



U.S. Department
Of Transportation
Federal Motor Carrier
Safety Administration

Memorandum

September 28, 2015

INFORMATION MEMORANDUM TO THE SECRETARY

From: T.F. Scott Darling, III *T.F. Scott Darling, III for S.D.*
Acting Administrator
X61527

Thru: *Larry W. Minor*
Larry W. Minor
Associate Administrator for Policy
X62551

Prepared by: Shannon L. Watson
Senior Policy Advisor
and Deputy Designated Federal Officer, MCSAC
x52395

Subject: Response to the Secretary's question on MCSAC Charter Renewal

SUMMARY

In the Secretary's review of the memo requesting renewal of the charter for the Motor Carrier Safety Advisory Committee (MCSAC), the Secretary asked a clarifying question on how the Department could utilize the MCSAC in its Safety Review and whether there are key voices on the board that could help gain stakeholder "buy in" that are not now represented.

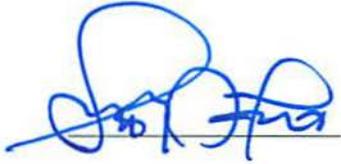
BACKGROUND

In response to the Secretary's question, the Agency utilizes the expertise of the MCSAC's membership across the four sectors of motor carrier safety. These include safety advocacy, safety enforcement, labor, and industry representatives. The MCSAC's membership is balanced among those sectors to achieve the broadest representation possible and the Agency is always looking for more interested parties who will further complement the membership, while assessing the composition of the industry to ensure that we have a balanced committee. Within the four broad categories, the representation is diverse as well, representing both the bus and trucking interests and even finer interests like the school bus community and local law

enforcement. FMCSA tasks the MCSAC with work that utilizes its vast and diverse expertise to give the Agency feedback on how to best achieve better safety outcomes among the population we regulate. The Agency will work gladly with the OST Office of Policy to develop a task on the Department's Safety Review for the MCSAC's next meeting in February 2016 and would be happy to include the Secretary should he be interested in attending.

The Secretary

REVIEWED:

A handwritten signature in blue ink, appearing to be "John F. ...", written over a horizontal line.

COMMENTS:

DATE:

9-30-15



U.S. Department
of Transportation

**Federal Motor Carrier
Safety Administration**

Administrator

September 21, 2015

1200 New Jersey Avenue, SE
Washington, DC 20590

ACTION MEMORANDUM TO THE SECRETARY

From: T.F. Scott Darling, III 
Acting Administrator
x61927

Thru: Larry W. Minor
Associate Administrator for Policy
x62551

Prepared by: Shannon L. Watson
Senior Policy Advisor
and Deputy Designated Federal Officer, MCSAC
X52395

Subject: Renewal of Charter for the Motor Carrier Safety Advisory Committee

ACTION REQUIRED

I request your approval of the attached charter for the Motor Carrier Safety Advisory Committee (MCSAC) of the Federal Motor Carrier Safety Administration (FMCSA). The MCSAC is a discretionary advisory committee under the Federal Advisory Committee Act (FACA).

BACKGROUND

The MCSAC's current charter was last approved by you on September 10, 2013, with an effective date of September 30, 2013.

Currently, MCSAC is composed of 18 representatives of the motor carrier industry, labor, safety advocate, and safety enforcement communities. This charter continues to allow the Administrator to appoint MCSAC's members in accordance with Section 4144 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. Presently, the terms of all members expire on September 30, 2015. I plan to reappoint its membership for up to 2-year terms consistent with the MCSAC charter and membership balance plan. The MCSAC's continuation is in the public interest, as it has provided invaluable advice and recommendations to FMCSA. Most recently, MCSAC finalized recommendations to FMCSA on how the Agency can best encourage carriers to go beyond compliance in their safety programs. At its upcoming

September meeting, the committee will join FMCSA's Medical Review Board in recommending a strategy for improving commercial motor vehicle driver health and wellness.

This charter has been reviewed by the General Services Administration (GSA) and the Department's FACA Committee Management Officer. At this time, FMCSA would appoint all of the current MCSAC members to continue to serve new terms on the MCSAC under the new charter.

RECOMMENDATION

I recommend that you approve this charter, designating the MCSAC as a discretionary advisory committee, effective September 30, 2015, through September 30, 2017.

Attachment 1: Draft charter for the MCSAC.

Attachment 2: Membership Balance Plan.

