**Motor Carrier Safety Advisory Committee (MCSAC)**

**Task Statement 16-1: Review of Regulatory Guidance**

**I. Task Title**

Provide recommendations to the Agency concerning implementation of section 5203 of the FAST Act to: (1) prioritize regulatory guidance that should be incorporated into the safety regulations to promote clear, consistent, and enforceable rules; (2) identify regulatory guidance that appears to be inconsistent with the intent of the safety regulations or makes enforcement of key safety requirements difficult; and (3) identify guidance that should remain in place.

**II. Background**

FMCSA’s website provides interpretive guidance material for the Federal Motor Carrier Safety Regulations (FMCSRs). The guidance is presented in question and answer form for each part of the FMCSRs. A significant percentage of the guidance was published by the Federal Highway Administration on November 17, 1993 (58 FR 60734), with an updated publication on April 4, 1997 (62 FR 16370). Since 1997, FMCSA has issued new guidance documents periodically, revised guidance, or rescinded guidance based on changes to the FMCSRs. The Agency has not undertaken a comprehensive review of the full set of its regulatory guidance since the 1997 publication.

Section 5203 of the FAST Act provides new requirements for FMCSA’s management of guidance documents. A “guidance document” is defined for purposes of section 5203 as a “document . . . that (1) provides and interpretation of a regulation of the Administration; or [sic] (2) includes an enforcement policy of the Administration available to the public.” Not later than December 4, 2016, the Administrator must conduct an initial review of all FMCSA guidance documents in effect on December 4, 2015, to ensure that the documents are current, readily accessible to the public, and meet the standards of section 5203(c)(1)(A) – (C) (consistent and clear; uniformly and consistently enforced; and still necessary). § 5203(b).

FMCSA is required to conduct a comprehensive review of its guidance documents at least every 5 years to determine if they are (A) consistent and clear; (B) uniformly and consistently enforced; and (C) still necessary. Before a 5-year review, the Administrator must publish a notice in the Federal Register requesting comment on which guidance documents should be updated or eliminated. Within 60 days after completing a 5-year review, the Administrator must publish on a publicly accessible website a report detailing the review and providing a full inventory of FMCSA guidance documents.

**III. Task**

The Agency requests that the MCSAC consider the set of regulatory guidance for each part of the FMCSRs and determine which sets of guidance should be prioritized for review. The MCSAC should conduct of review of the regulatory guidance for those sets to identify regulatory guidance that should be (1) incorporated into the safety regulations to promote clear, consistent and enforceable rules; (2) eliminated because it appears to be inconsistent with the intent of the safety regulations or makes enforcement of key safety requirements difficult; or 3) retained because it is more appropriate as guidance rather than regulatory text. The sets of regulatory guidance are presented in the table below:



As the MCSAC meetings are open to the general public, the Committee should consider any information identified by individuals making remarks during the meeting.

**IV. Estimated Time to Complete Task**

The MCSAC should begin developing their recommendations to the Agency on Task 16-1 at the June 2016 meeting and submit a letter report to the Administrator following the fall 2016 meeting.

**V. FMCSA Technical Representatives**

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Attachment: Compilation of Current Regulatory Guidance