



Meeting Minutes December 6-7, 2021

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Advisory Committee (MCSAC) met on December 6-7, 2021, virtually via Zoom. In accordance with the provisions of Public Law 92-463, the meeting was open to the public.

The following individuals attended:

MCSAC COMMITTEE MEMBERS

Lamont Byrd, Chair; Director of Health and Safety, International Brotherhood of Teamsters
Jennifer Hall, Vice Chair; Chief Counsel/ Executive VP, Legal Affairs, American Trucking Associations
Michael Bray, Co-founder and Chief Commercial Officer, Platform Science
Brandon Buchanan, American Bus Association (surrogate for Peter Pantuso part of December 7)
Adrienne Gildea, Deputy Executive Director, Commercial Vehicle Safety Alliance
Bruce Hamilton, International Vice President, Amalgamated Transit Union
David Heller, Vice President of Government Affairs, Truckload Carriers Association
Dan Horvath, Vice President, American Trucking Associations (surrogate for Jennifer Hall)
Dawn King, President, Truck Safety Coalition
Peter Kurdock, General Counsel, Advocates for Highway and Auto Safety
John Lannen, Principal, Institute for Safer Trucking
Siddharth Mahant, CEO, Mahant Transportation
Jaime Maus, Vice President of Safety and Compliance, Werner Enterprises
Stephen Owings, President, Road Safe America
Peter Pantuso, President and CEO, American Bus Association
Travis Plotzer, Captain, Tennessee Highway Patrol
Danny Schnautz, Vice President, Clark Freight Lines, Inc., Pasadena, TX
Holly Skaar, Senior Research Analyst, Idaho State Police, Commercial Vehicle Safety
Todd Spencer, President and CEO, Owner-Operator Independent Drivers Association
Tami Friedrich Trakh, Management Services Officer, Citizens for Reliable and Safe Highways
Ellen Voie, President, CEO, and Founder, Women in Trucking
Greer Woodruff, Senior VP Safety, Security & Driver Personnel, J.B. Hunt Transport, Inc.
Andrew Young, Managing Partner, The Law Firm for Truck Safety

FMCSA AND OTHER GOVERNMENTAL REPRESENTATIVES

Larry Minor, Associate Administrator for Policy and Designated Federal Officer (DFO), FMCSA
Shannon Watson, Senior Policy Advisor and Deputy DFO, FMCSA
Elizabeth Campos, Economist, FMCSA
Charity Coleman, Analyst, USDOT Volpe Center
Mary D'Allaird, Attorney, FMCSA
Joseph DeLorenzo, Director, Office of Enforcement and Compliance, FMCSA
Arija Flowers, Attorney, FMCSA
Jenny Guarino, Analysis Division, Office of Analysis, Research and Technology
Ava Habif, Project Manager, Office of Policy, FMCSA



Mirna Providence, Analyst, US DOT Volpe Center
Cassandra Raposo, Analyst, Volpe National Transportation Systems Center
Eran Segev, Operation Research Analyst, USDOT Volpe Center
Jenna Troderman, Economist, FMCSA
Dicky Waldron, USDOT Volpe Center
Anna Winkle, Attorney, FMCSA