The Secretary

APPROVED:



DISAPPROVED:

COMMENTS:

DATE:

9-30-15

MOTOR CARRIER SAFETY ADVISORY COMMITTEE CHARTER

1. **COMMITTEE'S OFFICIAL DESIGNATION:** The committee's official designation is the Motor Carrier Safety Advisory Committee (MCSAC).
2. **AUTHORITY:** The Committee is renewed as a discretionary committee under the authority of the U.S. Department of Transportation (DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. The formation and use of MCSAC are determined to be in the public interest.
3. **OBJECTIVES AND SCOPE OF ACTIVITIES:** The Federal Motor Carrier Safety Administrator, or his or her designee, shall present MCSAC with tasks on matters relating to motor carrier safety. The Committee will provide advice and recommendations to the Administrator of the Federal Motor Carrier Safety Administration (FMCSA) about needs, objectives, plans, approaches, content, and accomplishments of the motor carrier safety programs carried out by the Administration and motor carrier safety regulations. MCSAC is FMCSA's only representative stakeholder body.
4. **DESCRIPTION OF DUTIES:** The members of the committee shall:
 - a. Attend committee meetings;
 - b. Gather information as necessary to discuss issues presented by the Designated Federal Officer (DFO);
 - c. Deliberate on issues relevant to commercial motor vehicle safety; and
 - d. Provide written consensus advice to FMCSA.
5. **AGENCY/OFFICIAL TO WHOM THE COMMITTEE REPORTS:** The Committee shall report to the FMCSA Administrator through the Associate Administrator for Policy. The Administrator is the sponsor of the Committee and accepts or rejects recommendations produced by the Committee.
6. **SUPPORT:** The FMCSA's Office of Policy will provide necessary funding, logistics, and administrative support for the committee.
7. **ESTIMATED ANNUAL OPERATING COSTS AND STAFF YEARS:** The annual operating costs associated with the Committee's functions are estimated to be \$250,000 including all direct and indirect expenses. The Agency estimates that 2.5 full-time equivalent positions will be required to support the Committee.
8. **DESIGNATED FEDERAL OFFICER (DFO) AND SPONSOR**

- a. The DFO for the Committee is FMCSA's Associate Administrator for Policy or his or her designee.
- b. The DFO shall designate an independent facilitator for Committee meetings.
- c. The DFO will approve or call all Committee and subcommittee meetings, prepare and approve all meeting agendas, attend all Committee and subcommittee meetings, adjourn any meetings when he or she determines adjournment to be in the public interest, and chair meetings when directed to do so by the FMCSA Administrator.
- d. Timely notice of Committee meetings must be published in the Federal Register at least 15 calendar days prior to the meeting.

9. ESTIMATED NUMBER AND FREQUENCY OF MEETINGS

- a. Committee meetings will be held approximately three times each year. As necessary, special and subcommittee meetings may be called by the DFO.
- b. Notice of each meeting shall be published in the Federal Register at least 15 calendar days prior to the date of the meeting. The meeting agenda and all relevant meeting information will be posted in advance of each meeting at the website (www.fmcsa.dot.gov/mcsac).
- c. Meetings shall be open to the general public, except as provided under section 10(d) of FACA, as implemented by 41 CFR § 101-6.10, the Government in the Sunshine Act (5 U.S.C. § 522b(c)), 41 CFR Part 102-3, and DOT Order 1120.3B.
- d. Detailed minutes of each meeting shall be certified by the DFO or his or her designee and maintained by the sponsor. The minutes, as certified, shall be available for public inspection and copying at the website (www.fmcsa.dot.gov/mcsac).

10. DURATION: The MCSAC is a continuing committee, subject to renewal every 2 years.

11. TERMINATION: This charter shall terminate 2 years from its filing date unless renewed in accordance with FACA.

12. MEMBERSHIP AND DESIGNATION

- a. The committee shall be comprised of no more than 20 members (representatives) appointed by the Administrator for up to 2-year terms.
- b. Members serve at the pleasure of the Administrator. The Administrator may extend appointments and may appoint replacements for members who have resigned outside a stated term, as necessary.
- c. Members may be reappointed by the Administrator.

