Minutes

Motor Carrier Safety Advisory Committee Meeting

February 6 – 9, 2012

The Federal Motor Carrier Safety Administration’s (FMCSA) Motor Carrier Safety Advisory Committee (MCSAC) met February 6 – 9, 2012, in Alexandria, VA. In accordance with the provisions of

Public Law 92-463, the meeting was open to the public.

Mr. Larry Minor, the FMCSA Designated Federal Official (DFO), called the meeting to order at 8:30 a.m. on Monday, February 6, 2012.

The following individuals attended the meeting:

**COMMITTEE MEMBERS PRESENT FOR ALL OR PART OF THE MEETING:**

Rob Abbott, Vice President for Safety Policy, American Trucking Associations

LaMont Byrd, Director, Health and Safety Department, International Brotherhood of Teamsters

Paul Claunch, Major, Arkansas Highway Police

Bill Dofflemyer, Captain, Maryland State Police

Scott Hernandez, Lieutenant Colonel, Colorado State Patrol

Thomas Jacques, Master Patrol Officer, Pittsburgh, PA, Police

Henry Jasny, General Counsel, Advocates for Highway and Auto Safety

John Lannen, Executive Director, Truck Safety Coalition

Jane Mathis, Board of Directors, Parents Against Tired Truckers

Janice Mulanix, Assistant Chief of Enforcement and Planning Division, California Highway Patrol

Stephen Owings, President, Road Safe America

Peter Pantuso, President and CEO, American Bus Association

David Parker, Senior Legal Counsel, Great West Casualty Company

Robert Petrancosta, Vice President of Safety, Con-Way Freight

Robert “R. C.” Powell, Master Trooper, Virginia State Police

Danny Schnautz, Operations Manager, Clark Freight Lines, Inc.

Calvin Studivant, Vice President, Bus Operations, United Transportation Union

Todd Spencer, Executive Vice President, Owner-Operator Independent Drivers Association

**MEDICAL REVIEW BOARD (MRB) MEMBERS (joint meeting Dec. 7, 2012):**

Carl Soderstrom, M.D., Chief, Medical Advisory Board of the Maryland Motor Vehicle Administration

Brian T. Morris, M.D, Associate Corporate Medical Director, AllOne Health Resources, Inc.

Albert J. Osbahr III, M.D., Medical Director, Occupational Health Services, Catawba Valley Medical Center

Gina C. Pervall, M.D., Medical Director, Occupational Medicine Services, John Hopkins University Applied Physics Laboratory Services

**DOT REPRESENTATIVES PRESENT FOR ALL OR PART OF THE MEETING:**

Anne Ferro, Administrator, FMCSA

Albert Alvarez, Office of Analysis, Research and Technology, FMCSA

Joe DeLorenzo, Director, Office of Enforcement and Program Delivery, FMCSA

Ava Herman, Regulatory Development Division, FMCSA

Benisse Lester, M.D., Chief Medical Officer, FMCSA

Larry Minor, Associate Administrator for Policy, FMCSA

Bill Varga, Regulatory Affairs Division, FMCSA

Angela Ward, MRB Liaison, FMCSA

Shannon Watson, Senior Advisor for Policy and MCSAC Liaison, FMCSA

**OTHERS PRESENT FOR ALL OR PART OF THE MEETING:**

Sarah Alves, ICF International

Jim Angel, PeopleNet

Greg Belenky, M. D., Washington State University

Alex Capelle, Continental Corp.

John Carter, Homelink Diagnostics

Cyndi Cramblett, OOIDA

Scott Craig, Midwest Dental

Tom Cuthbertson, Xata Corp.

Brad Czernejewski, Federal Sleep Institute

Todd Dills, Overdrive Magazine

James Duncan, M.D., NTSB

Maura Fitzpatrick, Howard/Stein-Hudson

Donald Fowler, National School Transportation Association

Edward Grandi, American Sleep Apnea Association

Mirna Gustave, MacroSys

Kathy Hartman, Greyhound

Phil Hinshaw, Sammons Trucking

David Hobson, National School Transportation Association

Tony Jewell, Philips

William Keppen, Keppen Assoc.

