

### § 113. Federal Motor Carrier Safety Administration

#### GUIDANCE

(a) **IN GENERAL.**—The Federal Motor Carrier Safety Administration shall be an administration of the Department of Transportation.

(b) **SAFETY AS HIGHEST PRIORITY.**—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in motor carrier transportation.

(c) **ADMINISTRATOR.**—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in motor carrier safety. The Administrator shall report directly to the Secretary of Transportation.

(d) **DEPUTY ADMINISTRATOR.**—The Administration shall have a Deputy Administrator appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(e) **CHIEF SAFETY OFFICER.**—The Administration shall have an Assistant Federal Motor Carrier Safety Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

(f) **POWERS AND DUTIES.**—The Administrator shall carry out—

(1) duties and powers related to motor carriers or motor carrier safety vested in the Secretary by chapters 5, 51, 55, 57, 59, 133 through 149, 311, 313, 315, and 317 and by section 18 of the Noise Control Act of 1972 (42 U.S.C. 4917; 86 Stat. 1249–1250); except as otherwise delegated by the Secretary to any agency of the Department of Transportation other than the Federal Highway Administration, as of October 8, 1999; and

(2) additional duties and powers prescribed by the Secretary.

(g) **LIMITATION ON TRANSFER OF POWERS AND DUTIES.**—A duty or power specified in subsection (f)(1) may only be transferred to another part of the Department when specifically provided by law.

(h) **EFFECT OF CERTAIN DECISIONS.**—A decision of the Administrator involving a duty or power specified in subsection (f)(1) and involving notice and hearing required by law is administratively final.

(i) **CONSULTATION.**—The Administrator shall consult with the Federal Highway Administrator and with the National Highway Traffic Safety Administrator on matters related to highway and motor carrier safety.

(Added Pub. L. 106–159, title I, §101(a), Dec. 9, 1999, 113 Stat. 1750.)

#### EFFECTIVE DATE

Section effective Jan. 1, 2000, see section 107(a) of Pub. L. 106–159, set out as an Effective Date of 1999 Amendment note under section 104 of this title.

Pub. L. 114–94, div. A, title V, §5203, Dec. 4, 2015, 129 Stat. 1535, provided that:

“(a) **IN GENERAL.**—

“(1) **DATE OF ISSUANCE AND POINT OF CONTACT.**—Each guidance document issued by the Federal Motor Carrier Safety Administration shall have a date of issuance or a date of revision, as applicable, and shall include the name and contact information of a point of contact at the Administration who can respond to questions regarding the guidance.

“(2) **PUBLIC ACCESSIBILITY.**—

“(A) **IN GENERAL.**—Each guidance document issued or revised by the Federal Motor Carrier Safety Administration shall be published on a publicly accessible Internet Web site of the Department [of Transportation] on the date of issuance or revision.

“(B) **REDACTION.**—The Administrator of the Federal Motor Carrier Safety Administration may redact from a guidance document published under subparagraph (A) any information that would reveal investigative techniques that would compromise Administration enforcement efforts.

“(3) **INCORPORATION INTO REGULATIONS.**—Not later than 5 years after the date on which a guidance document is published under paragraph (2) or during an applicable review under subsection (c), whichever is earlier, the Secretary [of Transportation] shall revise regulations to incorporate the guidance document to the extent practicable.

“(4) **REISSUANCE.**—If a guidance document is not incorporated into regulations in accordance with paragraph (3), the Administrator shall—

“(A) reissue an updated version of the guidance document; and

“(B) review and reissue an updated version of the guidance document every 5 years until the date on which the guidance document is removed or incorporated into applicable regulations.

“(b) **INITIAL REVIEW.**—Not later than 1 year after the date of enactment of this Act [Dec. 4, 2015], the Administrator shall review all guidance documents issued by the Federal Motor Carrier Safety Administration and in effect on such date of enactment to ensure that such documents are current, are readily accessible to the public, and meet the standards specified in subparagraphs (A), (B), and (C) of subsection (c)(1).

“(c) **REGULAR REVIEW.**—

“(1) **IN GENERAL.**—Subject to paragraph (2), not less than once every 5 years, the Administrator shall conduct a comprehensive review of the guidance documents issued by the Federal Motor Carrier Safety Administration to determine whether such documents are—

“(A) consistent and clear;

“(B) uniformly and consistently enforced; and

“(C) still necessary.

“(2) **NOTICE AND COMMENT.**—Prior to beginning a review under paragraph (1), the Administrator shall publish in the Federal Register a notice and request for comment that solicits input from stakeholders on which guidance documents should be updated or eliminated.

