

October 2009

# HOUSEHOLD GOODS MOVING INDUSTRY

Progress Has Been  
Made in Enforcement,  
but Increased Focus  
on Consumer  
Protection Is Needed



GAO

Accountability \* Integrity \* Reliability



Highlights of [GAO-10-38](#), a report to congressional committees

## Why GAO Did This Study

Each year, the Federal Motor Carrier Safety Administration (FMCSA) within the Department of Transportation (DOT) receives about 3,000 consumer complaints regarding interstate moving companies: some involve egregious offenses, such as holding goods hostage. Over the years, Congress and GAO have raised concerns about the adequacy of FMCSA's oversight of the industry. As requested, GAO reviewed the (1) extent to which states have used authority in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) to take federal enforcement action against interstate movers and challenges in using that authority; (2) extent and timeliness of FMCSA's progress in its consumer protection efforts; and (3) advantages and disadvantages of options for enhancing consumer protection in the industry. GAO analyzed applicable laws and regulations; interviewed government, moving industry, and consumer protection officials; surveyed state regulatory agencies and state attorneys general; and analyzed consumer protection models.

## What GAO Recommends

DOT should evaluate whether to move the household goods program to OST and address problems with FMCSA's consumer protection efforts. DOT and FTC agreed with the information in this report, and DOT agreed to consider the recommendations.

View [GAO-10-38](#) or [key components](#). For more information, contact Susan Fleming at (202) 512-2834 or [flemings@gao.gov](mailto:flemings@gao.gov).

# HOUSEHOLD GOODS MOVING INDUSTRY

## Progress Has Been Made in Enforcement, but Increased Focus on Consumer Protection Is Needed

### What GAO Found

States have not used two SAFETEA-LU provisions that permit state regulatory agencies and state attorneys general to bring a federal consumer protection action against an interstate household goods mover. The state officials GAO surveyed cited several challenges to using the provisions; for example, state regulatory agencies cited concerns about a lack of resources to bring an action and insufficient awareness of and clarity on how to use the provisions. State attorneys general reported a strong preference for wanting to use their own state laws and their own state courts to pursue interstate carriers; however, the Carmack Amendment—a statute limiting carrier liability—preempts them from doing so.

FMCSA has made progress in its household goods consumer protection efforts; however, the effectiveness of these efforts is unknown and the progress has been slow. FMCSA has focused most of its efforts on improving enforcement, such as increasing the number of household goods compliance reviews, and has made limited progress in other areas of consumer protection, including consumer education and outreach, partnering with key stakeholders, and reporting and using consumer complaints data. FMCSA has been slow to implement improvements in consumer protection recommended by GAO or required by law. For example, the agency completed a study of alternative dispute mechanisms 11 years after its legislative deadline elapsed. Recent steps FMCSA has undertaken in an effort to improve its household goods program are too new for their impact to be determined.

Several policy options exist for enhancing consumer protection in the interstate household goods moving industry and each has potential advantages and disadvantages. First, FMCSA could retain oversight responsibility, given that it has already invested time and resources into the effort and has recently implemented actions to improve enforcement. However, FMCSA's primary mission is safety, and the limitations in the agency's consumer protection efforts to date raise questions about its commitment to enhancing consumer protection. A second option is to create a separate office within the Office of the Secretary of Transportation (OST) similar to the Office of Aviation Enforcement and Proceedings (OAEP). OAEP focuses on consumer protection for the aviation industry, leaving safety the purview of the Federal Aviation Administration (FAA). This could be an effective model for resolving concerns about how FMCSA addresses consumer protection for the interstate household goods moving industry within its safety mission. However, given OST's structure, creating a new office would require careful consideration of organizational, legal, budgetary, and resource issues. A third option is to move this function to the Federal Trade Commission (FTC). As the nation's consumer protection agency, the FTC has the expertise to protect consumers. However, FTC has no experience or expertise with the interstate household goods industry and is currently legally prohibited from regulating common carriers, including moving companies.

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## Abbreviations

ACPD	Aviation Consumer Protection Division
AMSA	American Moving and Storage Association
BBB	Better Business Bureau
DOT	Department of Transportation
FAA	Federal Aviation Administration
FMCSA	Federal Motor Carrier Safety Administration
FMCSR	Federal Motor Carrier Safety Regulations
FTC	Federal Trade Commission
ICC	Interstate Commerce Commission
NCCDB	National Consumer Complaint Database
OAEP	Office of Aviation Enforcement and Proceedings
OST	Office of the Secretary of Transportation
SAFETEA-LU	Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users
STB	Surface Transportation Board

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United States Government Accountability Office  
Washington, DC 20548

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October 30, 2009

The Honorable John D. Rockefeller IV  
Chairman  
The Honorable Kay Bailey Hutchison  
Ranking Member  
Committee on Commerce, Science,  
and Transportation  
United States Senate

The Honorable Frank R. Lautenberg  
Chairman  
The Honorable John Thune  
Ranking Member  
Subcommittee on Surface Transportation  
and Merchant Marine Infrastructure,  
Safety, and Security  
Committee on Commerce, Science,  
and Transportation  
United States Senate

Consumer protection in the interstate household goods moving industry—a small but unique industry governed by complex federal laws and regulations—has been of significant interest to Congress since the breakup of the Interstate Commerce Commission (ICC) in 1995. Consumers who hire interstate household goods movers must rely primarily on federal oversight and enforcement of the household goods moving industry for consumer protection because it is one of the few industries in which states are limited in their role to protect consumers using state consumer protection laws and other state laws. Furthermore, the household goods moving industry is one where the Federal Trade Commission (FTC), the nation’s consumer protection agency, does not have authority to protect consumers against unfair or deceptive acts or practices or unfair methods of competition.<sup>1</sup> For the last decade, the Federal Motor Carrier Safety Administration (FMCSA) within the Department of Transportation (DOT) has had responsibility for protecting consumers involved in interstate household goods moves. It exercises this

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<sup>1</sup>15 U.S.C. § 45(a)(2).

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responsibility by issuing regulations, conducting oversight activities, and taking enforcement actions.<sup>2</sup>

We and Congress have raised concerns over the years about the adequacy of FMCSA's oversight of the interstate household goods moving industry, including FMCSA's efforts to collect and track complaint information and conduct education and outreach activities that would effectively protect consumers. Since 2001, we have reported that although some progress has been made, FMCSA has fallen short in its consumer protection efforts by not establishing a comprehensive strategy or adequate performance measures and by not implementing adequate outreach to or coordination with federal and state law enforcement and regulatory officials.<sup>3</sup> In 2005, a number of provisions in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)<sup>4</sup> were enacted, in part, to address some of these concerns. In particular, two SAFETEA-LU provisions gave states (state regulatory agencies and state attorneys general) the authority to enforce DOT-delineated federal household goods consumer protection laws and regulations against interstate household goods movers.<sup>5</sup> By using this authority, states can assist FMCSA in carrying out its consumer protection enforcement efforts. In light of continuing interest, this report addresses the following:

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<sup>2</sup>Until 1996, ICC had regulatory and consumer protection responsibilities for interstate household goods movers. The ICC Termination Act of 1995, among other things, dissolved ICC and transferred these responsibilities to DOT, which placed the program within the motor carrier safety office in the Federal Highway Administration. See Pub. L. No. 104-88, § 101, 109 Stat. 803, 804. FMCSA was assigned oversight responsibility for the household goods moving industry as part of the Motor Carrier Safety Improvement Act of 1999. See Pub. L. No. 106-159, § 101, 113 Stat. 1748, 1750.

<sup>3</sup>GAO, *Consumer Protection: Some Improvements in Federal Oversight of Household Goods Moving Industry Since 2001, but More Action Needed to Better Protect Individual Consumers*, [GAO-07-586](#) (Washington, D.C.: May 16, 2007); *Consumer Protection: Federal Actions to Oversee the Household Goods Moving Industry Are Unlikely to Have Immediate Impact*, [GAO-01-819T](#) (Washington, D.C.: July 12, 2001); and *Consumer Protection: Federal Actions Are Needed to Improve Oversight of the Household Goods Moving Industry*, [GAO-01-318](#) (Washington, D.C.: Mar. 5, 2001).

<sup>4</sup>Pub. L. No. 109-59, 119 Stat. 1144.

<sup>5</sup>Pub. L. No. 109-59, § 4206, 119 Stat. 1144, 1754-1757 (2005), codified at 49 U.S.C. §§ 14710, 14711. The provisions gave the Secretary of Transportation the authority to determine which laws and regulations could be enforced under this authority. On November 17, 2006, FMCSA published a list of these laws and regulations. See 71 Fed. Reg. 67009. This authority was provided to both state regulatory agencies and state attorneys general, respectively. We refer to these together as the state for purposes of this report.

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- the extent to which states have used the SAFETEA-LU provisions that allow states to enforce federal household goods consumer protection laws and regulations, and any challenges to using the provisions;
  - the extent and timeliness of progress made by FMCSA in its consumer protection efforts; and
  - options for enhancing consumer protection in the federal oversight of the household goods moving industry, and the advantages and disadvantages of those options.

To address these issues, we analyzed federal and state laws and regulations related to the household goods moving industry, reviewed pertinent documentation and interviewed a wide array of officials from federal and state agencies, the moving industry, and consumer protection organizations. To determine the extent to which states are using two SAFETEA-LU provisions that provided them with authority to enforce federal household goods consumer protection laws and regulations, we surveyed state regulatory agencies<sup>6</sup> in the 42 states and the District of Columbia that regulate intrastate household goods movers and state attorneys general in each of the 50 states and the District of Columbia.<sup>7</sup> To better understand FMCSA's household goods consumer protection efforts, we contacted or met with officials in FMCSA's headquarters and six field offices located in California, Colorado, Florida, Illinois, New Jersey, and Texas. We chose the six field offices based on the volume of complaints against movers in those states, the presence of household goods specialists in those offices, and recommendations from FMCSA headquarters staff. Finally, to understand potential options for enhancing consumer protection in the household goods moving industry, we reviewed two models of consumer protection: FTC's Bureau of Consumer Protection and DOT's Office of Aviation Enforcement and Proceedings within the Office of the Secretary of Transportation (OST). These models were chosen because of the relevance of their consumer protection activities.

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<sup>6</sup>State regulatory agencies are those state entities responsible for regulating the *intrastate* movement of household goods. In 49 U.S.C. § 14710(d), this type of entity is referred to as a state authority. For purposes of this report, we use "state agency" to refer to the same entity as defined by 49 U.S.C. § 14710(d).

<sup>7</sup>Of the 43 regulatory agencies, 40 (93 percent) responded to our survey. Of the 51 attorneys general we surveyed, 39 (76 percent) responded to our survey.



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We conducted this performance audit from November 2008 through October 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. (See app. I for further details about our scope and methodology.)

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## Background

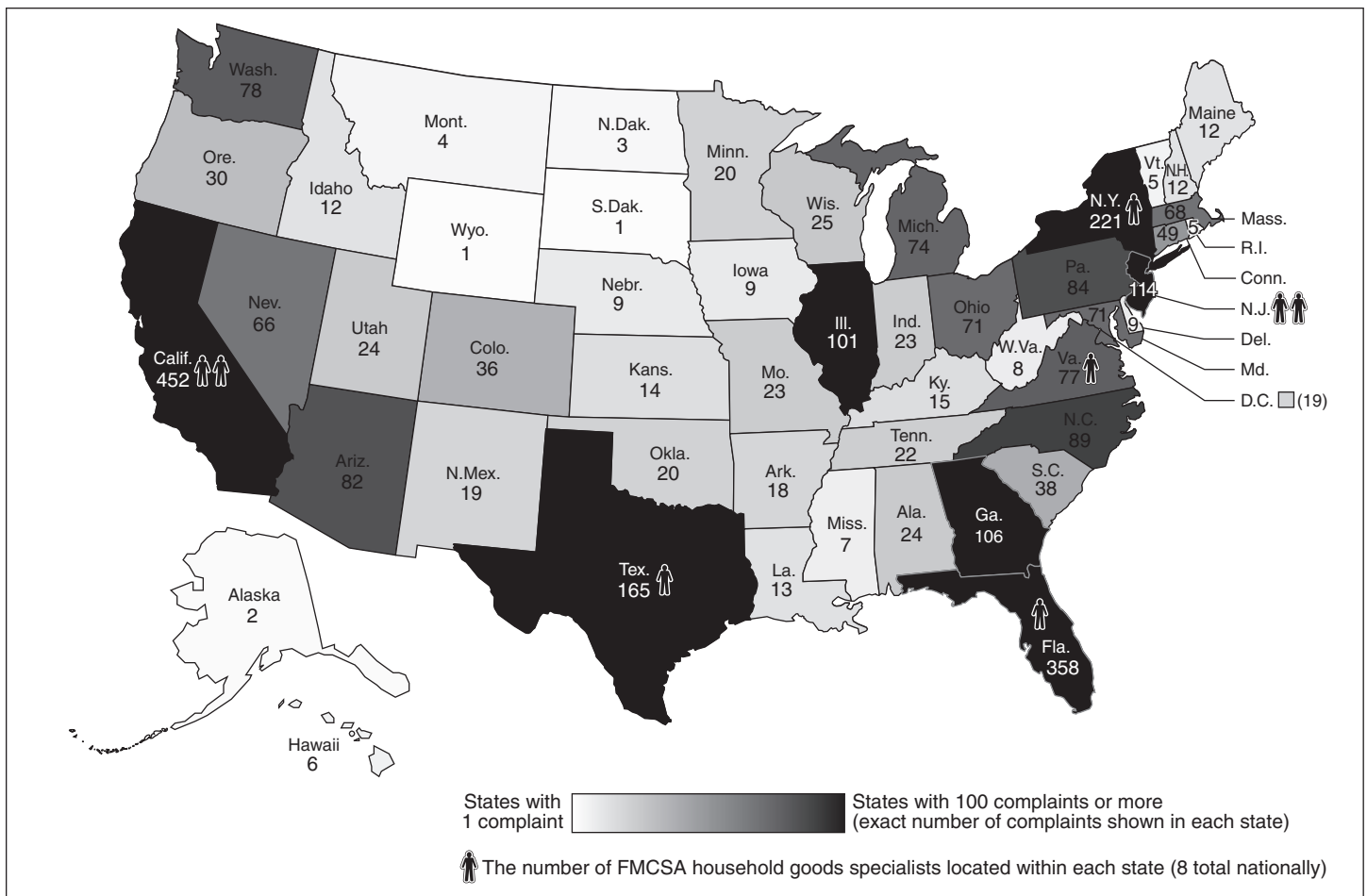
According to FMCSA, approximately 4,800 interstate moving companies transport the household goods of 1.6 million Americans who move across state lines each year. While the total number of companies is substantial, they constitute a small percentage of the approximately 720,000 interstate commercial carriers engaged in all aspects of interstate commerce.

FMCSA's mission is focused on reducing crashes, injuries, and fatalities involving large trucks and buses; however, in 1999 the agency was also given oversight responsibility for consumer protections involving interstate household goods movers. FMCSA's oversight activities for interstate household goods movers include collecting complaint data, enforcing compliance with economic and consumer protection laws and regulations, and providing consumer education and outreach.

According to its fiscal year 2010 budget request, FMCSA applies less than 1 percent of its budgetary resources (including a small number of staff) toward oversight of the interstate household goods moving industry. Overall, FMCSA has approximately 1,100 full-time employees located in its headquarters facilities in Washington, D.C., and within its field office structure. The field office structure consists of 4 service centers and 52 division offices—1 in each state, Puerto Rico, and the District of Columbia. Across this nationwide organizational structure, FMCSA has assigned 14 of its 1,100 staff to oversee the interstate household goods moving industry—5 staff in headquarters and 9 staff in field offices. Among the 9 field staff, 8 are household goods specialists who investigate household goods consumer complaints. Of the existing 8 household goods specialists, only 1 specialist dedicates 100 percent of his time to household goods enforcement, while the remaining 7 are also responsible for enforcing safety regulations on interstate motor carriers. Additionally, 128 of the 255 safety investigators in FMCSA's field offices throughout the country have taken household goods training and can assist in household goods enforcement. Figure 1 shows the distribution of consumer complaints received by FMCSA against interstate household goods movers,

juxtaposed with the location of FMCSA's household goods specialists in fiscal year 2008. As the figure shows, for the most part, FMCSA has household goods specialists located in the states with the highest number of complaints.

