Commercial Vehicle Safety Alliance

promoting commercial motor vehicle safety and security

STATEMENT OF

MAJOR DAVID PALMER

PAST PRESIDENT

COMMERCIAL VEHICLE SAFETY ALLIANCE

BEFORE THE

SURFACE TRANSPORTATION AND MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY SUBCOMMITTEE

OF THE

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

"OPPORTUNITIES AND CHALLENGES FOR IMPROVING TRUCK SAFETY ON OUR HIGHWAYS"

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6303 Ivy Lane Suite 310 Greenbelt, MD 20770-6319
Phone: 301-830-6143 Fax: 301-830-6144 www.cvsa.org

Chairman Blumenthal, Ranking Member Blunt, Members of the Subcommittee, thank you for holding this important hearing and for inviting the Commercial Vehicle Safety Alliance (CVSA) to share our thoughts on "Opportunities and Challenges for Improving Truck Safety on our Highways".

My name is David Palmer and I am testifying here today in my role as a past President and Board Member of the Commercial Vehicle Safety Alliance. CVSA is an international organization representing State, Provincial, and Federal officials responsible for the administration and enforcement of commercial motor carrier safety laws in the United States (U.S.), Canada and Mexico. We work to improve commercial vehicle safety and security on the highways by bringing Federal, State, Provincial and Local truck and bus regulatory, safety, and enforcement agencies together with industry representatives to solve problems. Every State in the U.S., all Canadian Provinces and Territories, the country of Mexico, and all U.S. Territories and possessions are CVSA members. The ultimate objective of what CVSA strives for is to save lives.

The Federal government entrusts the States with the responsibility of enforcing the Federal Motor Carrier Safety Regulations (FMCSRs) and the Hazardous Materials Regulations (HMRs). To meet that responsibility, Congress provides funding to the States, through the Motor Carrier Safety Assistance Program (MCSAP) and a number of other focused safety grant programs. The States use these funds to conduct enforcement activities, train enforcement personnel, purchase necessary equipment, update software and other technology, and conduct outreach and education campaigns to raise awareness related to CMV safety issues. The funds are used, in part, to pay the salaries of more than 13,000 full and part time CMV safety professionals. These people conduct more than 3.4 million CMV roadside inspections, 34,000 new entrant safety audits, and 6,000 compliance reviews each year.[1] The goal of these programs, which are administered by the Federal Motor Carrier Safety Administration (FMCSA), is to reduce CMV-involved crashes, fatalities, and injuries through consistent, uniform, and effective CMV safety programs. The programs seek to identify safety defects, driver deficiencies, and unsafe motor carrier practices and remove them from the nation's roadways.

The good news is that the program works. The benefits of the MCSAP are well documented, and every dollar invested in the State programs yields a big return for taxpayers. According to research and figures from FMCSA, CVSA estimates that the MCSAP has an estimated benefit to cost ratio of 18:1. Every roadside inspection conducted yields an estimated $2,400 in safety benefits. And, of course, effective enforcement of the FMCSRs helps save lives every day, keeping dangerous vehicles and unqualified drivers off the nation's roads. In 2001, the number of registered large trucks and buses was just over 8.6 million. Since then, that number has grown 35 percent, to 11.6 million in 2010. Despite this increase, the number of fatalities due to crashes involving large trucks and buses has gone down

[1] *Federal Motor Carrier Safety Administration 2012-2016 Strategic Plan*. Federal Motor Carrier Safety Administration. May 2012.

27 percent. The number of CMV crash-related injuries also decreased over that time frame by 30 percent.[2] These improvements in CMV safety were achieved, in part, through investments in the MCSAP.

While the program is effective in reducing crashes and saving lives, there is more work to be done. Ensuring clarity in the regulations, providing adequate funding for and improving the efficiency of the grant programs, and establishing policies that allow States and industry to take full advantage of technology will help prevent crashes, minimize injuries, and save lives, ultimately making our nation's roadways safer.

Ensuring Clear and Enforceable Regulations

Uniformity and consistency are essential cornerstones of an effective program. Despite this fact, however, there are a number of policies and practices that complicate the program, undermining uniformity and consistency, and detracting from the efficiency of the MCSAP. Confusion and inconsistencies create more work for the enforcement community, as well as industry. Inconsistencies and exceptions within the regulations require more training and create more opportunities for mistakes to be made, which in turn require additional resources to address.

