

**STATEMENT OF JOHN HILL, ADMINISTRATOR
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT
MARINE INFRASTRUCTURE, SAFETY, AND SECURITY
SEPTEMBER 18, 2008**

Chairman Lautenberg, Ranking Member Smith, and Members of the Subcommittee, thank you for inviting me today to discuss the Federal Motor Carrier Safety Administration's (FMCSA) programs related to bus operations. I am pleased to have the opportunity to discuss how FMCSA's important programs improve bus safety and make the Nation's highways safer. As recently announced by Transportation Secretary Mary Peters, the total number of fatalities on the Nation's highways declined 3.9 percent in 2007 to the lowest level since 1994. For the bus industry, 2007 had the fewest fatal bus crashes since 2004, down 8.6 percent from 2006. The number of fatalities in bus crashes was also 4.5 percent lower than in 2006. The Agency recognizes, however, that every life lost is one too many, and understands fully the risk of multiple injuries and fatalities in a bus crash. As a result, we continue to place a high priority on our passenger carrier programs.

The industry has seen many recent market changes. For example, the economy and rising fuel prices have contributed to increased ridership and new bus companies. FMCSA monitors the industry, remaining agile and adjusting as needed to offset the risks that these changes introduce.

FMCSA remains dedicated to developing and implementing strong safety programs to reduce crashes of buses and large trucks. Over the past 8 ½ years, the Agency has implemented new regulations, grant requirements, processes, and penalties to make the industry safer. During my tenure as Administrator, I have redirected FMCSA's resources and engaged our State partners actively to complete more compliance reviews (CRs), inspections, and nationwide strike forces. Within the last year, I visited the National Highway Traffic Safety Administration's (NHTSA) Vehicle Research and Test Center in East Liberty, Ohio, and witnessed a motorcoach crash test to gain additional information and insight into passenger carrier safety issues. Additionally, I rode two curbside buses to New York, NY, from Washington, DC, to understand how this emerging business model employs safety practices in its operations.

SHERMAN, TX, MOTORCOACH CRASH

Seeing the devastation of the August 8, 2008, crash in Sherman, Texas, is a solemn reminder of the need for rigorous oversight and strong penalties for unsafe carriers. Due to the alleged unsafe behavior of the motor carrier involved, 17 people on a religious pilgrimage lost their lives and 15 others were injured. The families and communities of these victims will suffer the repercussions for a long time.

The carrier involved in this tragic crash, Iguala Busmex, did not have proper authority to operate and was actually a reincarnation of another unsafe motorcoach company, Angel Tours, Inc., that FMCSA had placed out-of-service in June after declaring it unsatisfactory and unfit to operate. Both of these companies were owned and operated by the same individual, Angel De La Torre. Although the National Transportation Safety Board's (NTSB's) investigation is proceeding, FMCSA discovered at least three deficiencies with Iguala Busmex when the crash occurred, in addition to its not having operating authority.

First, the tire that deflated was a recap/retread tire that had been installed on the right front steering axle, in violation of the Federal Motor Carrier Safety Regulations. While such tires are permitted on axles at the rear of a bus, having them on a front or steering axle is prohibited by federal regulations. Second, the carrier did not ensure that the driver was certified as meeting our medical standards. The driver had an expired medical certificate in his possession at the time of the crash. Third, the carrier was not conducting pre-employment drug testing.

Further, while investigating, FMCSA determined that the motor carrier was operating motorcoaches that were being used by two different motor carriers, Iguala Busmex, Inc. and Liberty Charters and Tours. Following the discovery of this information, FMCSA dispatched additional investigators.

FMCSA discovered that Angel De La Torre was involved in managing at least some aspects of Liberty Charters and Tours. Based on these findings, FMCSA issued an imminent hazard out-of-service order on August 12th prohibiting Liberty Charters and Tours from using drivers or vehicles that were under the control or employ of Angel Tours, Iguala Busmex, or Angel De La Torre. The Agency issues imminent hazard out-of-service orders when continued operation of the company increases substantially the likelihood of serious injury or death.