**Figure 1: Number of Consumer Complaints for 2008 and Location of FMCSA's Household Goods Specialists**



Sources: FMCSA; GAO; and Map Resources (base map).

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FMCSA receives about 3,000 complaints against interstate household goods movers per year,<sup>8</sup> including complaints about estimates and final charges, problems with the pickup and delivery of goods, and loss and damage of goods (see app. II for further details on the number and type of complaints received from fiscal year 2001 through fiscal year 2008). Complaint data are received and managed in FMCSA's National Consumer Complaint Database (NCCDB). Consumers primarily file complaints through FMCSA's "Protect Your Move" Web site and its toll-free hotline.

There are some organizations with which complaints against interstate household goods movers can be lodged and possibly resolved without ever being filed directly with FMCSA. For example, organizations such as MoveRescue, the Better Business Bureau (BBB), and the American Moving and Storage Association (AMSA) receive consumer complaints about interstate household goods movers and attempt to resolve them by working directly with the moving companies and consumers or through an arbitration program. BBB, for example, received nearly 9,000 complaints against both interstate and intrastate household goods movers in 2008, and AMSA received 300 complaints against interstate movers in 2008.<sup>9</sup> BBB and AMSA both have arbitration programs to help consumers resolve complaints, while MoveRescue provides information on consumers' rights and responsibilities and attempts to intervene directly on behalf of consumers in recovering goods. Figure 2 depicts the processes by which a consumer complaint may be filed and resolved. Consumers may file complaints concurrently with any of these entities and the information may or may not be shared directly with FMCSA. For example, BBB does not share complaint information directly with FMCSA, AMSA notifies FMCSA when it is removing a carrier from its membership, and MoveRescue may ask FMCSA to intervene if a mover is unwilling to negotiate the return of a consumer's goods being held "hostage."<sup>10</sup>

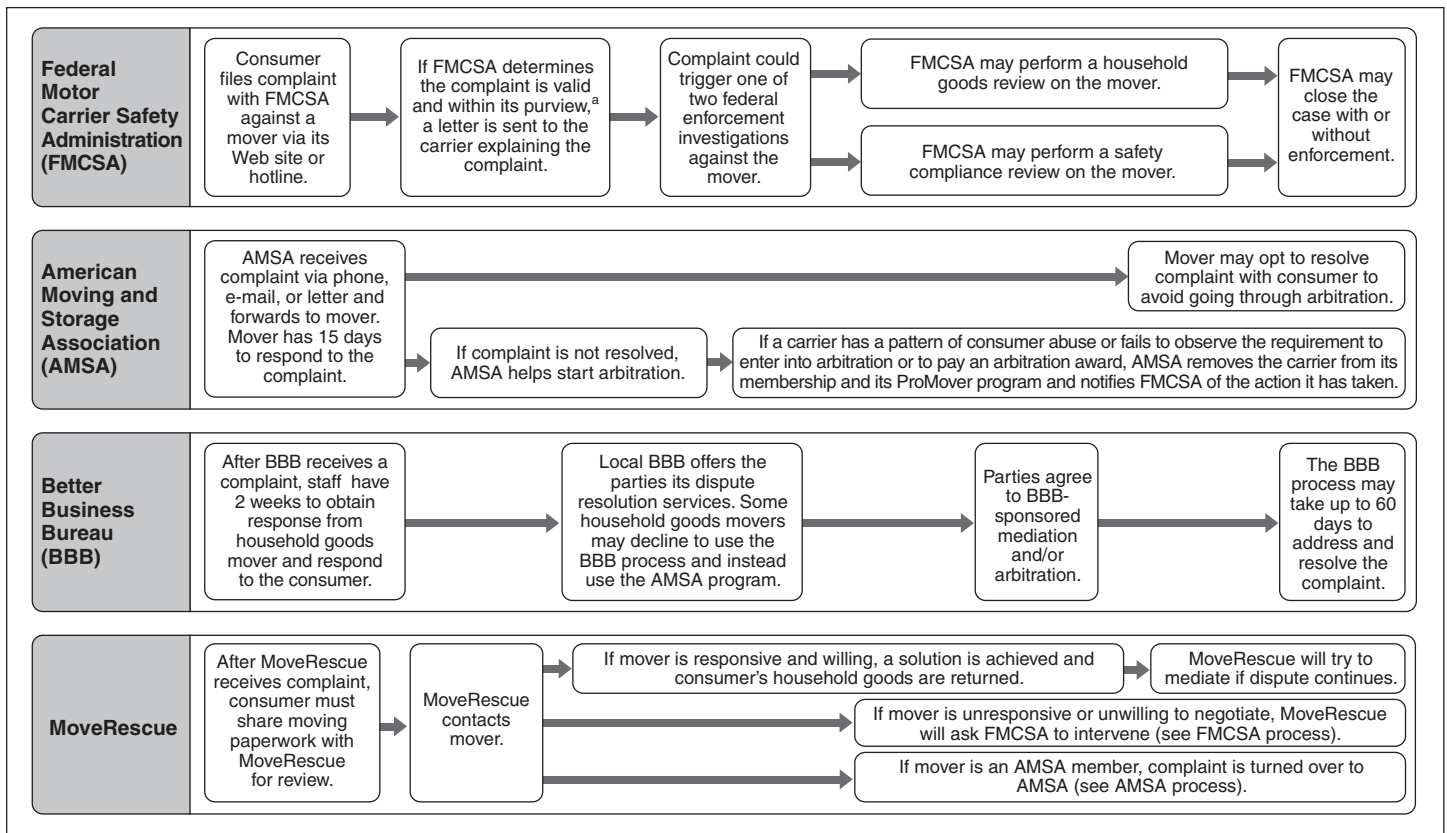
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<sup>8</sup>Number is based on an average of valid complaints from fiscal year 2004 through fiscal year 2008. FMCSA defines a valid complaint as a complaint involving an actual shipment by the moving company.

<sup>9</sup>BBB does not differentiate between interstate and intrastate movers.

<sup>10</sup>"Hostage goods" situations involve a mover holding consumer goods until the consumer pays fees greatly in excess of the agreed-upon estimate.

**Figure 2: Selected Steps in the Household Goods Consumer Complaint Processes of Four Organizations**



Source: GAO analysis of organizations' complaint processes.

<sup>a</sup>FMCSA refers any household goods rate or overcharge complaints to the Surface Transportation Board, which has jurisdiction over certain trucking company rate matters.

Among the consumer complaints lodged against interstate household goods movers, some of the most egregious and traumatic involve complaints about goods held hostage.<sup>11</sup> In 2008, FMCSA received nearly 3,000 complaints, of which 730 involved goods being held hostage. As we

<sup>11</sup>In May 2006, DOT's Acting Inspector General testified that some victims of movers that held their goods hostage have not seen their belongings again, have not recovered their damaged possessions until many months after the move, have had their goods looted and sold, or have had their goods end up in the homes of the perpetrators. Statement of Todd J. Zinser, Acting Inspector General, U.S. Department of Transportation, before the Committee on Commerce, Science, and Transportation, Subcommittee on Surface Transportation and Merchant Marine, United States Senate, May 4, 2006, *Household Goods Moving Fraud*, CC-2006-044.

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reported in 2007, movers that hold goods hostage are often illegitimate operators or “rogue movers”; they may be in business only for a short time under any given name; and they may shut down their business and set up operations under a new name.<sup>12</sup> Consumers have little access to assistance in these situations, and when the move is interstate, the only federal agency with oversight responsibility is FMCSA. If it can locate the company, FMCSA may seek a temporary restraining order or injunctive relief (i.e., a court order to prevent a carrier from engaging in a specific action) against a carrier that is suspected of operating illegally. Additionally, if a consumer’s goods are being held hostage at the time the consumer calls FMCSA for assistance, it is possible an investigator will attempt to get those goods released, though this is done at the discretion of the investigator.<sup>13</sup> FMCSA does not intervene on behalf of an individual consumer, because the agency was directed by Congress when enacting the ICC Termination Act of 1995 not to intervene in resolving individual complaints.<sup>14</sup> Instead, FMCSA’s enforcement approach is to review complaint data to identify moving companies with a pattern of complaints and target them for investigation.

FMCSA’s primary enforcement tool for ensuring consumer protection involving interstate household goods movers is commonly known as a household goods review of economic and consumer protection regulatory requirements. These reviews address, among other things, a mover’s liability, tariffs, advertising, and arbitration program, as well as documentation it provides to consumers—including publications, moving estimates, and bills of lading.<sup>15</sup> Historically, household goods reviews have usually been conducted when a carrier receives more than 10 complaints.<sup>16</sup>

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<sup>12</sup>[GAO-07-586](#).

<sup>13</sup>Because holding goods hostage is a criminal offense, the DOT Office of the Inspector General (OIG) may become involved in a hostage goods case. The OIG has jurisdiction and the authority to investigate allegations of fraudulent or other criminal activity related to the programs and operations of DOT or its operating administrations. However, for the household goods moving industry, the OIG is involved with only the most egregious cases that affect many consumers, and prosecutions depend on the U.S. Attorneys’ Office.

<sup>14</sup>See H.R. Rep. No. 104-311, at 87-88 (1995), and S. Rep. No. 104-176, at 11 (1995), accompanying the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803.

<sup>15</sup>Among other things, household goods reviews assess compliance with regulations, for instance, those at 49 C.F.R. part 375.

<sup>16</sup>As of June 2009, FMCSA instituted a new policy for targeting moving companies for household goods reviews. The new policy is discussed in detail later in this report.

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They are also conducted during strike forces, which occur for a period of 2 weeks once a year.<sup>17</sup> In addition, FMCSA may conduct safety compliance reviews<sup>18</sup> on interstate motor carriers, including interstate household goods movers, to assess compliance with safety regulations that address areas such as testing drivers for alcohol and drugs, insurance coverage, crashes, driver qualifications, driver hours of service, vehicle maintenance and inspections, and transportation of hazardous materials. Not all commercial motor carriers receive safety compliance reviews. FMCSA is only able to conduct safety compliance reviews on a very small percentage of carriers because of the size of the motor carrier industry and the available resources to conduct reviews. Interstate household goods movers can receive a household goods review, a safety compliance review, or both and these reviews can be completed by one of the household goods specialists. In 2008, FMCSA conducted 630 household goods reviews and 387 safety compliance reviews on interstate household goods movers.<sup>19</sup> If a mover is found to be noncompliant, FMCSA has a variety of actions it may take, including issuing orders to compel compliance, imposing civil monetary penalties, or suspending or revoking a mover's operating authority. As a regulatory agency, FMCSA does not have authority to arrest movers that violate the criminal provisions applicable to household goods moves, such as holding goods hostage;<sup>20</sup> it refers appropriate cases to the DOT Office of Inspector General, which conducts additional investigation before referring cases to the U.S. Attorneys' Office for potential prosecution.

Since 2001, we have raised concerns about FMCSA's oversight of the interstate household goods moving industry and made recommendations that FMCSA, for example, enhance its education and outreach by reaching out to consumer and industry groups as well as state governments, collect and monitor data on consumer complaints, and develop a strategy, with

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<sup>17</sup>Strike forces, which focus on states that have reported a high number of complaints about household goods movers, bring together FMCSA and state officials to make site visits to the movers that have generated the greatest number of complaints.

<sup>18</sup>For the purpose of this report, to distinguish between a household goods review and compliance review, we are using "safety compliance review" in place of compliance review.

<sup>19</sup>Household goods reviews can be completed in conjunction with safety compliance reviews.

<sup>20</sup>SAFETEA-LU provided for civil and criminal penalties for failure to give up possession of household goods. See Pub. L. No. 109-59, § 4210, 119 Stat. 1144, 1758-59 (2005), codified at 49 U.S.C. § 14915.

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performance goals and measures, that delineates how FMCSA's oversight and enforcement activities related to household goods movers will improve consumer protection. To address the concerns we and others have raised, a number of provisions were enacted in SAFETEA-LU in 2005 to enhance protections for consumers who hire interstate movers.<sup>21</sup> Two of these provisions provided states with the authority to enforce federal household goods consumer protection laws and regulations (as designated by DOT) against interstate household goods carriers, as follows<sup>22</sup>:

- The first provision gives *state regulatory agencies* the authority to bring federal consumer protection actions against interstate household goods carriers in either state or federal court and specifically allows the state to retain any fines or penalties imposed on a carrier (see 49 U.S.C. § 14710).
- The second provision gives *state attorneys general*, acting “on behalf of the state’s residents,” the authority to bring federal consumer protection actions against interstate household goods carriers in federal court only. The provision is silent as to whether the state may retain penalties imposed on a carrier (see 49 U.S.C. § 14711).

The statutory authority contained in the two SAFETEA-LU provisions<sup>23</sup> was designed to augment federal resources<sup>24</sup> and provides states with a federal enforcement tool, as states are preempted by the Carmack Amendment from bringing their own actions against interstate household goods movers in state court using state laws.<sup>25</sup> The Carmack Amendment,

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<sup>21</sup>See Pub. L. No. 109-59, 119 Stat. 1144, title IV, subtitle B.

<sup>22</sup>See 71 Fed. Reg. 67009 (Nov. 17, 2006) for a list of those federal consumer protection laws and regulations that can be enforced by the states under this authority. Additional household goods laws are contained in Title 49, subtitle IV, part B, of the United States Code—see 49 U.S.C. §§ 13102, 13701, 13702, 13704, 13707, 13901, 13902, 13907, 14104, 14302, 14706, 14707, 14708, 14710, 14711, 14901, 14912, 14915. Regulations related to the interstate movement of household goods are at 49 C.F.R. part 375.

<sup>23</sup>For purposes of this report, we refer to these SAFETEA-LU provisions, which provided states with the authority to enforce federal household goods consumer protection laws and regulations, as SAFETEA-LU authority.

<sup>24</sup>See H.R. Rep. No. 109-203, § 4206, at 1010 (2005). This language is also contained in H.R. Rep. No. 109-12, § 4201, at 443 (2005).

<sup>25</sup>The Carmack Amendment is found at 49 U.S.C. § 14706. The legal principle of “preemption” requires that federal law supersede any potentially conflicting state law—a determination ultimately made by the courts. This principle of preemption is based on the Supremacy Clause of the United States Constitution, which requires federal law to be the supreme law of the land. U.S. Const. Art. VI, sec. 2.

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a federal civil liability statute enacted in 1906, which sets limitations on carrier liability,<sup>26</sup> broadly covers a variety of industries, including the household goods moving industry.

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## States Have Not Brought an Action Against Any Interstate Household Goods Mover Using SAFETEA-LU Authority and Cited Several Challenges to Doing So

States have not used the two SAFETEA-LU provisions that permit state regulatory agencies and state attorneys general to bring a federal consumer protection action against an interstate household goods mover,<sup>27</sup> according to federal agency information and results from our survey. First, for any action initiated by a state under these SAFETEA-LU provisions, the state must serve written notice to either DOT or the Surface Transportation Board (STB).<sup>28</sup> Officials from both these agencies told us that they had not received notice of any state filing such an action, as required by law. Second, none of the 40 state regulatory agencies or the 39 state attorneys general responding to our survey indicated that they had used these two SAFETEA-LU provisions.<sup>29</sup>

The state officials we surveyed identified a variety of challenges to bringing federal consumer protection actions using the SAFETEA-LU authority,<sup>30</sup> including resource constraints and a preference for using state

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<sup>26</sup>The Carmack Amendment was enacted in 1906 under the Hepburn Act, as an amendment to section 20 of the Interstate Commerce Commission Act of 1887. Act of June 29, 1906, c. 3591, § 7, 34 Stat. 584, 595. The provision was subsequently amended and became a part of the ICC Termination Act of 1995. The statute limits liability of an interstate motor carrier to the actual loss or injury to the transported property.