1. Improving the Regulatory Framework

   The foundation of an effective regulatory enforcement program is quality, uniform, and consistent enforcement activities. It is imperative that those subject to Federal regulations understand their responsibilities and that those tasked with enforcing the safety regulations can do so effectively to ensure the quality and uniformity of the more than four million roadside inspections conducted annually throughout North America. Over time, additional regulatory authority, coupled with changes to the industry and technological advancements can result in inconsistent, outdated, and redundant regulatory language. With each year come additional requirements from Congress, aimed at advancing CMV safety. In addition, FMCSA receives and responds to petitions for changes to the FMCSRs from the CMV community. As Congress and FMCSA work to improve CMV safety, unintentional inconsistencies can slowly work their way into the regulatory framework. These inconsistencies can lead to confusion among both the regulated and enforcement communities.

   To address this, CVSA supports requiring FMCSA to conduct a full review of the FMCSRs every 5 years, in collaboration with CVSA and industry, geared towards reducing, enhancing, and streamlining the regulations, eliminating outdated or duplicative regulations, clarifying those that need adjustment, etc. While this puts additional administrative burden on FMCSA, the benefits and

[2] *Large Truck and Bus Crash Facts 2010: Final Version, FMCSA-RRA-12-023.* Federal Motor Carrier Safety Administration. August 2012.

savings that will accrue across the country for enforcement, industry, and the public justify the endeavor.

Furthermore, work is needed to bring the safety regulations in line with regulatory guidance, interpretations, and policy memos issued by the agency. At times, FMCSA issues guidance documents to correct technical errors in published rules or to clarify vague regulatory language within the safety regulations while improvements to the regulations make their way through the rulemaking process, which can take years to accomplish. However, the number of full rulemakings that can make it through the agency in any given year is limited by staff and funding, and a number of higher profile rules tend to push simple technical changes back in the queue. As a result, disconnects develop between written regulations, regulatory guidance, interpretations, and policy. Regular review and updating of the FMCSRs and HMRs would help to reduce these disconnects, providing an established process for identifying and resolving inconsistencies in policy, bringing the regulations in line with published guidance.

With regards to the various petitions for changes to the FMCSRs from the CMV community to FMCSA, CVSA supports requiring that petitions be published in the *Federal Register* upon receipt and that the agency subsequently publish a notice of action taken on each petition. This would benefit both the agency and the regulated community, allowing for input early in the process, addressing potential issues before they become problems. It will notify those interested in CMV safety and the FMCSRs of areas of interest to others in the regulated CMV community, which can foster conversation that could lead to solutions and consensus building. FMCSA would benefit from input it receives in response to petitions, which could help inform the agency's thinking on the requested changes. FMCSA could put a process in place similar to that found in 49 USC § 31315(b)(4), which provides for notice and comment on exemption requests received by the agency.

2. <u>Exemptions</u>

In general, exemptions from Federal safety regulations have the potential to undermine safety, while also complicating the enforcement process. First and foremost, safety regulations exist to protect those who use our nation's roadways. The FMCSRs and HMRs exist to ensure that those operating in the transportation industry are equipped to do it safely. Furthermore, every new exemption is an opportunity for confusion and inconsistency in enforcement, diverting scarce resources from other activities and undermining the program's effectiveness.

We recognize that there may be instances when exemptions could be appropriate and also not compromise safety. In those instances, 49 USC § 31315(b) already provides a mechanism for those in industry to obtain an exemption through FMCSA. This process includes providing for an equivalent level of safety, requiring that the exemption "*would likely achieve a level of safety that is*

equivalent to, or greater than, the level that would be achieved absent such exemption." In addition, exemptions obtained through this process are limited to a maximum of two years (subject to renewal), which provides oversight to ensure that safety is not compromised, as well as an opportunity to eliminate exemptions that have not maintained an equivalent level of safety. This is the proper model.

In contrast, exemptions obtained through legislation do not always include safety considerations and are difficult to remove once established. Because a process exists for industry to pursue exemptions through an administrative process, CVSA opposes the inclusion of exemptions from Federal safety regulations in legislation. At the very least, when exemptions are included in legislation, CVSA supports requiring the inclusion of a 'safety clause' as a part of any exemption statutorily enacted, similar to that in 49 USC § 31315(b), providing for an equivalent level of safety, as well as language that would allow for the elimination of the exemption if an equivalent level of safety cannot be demonstrated.

Another approach could be to require that, before any legislative exemption from Federal safety regulations goes into effect, a pilot program be conducted to evaluate the safety impacts of such an exemption. The exemption would then go into effect automatically, unless the pilot program demonstrates that an equivalent, or enhanced, level of safety has not been achieved. Going forward the exemption would be monitored on a routine basis, to ensure that an equivalent level of safety is maintained over time.

