



302669
Oregon

Theodore R. Kulongoski, Governor

Department of Transportation
Motor Carrier Transportation Division
550 Capitol Street NE
Salem, OR 97301-2530

August 25, 2004

FILE CODE:

Annette M. Sandberg, Administrator
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
400 7th Street, S.W.
Washington, D.C. 20590

RE: **Comprehensive Safety Analysis 2010 Initiative**; Notice of Public Listening
Sessions; FMCSA-2004-18898; 69 FR 51748

- 19

2004-10-25
10:25 AM
10/25/04

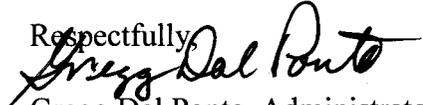
Dear Ms. Sandberg:

I read with interest the August 20, 2004, Federal Register article regarding the notice of planned public listening sessions to facilitate your consideration of ways FMCSA can, "Improve its process of monitoring and assessing the safety of the motor carrier industry and how that information can be presented to the public." I applaud this current effort and desire on your part to consider how your agency can best monitor and assess the safety of the nation's motor carriers and ensure their compliance with federal regulations.

I would observe that this is not a new issue. I corresponded with then Acting Assistant Administrator Julie Anna Cirillo in September of 2000 and submitted a five page letter to her attention addressing this very subject matter and making three specific recommendations for her consideration. Two years later in September of 2002 I submitted those very same recommendations to Administrator Joseph Clapp and encouraged him to give them his serious consideration. I have attached copies of that earlier correspondence for your current review. It is my belief that the recommendations I originally made in 2000 and renewed in 2002 are equally valid today and responsive to the question you have presently posed.

Much has happened since September of 2000. The world is a very different place. The suggestions that I originally made make even more sense in the environment of today when homeland security concerns adds a new dimension to what originally began as a highway public safety discussion. I take this opportunity to once again dust off my suggestions and bring them to your attention. As before, I would be most happy to review these recommendations in greater detail with you or your staff.

Thank you for your consideration.

Respectfully,

Gregg Dal Ponte, Administrator
503-378-6351





Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation
Motor Carrier Transportation Division
550 Capitol Street NE
Salem, OR 97301-2530

September 20, 2002

FILE CODE:

Joseph M. Clapp
Administrator
Federal Motor Carrier Safety Administration
400 7th Street, S.W.
Washington, DC 20590

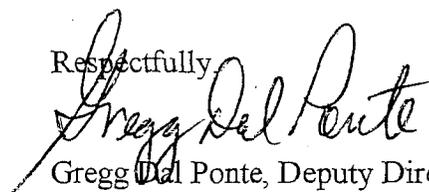
Dear Mr. Clapp:

My nature is to be optimistic. As a result, I am patient and expectant of an eventual good outcome. In that regard, I'd like to bring to your attention a letter that I submitted to FMCSA in September of 2000 which seemingly did not warrant a reply. For all I know, the attached correspondence may very well never have been actually received.

Nevertheless, I consider the recommendations in the attached letter to be as valid and as relevant today as they were when I originally composed them. I'd like to offer again these thoughts to you for your consideration at this time. If you would care to discuss any of my suggestions I would be most happy to review them with you or a member of your staff.

Thank you for your consideration.

Respectfully,


Gregg Dal Ponte, Deputy Director
Motor Carrier Transportation Division
Oregon Department of Transportation
503-378-6351





Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation
Motor Carrier Transportation Division
550 Capitol Street NE
Salem, OR 97301-2530

FILE CODE:

September 13, 2000

Julie Anna Cirillo
Acting Assistant Administrator
Federal Motor Carrier Safety Administration
400 Seventh St., SW
Washington, D.C. 20590

Dear Ms. Cirillo:

Thank you very much for your letter of September 6, 2000, inviting my ideas and suggestions on how FMCSA can best go about achieving the goal established by Secretary of Transportation Rodney Slater to reduce commercial vehicle-related fatalities 50% by 2010. I would be delighted to share my initial opinions and to collaborate with you in an ongoing fashion.

