**Meeting Minutes**

**October 25, 2016**

The Federal Motor Carrier Safety Administration’s (FMCSA) Motor Carrier Safety Advisory Committee (MCSAC) met on October 25, 2016, in Washington, DC. In accordance with the provisions of Pub. L. 92-463, the meeting was open to the public. Col. Scott Hernandez, MCSAC Chairman, called the meeting to order at 9:15 a.m. with the MRB joining; the MCSAC met without the MRB for the afternoon.

The following individuals attended the meeting:

**MCSAC COMMITTEE MEMBERS**

Scott Hernandez, Chairman; Chief, Colorado State Patrol

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

Gary Catapano, Senior Vice President of Safety, First Student, Inc.

Bill Dofflemyer, Captain, Maryland State Police

Jennifer Hall, General Counsel and Executive Vice President Legal Affairs, American Trucking Associations

Bruce Hamilton, Vice President, Amalgamated Transit Union

Henry Jasny, Advocates for Highway and Auto Safety

John Lannen, Vice Chairman; Executive Director, Truck Safety Coalition

Jane Mathis, Parents Against Tired Truckers

Robert Mills, Officer, Fort Worth, Texas Police Department

Janice Mulanix, Chief, Valley Division, California Highway Patrol

Stephen Owings, President, Road Safe America

David Parker, Senior Legal Counsel, Great West Casualty Company

Danny Schnautz, Clark Freight Lines, Inc.

Calvin Studivant, Motorcoach Operator, Community Coach

Pete Pantuso, President and CEO, American Bus Association

David Parker, Senior Legal Counsel, Great West Casualty Company

Danny Schnautz, Operations Manager, Clark Freight Lines

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

Tami Friedrich Trakh, Citizens for Reliable and Safe Highways

**FMCSA AND OTHER GOVERNMENTAL REPRESENTATIVES**

Larry Minor, Associate Administrator for Policy and Designated Federal Officer (DFO), FMCSA

Eran Segev, United States Department of Transportation, Volpe Center

Cyndy Shaffer, United States Department of Transportation, Volpe Center

**OTHER ATTENDEES**

Jose R. Cestero, FMCSA

Keith Charles, National Motor Freight Traffic Association

Matt Erim, National Motor Freight Traffic Association

Jeff Evans, National Sleep Foundation

Amina Fisher, FMCSA

Jay Grimes, Owner-Operator Independent Drivers Association

Mirna Gustave, iBiz

Christine Hydock, FMCSA

Kelly McNelis, iBiz

Eric Miller, Transport Topics

Katherine Millette, iBiz

Jeff Moller, Association of American Railroads

Alan Smith, Greyhound

Body Stephenson, National Tank Truck Carriers

Ronna Weber, FMCSA

Andrew Wohleber, Transportation Trades Department, American Federation of Labor and Congress of Industrial Organizations

**REMARKS AND COMMITTEE ACTION**

The June 13-14 MCSAC meeting minutes were approved.

**1. Task 16-2, Implementation of Obstructive Sleep Apnea (OSA) Recommendations and Potential Impact on Future Populations of Drivers**

The MCSAC continued the conversation on OSA recommendations began earlier with the MRB present.

Discussion points

* Improving the health and wellness of the population should be mandated.
* The driver industry is starting to age out and a new generation of drivers should be introduced to the industry.
* The demand for healthy drivers may restrict the driver pool in the future. If future drivers are paid well enough, they will join the labor pool.
* The current driver pool is older and more experienced, and their working lives will extend by a couple of years if companies pay for their medical tests.
* Additional guidance will help examiners understand which drivers require sleep studies.
* Drivers are required to drive a certain number of hours a week to receive medical benefits. Drivers lose benefits at times because they have to wait for a sleep apnea study.
* The Agency cannot document crashes due to drowsiness unless drivers tell the truth or there is a witness. This is underreported.
  + Drivers are open to the issues that cause them to get tired. There are rigid HOS regulations that assume a driver’s body will conform, but in reality they are unable to handle the HOS regulations.
* [Alan Smith, Greyhound] In terms of talking about current and future anticipated drivers, I think you have to look at regular drivers. There is a whole gamut of drivers who work part-time, such as school and motorbus drivers, most of whom do not have insurance. I think it will be somewhat dramatic with drivers driving with the current requirements. There should be concern. Also, there should be concern with anticipated changes to entry-level driving training. If a driver cannot qualify for any reason with OSA and cannot get recertified, her/his license gets downgraded and the driver has to go through the CDL test again. Then, the driver gets paid to go to school. There can be a long-term affect that can affect transportation as a whole. This can also affect drivers and they can lose their CDLs if disqualified.
* This regulatory process would result in establishing guidance for medical examiners. This would result in a plethora of new testing. Costs of doing sleep studies are already present. Under certain criteria, the only individuals who get disqualified from OSA are those not complying with the treatment.
* OSA testing happens for those individuals who have not exhibited the risk factors for testing. If an individual meets risk factors, they must see sleep specialists. With this regulation, the committee would be adding the “must” factors.

