



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

### Minutes Motor Carrier Safety Advisory Committee Meeting May 20, 2009

The Federal Motor Carrier Safety Administration's (FMCSA) Motor Carrier Safety Advisory Committee (MCSAC) met on May 20, 2009, at the Department of Transportation's Conference Center in Washington, DC. In accordance with the provisions of Public Law 92-463, the meeting was opened to the public. Mr. Larry Minor served as the FMCSA Designated Federal Official (DFO) and called the meeting to order at 1:00 pm. The following individuals attended the meeting:

#### **COMMITTEE MEMBERS:**

John Bauer, Director of Global Transportation, Starbucks Coffee Company  
Clyde Hart, Senior Vice President of Government Affairs, American Bus Association  
Terry Maple, Superintendent, Kansas Highway Patrol  
Stephen Owings, President, Road Safe America  
David Parker, Senior Legal Counsel, Great West Casualty Company  
Robert Petrancosta, Vice President of Safety, Con Way Freight  
Robert Powers, Captain, Michigan State Police  
Lester Sokolowski, Director of Division Services, National Safety Council  
J. Todd Spencer, Executive Vice President, Owner-Operator Independent Drivers Association  
Judith Stone, President/Executive Director, Advocates for Highway and Auto Safety  
Roger Vanderpool, Director, Arizona Department of Public Safety

#### **FMCSA REPRESENTATIVES:**

Jesse Fonner, Program Specialist, Strategic Planning and Program Evaluation Division  
Gary Middleton, Management and Program Analyst, Strategic Planning and Program Evaluation Division  
Jeffrey Miller, Chief, Strategic Planning and Program Evaluation Division  
Larry Minor, Associate Administrator for Policy and Program Development  
David Tochen, Acting Chief Counsel, Federal Motor Carrier Safety Administration  
Shannon Watson, Senior Liaison, Strategic Planning and Program Evaluation Division  
Carole Zok, Special Assistant to the Administrator, FMCSA

#### **OTHERS PRESENT FOR ALL OR PORTIONS OF THE MEETING WERE:**

Manuel Armendoriz, Transportadora Terrestre (public comments)  
Jan Balkin, North American Driver Safety Foundation's  
Jim Barr, Ryder  
Alicia D'Alessandro, Public Strategies Washington  
Luke Ergan, Inside US Trade  
Selden Fritschner, American Association of Motor Vehicle Administrators  
Rodolfo Giacomani, TML Information Services Inc.  
Ian Grossman, American Association of Motor Vehicle Administrators  
Mirna Gustave, MacroSys  
Phil Hanley, Consolidated Safety Services



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

Andrew Kaufman, ICF International  
John Keeling, National Potato Council (public comments)  
Christian Koschil, US Department of Commerce  
Lisa McLean, US Chamber of Commerce  
Dan Meyer, Kansas Highway Patrol  
Ed Miller, Maryland Department of Transportation  
Salvador Monray, SCT  
David Olsen, US Department of Commerce  
Alan Potter, Booz Allen Hamilton  
Martin Rojas, American Trucking Associations  
Georgia Thu, ICF International  
Joan Tilghman, ICF International  
Elizabeth Turner, Volpe National Transportation Systems Center  
Michael Wangler, US Department of Energy  
Brad Watkins, Consolidated Safety Services  
Elizabeth Watson, National Potato Council

**REVIEW OF AGENDA:** The Committee reviewed the agenda.

**APPROVAL OF MINUTES:** The Committee approved the minutes from the March 18, 2009, public meeting with the amendment that the September adjournment date will be changed to May.

**WORKGROUP REPORT:** Workgroup 09-01 (Developing a National Agenda): The committee presented two additional recommendations that were tabled from the previous meeting:

1. New Entrant Process  
The Committee believes that there could be more safety gains if there were improved ways to prohibit unsafe applicants from receiving operating authority. The Committee is aware that they will be given a new task to offer recommendations on how to improve the New Entrant process.
2. Motor Carrier Security  
The Committee recommends that DOT and DHS better collaborate, communicate, and coordinate on issues of motor carrier safety and security. The Committee submits for consideration the establishment of an inter-departmental working group to facilitate such an initiative.