I have examined the web site to which you referred me and I found in one of the links provided there the following quote attributed to you:

3/27/2000—"Which brings me to my final point. That is, we can't succeed at preventing truck and bus fatalities and injuries without everyone recognizing and assuming a role and responsibility for motor carrier safety. By everyone, I mean drivers of passenger and commercial vehicles, carriers, corporate America, Congress, law enforcement, safety groups, shippers, receivers, the insurance community, and other federal and state government agencies. I promise FMCSA will do its part. How about you?"

I think you have seized upon the critical formula for attainment of the goal established by Secretary Slater. In your remark I see an acknowledgment of the leadership role which FMCSA must play, as well as a realization that there is no singular silver bullet and that instead there must be a comprehensive approach that successfully recognizes and maximizes each and every distinct opportunity that becomes available to advance this very important public policy initiative. The commitment must be complete. The approach cannot be hit and miss or compromise this very important public policy initiative for the sake of another. In fact, the attainment of this goal should be the directive element that guides other related policy decisions. Indecision or failure to lead by not making difficult decisions will not work towards the ultimate attainment of your pronounced goal.

Julie Anna Cirillo
Federal Motor Carrier Safety Administration
September 13, 2000
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If the intent of your soon due report to Congress is to identify specific actions and strategies by which you will proactively improve vehicle, driver and carrier safety, then I would offer that you have available to you several distinct leadership opportunities which can move you toward your goal. I will briefly explain each of the initial ideas I would like to express to you.

First, your agency is championing the deployment of Intelligent Transportation System (ITS) technologies under the banner of the Commercial Vehicle Information Systems and Networks (CVISN) program, which provides among other things for automated bypass of truck weigh stations by safe and legal commercial motor vehicles. This is accomplished by identification of enrolled trucks by Automatic Vehicle Identification (AVI) devices using Dedicated Short Range Communication (DSRC) devices commonly referred to as transponders which permit enrolled trucks to be recognized by deployed preclearance systems, and for the driver to receive in the cab of his/her truck either bypass instructions or instructions to report to a scale based on the automated regulatory checks that transpire at a particular site. This technology is used substantially in Oregon. At an automated Oregon weigh station (21 sites) we check each and every truck's weight (individual axles, axle combinations, bridge weights, and total combination weight), height, registration status, highway use tax account status, and safety fitness rating before we make a decision to allow any truck to bypass an open weigh station. Event data that has historically been manually recorded by weigh station operators is now collected automatically at weigh stations equipped with this technology. This event data records that a particular truck license plate came through a particular weigh station on a given date at a precise time. This kind of information is used by Oregon safety enforcement personnel to successfully administer driver hours-of-service audits. Recently, Doug McKelvey of your staff corresponded with me and observed that:

“Removing any tool from the safety investigator’s tool box makes their job more difficult and increases the likelihood of hours-of-service violations not being caught. The Oregon FMCSA Division Office routinely sends out State of Oregon - Scale Crossing Reports every year to other FMCSA offices and States. This information has probably been used in hundreds of enforcement cases by FMCSA and the States.”

Doug was responding to my earlier observation to him that the operators of some weigh station automated preclearance systems have established as a policy the practice of withholding this weigh station event data from legitimate state safety enforcement staff. This is the basis of my first recommendation to you for action.

I recommend that FMCSA take immediate action to establish a national policy of not allowing states or their technology partners to withhold weigh station event data from legitimate safety regulatory enforcement staff.

