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**BEFORE THE
HOUSE COMMITTEE ON SMALL BUSINESS**

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Mr. Chairman, Ranking Member Velazquez, and members of the Committee on Small Business, thank you for the opportunity to appear before you today to speak to the Federal Motor Carrier Safety Administration's (FMCSA) Compliance, Safety and Accountability (CSA) Program and the impact on small businesses. CSA is FMCSA's compliance model to carry out its important safety mission of reducing large truck and bus crashes, injuries, and fatalities on our nation's highways. It enables the Agency to identify high risk motor carriers for early intervention and achieve improved levels of compliance with Federal commercial motor vehicle safety and hazardous materials regulations. Additionally, through increased operational efficiencies, CSA is enabling FMCSA and its State safety enforcement partners to identify and address compliance and safety deficiencies of a larger segment of the motor carrier industry than we were previously able to using the SafeStat system and compliance review model, with less interruption to motor carriers' business operations. We have examined the effect of CSA on small business and have found there is fair treatment across the industry regardless of carrier size. Our improvements also take away less time from these small businesses and help keep them on the road.

Core Priorities

FMCSA has a number of initiatives and programs underway aimed at achieving our core safety mission. We have set a strategic framework in which to prioritize our responsibilities and clearly focus our efforts and resources on a vision of eliminating crashes involving commercial vehicles.

FMCSA aims to:

1. Raise the safety bar to enter the industry;
2. Require operators to maintain high safety standards to remain in the industry; and
3. Remove high-risk operators from our roads and highways.

This strategic framework applies to companies, drivers, brokers, and service-providers alike.

While recognizing the important safety work that remains to be accomplished, I would like to point to some of the recent improvements in motor carrier safety:

- Even with continued growth in all vehicle miles travelled, and an 8 percent increase in miles traveled by commercial motor vehicles from 2000 to 2010, fewer fatalities from crashes involving large trucks and buses occurred in the past 2 years than in any other 2-year period since fatal crash data collection began in 1975.
- Fatalities from large truck and bus crashes have declined 26 percent since 2006 (5,347) to 2010 (3,944).
- Safety improvements have been realized not only in terms of fatal crashes, but also in injury crashes. In 2010, 106,000 people were injured in crashes involving large trucks and buses, the second-lowest number of persons injured in these crashes since 1988, the first year of injury crash data collection.

- According to Federal Highway Administration data, the number of people injured in large truck and bus crashes declined 16 percent from 2006 to 2010 and declined 36 percent from 2000 to 2010.¹

The reduction in severe and fatal crashes involving commercial motor vehicles comes about through the dedication and hard work of many people represented by the stakeholders in this room. However, with nearly 4,000 fatalities and more than 100,000 injuries in large truck and bus crashes each year at an economic cost surpassing \$58 billion, we can and must do more. FMCSA's employees are passionate about saving lives. With clear priorities and productive stakeholder relationships, I assure this Committee and the public that we are on a path to increase the effectiveness of our safety oversight of the motor carrier industry.

Why CSA?

Since 1986, the Compliance Review (CR) has been the primary intervention and investigative tool used by FMCSA to compel compliance and determine the safety fitness of large trucks and buses. A CR is a comprehensive on-site assessment of a motor carrier's records by one of FMCSA's (or a State's) safety investigators at the carrier's principal place of business.

The comprehensive CR has proven to be very effective in changing unsafe behavior, however it is also very time consuming and labor intensive for both the motor carrier and our safety investigators. A CR can take up to a week or more to complete, depending on the size of the carrier and the complexity of violations found. This was a problem because, before CSA, the

¹ The VMT and registration data can be found in the Federal Highway Administration (FHWA) Highway Statistics report (Highway Statistics 2010, 5.2.1 Vehicle-miles of travel, by functional system, 1980-2008 VM-1). The crash data comes from NHTSA's Fatality Analysis Reporting System, General Estimates System (Fatality Analysis Reporting System General Estimates System 2010 Data Summary).

comprehensive CR was the primary tool at the disposal of our safety investigators to begin the process of assessing a motor carrier's safety fitness and compelling improved compliance on a company-wide level. Moreover, our current regulation for determining the safety fitness of motor carriers is tied to the comprehensive CR. Based on the findings of comprehensive CRs, motor carriers are issued a safety rating of Satisfactory, Conditional, or Unsatisfactory.