OTHER ATTENDEES

Michael Ahart, Omnitrac, LLC
Travis Baskin, Keep Truckin
Dan Bisom, State of Montana
Gary Catapano, SafeSpeed/Magtec
Alec Costerus, Aerodyne Transportation LLC, President
Carey Crosby, Technical College System of Georgia
Michael Davisson, Committee on Commerce, Science, and Transportation, United States Senate
James Fetzer, Land Line Magazine
Jerry Fritts, American Overland Freight, LLC
P. Sean Garney, Scopelitis Transportation Consulting
John Gallagher, FreightWaves
Jay Grimes, OOIDA
John Grosvenor, No Affiliation
Wyatt Hammond, Tran Services
Daren Hansen, J. J. Keller & Assoc., Inc.
David Hollis, Truckers News
Travis Keeter, Virginia State Police - Motor Carrier Safety Unit
Dan Kobussen, Kobussen Buses Ltd
Brenda Lantz, North Dakota State University-UGPTI
Scott Marks, Transportation Intermediaries Association
Shawn Mitchell, Truckers Independent Broadcasting Network
Andrew Okuyiga, Amazon
Ryan Pietzsch, National Safety Council
Abigail Potter, Washington Trucking Associations
Alec Petrillo, National School Transportation Association
Mike Poole, No Affiliation
Allison Rivera, National Cattlemen's Beef Association
Ashley Saltzman, LULA
Mark Schremmer, Land Line Magazine
Lisa Schmitt, Trucking with the Schmitts
Lee Schmitt, Trucking with the Schmitts
Katherine Stephens, Gundlach and Sons Leasing Co Inc
Nathaniel Stephenson, CEO, NEIBHA LLC
Melissa Szefi, No Affiliation
Norita Taylor, OOIDA
Julio Vega, Vega & Virginia Services, LLC
Salvatore Vetrini, FedEx
Jason Wilson, Spears Transportation



Desiree Wood, Founder and President, REAL Women in Trucking, Inc.

PRESENTATIONS

	Presenter	Presentation
1	Jenny Guarino, FMCSA	Updated Fatality Analysis Reporting System (FARS) Briefing; Small Vehicles
2	Daren Hansen, J.J. Keller	Driver Safety Training for Small CMVs

Monday – December 6, 2021

Chair Byrd called the meeting to order at 9:16 AM.

Presentation: Updated FARS Briefing; Small Vehicles

Jenny Guarino, Analysis Division, Office of Analysis, Research, and Technology, FMCSA

Ms. Guarino addressed injury data for medium/heavy and single-unit trucks, intrastate enforcement threshold for States, and Occupational Safety and Health Administration (OSHA) data on workplace injuries to include people driving motor vehicles on the job. The presentation used data from the National Highway Traffic Safety Administration’s (NHTSA) Crash Report Sampling System (CRSS).

Discussion Points

- The data does not clarify whether the vehicles for which there was no issuing authority were involved in commerce in “Issuing Authority of Select Large Trucks in Injury Crashes, 2017-2019.”
- “Other Vehicle in Large Truck’s Lane” and “Other Vehicle’s Encroachment into Large Truck’s Lane” should be considered together when determining the percent of injury crashes preceded by an event involving another vehicle.
- The chart displaying “Select Large Trucks in Injury Crashes by Body Type, 2017-2019” does not currently show how many drivers or trucks are represented; CRSS can provide that data, but it would need to be rounded up. CRSS’s associated rates are not as robust as in FARS. The data should be treated as a sample.
- The “Large Truck’s Loss of Control” pre-crash event may include an event, for example, in which a stalled engine leads to a truck drifting off, but it does not necessarily include trucks parked at the time of the crash.
- The CRSS data does not include crashes involving vehicles below 10,001 lbs.
- Crash rates among vehicle types not being regulated at the state level is a future research opportunity. FMCSA does not do as much research on injury crash rates as they do on fatal crash rates. FMCSA can only identify in- or out-of-commerce vehicles by those that have issuing authority or a USDOT number. NHTSA is looking to add an element to CRSS to see if the vehicle is being used for such companies as Amazon.
- OSHA did not provide data on workplace injuries to FMCSA. Chairman Byrd remarked that this data may not be collected and there may be a regulatory gap.



Task Statement 20-1: Small Vehicles and Their Potential Safety Impact

In this task, MCSAC is charged with discussing and deliberating changes to the package and small goods delivery sector, specifically motor carriers' increased use of smaller, FMCSA-unregulated trucks (<10,000 lb.) in last-mile deliveries and associated safety impacts.