Barry Kurtzer, Driver Check, Inc.

Alan Lankford, Sleep Disorders Center of GA

Karen Levy, Princeton University

Norman Littler, American Bus Association

Rachel McCleary, National School Transportation Association

Earnestine McMillian, Greyhound Lines, Inc.

Julie Perrot, NTSB

Alan Potter, Booz Allen Hamilton

Jana Price, NTSB

Jeff Schnobrich, Transportation Trades Department

Rick Schweitzer, National Private Truck Council

Al Smith, Greyhound Lines, Inc.

Boyd Stephenson, American Trucking Associations

Georgia Thu, ICF International

Ted Thurn, American Academy of Sleep Medicine

Elizabeth Turner, Volpe Center

David Wehmeyer, Safety Vision

Rich Wilson, Tran Services / Trans Products

**FMCSA ADMINISTRATOR COMMENTS:**

Administrator Ferro thanked the members of MRB and MCSAC for their time and effort and said she was looking forward to a robust discussion. The Administrator recognized the time and commitment that all members have given and thanked everyone for their service and leadership.

**TASKS:**

On Monday, February 2, 2012, the MCSAC met jointly with the MRB to continue their discussion on Task 11-05 “Development of Regulatory Guidance on Obstructive Sleep Apnea (OSA)” and review the Obstructive Sleep Apnea subcommittee report that was developed in January 2012. The Committee and Board approved the final Task 11-05 report unanimously.

The MCSAC Committee began discussions on Task 12-01 “Measures to Ensure Electronic On-Board Recorders (EOBRs) are not used to harass Commercial Motor Vehicle Operators.” The Committee voted unanimously to approve the final report for Task 12-01 and submit it to the Administrator.

A subcommittee was formed to continue discussions on Task 11-06 “Hours-of-Service Requirements for Passenger-Carrying Vehicles.”

**MINUTES:**

The Committee unanimously accepted the minutes from the December 5 – 8, 2012 MCSAC meeting.

**PRESENTATIONS:**

Joe DeLorenzo, Director, Office of Enforcement and Program Delivery, FMCSA presented “Compliance, Safety, Accountability (CSA) and Passenger Carrier Program Updates”

Greg Belenky, M. D., Research Professor and Director, Sleep and Performance Research Center, Washington State University, presented “Motorcoach Drivers and Fatigue Research Findings”

Tom Cuthbertson, Xata Corp., gave a talk to the MCSAC regarding the history of EOBR/fleet management systems and how they are used.

**PUBLIC COMMENT PERIODS:**

***Edward Grandi, American Sleep Apnea Association (ASAA):***

Mr. Grandi discussed various resources that the Committee may want to consider in trying to identify a screening tool for Obstructive Sleep Apnea including comments posted on the Regulations.gov website and the Center for Medicare/Medicaid Services.

Mr. Grandi also pointed out that the Supreme Court will hear the Affordable Care Act in March which may result in 50 different state laws regarding what essential benefits are. He suggested the Committee ask their Designated Federal Official to speak with his colleagues at Department of Health and Human Services to ensure that diagnosis and treatment of Obstructive Sleep Apnea is considered an essential health benefit.

***David Wehmeyer, Safety Vision:***

Mr. Wehmeyer suggested looking into various technologies available regarding sleep apnea. He mentioned that some technologies are available that will indicate whether a driver has a problem with sleep apnea or not and email information back to a host for live data. The host is able to see if a driver is in a dangerous zone: sleep apnea, drowsy driving, or being inattentive. He explained that this type of technology won’t just indicate drivers with Sleep Apnea but drivers with any sort of distraction.

***Donald Fowler, National School Transportation Association (NSTA):***

Mr. Fowler gave his own example of why indicators may not be the best predictors. He has sleep apnea but has a BMI of only 27 and never had a problem sleeping. Mr. Fowler also pointed out the cost of the screenings, tests and insurance.

