



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

Minutes Motor Carrier Safety Advisory Committee Meeting September 2, 2009

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Advisory Committee (MCSAC) met on September 2, 2009, at the Department of Transportation's Conference Center in Washington, DC. In accordance with the provisions of Public Law 92-463, the meeting was opened to the public.

Mr. Larry Minor served as the FMCSA Designated Federal Official (DFO) and called the meeting to order at 1:00 pm. The following individuals attended the meeting:

COMMITTEE MEMBERS:

Clyde Hart, Senior Vice President of Government Affairs, American Bus Association
Scott Hernandez, Lieutenant Colonel, Colorado State Patrol
Michael Irwin, Executive Director, Michigan Center for Truck Safety
Terry Maple, Superintendent, Kansas Highway Patrol
David Osiecki, Vice President for Safety, Security and Operations, American Trucking Association
Stephen Owings, President, Road Safe America
David Parker, Senior Legal Counsel, Great West Casualty Company
Robert Petrancosta, Vice President of Safety, Con Way Freight
Robert "RC" Powell, Master Trooper, Virginia State Police
Robert Powers, Captain, Michigan State Police
Lester Sokolowski, Senior Vice President of Sales and Marketing, Strategic Safety Solutions, LLC
J. Todd Spencer, Executive Vice President, Owner-Operator Independent Drivers Association
Judith Stone, President/Executive Director, Advocates for Highway and Auto Safety

FMCSA REPRESENTATIVES:

Selden Fritschner, Enforcement and Program Delivery
Karen Lynch, Policy and Program Development
Gary Middleton, Management and Program Analyst, Strategic Planning and Program Evaluation Division
Jeffrey Miller, Chief, Strategic Planning and Program Evaluation Division
Larry Minor, Associate Administrator for Policy and Program Development
Carole Zok, Special Assistant to the Administrator, FMCSA

OTHERS PRESENT FOR ALL OR PORTIONS OF THE MEETING WERE:

Rob Abbott, Transforce
Tim Adams, IRP, Inc.
Mirna Gustave, MacroSys
Phil Hanley, Consolidated Safety Services
Richard Kane, International Limousine Service, Inc.
Richard Lolich, DOT/MARAD
Greg McDonald, Cornerstone Government Affairs, LLC
Chaz Miller, NSWMA



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

Julie Perrot, NTSB
Alan Potter, Booz Allen Hamilton
Georgia Thu, ICF International
Joan Tilghman, ICF International
Elizabeth Turner, Volpe National Transportation Systems Center
Liza Wallis, ICF International
Brad Watkins, Consolidated Safety Services

REVIEW OF AGENDA: The Committee reviewed the agenda.

APPROVAL OF MINUTES: The Committee approved the minutes from the May 20, 2009, public meeting.

FUTURE MEETING DATES: The Committee approved the following dates for fiscal year 2010:

Workgroup meetings: December, 7 – 8, 2010; Public Meeting: December 9, 2009;
Workgroup meetings: March 22 – 23, 2010; Public Meeting: March 24, 2010;
Workgroup meetings: June 8 – 9, 2010; Public Meeting: June 10, 2010; and
Workgroup meetings: August 31 – September 1, 2010; Public Meeting: September 2, 2010.

PRESENTATION: Gary Woodford, Program Manager for FMCSA's Comprehensive Safety Analysis 2010 (CSA 2010) presented an overview of the implementation plan and timeline for CSA 2010, the communication strategy for the new program and a demonstration of the new CSA 2010 outreach website.

WORKGROUP REPORT: Workgroup 09-03 (Provide advice to FMCSA on approaches that could be implemented to improve the existing processes, procedures, and requirements for ensuring that new entrant motor carriers are knowledgeable about Federal motor carrier safety mandates prior to beginning operations in interstate commerce). The report consists of recommendations in seven areas:

1. Definition of "new entrant"
 - a. FMCSA should separate true "new" entrants from entrants who have previous applications.
 - b. FMCSA should use roadside inspection data and procedures to identify potential "chameleon carriers" and other non-compliant carriers.
 - c. FMCSA should identify, capture, and review the information that will allow enforcement to trigger and track non-compliant carriers, such as the following:
 - i. Vehicle Identification Number (VIN)
 - ii. Tag number
 - iii. Driver name and license number
 - iv. Carrier or company name
 - v. Carrier or company principals
 - vi. Carrier or company phone number and address
 - vii. Operation type
 - d. Per the MCSAC Task 09-01 Supplemental A report, FMCSA should conduct more thorough investigations of new entrants to help detect and deter "chameleon carriers".
2. New entrant application process
 - a. FMCSA should allow registration and training at the same time.



