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Report to Congressional Requesters

July 2009

MOTOR CARRIER SAFETY

Reincarnating Commercial Vehicle Companies Pose Safety Threat to Motoring Public; Federal Safety Agency Has Initiated Efforts to Prevent Future Occurrences

GAO-09-924

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Reincarnating Commercial Vehicle Companies Pose Safety Threat to Motoring Public; Federal Safety Agency Has Initiated Efforts to Prevent Future Occurrences

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Highlights

Highlights of GAO-09-924, a report to congressional requesters

Why GAO Did This Study

In 2008, the Federal Motor Carrier Safety Administration (FMCSA) reports that there were about 300 fatalities from bus crashes in the United States. Although bus crashes are relatively rare, they are particularly deadly since many individuals may be involved. FMCSA tries to identify unsafe motor coach carriers and take them off the road.

GAO was asked to determine (1) to the extent possible, the number of motor coach carriers registered with FMCSA as new entrants in fiscal years 2007 and 2008 that are substantially related to or in essence the same carriers the agency previously ordered out of service, and (2) what tools FMCSA uses to identify reincarnated carriers. To identify new entrants that were substantially related to carriers placed out of service, GAO analyzed FMCSA data to find matches on key fields (e.g., ownership, phone numbers, etc.). GAO's analysis understates the actual number of reincarnated carriers because, among other things, the matching scheme used cannot detect minor spelling changes or other deception efforts. GAO also interviewed FMCSA officials on how the agency identifies reincarnated carriers.

GAO is not making any recommendations. In July 2009, GAO briefed FMCSA on its findings and incorporated the agency's comments, as appropriate.

View GAO-09-924 or key components.
For more information, contact Gregory Kutz at (202) 512-6722 or kutzg@gao.gov.

What GAO Found

GAO's analysis of FMCSA data for fiscal years 2007 and 2008 identified 20 motor coach companies that likely reincarnated from "out of service" carriers. This represents about 9 percent of the approximately 220 motor coach carriers that FMCSA placed out of service during these 2 fiscal years. The number of likely reincarnated motor carriers is understated, in part, because GAO's analysis was based on exact matches and also could not identify owners who purposely provided FMCSA deceptive information on the application (e.g., ownership) to hide the reincarnation from the agency. Although the number of reincarnated motor coach carriers that GAO identified was small, these companies pose a safety threat to the motoring public. According to FMCSA officials, under registration and enforcement policies up to summer 2008, reincarnation was relatively simple to do and hard to detect. As a result, motor coach carriers known to be safety risks were continuing to operate. According to FMCSA data, 5 of the 20 bus companies were still in operation as of May 2009. GAO referred these cases to FMCSA for further investigation.

Examples of Reincarnating Motor Coach Carriers

Location	Reason for out-of-service order	Description
Texas	Failure to pay a $2,380 fine related to 5 safety violations.	• Owner of "out-of-service" carrier registered "new entrant" carrier in daughter's name. • In 2008, the new carrier's new entrant registration was revoked and the owner was convicted of cocaine possession.
New York	Failure to pay fine.	• "New entrant"" carrier was located in a church. The "out-of-service" carrier was located next door in a school affiliated with the church. • FMCSA had not conducted a new entrant review of the new company as of July 2009.
California	Failure to pay approximately $5,000 fine related to 11 safety violations.	• New motor coach business located in retail store. • Several brochures and business cards of "out-of-service" carrier were displayed on counter. • In June 2009, the new carrier was ordered out-of–service for failing to pay a fine.

Source: GAO.

The 20 cases that GAO identified as likely reincarnations were registered with FMCSA at the time that FMCSA did not have any dedicated controls in place to prevent motor coach carriers from reincarnating. In 2008, FMCSA instituted a process to identify violators by checking applicant information against those of poor-performing carriers. For example, if FMCSA finds a new entrant with a shared owner name or company address for an out-of-service company, the agency will make inquiries to determine if the new applicant is related to the out-of-service carrier. If such a determination is made, FMCSA still faces legal hurdles, such as proving corporate successorship, to deny the company operating authority.

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Abbreviations

DOT	Department of Transportation
EMIS	Enforcement Management Information System
FMCSA	Federal Motor Carrier Safety Administration
IRP	International Registration Plan
L&I	Licensing & Insurance
MCMIS	Motor Carrier Management Information System
PCVP	Passenger Carrier Vetting Process
PRISM	Performance and Registration Information Systems Management

GAO
Accountability * Integrity * Reliability

United States Government Accountability Office
Washington, DC 20548

July 28, 2009

The Honorable James L. Oberstar
Chairman
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Peter A. DeFazio
Chairman
Subcommittee on Highways and Transit
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Eddie Bernice Johnson
House of Representatives

On August 8, 2008, a bus carrying a group of people on a religious pilgrimage crashed in Sherman, Texas, killing 17 people and injuring 15 others. State and federal investigators attributed the accident to the loss of tread on a recapped tire installed on the bus's front right steering axle—the use of recapped tires on the steering wheels is a violation of federal regulations. The driver lost control of the bus, struck a curb, and crashed through the guardrail of a bridge. The bus fell about 8 feet, landed on its right side and slid about 24 feet. Twelve passengers died at the scene, while five others died after being taken to nearby hospitals. The carrier that operated the bus was the reincarnation of a motor coach company that had been deemed unsafe and ordered out of service by the Federal Motor Carrier Safety Administration (FMCSA) 2 months prior to the accident. The new company registered with FMCSA using the same physical and mailing addresses as the carrier ordered out of service. At the time of the crash, the carrier did not have proper operating authority from FMCSA, because it had not yet designated a process agent or provided proof of insurance to FMCSA. Thus, specifying a process agent and providing proof of insurance were the only steps standing in the way of the new company obtaining operating authority from FMCSA.

According to FMCSA, in 2008 about 300 fatalities occurred nationwide associated with motor coach carriers.[1] In an attempt to reduce the number

[1]Crashes involving motor coach carriers may result from errors by bus or passenger-vehicle drivers; vehicle condition; and other factors.

and severity of crashes involving buses, FMCSA seeks to identify unsafe motor coach carriers and take them off the road. Motor coach carriers ordered out of service are not supposed to return to the road until FMCSA determines that safety compliance issues have been resolved.