3. Hours of Service Regulations

The hours-of-service (HOS) regulations for commercial drivers are arguably the single-most important regulation to the motor carrier industry, sitting at the confluence of safety and productivity. As evidence of the importance of these rules to the public, there have been over 50,000 comments to the rulemakings on this issue over the last 10 years, as well as numerous studies and research to improve safety on our nation's roads.

The HOS regulations are important because of their clear correlation with safety. HOS violations are, by far, the most often cited violations by inspectors during roadside inspections. HOS violations represent seven of the top 13 violations documented during roadside inspections thus far in 2014, including the number one violation. These seven violations represent 41 percent of the total driver violations documented. We also know that drivers who are cited roadside with an HOS violation are 45 percent more likely to be in a future crash than the average driver.[3] In addition, driver factors and fatigue are significant contributors to large truck and bus crashes. In nine out of 10 instances,

[3] *Predicting Truck Crash Involvement: A 2011 Update*. American Transportation Research Institute. April 2011.

driver factors have some level of contribution to the crash.[4] This data indicates how important these rules are to safety, and why we need to be measured in our approach to dealing with them.

Recently, there has been an effort to temporarily suspend enforcement of a portion of these regulations while their impacts and efficacy are evaluated. CVSA opposes any efforts to temporarily suspend enforcement of any portion of the regulations. The HOS regulations are first and foremost safety regulations, not efficiency or productivity regulations. While the regulations certainly should and need to take into account the economic impacts to the industry that is not what they are principally designed to do. Legislating temporary changes to the HOS rules creates significant uniformity and consistency problems across the country. The impact of such an approach will create unnecessary upheaval for the States and cause significant operational and budgetary impacts on their enforcement efforts.

The HOS regulations are already complicated to comprehend and enforce and any change requires that the States retrain their inspectors. With approximately 13,000 CVSA-certified inspectors in the field, organizing and delivering training in all 50 States is a significant task. Each State is structured differently, and the resources needed to develop and deliver training are significant. Temporarily suspending enforcement of a regulation not only takes inspection personnel away from their routine enforcement duties, which impacts on their target enforcement goals in the State Commercial Vehicle Safety Plans (CVSP), but it also requires the expenditure of unplanned resources, which impacts on State budgets. Add to this any information technology (IT) changes, such as software modifications, and additional training to accommodate rule changes increases the resource commitment. All for a temporary change that could very well result in no permanent change to the regulations after the review is complete.

In addition, constant change causes confusion for both industry and enforcement. Compliance and the determination thereof are nearly impossible because the rules have changed so often over the last 10 years, and have become so complicated that no one can keep pace with the changes. This constant back and forth also has resulted in a number of narrow interpretations on exceptions and exemptions, further complicating enforcement and undermining uniformity.

While there certainly have been legitimate concerns raised by the regulated industry on the impacts of the new rules, the Administrative Procedures Act is there for a reason and it needs to be followed. The importance of these rules cannot be understated, and to make changes without the appropriate analysis of their impacts or without providing appropriate due process and adequate time to implement them is irresponsible policy.

[4] *Report to Congress on the Large Truck Crash Causation Study.* Federal Motor Carrier Safety Administration. March 2006.

There has not been a comprehensive analysis of the safety impacts of the newly (2013) enacted regulations, nor has there been any analysis comparing the existing regulations versus the previous regulations. To enact temporary changes without having a full understanding of these impacts through an open and transparent process is not in the best interests of the public. We need to be data driven and fact based in our decision making. To this end, CVSA supports a comprehensive study on the safety and operational impacts of the HOS regulations, during which the current rules should remain in place. Once this analysis has been completed, only then would it be appropriate to consider any changes or adjustments through the rulemaking process. The rules are designed to help keep all drivers safe, both commercial and other road users, and it is our job to protect them.

4. Electronic Logging Devices

The rulemaking currently underway at FMCSA on electronic logging devices (ELDs) for HOS compliance provides another example. There has been a significant amount of attention paid to ensuring that the new regulations take into account the needs of industry, in order to ease the burden. However, the regulations must be written with all end users in mind, including the enforcement community. CVSA strongly supports the use of ELDs for HOS compliance enforcement. However, if the regulations are not clear and designed to be enforceable, they will not be effective. One of the key considerations is the transmission of the HOS compliance data from the driver to the inspector. If inspectors cannot easily and reliably retrieve data from ELDs roadside the devices are of little value. To that end, in our comments to the docket, CVSA recommended that, prior to implementation, FMCSA conduct a comprehensive study of current State technology/ communication capabilities for CVSA-certified inspectors and identify what steps would be necessary to ensure that all certified inspectors will be able to access data roadside in an effective, efficient, and secure manner. This study should be completed and made publicly available prior to the agency issuing a Final Rule. The ELD rulemaking has the potential to improve HOS compliance and enforcement, but only if the inspectors are given the tools they need to properly utilize the devices. This fact must be a consideration in the development of the Final Rule.