<sup>27</sup>See Pub. L. No. 109-59, § 4206, 119 Stat. 1144, 1754-1757 (2005), codified at 49 U.S.C. §§ 14710, 14711. As noted above, for purposes of this report, when we refer to using SAFETEA-LU authority, we mean using the authority granted under these two provisions of SAFETEA-LU.

<sup>28</sup>49 U.S.C. §§ 14710(b), 14711(b)(1). The STB, the successor agency to the ICC, serves as both an adjudicatory and regulatory body and has jurisdiction over certain trucking company rate matters, among other duties.

<sup>29</sup>We surveyed the 43 state regulatory agencies (for 42 states and the District of Columbia) that have responsibility for oversight of intrastate household goods movers, 40 of which (93 percent) responded to our survey. We also surveyed the attorneys general for all 50 states and the District of Columbia, 39 of which (76 percent) responded to our survey.

<sup>30</sup>In addition to surveying on the challenges to bringing actions using this authority, we surveyed the state regulatory agencies and the state attorneys general on the reasons they had not used this authority. Responses to these questions, along with the complete results of our survey, can be found in app. III.



courts, among other challenges<sup>31</sup> (see app. III for the complete results of our surveys of state regulatory agencies and state attorneys general). About two out of every five of those state regulatory agencies responding noted insufficient resources as a challenge to using SAFETEA-LU, whether they file the action in state or federal court<sup>32</sup> (see table 1). This was something that officials we interviewed from the four regulatory agencies also underscored.<sup>33</sup> As a result, using limited state resources to bring federal consumer protection actions against interstate movers may not be a top priority for some state regulatory agencies, particularly in the current economy. In addition, a lack of clarity on how to apply SAFETEA-LU and a lack of awareness of this SAFETEA-LU authority were among the most frequent challenges to bringing an action cited by state regulatory agencies.<sup>34</sup>

**Table 1: Challenges to Using SAFETEA-LU Authority Cited by State Regulatory Agencies in Responding to Our Survey**

Challenge	Number of state regulatory agency respondents who cited challenge	
	Challenges to using provision in federal court	Challenges to using provision in state court
Insufficient resources to prosecute the case(s) in federal court	15	16
Lack of clarity on how to apply the SAFETEA-LU authority	13	15
Lack of awareness of SAFETEA-LU authority	9	10

<sup>31</sup>Survey respondents were able to choose more than one challenge in responding to survey questions.

<sup>32</sup>State regulatory agencies are permitted to bring actions in either state or federal court. See 49 U.S.C. § 14710.

<sup>33</sup>Resource constraints were cited less frequently by state attorneys general as a challenge to bringing an action using the SAFETEA-LU authority. Of the state attorneys general responding to our survey, seven noted that they face resource constraints when bringing a case to federal court.

<sup>34</sup>FMCSA developed some guidance (in the form of a PowerPoint presentation) to help states with use of the two provisions provided in the law, and it provided the Household Goods Working Group, discussed later in this report, with sample legal pleadings to initiate and prosecute civil enforcement actions in federal district court.

Challenge	Number of state regulatory agency respondents who cited challenge	
	Challenges to using provision in federal court	Challenges to using provision in state court
Lack of familiarity with the federal court system	8	Not applicable
State regulatory agency prefers to bring action in state courts	6	Not applicable
State consumer protection laws provide stronger penalties	1	1
Other	10	8

Source: GAO survey of state regulatory agencies.

Notes: Forty of the 43 state regulatory agencies that have responsibility for oversight of intrastate household goods movers responded to our survey.

State regulatory agencies responding to our survey were able to choose more than one response to the survey questions.

Other challenges cited by respondents included limited resources and issues regarding the state authority granted to the state regulatory agency.

State attorneys general cited a different set of challenges to bringing a federal household goods consumer protection action under SAFETEA-LU (see table 2). Unlike state regulatory agencies, state attorneys general are authorized by SAFETEA-LU to bring these actions in federal court only.<sup>35</sup> Just over half of the state attorneys general responding to our survey identified a challenge to bringing actions under SAFETEA-LU that is related to this statutory constraint—a preference of state attorneys general for bringing actions in state courts. In addition, the same number of state attorneys general cited two additional obstacles: that the fines and penalties imposed on a carrier only benefit the federal government, not the states,<sup>36</sup> and that state consumer protection laws provided stronger penalties than those available under SAFETEA-LU.

<sup>35</sup>See 49 U.S.C. § 14711(a).

<sup>36</sup>As noted above, 49 U.S.C. § 14711 is silent about the retention of penalties. FMCSA believes this provision authorizes states to retain penalties when bringing an action under this authority. Many state attorneys general, on the other hand, cited their lack of authority to retain penalties under the provision as a challenge to using this authority. In our view, the provision’s silence about the retention of penalties, together with other factors, makes it unclear whether, for example, Congress intended these penalties to be retained by the state, to be deposited into the federal treasury, or to be made available for claim by aggrieved state residents.

**Table 2: Challenges to Using SAFETEA-LU Authority Cited by State Attorneys General in Responding to Our Survey**

Challenge	Number of state attorneys general respondents who cited challenge
State attorneys general office prefers to bring action in state courts	20
State consumer protection laws provide stronger penalties	20
Financial remedies under SAFETEA-LU benefit the federal government, not the state	20
Lack of awareness of the SAFETEA-LU authority	10
Insufficient resources to prosecute the case(s) in federal court	7
Lack of clarity on how to apply the SAFETEA-LU authority	7
Other challenge	3

Source: GAO survey of state attorneys general.

Notes: Thirty-nine of the 51 state attorneys general responded to our survey.

State attorneys general responding to our survey were able to choose more than one response to the survey questions.

Other challenges cited by respondents included stronger penalties under state law, potential for expedited relief using state law, and the inability of the state to retain fines and penalties.

Our survey results indicate that many state attorneys general would prefer to bring actions against interstate household goods movers in their own state courts using state laws—a position they have previously expressed. In 2004, 48 state attorneys general signed a letter to Congress that indicated support for a proposed bill that would have amended the Carmack Amendment to provide states with the authority to enforce their own consumer protection laws and regulations against interstate household goods carriers in state courts, among other things.<sup>37</sup> State attorneys general prefer their own state consumer protection laws, which provide, for example, consumer restitution, injunctive relief, and penalties against businesses that engage in deceptive practices—remedies not available to them under federal law. The National Association of Attorneys General also noted during our interviews that state attorneys general preferred to bring cases in a familiar court system.

<sup>37</sup>H.R. 1070, 108th Cong. (2003).

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However, as we noted earlier in this report, states are constrained from enforcing state consumer protection laws against interstate household goods carriers by the broad scope of federal preemption under the Carmack Amendment, which courts have ruled preempts bringing an action in state court under state consumer protection laws, among other state laws.<sup>38</sup> Because preemption is a judicial determination made in different jurisdictions throughout the country, courts interpret the reach of the Carmack Amendment differently. Nonetheless, courts have consistently interpreted the Carmack Amendment very broadly in this context to preempt most, if not all, state civil actions.<sup>39</sup> Although the reach of the Carmack Amendment is a judicial determination, the scope of the law is a construction of Congress and can be amended or repealed; however, amendment or repeal of the law would likely cause consequences in the moving industry and may cause a rippling effect in a number of other industries covered by the long-standing Carmack Amendment.<sup>40</sup>

As a result of the broad scope of preemption under the Carmack Amendment, the only option states have to take an action against an interstate household goods mover is under the authority provided in SAFETEA-LU. However, no state has used this authority since SAFETEA-LU's enactment in 2005. The wide variety of challenges state regulatory

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<sup>38</sup>See, for example, *Adams Express Co. v. Croninger*, 226 U.S. 491, 506 (1913); *Charleston and W.C.R. Co. v. Varnville Furniture Co.*, 237 U.S. 597 (1915); *New York, Philadelphia, & Norfolk R.R. Co. v. Peninsula Produce Exch. of Maryland*, 240 U.S. 34, 38 (1916); *New York, New Haven & Hartford R.R. Co. v. Nothnagle*, 346 U.S. 128, 131 (1953); *Hughes Aircraft Co. v. North American Van Lines, Inc.*, 970 F.2d 609, 613 (9th Cir. 1992); *United Van Lines, Inc., v. Shooster*, 860 F. Supp. 826 (S.D. Fla. 1992); *Union Pacific R.R. Co. v. Coast Packing Co.*, 236 F. Supp. 2d 1130 (C.D. Cal. 2002); and *Miracle of Life, LLC v. North American Van Lines, Inc.*, 368 F. Supp. 2d 494 (D. S.C. 2005).

<sup>39</sup>State actions could include negligence, breach of contract, violation of insurance codes, and claims of emotional distress, among others. See *Hoskins v. Bekins Van Lines Co.*, 343 F.3d 769, 777 (5th Cir. 2003) (reaffirming a list of claims preempted by the Carmack Amendment that the court had articulated 10 years earlier in *Moffit v. Bekins Van Lines*, 6 F.3d 305, 305 (5th Cir. 1993)). See also fn. 38. The Carmack Amendment might also be interpreted to preempt state criminal actions against interstate carriers. Courts have found that the Carmack Amendment preempts tort claims that overlap with state common law criminal actions. See *Miracle of Life, LLC v. North American Van Lines, Inc.*, 368 F. Supp. 2d 494 (D. S.C. 2005); *Hoskins v. Bekins Van Lines Co.*, 343 F.3d 769, 777 (5th Cir. 2003); *United Van Lines v. Shooster*, 860 F. Supp. 826 (S.D. Fla. 1992); and *Moffit v. Bekins Van Lines*, 6 F.3d 305, 305 (5th Cir. 1993).

<sup>40</sup>We have not assessed repealing or amending the Carmack Amendment, as it is beyond the scope of this report.

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agencies and state attorneys general cited to using the SAFETEA-LU provisions raises questions about whether states will use this authority moving forward to help augment, as Congress desired, federal enforcement against interstate household goods carriers. With the states playing little, if any role, enforcement of consumer protection laws related to the interstate household goods moving industry rests solely with FMCSA.

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## While FMCSA Has Made Some Progress in Its Consumer Protection Efforts, the Effectiveness of These Efforts Is Unknown and Implementation Has Been Slow

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### FMCSA Has Made Some Progress in Enhancing Consumer Protection; However, the Effectiveness of These Efforts Remains Unknown

Since we issued our 2001 report,<sup>41</sup> FMCSA has taken several steps to enhance consumer protection in the household goods moving industry, making some progress in each of four categories of consumer protection: (1) enforcement, (2) establishing and maintaining partnerships, (3) education and outreach, and (4) collecting data on, monitoring, and reporting on consumer complaints.<sup>42</sup> In particular, FMCSA has increased its oversight and enforcement activities against illegitimate interstate movers. However, much of the agency's progress in all four areas of consumer protection has been made at the behest of Congress or us, rather than through the agency's own initiative or as a result of its own assessments of ongoing efforts. Furthermore, even when the agency implemented mandates and some of our recommendations, the success of

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<sup>41</sup>GAO-01-318.

<sup>42</sup>We identified the four categories of consumer protection based on our own work for this report and our two prior reports (GAO-07-586 and GAO-01-318) and based on information from the Federal Trade Commission's Strategic Plan for Fiscal Years 2006-2011. (See app. V for further information.)

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these efforts has varied, and although FMCSA performed a onetime assessment of its enforcement activities in 2004, the effectiveness of many of the efforts is generally unknown, as discussed below.

**Enforcement:** Much of FMCSA's progress in its consumer protection efforts has been through enhancing its enforcement of interstate household goods movers. For example:

- In response to our 2001 report, FMCSA reviewed its enforcement process and conducted a onetime assessment of its interstate household goods enforcement program in 2004 to help determine staffing needs. FMCSA increased its resources for household goods enforcement from 5 staff and approximately \$300,000 in 2001 to 14 staff and \$3.1 million requested for fiscal year 2010. In addition, since 2004 the agency has trained 128 safety specialists in household goods investigation techniques, and these specialists may be called upon to assist in household goods reviews.
- FMCSA has also enhanced its enforcement of interstate household goods movers through the use of strike forces, which focus on states that have reported a high number of complaints about household goods movers. Strike forces bring together FMCSA and state law enforcement officials to make site visits to the carriers that have generated the greatest number of complaints. As we reported in 2007, approximately 90 percent of complaints were generated in six states—Florida, New York, New Jersey, California, Texas, and Illinois—and FMCSA has targeted strike force activity in these problem states.
- In 2005, the agency began setting goals for completing household goods reviews,<sup>43</sup> and it has surpassed these goals each year. FMCSA has also steadily increased the number of enforcement actions against household goods movers and the number of movers that it has put out of service, as shown in table 3.

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<sup>43</sup>The agency set a goal of completing 300 household goods reviews in fiscal year 2005 and a goal of completing 450 household goods reviews a year in each fiscal year 2006 through 2009. For fiscal year 2010, FMCSA officials told us that they were moving away from a numerical goal for completing household goods reviews.

**Table 3: FMCSA’s Reviews and Enforcement Actions for Household Goods Movers, Fiscal Years 2001 through 2008**

FMCSA actions	2001	2002	2003	2004	2005	2006	2007	2008
Household goods review <sup>a,b</sup>	13	20	30	52	386	570	499	630
Safety compliance review <sup>b,c</sup>	13	20	30	52	381	562	412	387
Enforcement actions	5	11	6	12	46	72	94	105
Amount fined	\$78,000	\$481,000	\$396,180	\$150,360	\$312,120	\$467,905	\$931,944	\$743,663
Amount collected	\$61,500	\$226,000	\$40,180	\$56,910	\$245,420	\$323,775	\$334,830	\$230,541
Household goods carriers put out of service <sup>d</sup>	1	5	1	3	11	7	203	241

Source: GAO analysis of FMCSA’s household goods reviews, safety compliance reviews, and enforcement actions.

<sup>a</sup>Household goods reviews are regulatory reviews of household goods carriers using the five commercial parts of the Federal Motor Carrier Safety Regulations (FMCSR)—49 C.F.R. Parts 366 (Designation of process agent), 370 (Principles and practices for the investigation and voluntary disposition of loss and damage claims and processing salvage), 371 (Brokers of property), 375 (Transportation of household goods in interstate commerce; consumer protection regulations), and 377 (Payment of transportation charges). Unlike safety compliance reviews, household goods reviews do not result in the carrier receiving a rating of satisfactory, unsatisfactory, or conditional.

<sup>b</sup>According to FMCSA, matching review numbers for fiscal years 2001 through 2004 may indicate that the only household goods reviews that were completed during this period were in conjunction with comprehensive safety compliance reviews.

<sup>c</sup>Safety compliance reviews are performed on household goods carriers to assess their compliance with the safety-related regulations in the FMCSR. This type of review can result in a carrier’s receiving a rating of satisfactory, unsatisfactory, or conditional.

<sup>d</sup>Household goods carriers can only be put out of service for failing a safety compliance review or for not paying fines.

