

**Remarks by Anne S. Ferro
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Texas Motor Truck Association
Annual Conference
San Antonio, TX
August 2, 2012**

Introduction

Good morning and thank you, John. I appreciate the opportunity to talk about the Federal Motor Carrier Safety Administration's most recent safety initiatives. We have a lot to talk about – CSA, EOBRs, oil field exemptions and MAP 21, to name a few.

First, I'd like to congratulate your highly skilled drivers and the drivers from Texas who are competing in the National Truck Driving Championships next week in Minneapolis. I will be taking part in the competition's breakfast of champions. It's a great event and one that celebrates our long-standing mutual goal of safety.

Today I'd like update you on several key issues affecting the trucking industry.

FMCSA's Safety-First Mission

Because safety is FMCSA's Number One Priority, it clearly shapes our enforcement and regulatory efforts to keep our roads and highways safe. America's roads and highways are the safest they've ever been. In fact,

through 2010, we have seen a 30 percent reduction in truck-related fatalities since 2005.

That is great progress. But, the fact is our roads CAN and MUST be safer. We cannot let up when almost 4,000 people die and over 100,000 are injured in large truck and bus crashes EACH YEAR. Many are truck drivers themselves.

These serious crashes resulted in \$58 billion in costs to society [in 2010], including medical, insurance, lost wages and productivity, clogged roadways, and infrastructure damage. As you know, these enormous economic losses impact families, business and consumers alike and take a serious toll on our quality of life.

I know we can all agree that safety drives competitiveness because safety is good business.

Goal of CSA

The clear majority of truck companies and their drivers are highly skilled and take pride in safe operations. We are trying to detect the ones that fall through the cracks or evade our safety processes.

So, about eight years ago, the agency asked industry, enforcement and the safety community to help us identify ways to better detect unsafe

operators to develop sharper picture of those carriers that present a high safety risk.

Everyone's input formed the basis for CSA. That is how our Compliance, Safety, Accountability, or CSA program was created. Being open and responsive to ideas and concerns is how we continue to strengthen CSA and our ability to track carriers with compliance problems or who have a high risk for future crashes.

Safety Measurement System

The Safety Measurement System proves the concept that what gets measured gets done. Both large and small carriers alike use the SMS to monitor and improve their scores.

We have seen many carriers bring their scores down below the alert status by using the system to identify and correct problems.

Last year alone our SMS web site recorded nearly 30 million users compared to only 4 million visits to the SafeStat site the previous year.

The majority of carriers that received a warning letter or other intervention IMPROVED. The SMS gives carriers tools to improve their BASIC percentiles.

SMS improves driver safety performance. Last year, in 2011, roadside inspection violation rates decreased by 8 percent, and driver violation rates

decreased by 12 percent; *this is the most dramatic improvement in violation rates in ten years.*

With all its tremendous benefits, the SMS is not perfect. It is a very, very good and effective tool for identifying carriers that present a high crash risk. In fact, carriers identified as high risk have 56 percent more crashes than the former SafeStat “AB” List.

We will continue to listen to ideas for improving SMS and take appropriate steps when necessary.

Recently, we took one such step. Beginning on Monday, July 23, the SMS gave lower weights to violations for suspended licenses that are not safety-related such as failure to pay parking tickets.

This is in direct response to feedback we got from motor carriers frustrated that they were being heavily penalized for suspensions in States other than the State of Record.

Also, based on findings from our own analysis and information received from enforcement, industry and other groups, in March we published a Federal Register notice explaining our proposed changes to improve the SMS. Those changes included better identifying hazmat and passenger carriers, moving cargo securement violations into the vehicle BASIC and creating a new hazardous materials BASIC.

A preview period for these changes began in late March. The comment period closed just two days ago.

In August, we will review feedback received with the expectation of making this package of improvements operational in this fall.

So far, more than 14,000 carriers and over 1,700 law enforcement personnel have logged into the SMS preview.

I recommend that you read the Federal Register Notice – dated March 27, 2012 – and regularly check the FMCSA web site for all updates.

