

March 14, 2023

The Honorable Pete Buttigieg  
Secretary  
U.S. Department of Transportation  
1200 New Jersey Avenue, S.E.  
Washington, DC 20590

Dear Secretary Buttigieg,

The hazardous materials rail spill in East Palestine, OH has seriously jeopardized public health and safety, caused significant environmental damage, and imposed enormous economic costs for clean-up and restoration. In the aftermath of this crash, the public has learned that sensible safety measures that may have prevented or mitigated the crash were delayed by the U.S. Department of Transportation (DOT) to accommodate the objections of railroad corporate interests.<sup>1</sup> This similar scenario affects the safety of hundreds of thousands of hazardous materials shipments that move by truck every day through communities across the United States. Government inaction and relentless opposition by special trucking interests put the public at unnecessary and unreasonable risk of a deadly and dangerous crash. It is past time to issue essential and overdue truck safety standards that will prevent hazmat crashes, save lives, protect communities, and put public safety ahead of corporate profits.

Shipping hazardous materials by truck presents a significant and lethal risk to the American public. Since 2014, more than 18,000 highway incidents each year, on average, have involved hazardous materials.<sup>2</sup> Over the years from 1990 to 2021, there were 16 times more hazardous material related fatalities in total in truck transportation compared to rail.<sup>3</sup> In fact, around 1 million hazmat shipments occur every day, on average, moving more than 3.3 billion tons of hazardous material annually. Approximately double the ton miles of hazardous materials are moved by truck as compared to train.<sup>4,5</sup> As recently as February 15<sup>th</sup>, a hazmat truck hauling nitric acid crashed in Arizona, causing “a yellow cloud of gas to erupt” that prompted extended shelter-in-place orders from emergency officials.<sup>6</sup>

For years, DOT has delayed and deferred critical regulatory actions bowing to the sustained opposition of special trucking interests, that compromise the safety of all trucks including those transporting hazardous materials. Therefore, it is imperative that DOT immediately move forward and issue the following comprehensive federal motor carrier safety standards.

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<sup>1</sup> <https://www.phmsa.dot.gov/news/phmsa-rescinds-ecp-brake-mandate-after-ria-finds-costs-outweigh-benefits>

<sup>2</sup> <https://www.bts.gov/content/hazardous-materials-fatalities-injuries-accidents-and-property-damage-data>

<sup>3</sup> <https://www.bts.gov/content/hazardous-materials-fatalities-injuries-accidents-and-property-damage-data>

<sup>4</sup> <https://www.phmsa.dot.gov/training/hazmat/phmsas-quarterly-newsletter-hazardous-materials-safety-april-june-2022>

<sup>5</sup> <https://www.bts.gov/browse-statistical-products-and-data/freight-facts-and-figures/hazardous-materials-shipments>

<sup>6</sup> <https://www.cbsnews.com/news/hazardous-materials-arizona-highway-truck-nitric-acid-overturned-prompting-evacuations-tucson/>; Interstate 10 incident: public health information; Feb. 15, 2023, Pima County Gov. available at <https://webcms.pima.gov/cms/One.aspx?portalId=169&pageId=927896>

## **Require Automatic Emergency Braking on All Commercial Motor Vehicles.**

The Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58), enacted in 2021, mandated rulemaking for automatic emergency braking (AEB) in commercial motor vehicles (CMVs) subject to 49 C.F.R. 571.136. As long ago as 2015, safety groups petitioned the National Highway Traffic Safety Administration (NHTSA) to issue a standard requiring AEB on CMVs. Furthermore, research by the Insurance Institute for Highway Safety has found that AEB and forward collision warning could eliminate more than two out of five large truck rear-end collision crashes.<sup>7</sup> The European Union has required AEB on nearly all heavy trucks since 2013.<sup>8</sup> AEB is a well-known, well-researched, and well-performing technology to prevent truck crashes. We urge you to move expeditiously to issue a comprehensive AEB standard that mandates this technology on all new trucks and ensures that DOT meets the statutory deadline of November 2023.

## **Mandate Speed Limiters on All Commercial Motor Vehicles.**

Speed kills. The safety benefits of controlling the speed of a CMV are incontrovertible. In 2016, FMCSA proposed its first speed limiter rule but has yet to issue a final standard. For far too long the FMCSA has taken a laissez-faire approach to speed-limiters that has, by FMCSA's own calculations, cost thousands of lives.<sup>9</sup> Studies have concluded that trucks using speed limiters were involved in half as many high-speed collisions as those not using speed limiters.<sup>10</sup> Speed is often a causal factor in rollover crashes.<sup>11</sup> Speed limiters, set no higher than 60 mph, must be required by DOT on all CMVs immediately. Already, speed limiting systems are required throughout world including in Canada, the United Kingdom and Australia.<sup>12</sup>

## **Fatigue is a Major Problem in the Trucking Industry. The Hours-of-Service Rule Needs to be Reformed and Restored & Obstructive Sleep Apnea Rulemaking Must be Reinstated.**

In 2011, FMCSA issued a hours-of-service (HOS) rule, supported by 80 studies and economic analysis intended to save the lives of truck drivers and those of passenger vehicles from fatigued truck drivers.<sup>13</sup> Following a lawsuit brought by trucking interests, FMCSA rolled back several key provisions, prompting National Transportation Safety Board (NTSB) Member Bruce Landsberg to conclude that the amended rule puts everyone on the road “at increased risk.”<sup>14</sup> Furthermore, operating on a short haul exemption (which allows a maximum duty period of 14 hours with no logs books, when operating within 150 air miles of regular reporting location)