While FMCSA has focused much of its efforts on enforcement—by increasing household goods reviews and assessing penalties on household goods movers—it is unknown if the enforcement tools are effective in protecting consumers or are a sufficient deterrent to illegal operators. For instance, household goods reviews may not identify some of the most egregious violators—illegitimate movers, sometimes called rogue movers—that intend to operate illegally and often do not have actual physical locations or file the appropriate paperwork. Officials told us that these moving companies can be the most difficult to target because a household goods review cannot be conducted if the specialist is unable to locate the company or its principals. Thus, these illegal moving companies continue to operate and take advantage of consumers without consequences. Furthermore, while FMCSA may assess civil monetary penalties for violations of household goods regulations found during household goods reviews, the agency has not used other legal options, such as seeking court orders to stop regulatory violations (injunctions). According to FMCSA officials, the agency relies on financial penalties over other options. Officials also explained that another more severe penalty—

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putting a household goods mover out of service—is only available to them for safety violations or when a carrier does not pay its fines. For some moving companies operating illegally, the fine may not be a sufficient threat. Some FMCSA officials that we spoke with told us that because the agency is not a law enforcement agency and does not have arrest authority or the ability to take custody of a consumer’s goods in hostage goods situations, it relies on the threat of a substantial federal fine. Field officials we interviewed indicated that relying on civil penalties can be limiting if companies are intent on holding goods hostage or operating illegally. For example, one official told us that the agency had imposed a fine on a carrier for holding a consumer’s goods hostage, but instead of paying the fine the company went out of business and reconstituted itself under a different name.<sup>44</sup>

FMCSA has taken a number of additional steps to improve its enforcement, but it is too soon to know their impact and too early to understand whether they will be effective in enhancing consumer protections. They include the following:

- October 2008: FMCSA created the Household Goods Technical Assistance Group—made up of the eight household goods specialists and a field administrator as the group leader—to increase coordination among its household goods specialists and to share best practices. Since its formation in 2008, the Household Goods Technical Assistance Group has only met once.
- April 2009: FMCSA added household goods moving companies to its New Applicant Screening (NAS) process for newly registered motor carriers that is aimed at identifying “chameleon” carriers—those movers that are potentially evading FMCSA enforcement and continuing to operate under a different registration. The NAS uses a tool, known as the Evasion Detection Algorithm, for identifying potential chameleon carriers from

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<sup>44</sup>Trucking companies that circumvent FMCSA’s scrutiny and continue operating under a different registration are called chameleon carriers. Such companies evade unpaid fines and disown their previous enforcement records. This practice is believed to occur among all types of companies. Although the frequency is unknown, there is concern that it is particularly prevalent among companies that move household goods. We have recently issued two reports on chameleon carriers: GAO, *Motor Carrier Safety: Reincarnating Commercial Vehicle Companies Pose Safety Threat to Motoring Public; Federal Safety Agency Has Initiated Efforts to Prevent Future Occurrences*, [GAO-09-924](#) (Washington, D.C.: July 28, 2009), and *Motor Carrier Safety: Commercial Vehicle Registration Program Has Kept Unsafe Carriers from Operating, but Effectiveness Is Difficult to Measure*, [GAO-09-495](#) (Washington, D.C.: May 12, 2009).



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records in other FMCSA databases, including the Motor Carrier Management Information System (MCMIS).<sup>45</sup>

- June 2009: FMCSA created a “Top 100 List” that prioritizes interstate household goods movers to target for investigation. This process rates carriers based on their safety profiles in MCMIS. As part of the new Top 100 List strategy, FMCSA officials also issued a policy memorandum to division administrators on how to use the list to target their investigations.

**Establishing and maintaining partnerships:** FMCSA’s coordination with federal, state, and local stakeholders has included one major initiative launched in 2006—establishing the Household Goods Working Group—which was required under SAFETEA-LU.<sup>46</sup> The working group is made up of representatives from state regulatory agencies and state attorneys general and a representative from the National Association of Attorneys General. The attendance from states is voluntary with, on average, 2 to 3 states represented at each meeting, and as many as 10 states participating in one meeting. The working group has two mandated objectives: (1) develop practices and procedures to enhance federal-state partnerships and (2) make legislative and regulatory recommendations to the Secretary of Transportation concerning enforcement efforts. The working group has received mixed reviews—based on our interviews with FMCSA officials and working group participants. Some said that having direct contact between states and FMCSA was beneficial in facilitating the exchange of information on investigations, enforcement actions, and states’ efforts to intervene on behalf of consumers; others said that the group was not inclusive and its participants had different objectives depending on their role, which made it difficult to keep all parties interested and focused on working group objectives. Consequently, the group experienced dwindling participation, did not complete work on its second objective, and has no plans to do so in the future.

To address its first objective, the working group developed a plan to enhance federal-state partnerships that FMCSA issued in May 2009—the Enforcement Assistance Outreach Plan. The plan includes a number of

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<sup>45</sup>The Evasion Detection Algorithm is an algorithm that uses complaints reported in FMCSA’s complaint database, as well as searches from other safety data from FMCSA’s existing databases (e.g., MCMIS), to generate a report of suspected household goods moving companies with identified attributes that imply that they are evading FMCSA enforcement.

<sup>46</sup>Pub. L. No. 109-59, § 4213, 119 Stat. 1144, 1759.

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actions to enhance FMCSA's enforcement through partnering with the states. In particular, the plan notes that FMCSA will (1) make its own enforcement information more widely available, (2) work with states to encourage increased consumer reporting to FMCSA's NCCDB so that the database contains all relevant complaints against household goods movers, (3) develop procedures to begin the sharing of federal and state enforcement information, and (4) provide additional training on how to use its various databases and publish instructions on how to access its database containing information on household goods carriers' enforcement and compliance history, licenses, and insurance. While this plan seeks to enhance enforcement and improve consumer protections through strengthening partnerships, the plan lacks details and, apart from an overall 2-year completion time frame, lacks specific timelines for completing action items. Also, the plan has yet to be implemented, and it is therefore too early to know the effectiveness of these efforts. Finally, although the working group also attempted to address the second objective to make legislative and regulatory recommendations to Congress, it encountered a number of obstacles. According to some working group members, participants representing state regulatory authorities did not feel that they had the authority or the legal expertise to discuss legislative changes on behalf of their states. Furthermore, because of interest on the part of state attorneys general, the working group attempted to develop proposed changes to SAFETEA-LU, but could not reach consensus on the language, so efforts to propose legislative changes were tabled. FMCSA officials acknowledged that efforts to propose legislative and regulatory changes slowed the momentum of the working group.

**Education and outreach:** Following our 2001 report, FMCSA took a number of steps to educate and conduct outreach to consumers—providing information to state consumer and law enforcement agencies and national consumer organizations identifying the agency as the entity responsible for interstate household goods enforcement and providing general information to consumers. The agency provided online access to *Your Rights and Responsibilities When You Move*, a publication that moving companies were required by regulation to provide to consumers before executing orders for a shipment of household goods,<sup>47</sup> and created a Web site, “Protect Your Move,” to provide information to consumers. The Web site is also available in Spanish. According to FMCSA, since its

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<sup>47</sup> 49 C.F.R. 375.213(b)(1).

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launch, the Web site has had more than 15 million visits, with an average of about 11,600 hits a day and an average visit lasting 12 minutes. The agency also created a toll-free complaint hotline and a portal on FMCSA Web site through which consumers can file complaints against interstate household goods movers and obtain public results of the department's enforcement cases through press releases. While these efforts were initial steps in educating and reaching out to consumers, more recently stakeholders have criticized the usefulness of these tools. For example, AMSA developed a position paper calling for better education and better technologies to deliver information to consumers. Additionally, AMSA noted that because of the volume of documents and complexity of the information consumers need when hiring a moving company—such as contracts, insurance requirements, and regulations—FMCSA should make the information easier for consumers to digest. In addition, some of the stakeholders we interviewed indicated that the “Protect Your Move” Web site was not adequately accessible nor was it easy to search for particular information. Furthermore, participants in the household goods working group acknowledged that the Web site in general was poorly laid out. FMCSA officials told us that they have recently completed a baseline assessment of their outreach efforts to consumers, focusing on processes and organizational improvements as well as effectiveness in reaching target audiences. Those officials said that they plan to release a report on their findings once the report has been internally reviewed and approved for public release. FMCSA is also developing a Household Goods Communication Plan to educate the public about household goods moving fraud. According to agency officials, the goals of this plan are to educate consumers about the typical moving practices in the household goods moving industry and their rights and responsibilities in a household goods moving situation, and to develop internal and external partnerships for educating consumers. FMCSA officials told us that they intend to complete the plan and anticipate implementing it in fiscal year 2010.

**Collecting data on, monitoring, and reporting on complaints:** In late 2002, FMCSA implemented what it considers one of its major consumer protection enhancements when it began collecting information on consumer complaints and centralizing it within the NCCDB. FMCSA considers the database an important consumer protection tool to help identify patterns of complaints against movers and to obtain additional information for investigations. The database information is shared across division offices and headquarters and is also available to the public in limited form. While the database is used internally by FMCSA staff, it is still not being actively used by states to assist in enforcement efforts. According to FMCSA, only seven states have asked for and gained secure

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access<sup>48</sup> to the database, and very few use it regularly for their own investigations. State users of the database we spoke with said that part of the challenge to states making regular use of the database is their lack of access to underlying complaint records and backup documents, such as mover licensing applications and log books. Furthermore, many states we surveyed reported that the volume of complaints in their states was too low to warrant filing suit using their SAFETEA-LU authority,<sup>49</sup> although if state regulatory authorities and attorneys general are not accessing the database, it is unclear if states have full information about the number of consumer complaints. Finally, the database captures complaints that come directly to FMCSA, but not necessarily complaints lodged with other entities.

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### FMCSA Has Been Slow to Implement Recommended and Mandated Consumer Protection Improvements

Within the last year, FMCSA has initiated a number of activities, including the Household Goods Technical Assistance Group, aimed at bolstering its consumer protection efforts. In addition to the activities FMCSA initiated, we have made 12 recommendations since 2001 and six mandates were enacted as part of SAFETEA-LU in 2005 to help the agency strengthen its household goods consumer protection efforts (see table 4). When FMCSA's actions were completed within a year, they usually involved a onetime effort on the part of FMCSA—such as its 2001 household goods symposium—or were relatively simple to undertake—such as publicizing results of its enforcement efforts. However, FMCSA was slow to implement the recommendations and mandates, and in eight of those actions, FMCSA either has taken more than 5 years to implement them or has not yet fully implemented the actions. In one particularly striking example—involving both a legislative requirement and a subsequent recommendation we made that FMCSA complete a study of arbitration, which household goods movers, as a condition of registration, are required to offer consumers as a means of settling a dispute—FMCSA completed the report 11 years after its legislative deadline elapsed and more than 7

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<sup>48</sup>A state can gain secure access by obtaining a user identification and password from FMCSA.

<sup>49</sup>In our survey, 13 of the 40 state regulatory agencies and 18 of the 39 state attorneys general responding noted that one reason they had not used the SAFETEA-LU provisions is that the volume of complaints was too low.

years after we recommended that the agency complete the report.<sup>50</sup> In addition, in 2001 we recommended that FMCSA make publicly available information on the number and general nature of complaints made against individual carriers. Despite completing a centralized complaint database in 2002, FMCSA did not make its NCCDB available to the public until April 2007—6 years after we made our recommendation. Furthermore, because the database has gone through changes over the last 7 years (e.g., the current database contains more detailed categories of information), it is difficult to reliably discern any trends in the consumer complaint information at this time.

**Table 4: Length of Time It Has Taken FMCSA to Implement Our Recommendations and the Mandates Enacted in SAFETEA-LU**

Recommendation/mandate	Time to implementation				Not fully implemented
	One year or less	More than 1 year to 3 years	More than 3 years to 5 years	More than 5 years	
<b>March 2001 report recommendation</b>					
Ensure division offices consistently collect, maintain, and share consumer complaint information.		√			
Publicize information on number and nature of complaints against individual carriers.				√	
Reach out to consumers, consumer and industry groups, and state governments using Internet postings and other means.	√				
Publicize results of FMCSA enforcement cases.	√				
Notify state consumer and law enforcement agencies and national consumer organizations of FMCSA's authority in the interstate household goods moving industry.	√				

<sup>50</sup>The arbitration report was originally required as part of the ICC Termination Act of 1995 and we recommended in our 2001 report (GAO-01-318) that FMCSA complete the study. Pub. L. No. 104-88, 109 Stat. 803, 912, codified at 49 U.S.C. § 14708(g). The provision required the Secretary to review the dispute settlement program, as established under the section, within 18 months after January 1, 1996—meaning the deadline for the report was July 1, 1997. FMCSA completed the study in November 2008—more than 7 years after the recommendation was made and 11 years after the legislative deadline elapsed.

Recommendation/mandate	Time to implementation				
	One year or less	More than 1 year to 3 years	More than 3 years to 5 years	More than 5 years	Not fully implemented
Assess whether household goods carrier enforcement activities are effective and sufficient; if not, increase enforcement actions as outlined in FMCSA's plan.			√		
Undertake and complete congressionally mandated study of alternative dispute mechanisms (particularly arbitration). <sup>a</sup>				√	
Determine if legislative changes are needed to supplement FMCSA's efforts, including authorizing states to enforce federal statutes and regulations and changing the federal statute limiting carriers' liability.			√		
<b>SAFETEA-LU mandate (2005)</b>					
Form a working group to develop a plan to enhance federal-state partnerships and to make legislative or regulatory recommendations to the Secretary of Transportation. <sup>b</sup>		√			
Develop a procedure to forward complaint information to appropriate state authorities. <sup>c</sup>					√
Establish a database and provide for public access. <sup>c,d</sup>		√			
Establish regulations to require movers to submit quarterly reports on the number of shipments during the reporting period, the number and type of complaints registered with the company, and specific information on claims. <sup>c</sup>					√
Place <i>Your Rights and Responsibilities When You Move</i> handbook on DOT's Web site. <sup>c</sup>	√				
Modify broker regulations requiring the broker to provide the shipper with the broker's DOT number, FMCSA's handbook, and a list of carriers used by the broker and a statement that the broker is not a motor carrier. <sup>c</sup>					√

Recommendation/mandate	Time to implementation				
	One year or less	More than 1 year to 3 years	More than 3 years to 5 years	More than 5 years	Not fully implemented
<b>May 2007 report recommendation</b>					
In developing and implementing an outreach plan to enhance coordination and enforcement of federal laws and regulations between federal and state law enforcement and consumer protection authorities, include guidance to state officials on what is required to enable them to enforce the federal laws.		√			
Determine whether FMCSA's "Protect Your Move" Web site link must be included in all interstate movers' online advertising.					√
Determine whether additional licensing and registration requirements would help reduce number of illegitimate interstate household goods carriers.					√
Develop strategy with performance goals and measures delineating how oversight and enforcement activities will improve consumer protection, including a method for monitoring and evaluating performance against set goals and timelines.					√

Source: GAO analysis of information in its recommendation follow-up system and in FMCSA documents.

<sup>a</sup>While we made this recommendation in 2001, the study was originally mandated by the ICC Termination Act of 1995.

<sup>b</sup>SAFETEA-LU mandated that this action be taken within 90 days of enactment.

<sup>c</sup>SAFETEA-LU mandated that this action be taken within 1 year.

<sup>d</sup>This was also a recommendation made in our 2001 report.

Among the recommended actions that were partially completed or not completed at all are the following:

- FMCSA has not implemented the requirement in the 2005 SAFETEA-LU legislation that it develop a procedure for forwarding complaint information to appropriate state authorities within 1 year of SAFETEA-LU's enactment.
- FMCSA has three proposed rules at various stages in the rulemaking process that would address recommendations or mandates—require movers to submit quarterly reports, strengthen broker regulations, and

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provide additional licensing requirements—but these rules have languished within FMCSA. Comment periods have been closed for more than a year on two of the rules, and the deadline for publishing one for comment has slipped by approximately 6 months. In addition, to address whether a link to FMCSA’s “Protect Your Move” Web site must be included in all interstate movers’ online advertising, FMCSA plans to propose a rule to its Senior Rulemaking Committee. While these efforts could strengthen consumer protection efforts, FMCSA officials told us that addressing household goods rulemaking was a lower priority relative to the agency’s rulemaking priorities as a whole.

In summary, while FMCSA has taken some steps to improve consumer protection, primarily in the enforcement area, the effectiveness of these efforts remains unknown, as the agency has not conducted any ongoing assessment of its programs. While FMCSA has primarily concentrated its efforts on improving enforcement, it has not adequately addressed the other elements of consumer protection. In addition, the time frames under which FMCSA has chosen to act on recommendations made by us and on mandates contained in SAFETEA-LU have been very slow, raising questions about the priority of those efforts within the agency.

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## Three Options to Enhance Consumer Protections in the Interstate Household Goods Moving Industry Have Potential Advantages and Disadvantages

To identify potential options for enhancing consumer protections in the interstate household goods moving industry, we reviewed a range of models.<sup>51</sup> Based on our preliminary review of those models and input from consumer and industry stakeholders, we narrowed our final review to three options with varying approaches:

- Retain oversight of the interstate household goods moving industry with FMCSA through its existing household goods program. The program would remain with FMCSA, with DOT and FMCSA making a stronger commitment to enhancing consumer protection.
- Create a separate office within the Office of the Secretary of Transportation (OST) similar to the Office of Aviation Enforcement and Proceedings (OAEP). This option would entail creating an office similar to OAEP, but focused on interstate household goods consumer protection.