**2. Discussion on Autonomous Trucks**

OTTO Trucking partnered with Budweiser and released an autonomous trucking video. The committee discussed the pros and cons of autonomous trucking. The committee is looking at how to handle the rise of this technology.

Discussion points

* There are no specific regulations about testing autonomous vehicles in many states.
* Autonomous trucking has potential advantages to the committee’s goal of decreasing the fatalities on our Nation’s highways. Technology in a vehicle can detect pedestrians and bicyclists, and obey traffic regulations more effectively than humans can (if designed properly).
* There is a large risk with security and how the technology can be accessed from the web and through wireless capability.
* The way law enforcement functions will be altered by autonomous trucking. If cars and trucks on the roads will obey the laws, and enforcement officers will not be able to generate tickets, which in turn generate revenue. The medical community and injury prevention community will also have lower medical costs if there are less fatalities on our Nation’s highways.
* At some point in the future, there may be roads where human drivers are not allowed. Technology is moving at a much faster rate than predicted.
* The Agency needs to put itself in a position to have a voice about autonomous vehicles as it will impact HOS regulations, hazardous materials, security, etc.
* The committee voiced concerns with autonomous vehicles:
  + Are the engineering and programs in the system itself viable and safe?
  + When systems are not fully independent and there is a driver role, how does the transfer work? Is the driver alerted and engaged? This may not happen if there are failures.
* IT companies responsible for autonomous trucking do not have the track record that auto and truck manufactures have when there is a failure or a problem.
* The committee sees State regulations for autonomous trucking moving faster than Federal regulations. Technology in general is ahead of current State and Federal regulations.
* The FCC needs to be aware of the concerns and questions of autonomous trucking.
  + Who gets a ticket with autonomous trucking?
  + Who is responsible for criminal and civil liability?
  + Who is at fault? What is the proper investigation protocol?
* The OTTO video watched by the committee conveys the autonomous truck has the capability of reading lane markings and gauging how far away it is from traffic ahead.
* The committee would like to bring Anne Ferro to a future meeting in order to present further information on the Agency’s role with autonomous trucking. Bill Bannister also knows a subcommittee member who is involved with the autonomous trucking process.
* **Action item:** Col. Scott Hernandez can arrange a presentation by/with Anne Ferro for the next MCSAC meeting.
* Col. Scott Hernandez suggested for the committee to send questions and thoughts regarding autonomous trucking to Shannon Watson.
* An outside committee for autonomous trucking will be finalized in early 2017. Nominations are due the beginning of November.
* Because of the magnitude and speed of what is working – is this something that will take six months to wait for people to be appointed?
* **Motion by Jennifer Hall:** “MCSAC recommends FMCSA take an active role in the inter-Agency process in the autonomous vehicle issue.”
  + All approved, one extension by Henry Jansy.
  + Col. Scott Hernandez was not in the room during the motion.

**3. Task 16-1, Part II, Review of Regulatory Guidance**

The committee continued to sort the 700 FMCSA Regulatory Guidance items into three categories: (1) incorporate safety regulations to promote clear/consistent enforcement rules; (2) eliminate guidance inconsistent with intent of safety regulations; or (3) retain as guidance.

A list of all questions containing their status and additional notes can be found in the Task 16-1 matrix. Members finished sorting the FMCSA Regulatory Guidance questions, and will review the matrix to ensure accuracy. Key discussion areas from Task 16-1 are below.

