



June 22, 2015

Docket Management Facility  
U.S. Department of Transportation  
1200 New Jersey Avenue, SE  
West Building, Ground Floor  
Room W12-140  
Washington, D.C. 20590-0001

**RE: Docket No. FMCSA-2015-0124 – Notice: Beyond Compliance Program**

Dear Sir/Madam:

The American Bus Association (ABA) appreciates the opportunity to respond to the Federal Motor Carrier Safety Administration's (FMCSA's or Agency's) notice requesting comment on its interest in developing a Beyond Compliance program.

ABA is the leading trade association for private and over-the-road operators who transport the public and serve the motorcoach industry. ABA has been in operation for over 80 years and has over 800 bus operating company members, large and small, intercity and charter and tour operators, rural and urban. Our members provide all manner of transportation services, including intercity scheduled service, charter and tour operations, airport and employee shuttle services. In addition, ABA membership includes hotels, convention and visitors bureaus, attractions, restaurants, motorcoach manufacturers and companies that provide services to the motor coach industry. Motorcoach companies carry out more than 600 million passenger trips per year, moving individual passengers a total of 65 billion miles annually.

Initially, ABA is pleased the Agency is affirmatively exploring voluntary approaches to improving motor carrier safety. The Federal Aviation Administration, a sister agency to FMCSA, has achieved great success in achieving safety goals by partnering with the aviation industry and labor through the Commercial Aviation Safety Team, and voluntarily adopting new technologies and best practices through safety enhancements.<sup>1</sup> We believe the motor carrier industry can likewise benefit from a voluntary approach to achieving safety goals. Voluntary programs facilitate the adoption of new technologies and best practices by providing flexibility to accommodate various types and sizes of operations, a key consideration for the intercity bus industry. This approach also leads to a change in culture, from viewing regulations as “maximum” to “minimum” standards, encouraging operators to take greater control of their risk

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<sup>1</sup> See CAST, <http://www.cast-safety.org>

management profile based on their own operations, needs, and available resources. We are encouraged to see that the Agency is seeking input from the industry before putting a program into practice.

Alternatively, though, ABA members are also concerned a voluntary program that through its generation of a list of technologies/best practices could possibly be used by FMCSA to pursue additional, overly burdensome regulations over time. Therefore, ABA is cautious in terms of its support for FMCSA's interest in a Beyond Compliance program, but does look forward to working with the Agency as it further develops its plans. ABA recognizes, as with any new program proposal, the details and program elements are critical in terms of ensuring its success. Of particular concern for ABA in the development of a voluntary program involving the adoption of new technologies or practices is the consideration of smaller bus operators, in terms of their ability to participate and benefits to be derived. For many small businesses with limited profit margins and constrained financial flexibility, there is generally a reluctance to adopt unproven techniques or technologies that don't have a direct impact on the bottom line. However, we do also have some concerns that by incentivizing voluntary adoption that there might be a perception created that safety is an amenity rather than a progression of a company's safety culture.

Notably, ABA members will attest: good companies already voluntarily pursue best practices and beneficial technologies because it is the right thing to do, regardless of Agency action. Based on this philosophy, ABA believes the Agency must give thoughtful consideration to the types of relief or incentives it designs for the underlying program, not only to reward operators who go above and beyond the regulations, but also to encourage or incentivize broader adoption of best practices and applicable safety technologies beyond an innovative few "good companies." With these considerations in mind, ABA offers the following comments to the six specific questions posited by FMCSA:

**1. What voluntary technologies or safety program best practices would be appropriate for a Beyond Compliance program?**

ABA believes the answers to this question are critical in terms of ensuring a balanced Beyond Compliance program that offers opportunities to both large and small operators. For example, new technologies such as forward facing or inward facing video recorders may initially be cost prohibitive to smaller operator; however, by ensuring best practices are given equal weight or consideration under such a program, smaller operators have an opportunity to participate through the exercise of good safety management principles or practices.