The Committee unanimously passed these additional recommendations.

Workgroup 09-02 (Provide advice and guidance to FMCSA on the essential elements that the Agency should include when drafting new proposed legislation to permit Mexico-domiciled trucks beyond the current commercial zones along the U.S.-Mexico border): The workgroup presented 38 recommendations (organized into four sections) for essential elements that the Agency should include when drafting a new proposed legislation:



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

### Program Design

1. FMCSA should implement a program that validates the safety of Mexico-domiciled trucks beyond the current commercial zones.
2. The program should include admission criteria, including successful completion of required screening before a motor carrier is issued authority to operate in the United States (e.g., Pre-Authorization Safety Audit [PASA]).
3. The program should include a statistically valid sample size and representative participants.
4. The program should be of adequate duration to achieve reliable conclusions and results.
5. The program design should consider scalability to ensure that the program can be broadly applied.
6. The transportation of security-sensitive hazardous material should be prohibited.
7. Oversight controls should be established (e.g., by the Department of Transportation [DOT] Office of Inspector General [OIG] or the Government Accountability Office [GAO]).
8. The program should be reviewed at intervals that are no more frequent than once per year.
9. The program design should include a pre-defined process for program modification.
10. All potential participant Mexico-domiciled motor carriers should be vetted with the Department of Homeland Security (DHS) and Department of Justice (DOJ) for security risks.
11. Each participant motor carrier should be required to file and maintain proof of insurance before being granted an operating authority.
12. The status of the motor carrier's insurance filing should be monitored to ensure the insurance remains active, including maintaining an agent for service of process.
13. Mexican carriers must be better identified. Each Mexico-domiciled motor carrier operating beyond the commercial zone should be given a distinctive USDOT number that must be visible on the front and side of each power unit.
14. Mexico-domiciled commercial motor vehicles (CMV) drivers participating in the program should be required to have commercial driver's license (CDL) standards identical to U.S.-domiciled CMV drivers.
15. All CMV drivers must be subject to a complete background check through DHS, including fingerprinting, before being allowed to participate in the program.
16. Control measures should be implemented to protect the health and safety both of program participants and the general public pursuant to Sec. 4007 of the Transportation Equity Act for the Twenty-First Century (TEA-21).
17. Each participating CMV must be equipped with an electronic on-board recorder (EOBR) that is integrated with vehicle and transmission functions and hard-wired with the vehicle's electronic control module to collect real-time vehicle information.
18. No CMV manufactured before 1996 should be permitted for use in the program.
19. The program should be based on full compliance with all requirements specified by Sec 350 of the DOT Appropriations Act of 2002, Pub. L. (107-87) (2001).
20. Prior notice and opportunity for public comment should be ensured after the completion of the following milestones:
  - a. Pre-program design
  - b. Mid-course review
  - c. Final report on the findings and proposed recommendations of the program



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

21. After due consideration of the public comments on the final report and making any appropriate modifications to the findings of the final report, FMCSA shall transmit the final report to Congress together with its recommendations and make the final report available to the public.
22. FMCSA's website should include information that provides full transparency of program elements, status reports, evaluation reports, and other relevant materials.