The bus involved in the Sherman crash had been inspected as recently as July 31st, and did not have a retread tire at that time. However, FMCSA's continuing investigations demonstrate the extent to which some motor carriers go to defy laws and regulations. They represent the most egregious carriers with which we must contend. Fortunately, these carriers represent the minority of the industry. Most of the 3,938 active interstate motorcoach carriers operating 33,250 vehicles operate properly and deliver their passengers safely.

UPDATE ON FMCSA'S NATIONAL BUS SAFETY PROGRAM

When I testified before your House colleagues in March 2007, I explained that FMCSA's National Motorcoach Safety Program emphasizes six areas: (1) increasing the number of motorcoach CRs; (2) ensuring passenger carriers have a higher priority within FMCSA's CR prioritization system, known as SafeStat; (3) establishing formal bus inspection programs within all States; (4) improving the collection and analysis of safety data; (5) reducing

motorcoach fires; and (6) expediting safety audits of new entrant passenger carriers. Over the past 14 months, FMCSA has made considerable progress in each of these areas.

Motorcoach Compliance Reviews

In Fiscal Year 2005, FMCSA and its State partners completed CRs on 457 motorcoach companies. FMCSA increased this number to more than 600 in FY 2006. I am pleased to report that this was more than doubled in 2007 to 1,304. In FY 2008, the Agency has completed 1,257 motorcoach CRs to date. FMCSA continues to adjust its resources and goals to reach more motorcoach carriers. I would like to take this opportunity to commend FMCSA's State partners and the Commercial Vehicle Safety Alliance (CVSA), who have been instrumental in helping exceed these goals.

Passenger Carrier Enhancements to the SafeStat System

Directly related to FMCSA's CR program is the Agency's modification of the algorithm used in the SafeStat system. FMCSA and State enforcement inspectors use the SafeStat system to identify high risk motor carriers in need of Agency oversight. The Agency recognizes that bus companies should receive the utmost program attention and enforcement resources. As a result, FMCSA has revised its SafeStat CR prioritization system to address the additional risks associated with passenger transportation by applying more stringent safety standards for passenger carriers. Under the revised system, FMCSA has identified additional groups of passenger carriers as its highest priorities for CRs. These groups include passenger carriers with less than satisfactory ratings, those with operational data showing violations, and passenger carriers that have not been reviewed in the last five years.

Prior to the implementation of this new algorithm, 101 passenger carriers were on the prioritized CR list. Under the new system, FMCSA will now be reviewing 889 passenger carriers on the priority list, nearly double the number of passenger carrier CRs in FY 2005.

Bus Inspections

For the past two fiscal years, FMCSA's State partners have been required to include a bus inspection program in their Commercial Vehicle Safety Plan (CVSP) in order to receive funding under the Motor Carrier Safety Assistance Program. As a result, 147,686 bus inspections were completed in FY 2007, which is 160 percent higher than the 56,084 bus inspections conducted in FY 2005. In FY 2008, 140,448 inspections have been conducted to date.

The FMCSA has continued to augment its program with bus strike forces to focus attention on passenger carrier safety. The most recent strike force was conducted August 4-16 and spanned all 50 States and the District of Columbia. Federal and State personnel from numerous law enforcement agencies participated in the strike force, completing approximately 12,000 safety inspections on vehicles and drivers. As a result, 1,200 buses were placed out of service.

Improved Safety Data

The results of these increased efforts remove unsafe drivers and vehicles from the road and give the Agency additional data on passenger carriers that can be used to further research, program initiatives, and risk assessment on carriers and drivers.

FMCSA is currently completing a Bus Crash Causation Study. Based on the data analysis to date, it appears that, like the Large Truck Crash Causation Study (LTCCS) issued in November 2005, other vehicles and drivers were responsible for the crashes in more than half of the cases (20 out of 39). In addition, where the critical reason for the crash was assigned to the bus driver, the crash was the result of driver errors including inadequate surveillance, inattention, and following too closely. Only four crashes were related to vehicle malfunctions. In two cases, brakes failed and in the other two there were fires. The Agency will continue its efforts to increase focus on both commercial motor vehicle (CMV) and non-CMV drivers.

Bus Fires

On July 24, 2007, FMCSA published a Federal Register notice to advise that fires must be treated as crashes concerning reporting requirements. Motor carriers must now include fires on their accident register and law enforcement agencies should capture the information on their State Accident Reporting System. The additional data from this change improves significantly FMCSA's fire data collection and analysis efforts.