“(3) **REPORT.**—

“(A) **IN GENERAL.**—Not later than 60 days after the date on which a review under paragraph (1) is completed, the Administrator shall publish on a publicly accessible Internet Web site of the Department a report detailing the review and a full inventory of the guidance documents of the Administration.

“(B) **CONTENTS.**—A report under subparagraph (A) shall include a summary of the response of the Administration to comments received under paragraph (2).

“(d) **GUIDANCE DOCUMENT DEFINED.**—In this section, the term ‘guidance document’ means a document issued by the Federal Motor Carrier Safety Administration that—

“(1) provides an interpretation of a regulation of the Administration; or

“(2) includes an enforcement policy of the Administration available to the public.”

#### PETITIONS

Pub. L. 114-94, div. A, title V, §5204, Dec. 4, 2015, 129 Stat. 1536, provided that:

“(a) IN GENERAL.—The Administrator of the Federal Motor Carrier Safety Administration shall—

“(1) publish on a publicly accessible Internet Web site of the Department [of Transportation] a summary of all petitions for regulatory action submitted to the Administration;

“(2) prioritize the petitions submitted based on the likelihood of safety improvements resulting from the regulatory action requested;

“(3) not later than 180 days after the date a summary of a petition is published under paragraph (1), formally respond to such petition by indicating whether the Administrator will accept, deny, or further review the petition;

“(4) prioritize responses to petitions consistent with a petition’s potential to reduce crashes, improve enforcement, and reduce unnecessary burdens; and

“(5) not later than 60 days after the date of receipt of a petition, publish on a publicly accessible Internet Web site of the Department an updated inventory of the petitions described in paragraph (1), including any applicable disposition information for those petitions.

“(b) TREATMENT OF MULTIPLE PETITIONS.—The Administrator may treat multiple similar petitions as a single petition for the purposes of subsection (a).

“(c) PETITION DEFINED.—In this section, the term ‘petition’ means a request for—

“(1) a new regulation;

“(2) a regulatory interpretation or clarification; or

“(3) a determination by the Administrator that a regulation should be modified or eliminated because it is—

“(A) no longer—

“(i) consistent and clear;

“(ii) current with the operational realities of the motor carrier industry; or

“(iii) uniformly enforced;

“(B) ineffective; or

“(C) overly burdensome.”

#### PRIORITIZING STATUTORY RULEMAKINGS

Pub. L. 114-94, div. A, title V, §5302, Dec. 4, 2015, 129 Stat. 1543, provided that: “The Administrator of the Federal Motor Carrier Safety Administration shall prioritize the completion of each outstanding rulemaking required by statute before beginning any other rulemaking, unless the Secretary [of Transportation] determines that there is a significant need for such other rulemaking and notifies Congress of such determination.”

#### FINDINGS

Pub. L. 106-159, §3, Dec. 9, 1999, 113 Stat. 1749, provided that: “Congress makes the following findings:

“(1) The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.

“(2) The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations.

“(3) The Department of Transportation is failing to meet statutorily mandated deadlines for completing rulemaking proceedings on motor carrier safety and, in some significant safety rulemaking proceedings, including driver hours-of-service regulations, extensive periods have elapsed without progress toward resolution or implementation.

“(4) Too few motor carriers undergo compliance reviews and the Department’s data bases and informa-

tion systems require substantial improvement to enhance the Department’s ability to target inspection and enforcement resources toward the most serious safety problems and to improve States’ ability to keep dangerous drivers off the roads.

“(5) Additional safety inspectors and inspection facilities are needed in international border areas to ensure that commercial motor vehicles, drivers, and carriers comply with United States safety standards.

“(6) The Department should rigorously avoid conflicts of interest in federally funded research.

“(7) Meaningful measures to improve safety must be implemented expeditiously to prevent increases in motor carrier crashes, injuries, and fatalities.

“(8) Proper use of Federal resources is essential to the Department’s ability to improve its research, rulemaking, oversight, and enforcement activities related to commercial motor vehicles, operators, and carriers.”

#### PURPOSES

Pub. L. 106-159, §4, Dec. 9, 1999, 113 Stat. 1749, provided that: “The purposes of this Act [see Tables for classification] are—

“(1) to improve the administration of the Federal motor carrier safety program and to establish a Federal Motor Carrier Safety Administration in the Department of Transportation; and

“(2) to reduce the number and severity of large-truck involved crashes through more commercial motor vehicle and operator inspections and motor carrier compliance reviews, stronger enforcement measures against violators, expedited completion of rulemaking proceedings, scientifically sound research, and effective commercial driver’s license testing, recordkeeping and sanctions.”

