatory compliance. Compliance reviews determine whether the company's operations are in regulatory compliance with the Federal Motor Carrier Safety Regulations (FMCSRs) and applicable Hazardous Materials Regulations (HMRs). Based on the results of a compliance review, the motor carrier is assigned a safety rating of satisfactory, conditional, or unsatisfactory. If a compliance review reveals safety or hazardous materials violations, FMCSA can initiate enforcement action, which may lead to fines against the motor carrier.

The FMCSA operates and maintains the Motor Carrier Management Information System (MCMIS), which contains information on the safety fitness of commercial motor carriers and hazardous material shippers. According to MCMIS, there were 10,086 Federally-conducted compliance reviews completed in FY 2001, 7,577 in FY 2002, 9,068 in FY 2003, 7,637 in FY 2004, and 7,998 in FY 2005. State investigators conducted 3,402 compliance reviews in FY 2001, 2,963 in FY 2002, 3,744 in FY 2003, 3,745 in FY 2004, and 4,593 in FY 2005.

New Entrant Safety Audits

Section 210 of MCSIA required FMCSA to implement a program to ensure all motor carriers granted operating authority undergo a safety audit within 18 months of receiving such authority. Carriers of passengers are required to undergo a safety audit within the first 9 months of operations. These minimum requirements include having the carrier certify that it has systems in place to ensure compliance with the applicable FMCSRs and HMRs. The Agency established the New Entrant Safety Assurance Program similar to the Motor Carrier Safety Assistance Program (MCSAP). The New Entrant Safety Assurance Program provides funding for the States to conduct safety audits, while FMCSA manages and provides oversight for the program.

During the 18-month safety-monitoring period, the carrier will have its roadside crash and inspection information closely evaluated. The carrier will be required to demonstrate it has the necessary systems in place to ensure basic safety management controls. Failure to demonstrate basic safety management controls may result in the carrier having its new entrant registration revoked. The goal of the audit is to assess the carrier's safety performance and management controls and to provide educational assistance to new entrants. The audit does not result in a safety rating.

Approximately 58,000 companies entered the New Entrant Safety Assurance Program in FY 2005. According to MCMIS, Federal investigators conducted 4,119 new entrant safety audits in FY 2003, 10,013 in FY 2004, and 10,065 in FY 2005. State investigators conducted 2,998 new entrant safety audits in FY 2003, and 15,031 in FY 2004. The States performed approximately 22,091 audits in FY 2005, 47 percent more than FY 2004. Third-party contractors conducted 1,398 new entrant safety audits in FY 2005.

Issues Impacting Compliance Reviews

Currently, 48 States participate in the New Entrant Safety Assurance Program. State participation continues to increase, but the States have not dedicated the personnel to conduct all of the required new entrant safety audits. Third-party contractors and Federal personnel conduct

all the safety audits in the two non-participating States, as well as the audits the participating States are unable to conduct. Over the past year, a few States have assigned their staff full time to the program, yet most States still assign personnel to the new entrant program on a part-time basis. States primarily dedicate their personnel to conducting CMV inspections and enforcement-related operations.

In October 2005, FMCSA hired a contractor to increase the efficiency and production in the New Entrant Safety Assurance Program. The contract established with this company has two main tasks. The contract required the third-party contractor to establish a national call center to make initial contact with every new entrant motor carrier registering with the Agency. The purpose of this initial contact is to verify application information, applicability of the FMCSRs and HMRs, and to ensure that the carrier is prepared for the safety audit. The contract also requires the contractor to conduct 9,280 safety audits on new entrant motor carriers nationwide in FY 2006.

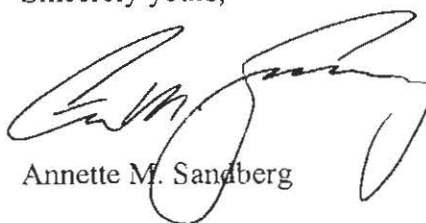
The FMCSA will continue to work closely with States receiving MCSAP grants, and will promote their continued participation in the compliance review program and New Entrant Safety Assurance Program. Grants provide MCSAP States with the financial assistance to perform compliance reviews, safety audits, and roadside inspections on CMVs and their operators.

Summary

Compliance reviews and the new entrant safety audits are tools FMCSA uses to reach the goal of reducing fatalities, injuries, and commercial vehicle crashes. In FY 2005, FMCSA conducted 7,998 compliance reviews and 10,065 new entrant safety audits. The Agency's goal to increase the number of safety audits conducted in FY 2006 will be accomplished by States and third-party contractors conducting the bulk of new entrant safety audits. This will allow FMCSA to direct its efforts to conducting compliance reviews on high-risk carriers and follow-up reviews on carriers with less than satisfactory safety ratings.