Responsiveness/Transparency

There has been praise for and plenty of criticism of FMCSA for not being responsive and transparent on CSA.

We take these comments seriously and we are rededicating ourselves to building on the many public meetings we had in developing CSA.

If you think back, you may recall how we improved the formula for evaluating unsafe driving and crash BASICS based on comments from the first preview period in 2010.

I want the CSA program to be characterized as valuing the feedback from all interested parties.

I will tell you we are never going to be able to move as fast as you, or I, want to make necessary changes. We have a responsibility to ensure changes are thoroughly analyzed and that we follow the proper procedures for obtaining input from all of our stakeholders and ensure that the changes have a positive impact on safety and compliance.

Crash Weighting System

We know there is a strong interest in crash weighting.

In response to stakeholder interest and in line with FMCSA's commitment to continuous improvement, we are looking into the feasibility of weighting crashes in SMS differently, depending on the carrier's role in those crashes.

As part of this effort, FMCSA undertook an analysis that assessed the feasibility of using Police Accident Reports – called "PARs" for short – in determining a motor carrier's role in crashes.

As a first phase, we posted results of this analysis on July 23 on the CSA website.

While this analysis is a first step in our effort to examine the feasibility of using police accident reports to determine crash weighting, more needs to be done.

Moving forward, we have developed a draft business proposal to incorporate crash determinations into our Motor Carrier Management Information System database for use in the SMS. FMCSA then presented that proposal to the Motor Carrier Safety Advisory Committee or MCSAC as it is called – in February 2012.

However, discussions during the MCSAC meeting raised questions that we need to study further.

After initial discussions with our stakeholders, we decided additional analysis was needed before releasing a proposal for comment. There were several areas of concern, including the exclusive use of police accident reports to make the determination, and the process for public input on the decision-making process regarding preventability.

Also, a recent white paper looking at police accident reports did not establish whether the carrier's role in the crash is a better indicator of future crash involvement and did not confirm that the funding needed to make determinations about carriers' roles in crashes was an effective use of public resources.

In other words, it was unclear if the benefits of determining accountability would justify the anticipated \$2 million to 3 million annually required to analyze up to 100,000 crash reports every year.

It is our process for completing this analysis that I want to share with you this morning. There are several steps in this process:

- A broad study of police accident reports across the nation will attempt to determine whether they provide sufficient, consistent, and reliable information that can be used to determine the carrier's role in a given crash and what other information, including input from other entities in determining the cause of the crash should be used to supplement police accident reports for maximum reliability.
- FMCSA will conduct an analysis to determine if the carrier's role in a given crash is a better indicator of future crash risk. If so, the analysis will determine the impact of weighting crashes differently in SMS.
- Throughout this analysis, research will also be reviewed from similar programs in other countries (e.g., Canada) to understand their analysis, processes, and applicability to SMS.

The results of this study will be available in the summer of 2013 and FMCSA will develop a plan for implementing appropriate crash determinations.

FMCSA designed the SMS to be improved as better data, information, and analysis become available. This crash weighting analysis project is part of that effort.

The data gained will help us determine the ability of FMCSA to address the volume of crashes within our current resources.

FMCSA Initiatives & Regulations

All of our regulations and initiatives begin and end with safety because it is our NUMBER ONE priority.

Besides CSA, FMCSA has devoted enormous energy to other policies and programs that address driver fatigue, distracted driving and driver health and wellness.

Hours of Service

Last year, for instance, we published a carefully formulated hours-of-service rule based on years of well-grounded research on the relationship between work hours, health and safety.

The rule helps truck drivers get more rest to be more alert behind the wheel.

It reduces the effects of fatigue on drivers by: cutting maximum allowable work hours from 82 hours to 70 hours per week, on average, and requiring drivers to take at least one 30-minute break at a time of their choosing if they intend to drive later than the 8th hour after coming on duty.

There is no magic wand or silver bullet to prevent fatigue-related crashes, but the new HOS rule goes a long way to giving drivers enough time off to obtain adequate daily and weekly rest.