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

- b. FMCSA should streamline and refine the application process so that it may obtain complete information in a user-friendly manner:
 - i. Implement a web-based application process
 - ii. Review the content and format of the Form MCS-150 for clarity, redundancy, and ease of use
 - iii. Provide incentives for use of the web-based process, such as timeliness of processing.
 - iv. Provide on-line assistance during the application process.
 - c. FMCSA should require that the person who signs the Form MCS-150 to apply for a US DOT number be a high-level carrier official.
 - d. FMCSA should issue a US DOT number at the same time operating authority is issued. The Agency should also consolidate the US DOT number and various operating authority forms into a single multi-part user friendly form.
 - e. FMCSA should seek statutory authority to require registered entities holding a US DOT number to update Form MCS-150 annually and whenever updates are triggered by another event.
 - f. FMCSA should periodically review the new applicant process to evaluate whether the process continues to serve educational and safety purposes, and update data to track progress selecting an appropriate baseline.
 - g. FMCSA should determine the actual cost of the new entrant process. Such costs shall be paid in full by the applicant at the time of registration for a US DOT number or authority.
 - h. FMCSA should consider assessing a lower fee for using the web-based process.
3. Time period for new entrant program
- a. The new entrant Safety Audit should occur as soon as possible, with an average time period no greater than 12 months and no single audit occurring after 15 months.
 - b. FMCSA should assess whether 30 days is the appropriate amount of time for reapplication for a carrier whose temporary authority has been revoked.
4. Education of new entrants
- a. FMCSA should better communicate and characterize the applicant's responsibilities so the applicant knows –or is advised –as early as possible in the process about its obligations for compliance.
 - b. FMCSA should offer a voluntary education program prior to a front-end knowledge test that requires new applicants to show knowledge of the Federal Motor Carrier Safety Regulations (FMCSRs) and basic safety management controls.
 - c. FMCSA should ensure that the new entrant be tested to assess knowledge of the following elements:
 - i. FMCSRs
 - ii. Hazardous Materials Regulations, if applicable
 - iii. Penalties for failure to comply
 - iv. Safety management practices, with a focus on driver performance measurement and distracted driver issues such as driver fatigue
 - v. Overview of Comprehensive Safety Analysis (CSA) 2010, including what it is and how to use it



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

- vi. The 16 automatic failure violations of the Safety Audit
 - d. FMCSA should ensure the integrity of the testing process.
 - e. FMCSA should provide carriers with ongoing resources to sustain a knowledge of safety improvement or regulatory changes
 - i. Ensure that all materials pertinent to the application and educational processes of the new entrant program are available in multiple formats to ensure accessibility to all participants.
 - ii. FMCSA should provide information on non-regulatory best practices, such as the MCSAC Task 07-02 Report.
 - f. In addition to the \$28 million existing Motor Carrier Safety Assistance Program (MCSAP) funds, FMCSA should seek significant additional federal funding for overall program implementation, including funds for improving education, training, proficiency examinations, and compliance.
5. Interoperability of intrastate and interstate systems.
 - a. If state and federal new entrant and compliance programs are duplicative, FMCSA should accept reciprocity between programs.
 - b. DOT should consider reciprocity with other agencies' transportation inspection requirements (e.g., Department of Defense bus safety program).
6. Sanctions
 - a. FMCSA should seek the authority to stop carriers from operating in violation of a shut-down order.
 - b. FMCSA should more aggressively use its existing authority to seek criminal penalties for carriers operating fraudulently or operating in violation of a shut-down order.
 - c. FMCSA should seek authority to increase the fines and penalties on non-compliant carriers.
7. Other considerations
 - a. New entrant carriers should not be allowed to participate in an electronic pre-clearance system until they have successfully completed a new entrant Safety Audit.
 - b. FMCSA should assess the continued use of the new entrant opposition process currently in place.
 - c. FMCSA should amend number 13 of the 16 automatic failure Safety Audit violations to include hours of service (HOS) violations under 49 CFR §395.3 and §395.8(a). However, there should be no change to the 51 percent guideline threshold for determining automatic failure of a Safety Audit for HOS violations.
 - d. FMCSA should revise §387.3 and §387.9 to require \$1 million of insurance only when carriers are subject to §107.601.

The Committee unanimously approved the recommendations.

PUBLIC COMMENT PERIOD: The public comment period was scheduled for 3:00 pm; however, no member of the public signed up to provide comments.



MOTOR CARRIER SAFETY ADVISORY COMMITTEE

ADJOURNMENT: The meeting was adjourned by the DFO at 3:30 pm on September 2, 2009.

CERTIFICATION: The minutes were approved by the MCSAC on December 8, 2009.

We hereby certify that, to the best of our knowledge, the foregoing minutes are accurate and complete.

____//signed//_____
David R. Parker
Chair
Motor Carrier Safety Advisory Committee

____//signed//_____
Larry W. Minor
Designated Federal Official
Motor Carrier Safety Advisory Committee