Discussion points

**Section 391—Docket 2**

* All questions will be retained as guidance.

**Section 391—Docket 11**

* All questions will be retained as guidance.

**Section 391—Docket 15**

* All questions will be retained as guidance.

**Section 391—Docket 21**

* All questions will be incorporated into the rulemaking.

**Section 391—Docket 23**

* Question one will be retained as guidance.
* Question two will be incorporated into the rulemaking.

**Section 391—Docket 25**

* Questions one and three will be incorporated into the rulemaking.
* Questions two and four will be retained as guidance.

**Section 391—Docket 27**

* The only question will be retained as guidance.

**Section 391—Docket 31**

* Questions one and two will be retained as guidance.
* Questions three and four will be incorporated into the rulemaking.

**Section 391—Docket 33**

* The only question will be retained as guidance.

**Section 391—Docket 41**

* Questions one, two, five, six, and seven will be retained as guidance.
  + Note made for question one, as the committee is unsure if this question needs further clarification.
* Questions three, four, and eight will be incorporated into the rulemaking.
* Employers have the final say in approving health care providers for their employees, despite what is listed on the approved medical examiner registry list.
* Employers are able to mandate additional testing for their employees.

**Section 391—Docket 43**

* All questions will be retained as guidance.
* Typo will be fixed in question seven.

**Section 391—Docket 45**

* All questions will be retained as guidance.
* Question one will be further clarified to show the “person” can refer to anyone, including the driver.

**Section 391—Docket 47**

* The only question will be retained as guidance and will be updated to replace the Federal Highway Administration (FHWA) language with FMCSA language.

**Section 391—Docket 49**

* The only question in this section will be retained as guidance.

**Section 391—Docket 51**

* Questions one, two, and four will be retained as guidance.
* Questions three and five will be eliminated.

**Section 391—Docket 63**

* All questions in this section will be retained as guidance.

**Section 391—Docket 65**

* All questions in this section will be incorporated into the rulemaking.

**Section 392—Docket 6**

* The only question will be compared to the current regulation for clarification.
* Typo will be fixed in the word “commercial.”

**Section 393—Docket 11**

* All questions will be retained as guidance.

**Section 393—Docket 17**

* The only question will be incorporated into the rulemaking.

**Section 393—Docket 24**

* The only question will be retained as guidance.

**Section 393—Docket 25**

* All questions will be retained as guidance.

**Section 393—Docket 31 – Section 393—Docket 33**

* This section was removed from the regulations. This will be eliminated.

**Section 393—Docket 40**

* The only question will be retained as guidance.

**Section 393—Docket 41**

* All questions will be retained as guidance.

**Section 393—Docket 42**

* All questions will be retained as guidance.

**Section 393—Docket 43**

* All questions will be retained as guidance.

**Section 393—Docket 44**

* The only question will be incorporated into the rulemaking.

**Section 393—Docket 48**

* All questions will be retained as guidance.

**Section 393—Docket 51**

* All questions will be retained as guidance.

**Section 393—Docket 52**

* The only question will be incorporated into the rulemaking.

**Section 393—Docket 60**

* All questions will be retained as guidance.

**Section 393—Docket 61**

* All questions will be retained as guidance.

**Section 393—Docket 62**

* All questions will be retained as guidance.

**Section 393—Docket 65**

* All questions will be retained as guidance and will be synced to the website.

**Section 393—Docket 70**

* All questions will be retained as guidance.

**Section 393—Docket 71**

* The only question will be retained as guidance.

**Section 393—Docket 75**

* All questions will be retained as guidance.

**Section 393—Docket 76**

* The only question will be incorporated into the rulemaking.

**Section 393—Docket 81**

* All questions will be incorporated into the rulemaking.

**Section 393—Docket 82**

* The only question will be retained as guidance.

**Section 393—Docket 83**

* All questions will be retained as guidance.

**Section 393—Docket 87**

* The only question will be retained as guidance.

**Section 393—Docket 88**

* The only question will be retained as guidance.

**Section 393—Docket 89**

* All questions will be retained as guidance.

**Section 393—Docket 92**

* The only question will be eliminated.

**Section 393—Docket 93**

* The only question will be further evaluated by Larry Minor to ensure it is clearer about passenger carrier vehicles.