Status of Oil Field Exemption

Another topic of interest is the oil field exemption to the hours of service safety regulation. As you know, there has been a dramatic increase in oil and gas drilling in recent years, often in states that have not previously experienced these activities.

The “fracturing” or, as you know it, “fracking” process has made this possible. “Fracking” requires massive amounts of water and sand, most of which must be transported by truck, often over rural and even unpaved roads.

The increase in truck traffic has led to questions about the availability of hours-of-service exceptions for oilfield operations. Concerns have also been raised about the consistency of enforcement of HOS rules among the states.

In 1962, the Interstate Commerce Commission, which had responsibility for CMV safety rules at that time, granted two HOS exceptions to operators of CMVs involved in oilfield activities. These rules were subsequently passed on to DOT when the ICC’s safety oversight functions were terminated.

The first exception was a “24-hour restart” of the 70-hour rule (*prohibiting driving after accumulating 70 hours of on-duty time in 8 consecutive days; the calculation of the 70 hours can be restarted after 24 consecutive hours off duty*). This exception is available to operators of most CMVs servicing the gas and oil well sites.

The second exception allows operators of equipment constructed for oilfield operations which requires highly specialized training not to count “waiting time” at well sites as “on duty,” which would be the normal status when standing-by in readiness to work.

The ICC’s assumption was that these individuals are more like equipment operators than CMV drivers, and their services are needed at certain unpredictable points in the drilling processes.

Recently, questions have been raised by operators of various CMVs who claim that they qualify for this “waiting time” exception, even though in most cases their primary purpose is to transport sand and water to well sites in CMVs that are typically used for many other purposes, and thus are not “specialty constructed” for oil field use nor requiring the type of “special training” explained in the original documentation of these exemptions.

We published guidance on this issue that became effective on June 5, but we're accepting comments to a public docket for a 60-day period ending on August 6.

We are preparing to publish an extension to the comment period for another 60 days taking us to early October so that we may receive as many comments as possible. These comments will be analyzed to determine whether any further regulatory guidance related to oil and gas well sites is needed.

We will also hold listening sessions to gain additional comments about the oilfield guidance. One is scheduled in Denver on August 17, and another in Pittsburgh on August 21, with a third planned for Dallas in mid-September. We will publish details about these sessions in the Federal Register soon and will post the information on the FMCSA website.

The Future of EOBRs

Electronic On-Board Recorders – or EOBRs -- continue to be an integral part of FMCSA's safety strategy to monitor, substantiate and enforce compliance with a driver's hours of service.

As you are aware, a remedial rule was vacated last year by the U.S. Court of Appeals for the 7th Circuit because FMCSA did not address harassment.

The new transportation bill called MAP-21 – which stands for “*Moving Ahead for Progress in the 21st Century*” – directs FMCSA to require the use of “electronic logging devices.”

We are preparing to issue a supplemental notice of proposed rulemaking or “NPRM” that will meet the requirements laid out under the MAP-21 legislation and address the concerns raised by the 7th Circuit.

Further, the supplemental NPRM will reflect the lessons we learned from listening comments provided during our recent listening sessions on driver harassment as well as from our Motor Carrier Safety Advisory Committee.

As we move forward on this new electronic logging devices rulemaking, we will continue our extensive outreach effort to hear from as many drivers, carriers, law enforcement personnel, and interested citizens as possible.

Cell Phone Use

[At DOT, we have placed a major emphasis on combating **distracted driving**.

At FMCSA, we adopted texting and hand-held cell phone bans – safety regulations that drive home the fact that no text or call is so important that drivers should risk their own lives and the lives of innocent people around them.

More than 2,600 CMV drivers and over 2,200 carriers have been cited for using or allowing a driver to use cell phones while driving since the new hand-held cell phone ban became law. Last year, in the first year for the texting ban, we recorded 630 driver violations. So far this year, 1,042 drivers have been issued texting violations.

I ask every group I visit for their help in spreading the message to drivers everywhere: “One Text or Call Could Wreck it All.” The **Distraction.gov** website has all kinds of helpful information and resources. Please check it out.]