The FMCSA, through the Department's Volpe National Transportation Systems Center, developed a national motorcoach fire database and completed a fire safety analysis. This study reviewed more than 500 fire incidents over the last 10 years using information from FMCSA's Motor Carrier Management Information System, the Department of Homeland Security's National Fire Incident Reporting System, and individual State accident reporting data. The study recommended focusing on improving the effectiveness of State and Federal motorcoach inspection practices to identify mechanical conditions that can cause fires. With this information, FMCSA worked with the CVSA to change the out-of-service criteria to include oil leaks in wheel hubs and frayed or damaged wiring on bus electrical systems.

The FMCSA is expanding the original study to include newly available fire information from 2004 to 2008. This will allow the Agency to examine newer motorcoaches that may be equipped with automatic fire detection and suppression systems and evaluate the efficacy of such safety devices. Recently, FMCSA entered into a partnership with NHTSA's Special Crash Investigation unit to evaluate fire incidents on motorcoaches and conduct detailed engineering root cause analysis. A team of NHTSA technical experts will travel to motorcoach fires to perform an engineering analysis to determine whether root cause engineering data can be obtained that will indicate why the fire occurred and whether a primary contributing factor can be identified.

New Entrant Passenger Carriers

As reported in July 2007, FMCSA established an internal goal to complete the new entrant safety audits for passenger carriers within 9 months, rather than the 18 months provided in the originating statute. In FY 2007, FMCSA completed 86.6 percent within 9 months and 94.7 percent within 18 months. For FY 2008, to date, the percentages are 83.5 percent and 94.8 percent, respectively. On average, a safety audit is conducted on a new motorcoach carrier within 4.5 months.

The Agency expects publication of the final rule on the New Entrant Safety Assurance Process later this year. At present, the rule is in the final stages of Departmental review. The notice of proposed rulemaking published on December 21, 2006, recommended strengthening the standards for all motor carriers and requiring verification and education about the requirements of the Americans with Disabilities Act (ADA) during the safety audit. Changes in this program will contribute significantly to starting new carriers off right and will enable FMCSA and its State partners to identify unsafe carriers and ensure the early correction of unsafe practices.

CURRENT AND FUTURE AUTHORITIES

While these six National Motorcoach Safety Program initiatives have resulted in significant enhancements to our safety programs, FMCSA continues to use its current authority and looks for additional authority that would eliminate loopholes, identify more unsafe carriers, and make the industry safer. Recently, FMCSA received additional direction through the Over-the-Road Bus Transportation Accessibility Act of 2007 (P. L. 110-291), signed into law by President Bush on July 30. This legislation clarifies the Agency's role in considering ADA compliance before operating authority is granted and authorizes the Agency to revoke operating authority based on willful noncompliance with DOT's ADA regulations.

I am pleased to report that FMCSA met the requirement of the Act to "take necessary actions to implement the changes required" within 30 days. To that end, the Agency has provided staff with the needed procedures and direction for implementation. In addition, we have initiated the development of the Memorandum of Understanding (MOU) with the Department of Justice, as required by the statute, and are on target to complete the MOU by the 6-month statutory deadline.

The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) established the Motor Carrier Safety Advisory Committee (MCSAC) to provide advice and recommendations on motor carrier safety programs and motor carrier safety regulations. The MCSAC recently recommended several reauthorization proposals to the Agency for consideration. We are now reviewing the advisory committee's recommendations. The Agency's next reauthorization will be critical in providing the tools and resources needed by FMCSA to create an even more robust safety program.

To ensure that noncompliant carriers are not attempting to evade detection by creating new motor carriers, the Agency has implemented a vetting process for new passenger carrier operating authority applicants. This process compares available applicant information to existing carrier information. FMCSA's algorithm identifies common characteristics such as names, addresses, phone numbers, e-mail addresses, vehicles, drivers, and insurance policy information. If similarities are detected, FMCSA investigates further.

The application is vetted by FMCSA and with the appropriate State agency. If an affiliation with a carrier with an unsafe record is detected through this vetting process, the applicant is required to provide additional documentation. FMCSA will deny authority to any unsafe carrier attempting to reestablish itself as a new carrier.