5. Truck Size and Weight Limits

There have been efforts recently to make changes to the current Federal truck size and weight restrictions. To address this, Congress included in the Moving Ahead for Progress in the 21st Century Act (MAP-21) a requirement that the U.S. Department of Transportation (DOT) conduct a Comprehensive Truck Size and Weight Limits Study.[5] As required in MAP-21, the study will provide data on accident frequency and evaluate factors related to accident risk for vehicles that operate in excess of size and weight limits. DOT is also directed to evaluate the impact to the infrastructure in States that allow a vehicle to operate in excess of size and weight limits. Additionally, DOT is instructed to look at a number of specific vehicle configurations, as well as existing programs and research throughout the world. Further, Congress directed DOT to look specifically at several factors, including the impact of various changes to restrictions on safety and enforceability. CVSA

[5] Moving Ahead for Progress in the 21st Century Act of 2012.Pub. L. No. 112-141. §32801.

was a strong advocate for such a study during the reauthorization discussion prior to passage of MAP-21. DOT is currently in the process of conducting the study and any changes to the Federal size and/or weight limits prior to its completion would be premature. In MAP-21, Congress recognized the need for additional research into several specific areas before changes to the Federal CMV size and weight limits are considered. CVSA opposes any changes to Federal CMV size and weight limits until the study mandated by Congress in MAP-21 has been completed.

CVSA recognizes that the discussion on commercial vehicle size and weight limits is much broader than just safety considerations. There are environmental, quality of life, productivity, economic competitiveness, and impacts to infrastructure, such as roads and bridges that must also be considered. CVSA understands that once the study has been completed, it is possible that changes will be made to the current limits. In these instances, CVSA supports ensuring that any change in policy is enforceable and based on objective, scientific evidence. Changes to the current limits must be clearly defined so that both industry and enforcement understand what is permitted. Further, policy should be written with enforceability in mind, ensuring that States have the funds and tools necessary to do their job effectively.

Maintaining Effective and Fully Funded Grant Programs

With each new transportation bill, the States are tasked with additional enforcement and oversight responsibilities. At the same time, the motor carrier industry continues to grow. It is imperative that States have the funds necessary to effectively develop and implement their CMV safety programs. Flexibility within the safety grant programs is also a key consideration, allowing States to meet their responsibilities through creative, State-specific solutions. There are also a number of streamlining recommendations that will improve the efficiency of the grant programs.

1. Providing Adequate Resources

   As discussed above, the MCSAP, as administered by the States, has been successful in reducing crashes, injuries, and fatalities on our nation's roadways, despite a steady increase in the number of CMVs operating on those roads. In order to maintain this downward trend in CMV crashes and fatalities, the MCSAP must be adequately funded.

   According to FMCSA, the agency regulates approximately 500,000 active interstate motor carriers, including 12,000 passenger carriers, and seven million active commercial driver licensees (CDL holders). The State and Local agencies that receive MCSAP funding are responsible for ensuring that those 500,000 motor carriers, vehicles, and drivers are operating safely. Furthermore, the CMV enforcement landscape is constantly evolving and changing as Congress and FMCSA work to refine and improve the FMCSRs and HMRs.

The MCSAP will only continue to be successful if it is adequately funded. New and expanded responsibilities mean improvements in safety, but only in so much as the States are able to effectively implement those policies. It is critical that Congress and FMCSA ensure that, as new programs are created and new responsibilities are assigned, funding is provided to the States, avoiding any unfunded mandates. Otherwise, funds are spread thinly across programs, reducing effectiveness across the board.

For example, changes made in MAP-21 set a more aggressive timeline for conducting Safety Audits on new motor carriers, placing additional demands on the States conducting the audits. In addition, the program has become more rigorous over the years, with additional requirements on tracking, reviewing, and conducting the Safety Audits. While these changes are considered valuable, when combined with the decreasing buying power of each dollar, the end result is that it costs States more to implement the program each year. Meanwhile, the number of carriers entering the industry each year is increasing, and therefore the demand for New Entrant Safety Audits, continues to grow.[6] In order to meet that growing demand and ensure the success of the New Entrant Safety Assurance Program, it is critical that the States are provided with funding commensurate with program demand.

To help ensure that States receive the funding necessary to fully meet their responsibilities, CVSA recommends increasing the Federal grant match for several of the current grant programs. This will reduce the burden on States, while helping to ensure effective oversight of the motor carrier industry. At the very least, moderate increases in funding levels are necessary to keep pace with inflation, as stagnant funding levels result in decreased buying power year to year.