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<sup>51</sup>As part of our preliminary work, we considered but eliminated various models of consumer protection as possible replacements for FMCSA’s existing program for overseeing household goods movers. After a preliminary review, we did not pursue these models for various reasons, including lack of applicability. (See app. I for additional information on the models that we considered during our review.)



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- Relocate oversight of the household goods moving industry to FTC. Under this option, FTC would oversee the interstate household goods moving industry in addition to the other industries for which it provides consumer protection.

Each of these three options involves different approaches and has the potential to enhance oversight of the household goods moving industry (see app. IV for a more detailed comparison of the three organizations we reviewed in developing the options). However, regardless of the approach, the problems with the current program that were previously discussed will need to be addressed.

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### FMCSA Could Retain Oversight Responsibility, but Concerns about the Existing Program Raise Questions about the Agency's Level of Commitment to Consumer Protection

Retaining oversight of the interstate household goods moving industry with FMCSA provides some advantages since the agency currently has oversight authority, experience, and an extensive field presence. Since assuming responsibility for oversight of the interstate household goods moving industry, FMCSA has devoted some efforts to and invested some resources in administering the program. As discussed earlier in this report, the agency has committed staff in both headquarters and the field and provided training and resources to conduct enforcement activities. It has also made strides in enhancing enforcement efforts and some progress in the other consumer protection areas. Furthermore, as noted earlier, FMCSA has recently taken additional actions to further improve interstate household goods enforcement.

Another potential advantage to keeping the household goods program with FMCSA is that FMCSA has other program responsibilities that may provide the agency with some efficiencies in overseeing the interstate household goods moving industry. For example, FMCSA establishes requirements and standards for commercial motor vehicles and their drivers involved in interstate transportation, giving the agency some expertise and systems that may help support efforts in overseeing the household goods moving industry. In particular, FMCSA is responsible for licensing and registering commercial motor vehicles with a DOT number.<sup>52</sup> A DOT registration number serves as a unique identifier when collecting and monitoring a company's safety information acquired during audits, compliance reviews, crash investigations, and inspections—providing FMCSA access to

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<sup>52</sup>Companies that operate commercial vehicles transporting passengers or hauling cargo in interstate commerce must be registered with FMCSA and must have a DOT registration number.

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information that could have bearing on the moving company's fitness to operate as an interstate carrier. Furthermore, FMCSA's New Entrant Safety Assurance Process—which is designed to inform newly registered motor carriers (new entrants) about motor carrier safety standards and regulations to help them comply with FMCSA requirements—may provide an additional opportunity for FMCSA to reinforce its consumer protection requirements with interstate household goods moving companies. FMCSA visits new carriers within their first 18 months of operations to explain safety requirements and review documentation as part of a “safety audit.”<sup>53</sup> Finally, FMCSA's network of safety data systems provides additional useful information on a motor carrier's safety record that may be helpful for consumer protection enforcement purposes. Though the data are safety driven, they provide important links to interstate household goods moving companies that may be violating commercial motor vehicle regulations and possibly consumer protection regulations. For example, MCMIS captures information on inspections, crashes, safety compliance reviews, safety audits, and registration data from other FMCSA data systems.

FMCSA's efforts to date, however, also highlight some major disadvantages to having the agency retain responsibility for protecting consumers in the interstate household goods moving industry. As noted in the previous section of this report, FMCSA has been slow to improve its oversight of the interstate household goods moving industry, and the effectiveness of many of its efforts is unknown. The agency's slowness in improving oversight and limited progress in some areas of consumer protection may stem from the agency's focus on safety—something we heard from several senior FMCSA officials during our audit work.

FMCSA's agencywide focus on safety is reflected in both the attitudes and actions of many of FMCSA's senior headquarters and field staff who have responsibility for ensuring consumer protections involving the interstate household goods moving industry. Many of FMCSA headquarters officials we interviewed told us that while the agency was obligated to provide oversight of the household goods moving industry, safety is the agency's

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<sup>53</sup>Safety audits ensure that new carriers are knowledgeable about the safety regulations before receiving permanent registration. Although the emphasis of new entrant safety audits is on education, FMCSA can apply enforcement actions when it finds new entrants are not in compliance with safety regulations.

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priority (as Congress intended),<sup>54</sup> not consumer protection—giving the impression that they viewed their latter responsibilities as less of a priority. One of those officials noted that even though some draft household goods regulations were languishing, given the backlog of rulemaking for safety efforts, finalizing household goods regulations would be secondary to finalizing safety-related rules. In our interviews with field staff who carry out FMCSA’s household goods enforcement activities, both division administrators and the household goods specialists we interviewed said that although FMCSA was tasked with enforcing interstate household goods regulations, they viewed its primary responsibility as ensuring commercial vehicle safety and their priority in focusing their enforcement resources was safety, not consumer protection. Many of the field staff indicated that household goods enforcement activities are very time- and resource-intensive. Household goods specialists we interviewed indicated that investigating complaints against rogue movers or dealing with hostage goods situations can often take weeks. For example, according to one household goods specialist, household goods investigations can be in depth and include building a case and gathering evidence against a company. While some of the field staff we spoke with said that they had no problem balancing their enforcement efforts involving household goods consumer protection activities with their safety activities, some felt that stronger FMCSA leadership was needed to make clear that the agency valued the time spent on consumer protection. For example, some field staff commented that FMCSA headquarters officials had not provided them with sufficient guidance and direction to pursue household goods enforcement efforts, and those field staff observed reluctance on the part of the agency to focus on interstate household goods consumer protection efforts.

Another disadvantage to retaining the household goods program in FMCSA is that FMCSA’s written mission statement and supporting documentation, along with Congress’s intent for the agency, may not adequately address its responsibilities for consumer protection involving the interstate household goods moving industry. FMCSA’s primary mission is safety—to reduce crashes, injuries, and fatalities involving large trucks and buses—a valid and important mission that carries out the will of Congress. Most of the agency’s staff, initiatives, programs, and training

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<sup>54</sup>Congress established FMCSA with the intent that safety be the highest priority of the office. See Motor Carrier Safety Improvement Act of 1999, Pub. L. No. 106-159, § 101(a), 113 Stat. 1748, 1750.

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revolve around meeting the agency's safety mission, with the agency spending about 92 percent of its budgetary resources on reducing crashes resulting in injuries and fatalities.<sup>55</sup> DOT officials told us that they believe their budget requests and activities involving the household goods moving industry are consistent with expectations, given the relative proportion of those activities to FMCSA's broader programs on safety. Furthermore, officials said that while FMCSA's household goods activities have increased over the years, the agency's responsibility to meet its safety mission and goals has also increased. According to a senior FMCSA official, even if the agency were provided with additional resources, the resources would be used to support its safety mission, not household goods consumer protection activities.<sup>56</sup>

FMCSA's fiscal year 2010 budget request and associated strategic planning documents also indicate that the agency has not adequately built its consumer protection responsibility into its mission going forward. Although the budget request identifies five agency strategic goals in support of its mission—Safety, Productivity, Security, Global Connectivity, and Organizational Excellence<sup>57</sup>—consumer protection is not one of them, and none of the stated goals are clearly or directly tied to FMCSA's consumer protection responsibilities for the interstate household goods moving industry. To the extent that oversight of the household goods moving industry is reflected in FMCSA's strategic goals, it is included along with reducing traffic congestion, under the Productivity strategic goal as an objective "to improve responsiveness to household goods complaints." In our view, this is a much narrower objective than warranted by FMCSA's actual responsibilities for overseeing consumer protection in the industry, which include responsibility for all four categories of

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<sup>55</sup>FMCSA requested a total of \$549 million for all its programs in its fiscal year 2010 budget request.

<sup>56</sup>DOT officials noted that this statement is not representative of their official policy. Any specific resources or funding designated for household goods consumer protection or enforcement would be used as intended by Congress.

<sup>57</sup>About 92 percent of FMCSA's budget is dedicated to activities falling under the Safety goal, with less than 1 percent of its budget dedicated to the Productivity goal, which includes household goods enforcement activities. The remaining 7 percent of the budget goes toward activities funded under the goals of Security, Global Connectivity, and Organizational Excellence.

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consumer protection.<sup>58</sup> Moreover, while the Productivity goal contains some elements of consumer protection in terms of a defined strategy and performance elements, it does not identify related consumer protection performance measures.<sup>59</sup> According to the fiscal year 2010 budget, the only performance measure listed under this goal—number of total crashes involving large trucks and buses per 100 million vehicle miles traveled—is indirectly related to its household goods responsibilities because it contributes to the efficiency of the motor carrier industry, including household goods moving companies. FMCSA officials told us that the agency has recently developed a performance measure of household goods effectiveness that as of September 2009, is under review by the Office of Management and Budget (OMB) for inclusion in FMCSA’s fiscal year 2011 budget and updated strategic plan. According to FMCSA officials, this new performance measure, if approved by OMB, will provide information on the extent to which household goods carriers have improved as a result of FMCSA’s interventions in response to consumer complaints. FMCSA officials did not provide us with the details of the measure (e.g., how “improvements” will be defined and measured) since it is still under review by OMB, and we were thus unable to assess its appropriateness. In our view, any performance measures in this area will need to be clearly linked to FMCSA’s full range of consumer protection responsibilities involving the household goods moving industry—including enforcement; education and outreach; establishing and maintaining partnerships; and collecting, monitoring, and reporting complaints.

As discussed earlier in this report, FMCSA has not made a practice of assessing its consumer protection activities, and the performance measure in its fiscal year 2010 budget request suggests that it may not be in a position to do so in the near future. Combining household goods and congestion performance elements under the Productivity goal further highlights the mismatch of FMCSA’s household goods consumer

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<sup>58</sup>As discussed earlier in this report, we identified four categories of consumer protection activities—including enforcement; education and outreach; establishing and maintaining partnerships; and collecting, monitoring, and reporting complaints—based on our work and information from FTC.

<sup>59</sup>According to our prior work, successful performance measures should be aligned with mission and goals, be clearly communicated throughout an organization, and encompass all the major activities that an organization is expected to perform to achieve its mission and deliver on the intent of its programs. See GAO, *Public Transportation: FTA’s Triennial Review Program Has Improved, But Assessments of Grantees’ Performance Could Be Enhanced*, [GAO-09-603](#) (Washington, D.C.: June 30, 2009).

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protection efforts with its safety mission and, consequently, the agency's narrowly focused efforts in meeting its consumer protection responsibilities. Given FMCSA's focus on its safety mission in its budget request and associated strategic planning documents—and in the actions of FMCSA officials as discussed above—the agency will likely continue to provide minimal attention to its consumer protection responsibilities involving the interstate household goods moving industry.

While there are some advantages to retaining responsibility for consumer protection involving the interstate household goods moving industry with FMCSA, the agency's actions reflect a much greater focus and priority on FMCSA's safety mandate. To adequately address the continuing problems in FMCSA's oversight of the interstate household goods moving industry, FMCSA and DOT senior management would need to focus more attention on this area and make a stronger and timelier commitment to implementing all the outstanding mandates and GAO recommendations. Furthermore, FMCSA and DOT would need to adequately address any additional recommendations we make to DOT in this report.

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### Creating a Separate Office in OST Could Increase Focus on Consumer Protection, but Would Require Additional DOT Resources and Commitment

Another option to enhance consumer protection efforts in the interstate household goods moving industry is to create a separate office within DOT's OST—similar to OAEP—that is focused on ensuring consumer protection in the interstate household goods moving industry. OAEP's Aviation Consumer Protection Division (ACPD), which is located within the Office of the General Counsel in OST, is responsible for consumer protection activities involving the aviation industry. The office's authority was modeled after FTC's Telemarketing and Consumer Fraud and Abuse Prevention Act (Telemarketing Act), which deals with deceptive or abusive acts or practices in an effort to protect consumers.<sup>60</sup> OAEP's ACPD undertakes a wide variety of tasks, such as handling consumer complaints about air travel, responding to congressional inquiries, and conducting investigations of airlines for violations of DOT rules.<sup>61</sup>

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<sup>60</sup>OAEP's authority is contained at 49 U.S.C. § 41712, which prohibits unfair and deceptive practices and unfair methods or competition in air transportation or the sale of air transportation. It also provides DOT with enforcement authority involving competition that according to OAEP officials, exceeds that of the Department of Justice in some respects. FTC's Telemarketing Act is codified at 15 U.S.C. § 6101 *et seq.*

<sup>61</sup>A separate office in OST—the Office of Aviation Analysis—is responsible for ensuring that airlines are properly licensed and operating lawfully, but it does not conduct consumer protection activities.

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There are two benefits to placing OAEP in the Office of the General Counsel within OST. First, creating an office focused solely on economic regulation<sup>62</sup> (including consumer protection) ensures that efforts are targeted and the goal of consumer protection remains the priority. OST officials also told us that when DOT was considering where to put responsibility for its consumer protection efforts involving the aviation industry, it considered placing oversight with the Federal Aviation Administration (FAA). However, because FAA handles safety regulation and operates in support of a safety mission, DOT officials realized that there was the potential for consumer protection efforts to be lost in FAA's safety mission, so they created OAEP within OST and assigned it responsibility for handling consumer protection for airline service, among other things. By separating the economic (including consumer protection) and safety regulatory responsibilities, DOT officials sought to avoid any conflict in missions, goals, and objectives. In addition, OAEP staff would be able to easily coordinate and work with the General Counsel's staff in addressing consumer complaints, which often involve complex legal issues.

OAEP's function within OST is similar in some ways to FMCSA's household goods enforcement responsibilities and thus may provide a sound model for creating a separate office to administer consumer protection efforts for the interstate household goods moving industry. For example, both OAEP and FMCSA are responsible for consumer protection in a transportation industry and both industries deal with similar legal issues, such as preemption.<sup>63</sup> Also, for both regulatory bodies, consumer complaint information is the foundation for identifying violators and enforcing consumer protections. Finally, consumer protection activities under both OAEP and FMCSA's interstate household goods consumer protection program have similar budgets.

There are some distinct differences, however, in the scope and nature of the consumer protection problems that are being addressed in each of these two industries as well as in their ability to conduct oversight. (See

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<sup>62</sup>OAEP uses "economic regulation" to include economic and civil rights requirements related to consumer protection.

<sup>63</sup>In the aviation context, states are prohibited from regulating rates, routes, or services of any interstate carrier under the Airline Deregulation Act of 1978. Pub. L. No. 95-504, § 4, 92 Stat. 1705, 1708. The Airline Deregulation Act of 1978 expressly prohibits state regulation of rates, routes, or services of any interstate carrier. See, for example, *Air Transportation Association of America v. Cuomo*, 520 F.3d. 218 (2d Cir. 2008).

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app. IV for additional information.) For example, the size of each industry is different—the airline industry has about 7 million enplanements<sup>64</sup> a year and it receives over 10,000 complaints annually from consumers. By comparison, the interstate household goods moving industry includes about 1.6 million moves a year and, according to FMCSA’s database, receives about 3,000 complaints annually. Additionally, while both programs deal with consumer complaints, the nature of the complaints is different. For the airline industry, complaints are driven by on-time performance,<sup>65</sup> whereas for the interstate household goods moving industry, complaints are driven primarily by estimates and final charges, pickup and delivery of goods, and loss and damage of goods. Furthermore, egregious violators in the interstate household goods moving industry—such as companies that hold goods hostage and rogue movers—are not likely to exist in the airline industry. Finally, OST does not have a field office presence and only the federal government has the authority to enforce aviation consumer protection rules. In comparison, FMCSA uses its field organization to carry out investigations and implement the household goods consumer protection program. Further, states are able to assist in enforcement through authority provided under SAFETEA-LU. However, as we noted earlier in this report, no states have used the SAFETEA-LU authority to enforce interstate household goods consumer protections.