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<sup>7</sup> IIHS, Effectiveness of front crash prevention systems in reducing large truck crash rates, September 2020, Available at: <https://www.iihs.org/topics/bibliography/ref/2211>

<sup>8</sup> Regulation No 131, Uniform Provisions Concerning the Approval of motor Vehicles With Regard To The Advanced Emergency Braking System, UN ECE,

<sup>9</sup> Peterman, David. R. (2017). Commercial Truck Safety: Overview (CRS Report No. R44792). Retrieved from Congressional Research Service website: <https://crsreports.congress.gov/product/pdf/R/R44792>

<sup>10</sup> Jeffrey S. Hickman, Feng Guo, Richard J. Hanowski, Richard Bishop, Gene Bergoffen & Dan Murray (2012) Safety Benefits of Speed Limiters in Commercial Motor Vehicles Using Carrier-Collected Crash Data, Journal of Intelligent Transportation Systems, 16:4, 177-183, DOI: 10.1080/15472450.2012.704340

<sup>11</sup> Characteristics of Fatal Rollover Crashes, NHTSA, Apr. 2022, DOT HS 809 438

<sup>12</sup> UN ECE Regulation No. 131

<sup>13</sup> 2010-2011 Hours of Service Rule, Regulatory Impact Analysis, FMCSA, 2011 RIN 2126-AB26

<sup>14</sup> <https://www.truckinginfo.com/10126700/new-hours-of-service-rule-relaxes-safety-but-you-dont-have-to>

increased crash risk by 383 percent.<sup>15</sup> We urge you to restore the 2011 rule immediately and require a 30-minute rest break after eight hours of driving that does not allow non-driving work. Additionally, DOT should reinstitute the rulemaking requiring screening and treatment of safety sensitive personnel for obstructive sleep apnea, something DOT already requires of air pilots.<sup>16</sup>

### **New Entrant Carrier Proficiency Exam is Essential.**

Congress has twice directed FMCSA to develop a knowledge exam for new motor carriers, initially in 1999 and again in 2012.<sup>17</sup> Years later, new motor carriers still do not have to prove to FMCSA that they know anything about the federal safety standards to participate in interstate commerce. This is also true for carriers seeking to haul hazardous materials, which is terrifying. New carriers need only sign a form stating that they are familiar with FMCSA safety requirements.<sup>18</sup> In addition, entry-level drivers who are learning to properly transport hazardous materials are not required to accumulate a minimum number of behind-the-wheel (BTW) training hours.<sup>19</sup> This is unacceptable. It is time to immediately complete the New Entrant Carrier Proficiency Exam rulemaking.

### **Anti-Safety Trucking Legislation in the 118<sup>th</sup> Congress Will Make Our Nation's Dangerous Roadways Even Deadlier.**

Current industry-led legislative proposals seek additional safety rollbacks that further endanger all roadway users and must be stopped. They include: Ceasing Age-Based (CAB) Trucking Restrictions Act (H.R. 267) and the Safer Highways and Increased Performance for Interstate Trucking (SHIP IT) Act (H.R. 471). Additionally, we remain opposed to the teen trucker pilot program mandated by the IJA and continue to call for stringent oversight.

The East Palestine train crash has revealed dangerous and deadly deficiencies in the rail transportation of hazardous materials. Perilous deficiencies are also ubiquitous in the truck transportation of hazardous materials. There are no defensible excuses for further delays when public safety is clearly at risk. We urge you to act now on mandating these imperative and overdue safety improvements.

Sincerely,

Tami Friedrich Trakh, President  
Truck Safety Coalition  
Truck Crash Victim

Joan Claybrook, Chair  
Citizens for Reliable and Safe Highways  
Former Administrator, National Highway  
Traffic Safety Administration

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<sup>15</sup> Crash Risk Factors for Interstate Large Trucks in North Carolina, Teoh, Eric R. / Carter, Daniel L. / Smith, Sarah / McCartt, Anne T., Journal of Safety Research, September 2017

<sup>16</sup> [https://www.faa.gov/about/office\\_org/headquarters\\_offices/avs/offices/aam/ame/guide/dec\\_cons/disease\\_prot/osa/](https://www.faa.gov/about/office_org/headquarters_offices/avs/offices/aam/ame/guide/dec_cons/disease_prot/osa/)

<sup>17</sup> Pub. L. 106-159, § 210 (1999); Pub. L. 112-141, § 32101 (2012).

<sup>18</sup> MCS-150B, Instructions Form, USDOT, OMB No: 2126-0013

<sup>19</sup> <https://csa.fmcsa.dot.gov/safetyplanner/MyFiles/SubSections.aspx?ch=23&sec=67&sub=156>

Daphne & Steve Izer, Co-Chairs  
Russell Swift, Co-Chair  
Parents Against Tired Truckers (P.A.T.T.)  
Truck Crash Victims

Sean O'Brien, General President  
International Brotherhood of Teamsters

Zach Cahalan, Executive Director  
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Michael Brooks, Executive Director  
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Jannette Fennell, Founder and President  
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