While adequate funding is imperative to an effective MCSAP, we recognize that the issue of funding for the Federal transportation program is a complicated one, with no easy solutions. Future funding for the MCSAP is directly tied to the long-term solvency of the Highway Trust Fund. CVSA supports ongoing efforts to identify sustainable, long-term revenue sources to address the Highway Trust Fund solvency, in order to ensure stability for the MCSAP.

In the event that no new revenue is available, CVSA urges Congress to ensure that MCSAP grant funding is not reduced, but remains at the levels set by MAP-21. According to a report completed for FMCSA in 2007, the average 'cost' (including wages and benefits) of a State safety inspector was estimated at $66,052.51.[7] This means that for every $1 million invested in the MCSAP, 15 jobs are created or maintained. Conversely, every $1 million reduction in MCSAP funding results in jobs lost

[6] *Notice: New Entrant Safety Audit Assurance Program Operational Test*. FMCSA-2013-0298. Federal Motor Carrier Safety Administration. September 4, 2013.
[7] *Roadside Inspection Costs.* Federal Motor Carrier Safety Administration. October 2007.

or positions unfilled at the State level. When States see a reduction in their MCSAP funding, resulting in jobs lost, their programs are reduced and fewer inspections, compliance reviews, and safety audits are conducted, reducing the safety benefit of such activities discussed above and undermining years of improvement in CMV safety.

2. Improving Program Flexibility

One way to improve the MCSAP is to provide States with additional flexibility in how they spend their Basic MCSAP grant funds. CVSA believes that explicit language limiting how a State can spend grant funds in statute, regulation, or FMCSA policy should be minimized. Instead, the statutory and regulatory construction, as well as policy from FMCSA, should focus on setting broad parameters, program elements, goals, and expected outcomes for a program and, by using the annual CVSP as the mechanism for monitoring and evaluation, allow the States to determine how best to meet those expectations. For example, CVSA supports increasing the funding cap on traffic enforcement activities not associated with an inspection from five percent to ten percent. This will allow States to allocate their resources as they see fit, giving them additional flexibility to address State-wide or regional issues, such as speeding or aggressive driving, more effectively.

As another example, in 2010, FMCSA issued a policy memorandum to State Program Managers. In the memo, FMCSA advised the States that the recently completed Large Truck Crash Causation Study, completed in 2006, indicated that driver behavior is more likely to be the cause of a CMV crash than any other factor. As such, the agency instructed States to focus their inspection efforts on drivers. They instructed States to increase the number of Level III (driver-only) inspections to "meet or exceed the national average of 30 percent of all inspections performed."[8] In this instance, instead of prescribing rigid and prescriptive parameters across the board that may not make sense for every State, CVSA believes it would have been more productive and efficient for FMCSA to identify the issue – the need for increased focus on drivers – and instructed the States to account for how they plan to address this challenge in their CVSP. As part of this issue identification, the agency should supply data and research to the States substantiating the problem area. At the end of the CVSP year, FMCSA and the States could then evaluate how effective the States' strategy or strategies were with respect to reducing crashes relating to driver behavior and performance.

Another program that could be improved with increased flexibility is the Commercial Vehicle Information Systems and Networks (CVISN) program. CVISN is a collection of information systems and communications networks intended to support State CMV safety operations. The CVISN network provides a series of mechanisms through which parties engaged in motor carrier safety and regulatory enforcement (States, Federal agencies, industry, etc.) can exchange and use

[8] *Memorandum: Fiscal Year 2011 Commercial Vehicle Safety Plan*. Federal Motor Carrier Safety Administration. April 8, 2010. http://www.fmcsa.dot.gov/documents/safetyprograms/MCSAP-Planning-Memo-508.pdf

information electronically.[9] In order for this network to function effectively, States must achieve a level of parity and integration in the systems they are using to gather and transmit safety data. To meet this need, the CVISN grant program was established, in part, to provide funds for States to update their information technology capabilities. There are two levels of CVISN deployment – Core CVISN and Expanded CVISN. The States are at varying levels of achieving full Expanded CVISN deployment.

CVSA supports expanding and updating the items that are eligible for reimbursement under the CVISN grant program, as well as the overall direction of the program. Currently, eligibility within the CVISN program is too narrow in its scope and needs to be expanded. States are often denied CVISN grants for projects that they believe will be valuable to motor carrier safety simply because the activity or initiative did not fit within the existing CVISN model. However, technology moves quickly and many of the technologies and ideas that were identified as priorities when the CVISN program was created are now considered standard or obsolete. For instance, use of laptops, communications to and from the field, and even uploading files to Federal systems from SAFETYNET are all fairly standard. Simply put, the CVISN program has not kept pace with technological advancements, and therefore, needs to be modernized in order to keep pace with current and future technological trends. Rather than focusing on specific technology and narrow scopes of use, the goal should be a performance-based approach to enhancing the use of technology, in order to obtain a greater level of safety. Expanding reimbursement eligibility provides States with the flexibility they need to fully leverage State and Federal dollars to implement and enhance effective CMV safety programs.