The Committee is concerned that unscrupulous owners may attempt to evade the out-of-service orders by closing down and reopening as new bus companies, a practice known as "morphing" or "reincarnating."[2] To address the serious safety concerns of reincarnating motor coach carriers, you asked us to determine (1) to the extent possible, the number of motor coach carriers registered with FMCSA as new entrants in fiscal years 2007 and 2008 that are substantially related to or in essence the same carriers the agency ordered out of service, and (2) what tools FMCSA uses to identify reincarnated carriers.

To identify new entrants that registered with FMCSA and were substantially related to motor coach carriers ordered out of service, we analyzed FMCSA data to find exact matches on key fields (i.e., company name, owner/officer name, address, phone number, cell phone number, fax number, vehicle identification number, and driver names). Our analysis understates the actual number of reincarnated motor coach carriers since the matching scheme used cannot detect minor spelling changes or other deception efforts, such as changing the company's name, address, and ownership. In addition, our analysis is understated because FMCSA only provided us data on vehicles and drivers when an accident or inspection took place, and thus the data does not include the entire population of vehicles or drivers for either new entrants or out-of-service carriers. Our analysis also could not identify all reincarnated motor coach carriers where the owners purposely provided FMCSA bogus information on the application (e.g., ownership) to hide the reincarnation from FMCSA. For the motor coach carriers identified, we interviewed, if possible, the owners to validate whether the company had reincarnated.

To determine the tools FMCSA uses to identify reincarnated motor coach carriers, we interviewed FMSCA officials on the process that the agency uses to identify potentially reincarnating carriers. We also obtained and

[2]GAO recently issued another report that looked at FMCSA use of commercial vehicle registrations to identify and prevent the registrations of vehicles of reincarnating carriers, which includes motor coach companies. See GAO, *Motor Carrier Safety: Commercial Vehicle Registration Program Has Kept Unsafe Carriers from Operating, but Effectiveness Is Difficult to Measure*, GAO-09-495 (Washington, D.C.: May 12, 2009).

examined policies and other FMCSA documentation to obtain an understanding of the design of its motor carrier enrollment process. We did not perform any tests of the controls and therefore cannot make a conclusion on the effectiveness of any controls in place or whether they have reduced the number of reincarnated carriers. For more details on our methodology, see appendix I.

We conducted the work for this investigation from November 2008 through July 2009 in accordance with quality standards for investigations as set forth by the Council of the Inspectors General on Integrity and Efficiency.

Background

FMCSA's primary mission is to reduce the number and severity of crashes involving large commercial trucks and buses conducting interstate commerce. It carries out this mission in the following ways: issuing, administering, and enforcing federal motor carrier safety and hazardous materials regulations; and gathering and analyzing data on motor carriers, drivers, and vehicles, among other things. FMCSA also takes enforcement actions and funds and oversees enforcement activities at the state level through Motor Carrier Safety Assistance Program grants.

For-hire motor carriers are required to register with FMCSA and obtain federal operating authority before operating in interstate commerce. Applicants for passenger carrier operating authority must submit certain information to FMCSA, including contact information and U.S. Department of Transportation (DOT) number, and must certify that they have in place mandated safety procedures. After publication of the applicant's information in the FMCSA Register, a 10-calendar-day period begins in which anyone can challenge the application. Within 90 days of the publication, the carrier's insurance company must file proof of the carrier's insurance with FMCSA. Applicants must also designate a process agent, a representative upon whom court orders may be served in any legal proceeding. After FMCSA has approved the application, insurance, and process agent filings, and the protest period has ended without any protests, applicants are issued operating authority.

FMCSA ensures that carriers, including motor coach carriers, comply with safety regulations primarily through compliance reviews of carriers already in the industry and safety audits of carriers that have recently

started operations.[3] Compliance reviews and safety audits help FMCSA determine whether carriers are complying with its safety regulations and, if not, to take enforcement action against them, including placing carriers out of service.[4] FMCSA makes its compliance determination based on performance in six areas: one area is the carrier's crash rate, and the other five areas involve the carrier's compliance with regulations, such as insurance coverage, driver qualifications, and vehicle maintenance and inspections.

Carriers are assigned one of three Carrier Safety Ratings based on their compliance with the Federal Motor Carrier Safety Regulations (FMCSR). These ratings include "satisfactory," for a motor carrier that has in place and functioning adequate safety management controls to meet federal safety fitness standards; "conditional," for a motor carrier that does not have adequate safety management controls in place to ensure compliance with the safety fitness standard, that could result in a violation of federal safety regulations; or "unsatisfactory," for a motor carrier that does not have adequate safety management controls in place to ensure compliance with the safety fitness standard, which has resulted in a violation of federal safety regulations.

Carriers receiving an unsatisfactory rating have either 45 days (for carriers transporting hazardous materials in quantities that require placarding or transporting passengers) or 60 days (for all other carriers) to address the safety concerns. If a carrier fails to demonstrate it has taken corrective action acceptable to FMCSA, FMCSA will revoke its new entrant registration and issue an out-of-service order, which prohibits the carrier from operating until the violations are corrected. Further fines are assessed if it is discovered that it is operating despite the out-of-service order.

[3]FMCSA and state law enforcement agency capabilities are dwarfed by the size of the industry and, as a result, are only able to conduct compliance reviews on about 2 percent of carriers—about 18,400 in fiscal year 2008. Safety audits are required for all new entrants to the trucking industry; approximately 37,400 safety audits were conducted in fiscal year 2008. In addition to compliance reviews and safety audits, FMCSA and state law enforcement agencies conduct about 2.3 million vehicle inspections each year at weigh stations and other locations to assess the safety compliance of individual vehicles.

[4]Safety audits and compliance reviews also provide education and outreach opportunities for motor coach carriers and drivers on safety.

