

Advocacy Recommends that FMCSA Reassess its Methodology, Consider Impact of Proposed Carrier Safety Fitness Determination Rule on Small Carriers

On May 19, 2016, the U.S. Small Business Administration's (SBA) Office of Advocacy (Advocacy) submitted comments to the Federal Motor Carrier Safety Administration (FMCSA) on FMCSA *Proposed Carrier Safety Fitness Determination (SFD) Rule*. [81 Fed. Reg. 3562 (January 21, 2016)]. FMCSA's proposed rule would implement a new statistical measuring program designed to determine which motor carriers are "fit" to operate in interstate commerce and which ones are not. There are some 503,000 small business motor carriers (493,000 property and 10,000 passenger) representing nearly ninety-nine percent of the motor carrier industry.

In order to obtain input about the proposed rule from small businesses and their representatives, Advocacy hosted a small business roundtable on FMCSA's proposed rule on May 5, 2016. Representatives from FMCSA also attended the roundtable to provide an overview of the proposed rule and answer questions about it.

- Small businesses and their representatives expressed concern about the validity of FMCSA's current Compliance, Safety, Accountability (CSA) and Safety Measurement System (SMS) methodologies, which are carried over to the proposed rule. Advocacy recommended that FMCSA fully assess the validity of the proposed SFD methodology and whether it will have a disproportionate impact on small carriers.
- Small businesses and their representatives were also critical of FMCSA's analysis under both the Regulatory Flexibility Act (RFA) and Executive Order 12866, particularly with respect to the quantification of costs and assertion of benefits. Advocacy recommended that FMCSA reassess its RFA analysis and Regulatory Evaluation and examine significant regulatory alternatives to better inform its decision making process.
- Congress passed and President Obama signed the Fixing America's Surface Transportation Act (FAST Act) on December 4, 2015, which, among other things, directs the National Research Council of the National Academies of Science to conduct a thorough study of CSA and SMS methodologies. Advocacy recommended that FMCSA await the conclusion of this study before finalizing a new rule.

A complete copy of Advocacy's letter to FMCSA is available at: <http://www.sba.gov/advocacy/816>. For more information please contact Bruce Lundegren, Assistant Chief Counsel, at (202) 205-6144 or bruce.lundegren@sba.gov.