3. Streamlining the Grant Management Process

In addition to expanding program flexibility, CVSA has a series of recommendations for improving the grant management process, which will remove inefficiencies, reduce administrative burdens, and free up much needed resources for enforcement activities.

As part of the application process for Basic MCSAP grant funds, States are required to complete an annual CVSP. These plans document how the State has met their safety goals for the past year and how Basic MCSAP grant funds for the coming fiscal year will be spent. FMCSA reviews these plans and uses them to evaluate a State's progress and adherence to FMCSA policy. CVSPs are due towards the end of the Federal fiscal year and must be approved by FMCSA prior to a State receiving Basic MCSAP grant funds for the coming year. However, there are administrative burdens and other issues that impact the effectiveness of the CVSP process and the timely disbursement of grant funds. While FMCSA has made some strides recently to improve this process and reduce the administrative burden on States, more can be done.

[9] *Frequently Asked Questions*, Federal Motor Carrier Safety Administration. Accessed 7/31/13

One major concern the States have with the administration of the MCSAP grant program is the inconsistency, year to year, region to region, and State to State. FMCSA is constantly revamping the process, perhaps in an effort to improve it. However, the end result is confusion and unclear expectations for the States. Without consistency, the States cannot properly plan for their annual CVSP and grant application submission. Formatting requirements change year to year, material that was acceptable one fiscal year is no longer acceptable the next, the timeline for the grants process changes frequently, etc. This results in constant upheaval for the States, and they end up diverting much needed resources away from other efforts, as they are constantly adapting, redoing, and adjusting their process to meet the ever changing needs of FMCSA.

CVSA supports streamlining the CVSP submission process. States are spending a significant amount of time administering the grants rather than doing the work the grants are supposed to be paying for. Such activities include resubmitting information, such as standard text about the agency requesting the funds, contact information, miscellaneous numbers and figures concerning the number of inspectors, inspections, etc., and the amount being requested. To address this issue, CVSA recommends that FMCSA model the CVSP submission process on the electronic submission process used by the Federal Highway Administration (FHWA) for collecting the States' annual Size and Weight Enforcement Plans. FHWA's program is designed so that States can access previous years' plans as a template, updating only the items that have changed. Further, the system is done entirely online, through a secure online portal. Replicating this approach within FMCSA's grant process would provide FMCSA with more up-to-date information, while reducing the workload on the States. Earlier this year, FMCSA began working on such an approach, in collaboration with the States and we look forward to making progress on this matter. In addition, the States are asked to provide FMCSA with data and statistics that FMCSA already has access to in other reports and databases. States should not be asked to spend quality time compiling information to which the agency already has access.

Another significant concern States have with the MCSAP is the constant delay and lack of consistency in the timing of funding disbursement. There are a number of factors that contribute to these delays and result in complications for the States. The annual delays in the Federal budget and appropriations processes are one contributing factor. The Federal fiscal year begins October 1, and many grant programs are set to that date. However, Congress rarely completes their funding bills by this date, delaying the disbursement of funds to the States. Even more frequently now, Congress relies on temporary continuing resolutions, which results in States receiving their funds late, and in installments. This unpredictable, piecemeal approach to funding makes planning and management of State programs difficult.

This issue is further complicated by the fact that many States do not follow the Federal fiscal calendar (most start July 1), complicating the reporting and tracking process. States also believe that once funds are available, the grant review and approval process takes far too long, further delaying receipt of funds for safety programs. For the most part, States have two years to spend their MCSAP funds. However, the two year timeline begins at the beginning of the Federal fiscal year, regardless of when funds are actually made available. As a result, States often receive their funds well into the timeframe of the grant and run the risk of not being able to spend the appropriated funds responsibly before the grant expires, possibly forcing the States to return funding that was dedicated for enforcement and inspection activities as identified in their CVSP. To address this, CVSA recommends adjusting the period of performance for all grants so that the 'clock' on a grant only begins once the funds have been allocated to the State.