Discussion Points

- The national registry dataset has a breakdown of CDL and non-CDL holders in intrastate and interstate on medical certifications and physicals; the best FMCSA can do is identify individuals who have had medical cards, but then failed to renew. Sometimes if a driver cannot pass a DOT physical, they then go to drive an unregulated vehicle instead.
- FARS has data on fatalities involving vehicles 6,001-10,000 lbs.
- FMCSA requested presentations from Amazon and UPS but they are busy due to the holiday season. The Chair expressed interest in reaching back out to carriers using smaller vehicles to get information on how they're doing safety performance oversight. Ellen Voie offered to reach out to J.J. Keller, as she knew the CEO. She and FMCSA coordinated this communication through email.
- It is no longer feasible to survey nine states that have the injury and property damage dataset. Committee members agreed to put the survey "on hold" or note that it is pending further analysis.
- There was no uptick in fatal crashes involving 6,001-10,000 lb. vehicles, but there has been an uptick in fatal crashes involving 10,001-14,000 lb. vehicles in recent years. Several committee members agree that they would like to incorporate FARS data from 2020 when available.
- Because smaller vehicles are typically traveling in rural, residential areas rather than highways they do not go as fast, and thus are more involved in injury crashes rather than fatal. FARS does not currently go into detail regarding every injury or property damage.
- eCommerce is a growing industry and this commerce drives delivery. As crashes involving smaller vehicles do not get reported to FMCSA, it would be prudent for FMCSA to understand how these crashes are reported on the state level to better understand how this impacts safety.
- The foray into workplace injury data from OSHA and other sources may shed light on annual crashes, time of month/season, conditions of drivers, where most occur, etc.
- Several committee members expressed interest in updating the MCS-150 form to include a question(s) about using vehicles less than 10,000 lbs. This could help alleviate work for the New Entrant program and identify companies that use smaller vehicles. FMCSA is modernizing its software, which presents a good opportunity to add this in.
- There is lack of understanding of how drivers of smaller vehicles are paid. This information would be difficult to gather, but perhaps the companies who share their safety approach will be willing to share how they pay their drivers.
- Understanding the work environment of drivers of smaller vehicles is important and, in some instances, this is the type of job that drivers may take to enter the industry.



Public Comments

- Travis Baskin of KeepTruckin noted that smaller vehicles cover a significant amount of commercial activity and VMT. Through telematics technology and its wide deployment, safety data could be leveraged to inform policies and continue to advance our shared goal of making roads safer.
- John Grosvenor noted that being in a hurry and overworked gets people in trouble. He suggested checking with insurance companies to gather information and the University of Michigan Transportation Research Institute for relevant studies. Mr. Grosvenor also asked the committee to think about whether smaller vehicles are used seasonally or throughout the year, and if only seasonally, whether they warrant regulatory efforts.
- Lisa Schmitt, co-owner of Trucking with the Schmitts, opined that regulations and compliance do not always equal safety.
- Jerry Fritts claimed that big retailers' employees often use personal vehicles to deliver products on the way home from work, so it is difficult to know how many hours they have worked, their vehicle's condition, etc. Those drivers may drive differently than someone getting paid to do it.
- Nate Stephenson, CEO of NEIBHA, recommended that FMCSA consider allowing drivers to use cannabidiol (CBD). CBD is helpful to him and other drivers, but some CBD products contain traceable amounts of THC that may appear on a drug test.
- Michael Ahart of Omnitracs expressed concern about the drug and alcohol testing policies associated with drivers of smaller vehicles. A smaller vehicle being operated under the influence is as unsafe as a similarly operated 26,000+ lb. vehicle.

Presentation: Driver Safety Training on Small CMVs

Daren Hansen, Senior Editor, J.J. Keller

Mr. Hansen explained that J.J. Keller's training focuses on regulated vehicles, i.e., vehicles 10,001 lbs. and up. Their "Safe and Smart" driver training program comes in the form of either a package carriers can purchase with 35 video-based programs, done online or in person, or in the form of on-site training, which could be a combination of classroom and on-the-road training. J.J. Keller can train both the driver and the trainer. They do not specifically gear training to vehicles smaller than 10,000 lbs. The training is largely regulation-based, but also covers defensive driving, fatigue management and pre-trip inspections.

