



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

April 16, 2010

1200 New Jersey Avenue, SE
Washington, DC 20590

Refer to: MC-AA

Mr. David J. Osiecki
Senior Vice President for Policy
and Regulatory Affairs
American Trucking Associations, Inc.
950 N. Glebe Road, Suite 210
Arlington, VA 22203-4181

Dear Mr. Osiecki:

Thank you for your February 26 letter following our meeting to discuss the Federal Motor Carrier Safety Administration (FMCSA) Comprehensive Safety Analysis (CSA) 2010 Program. Your letter reiterates concerns that you, your members, and State affiliates have expressed with the CSA 2010 Carrier Safety Measurement System (CSMS) methodology and offers recommended approaches to address those concerns. The FMCSA appreciates that the American Trucking Associations, Inc., (ATA) continues to fully support the safety and efficiency objectives of the CSA 2010 program and that ATA has offered recommended solutions to address its concerns.

The first concern you identified is that recordable crash data reported to FMCSA by our State partners, and linked to motor carrier records, do not identify whether the motor carrier was accountable for the crash. More specifically, you expressed concern that the CSA 2010 CSMS methodology uses the recordable crash data to identify motor carriers for intervention without an accountability determination. As a recommended solution to this concern, you suggested that FMCSA employ a contract staff that would review State-reported crash reports to make accountability determinations before the crashes are considered in the CSA 2010 CSMS methodology.

The FMCSA recognizes this concern and is considering several short-term and longer term approaches to address it. As FMCSA works to address the issue, the Agency will exclude the crash assessment of the CSA 2010 CSMS from any public Web sites that may be viewed by shippers or insurers. Furthermore, FMCSA will continue to consider accountability of crashes before issuing any formal and final adverse safety fitness ratings that follow compliance reviews. Longer term, FMCSA is evaluating the feasibility of an approach similar to your recommendation, whereby staff would assess State-reported crashes for accountability before they are considered by the CSA 2010 CSMS methodology. In fact, FMCSA has already begun some preliminary analysis of this approach.

The initial results of our feasibility study are promising and indicate that the use of police accident reports (PARs) is a viable option for determining large truck and bus crash accountability. Work to date has been done in conjunction with the National Highway Traffic Safety Administration and the Volpe National Transportation Systems Center. We are now

gathering information on various options for implementing such an approach, including the costs and challenges. For example, one challenge involves gathering the PARs from all of the different State agencies involved, although we are encouraged by the increasing use of electronic storage of such records by the States.

An alternative approach, for example, could be to require motor carriers to submit PARs to FMCSA for those accidents in which the carriers seek an accountability determination. Accidents for which a motor carrier would not contest accountability by submitting a PAR would be deemed accountable to the carrier under this approach.

The FMCSA data analysis has historically shown that motor carriers involved in a disproportionately high number of crashes are more likely than other motor carriers to be involved in future crashes. Simply, FMCSA analysis indicates that past crashes are a good predictor of future crashes, irrespective of accountability. Therefore, until a viable long-term solution can be instituted to determine accountability of State-reported crashes, FMCSA will continue to use all crashes in the CSA 2010 CSMS to identify motor carriers for intervention. The FMCSA believes this approach, coupled with not displaying CSMS crash assessments on public Web sites at this time, and considering crash accountability before issuing adverse safety fitness ratings, is the most prudent position at this time. It balances the valid concerns of the ATA with FMCSA's mission to protect the motoring public using the best performance data currently available.

The second concern you identified is that the CSA 2010 CSMS currently uses a motor carrier's number of power units rather than vehicle miles travelled (VMT) as a measure of exposure. Further, the letter pointed out your position that motor carriers that employ greater asset utilization are at a disadvantage because of their increased exposure to adverse safety events. The letter essentially stated that FMCSA may be missing higher risk carriers by using power units as the measure of exposure in the CSA 2010 CSMS. Moreover, you offered recommended solutions such as making the mileage field of the MCS-150 form a mandatory field for updates and suggested that FMCSA consider using an "average annual miles per truck" estimate for those motor carriers in which FMCSA currently does not have up-to-date VMT data.

