August 21, 2020

Hon. Roger F. Wicker, Chairman
U.S. Senate Committee on Commerce, Science, and Transportation
512 Dirksen Senate Building
Washington DC, 20510

Hon Peter A. DeFazio, Chairman
House Committee on Transportation and Infrastructure
2165 RHOB
Washington, DC 20515 -6256

Re: Request for Congress to Reform the Federal Motor Carrier Safety Administration (FMCSA)

Dear Chairmen Wicker & DeFazio:

With the ink not yet dry on the latest news that Federal Motor Carrier Safety Administration (FMCSA's) Acting Director Jim Mullen is vacating his position less than a year after taking over the FMCSA, comes now, the Small Business in Transportation Coalition (SBTC) along with the United Transportation Association (UTA), on behalf of our collective 15,300 trucker and motor carrier members operating in interstate commerce, to implore you to hold hearings and exercise Congressional oversight to reform the FMCSA due to the agency's twenty-year $5 billion record of failure to make the roads safe, lack of concern for the impact of its rulemaking on small businesses, and its lack of interest in protecting truckers from violence during social unrest.

On December 30, 2019, FMCSA issued a list of alleged "accomplishments" apparently in response to SBTC's then call for Congress to defund the agency. They circulated same on social media at https://www.facebook.com/FMCSA/. As SBTC stated in its January 3, 2020 letter to you, we contend a list of how the agency spent its time and taxpayer money does not necessarily equate to bona fide accomplishments.

For FY 2019, FMCSA requested a $665.80 million budget from Congress, which included $284 million for Motor Carrier Safety Operations and Programs and $381.80 million for Motor Carrier Safety Grants. Let's take a close look at what America's taxpayers get for their money…

The 2018 Large Truck Occupant Highway Fatality Rate is at a 30-year high.* The latest preliminary data for 2019 show we can expect the upward trend **

When you do the math, 2.4 occupants of large trucks died every single day in 2018.

In 2017, 4,889 large trucks and buses were involved in fatal crashes, a 9-percent increase from 2016 (this has now been skewed to lower the percentage to 4.9% by removing certain vehicles, which, when combined with trailers still constitute a commercial motor vehicle over 10,000 lbs).*

The number of large trucks and buses in fatal crashes has increased by 42 percent from its low of 3,432 in 2009.*

From 2016 to 2017, large truck and bus fatalities per 100 million vehicle miles traveled by all motor vehicles increased by 6.8 percent, from 0.146 to 0.156.*

There was a 40-percent increase in the number of fatal crashes involving large trucks or buses between 2009 and 2017. *

From 2016 to 2017, the number of fatal crashes involving large trucks or buses increased by 8 percent.*

The number of injury crashes involving large trucks or buses increased 62% from 2009 to 2015.*

From 2016 to 2017, according to NHTSA's CRSS data, large truck and bus injury crashes increased 4 percent (from 112,000 in 2016 to 116,000 in 2017).*

From 2016 to 2017 the number of large trucks involved in fatal crashes increased 10 percent, from 4,251 to 4,657, and the large truck involvement rate (large trucks involved in fatal crashes per 100 million miles traveled by large trucks) increased 6 percent, from 1.48 to 1.56. The number of large trucks involved in injury crashes increased by 5 percent, from 102,000 to 107,000. The number of large trucks involved in property damage only crashes increased by 3 percent, from 351,000 to 363,000. The number of buses involved in fatal crashes decreased from 234 to 232, a decrease a mere 1 percent.*

*SOURCE: https://www.fmcsa.dot.gov/sites/fmcsa.dot.gov/files/docs/safety/data-and-statistics/461861/ltcbf-2017-final-5-6-2019.pdf
**SOURCE: https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812946

These are far from positive "accomplishments" worthy of continued funding without substantial reform.

Three months ago, President Trump charged Secretary Chao to embrace and assist with a roll back of regulations to put America on the path to COVID-19 economic recovery: *"Elaine, you can do things that nobody would believe in your Department, the Department of Transportation,"* the president said back in May.

Yet, last week, the Secretary of Transportation successfully argued in Federal Court that she does not have to act to provide immediate motor carrier hours of service regulatory relief to truckers who are being disrupted, blocked from moving, attacked, and killed on America's highways. This, despite the President's directive to the contrary… and her duties codified in statute.

Secretary Chao further argued in court she does not have to enforce the ***Hobbs Act*** **(18 U.S. Code § 1951.Interference with commerce by threats or violence)** to prevent and terminate unlawful interference with Interstate Commerce when rioters take over interstate highways; that is, despite having a clear duty under **49 U.S. Code § 301 to** *"exercise leadership in transportation matters, including those matters affecting national defense and those matters involving national or regional emergencies..."* she argued it is her **choice** whether or not to enforce the *Hobbs Act* when it comes to incidents in which trucks operating in interstate commerce are vandalized and looted, truckers are savagely beaten, and the interstate is unlawfully shut down by rioters.

And while we pointed to her duty to enforce 49 U.S. Code § 5104. Representation and tampering with respect to the May 2020 seizure of a HAZMAT tanker and the battery of its driver in Minnesota during a riot on the interstate (https://www.transportationnation.com/trucker-arrested-after-driving-through-crowd-of-protesters-pulled-from-semi-and-beaten/), her Department refuses to address our complaint and arrest those responsible.

SBTC and UTA now call upon the government to reform FMCSA from the outside. Together, we have launched a new **#ReformFMCSA** public campaign that we hope will be covered by trucking and mainstream media. Drivers have already begun using this hashtag on social media and are joining our bandwagon to declare the FMCSA's lack of concern for the safety and well-being of truck drivers unacceptable and to proclaim: **#TruckerLivesMatter** too.

What does #ReformFMCSA mean?

We are asking for a competent permanent administrator from outside the agency to be appointed by the President to take control of this rogue agency and implement the national transportation policy set by Congress in a fair and balanced way, taking into consideration the needs and interests of all stakeholders. We are asking for Congress to provide much needed oversight to ensure the agency acts in the public interest and is not captured by big business interests and safety zealots. And we are asking the Courts to 'regulate the regulators' and hold FMCSA accountable to the Administrative Procedure Act and other Federal statutes, which they routinely ignore. Along those lines, the SBTC is currently suing the Secretary in Federal Court:

1:20-cv-00883-CKK *SMALL BUSINESS IN TRANSPORTATION COALITION v. DEPARTMENT OF TRANSPORTATION et al*
Colleen Kollar-Kotelly, presiding

Therefore, in the interest of public integrity and government accountability, we respectfully request that you please hold hearings on this proposal to reform the agency and hold the Secretary and FMCSA executives accountable for their failures, unlawful and unethical activity, and patterns of fraud, abuse, waste, and mismanagement which SBTC has routinely reported to you over the past year. Again, please let us know if you would like us to produce additional documents or testify on these matters to support this request.

Copies of this letter are being forwarded to the President, Secretary, and the oversight committee members for their information.

Thank you for your consideration.

Sincerely,

/s/ JAMES LAMB
SBTC Executive Director

/s/ CHARLES CLABURN
UTA Executive Director

cc: President Trump
Members of U.S. Senate Committee on Commerce, Science, and Transportation
Members of House Committee on Transportation and Infrastructure
The Honorable Elaine Chao, Secretary of Transportation
Incoming Acting Administrator Wiley Deck (via email only)
Laurence Socci, Esq. (via email only)