Federal law requires new carriers to undergo a new-entrant safety audit within 18 months of when the company begins to operate. Carriers are then monitored on an ongoing basis using various controls that include but are not limited to annual vehicle inspections and driver qualification regulations. However, FMCSA may suspend a company or vehicle's operation at any time by ordering it out of service if it determines that an imminent safety hazard exists. (An imminent hazard means any condition of vehicle, employee, or commercial motor vehicle operations which substantially increases the likelihood of serious injury or death if not discontinued immediately.) In addition, FMCSA orders carriers out of service for failure to pay civil penalties levied by FMCSA, failing to take required corrective actions related to prior compliance reviews, or failing to schedule a safety audit. Out-of-service carriers are supposed to cease operations and not resume operations until FMCSA determines that they have corrected the conditions that rendered them out of service. If a carrier fails to comply with or disregards an out-of-service order, FMCSA may assess a civil monetary penalty each time a vehicle is operated in violation of the order.

FMCSA and state law enforcement agencies use several methods to ensure that carriers ordered out of service, including motor coach companies, do not continue to operate. For example, FMCSA and its state partners monitor data on roadside inspections, moving violations, and crashes to identify carriers that may be violating an out-of-service order. FMCSA will visit some suspect carriers that it identifies by monitoring crash and inspection data to determine whether those carriers violated their orders. Also, recently, the Commercial Vehicle Safety Alliance began to require checking for carriers operating under an out-of-service order during roadside inspections and to take enforcement action against any that are. However, given the large size of the industry, the nation's extensive road network, and the relatively small size of federal and state enforcement staffs, it is difficult to catch motor coach carriers that are violating out-of-service orders. In addition, some carriers change their identities by changing their names and obtaining new DOT numbers[5]—these carriers are generally referred to as reincarnating carriers—to avoid being caught.

[5]The DOT number serves as a unique identifier when collecting and monitoring a carrier's safety information acquired during audits, compliance reviews, crash investigations, and inspections. Companies that operate commercial vehicles transporting passengers in interstate commerce must be registered with FMCSA and must have a DOT number.

Reincarnated Motor Carriers Exist

Our analysis of FMCSA data for fiscal years 2007 and 2008 identified 20 motor coach companies[6] that likely reincarnated from "out-of-service" carriers.[7] This represents about 9 percent of the approximately 220 motor coach carriers that FMCSA ordered out of service[8] for those fiscal years.[9] The analysis was based on two or more exact matches of data for the new entrant with the data for the out-of-service carriers on the following categories: company name, owner/officer name, address, phone number, cell phone number, fax number, vehicle identification number, and driver names. These 20 motor coach companies registered with FMCSA before FMCSA developed processes specifically for detecting reincarnated bus companies that were established subsequent to the Sherman, Texas, crash (see next section). The number of potential reincarnated motor coach carriers is understated because (1) our analysis was based on exact matches, so it could not find links if abbreviations were used or typos occurred in the data, (2) FMCSA only provided us data on vehicles and drivers when an accident or inspection took place, and thus the provided FMCSA data does not include the entire population of vehicles or drivers for either new entrants or out-of-service carriers, and (3) our analysis could not identify owners who purposely provided FMCSA bogus or otherwise deceptive information on the application (e.g., ownership) to hide the reincarnation from the agency. Although the number of reincarnated motor coach carriers that we could identify was relatively small, the threat these operators pose to the public has proven deadly. According to FMCSA officials, registration and enforcement policies at the time of the Sherman, Texas, crash, reincarnation was relatively simple to do and hard to detect. As a result, motor coach carriers known to be safety risks were continuing to operate, such as the company that was involved in the bus crash in Sherman, Texas.

Five of the reincarnated carriers we identified were still operating as of May 2009. Our investigation found one of them had not received a safety

[6]For the 20 cases we identified, 13 were granted operating authority by FMCSA.

[7]For carrier types other than motor coach, such as commercial trucking, our analysis identified 1,073 potentially reincarnated companies for the same 2 fiscal years. Of these, at least 500 are still active as of June 2009. We referred the active carriers to FMCSA for further investigation.

[8]This number includes carriers ordered out of service for reasons other than failure to make contact with DOT while they are in the New Entrant program.

[9]According to FMCSA, there were approximately 4,000 motor coach carriers that were operating during fiscal year 2008.

evaluation and two carriers had been given a conditional rating after the agency determined its safety management controls were inadequate. The remaining two motor coach carriers were deemed satisfactory in a FMCSA compliance review because FMCSA inspectors were likely not aware of the potential reincarnations. We referred all five companies to FMCSA for further investigation. Based on our review of FMCSA data, we found that the agency already identified six of the 20 reincarnated motor coach carriers and ordered them out of service. The agency discovered them while performing a crash investigation (as in the case of the bus accident in Sherman, Texas), compliance reviews, or other processes. In addition, new carriers are subject to a safety audit within 18 months.[10]

Several of the reincarnated carriers we identified were small businesses located in states neighboring Mexico and making trips across the border. Our investigation also determined that all of the reincarnated motor coach carriers we identified were directly related to companies that received fines for safety problems shortly before being ordered out of service. Based on our analysis of the FMCSA data, we believe they reincarnated to avoid paying these fines and continue their livelihood. For example, we found instances where carriers continued to operate despite being ordered out of service for failure to pay their fines. In fact, one carrier was operating for several months after being placed out of service. We believe that these carriers reincarnated into new companies to evade fines and avoid performing the necessary corrective actions.

We attempted to contact the owners to ask why they reincarnated but were unable to reach many of them. For the six owners that we did interview none said that they had shut down their old companies and opened new ones to evade the out-of-service orders.

Table 1 summarizes information on 10 of the 20 cases that we investigated. Appendix II provides details on 10 others we examined. Appendix III provides a summary of the key data elements that matched on the new entrants that were substantially related to out-of-service carriers.

[10]FMCSA officials stated that they have an internal policy of conducting safety audits of motor coach new entrants within 9 months and claim that they currently conduct these audits within 5 months.