#### SAVINGS PROVISION

Pub. L. 106-159, title I, §106, Dec. 9, 1999, 113 Stat. 1756, provided that:

“(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act [see Tables for classification] and the amendments made by this Act, those personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Federal Motor Carrier Safety Administration by this Act shall be transferred to the Administration for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Office of Motor Carrier Safety (including any predecessor entity) shall also be transferred to the Administration.

“(b) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

“(1) that have been issued, made, granted, or allowed to become effective by the Office, any officer or employee of the Office, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

“(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Administration, any other authorized official, a court of competent jurisdiction, or operation of law.

“(c) PROCEEDINGS.—

“(1) IN GENERAL.—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Office at the time this Act takes effect [see Effective Date of 1999 Amendment note set out under section 104 of this title], insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

“(2) STATUTORY CONSTRUCTION.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

“(3) ORDERLY TRANSFER.—The Secretary is authorized to provide for the orderly transfer of pending proceedings from the Office.

“(d) SUITS.—

“(1) IN GENERAL.—This Act shall not affect suits commenced before the date of the enactment of this Act [Dec. 9, 1999], except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

“(2) SUITS BY OR AGAINST OMCS.—Any suit by or against the Office begun before January 1, 2000, shall be continued, insofar as it involves a function retained and transferred under this Act, with the Administration (to the extent the suit involves functions transferred to the Administration under this Act) substituted for the Office.

“(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

“(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Office shall abate by reason of the enactment of this Act. No cause of action by or against the Office, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

“(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

“(g) REFERENCES.—Any reference to the Office in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Office or an officer or employee of the Office is deemed to refer to the Administration or a member or employee of the Administration, as appropriate.”

#### § 114. Transportation Security Administration

(a) IN GENERAL.—The Transportation Security Administration shall be an administration of the Department of Homeland Security.

(b) LEADERSHIP.—

(1) HEAD OF TRANSPORTATION SECURITY ADMINISTRATION.—

(A) APPOINTMENT.—The head of the Administration shall be the Administrator of the Transportation Security Administration (referred to in this section as the “Administrator”). The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(B) QUALIFICATIONS.—The Administrator must—

- (i) be a citizen of the United States; and
- (ii) have experience in a field directly related to transportation or security.

(C) TERM.—Effective with respect to any individual appointment by the President, by and with the advice and consent of the Senate, after the date of enactment of the TSA Modernization Act, the term of office of an individual appointed as the Administrator shall be 5 years. The term of office of an individual serving as the Administrator on the date of enactment of the TSA Modernization Act shall be 5 years beginning on the date that the Administrator began serving.

(2) DEPUTY ADMINISTRATOR.—

(A) APPOINTMENT.—There is established in the Transportation Security Administration a Deputy Administrator, who shall assist the Administrator in the management of the Transportation Security Administration. The Deputy Administrator shall be appointed by the President.

(B) VACANCY.—The Deputy Administrator shall be Acting Administrator during the absence or incapacity of the Administrator or during a vacancy in the office of Administrator.

(C) QUALIFICATIONS.—The Deputy Administrator must—

- (i) be a citizen of the United States; and
- (ii) have experience in a field directly related to transportation or security.

(3) CHIEF COUNSEL.—

(A) APPOINTMENT.—There is established in the Transportation Security Administration a Chief Counsel, who shall advise the Administrator and other senior officials on all legal matters relating to the responsibilities, functions, and management of the Transportation Security Administration.

(B) QUALIFICATIONS.—The Chief Counsel must be a citizen of the United States.

(c) LIMITATION ON OWNERSHIP OF STOCKS AND BONDS.—The Administrator may not own stock in or bonds of a transportation or security enterprise or an enterprise that makes equipment that could be used for security purposes.

(d) FUNCTIONS.—The Administrator shall be responsible for security in all modes of transportation, including—

- (1) carrying out chapter 449, relating to civil aviation security, and related research and development activities; and
- (2) security responsibilities over other modes of transportation that are exercised by the Department of Transportation.

(e) SCREENING OPERATIONS.—The Administrator shall—

- (1) be responsible for day-to-day Federal security screening operations for passenger air transportation and intrastate air transportation under sections 44901 and 44935;
- (2) develop standards for the hiring and retention of security screening personnel;
- (3) train and test security screening personnel; and
- (4) be responsible for hiring and training personnel to provide security screening at all airports in the United States where screening is