I agree with Doug's observation that current policies and practices increase the likelihood of hours-of-service violations not being caught. I don't think FMCSA should actively or passively endorse such a degradation in regulatory enforcement capacity. If the proliferation of this ITS technology continues and more and more weigh stations become automated, and the volume of weigh station event data shielded from regulatory scrutiny becomes larger and larger, then I

think the goal that Secretary Slater has put forth becomes more difficult to achieve. FMCSA has the ability to require that states comply with all legitimate data requests to support drivers hours-of-service enforcement efforts and can make such compliance a condition of states continuing to be eligible to receive Motor Carrier Safety Assistance Program federal grant dollars. Whether or not a given state has historically made use of such data in their regulatory enforcement activities is not the question. The question is whether or not states and federal investigators who have historically made legitimate use of such data should be increasingly denied such data. Finally on this point, Mike Onder, Information Technology Systems Program Manager for USDOT, is quoted in the June 26, 2000, edition of Transport Topics as having said:

“They market to [trucking] that this information is private. When they sign up with a state, they agree [the state] won’t get access to the data. That goes against the CVISN architecture. PrePass is hurting interoperability.”

This leads me to my second recommendation for your consideration. Let me provide some contextual information before I make that recommendation. It is the case that many automated weigh station preclearance programs being installed across the country do not employ any weigh in motion capability. Commercial trucks are being allowed to bypass open weigh stations without being weighed. That simple circumstance begs the question, “What do you call a weigh station that does not weigh trucks?” Is there any connection between truck weights and commercial motor vehicle safety? Of course there is. In his correspondence to me, Doug McKelvey observed the following:

“The second part of the question deals with FHWA not requiring weighings. Weight is an infrastructure issue as well as a safety issue. However the State of Oregon did a study, several years ago, that showed a correlation between overweight violations and crashes. This correlation only applied when the overweight violations were well in excess of what would normally be found. It basically showed that habitual violators had problems in many areas. Hopefully carriers approved for bypass will not fall into this category.”

I assert that an over-laden truck poses a greater safety risk to everyone that shares the road with it. Oregon published a study in September of 1997 that, in part, concluded:

- A strong statistical correlation was found between the rate of size/weight violations and a carrier’s total accident rate.
- Motor carriers violating size/weight regulations are over-represented in truck accidents and safety violation rates.
- Carriers who violate size/weight regulations also tend to violate safety regulations.
- Carrier-specific size/weight violation information is a useful indicator of carrier operating habits.

A 1989 Wisconsin study found that as many as 70% of over-loaded trucks also were in violation of driver and vehicle safety regulations. Doug opined that carriers approved for bypass would not fall in that category. The question is whether or not this is a reasonable expectation. Some would assert that it is of no consequence to not weigh a truck at a weigh station because the

historical weight violation rate wherever there are fixed scales is so low. Please examine that argument in a little greater detail. Why, do you suppose, the weight violation rate is low where there are fixed scales? It is generally agreed that the overloading violation rate is a function of enforcement visibility. A fixed weigh station site is a very visible reminder of weight enforcement. However, when it becomes generally known that a transponder-equipped truck will not be subject to being weighed, do you think it might be reasonable to assume that the violation rate might increase? I think so. That conclusion has been demonstrated to be true time and time again by various state agencies that have published studies concluding that the weight violation rate varies inversely with the level of enforcement visibility. High enforcement yields low violation rates. Low enforcement levels yields markedly higher violation rates. A higher violation rate for over-laden trucks translates into adverse safety impacts. That should be of concern to the Federal Motor Carrier Safety Administration.

Therefore, my second recommendation is that USDOT provide policy guidance that discourages states from allowing trucks to bypass open weigh stations without being weighed.

Again, USDOT has a method available to make such policy guidance meaningful to states. Each year every state must submit both a Size and Weight Enforcement Plan and an Annual Size and Weight Certification document to USDOT. Your critical review of these documents should appropriately conclude that weigh stations that do not weigh trucks are neither fulfilling their intended role in infrastructure preservation nor contributing towards the attainment of Secretary Slater's goal to reduce commercial vehicle-related fatalities 50% by 2010.