There are a number of advantages to creating a new household goods consumer protection office and modeling it after OAEP, including better focusing household goods consumer protection efforts and creating more independence to ensure that those efforts are given an appropriate priority within the department. Separating consumer protection and safety responsibilities could help address the concerns we have raised in this report about FMCSA’s lack of focus on consumer protection for the interstate household goods moving industry by eliminating the competition between FMCSA’s current priorities for carrying out both its safety mission and its household goods consumer protection responsibilities. Additionally, creating a departmental shift in responsibilities—as opposed to moving responsibility for interstate household goods enforcement out of DOT—allows for a greater focus on

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<sup>64</sup>Enplanements are measured by the total number of passengers boarding a flight, including connecting passengers.

<sup>65</sup>Other types of airline complaints involve lost baggage, overbooking, fares, customer service, reservations, ticketing, and boarding.



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interstate household goods consumer protection while still retaining transportation expertise. Furthermore, an interstate household goods office within OST would be able to leverage its relationships with other OST offices, including OAEP and the Office of the General Counsel, to draw upon their expertise and familiarity with related consumer protection and legal issues, such as preemption. Relationships with the General Counsel's staff would be particularly useful given the legal complexities of the household goods moving industry and perhaps provide better opportunities to enhance enforcement tools, beyond assessing financial penalties. Finally, because DOT has already created a program for consumer protection in aviation and modeled it after FTC's efforts, the department has insights into establishing an office that would reflect a consumer protection focus.

While there are advantages to moving the household goods consumer protection function to OST, there are some key drawbacks. First, some important efficiencies could be lost in transferring consumer protection responsibility from FMCSA to OST. Since FMCSA has responsibility for commercial motor carrier enforcement efforts, such as licensing and registration, a newly created separate office for consumer protection would need to exert strong coordination with these FMCSA programs. Second, unlike FMCSA, OST does not have a field operations organization in place, so requiring OST to take on consumer protection efforts for the interstate household goods moving industry would be a significant change for it on many levels and require careful consideration of organizational, legal, resource, and budgetary issues. Since OST does not have field staff, it would have to quickly adapt by acquiring field staff or by using headquarters staff for its early efforts to carry out consumer protection responsibilities. Among the legal issues that would need to be considered is the need to obtain legislative authority to restructure and re-delegate legal authority and responsibility from FMCSA to OST.

With respect to resource issues, we did not conduct a cost-benefit analysis, as it was not part of the scope of our work; however, DOT officials told us that with the transfer of functions, current FMCSA resources, such as full-time staff and funding for the existing interstate household goods program function, would also need to be transferred. In considering such a transfer, DOT officials would need to analyze the program's requirements and determine what personnel, staffing levels, and funding would be needed to soundly administer the new program. Also, DOT officials told us that depending on the cost of restructuring the program, any movement of funds from FMCSA to OST would best be done during the appropriations cycle.

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In weighing the advantages and disadvantages of transferring oversight of the interstate household goods moving industry from FMCSA to OST, several officials commented that there would need to be a compelling rationale and desire to make the move, requiring that a strong case be made about the need for the move. While modeling the new office after OAEP would provide DOT with an opportunity to better focus on consumer protection, the move itself would not automatically address the problems inherent in the existing program that we discuss throughout this report. DOT would need to fully commit to implementing outstanding mandates and GAO recommendations and also commit to implementing these recommendations and mandates in a timely manner. Furthermore, the agency would need to address any new recommendations we make in this report. However, by eliminating the competing priorities related to FMCSA's safety mission, the new office may be in a better position to address consumer protection issues going forward.

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### Relocating Oversight to FTC Could Increase Focus on Consumer Protection, but FTC Lacks Expertise and Legal Authority to Oversee the Interstate Household Goods Moving Industry

As the nation's consumer protection agency,<sup>66</sup> FTC provides insights as a model and could also be an option for overseeing the interstate household goods moving industry. FTC's overarching mission and one of its strategic goals is specifically to provide consumer protection by preventing fraud, deception, and unfair business practices in the marketplace—and it has experience and expertise in enforcing consumer protection laws in a variety of industries.<sup>67</sup> In turn, FTC's strategic objectives, performance measures, and implementing strategies are aligned to support its strategic goal in four categories of consumer protection: (1) enforcement; (2) establishing and maintaining partnerships; (3) conducting education and outreach; and (4) collecting, monitoring, and reporting complaints (see app. V for a detailed description of the type of activities expected in each of the four consumer protection categories). FTC's Strategic Plan offers a number of strategies to carry out its consumer protection goal,

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<sup>66</sup>FTC was established in 1914 by the Federal Trade Commission Act. Pub. L. No. 63-203, § 5, 38 Stat. 717, 719 (1914). FTC's consumer protection mission was not part of the agency's jurisdiction until 1938 with the enactment of the Wheeler-Lea Act which amended section 5 of the FTC Act to include, as unlawful, "unfair or deceptive acts or practices." Pub. L. No. 75-447, § 3, 52 Stat. 111 (1938).

<sup>67</sup>15 U.S.C. § 45. By law, FTC may "prosecute any inquiry necessary to its duties in any part of the United States" (15 U.S.C. § 43) and may "gather and compile information concerning, and investigate from time to time the organization, business, conduct, practices, and management of any person, partnership, or corporation engaged in or whose business affects commerce, excepting banks, savings and loan institutions ... Federal credit unions ... and common carriers." (15 U.S.C. § 46(a)).

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and it identifies year-by-year implementation plans, performance measures, and program evaluations to help ensure that it effectively achieves that goal.<sup>68</sup>

Given FTC's history and expertise in providing consumer protection in a variety of industries, there are advantages to placing the responsibility for interstate household goods enforcement and consumer protection with FTC. FTC could leverage its considerable existing resources and expertise—in education, outreach, consumer complaint data, and intergovernmental partnerships—to enhance consumer protection in the interstate household goods moving industry. For instance, FTC has a robust database—Consumer Sentinel—that tracks consumer complaint information from various consumer protection entities and law enforcement agencies. Law enforcement agencies also have secure access to the database, which they can use in developing cases against violators. FTC also has an extensive program for consumer education and outreach that includes using the Web, news releases, coordination with local consumer protection organizations, and other tools, and the agency has established formal and informal relationships with other state and federal entities that it could use to assist in protecting household goods moving industry consumers.

While there would be a number of opportunities to strengthen consumer protection in the interstate household goods moving industry within FTC, there are important obstacles and drawbacks to moving this responsibility to FTC. First and foremost, FTC is currently legally prohibited from regulating certain common carriers, which include moving companies,<sup>69</sup> a restriction in place since FTC's inception in 1914.<sup>70</sup> This particular legal obstacle would require a legislative change that could have a broad impact on a number of industries that fall under this restriction. Likewise, FTC does not have experience or expertise with the interstate household goods

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<sup>68</sup>Federal Trade Commission, *Federal Trade Commission Strategic Plan Fiscal Years 2006-2011* (Sept. 30, 2006).

<sup>69</sup>FTC is prohibited from regulating “common carriers subject to the Acts to regulate commerce....” 15 U.S.C. § 45(a)(2). Also, FTC's enforcement authority does not extend to common carriers. 15 U.S.C. § 46(a). A “common carrier” can be defined as “a commercial enterprise that holds itself out to the public as offering to transport freight or passengers for a fee. A common carrier is generally required by law to transport freight or passengers or freight, without refusal, if the approved fare or charge is paid.” Black's Law Dictionary (8th ed. 2004).

<sup>70</sup>Federal Trade Commission Act, Pub. L. No. 63-203, § 5, 38 Stat. 717, 719 (1914).

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moving industry<sup>71</sup> nor does it have the personnel to conduct such investigations. FTC officials told us that FTC is a law enforcement agency and has no regulatory expertise involving the interstate household goods moving industry.<sup>72</sup> Another potential drawback is that FTC already has responsibility for numerous consumer protection programs in a variety of industries, and making it responsible for overseeing the interstate household goods industry (which is relatively small and unique) may create a risk that the household goods efforts would be lost among the larger, more established FTC efforts.

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## Conclusions

The interstate household goods moving industry—a comparatively small subset of the commercial motor carrier industry—presents some unique consumer protection issues. Consumers must navigate contracts, insurance requirements, and regulations and may encounter egregious problems, such as hostage goods situation. Since 2001, FMCSA has made progress in increasing staff, training, and resources and generally enhancing its enforcement efforts in the interstate household goods moving industry. The agency, however, has made more limited progress in educating consumers; collecting, monitoring, and reporting data; and developing and managing partnerships with states and others. We found that FMCSA continues to fall short in ensuring strong consumer protection in the industry, in large part because its efforts to meet its primary safety mission (as intended by Congress) dwarf its consumer protection efforts. FMCSA officials repeatedly pointed out to us that FMCSA is a safety agency, not a consumer protection agency, and that their first priority is ensuring safety. Moreover, a senior FMCSA official told us that even if the agency were provided with additional resources, it would still apply them to safety—not consumer protection—activities.

Although SAFETEA-LU made it possible for state regulatory agencies and attorneys general to enforce federal household goods consumer protection

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<sup>71</sup>While DOT's OAEP also does not have expertise in the interstate household goods moving industry, it is a component of the department that has expertise in and responsibility for enforcing commercial motor vehicle regulations.

<sup>72</sup>While FTC officials expressed this sentiment, FTC does have some limited consumer protection regulatory and enforcement responsibilities for industries in which it does not have the expertise or primary regulatory responsibility. For instance, FTC has certain regulatory and enforcement responsibilities for the food and drug industry (e.g., certain food and cigarette labeling and advertising responsibilities), which is generally within the purview of the Food and Drug Administration.

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laws and regulations against interstate household goods movers, no state has done so. We are not recommending additional revisions in the next reauthorization, because they likely would not lead to increased action by these entities. In our survey of the state attorneys general, they indicated their desire to use their own consumer protection laws in their own state courts to pursue interstate carriers; however, states are preempted from enforcing state consumer protection laws, among others, against interstate household goods carriers under the long-standing Carmack Amendment. Amending or repealing that law would likely cause consequences in the moving industry and may cause a rippling effect in a number of other industries. We did not assess repealing or amending the Carmack Amendment as it is beyond the scope of this report. These limitations in the states' involvement in ensuring consumer protections for those who hire interstate household goods movers underscore the need to have strong and targeted leadership at the federal level. The two consumer protection models we reviewed as alternatives to retaining FMCSA as the entity responsible for household goods consumer protection—FTC and OST/OAEP models—offer some lessons about how to address the problems in the interstate household goods moving industry. Although FTC has expertise in consumer protection, its lack of expertise in and jurisdiction over the interstate household goods moving industry, combined with the breadth of its other established consumer protection responsibilities, suggests that it may not be the best agency to have responsibility for consumer protection in this particular area. OST's OAEP's authority is modeled after FTC's Telemarketing Act, and offers the advantage of being housed within DOT. Moving the oversight responsibility for household goods consumer protection into a DOT office, modeled after OAEP and housed within OST, could provide an opportunity for DOT to focus exclusively on consumer protection in the interstate household goods moving industry without the distraction of a safety mission, but would entail costs, which we have not evaluated in this report. Regardless of which option DOT chooses for its oversight of household goods movers, the responsible entity—whether FMCSA, OST, or some other entity—will need to make a more concerted effort to raise the priority and focus on all four areas of consumer protection. In doing so, that entity can build upon FTC's consumer protection strategies as a starting point and learn from FTC's approach—as well as ensure that the consumer protection efforts undertaken are evaluated and refined to achieve results.

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## Recommendations for Executive Action

To improve DOT's focus on consumer protection involving household goods movers, we recommend that the Secretary of Transportation take the following actions:

1. Evaluate whether to move the interstate household goods program to a separate office within OST, and if a decision is made to move the program, request all necessary authority and resources from Congress to do so.
2. If responsibility for the household goods program remains with FMCSA, direct the Administrator of FMCSA (or any future administrator in the department who is made responsible for the household goods program) to take the following actions to improve the performance of the program:
  - Review FTC's approach to consumer protection and make changes in the department's interstate household goods consumer protection efforts, where applicable, to clearly articulate the department's goal of ensuring consumer protection within its mission.
  - Develop metrics and milestones for its consumer protection activities, including conducting a thorough evaluation of the new strategy based on the "Top 100 List" and leveraging the newly formed Household Goods Technical Assistance Group.
  - Once baseline metrics have been established for its current education and outreach efforts to consumers, continue to assess education and outreach efforts by forming a task force made up of communication, industry, and consumer protection experts to continue to monitor and make changes as appropriate to the communications strategy.
  - Ensure that performance measures for household goods efforts are clearly linked to FMCSA's full range of consumer protection responsibilities involving the household goods moving industry—including enforcement, establishing and maintaining partnerships, education and outreach, and collecting data and reporting on consumer complaints.

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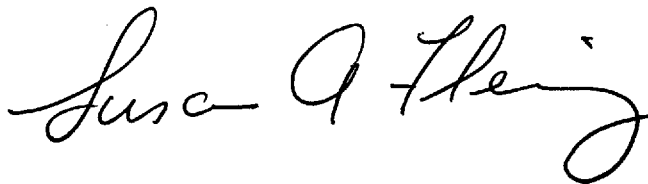
## Agency Comments

We provided copies of a draft of this report to DOT and FTC for their review and comment. Both agencies agreed with the information contained in the report and provided technical comments, which we incorporated as appropriate. DOT agreed to consider the recommendations we made to it in the report and provided technical comments via e-mail. FTC provided written comments, which are reprinted in appendix VI.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Secretary of Transportation, the Administrator of FMCSA, and the Chairman of the Federal Trade Commission. The report also will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2834 or [flemings@gao.gov](mailto:flemings@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Staff who made key contributions to this report are listed in appendix VII.



Susan A. Fleming  
Director, Physical Infrastructure Issues

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# Appendix I: Scope and Methodology

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Our overall approach to addressing the objectives of this report included analyzing federal laws, regulations, and guidance; surveying states on their use of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) provisions that provided authority to enforce federal household goods consumer protection laws and regulations against interstate household goods movers; and interviewing a wide range of government and other officials, including the following (see table 5 for a complete list of interviewees):

- Officials in the Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA) headquarters and six of its field locations in California, Colorado, Florida, Illinois, New Jersey, and Texas (selected based on the volume of complaints against movers in those states, the presence of household goods specialists in those offices, and recommendations from FMCSA headquarters staff); the Surface Transportation Board (STB); the Office of the Secretary of Transportation (OST); and the Office of the Inspector General.
- Federal Trade Commission (FTC), Bureau of Consumer Protection.
- State officials in the offices of selected state regulatory agencies and attorneys general, including those in Arizona, California, Florida, Illinois, Maryland, and Washington.
- Representatives from the interstate household goods moving industry—including the American Moving and Storage Association, the International Association of Movers, the California Movers and Storage Association, and the National Council of Moving Associations—and consumer protection groups—including the Better Business Bureau and MoveRescue.



**Table 5: Organizations Whose Officials Were Interviewed**

Type of organization	Name of organization
Federal agency	Department of Transportation Federal Motor Carrier Safety Administration Headquarters Division offices (California, Colorado, Florida, Illinois, New Jersey, and Texas) Office of Aviation Enforcement and Proceedings Office of the Inspector General Office of the Secretary of Transportation Surface Transportation Board John A. Volpe National Transportation Systems Center Federal Trade Commission
State agency	Arizona Department of Weights and Measures California Office of the Attorney General California Public Utilities Commission Florida Department of Agriculture and Commerce Services Illinois Commerce Commission Maryland Office of the Attorney General Washington (state) Utilities and Transportation Commission
Industry association	American Moving and Storage Association California Moving and Storage Association International Association of Movers National Council of Moving Associations
Consumer group	Council of Better Business Bureaus MoveRescue National Association of Consumer Agency Administrators <sup>a</sup>
Other association	National Association of Attorneys General

Source: GAO.

<sup>a</sup>Our interviews included a former executive director of this association.

To determine the extent to which states have used the SAFETEA-LU provisions that allow them to enforce federal household goods consumer protection laws and regulations, and any challenges to using the provisions, we first analyzed relevant federal laws and regulations related to the interstate household goods moving industry, including SAFETEA-LU,<sup>1</sup> the Carmack Amendment,<sup>2</sup> and FMCSA’s regulations related to

<sup>1</sup>Pub. L. No. 109-59, 119 Stat. 1144 (2005).