Table 1: Summary Information on Potentially Reincarnated Motor Coach Carriers

Case	State	Details
1	Texas	• FMCSA data indicate that the "new company" carrier had the same phone number, fax number and cell phone number as the "old company" carrier. • The new company started in March 2007, eight months before FMCSA ordered the old company out of service. • Six days after the new company was formed, a motor coach carrying sixteen passengers operated by the old company was stopped and inspected on the US/Mexico border ay Laredo, Texas. The old company was charged with five violations and fined $2,380. • FMCSA ordered the old company out of service in November 2007 for failing to a pay a fine. • In 2008, the new carrier's new entrant registration was revoked and the owner was convicted of cocaine possession.
2	New York	• FMCSA data indicate that the "new company" carrier had the same fax number, company officer name, driver, and vehicle as the "old company" carrier. • The old company was subject to a compliance review in May 2007 and was cited for five safety violations, including failure to implement an alcohol and controlled substances testing program. • The new company started in August 2007 and was located at a church. The location of the old carrier was a school located next to and affiliated with the church. • FMCSA had not conducted a new-entrant safety audit of the carrier, as of July 2009.
3	California	• FMCSA data indicate that the "new company" carrier had the same phone number and company officer as the "old company" carrier. • In December 2006, FMCSA cited the old company for eleven safety violations including failure to implement an alcohol and controlled substances testing program. • The old company was ordered out of service in February 2007 for failure to address the violations. In addition, in March 2007, the old company was charged with operating despite being subject to the above out-of-service order and fined $5,620. • The new company started in June 2008 and received a satisfactory safety rating in October 2008. • A week after our interview FMCSA revoked the new company's authority, and in June 2009, ordered it out-of-service for falling to pay a fine.
4	California	• FMCSA data indicate that the "new company" carrier had the same business name, address, company officer name, phone number, and some of the same drivers and vehicles as the "old company" carrier. • The old company was cited for twenty-seven safety violations and fined $2,000 in April 2007. Violations included using drivers before they received a negative controlled substance test. • The old company was ordered out of service in September 2007 for failure to pay the above fine. • In October 2007, FMCSA found the old company still operating a motor coach despite its out-of-service order. A fine of $6,910 was assessed. • The old company was cited for fifteen safety violations in a January 2008 compliance review. Violations included knowingly allowing an employee to operate a commercial motor vehicle with a suspended license. A fine of $2,000 was assessed. • The new company started in May 2008 and ordered it out of service in October 2008 as unfit.

Case	State	Details
5	Texas	• FMCSA data indicate that the “new company” carrier had the same address, phone number, fax number, and company officer name as the “old company” carrier. In addition, the “new company” business name was the Spanish translation of the “old company” carrier’s name. • The old company had a compliance review in November 2006 and was cited for eleven safety violations. It received a conditional safety rating. The violations included using a driver before receiving a negative pre-employment controlled substance test. • In February 2008, the old company was subject to another compliance review and was cited for ten safety violations. It received an unsatisfactory rating. The violations included using a driver before receiving a negative controlled substance test and failing to annually conduct the required amount of random alcohol and controlled substances testing. A fine of $143,000 was later levied. • In April 2008, the old company was ordered out of service as FMCSA determined the carrier failed to take the necessary steps to improve its safety rating. • The new company was registered 13 days before the out-of-service order against the old company was to take effect. • The new company had a compliance review in August 2008 and was cited for nine safety violations. The violations included using a driver before receiving a negative controlled substance test. FMCSA identified it as a reincarnated carrier, and ordered it out of service in August 2008 as “unfit”. • The new company received a “conditional” safety rating in October 2008 but is listed as inactive as of July 2009.
6	Maryland	• FMCSA data indicate that the “new company” carrier had the same business name, phone number, cell phone number, company officer name, and some of the same vehicles as the “old company” carrier. • FMCSA revoked the old company’s registration authority in March 2007 due to loss of insurance. • The new company opened about a month later, in April, 2007. • The new company received a compliance review in September 2008 after a roadside inspection revealed the company used a vehicle with the old company’s DOT number on a motor coach. The new company was cited for twenty-one safety violations and was given an unsatisfactory rating. Violations include failing to implement a random controlled substances and alcohol testing program and hiring drivers before receiving negative results on such tests. • The owner attempted to reincarnate again two weeks prior to the September 2008 compliance review. However, FMCSA detected the attempt and refused to grant operating authority.
7	Arkansas	• FMCSA data indicate that the “new company” carrier had the same business address, phone number, fax number, and company officer name as the “old company” carrier. • The old company had a compliance review done in May 2007 and was cited for nine safety violations. The violations included conducting unauthorized motor carrier operations in the United States and failing to maintain driver qualification files. A fine of $3,050 was assessed. • FMCSA ordered the old company out of service on October 2007 for failure to pay the above fine. • The new company started in late June 2007, about 3 months before the old company was ordered out of service. • The new company had a compliance review done in November 2008 and was cited for seven safety violations. The violations included conducting interstate operations during a period when its registration was suspended. A fine of $2,000 was assessed. • The new company was ordered out-of-service by FMCSA in March 2009.

Case	State	Details
8	Texas	• FMCSA data indicate that the "new company" carrier had the same two drivers as the "old company" carrier. The addresses were identical except for the omission of "RD" in the street name. • The old company had a compliance review in May 2008 and was cited for twenty safety violations. The violations included knowingly allowing a driver to operate a commercial motor vehicle before receiving a negative controlled substance test. • FMCSA ordered the old company out of service as "Unfit" in June 2008. • The new company was started in June 2008, the same month the old company was declared unfit. • The new company, while operating without authority, was involved in a fatal crash in August 2008 that killed seventeen people. • FMCSA placed the new company out of service as an "Imminent Hazard" the day after the accident. • FMCSA has linked the old company out-of-service orders to the new company. • The new company is currently inactive as of May 2009.
9	California	• FMCSA data indicate that the "new company" carrier had the same phone number, fax number, and company officer name as the "old company" carrier. • The old company had a compliance review done in May 2007 and was cited for eighteen safety violations, including five critical violations. The violations included using a driver who refused to submit a controlled substance test, allowing a driver to operate a commercial motor vehicle before receiving a negative drug test, and conducting interstate operations without operating authority. A fine of $2,200 was assessed for these violations. • Over the course of 2007, the company corrected previous errors and received a "satisfactory" compliance review in September 2007. • FMCSA ordered the old company out of service in February 2008 for failing to pay fines. • In October 2007, the new company was formed. • The new company was active as of May 2009.
10	Texas	• FMCSA data indicate that the "new company" carrier had the same business address, two of the same drivers, and two of the same vehicles as the "old company" carrier. • The old company has a compliance review in September 2006 and was cited for eight safety violations. FMCSA gave the old company a conditional safety rating. The violations included failure to implement a controlled substances testing program. • The old company received another compliance review in October 2007 and was cited for nineteen safety violations. The violations included using a driver before receiving a negative controlled substance test and failing to maintain inquiries into the driver's driving record in qualification files. A fine of $2,200 was assessed. • In December 2007, old company was ordered out of service and ruled unfit because it failed to improve its safety rating. • The owner of the old company stated that the company went out of business after his bus caught on fire. The owner also stated that his daughter is the one who owns the new company and that he works as her driver. The owner also stated that the new company is currently under a repayment schedule to pay fines owed to DOT. • The new company was active as of May 2009.