My final current recommendation to you also involves the growing use of Intelligent Transportation Systems technology. I have already observed that the identifier device that makes AVI work is the individual transponder that is installed in the cab of participating trucks. I envision a transponder-equipped truck being enabled to seamlessly navigate, without having to overcome any artificial barriers, a tapestry woven out of individual installations of ITS technology that are being propagated all over this country and together constitute our national transportation system. I think USDOT shares that vision as is evidenced by the priority it places on the continuing deployment of CVISN technologies, including weigh station preclearance. The fact of the matter is that not all weigh station preclearance systems will allow a transponder that they have issued to be used in the preclearance system operated by another state. This restrictive practice is not conducive to deriving the maximum productivity from the multiple preclearance systems that have been deployed across this country. In this regard, Jeff Secrist, CVISN Coordinator, Federal Motor Carrier Safety Administration, was quoted in the June 26, 2000, edition of Transport Topics as having said:

“(Truckers) want to be able to travel unencumbered nationwide without coping with different preclearance programs. From a safety perspective, there’s a major benefit in sharing information . . . so that unsafe vehicles can’t travel between states. HELP - PrePass doesn’t allow other systems to have access to its data. And that means it can’t be compliant.”

Julie Anna Cirillo
Federal Motor Carrier Safety Administration
September 13, 2000
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You are vigorously supporting the expanding deployment of CVISN, which imagines, in part, a nationwide preclearance system for interstate trucking. But for it to work, the various systems offered by vendors today must be compatible and allow data sharing.

My third and final recommendation to you is that USDOT demonstrate leadership and mandate that states provide for universal transponder interoperability. The USDOT should depart from its historic approach of taking no position and waiting optimistically for market forces to resolve these open issues.

In fact, the June 26, 2000, edition of Transport Topics reports that on this subject Mike Onder of USDOT said:

"We're holding a mandate in our hip pocket, but it would really be disastrous to use that if we didn't have to do so."

If it is correct that USDOT does have a mandate in their hip pocket, then I would assert that it is incongruous with the goal established by Secretary Slater to continue to forestall taking such deliberate action.

Again, thank you for taking the time to write to me and to invite my thoughts on this subject. I do appreciate the opportunity to share my thinking with you and I commit on behalf of Oregon to continue to work diligently as your partners in promoting commercial motor vehicle safety.

Respectfully,



Gregg Dal Ponte, Deputy Director
Motor Carrier Transportation Division
503-378-6351 office
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<http://www.odot.state.or.us/trucking>

and Indian tribes to identify designated/restricted highway routes and restrictions or limitations affecting how motor carriers may transport certain hazardous materials on the highway. The **Federal Register** notice announcing a 60-day comment period on this information collection was published on April 13, 2004 (69 FR 19610). We are required to send ICRs to OMB under the Paperwork Reduction Act.

DATES: Please submit comments by September 20, 2004.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at <http://dmses.dot.gov/submit>. Be sure to include the docket number appearing in the heading of this document on your comment. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you would like to be notified when your comment is received, you must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Johnsen (202-366-4111), Hazardous Materials Division (MC-ECH), Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4 p.m., EST., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Transportation of Hazardous Materials; Highway Routing.

OMB Control Number: 2126-0014.

Background: The data for the Transportation of Hazardous Materials; Highway Routing designations are collected under authority of 49 U.S.C. 5112 and 5125. That authority places responsibility on the Secretary of Transportation (Secretary) to specify and regulate standards for establishing, maintaining, and enforcing routing designations.

Under 49 CFR 397.73, the Administrator has the authority to request that each State and Indian tribe, through its routing agency, provide information identifying hazardous materials routing designations within their respective jurisdictions. That information is collected and consolidated by the FMCSA and published annually in whole, or as updates, in the **Federal Register**.

Respondents: The reporting burden is shared by the 50 States, the District of Columbia, Puerto Rico, American Samoa, Guam, Northern Marianas, and the Virgin Islands.

Average Burden Per Response: 15 minutes.

Estimated Total Annual Burden: The annual reporting burden is estimated to be 13 hours, calculated as follows: (53 respondents × 1 response × 15 minutes/60 minutes = 13.25 hours, rounded to 13 hours).

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended; 49 U.S.C. 5112 and 5125; and 49 CFR 1.73 and 397.73.

Issued on: August 10, 2004.

Annette M. Sandberg,
Administrator.