Discussion Points

- J.J. Keller offers compliance services for non-regulated vehicles, but they target their services to the regulated market.
- Mr. Hansen will obtain information about how many clients J.J. Keller hears from in a typical year and how many they hear from now, during the pandemic.
- Mr. Hansen was not sure J.J. Keller was doing in-vehicle training at the time and said he would get information about their COVID-19 safety measures as well.
- Mr. Hansen will ask if J.J. Keller collects data from their clients to see if there have been any improvements after completing their training.

RECESSED: The meeting recessed at 3:28 PM until Tuesday, December 7, 2021.



Tuesday, December 7, 2021

REMARKS AND COMMITTEE ACTION

The Committee approved the July 2021 minutes unanimously.

Report of the Driver Subcommittee on Task 21-1, Supply Chain and CMV Driver Recruitment and Retention

Todd Spencer, Chair, Driver Subcommittee, MCSAC

Mr. Spencer presented the Driver Subcommittee's report to MCSAC.

Task 21-1: Supply Chain and CMV Driver Recruitment and Retention

In this task, FMCSA directs the MCSAC to discuss the challenges associated with driver recruitment and retention for meeting the demands of the supply chain. The Agency asks MCSAC to consider available information in developing recommendations concerning government and private-sector actions that should be considered to maximize efforts to recruit and retain experienced talent.

Discussion Points

- Parking and pay are top issues. Companies paying salaries seem to have more success retaining employees. Paying by the mile gives drivers the wrong message: get there as fast as you can. Parking enhances safety; the safer the job, the more attractive it will be.
- Challenges getting drivers licensed, especially during the pandemic, is an issue. Drivers are not willing to wait months to get a CDL.
- Drivers feel as if companies point to the driver whenever there is a problem. The job suffers from an image issue; the pandemic shined a positive light on the trucking industry, but that light is already diminishing.
- Women In Trucking completed a survey asking drivers where they feel least safe, and it was truck stops and rest areas. Women In Trucking is working on developing white papers about this topic.
- Safety technology reduces crashes, but education on their use is necessary as well.
- A "Fix-It ticket" program may help ensure vehicles are in working order. This concept would provide notice and allow the driver time to address minor compliance issues.
- While drivers may not be punished for a minor issue such as a light going out once, lights constantly going out may be a sign of a larger problem; that is the point of documenting violations. However, a driver written up for an out of service (OOS) violation, which goes onto his permanent record, could be getting punished for something that happens often to old trailers.
- Since safety is a big factor in recruiting and retaining drivers, perhaps making it easier for drivers to understand a company's safety data before applying to it would help.
- In intermodal equipment usage, there is a limited amount of control because it is not the company's equipment. FMCSA regulates the intermodal equipment provider (IEP), so if they do not have proper inspection programs in place, FMCSA has the authority to go after them. IEPs have caused a culture of "not my chassis," i.e., "not my equipment."



Regarding parking, drivers should get the benefit of the doubt; when they park in a less safe location, they should be able to explain why that location was the only option. Data on crashes that occur because a truck is not parked at a truck stop or another appropriate spot would be helpful.