However, these ratings cannot change from on-road performance, no matter how far a motor carrier's on-road performance may have slipped or improved. The end result of these limitations is that FMCSA could address the safety deficiencies of only a small fraction of the industry – between two and three percent of the carrier population annually. FMCSA data indicate there are approximately 525,000 active, registered commercial motor carriers and 7 million commercial driver licensees operating in interstate commerce monitored by the Agency's 1,100 employees, approximately 850 of which operate in the field.

How CSA is Improving Safety through Compliance and Accountability

CSA consists of three components: (1) the system, (2) the process and (3) the rule. The system is the Safety Measurement System (SMS), which is a safety measurement system that uses all available inspection and crash data to assist the Agency in prioritizing carriers for review by the Agency. The process refers to the Agency's intervention tools, designed to allow the Agency to reach more carriers with its limited resources. Finally, the Safety Fitness Determination rulemaking would utilize available roadside inspection data in conjunction with investigative data to make Safety Fitness Determinations. The Agency plans to issue a notice of proposed rulemaking on the Safety Fitness Determination early next year.

Throughout the process of developing and rolling out CSA as the Agency's new enforcement and compliance program, FMCSA has responded to the concerns of our stakeholders and actively sought out comments and input from all interested parties. We are committed to a program of continuous improvement and transparency and regularly meet with our stakeholders to discuss their concerns.

The Safety Measurement System

The SMS is designed to analyze compliance and safety violations discovered at the roadside along with data gathered during investigations and reportable crashes to measure a carrier's compliance and safety performance in seven behavioral areas called BASICS – Behavior Analysis Safety Improvement Categories. These are: (1) Unsafe Driving, (2) Fatigued Driving (Hours-of-Service), (3) Driver Fitness, (4) Controlled Substances/Alcohol, (5) Vehicle Maintenance, (6) Cargo-Related, and (7) Crash Indicator. By analyzing the violations grouped into specific and distinct categories related to unsafe or non-compliant behavior, SMS provides a more comprehensive, robust and granular view of the specific performance and compliance issues of individual motor carriers. SMS is the key tool FMCSA uses to allocate intervention resources toward the highest risk motor carriers in alignment with the Agency's goals and direction from Congress. Both FMCSA and independent analysis confirm SMS is effective in meeting the Agency goals.

While the CSA program has been criticized for a perceived lack of data in SMS, our analysis shows that the SMS has sufficient performance data to make an intervention prioritization assessment in at least one BASIC for nearly 200,000 of the approximately 525,000 active interstate or intrastate hazardous materials carriers for which FMCSA has safety oversight

responsibilities. More importantly, the analysis reveals that those same 200,000 motor carriers are involved in approximately 93% of the crashes reported to FMCSA by our State partners.

Additional analysis by FMCSA and the University of Michigan Transportation Research Institute (UMTRI) shows that SMS is an effective tool to identify the highest risk motor carriers. In fact, the UMTRI evaluation of SMS demonstrates that it is a significant improvement over the prior SafeStat system in identifying unsafe carriers. FMCSA effectiveness testing conducted by the UMTRI has shown that SMS identifies 25% more high risk carriers and those carriers have 56% more crashes than the carriers identified on the prior SafeStat A or B lists.