[FR Doc. 04-19156 Filed 8-19-04; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2004-18898 and FMCSA-1998-3639]

Comprehensive Safety Analysis 2010 Initiative

AGENCY: Federal Motor Carrier Safety Administration.

ACTION: Notice of Public Listening Sessions.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces a series of Public Listening Sessions to solicit input on ways the FMCSA can improve its process of monitoring and assessing the safety of the motor carrier industry and how that information should be presented to the public. FMCSA is calling this effort the Comprehensive Safety Analysis 2010 Initiative. Through its current compliance review process, FMCSA is able to conduct compliance reviews on only a small percentage of the 675,000 active interstate motor carriers. The FMCSA is looking for ways to improve monitoring of motor carriers, to make agency processes more efficient, and to expand its enforcement and compliance reach in the regulated community in order to improve FMCSA's ability to meet its goal of significantly reducing crashes, fatalities, and injuries involving large trucks and buses.

Dates and Locations: The Public Listening Sessions will be held from 9 a.m. until 4 p.m. on the following dates at the following locations:

Session 1: September 21, 2004—
Doubletree Hotel, Mission Valley, 7450

Hazard Center Drive, San Diego, California.

Session 2: September 28, 2004—
Sheraton Atlanta, 165 Courtland Street at International Blvd, Atlanta, Georgia.

Session 3: October 5, 2004—Hampton Inn & Suites Dallas/Mesquite, 1700 Rodeo Drive, Mesquite, Texas.

Session 4: October 12, 2004—
Wyndham Chicago, 633 North St. Clair, Chicago, IL.

Session 5: October 19, 2004—
Fairview Park Marriot, 3111 Fairview Park Drive, Falls Church, VA.

Session 6: October 26, 2004—
Sheraton Springfield, One Monarch Place, Springfield, MA.

Registration for each session will be limited. For more information or to register to attend or speak at the Public Listening Sessions, see **FOR FURTHER INFORMATION CONTACT** below.

ADDRESSES: You may also submit written comments identified by DOT DMS Docket Number FMCSA-2004-18898 and FMCSA-1998-3639 by any of the following methods:

Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

Fax: 1-(202)-493-2251.

Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this proceeding. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register**

published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: To register to attend a Public Listening Session, please follow one of two methods:

(a) Go online to: <http://www.Acteva.com/go/FMCSA> and fill in the necessary information. You will be asked for information such as your name, title, organization, mailing address and which session you wish to attend; or

(b) Telephone Touchstone Consulting, Inc. in Washington, DC at (202) 449–7354 and a person will register you over the phone.

Please note that registration for the Public Listening Sessions will open at 9 a.m. EDT on August 30, 2004 and will end at 5 p.m. EDT on the Tuesday preceding each session. For example, registration for the October 26, 2004 Public Listening Session will close 5 p.m. EDT Tuesday October 19, 2004.

Registration at each Public Listening Session will be limited to the first people to sign up. You will be asked for identification at the welcome table at the event. Lunch will be served.

All attendees will be encouraged to participate during the Public Listening Session discussion periods.

For general information about this initiative, contact Mr. William Quade, (202) 366–2172, FMCSA, Office of Enforcement and Compliance, 400 Seventh Street, SW., Room 8310, Washington, DC 20590 or at William.quade@fmcsa.dot.gov.

SUPPLEMENTARY INFORMATION: FMCSA is reviewing its process for monitoring and assessing the safety of the motor carrier industry. FMCSA would like its safety oversight process to reflect a proactive, research-based, legally supportable, comprehensive approach to improving commercial motor vehicle safety—one that maximizes use of FMCSA resources including information systems and technology, reduces high-risk behavior in the motor carrier industry, and enhances FMCSA's ability to meet its goal of significantly reducing crashes, fatalities, and injuries involving large trucks and buses. Although the current process reflects these attributes, the agency recognizes the limitations of the process and wants to address them.