Source: GAO.

The following narratives provide detailed information on three of the more egregious cases we examined.

Case 1: The owner of a Houston motor coach company registered a new carrier with the same phone number, fax number, and cell phone number as the old one. The new company started in March 2007, 8 months before FMCSA ordered the old company out of service. The two companies appear to have operated simultaneously for a period of time. Six days after the new company was formed, a motor coach carrying 16 passengers operated by the old company was stopped and inspected on the United States–Mexico border at Laredo, Texas. The old company was charged with five violations, including "Operating without required operating authority." The old company owes $2,000 in fines. Our investigators contacted one of the owner's daughters. She stated that her mother was arrested for possessing drugs when she crossed the border from Mexico into the United States, and that her mother subsequently opened another bus company using another daughter's name. The daughter said she was not involved with the bus company. In 2008, the new carrier's new entrant registration was revoked and the owner was convicted of cocaine possession.

Case 2: The owner of a New York motor coach company located at a church registered a new carrier using the same fax number, driver, and vehicle as the old one. FMCSA conducted a compliance review for the old company on May 30, 2007. Five safety violations were identified, including one "Acute" violation for "Failure to implement an alcohol and/or controlled substances testing program." The old company, which was ordered out of service in October 2007 for failing to pay a fine, still has $2,000 in outstanding fines as of May 2009. On August 9, 2007, approximately 2 months prior to FMCSA ordering the old company out of service, a new carrier was established with the same company officer name and fax number as the old carrier. The location of the old carrier was a school, which was associated with (and located next door to) the church. The owner of the new company claimed that the old company belonged to his father, not him, and that it was a "completely different business from his own." FMCSA records clearly show that this is not the case. The new owner is listed as "Vice President" of the old company, and "President" of the new company. The owner of the new company is also cited as being present during the Compliance Review conducted on May 30, 2007. The new company registered with FMCSA in August 2007 and FMCSA has not conducted a new-entrant safety audit of the new carrier as of July 2009, exceeding FMCSA's internal goal of 9 months.

Case 3: The owner of a Los Angeles motor coach company registered a new carrier using the same social security number, business name, phone number, fax number, and company officer as the old one. FMCSA

conducted a compliance review on the old company in December 2006, resulting in an "Unsatisfactory" safety rating. The review cited 11 safety violations, including one "Acute" violation for "Failure to implement an alcohol and/or controlled substances testing program" and four "Critical" violations for failure to maintain driver and vehicle records. Since the old company did not take the necessary steps to fix the violations within 45 days, it was ordered out of service in February 2007. A month later a motor coach operated by the old company was inspected in Douglas, Arizona. The company was charged with operating a commercial motor vehicle after the effective date of an "unsatisfactory" rating and fined $5,620.

The same owner started the new company in June 2008. FMCSA conducted a compliance review on the new carrier and gave it a "satisfactory" safety rating in October 2008. FMCSA officials stated that they were not aware of any affiliation with the previous company. Our investigators visited the place of business of the new carrier, which was being run out of a retail store. Although the old carrier was out of service, several brochures and business cards for the old carrier were displayed on the store's counter, showing the same phone number as the new company. We attempted to contact the owner, but the business representative stated that the owner was currently in Mexico as the driver on a bus tour and could not be contacted. A week after our interview, unrelated to our investigation, FMCSA revoked the new company's authority due to lack of insurance.

Tools FMCSA Uses to Identify Reincarnated Carriers and Their Limitations

Passenger Carrier Vetting Process

Prior to the August 2008 crash in Sherman, Texas, FMCSA did not have a dedicated processe to identify and prevent motor coach carriers from reincarnating. At that time, an out-of-service carrier could easily apply online for a new DOT number and operating authority. In the application, the owner could include the same business name, address, phone number(s), and company officer(s) that already existed under the out-of-service DOT carrier. FMCSA did not have a process to identify these situations, and, thus, FMCSA would have granted the new entrant operating authority upon submission of the appropriate registration data.

Subsequent to the Sherman crash, FMCSA established the Passenger Carrier Vetting Process (PCVP), which requires the review of each new application for the potential of being a reincarnation.[11] Under this process, FMCSA executes a computer matching process to compare information contained in the motor coach carrier's application to data of poor-performing motor coach carriers dating back to 2003. Specifically, it performs an exact match on the application with fields in nine categories across various FMCSA databases.[12] This produces a list of suspect carriers and the number of matches in each category, which serve as indicators for further investigation. FMCSA officials stated that they have begun to enhance the computer-matching portion of the PCVP process. Specifically, the system will also be able to match fields that are close, but not necessarily exact matches of each other. For instance, "John P. Smith Jr." would match "John Smith," and "Maple Ln." would match "Maple Lane." This enhancement should improve its ability to detect those carriers attempting to disguise their prior registration.