CVSA also supports increasing the transparency and accountability within the MCSAP grant process. When applying for Federal funds, States are given strict deadlines and parameters they must meet in order to qualify and receive funds. However, there are no established deadlines for FMCSA, in terms of their grant review process. CVSA recommends setting grant application review deadlines for FMCSA. One approach would be to model the program timing requirements after the State and Community Highway Safety Formula Grant Program, commonly referred to as the 402 grants, administered by the National Highway Traffic Safety Administration (NHTSA). The 402 grant program has a clear timeline in place. State applications are due to NHTSA by July 1 of each year, and the agency has 60 days to review and respond. Using this model would, at least for the Basic MCSAP grants, ensure that once funding is authorized by Congress, the agency is prepared to disburse the funds immediately, helping to reduce delays in funding disbursement. In addition to the review deadline, more consistency is needed in the grant review process. Grant applications are not all reviewed by the same panel(s), resulting in inconsistencies from one grant request to another, complicating the process for States.

In addition, CVSA recommends adjusting the period of performance for grants and CVSPs, moving to a more long-term, three or five year, cycle. Under this model, CVSPs would be due at the beginning of each cycle, with annual updates in between. These changes would benefit both the States and FMCSA, reducing the workload by requiring comprehensive CVSPs less frequently. This approach would also provide more accurate data on the effectiveness of the program, as larger data sets help to normalize any anomalies that might occur within a single year. In order to accommodate the unpredictability of funding disbursement due to delays that can occur in the appropriations process, the period of performance on grant funds should begin once the funds have been awarded to the State, rather than setting the cycle on Federal fiscal years.

Finally, as mentioned above, FMCSA uses the CVSPs to evaluate a State's performance over the past year. This includes reviewing changes in crash, fatality, and injury rates within the State. FMCSA uses this information to help determine grant award amounts to the States. However, the method by which the data is currently compiled does not take into account that certain portions of the CMV population are outside government oversight and the enforcement community's authority, such as statutorily exempted vehicles like agricultural carriers operating under the Covered Farm Vehicle exemption created in MAP-21. Simply put, States should not be penalized for crashes, fatalities, and incidents that occur in segments of the industry that they have no authority over. If a State does not have authority and, as a result, cannot exercise proper due diligence to improve safety within a sector of industry that is exempted, it is unreasonable to include that sector in any evaluation of the State's performance. CVSA supports removing non-regulated crash, fatality, and injury rates from the criteria used to determine grant award amounts for Incentive and other funds. This relatively small adjustment to how data is collected would have a tremendous value to the States.

Maximizing Program Effectiveness Through Technology

As budgets continue to tighten and technology continues to advance, it is imperative that those in the safety and enforcement communities take full advantage of technological advancements that improve safety and demonstrate a net benefit to society.

1. Data and Information Technology Systems

   Uniform, timely and accurate data is the cornerstone of the MCSAP. Enforcement personnel, along with State and Federal agencies, use information on a motor carrier's past performance to help prioritize motor carriers for roadside inspections and compliance reviews. Performance data from the CMV industry is used to identify trends and problem areas, and to craft enforcement and education initiatives to target specific safety problems. Data is not only used to evaluate whether or not enforcement is being conducted uniformly, but also to determine whether or not a particular safety program or concept is successful. Data is used to determine whether enforcement funds are being used in the most efficient, effective manner possible. In order to effectively and efficiently perform these activities, the States and the Federal government must be able to rely on the data being compiled in the various systems being accurate and as uniform as possible, in order to make comparisons. Currently, however, redundant, overlapping IT systems and outdated software applications result in inconsistencies in the data being collected by the States and FMCSA, undermining the safety programs and strategies being built upon them. These data challenges hinder the inspection process and create extra, unnecessary work for industry and enforcement alike.

For example, the Motor Carrier Management Information System (MCMIS) is the main system for which all the data collected from State and Federal agencies for FMCSA is housed, including inspection, crash, compliance reviews, safety audits, carrier information and history and numerous other data sets. Other programs, such as Safer, Query Central, and State CVIEW systems, as well as the Compliance, Safety, Accountability (CSA) program, extract the data from MCMIS to run their programs. Developed in the 1980's, MCMIS is almost 30 years old. As the program ages, it becomes harder and more expensive to make software and program changes. The system can simply no longer meet State and Federal data needs.

Another program very much in need of updating is Aspen, which is the program used to collect inspection data during a roadside safety inspection. Aspen was created in the early 1990's and has had few major updates since its development. Most of the changes have been small enhancements and, as a result, users are becoming more frustrated by the system's limitations.

In addition to relying on outdated, insufficient, and inefficient systems, FMCSA has become too focused on new software development and is distracted by too many competing priorities. As a result, updates and improvements to the primary data collection and management programs on which everything rests are constantly delayed and the States are forced to use outdated and cumbersome legacy systems. In 2009, for example, FMCSA was reviewing the Aspen program and taking input on necessary improvements. However, the update was cancelled so the agency could focus on developing the CSA program. Now, the agency is focused on creating the Unified Registration System (URS) program, yet another priority, and still many of the improvements discussed in 2009 have not been implemented.