DRIVER ISSUES

The FMCSA continues to monitor other areas of concern including driver health, driver fatigue, and the impacts of non-CMV's around large trucks and buses. In April 2008, FMCSA began a 24-month research study specific to motorcoach driver fatigue. This research will gather empirical data on motorcoach driver schedules to help bus companies better manage fatigue in their driver operations.

The Agency continues to focus on driver information available through our existing systems. FMCSA developed the Driver Information Resource (DIR) in response to SAFETEA-LU. The DIR is a Web-based tool that allows a user to search by driver for a driver's crash and inspection history, regardless of a driver's employment history. FMCSA and State enforcement staff continue to use this tool to access driver-specific data. The Agency expects to make this information available to the motor carrier industry as a part of the pre-employment verification process. Approved companies would distribute the information to inquiring motor carriers with the driver's approval. The system is to be accessible by motor carriers in 2009. This will result in bus and truck companies hiring safer drivers or risking consequences for employing unsafe operators.

Additionally, FMCSA's Comprehensive Safety Analysis 2010 (CSA 2010) program will address driver-specific issues. CSA 2010 will collect and manage driver specific data and target drivers and carriers based on these data.

NTSB RECOMMENDATIONS

FMCSA has been responding to a number of NTSB motorcoach recommendations. Several of these recommendations relate to two FMCSA rulemakings: "Medical Certification Requirements as Part of the Commercial Driver's License" and "National Registry of Certified Medical Examiners." The Medical Certification final rule and the National Registry notice of proposed rulemaking are currently under review. We anticipate publishing both of these rules later this fall.

In addition, in response to a NTSB recommendation, FMCSA partnered with the American Bus Association (ABA), the United Motorcoach Association (UMA), and the CVSA to develop and distribute a booklet entitled, “Motorcoach Brake Systems and Safety Technologies.” More than 4,000 copies were distributed and the document is accessible on the FMCSA Web site.

FMCSA has developed a new algorithm to change the prioritization of motorcoaches in the SafeStat system. As a result, FMCSA has requested that the NTSB close the related recommendation.

Additionally, FMCSA recently requested closure of three other recommendations related to the publishing of pre-trip safety guidance in the Federal Register and development and publication of outreach materials. 30,000 brochures, 20,000 audio CDs, and 6,000 posters have been distributed. In addition, these materials were posted on FMCSA’s Web site. The Agency continues to target non-traditional motorcoach users and operators, such as church and school groups.

Finally, another recommendation relates to developing a national bus fire database and studying the causes, frequency, and severity of bus and motorcoach fires. As I explained earlier in my statement, FMCSA has engaged the Volpe Center and NHTSA to provide assistance in this effort.

PARTNERSHIPS

It must be noted that FMCSA could not have made these accomplishments without our partnerships with other DOT agencies such as NHTSA and the Federal Transit Administration, other Federal agencies, State and local law enforcement agencies, and organizations such as the American Bus Association, the United Motorcoach Association, and the Commercial Vehicle Safety Alliance. These critically important relationships help to bring issues to light and strengthen the industry.

CONCLUSION

Mr. Chairman, I would like to reiterate FMCSA’s dedication to bus safety. Our agency works each day to ensure that every passenger arrives home safely to loved ones from every trip. In the history of CMV enforcement and regulatory oversight, we now have more inspections, more CRs and timelier new entrant audits, and greater outreach and education than ever. In advance of the Sherman tragedy, FMCSA took strong steps to ensure the safety of our highways. We identified a carrier as unsafe, conducted a thorough investigation, and determined the carrier to be unfit, placing it out of service. Sadly, the owner of the company that had been placed out of service chose to ignore his passengers’ safety by disregarding the rules intended to protect them. This willful negligence has no place in the future of American transportation. Our agency is dedicated to finding and stopping such operators before they commit these atrocious acts.

While we are seeing a reduction in the total number of fatalities each year, FMCSA recognizes that much work remains. Please be assured of my continued personal commitment to reducing these fatalities further and making our Nation's highways even safer. Thank you for the opportunity to testify before you today about this important issue. I also commend the Subcommittee for continuing to focus on bus safety to increase protection of the American people. I would be happy to respond to any questions you may have.