***Dr. Alan Lankford, Sleep Disorders Center of GA:***

Dr. Lankford clarified terminology that the Committee had been using throughout their discussions: “home testing” is actually “portable monitoring” and it refers to a device that one can use in a variety of settings, including the cab of a truck.

Dr. Lankford also suggested some terminology be changed such as “FDA approved limited channel devices” as studies have shown that some devices that fall under that heading are not accurate tools to diagnose sleep apnea. Dr. Lankford also suggested using “objective chain of custody” instead of simply “chain of custody” in order to omit self-reporting. He also suggested for negative sleep studies, instead of having the patient go directly to the lab, another sleep study should be conducted as studies have shown that there are night to night variances for sleep apnea.

***Scott Craig, Midwest Dental:***

Mr. Craig explained to the Committee that there are commercially available oral appliances that people with sleep apnea can use instead of CPAP machines and that there are also devices available to measure compliance in wearing the oral appliances (i.e. Smart Retainers). Mr. Craig offered specific studies that have been conducted in which the results point to the accuracy and benefits of using oral appliances as treatments for sleep apnea. In addition, Mr. Craig pointed out that oral appliances are often preferred by patients because they are quieter than CPAP machines and they don’t require a power source.

***Ted Thurn, American Academy of Sleep Medicine:***

Mr. Thurn thanked the committee and board for the ability to provide comments and stated that the American Academy of Sleep Medicine believes regulatory guidance is critical for the health of CMV drivers. Mr. Thurn made specific recommendations to change wording and clarify points in the Committee and Board’s recommendations. Mr. Thurn closed by saying that the recommendations are thorough and thoughtful and that they will not only optimize the health of CMV drivers but will also reduce costs for insurers. Finally, Mr. Thurn described a proposal that is currently available that outlines a new care model for sleep apnea patients that reduces costs and offered to share that proposal with the Committee.

***David Hobson, National School Transportation Association (NSTA):***

Mr. Hobson pointed out that approximately two-thirds of school bus drivers are Public and therefore not governed by FMCSA. He asked the Committee what will happen with those public drivers and also pointed out that some of the private contractors will move to Public positions to avoid OSA guidelines and regulations.

***Tom Cuthbertson, Xata Corporation***

Mr. Cuthbertson pointed out to the Committee that GPS devices are not as expensive as has been mentioned during the meeting; they cost about $15 - $20, the rest of the cost is software related.

***David Wehmeyer, Safety Vision***

Mr. Wehmeyer again spoke to the Committee to encourage everyone (motor carriers, drivers, the Agency) to embrace the technologies available to them. He said that over the past two days he’s heard discussions that seem to be focused on drivers vs. management but that these technologies can be beneficial to everyone and can help prove whether a driver was harassed, whether a driver was texting while driving, etc. Mr. Wehmeyer believes that the regulations should be written by all parties affected so that the regulations would help everyone.

***Jim Angel, PeopleNet:***

Mr. Angel said that, since the Committee described harassment as singling out a specific group in a negative way, it would be interesting to see if they regroup a year from now to discuss that singling out a group of drivers by age and BMI for sleep apnea screening is a harassment issue.

Mr. Angel also discussed how he, as a driver, would have liked to have had electronic devices in his CMV when he was driving as protection for him to show where and what he was doing while on duty. The technologies can show that, for example, a driver was held up at a shipper waiting for a load.

***Alex Capelle, Continental Corporation:***

Mr. Capelle discussed the importance of developing specific definitions of what constitute EOBRs for the regulations so that when they are published there is little room for interpretation. He explained that there are many technologies that could be considered EOBRs but do not provide real time information of positions which should be important for this purpose.

***Rich Wilson, Transproducts and Transervices***

Mr. Wilson said that he thought it was an important educational tool for drivers to use log books as it would help them to learn and understand the HOS rules. He also said that EOBRs would not record resting properly and would only record when the truck is moving.

**ADJOURNMENT:** The meeting was adjourned at 5:00 pm on Wednesday, February 8, 2012.

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David R. Parker

Chairman

Motor Carrier Safety Advisory Committee

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Larry W. Minor

Designated Federal Official

Motor Carrier Safety Advisory Committee