<sup>2</sup>49 U.S.C. § 14706.

interstate household goods oversight.<sup>3</sup> To better understand the congressional intent behind the federal laws, we also reviewed the relevant legislative history. Our primary method for addressing this objective was to survey the state regulatory agencies in the 42 states and the District of Columbia (for a total of 43 state regulatory agencies) that regulate intrastate household goods movers and the state attorneys general in the 50 states and the District of Columbia.<sup>4</sup> The survey for the state regulatory agencies was pretested with the Washington (state) Utilities and Transportation Commission and the Illinois Commerce Commission. We determined which states had an agency that regulated intrastate household goods by researching state statutes and contacting state officials. The survey for the state attorneys general was pretested with the National Association of Attorneys General and a representative from the Maryland attorney's general office. We received responses from 40 of the 43 state regulatory agencies and 39 of the 51 state attorneys general offices (see table 6 for a complete list of states that received and responded to the survey). We also interviewed FMCSA and Surface Transportation Board (STB) officials to determine if they had received notice of a state taking an action under the SAFETEA-LU provisions, as required by law.

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<sup>3</sup>49 C.F.R. part 375.

<sup>4</sup>State regulatory agencies are those state entities responsible for regulating the *intrastate* movement of household goods. In 49 U.S.C. § 14710(d), this type of entity is referred to as a state authority. For purposes of this report, we use "state agency" to refer to the same entity as defined by 49 U.S.C. § 14710(d).

**Table 6: State Attorneys General and State Regulatory Agencies We Surveyed to Determine Use of SAFETEA-LU Provisions**

State attorneys general surveyed and responded	State attorneys general surveyed, no response	State regulatory agencies surveyed and responded	State regulatory agencies surveyed, no response
Alaska	Alabama	Alabama	Minnesota
Arizona	Idaho	Arkansas	Mississippi
Arkansas	Kentucky	California	Washington
California	Louisiana	Colorado	
Colorado	Maine	Connecticut	
Connecticut	Minnesota	District of Columbia	
Delaware	Missouri	Florida	
District of Columbia	Nebraska	Georgia	
Florida	Oregon	Hawaii	
Georgia	South Dakota	Illinois	
Hawaii	Vermont	Indiana	
Illinois	Wyoming	Iowa	
Indiana		Kansas	
Iowa		Kentucky	
Kansas		Louisiana	
Maryland		Massachusetts	
Massachusetts		Michigan	
Michigan		Missouri	
Mississippi		Montana	
Montana		Nebraska	
Nevada		Nevada	
New Hampshire		New Hampshire	
New Jersey		New Jersey	
New Mexico		New Mexico	
New York		New York	
North Carolina		North Carolina	
North Dakota		North Dakota	
Ohio		Ohio	
Oklahoma		Oklahoma	
Pennsylvania		Oregon	
Rhode Island		Pennsylvania	
South Carolina		Rhode Island	
Tennessee		South Carolina	
Texas		South Dakota	
Utah		Tennessee	
Virginia		Texas	
Washington		Utah	
West Virginia		Virginia	
Wisconsin		West Virginia	
		Wyoming	

Source: GAO surveys of state regulatory agencies and state attorneys general.

To determine the extent and timeliness of progress made by FMCSA in its consumer protection efforts, we reviewed documentation—and interviewed pertinent agency officials—on actions taken by FMCSA to address recommendations contained in prior GAO reports<sup>5</sup> and in SAFETEA-LU mandates. This included a review of the information contained in FMCSA’s consumer complaint database. To assess the reliability of the complaint database, we interviewed agency officials and performed basic electronic testing on the fields of interest. We determined that the data were sufficiently reliable to be used for reporting basic complaint information.

Finally, to understand potential options for enhancing consumer protections in the interstate household goods moving industry, we analyzed a variety of consumer protection models for lessons learned that might be applied to oversight of the interstate household goods moving industry and to understand the advantages and disadvantages of each of those models. As part of our preliminary work, we considered FTC’s Bureau of Consumer Protection; DOT’s Office of Aviation Enforcement and Proceedings (OAEP), Consumer Product Safety Commission, and STB, FTC’s implementation of the Magnuson-Moss Warranty Act,<sup>6</sup> FMCSA’s Motor Carrier Safety Assistance Program, and Canadian and selected state models. These models were not pursued because our preliminary review indicated that they were not appropriately comparable to the interstate household goods moving industry. For final consideration, we reviewed two models—FTC and DOT’s OAEP within OST—which we used to develop two options for restructuring oversight of consumer protection involving the interstate household goods moving industry. These were chosen because of the relevance of their consumer protection activities and also because FTC is considered the “national consumer protection” agency and OAEP’s authority for aviation consumer protection is based on FTC’s Telemarketing and Consumer Fraud and Abuse Prevent Act. To understand how they undertake consumer protection efforts, we interviewed officials from both entities and analyzed relevant documentation about their missions, budgets, and consumer protection activities. In addition to the two options we developed based on these two models, we also developed a “baseline” option of retaining FMCSA as the

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<sup>5</sup>See [GAO-07-586](#), [GAO-01-819T](#), [GAO-01-318](#).

<sup>6</sup>The Magnuson-Moss Warranty Act, enacted in part to govern consumer product warranties, was identified as a model for dispute resolution procedures. Pub. L. No. 93-637, 88 Stat. 2183 (1975).

agency responsible for oversight of the interstate household goods moving industry.

We conducted this performance audit from November 2008 through October 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

## Appendix II: Number and Type of Consumer Complaints about Household Goods Movers Received by FMCSA, by Category, Fiscal Years 2001 through 2008

<b>Complaint type</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>All years</b>
Unauthorized operations	47	35	60	66	56	38	489	352	<b>1,143</b>
Shipment documents	27	766	525	730	525	397	1,006	946	<b>4,922</b>
Estimates and final charges	0	1	14	15	20	15	1,090	1,387	<b>2,542</b>
Weighing	141	276	226	289	268	397	630	644	<b>2,871</b>
Hostage	355	560	708	708	682	482	717	730	<b>4,942</b>
Pickup/delivery	212	227	254	390	395	310	1,147	1,330	<b>4,265</b>
Loss/damage	763	693	1,395	1,832	1,803	1,725	1,348	1,190	<b>10,749</b>
Claim settlement	12	13	42	63	54	59	872	1,097	<b>2,212</b>
Other commercial complaints	251	234	452	511	466	395	482	513	<b>3,304</b>
No reason for complaint reported	506	340	491	686	738	618	116	6	<b>3,501</b>
<b>Number of complaints for the year</b>	<b>1,858</b>	<b>1,995</b>	<b>2,825</b>	<b>3,597</b>	<b>3,569</b>	<b>3,159</b>	<b>2,960</b>	<b>2,917</b>	<b>22,880</b>

Source: GAO analysis of FMCSA complaint data.

Note: Any one complaint may have multiple reason codes; thus the column totals do not sum to the number of complaints for each year.

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# Appendix III: Results from GAO Surveys of State Regulatory Agencies and State Attorneys General

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## Introduction

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### State Regulatory Agency Survey

The U.S. Government Accountability Office (GAO) has been requested by Congress to review the authority contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU), Pub. L. No. 109-59, Section 4206, 119 Stat. 1755 (2005) (codified at 49 U.S.C. § 14710). This authority permits a state regulatory agency to enforce federal consumer protection laws and regulations against interstate movers in federal and state courts. Hereinafter, we refer to this authority as “SAFETEA-LU authority.”

As part of this study, GAO is conducting a survey of all responsible state regulatory agencies to determine whether states are using this authority and if not, why. We will be using this data in the aggregate to report to the Congress and to select states for further case study in order to more comprehensively understand this issue.

#### **SAFETEA-LU Authority**

1. Has your state regulatory agency ever used the authority granted to it under SAFETEA-LU by bringing an action against *INTERSTATE* household goods movers in federal court or state court under 49 U.S.C. § 14710?

Yes..... 0

No..... 30

Don't know ..... 10

**Appendix III: Results from GAO Surveys of  
State Regulatory Agencies and State  
Attorneys General**

2. If yes, please describe the type of action.
3. Has your state regulatory agency not used the SAFETEA-LU authority (49 U.S.C. § 14710) against *INTERSTATE* household goods movers for any of the following reasons?

	Yes	No	Don't Know	Not Checked	Total
b. Unclear on how to apply SAFETEA-LU's authority	17	16	5	2	40
f. Prefer the State Attorney General's office to bring civil actions	14	12	12	2	40
i. Volume of consumer complaints against <i>INTERSTATE</i> household goods movers is low	13	11	13	3	40
a. Unaware of the SAFETEA-LU authority	11	24	3	2	40
c. State law prohibits us from bringing any such action	5	13	19	3	40
e. There is another state or local agency responsible for bringing actions against <i>INTERSTATE</i> household goods movers	5	22	11	2	40
g. Want to establish a pattern of behavior before using authority, and pattern has not emerged	4	22	12	2	40
d. Elected to prosecute relevant cases under state laws	3	27	8	2	40
h. Penalties are insufficient under SAFETEA-LU	0	17	20	3	40
j. Other	10	7	5	18	40

4. Which of the following, if any, are challenges to bringing actions against *INTERSTATE* household goods movers in FEDERAL court using SAFETEA-LU's authority?

	Yes	No	Don't Know	Not Checked	Total
c. Insufficient resources to prosecute the case(s) in federal court	15	9	13	3	40
f. Lack of clarity on how to apply the SAFETEA-LU authority	13	14	10	3	40
e. Lack of awareness of SAFETEA-LU's authority	9	18	9	4	40
d. Lack of familiarity with the federal court system	8	16	13	3	40
a. Our state regulatory agency prefers to bring action in state courts	6	18	13	3	40
b. State consumer protection laws provide stronger penalties	1	13	23	3	40
g. Other	10	6	11	13	40



**Appendix III: Results from GAO Surveys of  
State Regulatory Agencies and State  
Attorneys General**

5. Which of the following, if any, are challenges to bringing actions against *INTERSTATE* household goods movers in STATE court using SAFETEA-LU's authority?

	Yes	No	Don't Know	Not Checked	Total
b. Insufficient resources to prosecute the case(s) in federal court	16	11	10	3	40
d. Lack of clarity on how to apply the SAFETEA-LU authority	15	13	9	3	40
c. Lack of awareness of SAFETEA-LUs authority	10	17	10	3	40
a. State consumer protection laws provide stronger penalties	1	12	24	3	40
e. Other	8	6	11	15	40

6. What additional **federal** remedies related to *INTERSTATE* household goods movers would better protect consumers?

7. Do you regularly provide information to the following entities about consumer complaints related to household goods movers?

	Yes	No	Don't know	Not checked	Total
e. Federal Motor Carriers Safety Administration (FMCSA)	18	22	0	0	40
b. State moving association	13	27	0	0	40
a. State Attorney General office	11	29	0	0	40
c. State or local Better Business Bureau	7	33	0	0	40
d. American Moving and Storage Association (AMSA)	0	39	1	0	40
f. Other	6	17	2	15	40

8. Do the following entities regularly provide information to your office about consumer complaints they receive related to household goods movers?

	Yes	No	Don't know	Not Checked	Total
a. State Attorney General office	15	24	0	1	40
b. State moving association	11	28	0	1	40
c. State or local Better Business Bureau	11	28	0	1	40
e. Federal Motor Carriers Safety Administration (FMCSA)	10	29	1	0	40
d. American Moving and Storage Association (AMSA)	0	37	1	2	40
f. Other	6	18	2	14	40

9. How are complaints against *INTERSTATE* household goods movers investigated by your office? Please include how your office works with any other state or local agencies during the process.
  
10. What involvement, if any, does your state regulatory agency have in resolving complaints against an *INTERSTATE* household goods mover?
  
11. Is there anything else you'd like us to know related to household goods movers?
  
12. If you have completed the survey, please check "Completed" below. Clicking on "Completed" indicates that your answers are final.

Completed.....40  
Not completed.....3

## Introduction

### State Attorneys General Survey

The U.S. Government Accountability Office (GAO) has been requested by Congress to review the authority contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy For Users (SAFETEA-LU), Pub. L. No. 109-59, Section 4206, 119 Stat. 1755-1756 (2005) (codified at 49 U.S.C. § 14711). This authority permits State Attorneys General to enforce federal consumer protection laws and regulations against interstate movers in federal courts. Hereinafter, we refer to this authority as “SAFETEA-LU authority.”

As part of this study, GAO is conducting a survey of all State Attorneys General to determine whether states are using this authority and if not, why. We will be using this data in the aggregate to report to the Congress and to select states for further case study in order to more comprehensively understand this issue.

#### SAFETEA-LU Authority

1. Has your State Attorney General’s office ever used the authority granted to it under SAFETEA-LU by bringing an action against INTERSTATE household goods movers in federal court under 49 U.S.C. § 14711?
 

Yes..... 0

No..... 37

Don’t know ..... 2
2. If yes, please describe the type of action.
3. Has your office not used the SAFETEA-LU authority (49 U.S.C. § 14711) against *INTERSTATE* household goods movers for any of the following reasons?

	Yes	No	Don’t Know	Not Checked	Total
i. Volume of consumer complaints against INTERSTATE household goods movers is low	18	11	5	5	39
g. Penalties are insufficient under SAFETEA-LU	14	14	8	3	39
h. Federal remedies do not benefit the state	14	13	8	4	39
a. Unaware of the SAFETEA-LU authority	11	23	2	3	39

**Appendix III: Results from GAO Surveys of  
State Regulatory Agencies and State  
Attorneys General**

	Yes	No	Don't Know	Not Checked	Total
c. Elected to prosecute relevant cases under state laws	10	21	3	5	39
e. Want to establish a pattern of behavior before using authority, and pattern has not emerged.	8	23	4	4	39
b. Unclear on how to apply SAFETEA-LU's authority	5	27	2	5	39
d. There is another state or local agency responsible for bringing actions against for INTERSTATE household goods movers	5	25	4	5	39
f. Insufficient resources to prosecute the case(s) in federal court	4	27	3	5	39
j. Lack of familiarity with the federal court system	0	33	1	5	39
k. Other	5	14	7	13	39

4. Which of the following, if any, are challenges to bringing actions against *INTERSTATE* household goods movers in FEDERAL court using SAFETEA-LU's authority?

	Yes	No	Don't Know	Not Checked	Total
a. Our State AG office prefers to bring action in state courts	20	12	5	2	39
b. State consumer protection laws provide stronger penalties	20	8	9	2	39
c. Financial remedies under SAFETEA-LU benefit the federal government, not the state	20	8	10	1	39
e. Lack of awareness of the SAFETEA-LU authority	10	25	0	4	39
d. Insufficient resources to prosecute the case(s) in federal court	7	23	6	3	39
f. Lack of clarity on how to apply the SAFETEA-LU authority	7	24	4	4	39
g. Other	3	13	9	14	39

5. What additional federal remedies related to *INTERSTATE* household goods movers would better protect consumers?

6. Do law enforcement officers in your state have the authority to intervene in a civil dispute between consumers and household goods movers?

Yes..... 16

No ..... 12

Don't know ..... 11

7. Do you regularly provide information to the following entities about consumer complaints related to household goods movers?

**Appendix III: Results from GAO Surveys of  
State Regulatory Agencies and State  
Attorneys General**

	Yes	No	Don't know	Not checked	Total
b. State moving association	31	4	0	4	<b>39</b>
a. State regulatory authority (agency with authority over the <i>INTRASTATE</i> transportation of household goods)	12	23	2	2	<b>39</b>
e. Federal Motor Carriers Safety Administration (FMCSA)	10	23	4	2	<b>39</b>
c. State or local Better Business Bureau	6	30	2	1	<b>39</b>
d. American Moving and Storage Association (AMSA)	1	32	4	2	<b>39</b>
f. Other	7	18	4	10	<b>39</b>

8. Do the following entities regularly provide information to your office about consumer complaints they receive related to household goods movers?