### Enforcement

1. Enforcement and compliance efforts of the program should reflect that drivers' actions contribute to crashes involving CMVs.
2. The program should include a plan for implementing a threshold for vehicle/driver inspections at the border.
3. The program should include a drug and alcohol testing program for participants including mandatory participation in a random testing program, similar to Canadian cross-border drivers.
4. Mexico's drug collection program requirements relating to specimen-collection procedures should be equivalent to those specified in 49 CFR part 40.
5. Criteria should be established for the removal of both drivers and companies from the program.
6. Driver, vehicle, and carrier should comply with all applicable U.S. federal/state laws (e.g., emission standards, FMVSS manufacturing standards, English proficiency by demonstration rather than self-certification, knowledge of rules and regulations, 49 CFR part 396).
7. Participants should be required to use hard-wired EOBRs for purposes of tracking hours of service (HOS). GPS devices and services should be required for all power units operated by the Mexico-domiciled participant motor carriers in order to monitor the vehicles as they operate in both the United States and Mexico. Data from the GPS system should be used to monitor compliance with HOS rules for drivers while operating in the United States. Data from the GPS system should be used to monitor the participating carriers for cabotage compliance. GPS systems should be required to be high-security, tamper-resistant systems.
8. Compliance reviews should be conducted within 12 months after the start of each participant motor carriers' operations.
9. Reciprocal compliance regarding hazardous materials regulations, including security plan requirements, should be ensured.

### Data Collection and Information Exchange

1. U.S. authorities need access to information on the following activities in Mexico:
  - a. Out of Service (OOS) (both driver and vehicle)
  - b. Crashes
  - c. Vehicle miles traveled
  - d. Traffic enforcement (e.g., violations and convictions).
  - e. Information about trucks or drivers themselves (e.g., driver's record in Mexico)
  - f. Convictions of U.S. drivers in Mexico
2. The integrity and accuracy of the Mexican system for monitoring and recording inspections, crashes, and traffic violations within Mexico should be ensured, as well as access to that system by U.S. authorities.



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

3. All Mexican CDL holders subject to the North American OOS criteria should include all data in the CSA 2010 database.
4. FMCSA must be granted access to Automated Commercial Environment (ACE) program information at DHS and other systems as necessary for the safety and security of the border.

### Education and Outreach

1. The following summarizes the target audience for education and outreach, as well as the type of information that should be relayed to that audience:
  - a. Mexican Carriers
    - i. Program design
    - ii. FMCSA's Education and Technical Assistance (ETA) package
  - b. Law enforcement (Federal, state, and local)
    - i. Enforcement of laws on international carriers (e.g., operating authority, cabotage, language proficiency)
  - c. Judicial
    - i. Awareness of legal ramifications of American court actions
    - ii. Awareness of data availability
  - d. Public
    - i. Program design
    - ii. Program results and data
2. All appropriate steps should be taken to ensure the greatest dissemination of information about this project to the public.
3. Federal laws and regulations of the Mexican and Canadian governments regarding motor carrier, commercial motor vehicle, and driver standards for transporting freight should be published on FMCSA's website, including all physical and medical driver requirements; standards for licensure, drug and alcohol testing; hours of service governing the duty time and responsibilities of commercial drivers; and other relevant Mexican and Canadian standards and regulations compared with U.S. motor carrier, commercial motor vehicle, and drivers standards and regulations.

These recommendations passed with a vote of 9 positive (John Bauer, Clyde Hart, Terry Maple, Stephen Owings, Robert Petrancosta, Robert Powers, Lester Sokolowski, Judith Stone and Roger Vanderpool) and one member abstaining (J. Todd Spencer).

**TASKING:** The Committee unanimously accepted Task 09-03: "Provide advice to FMCSA on approaches that could be implemented to improve the existing processes, procedures, and requirements for ensuring that new entrant motor carriers are knowledgeable about Federal motor carrier safety mandates prior to beginning operations in interstate commerce."

**PUBLIC COMMENT PERIOD:** The public comment period was scheduled for 3:00 pm. There were two members of the public who provided comment:

Mr. Manuel Armendoriz, Transportadora Terrestre  
Mr. Jon Keeling, National Potato Council



## MOTOR CARRIER SAFETY ADVISORY COMMITTEE

**ADJOURNMENT:** The meeting was adjourned by the DFO at 3:30 pm on May 20, 2009.

**CERTIFICATION:** The minutes were approved by the MCSAC on September 2, 2009.

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

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David R. Parker  
Chair  
Motor Carrier Safety Advisory Committee

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Larry W. Minor  
Designated Federal Official  
Motor Carrier Safety Advisory Committee