With respect to individual BASICs of the SMS, both FMCSA and UMTRI analyses show particularly strong associations between high scores in the Unsafe Driving and Fatigued Driving (Hours-of-Service) BASICs and future crash rates. FMCSA has been transparent, however, in revealing that analysis does not suggest a statistical association between two of the current seven BASICs – Driver Fitness and Cargo-Related – and future crash rates. FMCSA uses this information to optimize its intervention resources by placing more emphasis on those BASICs that measure compliance with regulations that have stronger statistical associations to future crashes, for example, speeding and driving over allowable hours. At the same time, FMCSA holds motor carriers accountable for BASICs that measure compliance with important safety regulations such as ensuring their drivers are properly licensed and medically qualified.

FMCSA's deployment of the SMS has significantly raised safety awareness throughout the motor carrier industry. In calendar year 2011, the public website that provides a motor carrier's status in the SMS prioritization system hosted nearly 30 million user sessions, up from 4 million user sessions under the prior public SafeStat system in calendar year 2010. Anecdotally, FMCSA continues to hear that this increased awareness and transparency has raised the status of safety

within corporate cultures. An examination of violation rates from roadside inspections in calendar year 2011 indicates this increased awareness is already improving safety compliance and performance. Violations per roadside inspection were down by 8%, and driver violations per inspection were down by 12% in 2011. This is the most dramatic improvement in violation rates in the last 10 years.

While FMCSA recognizes the clear safety benefits from being transparent and making carrier prioritization status in the SMS largely available to the public, FMCSA is also cognizant of the need to provide proper context to the data and be responsive to stakeholder concerns. To that end, FMCSA includes information on the SMS public website that clearly states that it uses SMS to prioritize motor carrier for safety interventions and explains that assessment in the BASICS do not constitute formal safety ratings. The Agency has also provided public outreach materials to promote the use of all available safety data, including not only SMS, but Licensing and Insurance information, and formal safety ratings.

The use of crash data in SMS has also been a concern for some of FMCSA's stakeholders, particularly, the fact that the State-reported crash data utilized by the Agency do not distinguish crashes based on whether they are the responsibility or "fault" of the carrier. FMCSA has multiple studies, however, showing that crashes, regardless of the carrier's role in the crash, are a strong predictor of future crashes. FMCSA's materials and public display of crash data clearly state that the crash data is based on crash involvement without determination of responsibility, and the SMS crash BASIC itself is not shown to the public.

Toward our goal of continuous improvement FMCSA has been looking at various options to best use crash data to identify carriers that have the greatest risk of future crashes. As part of this

effort, FMCSA has been pursuing a program called “crash weighting.” The premise of the program is to identify crashes for which a carrier had greater responsibility, and consider weighting them differently than other crashes in the SMS. Earlier this year the Agency presented the draft proposal to the Motor Carrier Safety Advisory Committee (MCSAC). Based on questions received from MCSAC members following the presentation, it became clear that the proposal warranted further study to ensure that the Agency develops the most effective, efficient and fair process to address the approximately 130,000 crashes that are reported each year.

Later this month, the Agency will release the scope and schedule for the crash weighting study. The study will include a broad review of the uniformity and consistency of police accident reports; examination of the process for making “final” crash determinations; the process for accepting public input; and the actual effect on SMS’s ability to better identify carriers that have a high crash risk. Finally, this data will help us to determine the ability of the Agency to address the potentially large volume of crash weighting requests within our current resources.

FMCSA is committed to continuously improving the SMS. Throughout the life of the program, we have carefully considered constructive feedback from the motor carrier industry, enforcement personnel, safety advocates, and other stakeholders in making data-driven and analysis-based refinements. In fact, FMCSA is currently providing motor carriers an opportunity to preview and provide comments on a package of proposed SMS improvements before they are implemented. Many of the proposed improvements are based on industry and stakeholder input received since initial rollout of SMS in December 2010. As part of this recent preview effort, FMCSA sent notices to over 185,000 motor carriers to announce the proposed improvements, encourage comments, and offer free webinars explaining the proposals. Over 700 motor carriers

participated in the subsequent webinars and were encouraged to provide feedback on the current proposed improvements as well as suggestions for future improvements. Nearly 13,000 carriers have logged into the SMS Preview website to view these enhancements.