In addition to the computer matching, FMCSA Headquarters personnel receive and review each new carrier application for completeness and accuracy. It reviews the application for any red flags or evidence the company is a potentially unsafe reincarnated motor coach carrier. For example, the FMCSA staff check secretaries of state databases for the articles of incorporation to identify undisclosed owners. If the computer-matching process or FMCSA Division Office review identifies any suspected motor coach carriers attempting to reincarnate, FMCSA sends a Verification Inquiry letter to the applicant requesting clarification. If the carrier does not respond to the Verification Inquiry Letter within 20 days, the application will be dismissed. If the response to the letter shows the applicant is attempting to reincarnate, FMCSA issues a Show Cause Order stating that the application for authority will be denied unless the carrier can present evidence to the contrary. If the application is not completed, FMCSA dismisses the application and thus no authority is given.[13]

[11]According to DOT officials, FMCSA began to use PCVP for screening applications of household goods carriers in April 2009.

[12]The nine categories are authorities actions, compliance reviews, enforcement actions, accidents and violations, names, phone numbers, addresses, e-mails, and insurance information.

[13]According to DOT officials, since the PCVP has been implemented, about 900 passenger carrier applications have been received. They also stated that over 100 applications have been dismissed or withdrawn and 1 was issued a show cause order.

After the carrier is approved to operate, FMCSA requires all new carriers, including motor coach carriers, to undergo a safety audit within 18 months of approval. During this review, FMCSA should identify whether the new motor coach company is a reincarnation of a prior carrier. Although we did not specifically evaluate the effectiveness of the new-entrant audit process, we found two cases where FMCSA did not identify new motor coach carriers as reincarnations of companies it had ordered out of service and after the PCVP went into effect. Because we did not evaluate the effectiveness of the new-entry safety audit and the PCVP, we do not know the extent to which reincarnated carriers are still able to avoid FMCSA detection when registering to operate with the agency.

Performance and Registration Information Systems Management (PRISM)

GAO recently reported[14] that PRISM provides up-to-date information on the safety status of the carrier responsible for the safety of a commercial vehicle prior to issuing or renewing vehicle registrations. PRISM generates a daily list of vehicles registered in the state that are associated with carriers that have just been ordered out of service by FMCSA. It is a tool that can be used by state personnel. PRISM's innovation is that it is designed to associate vehicle identification numbers with out-of-service carriers to prevent the carrier from registering or reregistering its vehicles.

Although PRISM is a potential deterrent to a carrier wishing to reincarnate, only 25 states have implemented the system to the extent that they can automatically identify out-of-service carriers and then deny, suspend, or revoke their vehicle registrations.[15] Another limitation to PRISM's effectiveness is that it only includes vehicles that register under a protocol known as the International Registration Plan (IRP)[16]—which

[14]GAO-09-495.

[15]According to FMCSA officials, in addition to the 25 states, 4 other states suspend and revoke vehicle registrations for out-of-service carriers using PRISM; however, they do so on a case-by-case basis when requested by FMCSA and do not have the capability to check the safety status at the time vehicle registration renewals are requested in order to deny them. These 4 states also do not report any suspension or revocation information to FMCSA. Additionally, there are 2 other states that deny, suspend, and revoke vehicle registrations of out-of-service carriers, but these states do so when requested by FMCSA, not through the regular structure of the PRISM program. As such, we did not include these 6 states in our count.

[16]IRP is used to register commercial motor vehicles with a gross vehicle weight of over 26,000 pounds that travel between two or more states or Canadian provinces. The protocol is followed to ensure an equitable distribution of registration fees, which is based on vehicle miles traveled in each state or Canadian province. All states (except Alaska and Hawaii) are members of IRP.

pertains only to carriers involved in interstate commerce. Charter buses are exempt from IRP (interstate) registration and thus not subject to PRISM.[17] Furthermore, vehicles are not checked at registration since companies are not required to supply this information on their application to FMCSA.

Legal Impediments to the Denial or Revocation of Reincarnated Carriers' Operating Authority

FMCSA's duty and authority to deny operating authority registration to persons not meeting statutory requirements is provided by statute.[18] A person applying for registration must demonstrate that he or she is willing and able to comply with the safety regulations, other applicable regulations of the Secretary, and the safety fitness requirements.[19] Complexities regarding the application of State laws on corporate successorship may, in certain instances, affect the agency's ability to deny operating authority to or pursue enforcement against unsafe reincarnated motor carriers under these statutory provisions. The complexities include the legal standard that must be met to hold a newly formed corporation liable for civil penalties assessed against its corporate predecessor.

The facts necessary to satisfy the legal standard—whether under federal or State law—require documentation outside the normal compliance review processes. FMCSA uses a detailed Field Worksheet which lists types of evidence that would be needed, including company contact information, documentation on management and administrative personnel, business assets, tax records, insurance, payroll, drivers, vehicles, customer lists, advertising and promotional materials, corporate charters, and information on the corporate acquisition or merger at issue. This labor intensive investigative process is not undertaken unless strong preliminary evidence indicates that the new company is a reincarnation of a former motor carrier against which enforcement was taken and that the reincarnation was for the purpose of evading enforcement action or violation history of the predecessor company.

[17]Charter buses provide service to groups traveling together to a specified location or for a particular itinerary.

[18]See 49 U.S.C. § 13902.

[19]The safety fitness requirements are provided in 49 U.SC. 31144. Additional authority to suspend, amend or revoke registration is provided in a separate statutory provision. See 49 U.S.C. 13905.

In order to make it easier for FMCSA to place a reincarnated carrier out of service, the Highways and Transit Subcommittee of the Committee on Transportation and Infrastructure of the House of Representatives approved legislation on June 24, 2009, that would impose a uniform federal standard and would authorize FMCSA to deny or revoke operating authority from a carrier who failed to disclose a relationship with a prior carrier. The legislation would also authorize FMCSA, in certain cases, to impose civil penalties against a reincarnated motor carrier that were originally imposed against a related motor carrier.

Corrective Action Briefing

We briefed U.S. Department of Transportation (DOT) officials on the results of our investigation. They agreed that reincarnation of motor coach carriers is an important concern but stated that there are legitimate reasons for motor coach carriers to transfer ownership or reincorporate, or both, such as divorce, death, relocation, or new business opportunities. DOT officials stated that they established the PCVP to identify and attempt to prevent reincarnated carriers from receiving approval for operating authority. DOT officials stated that the PCVP is also used for household goods carriers and that they hope to use the process for other types of carriers if they obtain the resources to support this process. However, DOT officials stated that even if DOT has identified a carrier as a reincarnation, DOT must still prove that the new carrier is the corporate successor to the old carrier in order to deny or revoke the operating authority of the new carrier. DOT officials stated that this standard differs between states and that certain states require a very high standard of proof. As such, this determination is labor-intensive and requires documentation outside the normal compliance review process. DOT officials also provided technical comments to the report, which we addressed, as appropriate.

