



AMERICAN TRUCKING ASSOCIATIONS

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The Honorable Anne Ferro
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Ave., S.E.
Washington, D.C. 20590

Dear Administrator Ferro:

Thank you for the opportunity to meet on Tuesday of this week to discuss the CSA 2010 program. As we stated at the outset of the meeting, ATA fully supports the safety and efficiency objectives of CSA 2010, and believes the program has significant potential to further improve the trucking industry's impressive safety record. However, as you also know from the meeting, ATA, its members and State affiliates have identified a number of serious problems with parts of the program methodology. The purpose of this letter is to reiterate these problems and, more importantly, to communicate in writing our recommended solutions to improve CSA 2010. If these problems are not resolved, ATA is concerned that CSA 2010 will ultimately target the wrong carriers and drivers for interventions, which will harm the program's credibility. We are optimistic that FMCSA will work with ATA prior to full CSA 2010 implementation to institute our recommended solutions, or perhaps other similar, solutions that specifically address the identified problems.

The biggest problem and ATA's most pressing concern is the lack of a crash accountability determination prior to the data being entered and used in the program. In measuring each carrier's safety performance, CSA 2010 considers all DOT-defined crashes, including those for which the motor carrier and/or driver could not reasonably be held accountable. This is a huge problem since the majority of serious truck-involved crashes are multi-vehicle crashes involving cars, many of which are caused by the driver of the other vehicle. Accordingly, a carrier involved in one or more crashes for which it was not responsible is determined by FMCSA to be just as unsafe as a like-sized carrier who was involved in the same number of crashes – but caused them. FMCSA staff has repeatedly stated the program will not consider crash accountability in determining a carrier's (and a driver's) safety score for the purposes of selecting carriers for intervention. This approach is not only inappropriate; it does nothing to help the Agency target unsafe carrier and driver behavior resulting in crashes.

ATA's Recommended Solution - There are a number of ways in which FMCSA could resolve this concern. ATA believes FMCSA's use of a single contractor with a small, well-trained 'crash evaluation team,' may be the most efficient way to resolve it. Such a 'crash evaluation team' would need to follow standardized, FMCSA-developed crash accountability guidelines which could easily be developed in the near-term, and then refined over time as experience dictates. ATA believes a crash evaluation team might be as small 13-15 well-trained people, with 1-2 experienced supervisors. This type of contract could well be less than seven figures (i.e., less than \$1 million per year) and could be implemented prior to full CSA 2010 implementation.

ATA's second significant concern is CSA 2010's use of each carrier's truck count (referred to as "power units" by FMCSA) as the measure of risk exposure rather than the total number of miles these trucks travel each year. Motor carriers who employ greater asset utilization will have more actual exposure to crashes and other safety-related events, but will be compared to carriers who have less exposure – though the same or similar number of trucks. This problem is especially acute for motor carriers that move expedited freight with sleeper teams (i.e., two drivers per truck) since their vehicles travel more miles and, as a result, have more exposure to adverse safety events. Similar to the crash accountability problem, using a carrier's truck count detracts from the Agency's ability to target carriers and drivers most in need of government intervention and, as was described in our meeting, results in safety scores for some carriers which can best be described as 'false positives.' These false positives result in the Agency inefficiently (and ineffectively) assigning its limited enforcement resources. And, because safety performance is relative, truly unsafe carriers will likely be missed.

Good stuff.



ATA's Recommended Solution – FMCSA's MCS-150 form--required to be updated and submitted by all carriers to FMCSA every 2 years--is the filing used to collect both mileage and truck count data from the industry. Agency staff has stated it has more truck count data than mileage data in its system because the online MCS-150 form was programmed to make the truck count field a required one, and the mileage field an optional field. FMCSA should **immediately** re-program its online MCS-150 form to make the mileage field mandatory and carriers should not be capable of electronically submitting the form to FMCSA unless this field is completed. Also, if FMCSA does not have mileage data for some carriers prior to CSA 2010 implementation (i.e., those carriers who are not be required to submit their next MCS-150 form for another 1-2 years), CSA 2010 should default to an average annual mileage per truck figure, and use that carrier's truck count on file as the multiplier. The average annual mileage per truck can easily be determined based on the latest Federal Highway Administration data on truck miles traveled (approx. 227 billion in 2008) and the number of registered number of large trucks (slightly more than 9 million in 2008). Using these figures, the average annual mileage per truck is 25,254. This default figure would likely be low for many carriers and, therefore, use of it in CSA 2010 would serve as a great incentive for these carriers to file an updated MCS-150 form well before its next required submission date. In addition, FMCSA should consider requiring carriers to submit an updated MCS-150 form annually, as must be done today in PRISM States.

ATA's third significant concern is that CSA 2010 currently counts all alleged moving violations listed on roadside inspection reports, regardless of whether or not a citation was issued to the driver. In other words, warning notices and even simple "warnings" listed on inspection reports are counted and scored in CSA 2010 exactly the same as an actual moving violation citation. This presents several problems. First, in order for a law enforcement officer to issue a citation, he/she has to meet certain thresholds of observation. These thresholds are not arbitrary and are in force so motorists are not falsely accused. These same thresholds do not apply to warnings in which the officer presumes there is no penalty. Second, since these are merely warnings, there is no due process procedure for drivers and carriers to challenge them. Third, in some states law enforcement officers must have probable cause in order to stop a truck and conduct a vehicle inspection (and, therefore, get reimbursed under MCSAP). In these states, it is common practice for enforcement officials to stop a truck for a trifling speeding offense (e.g., 3 mph over the limit) and list 'warning for speeding' on the inspection report as justification for the inspection. Carriers operating in these probable cause states are disproportionately impacted and will likely have worse CSA 2010 "unsafe driving" scores than carriers who operate elsewhere. Lastly, and perhaps most importantly from a safety perspective, there is research demonstrating a clear link between actual citations (and citations resulting in convictions) and future truck crashes. There is no such research linking warnings and future truck crashes.

ATA's Recommendation – Warnings and warning tickets should not be assigned a point value and should not be used in CSA 2010, at least initially. This information should be maintained separately by FMCSA, and carefully evaluated to determine if it has some predictive value regarding potential, future unsafe behavior by drivers and carriers. Citations and, if possible, conviction data should be used in CSA 2010 because research demonstrates it serves as a good measure/predictor of driver and carrier safety.

While ATA has a number of other data, data accessibility, and methodology concerns, we believe it's appropriate at this point to work with FMCSA prior to CSA 2010 implementation to resolve the three significant problems outlined above.

ATA would greatly appreciate a response concerning FMCSA's willingness to work with ATA to address these three problems prior to full CSA 2010 implementation. We respectfully request, if possible, a response before the truck safety oversight hearing in late March since this issue will likely be a focus of the hearing.

Sincerely,



David J. Osiecki

ATA Sr. Vice President for Policy & Regulatory Affairs