February 13, 2013

The Honorable Roy Blunt
Ranking Member
Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security
U.S. Senate Committee on Commerce, Science and Transportation
260 Russell Senate Office Building
United States Senate
Washington, DC 20510

Dear Ranking Member Blunt:

On behalf of Parents Against Tired Truckers (P.A.T.T.), Citizens for Reliable and Safe Highways (CRASH), the Truck Safety Coalition (TSC) and families of truck crash victims and survivors across the country, we would like to congratulate you on being appointed Ranking Member of the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security. We would also like to update you on the safety community's position regarding the Federal Motor Carrier Safety Administration's (FMCSA) Compliance, Safety, Accountability (CSA) program.

The CSA Crash Behavior Analysis and Safety Improvement Category (BASIC) currently includes all truck crashes in its database. This system allows FMCSA to quickly identify high risk motor carriers and drivers in order to intervene and prevent future truck crashes and the resultant deaths and injuries. Some members of the trucking industry are depicting this system as unfair and biased as it includes all crashes, as opposed to only crashes caused by truck drivers. They argue that a determination of preventability and an opportunity to remove certain crashes from the Crash BASIC data should be added. If the system is altered in this way, it will result in corrupted data and unnecessary costs, and it will undermine an efficient system that is working as it should to help identify unsafe carriers.

Including all crashes in a database on crash occurrence or crash involvement is a statistically accurate means of making comparative determinations as to which drivers and vehicles are more likely to be involved in a crash in the future. The FMCSA is already employing precisely this methodology as a predictor of future crash involvement in deciding to grant exemptions to commercial drivers who do not meet certain federal medical safety standards. Studies show that past crash involvement is a reliable predictor of future crash involvement. Indeed, research sponsored by the American Trucking Associations (ATA) has twice, in 2006 and in 2011, identified being involved in a past crash, regardless of fault, as a statistically significant predictor of involvement in future crashes. According to ATA's research, "drivers who had a past crash also had a significant 88 percent increase in their likelihood of a future crash".

The FMCSA's CSA program is intended to improve the overall safety of motor carriers and drivers. In order to accomplish this task, the agency needs to identify patterns of conduct and trends in behavior of motor carriers and drivers that may contribute to a crash so that the agency can develop safety procedures and countermeasures, and can focus enforcement resources on poorly run operations. The agency needs full data on all safety critical involvements, including all crash involvement, not just those in which the driver or motor carrier is legally at fault, to accomplish this task.

Additionally, there are crashes where the driver or motor carrier was not found legally at fault, yet the driver or motor carrier engaged in conduct or behavior that contributed to the crash. Determinations of liability and fault are beyond the scope of FMCSA's authority, require full investigation and accident reconstruction, and are better left to the State courts. FMCSA's role is to improve highway and commercial motor vehicle safety, to develop better safety strategies for commercial operations, and to determine which drivers and motor carriers need to take corrective action. To achieve that purpose, it is not just legitimate but absolutely necessary that the agency collects and takes into account all crash data, regardless of fault.

The CSA Crash Indicator metric (score) already includes adjustment factors that would prevent any motor carrier or driver from being singled out for one errant crash and the score already accounts for many of the issues raised by the ATA and others in the trucking industry, including the following:

- The Crash Indicator, like all basics, is only based on the previous 24 months of data, so motor carriers and drivers are not held responsible for crashes occurring more than two years earlier. Furthermore, a carrier is not assigned a crash indicator score if it did not have a crash in the past 12 months or more than one crash in the past two years;

- The Crash Indicator only accounts for crashes which are "reportable," meaning they result either in a fatality or injury (where the injured person is transported to a medical facility), or in a vehicle being towed from the scene as a result of disabling damage, and does not include less severe or minor collisions;

- The Crash Indicator assigns a weighting factor to each crash based on severity, meaning that more serious crashes such as those resulting in a fatality, are weighted more heavily than crashes resulting only in injuries, and both those types of crashes are weighted more heavily than crashes resulting only in property damage;

- The Crash Indicator also assigns a weighting factor based on time since the occurrence of a crash, so the weighting factor of crashes in a record decreases as more time elapses from the date on which the crash occurred;

- The Crash Indicator score is adjusted based on the number of vehicles and annual vehicle miles traveled (VMT) which accounts for overall exposure or opportunity for crash involvement. Thus, a motor carrier which operates more vehicles and/or drives more miles per year, per vehicle, is likely to have more random crashes; however, the crash indicator score accounts for this by reducing the score in proportion to the number of vehicles in the carrier's fleet and the annual VMT per vehicle;

- The Crash Indicator only compares motor carriers with other carriers operating the same types of vehicles, hence companies mostly operating straight trucks (generally more often in urban environments) are only compared with companies mostly operating straight trucks, while carriers operating combination trucks (tractor-trailers) are only compared with companies mostly operating combination trucks; and,

- The Crash Indicator only compares motor carriers with other carriers that have approximately the same number of crashes.

For example, a carrier with a fleet of tractor-trailers that average 100,000 VMT per year, will have its Crash Indicator score based only on "reportable" crashes in the past two years. If the carrier has been involved in four reportable crashes in the past two years, it will only be compared to other carriers operating tractor-trailers that have also been involved in four to six reportable crashes in the past two years. The overall Crash Indicator score would be based on the severity of the crashes, how long ago the crashes occurred (but not more than two years old), and the average VMT per vehicle. All other factors being constant, the Crash Indicator raw score for motor carriers can be reduced by as much as 67% for straight trucks, and up to 38% for combination vehicles, based on average VMT per vehicle alone. Hence, a carrier that averages 100,000 VMT per vehicle would have its Crash Indicator raw score reduced by 13%, compared to other tractor-trailer carriers with an equal number of vehicles that averaged less than 80,000 VMT per vehicle in the four-to-six crash category. In addition, crashes that are less severe than those of other comparable carriers, or that occurred longer ago than the crashes of the comparable carriers, result in lower Crash Indicator scores.

Most importantly, the Crash Indicator score is designed to take into account occasional random crashes which may not legally be the fault of a motor carrier or driver, while enabling the agency to identify those carriers that are involved in an inordinate number and frequency of crashes compared to companies and drivers with similar operating conditions and circumstances. Subjective review and ad hoc elimination of some crash data will corrupt the database and skew the predictive quality of the results.

Eliminating crash involvement data from the Crash Indicator database would require FMCSA to review every crash a motor carrier or driver challenges. Since there is no downside for a motor carrier or driver to challenge a crash, theoretically every crash could be challenged in the hope of having the agency eliminate the crash from the data record. Not only would this approach require the agency to set up a large new bureaucracy, it would also require the agency to expend scarce resources to review thousands upon thousands of crashes and hire outside legal, law enforcement and engineering experts, when the existing system already provides the predictive crash information the agency needs. Moreover, such an approach could prevent witness interviews and crash investigation reports from being reviewed by the

agency, and enmesh the agency in making liability and fault determinations which the agency is not equipped to do and should be left to the State courts.

I greatly appreciate your attention to this important issue. The safety community and families of truck crash victims and survivors will continue to work to preserve an efficient and effective program which has, in a relatively short time, already helped to elevate the safety culture within the trucking industry.

Sincerely,

Daphne Izer
Founder, Parents Against Tired Truckers