**Section 393—Docket 95**

* The only question will be retained as guidance and will be added to the website.

**Section 393—Docket 100**

* Questions one, three, and four will be retained as guidance.
* Question two was previously removed from the website, and was therefore eliminated.

**Section 393—Docket 102**

* All questions will be retained as guidance.

**Section 393—Docket 106**

* The only question will be incorporated into the rulemaking.

**Section 393—Docket 130**

* All questions will be retained as guidance and added to the website.

**Section 393—Docket 201**

* The only question will be incorporated into the rulemaking.

**Section 393—Docket 61**

* All questions will be retained as guidance.

**Special Topics—CMV Parts and Accessories**

* The only question will be retained as guidance and added to the website.

**Section 382—Docket 103**

* All questions will be retained as guidance and added to the website.
* Question two will be updated to replace FHWA language with FMCSA language and fix typo.

**Section 382—Docket 105**

* All questions will be retained as guidance.

**Section 382—Docket 107**

* The only question will be retained as guidance. The question will be updated to replace the FHWA language with FMCSA language.

**Section 382—Docket 109**

* The only question will be eliminated.

**Section 382—Docket 113**

* The only question will be retained as guidance. The question will be updated to replace the FHWA language with FMCSA language.

**Section 382—Docket 115**

* The only question will be retained as guidance.

**Section 382—Docket 121**

* The only question will be retained as guidance.

**Section 382—Docket 205**

* The only question will be retained as guidance.

**Section 382—Docket 213**

* The only question will be retained as guidance.

**Section 382—Docket 301**

* All questions will be retained as guidance.

**Section 382—Docket 303**

* All questions will be retained as guidance.
* Question one will be updated to replace the FHWA language with FMCSA language.

**Section 382—Docket 305**

* All questions will be retained as guidance.
* Larry Minor will provide subject matter experts to review question seventeen as some members disagree with the answer to this question.

**Section 382—Docket 307**

* All questions will be retained as guidance.
* Questions two and three will be updated to replace FHWA language with FMCSA language.
* Question four typo of “rare” will be updated.

**Section 382—Docket 309**

* The only question will be incorporated into the rulemaking, as this is a repeat of Section 382—Docket 301. Both questions are necessary but are located in two different sections.

**Section 382—Docket 401**

* The only question will be incorporated into the rulemaking.
* Update FHWA language with FMCSA language.

**Section 382—Docket 403**

* The only question will be incorporated into the rulemaking.
* Update FHWA language with FMCSA language.

**Section 382—Docket 405**

* All questions will be retained as guidance.
* Update FHWA language with FMCSA language in question five.

**Section 382—Docket 413**

* Question three will be eliminated due to the date.
* All other questions will be retained as guidance.

**Section 382—Docket 501**

* The only question will be retained as guidance.

**Section 382—Docket 503**

* The only question will be retained as guidance.

**Section 382—Docket 507**

* The only question will be retained as guidance.

**Section 382—Docket 601**

* All questions will be retained as guidance.
* Question one typo of “the” will be updated.

**Section 382—Docket 603**

* All questions will be incorporated in the rulemaking.

**Section 382—Docket 605**

* All questions will be retained as guidance.
* Question seventeen will be clarified by subject matter experts provided by Larry Minor.

**Subpart B—Prohibitions**

* The only question will be retained as guidance.

**Subpart B—Prohibitions**

* The only question will be retained as guidance.
* Two of the same “Subpart B” titles exist and duplicate references will be checked.

**Special Topics—Responsibility for Payment for Testing**

* The only question will be retained as guidance.

**Special Topics—Multiple Service Providers**

* The only question will be retained as guidance.

**Special Topics—Medical Examiners Acting as MRO**

* The only question will be retained as guidance.

**Special Topics—Biennial (Periodic) Testing Requirements**

* All questions will be retained as guidance.

**Section 396—Docket 3**

* All questions will be retained as guidance.
* Question five will be updated to replace FHWA language with FMCSA language.

**Section 396—Docket 9**

* All questions will be retained as guidance.

**Section 396—Docket 11**

* All questions will be retained as guidance, however, all questions will be reviewed with DVIR requirements.

**Section 396—Docket 13**

* All questions will be retained as guidance.