FMCSA's IT program lacks focus and direction. Were FMCSA to focus on setting parameters and functional specifications, rather than software development, the program would improve tremendously. FMCSA should be managing the system and software development process, rather than doing the actual programming. The agency needs to clearly identify challenges and solutions, as well as addressing State needs, and establish a clear path forward to meet those needs. FMCSA must take a step back and completely reevaluate its development process and how it prioritizes IT projects.

To improve the quality of data collection, transmission and analysis, CVSA encourages Congress to call for a study of the agency's IT and data collection systems. The study should include an evaluation of the efficacy of the existing systems and programs and their interaction. It should identify redundancies and explore the feasibility of consolidating data collection and processing systems. The study should evaluate the ability of the programs and systems to meet the needs of FMCSA, both at headquarters and in the State offices, as well as equally the needs of the States

themselves. The study should investigate improving any and all user interfaces. The study should take into account the systems' and programs' adaptability, in order to make necessary future changes in an easier, timely, and more cost efficient manner. In addition, the study should explore the necessity and feasibility of increasing the agency's IT budget, to bring it in line with other Federal programs.

2. Promoting Safety Technology

   Technology can also improve safety from the industry side. According to data from FMCSA, in 2011 alone, CMVs were involved in nearly 130,000 crashes, resulting in just over 4,000 fatalities and injuring another 80,000 people.[10] With the forecasted growth in population and the corresponding increase in movement of freight and passengers, truck and bus traffic on our roadways will only continue to rise. To help reduce CMV related crashes, fatalities, and injuries, CVSA supports legislation and policies that encourage the deployment of safety technology proven, through independent research, to improve CMV safety, either through preventing crashes or mitigating the severity of crashes. Taking full advantage of technologies that can assist in anticipating and preventing crashes will help reduce fatality and injury rates. The National Transportation Safety Board (NTSB) has repeatedly called for deployment of safety technologies on both commercial and personal vehicles to help reduce crashes and save lives. In fact, NTSB has called on the NHTSA to establish performance standards and mandate deployment of collision avoidance technologies on CMVs in its annual 'NTSB Most Wanted List.'

Conclusion

The State agencies, in collaboration with FMCSA and industry, are working to make the nation's roadways safer by reducing crashes, injuries and fatalities related to CMVs. In order to do this, it is imperative that the enforcement community be given clear, enforceable regulations that have been developed based on sound data to improve safety. Exemptions and exceptions must be minimized and changes to the regulations, when necessary, should be science-based and data-driven. Further, a great deal can be done to streamline the current grant process, eliminating redundancies and unnecessary administrative process, allowing State personnel to focus more of their time and resources on the program itself, rather than its administration. In addition, States must be given the tools they need to effectively enforce those regulations. States need funding that is commensurate with the responsibilities they've been tasked with, not just to run the day to day program, but to fully equip and train their inspectors. This includes making sure States have access to the latest technologies that will help advance and streamline their programs. Industry should also be encouraged to deploy advanced safety technologies that can help prevent and mitigate crashes.

[10] *Motor Carrier Safety Progress Report (as of September 30, 2012),* Federal Motor Carrier Safety Administration.

It is important to note that CVSA and the States work very closely with FMCSA on these issues. The agency will sometimes engage the States to seek input on various aspects of the MCSAP in an attempt to understand where problems exist to help make improvements. For the last several years CVSA has provided numerous comments to the agency regarding the grant program processes and procedures. We appreciate their willingness to listen; however, the unfortunate fact is there still are significant improvements that are necessary and challenges hampering program efficiency and effectiveness.

Despite these challenges, the MCSAP continues to be extremely effective at reducing the number of crashes, injuries, and fatalities on our nation's roadways and the States have worked diligently to best leverage funds while the size of the regulated industry and the number of responsibilities continues to grow. In 1983, about the time the MCSAP was established, there were 27,000 carriers and 2.2 million drivers that hauled six billion in tonnage. That year there were 5,491 CMV-related fatalities, at a rate of 0.352 fatalities per 100 million miles. In comparison, in 2011, more than 525,000 carriers and 3.1 million drivers hauled 9.4 billion in tonnage. There were 4,206 CMV-related fatalities in 2011, or a rate of 0.136 fatalities per 100 million miles. While there have been a number of success stories contributing to this decline over the last 30 years, the MCSAP has clearly been a major factor in improving CMV safety.