Through the SMS preview and other outreach efforts, the Agency is working to identify additional improvements to further enhance SMS's effectiveness in assessing safety risk and targeting unsafe carriers, even as we are completing the current group of changes. For example, the Agency is currently working on improvements that address the relative weighting of suspended license violations, to focus resources on drivers that are suspended for safety related reasons; we are assessing the impact of adjusting the unsafe driving and crash basic denominator for higher fleet utilization; and analyzing the weights applied to certain high-volume violations as well as considering the MCSACs recommendation to simplify the violation severity weighting system.

The key to SMS is quality data. In addition to the 130,000 reported crashes annually, the SMS utilizes data from 3.5 million roadside inspections conducted by our State partners each year. It is worth noting that one-third of these inspections have no violations, which shows it is possible for carriers to improve their SMS scores with clean inspections. To manage our Data Quality initiatives, the Agency has developed the "DataQs" system to allow individuals and carriers to submit challenges to correct erroneous data in the system. The challenges are routed to the issuing State for review. Currently, of the 3.5 million inspections, less than one percent is challenged and of those challenged nearly two-thirds result in a data correction.

We continue to work with the States to ensure uniformity and consistency in the handling of DataQs requests. For example, the Agency has prepared a detailed guidance manual for State DataQs analysts, which is also posted on our website.

We are committed to continually working with our enforcement stakeholders, including the States and the Commercial Vehicle Safety Alliance to improve the quality data submitted to SMS to ensure the SMS is the most effective tool possible.

Interventions

The Agency's second major component of CSA is the intervention process. As stated above, prior to CSA, the Compliance Review (CR) was the primary intervention and investigative tool FMCSA used to compel compliance and to determine the safety fitness of large truck and bus companies. The CR is labor intensive and, in turn, limits the number of carriers with problem-indicators that FMCSA can investigate. The FMCSA now has more tools in its toolbox from which to choose in response to a motor carrier's compliance and safety performance. These include warning letters, focused and comprehensive investigations. Additionally, the Agency is in the process of preparing to deploy off-site investigations.

The interventions approach is designed to compel compliance and remedy demonstrated on-road performance deficiencies early, before a crash occurs. A motor carrier that has not demonstrated past safety and compliance deficiencies, but is beginning to do so, will receive a warning letter from FMCSA highlighting the specific BASICs that may require attention. This letter serves to notify the carrier of the SMS results and provides them an opportunity to address any safety management practices prior to a more significant intervention taking place. The Agency has

received various responses from industry regarding these warning letters, with some carriers expressing appreciation for the early notification and opportunity to make changes in safety management practices prior to a more significant and time consuming intervention. These carriers inform FMCSA of the corrective action put in place to immediately begin addressing and remedying the violations received roadside. Analysis of the warning letter process indicates that twelve months following a warning letter, 83% of carriers had resolved the identified safety or compliance problems. The Agency monitors a carrier's performance following the warning letter, and should the carrier's compliance improve, the carrier is no longer identified for further intervention.

The SMS BASICS provide specific measurement of a motor carrier's compliance and allows the Agency to conduct a "focused intervention". By focusing on specific problems and highlighting the area of concern, the Agency interventions are more strategic and less labor intensive than the CR and more efficient for the carrier. This focused intervention model ultimately improves compliance behavior, leads to improved safety, and reaches more carriers while being less intrusive and time consuming for all parties. Smaller motor carriers and owner operators subject to focused investigations or offsite investigations spend less time in the office working with the safety investigator, and more time on the road in operations. Analysis of the 30-month CSA Operational Model Test, demonstrated an overall 35% increase in the number of carriers reached per safety investigator, in comparison to the prior SafeStat / CR model and these focused interventions take less time and cost approximately 53% percent less than CRs.