An identical letter has been sent to the Ranking Member of the Senate Appropriations Committee and the Chairman and Ranking Member of the Senate Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies, Committee on Appropriations, as well as the Chairmen and Ranking Members of the House Appropriations Committee and the House Subcommittee on Transportation, Treasury, Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Annette M. Sandberg", written over a horizontal line.

Annette M. Sandberg



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

MAY 11 2006

The Honorable Thad Cochran
Chairman
Committee on Appropriations
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The Senate Report (S. Rpt. 109-109) accompanying the Transportation, Treasury, Housing and Urban Development, The Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006 (P.L. 109-115), requested that the Federal Motor Carrier Safety Administration (FMCSA) submit a report to the House and Senate Committees on Appropriations outlining the explicit legal requirements for farm operators and State enforcement officials; the flexibility, waivers, and exemptions available to States in enforcing Federal requirements; what conditions related to farm operator compliance compel the U.S. Department of Transportation to withhold Motor Carrier Safety Assistance Program (MCSAP) assistance to States; and recommendations on how the Federal requirements may be simplified and made uniform to avoid unnecessary and unintended confusion and regulatory burdens. This letter fulfills that request.

The FMCSA is responsible for enforcing the Federal Motor Carrier Safety Regulations (FMCSRs), Title 49 Code of Federal Regulations (CFR) Parts 350 to 399, on commercial motor vehicles (CMV) having a gross vehicle or combination weight rating of 10,001 lbs. or more, engaged in interstate commerce. In addition, drivers of CMVs having a gross vehicle or combination weight rating of 26,001 lbs. or more, engaged in interstate or intrastate commerce, are subject to the Commercial Driver's License (CDL) regulations (49 CFR Part 383) and the controlled substance and alcohol testing regulations (49 CFR Part 382).

All persons or motor carriers who operate vehicles as described above are subject to these safety regulations. However, farmers and others in agriculture-related industries, in recognition of the relatively local and seasonal nature of their operations, are exempted from many of the FMCSRs. These exceptions are summarized as follows:

- Custom harvesters, beekeepers, and certain farm vehicle drivers are exempted from all regulations pertaining to driver qualification.¹
- Farm vehicle drivers, as defined in 49 CFR 390.5, who operate articulated vehicles may be 18 years of age and are also exempted from other driver qualification and recordkeeping requirements.²
- Drivers are not subject to hours-of-service or record-of-duty-status requirements when transporting agricultural commodities or farm supplies for agricultural purposes within a 100 air-mile radius of the source of the commodities or the distribution point for the supplies during planting and harvesting seasons.³
- States may exempt farm vehicle operators from the CDL requirements, under certain conditions.⁴ For example, a farmer is exempt if he or she operates a farm vehicle, which he or she owns and controls, to transport agricultural products within 150 air-miles of his or her farm, provided the farm vehicle is not used in the operations of a common or contract carrier.
- States may issue a restricted CDL to certain drivers in farm-related service industries. Holders of a restricted CDL: 1) do not have to take the CDL knowledge and skills tests; 2) are limited to driving class B and C vehicles (non tractor-trailers); and 3) may not drive commercial vehicles except during limited, State defined, farming periods.⁵

For intrastate transportation only, States may adopt certain variances that may benefit farm drivers and vehicles (49 CFR 350.341). These limited variances allow States to exempt a CMV from all or part of its laws or regulations applicable to intrastate commerce provided that the vehicle weight is less than 26,001 pounds. However, CMVs that transport hazardous materials requiring placards or are used to transport 16 or more passengers including the driver, regardless of weight, may not be exempted. States may retain broad industry exemptions applicable to intrastate commerce that were in effect prior to April 1988 and are still in effect.

As a condition of State participation in MCSAP, States agree to adopt and enforce 49 CFR Parts 390 to 397 and the Hazardous Materials Regulations, as applicable to interstate and intrastate transportation. If a State participates in MCSAP but does not adopt or enforce these regulations, future MCSAP funding may be jeopardized.

The Committee has asked for recommendations on how the Federal requirements might be simplified and made uniform. While the many exemptions applicable to farm vehicles and drivers are located in various places in the regulations, FMCSA believes the farm industry is aware of these exemptions and applies them to their best advantage. Recodification or rearrangement of the regulations may not achieve improved understanding or compliance with these regulations. FMCSA does not have any recommendations to modify the Federal requirements at this time.

¹ 49 CFR 391.2

² 49 CFR 391.67

³ 49 CFR 395.1(k)

⁴ 49 CFR 383.3(d)

⁵ 49 CFR 383.3(f)

An identical letter has been sent to the Ranking Member of the Senate Committee on Appropriations; and the Chairmen and Ranking Members of the Senate Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies, Committee on Appropriations; the House Committee on Appropriations; and the House Subcommittee on Transportation, Treasury, Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies, Committee on Appropriations.

Sincerely yours,

A handwritten signature in cursive script, reading "Warren E. Hoemann". The signature is written in dark ink and is positioned above the printed name.

Warren E. Hoemann
Acting Administrator