- Trucking companies pay taxes at the state level based on mileage, so perhaps this database would shed light on traffic in each state and how much parking is needed.
- More parking is not enough; there needs to be smarter parking that drivers can count on and plan on. Drivers lose time planning parking and make less money.
- There was discussion about opening carrier facilities' parking spots to other drivers when their drivers are not using them; perhaps using technology such as a parking app to find a spot and reserve it. It could be used as a recruiting tool as well.
- While dispatchers could help drivers find parking, drivers may have the best understanding of what is currently available at their location.
- FMCSA could establish training best practices as guidance, but they would not fit neatly into regulation that can be practically implemented.
- Drivers had the power to negotiate compensation until Congress eliminated the ICC and made it more difficult for unions.
- Drivers must be paid for all hours performed, including while waiting due to delay caused by weather, the shipper or receiver, etc.
- When a driver feels their time is not being valued, they should find a company that will value it—this a reason behind high turnover.
- The current system does not provide incentives for drivers to progress. Perhaps once a driver has gained sufficient experience, they could be subject to less scrutiny.
- FMCSA cannot make a regulation on transparency, but the committee found it important to ensure recruiters are transparent and honest when discussing pay with new drivers. Unmet expectations are a big cause of turnover.
- Establishing an educational tool about detention pay compensation may educate small carriers on the issue and inspire change over time.
- Drivers start with a scheduled pickup and delivery time, but the driver ultimately has discretion. If there is a delay or the delivery time is adjusted, the driver will not be making it home as expected, which creates stress. Proper trip planning would avoid this.
- Income unpredictability is a cause of drivers leaving the industry. FMCSA may identify relevant resources to assist drivers, such as Women In Trucking's upcoming educational website, including questions drivers should ask before choosing a school or carrier.
- Several committee members expressed concern about the ability of a driver who does not speak English well or at all to be a safe driver; not being able to communicate would be an issue in emergency situations.

Public Comments

- Lisa Schmitt, co-owner of Trucking with the Schmitts, supported the idea of the Fix-It ticket program, but said that DataQs is inconvenient for drivers. It takes months to fix a violation. Ms. Schmitt also reminded of the 14-hour clock removal that drivers have been asking for and claimed that detention pay is not making it to drivers. Ms. Schmitt also claimed that drivers lose 56 minutes every day looking for parking. Apps used to reserve



parking are already in effect, but they cannot be enforced because of the labor shortage. Often a spot is taken before the driver arrives.

- Travis Baskin of KeepTruckin said that there needs to be reasonability in the exercise of enforcement discretion. This can be facilitated by guidance or directive or built into CSA. Mr. Baskin also noted that advanced driver-assistance systems technology and dash cameras are good areas to explore.
- Carey Crosby of TCSG noted that roadside officers’ concentration is not just on finding a violation, but on ensuring safety. Officers allow drivers to do the necessary repairs, but drivers often do not want to or do not have the equipment. Officers sometimes escort them to get it done, but drivers will take off, which results in a violation.
- John Grosvenor expressed concern about there being no competency test to get a DOT authority. Drivers must go through a lot to get a CDL, but anyone can get a DOT authority, which leads to drivers working for people who do not understand the regulations or the industry. Mr. Grosvenor also expressed concern with FMCSA’s review of things such as HOS rules – he said they should be reviewed periodically – and increases in fatalities in states where marijuana is legalized. Mr. Grosvenor also suggested using the Surface Transportation Board to set compensation rates to ensure drivers are getting paid for all time worked.
- Lee Schmitt of Trucking with the Schmitts implored the committee not to make new technology mandatory; drivers need to be able to shut off automatic braking. He claimed therefore older drivers do not usually buy new trucks. Mr. Schmitt also said a lot of drivers would stop quitting if companies would stop lying to them.
- Alec Costerus, president of Aerodyne Transportation, proposed that FMCSA eliminate the motor carrier exemption to the Fair Labor Standards Act. Mr. Costerus claimed that it will resolve a lot of issues such as detention pay because carriers will make sure shippers and receivers load and unload expeditiously. He suggested using ELD technology such as a pay clock to include all time worked and exclude time in sleeper berth. Mr. Costerus also said accuracy and transparency in recruitment and pay would help retain drivers; if a driver is on the job and not compensated for substantial time, they will not stay.
- Jay Grimes, Director of OOIDA, said in relation to the recommendation on research, there is a provision in the latest highway bill requiring FMCSA and TRB conduct a driver study. Mr. Grimes suggested rephrasing to include the driver subcommittee.

ADJOURNMENT: Chair Byrd adjourned the meeting at 4:35 pm.

For more detail, please refer to the committee discussion notes and report on the MCSAC website.

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

_____/Signed//_____
 Peter Kurdock
 Chair

_____/Signed//_____
 Larry W. Minor
 Designated Federal Officer