As agreed with your office, unless you announce the contents of this report earlier, we will not distribute it until 3 days after its issue date. At that time, we will send copies of this report to the Secretary of Transportation and other interested parties. In addition, the report will be available at no charge on GAO's Web site at http://www.gao.gov.

If you or your staff have any questions regarding this report, please contact me at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the

last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

Gregory D. Kutz
Managing Director
Forensic Audits and Special Investigations

Appendix I: Scope and Methodology

To identify new entrants that were substantially related to motor carriers ordered out of service, we obtained and analyzed information from the following DOT databases: the Motor Carrier Management Information System (MCMIS), the Licensing & Insurance (L&I) system, and the Enforcement Management Information System (EMIS) as of December 2008. We identified new motor coach[1] operators as those that had a New Entrant Program entry date of October 1, 2006, or later. We identified out-of-service motor carriers as those with an active, nonrescinded out-of-service order in place and who had been ordered off the road for reasons other than failure to make contact with DOT while in the New Entrant Program. We matched the new entrant carriers with those that were ordered out of service on the following key fields: company name, owner/officer name, address, phone number, cell phone number, fax number, vehicle identification number, and driver names. For the motor coach carriers identified, we interviewed, if possible, the owners to validate whether the company had reincarnated and, if possible, determine the reason for the reincarnation.

Our analysis understates the actual number of reincarnated carriers because the matching scheme used cannot detect even minor changes in spelling, addresses, or owner names. In addition, the number is understated because FMCSA only provided us data on vehicles and drivers when an accident or inspection took place, and thus the provided FMCSA data does not include the entire population of vehicles or drivers for either new entrants or out-of-service carriers. Our analysis also could not identify all reincarnated carriers where the owners purposely provided FMCSA bogus or deceptive information on the application (e.g., ownership) to hide the reincarnation from FMCSA.

To determine the tools FMCSA uses to identify reincarnated carriers, we interviewed FMSCA officials on the process that the agency uses to attempt to identify potentially reincarnating carriers. We also obtained and examined policies and other FMCSA documentation to obtain an understanding of the design of its motor carrier enrollment process. We did not perform any tests of the controls and therefore cannot make conclusions on its effectiveness.

[1]We used the definition of a motor coach carrier provided to us by FMCSA. Motor coach carriers are those carriers in the Licensing & Insurance (L&I) database that have "active" passenger authority and $5 million in insurance, or have an "active" Motor Carrier Management Information System (MCMIS) status and are listed as Private Motor Carriers of Passengers.

Data Reliability

To determine the reliability of DOT's databases, we reviewed the system documentation and performed testing on the validity of the data. We performed electronic testing of the data including verifying the completeness of the carrier data against numbers published by DOT. We discussed the sources of the different data types with DOT officials and discussed their ongoing quality-control initiatives. Based on our review of agency documents and our own testing, we concluded that the data elements used for this report were sufficiently reliable for our purposes.

We conducted the work for this investigation from November 2008 through July 2009 in accordance with quality standards for investigations as set forth by the Council of the Inspectors General on Integrity and Efficiency.

Appendix II: Reincarnated Motor Coach Carriers

In the body of the report, we provide detailed information on 10 reincarnated carriers. Table 2 below provides detailed information on the other 10 motor coach carriers that we investigated and determined were potential reincarnations. The cases were primarily identified by two or more exact matches of FMCSA data for new entrants and for out-of-service carriers in the following categories: company name, owner/officer name, address, phone number, cell phone number, fax number, vehicle identification number, and driver names.

Table 2: Summary Information on Potentially Reincarnated Motor Coach Carriers

Case	State	Details
11	California	• FMCSA data indicate that the "new company" carrier had the same corporate name and address as the "old company" carrier. The president of the new company had the same name as the owner of the old company, except for the omission of a first and last name. • The old company received was inspected in April 2006 and was cited for operating a commercial motor vehicle without a driver's license. • FMCSA ordered the old company to cease interstate operations in August 2006 for failure to pay a fine. • The old company was removed from the New Entrant program in May 2007 for failure to appear for a scheduled safety audit. • The new company started in August 2008. • The new company had a compliance review in May 2009 and was cited for nineteen safety violations. The violations included using a driver before receiving a negative controlled substance test, failing to implement a random controlled substance and alcohol testing program, and conducting operations without operating authority. A fine of $1,980 was assessed. • As of July 2009, the new company does not have operating authority.
12	Texas	• FMCSA data indicate that the "new company" carrier had the same company name, three of the same drivers, and one of the same vehicles as the "old company" carrier. In addition, the addresses of the companies indicated that they were next door to each other. • FMCSA conducted a compliance review of the old company in September 2006 and cited four safety violations, including one acute violation. The violations included failing to implement a random controlled substance and alcohol testing program. A fine of $2,000 was assessed. • In February 2007, FMCSA ordered the old company to cease operations for failure to pay the above fine. • The new company began in January 2008, but it is currently inactive.