To that end, FMCSA is holding six Public Listening Sessions to solicit ideas and feedback from its stakeholders and all interested parties, including the industry, drivers, insurance groups, safety advocacy groups, and FMCSA's governmental partners, especially States, concerning how FMCSA might

improve its process of monitoring and assessing the safety of the motor carrier industry. The Public Listening Sessions will be arranged and facilitated by a FMCSA contractor.

Background

The compliance review (CR) is the centerpiece of FMCSA's current oversight program and is an effective tool for saving lives and assessing a carrier's safety condition. FMCSA's current CR program uses adherence to Federal laws and regulations as the primary indicator of the safety posture of a motor carrier. This tool focuses on motor carriers and renders safety fitness determinations in accordance with Congressional mandates expressed in 49 U.S.C. 31144, Safety fitness of owners and operators (requirement for safety fitness determination of owners and operators of commercial motor vehicles). While FMCSA determines, to a limited extent, the compliance and safety of commercial motor vehicle (CMV) drivers and pursues enforcement against them, if warranted, the safety fitness of individual CMV drivers is not evaluated by current FMCSA systems. Also, because the CR relies on the USDOT number as a unique identifier, safety fitness assessments do not track the individuals within a motor carrier responsible for safety such as CMV drivers, corporate officers, partners, or safety directors.

Impetus for Change

Since the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 13 Stat. 1748) created FMCSA as an independent DOT modal agency, the motor carrier population has increased steadily. At the same time, FMCSA's programmatic responsibilities have also increased with:

- Implementation of Congressional mandates such as the New Entrant Program (Section 210 of MCSIA);
- Preparing for the opening of the border with Mexico; and
- Taking an increased role in ensuring transportation security.

FMCSA's existing compliance and safety programs improve and promote safety performance. However, despite increases in regulated population and programmatic responsibilities, resources for these efforts remain relatively constant. This flattening of resources renders it difficult for existing programs, and the information systems that support these programs, to maintain prolonged and sustained improvements to motor carrier safety.

In its present structure, FMCSA's CR program is resource intensive and reaches only a small percentage of

motor carriers. On-site CRs take one safety investigator an average of 3 to 4 days to complete so, at present staffing levels, FMCSA can perform CRs on only a small portion of the 675,000 active interstate motor carriers. In addition, the current CR program does not easily reflect the impact that people involved in the carrier's operation, such as managers, owners, and drivers operators, have on safety. Delayed, incomplete, and inaccurate data impede efforts to establish a performance-based, automated, data-driven process for improving safety performance. These limitations have caused FMCSA to explore ways to improve its safety oversight process.

The Public Listening Sessions Seek Stakeholder Input

FMCSA has developed a preliminary list of ideal attributes and basic components that FMCSA believes should be part of any model for FMCSA's oversight of the industry:

- *Flexible—Adaptable to Changing Environment.*
- *Efficient—Maximize Use of Resources.*
- *Effective—Improve Safety Performance.*
- *Innovative—Leverage Data and Technology.*
- *Equitable—Fair and Unbiased.*

During the Public Listening Sessions FMCSA will explain its processes and research to date, and describe the attributes and components the Agency believes are appropriate underpinnings to evaluate safety fitness. FMCSA will accept comments on the desired state of safety compliance in the industry, the suitability of the preliminary list of attributes and components, and the information, processes, and strategies FMCSA should consider for a new approach to safety analyses.

The Public Listening Sessions will include a morning plenary session and up to four facilitated afternoon breakout sessions. The participants will be invited to discuss, among other things, the following:

1. How effective is FMCSA's current compliance review process? What is working now? Not working?
2. What alternative methods should FMCSA consider for determining carrier safety fitness and for addressing unsafe behaviors?
3. What should be the focus of FMCSA's safety analysis process? Motor carriers? Drivers? Owners? Other people or entities associated with safety?
4. Should FMCSA present its safety evaluations to the public? How?

5. What should be the key attributes of a program to assess motor carrier safety?

6. How should safety be measured? This measurement may be used to focus FMCSA resources and to assess safety under 49 U.S.C. 31144, Safety fitness of owners and operators.