- d. Members will be selected from among individuals who are not employees of FMCSA and who are specially qualified to serve on the committee based on their education, training, or experience. Those members appointed solely for their expertise shall serve as Special Government Employees.
 - e. The members shall include representatives of the motor carrier industry (including insurance carriers serving the industry), safety advocates, safety enforcement officials, and nonprofit employee labor organizations representing commercial motor vehicle drivers. Representatives of a single enumerated interest group may not constitute a majority of the committee.
 - f. To ensure the recommendations of the Committee have taken into account the needs of diverse groups served by the Department, membership shall include, to the extent practicable, individuals and/or organizations to represent minorities, women, and persons with disabilities.
 - g. Members may continue to serve until their replacements have been appointed. Members may be removed for cause by the Secretary, the FMCSA Administrator, or his or her designee.
 - h. The Administrator, through the Associate Administrator for Policy, shall designate a chairman and vice chairman from among members of the committee. They will serve 2-year nonrenewable terms. The vice chairman will succeed the chairman at the end of the term.
13. **SUBCOMMITTEES**: The FMCSA shall be authorized to establish subcommittees. Subcommittees shall not work independently of the chartered MCSAC and shall report all of their recommendations and advice to the full MCSAC for deliberation and discussion. Subcommittees must not provide advice or work products directly to FMCSA or DOT.
14. **RECORDKEEPING**: The records of the Committee, formally and informally established subcommittees, or other subgroups of the Committee, shall be handled in accordance with General Records Schedule 6.2 or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. § 552.
15. **FILING DATE**: The filing date of this charter is effective _____, which is the filing date of this renewed charter. The committee will remain in existence for 2 years after this date unless sooner terminated or renewed.

**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION**

**MEMBERSHIP BALANCE PLAN
OF THE MOTOR CARRIER SAFETY ADVISORY COMMITTEE**

1. **COMMITTEE'S OFFICIAL DESIGNATION:** The committee's official designation is the Motor Carrier Safety Advisory Committee (MCSAC).
2. **AUTHORITY:** The Committee is renewed under the authority of the U.S. Department of Transportation (DOT), established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App. 2. *See* Memorandum of the President entitled, "Regulatory Reinvention Initiative" (March 4, 1995) and Sec 6(a) of Executive Order 12866 (Sept 30, 1993).
3. **MISSION/FUNCTION:** The committee will provide advice and recommendations to the Administrator of the FMCSA on motor carrier safety programs and motor carrier safety regulations.
4. **POINTS OF VIEW:** The committee consists of members from FMCSA's stakeholder groups, representing the motor carrier industry (including insurance carriers that provide service to the motor carrier industry), safety advocates, safety enforcement, and labor officials. The MCSAC membership ceiling is set at 20.
 - a. The committee may be composed of up to 20 members who are selected from among individuals who are not employees of FMCSA and who are specially qualified to serve on the committee based on their specialized experience, education, or training in commercial motor vehicle safety issues. The members include representatives of the motor carrier industry, safety advocates, labor, and safety enforcement officials.
 - b. The Agency seeks every opportunity to achieve greater balance on the committee and has done so since the committee was established in September 2006. The current membership numbers 18 and is balanced among the sectors at six members from industry, four from enforcement (one of whom is the current chairman), five from safety, and three from labor. The terms of all committee members will be renewed for two years with this new charter. With each appointment, the Agency seeks to achieve great balance among the membership sectors.
5. **OTHER BALANCE FACTORS:** In addition to the factors stated above to balance the committee membership, the Agency seeks balance with regard to the following factors: gender; geographic area; race and ethnicity; expertise; diversity of work sector; and other factors to achieve the most diverse and comprehensive points of view.

6. CANDIDATE IDENTIFICATION PROCESS

- a. Periodically, when a number of openings arises on the committee, the Agency solicits membership from among the representative sectors through a notice in the Federal Register and other advertisements, as necessary. Adequate time is allowed for candidates to apply or be nominated. Additionally, the FMCSA Administrator may extend appointments and may appoint replacements for members who have resigned outside of a stated term, as necessary.
 - b. Upon the closing of the application period, candidate applications are compiled and reviewed and recommendations for membership made by the committee liaison to the FMCSA Associate Administrator for Policy, who serves as the committee Designated Federal Officer (DFO), and then to the FMCSA Administrator for consideration and selection.
 - c. Under the MCSAC Charter, committee members continue to serve until new members have been appointed to replace them. Members may be appointed by the Administrator for up to 2-year terms, and may be reappointed by the Administrator.
7. SUBCOMMITTEE BALANCE: In the event that subcommittees are established, they will be balanced according to the criteria discussed above. A truncated selection process may be implemented.
8. DATE PREPARED/UPDATED: This Membership Balance Plan was prepared initially on November 19, 2010, and will be updated in conjunction with the charter every two years. The most recent update was completed September 16, 2015.