Also, ABA is interested in learning of FMCSA's willingness to accept technologies and practices currently in use; or, in other words, where FMCSA plans to draw the line in terms of timing of technology adoption and best practices. As well, ABA believes in the importance of being expansive in its views of best practices. For example, although sales/itinerary planning staffs are rarely involved directly in the operation of a vehicle, a practice of training such staff on the hours of service rules (HOS) can mitigate HOS violations by drivers by ensuring the initial itinerary of a trip takes into account the HOS.

**2. What Safety performance metrics should be used to evaluate the success of voluntarily implemented technologies or safety program best practices?**

ABA believes the question of establishing appropriate metrics for a Beyond Compliance program can be extremely challenging. Safety trends occur over time, and in order to evaluate the effectiveness of the program there needs to be sufficient data collected to be evaluated. We are also concerned about the scalability of this program and how a single technology or best practice is measured against an operator that utilizes five. In addition, many times there is a synergy between technologies and best practices that create a comprehensive safety system.

**3. What incentives would encourage motor carriers to invest in technologies and best practices programs?**

- a. Credit on appropriate Safety Measurement System (SMS) scores?**
- b. Credit on Inspection Selection System (ISS) scores?**
- c. Reduction in roadside inspection frequency?**
- d. Other options**

ABA supports the various ideas mentioned in the notice and listed above, in other words credit on appropriate SMS and ISS scores as well a reduction in roadside inspection frequency. As previously noted, good companies already pursue safety best practices and technologies, if affordable, because such actions make good business sense and provide a sound return on investment. The recognition of these efforts through a reduction in the oversight burden provides the Agency an opportunity to redirect resources to other lesser known carriers or carriers deemed worthy of additional oversight. Further, these types of incentives are tangible for motorcoach operators; reduction in oversight activities can immediately pay dividends, particularly to smaller carriers. Alternatively, incentives such as recognition of carriers' voluntary efforts through a "star" rating or label program, to induce competition among carriers, will not likely prove successful. The motorcoach industry is comprised of a broad range of operations as well as operators, of all sizes, and competition varies among geographic regions, markets and types of operation. Unlike the automobile industry, where there are clear and defined lines of competition, an attempt to incentivize motorcoach operators through ratings, simply would not work in terms of achieving the Agency's goals.

**4. What events should cause the incentives to be removed?**

- a. If safety goals for the carrier are not consistently achieved, what is the benefit to the motoring public?**

ABA supports withdrawal of incentives or rewards if an operator provides false or misleading information, or in any other way attempts to circumvent the requirements of the program.

**5. Should this program be developed by the private sector like PrePass, ISO 9000, or Canada's Partners in Compliance (PIC)?**

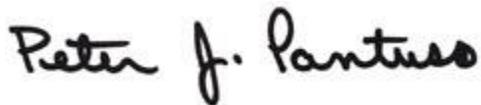
Again, as demonstrated in the aviation sector, a joint partnership between government and industry provides the strongest basis for achieving safety goals. By having both the regulator and the regulated community working together, all parties vested in the outcome, there is greater opportunity for communication, education and balance leading to sound decision making and goals.

**6. How would FMCSA verify that the voluntary technologies or safety programs were being implemented?**

Generally it would appear to make sense that these technologies and programs should be verified during the compliance review process. The MCS-150 with its regular filing schedule, and with some minor modifications, would also seem a good choice to provide a regular opportunity for operators to identify items that might be considered for this program.

ABA believes there is great value in exploring voluntary opportunities; however, the Agency needs to ensure that the program can provide benefit to both large and small operators. The idea of encouraging a systematic approach to improving safety through a process that looks at technologies and best practices as potentially equally effective mitigation measures is one that we find exciting, although we eagerly await the Agency's proposal for how the evaluating, weighting and incentivizing of this program will occur.

Sincerely,

A handwritten signature in black ink that reads "Peter J. Pantuso". The signature is written in a cursive, slightly slanted style.

Peter J. Pantuso, CTIS  
President & CEO  
American Bus Association