Case	State	Details
13	Texas	• FMCSA data indicate that the "new company" carrier had the two of the same drivers and three of the same vehicles as the "old company" carrier. The addresses were identical except for "East" being changed to "E" in the street name. The company officer names for both the old and the new company shared the same last name. • Inspectors examined a bus operated by the old company in October 2006 as it prepared to ferry passengers from Mexico to the US and determined its condition was likely to cause an accident or a breakdown of the vehicle. The company was subsequently fined $850. • FMCSA revoked the old company's operating authority in January 2007. • Two months later, in March 2007, the old company was discovered illegally ferrying 33 passengers from Mexico into the US. FMCSA subsequently fined the firm $2,380. The same month inspectors caught the old company, the new one was opened. • FMCSA ordered the old company to cease all operations in September 2007 for failure to pay the above fines. • The new company had a compliance review done in September 2008 and was cited for seven violations of carrier safety rules, including failure to implement a random controlled substance and alcohol testing program. A fine of $2,000 was assessed. • The new company was ordered out-of-service in June 2009 for failing to pay the above fine.
14	Arizona	• FMCSA data indicate that the "new company" carrier had the same mailing address and telephone number as the "old company" carrier. The company officer names are identical, except for the omission of the middle initial. The company names are almost the same. Following the name, "Tours" was replaced with "and associates." • The old company had a compliance review in October 2006 and was cited for ten safety violations. The violations included failing to maintain proper proof of financial responsibility and operating a for-hire carrier service without proper operating authorities. A fine of $3,260 was assessed. • The old company had another compliance review in January 2007 and was cited for five safety violations. The violations including failing to maintain driver qualification files for each driver employed. A fine of $2,000 was assessed. • The old company was placed out-of-service for failure to pay fines in April 2007. • In June 2007, an enforcement action was taken against the old company for conducting interstate operations while being subject to an out-of-service order. A fine of $5,520 was assessed. • The new company started in September 2007. • The new company was put out of service in March 2008 after being rejected from the New Entrant Program due to no contact. • The new company is currently inactive as of May 2009.
15	New York	• FMCSA data indicate that the "new company" carrier had the same address and company officer name as the "old company" carrier. • FMCSA placed the old company out of service after being revoked from the New Entrant Program due to a no-show safety audit. • The new company left the New Entrant Program due to inactivation. • The new company is currently inactive.

Case	State	Details
16	Washington	• FMCSA data indicate that the "new company" carrier had the same phone number as the "old company" carrier. The addresses were identical except "N First ST" was changed to "North 1ST" in the street name. • The old company had a compliance review conducted in November 2004 that resulted in an "Unsatisfactory" rating. Sixteen safety violations were identified, including five critical violations for improper controlled substance testing procedures and using a driver before receiving a negative controlled substances test. • A fine of $1,990 was assessed as a result of these violations. In April 2005, the carrier was placed out of service for failure to pay the fine. • When the carrier was ordered out of service, FMCSA staff requested that the carrier's file be flagged "to prevent possible reinstatement until full payment of their civil penalty is received." • The new company started the New Entrant program in December 2006 and operated for five months until leaving the program because they had become inactive.
17	Georgia	• FMCSA data indicate that the "new company" carrier had the same phone number as the "old company" carrier. One of the company officer names is identical, except for the addition of the suffix "JR". The addresses were identical except "RD" was changed to "ROAD" in the street name. • The old company had a compliance review done in November 2006 and was cited for eight safety violations. The violations included failing to implement a random controlled substances and alcohol testing program. A fine of $2,000 was assessed. • The old company was subject to an out of service order in July 2007 for failure to pay the above fine. • The new company started the same month the old one was put out of service, but it was removed from the New Entrant Program in November 2007 due to no contact. • The new company is currently inactive.
18	California	• FMCSA data indicate that the "new company" carrier had the same phone number and fax number as the "old company" carrier. • The owner of the old company told our investigators that she sold the company to one of her drivers. This driver is now listed as the owner of the new company. • In addition, the owner of the old company now works as an assistant to the owner of the new company, her former driver. • The old company received a compliance review in December 2006 and was cited for thirteen safety violations. The violations include one acute violation for failing to implement a random controlled substance and alcohol testing program. A fine of $2,000 was assessed. • The old company was placed out of service by FMCSA in May 2007 for failure to pay the above fine. • The new company started in July 2008 and received a "satisfactory" compliance review in October 2008. • The new company was active as of June 2009.
19	California	• FMCSA data indicate that the "new company" carrier had five of the same drivers and six of the same vehicles as the "old company" carrier. • From June 2000 to June 2008, FMCSA cited the old company for seventy-eight safety violations. It was fined $1,220 for allowing a driver to operate a commercial vehicle without a valid federal license or permit. • The old company was ordered out of service in January 2008. • The owner of the new company did not respond to repeated phone calls by our investigators. • The new company had a "Conditional" safety rating in June 2008. • The new company is currently inactive.

Case	State	Details
20	North Carolina	• FMCSA data indicate that the “new company” carrier had the same phone number as the “old company” carrier. The addresses also were identical except that “LANE” was changed to “LN” in the street name. • The old company was reincarnated from a carrier that was ordered out of service in 2003. • The old company underwent a compliance review in August 2006 and received an unsatisfactory safety rating. • The old company received two fines totaling $19,500. The fines were not paid. • The new company had a “Conditional” safety rating in December 2007 and was placed out-of-service in April 2008.

Source: GAO.

Appendix III: Summary of Reincarnated Motor Coach Carriers

As stated earlier, we identified 20 new entrants that were substantially related to motor carriers ordered out of service. We identified these new entrant carriers by matching them with those that were ordered out of service on the following key fields: company name, owner/officer name, address, phone number, cell phone number, fax number, vehicle identification number, and driver names. Table 3 below provides the fields that were matched between the new entrant and the carrier that was ordered out of service.

Table 3: Match Results on Key Identifying Fields for Potentially Reincarnated Carriers

Case	SSN / EIN	Company name	Officer names	Address	Phones	Fax	Cell	Drivers	Vehicles
1					X	X	X	X	
2			X			X		X	X
3	X	X	X		X				
4		X	X	X	X			X	X
5			X	X	X	X		X	X
6		X	X		X		X	X	X
7			X	X	X	X			
8				X				X	
9			X	X	X	X			X
10				X				X	X
11		X	X	X					
12		X	X	X				X	X
13				X				X	X
14		X	X	X	X				
15			X	X					
16				X	X				
17			X	X	X				
18					X	X			
19								X	X
20				X	X				

Source: GAO.

Note: “X” indicates the data elements that matched.

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

GAO staff who made major contributions to this report include Matthew Valenta, Assistant Director; John Ahern; Donald Brown; John Cooney; Paul Desaulniers; Eric Eskew; Timothy Hurley; Steve Martin; Vicki McClure; Sandra Moore; Andrew O'Connell; Anthony Paras; Philip Reiff; and Ramon Rodriguez.

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