National Registry

Another focus area for FMCSA is driver fitness, health and wellness. In April, we issued a final rule establishing a **National Registry of Certified Medical Examiners** that sets baseline training and testing standards for medical professionals who perform commercial driver physicals. This rule will help ensure that the examiners understand our medical standards and that only medically qualified drivers are issued a medical card.

Upcoming Rulemakings

Looking ahead to later this year, we plan to issue a notice of proposed rulemaking to establish a clearinghouse to track commercial drivers’ positive drug and alcohol tests and refusals.

In addition, we have rules in the works to establish a single, on-line process for applying for operating authority; another rule to enable FMCSA to suspend or revoke the operating authority of a carrier based on the conduct of company officers; and a new rule to replace the current rating system and replace it with a new safety fitness standard based on CSA.]

Safe, Secure Cross Border Trucking Program

Lastly, on the programmatic front, I will touch on what how our cross border trucking program with Mexico is doing.

The pilot program continues to put safety first and paved the way for Mexico to lift tariffs it imposed more than two years ago.

So far, after extensive safety reviews, FMCSA granted authority to four carriers; seven pre-authorization safety audits or PASAs have been completed five PASAs are scheduled; three carriers are in the vetting process; nine carriers have been dismissed or have withdrawn and four carriers need to submit additional information to complete application.

This authority was granted after reviews of their operations to ensure that their drivers and trucks comply with all FMCSA safety standards.

Each of the approved carriers has an electronic monitoring device installed in its approved trucks.

As we conduct the program, let me assure you that without exception, we are ensuring that Mexican drivers and trucks on American roadways are held to rigorous safety standards – just as American drivers and trucks are.

MAP 21

Finally, I know many eyes are on our Nation's Capital as we collectively digest the contents of our new 2-year transportation bill – a bill that will help grow our economy, create jobs and strengthen our transportation system.

It invests much needed money into our infrastructure and into safety.

MAP-21 provides communities with two years of steady funding and the certainty they need to invest in critical road, bridge and transit projects.

All together Congress directed FMCSA to complete or begin 24 rulemakings, 34 programmatic changes and 15 reports during the two-year span of this bill – a tall order to be sure.

We are already beginning the work with Congress, States and local communities to put this bill into effect quickly and effectively.

I am very pleased that MAP-21 aligns with the Agency's safety priorities of raising the safety bar to enter the industry; requiring operators to maintain high safety standards to remain in the industry; and removing high-risk operators from our roads and highways.

As I said earlier, MAP-21 directs FMCSA to pursue a number of important CMV safety initiatives; it:

- Requires a new rulemaking on electronic logging devices;
- Sets a deadline for establishing a new drug and alcohol clearinghouse for truck drivers;
- Requires FMCSA to develop standards for a system to notify employers of changes in their employees' driving status;
- Establishes new registration requirements to catch reincarnated carriers; and,
- Ensures that new entrants understand the safety rules before entering the industry.

Overall, MAP-21 provides FMCSA with important new enforcement tools to take unsafe operators off of our roads.

We believe this bill is a win for those who are passionate about safety. It puts a lot into a two-year bill. The challenge will be for FMCSA to focus its resources to meet the deadlines established by Congress. To do that, I will need your help.

I will continue to seek out your thoughts and ideas as we implement the important safety provisions in this bill.

Conclusion

How many of you are watching the London Olympics on TV?

I understand that Texas is well-represented, sending 33 athletes to go for the gold at the Games. That makes Texas fourth among the states in the number of athletes sent to the Olympics.

Like Olympic athletes, we believe that nothing is impossible, right? All it takes is dedication, years of training and the love of competition.

For the trucking industry, you must believe that our shared safety goals can be reached and are within reach. But these goals can't be met unless we are dedicated to work together for the purpose of raising the bar for safety, requiring high safety standards and removing unsafe carriers, drivers and trucks from our roads. And we must do all of those things – day in and day out.

It all comes down to this: Being open, transparent and responsive by truly working together, we can have a positive impact on the trucking industry and save the most lives.

I'm happy to answer your questions. Thank you all. ###