**Section 396—Docket 17**

* All questions will be retained as guidance.
* Questions one, nine, and ten will be updated from FHWA to FMCSA language.

**Section 396—Docket 19**

* All questions will be retained as guidance.

**Section 396—Docket 21**

* The only question will be retained as guidance and FHWA will be updated with FMCSA language.

**Section 396—Docket 23**

* All questions will be retained as guidance.
* The guidance corresponding with question one will be updated. The CVSA decal language will also be removed from question one.

**Section 396—Docket 25**

* All questions will be incorporated into the rulemaking.

**Section 390—Docket 3**

* Questions twelve and twenty will be combined.
* References to the word “Indian” will be replaced.
* Question 24 will be reviewed by a subject matter expert provided by Larry Minor to ensure the answer is correct.
* All questions will be retained as guidance.

**Section 390—Docket 5**

* Question seventeen will be reviewed by subject matter experts provided by Larry Minor.
* Typo in question twenty-seven will be fixed.
* Question two will be eliminated.
* Remaining questions will be retained as guidance.

**Section 390—Docket 9**

* The only question will be retained as guidance.

**Section 390—Docket 15**

* All questions will be retained as guidance.

**Section 390—Docket 17**

* The only question will be eliminated.

**Section 390—Docket 21**

* The only question will be incorporated into the rulemaking.

**Section 390—Docket 23**

* Questions one, four, and five will be retained as guidance.
* Questions two and three will be incorporated into the rulemaking.

**Section 390—Docket 31**

* All questions will be retained as guidance.

**Section 393—Docket 61**

* All questions will be retained as guidance.

**Special Topics—Serious Patterns of Violations**

* The only question will be eliminated.

**Section 387—Docket 1**

* The only question will be incorporated into the rulemaking.

**Section 387—Docket 3**

* Questions one, seven, and nine will be retained as guidance.
* Question three will be updated to include the minimum financial responsibility requirements for hauling cars.
* Typo of word “tractor” will be updated in question five.
* Questions two, three, four, five, six, and eight will be incorporated into the rulemaking.

**Section 387—Docket 5**

* The only question will be incorporated into the rulemaking.

**Section 387—Docket 7**

* All questions will be retained as guidance.

**Section 387—Docket 9**

* All questions will be retained as guidance.

**Section 397—Docket 11**

* The only question will be incorporated into the rulemaking.

**Section 387—Docket 15**

* Question one will be retained as guidance.
* The remaining questions will be incorporated into the rulemaking.

**Section 327—Docket 25**

* The only question will be incorporated into the rulemaking.

**Section 387—Docket 27**

* All questions will be retained as guidance.

**Section 387—Docket 31**

* The only question will be retained as guidance.

**Section 387—Docket 39**

* All questions will be retained as guidance.

**Section 384—Docket 209**

* All questions will be incorporated into the rulemaking.

**Section 384—Docket 211**

* The only question will be incorporated into the rulemaking.

**Section 384—Docket 231**

* The only question will be incorporated into the rulemaking.

**Section 385—Docket 403**

* The only question will be retained as guidance.

**Section 385—Docket 415**

* The only question will be retained as guidance.

**Section 397—Docket 1**

* All questions will be retained as guidance.

**Section 397—Docket 5**

* Question one answer will be revised and made consistent with other definitions of public roadways.
* All questions will be retained as guidance.

**Section 397—Docket 7**

* All questions will be retained as guidance.

**Section 397—Docket 9**

* This section will be eliminated.

**Section 397—Docket 13**

* The only question will be retained as guidance.

**Section 386—Docket 1**

* The only question will be retained as guidance.

**Section 399—Docket 207**

* All questions will be incorporated into the rulemaking.

**Section 325—Docket 1**

* All questions will be retained as guidance.

**Section 367—Docket 20**

* The only question will be eliminated.

**ADJOURNMENT:** The meeting was adjourned at 3:45 p.m. Scott Hernandez appointed John Lannen as the new MCSAC Chairman. Committee members will send available dates to John Lannen in order to schedule future meetings to ensure all can attend future meetings in full.

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

***\_//***Signed***//\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

Scott Hernandez

Chairman, MCSAC

***\_//***Signed***//\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***

Larry W. Minor

Designated Federal Officer, MCSAC