A. Which data elements (crashes, inspection results, violations, financial condition) are the best indicators of safe (or unsafe) operations? Are there other important safety indicators we currently overlook?

B. How should FMCSA consider historical data when measuring safety?

C. How should FMCSA consider unique characteristics of the operations (hazardous materials, passengers, others) when measuring safety?

7. What compliance and enforcement tools are most effective? Currently FMCSA's interventions include issuing warning letters, issuing civil penalties, and placing motor carriers out-of-service.

A. What types of interventions are most effective?

B. How should FMCSA use history and characteristics of the motor carrier's operations in determining which intervention is appropriate?

Effect on Other Regulations

FMCSA is conducting a related rulemaking proceeding (RIN AA37; Docket No. FMCSA-1998-3639) to examine the Safety Fitness Procedures the agency uses to rate motor carriers. An Advance Notice of Proposed Rulemaking was published for this docket in 1998 (63 FR 38788; July 20, 1998). These listening sessions are broader in scope than the Safety Fitness Procedures, because they relate to FMCSA's entire compliance review and safety analysis process, FMCSA does anticipate that some of the comments at the listening session or comments to the docket may contain information relevant to the Safety Fitness Procedures proceeding. Therefore, FMCSA will be adding all comments made during the listening sessions and comments made to this docket to Docket No. FMCSA-1998-3639 for RIN 2126-AA37. FMCSA anticipates publishing a subsequent rulemaking notice under RIN 2126-AA37 following analysis of the listening sessions and decisions on FMCSA's long-term plan for monitoring motor carrier safety.

Issued on: August 18, 2004.

Warren E. Hoemann,
Deputy Administrator.

[FR Doc. 04-19239 Filed 8-18-04; 2:16 pm]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34528]

Indiana Boxcar Corporation— Continuance in Control Exemption— Chesapeake & Indiana Railroad Company, Inc.

Indiana Boxcar Corporation (Boxcar) has filed a verified notice of exemption to continue in control of Chesapeake & Indiana Railroad Company, Inc. (Chesapeake), upon Chesapeake's becoming a Class III rail carrier.

The transaction was expected to be consummated on July 29, 2004.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34529, *Chesapeake & Indiana Railroad Company, Inc.—Operation Exemption—The Town of North Judson, IN*. In that proceeding, Chesapeake seeks to operate 32.97 miles of track extending from Wellsboro, milepost 15.2, to LaCrosse, milepost 0.6, in LaPorte County, IN, and from Malden, milepost 230.9 through LaCrosse, to North Judson, milepost 212.5, in Porter and Starke Counties, IN, which is owned by the Town of North Judson.

Boxcar currently controls one Class III rail carrier, the Vermillion Valley Railroad Company, Inc., operating in Vermillion and Warren Counties, IN.

Under 49 CFR 1180.2(d)(2), a continuance in control transaction is exempt if: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier. There are no Class I carriers involved in this transaction and Boxcar states that the railroads do not connect with each other and there are no plans to acquire additional rail lines for the purpose of making such a connection. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34528, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Dated: August 16, 2004.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 04-19126 Filed 8-19-04; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34529]

Chesapeake & Indiana Railroad Company, Inc.—Operation Exemption—The Town of North Judson, IN

Chesapeake & Indiana Railroad Company, Inc. (Chesapeake), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to operate, pursuant to an unexecuted agreement under negotiation with the Town of North Judson, IN, 32.97 miles of track extending from Wellsboro, milepost 15.2, to LaCrosse, milepost 0.6, in LaPorte County, IN, and from Malden, milepost 230.9, through LaCrosse, to North Judson, milepost 212.5, in Porter and Starke Counties, IN.

The transaction was scheduled to be consummated on or after July 29, 2004.

This transaction is related to STB Finance Docket No. 34528, *Indiana Boxcar Corporation—Continuance in Control Exemption—Chesapeake & Indiana Railroad Company, Inc.*, wherein Indiana Boxcar Corporation has filed a verified notice of exemption to continue in control of Chesapeake upon its becoming a Class III rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.