The areas of the CSA 2010 CSMS that currently use power units as the measure of exposure are the Crash and Unsafe Driving Behavior Analysis Safety Improvement Categories (BASICS). FMCSA acknowledges that the use of power units as the sole measure of exposure can potentially create a disadvantage for segments of the motor carrier industry that employ greater asset utilization, for example, through cross-country team operations. FMCSA also believes, however, that the use of VMT as the sole measure of exposure can create a similar disadvantage for segments of the motor carrier industry that operate limited mileage due to the nature of their operations. Regardless, FMCSA agrees that VMT is another valuable and widely recognized measure of exposure that could potentially improve the effectiveness of the CSMS. As suggested by ATA, FMCSA will make the vehicle mileage field of the MCS-150 a mandatory field for updates.

As part of the recently released CSA 2010 Data Review Web site, FMCSA is encouraging motor carriers to provide their annualized VMT data. The FMCSA is optimistic that ATA will support

these efforts by strongly encouraging its members and others to regularly update their VMT data and through other collaborative ideas that will ensure that VMT is regularly and accurately reported by the motor carrier industry. These efforts will support ongoing FMCSA analysis aimed at implementing the most effective and equitable measure of exposure possible prior to national deployment of the Safety Measurement System in November 2010.

The third significant concern conveyed in your letter is that the CSA 2010 CSMS uses all recorded moving violations from roadside inspections without considering whether a citation or “ticket” was issued. Your letter characterized these recorded moving violations from roadside inspections as “warnings.” You stated ATA’s belief that it is common practice by enforcement officials in States that must have probable cause to conduct an inspection to stop a truck for what you referred to as a “trifling” speeding offense and then record a speeding violation with no citation or “ticket” as justification for the inspection. You also objected to the lack of a due process procedure for drivers to challenge warnings. Your letter further stated that ATA believes there is no research linking warnings for moving violations, as they are currently recorded, and future truck crashes. The ATA essentially recommended that moving violations without issued citations be removed from consideration in the CSA 2010 CSMS.

The FMCSA has conducted effectiveness testing on the Unsafe Driving BASIC (Behavior Analysis Safety Improvement Category) of the CSA 2010 CSMS as it is currently calculated using all recorded moving violations without regard to whether a citation was issued. Put in simple terms, the analysis demonstrates there is a strong relationship between high scores in the Unsafe Driving BASIC, as derived by including all recorded moving violations, and future crashes. From a legal standpoint, the Agency’s use of warnings as one factor in selection of an intervention does not constitute deprivation of a property interest for which a due process procedure is required. The FMCSA has, however, as part of its attempt at further effectiveness analysis, reviewed the existing inspection data to determine if it is feasible to exclude recorded moving violations from consideration by the CSA 2010 CSMS when a citation is not issued. At this time, it is not feasible. A free-form text field exists whereby an enforcement officer can enter whether a citation was issued. However, the completeness and accuracy of this field is not sufficient to employ in the CSMS at this time.

To address this issue, FMCSA is considering the addition of a simple Yes/No field to indicate whether a citation was issued in conjunction with the recorded speeding violation. Furthermore, based upon concerns expressed by ATA and motor carriers participating in our CSA 2010 Operational Model Test, FMCSA is implementing modifications to the roadside inspection software used by its field staff and our State partners that will require roadside officers to designate the severity of speeding offenses recorded on roadside inspections. For example, the enforcement officer will have to designate whether the recorded speeding violation was 1-5 MPH over the speed limit, 6-10 MPH over, etc. Moving forward, this will allow FMCSA to assign less weight to the less severe speeding violations in the CSA 2010 CSMS.

Thank you again for bringing these concerns to my attention. The FMCSA will continue to improve the CSA 2010 CSMS as we obtain comments and learn from the ongoing Operational Model Test, and as we move toward national deployment later this year.

Sincerely,

A handwritten signature in black ink, appearing to read 'Anne S. Ferro', with a long horizontal flourish extending to the right.

Anne S. Ferro