CSA has changed the investigative process as well. Federal and State safety investigators are trained not just to identify violations, but also to identify the root cause of the safety deficiency and review these root causes with carrier officials. This approach is known as the Safety

Management Cycle. As an example, with hours-of-service violations the root cause could be training and communication, or a lack of internal oversight policies, practices and procedures on the part of the motor carrier. We believe that by working with those motor carriers that demonstrate a willingness to correct their safety deficiencies, identifying the root cause not only facilitates quicker corrective action, but corrective action that will be more sustainable over time. Later this year the Agency will begin performing offsite investigations nationwide. In an offsite investigation, the carrier submits documentation to a division office for review, without the need for a safety investigator to visit the motor carrier's place of business.

Analysis of the CSA Operational Model test indicated that the CSA focused investigation, incorporating the Safety Management Cycle, can be more effective than the traditional compliance review. The Agency will continue to conduct comprehensive onsite investigations on those motor carriers that demonstrate safety deficiencies across multiple BASICs, as well as on passenger carriers and certain hazardous materials carriers, because of their inherent risk. In addition, the Agency will continue to fully meet its Congressional mandate with respect to high risk motor carriers by requiring that this population receive onsite investigations of their safety practices. As discussed below, until an Agency rulemaking is completed, the on-site compliance review will remain the Agency's method for issuing safety fitness determinations under current rules.

In summary, by leveraging SMS and more focused interventions, the CSA program improves safety performance, provides less resource- and time-consuming interventions for both the Agency and motor carriers, and allows the Agency to reach more carriers. These interventions are more effective and designed to identify compliance problems early, before crashes occur.

Safety Fitness Determinations Rulemaking

The third component of the CSA model is a revision to the Safety Fitness Determinations (SFD) methodology specified under current regulation. The new methodology will be implemented through notice and comment rulemaking beginning with a Notice of Proposed Rulemaking early next year. The new SFD will be designed to replace the current labor-intensive process in which the Agency may propose and issue a safety rating only following an onsite CR investigation. With current resources, the Agency is limited to issuing safety fitness ratings through the approximately 18,000 onsite reviews conducted each year, on a population of 525,000 active carriers. The new SFD process will propose use of all available data in the system to make this determination. The SFD rulemaking also is intended to address a long-standing National Transportation Safety Board recommendation, H-99-006, to “Change the safety fitness rating methodology so that adverse vehicle and driver performance-based data alone are sufficient to result in an overall unsatisfactory rating for the carrier.”

Impacts on Small Businesses

We are always cognizant of the impact that Agency programs may have on business operations of all sizes, and we take care to ensure we are having the greatest impact on safety while minimizing the effect on a carrier’s operation. FMCSA’s database shows 85% of the registered carriers have 5 or fewer power units. In analyzing those impacts specifically for small businesses we found that SMS identified approximately the same number of carriers for intervention in the “5 or fewer power unit” category as were identified in the SafeStat system. Specifically, 93% of active carriers with small operations (defined as 5 or fewer power units) do not exceed the intervention threshold in any BASIC. This is comparable to SafeStat that

identified approximately the same number of carriers. As mentioned earlier, I am also confident we are now doing a better job of identifying those carriers with both compliance and safety problems.

To return to a point I made earlier, the purpose of the CSA program is to better identify those carriers that have safety and compliance problems, and to use effective and efficient intervention processes to help them improve their compliance and hence their safety performance. The CSA program is working to achieve that goal, and has done so without the issuance of a single new regulation. CSA has not resulted in any additional regulatory compliance requirements for businesses, small or large. The program leverages the results of daily inspection and investigation work based on longstanding regulations to ensure that compliance and accountability lead to safe operations. The intervention scheme, through the use of warning letters, off-site investigations and focused interventions, is designed to help carriers improve safety and prevent unsafe carriers from operating.

Conclusion

I would like to thank you for the opportunity to provide these comments. I feel strongly that over the last few years, FMCSA has made significant progress in implementing CSA and improving the efficiency and effectiveness of our program. We are continuing to build on these successes as we finalize the program, through data-driven decision making and processes as transparent and inclusive as possible.

Thank you again for this opportunity.