	Yes	No	Don't know	Not Checked	Total
a. State regulatory authority (agency with authority over the <i>INTRASTATE</i> transportation of household goods)	11	26	1	1	<b>39</b>
c. State or local Better Business Bureau	10	26	2	1	<b>39</b>
e. Federal Motor Carriers Safety Administration (FMCSA)	2	34	2	1	<b>39</b>
b. State moving association	1	34	3	1	<b>39</b>
d. American Moving and Storage Association (AMSA)	0	35	3	1	<b>39</b>
f. Other	2	20	7	10	<b>39</b>

9. How are complaints against *INTERSTATE* household goods movers investigated by your office? Please include how your office works with any other state or local agencies during the process, if at all.

10. What involvement, if any, does your State AG office have in resolving complaints against an *INTERSTATE* household goods mover?

11. Is there anything else you'd like us to know related to household goods movers?

12. If you have completed the survey, please check "Completed" below. Clicking on "Completed" indicates that your answers are final.

Completed..... 39

Not completed..... 12

# Appendix IV: Comparison of Consumer Protection Efforts in Three Organizations Reviewed by GAO

	<b>FMCSA</b>	<b>OST, OAEP</b>	<b>FTC, Bureau of Consumer Protection</b>
Organization	Agency	Office	Agency
Authority	Regulatory and enforcement	Enforcement	Regulatory and law enforcement
Description	FMCSA has responsibility for overseeing interstate household goods movers. It is responsible for education and outreach and collecting information on the state of the industry and information on complaints lodged against interstate household goods movers. It also reviews compliance with regulatory requirements and enforces statutes and regulations.	OST oversees a number of activities, including ensuring the fitness of U.S. airlines and enforcing airline consumer protection regulations. Within OST, OAEP enforces DOT's aviation economic and civil rights requirements, which relate to consumer protection and many other areas. The requirements related to consumer protection encompass many areas, including unfair and deceptive practices, unfair competition by air carriers and travel agents, and lost baggage liability.	The agency enforces laws that prohibit business practices that are anticompetitive, deceptive, or unfair. It also promotes informed consumer choice.
History	The Interstate Commerce Commission Termination Act of 1995 transferred federal responsibilities for protecting consumers who move their household goods across state lines using commercial moving companies to DOT. These functions were further assigned to the motor carrier safety office within the Federal Highway Administration. The Motor Carrier Safety Improvement Act of 1999 transferred these consumer protection functions to FMCSA.	Responsibility for economic regulatory authority was placed under OST in order to separate safety oversight from economic regulatory oversight. Within OST, OAEP has responsibility for consumer protection in the aviation industry.	FTC was created in 1914. Its purpose was to prevent unfair methods of competition in or affecting commerce. Over the years, Congress passed additional laws giving the agency greater authority to police unfair or deceptive acts or practices.
Mission	Promote safe commercial motor vehicle operation through education, regulation, enforcement, and innovative research and technology to reduce truck and bus crashes, which will result in fewer fatalities and injuries. Achieve a safer and more secure transportation environment through shared responsibilities with partners and stakeholders.	OST OAEP does not have a specific mission statement.	To prevent business practices that are anticompetitive or deceptive or unfair to consumers; to enhance informed consumer choice and public understanding of the competitive process; and to accomplish these missions without unduly burdening legitimate business activity.

**Appendix IV: Comparison of Consumer Protection Efforts in Three Organizations Reviewed by GAO**

	<b>FMCSA</b>	<b>OST, OAEP</b>	<b>FTC, Bureau of Consumer Protection</b>
Relevant strategic goal	Household goods enforcement is located under the strategic goal of Productivity. Under the Productivity goal, FMCSA aims to engage consumers and the household goods moving industry in reducing noncompliant practices.	OAEP does not have specific strategic goals or performance measures. However, the 2011 budget identifies a variety of tasks for OAEP's Aviation Consumer Protection Division (ACPD), such as handling consumer complaints about air travel, responding to congressional inquiries regarding constituent travel problems (400 to 700 inquiries are received each fiscal year), and conducting investigations of airlines for violations of DOT rules.	Protect consumers: Prevent fraud, deception, and unfair business practices in the marketplace.
Program resources (staffing and budget)	<b>Household goods enforcement</b> For 2010: \$3.1 million (operations, outreach, and hotline). There are currently eight household goods specialists who report to a household goods team leader and five staff in headquarters who are assigned to household goods enforcement. There are 128 safety investigators who are also trained in household goods enforcement and can be brought in to assist with household goods reviews.	<b>OAEP</b> Budget: \$3 million to 3.5 million. Also, received an additional \$2.5 million in each of the last 2 years because of the high-profile of airline issues. Staffing: 40 staff members in OAEP (15 specifically in ACPD).	<b>FTC's Goal 1- Protect Consumers</b> Budget 2010: \$165,144,000. 623 full-time equivalents (FTE). <sup>a</sup>
Organizational level of consumer protection function	Interstate household goods oversight is conducted within FMCSA (operating administration within DOT).	OAEP is in the Office of the General Counsel. OAEP through ACPD has responsibility for the Aviation Consumer Protection program.	FTC is headed by a commission composed of five members who are nominated by the President and confirmed by the Senate, and who serve staggered 7-year terms. The President chooses one commissioner to act as Chairman. No more than three commissioners can be of the same political party. FTC has two major law enforcement bureaus, Consumer Protection and Competition, supported by the Economics Bureau, regional offices, and mission support offices.

**Appendix IV: Comparison of Consumer Protection Efforts in Three Organizations  
Reviewed by GAO**

	<b>FMCSA</b>	<b>OST, OAEP</b>	<b>FTC, Bureau of Consumer Protection</b>
Scope of complaints	FMCSA received 2,917 complaints in fiscal year 2008. Complaints primarily relate to estimates/final charges, pickup delivery, and loss/damage.	In fiscal year 2008, the office received over 10,000 complaints. Complaints are driven by airline flight problems, such as delays, cancellations, and misconnections.	For calendar year 2008, FTC received over 1.2 million complaints. The greatest numbers of complaints related to consumer fraud and identity theft.
Enforcement	FMCSA enforces compliance with economic and consumer protection laws and regulations for the interstate household goods moving industry. FMCSA identifies and investigates patterns of complaints and then targets those violators for compliance reviews. When the agency encounters noncompliance it relies on a variety of enforcement activities, including imposing civil monetary penalties.	OAEP is involved in enforcement actions, including drafting and negotiating settlement agreements, filing formal complaints, and assessing civil penalties. Actions are taken against any company or carrier offering service for which it has been found unfit by DOT and conducting unfair and deceptive practices in the airline industry, and in response to disability and civil rights complaints.	FTC is involved in a variety of enforcement activities to protect consumers, including ensuring compliance with administrative and federal court orders entered in consumer protection cases; conducting investigations and prosecuting civil actions to stop fraudulent, unfair, or deceptive marketing and advertising practices; and enforcing consumer protection laws, rules, and guidelines.
Education and outreach	<b>Budget/funding:</b> For 2010, \$1.7 million.  <b>Activities:</b> <ul style="list-style-type: none"> <li>Recently drafted a consumer education and outreach assessment and plan (still in review).</li> <li>1-800 hotline.</li> <li>Web site.</li> <li>Consumer publications.</li> </ul>	<b>Budget/funding:</b> No specific funding allocated for education and outreach.  <b>Activities:</b> <p>There is no strategic education and outreach planning.</p> <ul style="list-style-type: none"> <li>Air Travel Consumer Report published monthly statistics on complaints.</li> <li>Other consumer publications—Fact sheets, Fly-Rights, etc.</li> <li>Web site.</li> <li>News media relations: news releases and interviews.</li> </ul>	<b>Budget/funding:</b> No specific funding allocated for education and outreach.  <b>Activities:</b> <p>Division of Consumer and Business Education provides consumers with tools they need to make informed buying decisions in the marketplace and businesses with tools they need to comply with the law.</p> <ul style="list-style-type: none"> <li>Web site.</li> <li>News releases.</li> <li>Information pamphlets.</li> </ul>
Establish and maintain partnerships	FMCSA convened the Household Goods Working Group to develop and strengthen partnerships with the states; however, the group's results were mixed. The agency has recently issued an enforcement outreach plan; however, it is yet to be implemented. Household goods specialists' relationships with states and local stakeholders, including law enforcement, vary.	Most of the relationships are informal partnerships to share information and to get information from consumers. Networking is a major effort in coordinating with other entities. For example, the office has relationships with the Department of Justice, the Transportation Security Administration, and FTC.	FTC coordinates with a variety of federal and state agencies. The coordination is both formal and informal. Many of the informal relationships depend on personal networking and ongoing communication with stakeholders. Formal relationships could entail a memorandum of understanding. FTC officials noted that they have a very collaborative relationship with the states, particularly the state attorneys general.



**Appendix IV: Comparison of Consumer Protection Efforts in Three Organizations Reviewed by GAO**

	<b>FMCSA</b>	<b>OST, OAEP</b>	<b>FTC, Bureau of Consumer Protection</b>
Collect, monitor, and report complaints	Complaint data are received and managed in FMCSA's National Consumer Complaint Database. Consumers primarily file complaints through FMCSA's "Protect Your Move" Web site and 1-800 hotline.	The computer complaint data system categorizes the complaints. About 50 percent of the complaints received are submitted on the online form.  The Air Travel Consumer Report is the tool for reporting aviation complaint data. The report ranks air carriers based on areas such as on-time performance, cancellations, and mishandled baggage.	The Consumer Sentinel is a complaint database with information on fraud and identity theft. Complaints are self-reported and unverified. The database is available to law enforcement partners for use in investigations. FTC works to cross walk other agency data so that the data can easily be uploaded into the database. Some of the functionality that FTC has in place includes posting alerts and detailed search criteria.  FTC reports on its complaint data through an annual publication.

Source: GAO analysis of DOT and FTC information.

<sup>a</sup>The number of FTEs is for FTC's consumer protection mission, which includes personnel in the Bureau of Consumer Protection and resources drawn from the Bureau of Economics, Office of the General Counsel, regional offices, and administrative and support offices.

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# Appendix V: Types of Consumer Protection Activities

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## **Enforcement**

Focus agency enforcement on cutting-edge issues that threaten consumer protection in emerging areas.

Stop injury to consumers by applying fundamental consumer protection principles to new practices.

Halt advertising and marketing practices that are most injurious to consumers or that prey on specific groups of vulnerable consumers.

Use the results of surveys to determine where enforcement needs are greatest and meet these needs with targeted enforcement efforts.

Update, rescind, or promulgate regulations in response to regulatory reviews and congressional mandates.

Create and implement a comprehensive order-enforcement program that targets those individuals and companies that violate federal court and administrative orders.

## **Establish and maintain partnerships**

Improve information sharing with law enforcement partners through Web site.

Continue outreach to law enforcement partners and organizations to improve information sharing.

Promote the criminal prosecution of the most egregious violators through coordination and cooperation with criminal law enforcement authorities.

Continue to coordinate with local, state, and federal law enforcement partners for initiatives and sweeps.

Leverage resources (by working with federal, state, local, and private sector partners) to maximize the reach of consumer and business education campaigns.

Target advocacy activities to encourage state and federal government policymakers to evaluate both the costs and benefits of their policies for consumers, emphasizing the impact on consumers of policies that unnecessarily affect the dissemination of truthful, non-misleading information to consumers and the interplay of competition and consumer protection concerns.

Use letters and public comments to urge state and federal government policymakers to consider consumer research and other empirical data in their decisions regarding the costs and benefits of their policies for consumers.

Encourage industry self-regulation where consumer protection problems are emerging, industry has a comparative advantage in addressing the problems, or legal or practical limitations constrain the government's ability to act.

## **Education and outreach**

Focus consumer and business education efforts on areas where fraud, deception, unfair practices, and information gaps cause the greatest injury.

Target particular demographic groups with messages about marketplace issues that affect them.

Use the results of surveys to determine where education needs are greatest and meet these needs with targeted education efforts.

Increase public awareness of consumer protection problems and solutions by conducting and publishing studies and filing advocacy comments on changes in the marketplace and the impact of business and government actions on consumers.

Focus workshops and conferences on emerging or challenging consumer protection problems.

Issue reports mandated by law and other reports that articulate concrete measures that the public and private sectors could take to address consumer protection problems.

## **Collect, monitor, and report complaints**

Continue to upgrade and enhance the online consumer complaint database and Web site to respond to increasing demands and maintain both as the premier consumer protection information resource.

Improve and expand the tools that are provided through this Web site by pulling multiple systems together onto one platform and making it the gateway for those who want information about the consumer protection problems affecting consumers.

Expand the pool of entities that make their consumer complaint data available to the community through this Web site.

Continue to strengthen capabilities to analyze the increasing volume of consumer complaints and augment complaints with other sources to develop case leads and identify new or emerging concerns.

Monitor the marketplace to identify illegal practices that may not be fully captured by the database or other information sources.

Ensure the quality, security, and integrity of the database and Web site information.

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Source: GAO analysis of information contained in FTC's *Strategic Plan for Fiscal Years 2006-2011* (Sept. 30, 2006).

# Appendix VI: Comments from the Federal Trade Commission



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

October 6, 2009

Ms. Susan Fleming  
Director  
Physical Infrastructure Issues  
United States Government Accountability Office  
441 G Street, N.W.  
Washington, D.C. 20548

Re: *HOUSEHOLD GOODS MOVING INDUSTRY: Progress Has Been Made in Enforcement, but Increased Focus on Consumer Protection is Needed (GAO-10-38 Draft Report, dated October 30, 2009)*

Dear Ms. Fleming:

The Bureau of Consumer Protection ("BCP") of the Federal Trade Commission ("FTC") appreciates the opportunity to review and comment on the above-captioned draft report on consumer protection issues in the interstate household goods moving industry. The report appropriately highlights the consumer protection concerns at the federal and state levels.

As you recognize in your report, the FTC is "the nation's consumer protection agency," and it has broad responsibility over many segments of the marketplace. As you also know, Section 5 of the Federal Trade Commission Act specifically excludes regulated transportation and communications "common carriers" from the FTC's jurisdiction. While the agency nonetheless has had substantial experience dealing with issues relating to telecommunications common carriers, we agree with the report's finding that the agency "lack[s] the expertise and the legal authority to oversee the interstate household goods moving industry." Given this fact, we support the report's conclusion that the FTC "may not be the best agency to have responsibility for consumer protection in the interstate household goods moving industry."

This industry is regulated by the U.S. Department of Transportation ("DOT") because, as you say in the report, the interstate household goods moving industry "is a small, but unique[,] industry governed by complex federal laws and regulations." Therefore, we must defer to the Secretary of Transportation and to DOT's Federal Motor Carrier Safety Administration ("FMCSA") to address the most appropriate way to enforce consumer protection concerns in this industry.

Your report highlights the need for FMCSA to improve in the areas of law enforcement, partnering with other agencies (particularly state attorneys general and regulators), consumer education and outreach, and collecting and analyzing consumer complaints. As the federal agency with general subject matter expertise on consumer protection matters, BCP has acquired significant experience over the years in each of these areas. We would be happy to share this


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**Appendix VI: Comments from the Federal  
Trade Commission**

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expertise and experience with FMCSA, or whatever agency the Secretary of Transportation so designates. We stand ready to discuss our approach to consumer protection law enforcement (including targeted federal, state, and local task forces), BCP's consumer education programs and outreach efforts (including reaching consumers of limited English proficiency), and the structure and use of the Consumer Sentinel complaints database by BCP and member law enforcement agencies.

Sincerely,



David C. Vladeck  
Director

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# Appendix VII: GAO Contact and Staff Acknowledgments

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## GAO Contact

Susan A. Fleming, (202) 512-2834 or [flemings@gao.gov](mailto:flemings@gao.gov)

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## Acknowledgments

In addition to the contact named above, Rita Grieco, Assistant Director; Amy Abramowitz; Lauren Calhoun; Erin Henderson; Delwen Jones; Alex Lawrence; Amanda Miller; SaraAnn Moessbauer; Josh Ormond; Beverly Ross; Sharon Silas; and Elizabeth Wood made key contributions to this report.

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