

**SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

*“Nominations of Ms. Robin Hutcheson, to be Administrator of the Federal Motor Carrier Safety Administration; Dr. Michael C. Morgan, to be Assistant Secretary for Environmental Observation and Prediction; Mr. Sean Burton, to be a Member of the Board of Directors, Metropolitan Washington Airports Authority”*

10:00 AM, June 8, 2022

**Questions for the Record from Chair Maria Cantwell to Ms. Robin Hutcheson**

***NTSB Recommendations.*** There are twenty-nine open recommendations from the National Transportation Safety Board (NTSB) to the Federal Motor Carrier Safety Administration, and four recommendations closed with an unacceptable response.

*Question 1.* Will you commit to reviewing these recommendations from the NTSB and taking appropriate actions that will reduce crashes and fatalities involving commercial motor vehicles?

*Answer:* As the FMCSA’s Deputy Administrator, I have continued to review the Agency’s progress addressing NTSB recommendations. If confirmed, I will remain focused on addressing each open recommendation with the goal of closing the recommendations with an NTSB classification of closed-acceptable or closed-acceptable alternative action.

***Crash Causation.*** In 2021, there were 5,600 people who were killed in an accident involving a large truck, a 13 percent increase from the year before. In Washington state, 94 people died in crashes involving heavy trucks last year, a 25 percent increase from the year before, and double the number of fatalities a decade ago.

*Question 2.* What is the agency doing to determine what is causing this spike in crashes and fatalities?

*Answer:* I share your concern regarding the unacceptable increase in fatalities involving large trucks. The Agency is currently developing its Large Truck Crash Causal Factors Study (LTCCFS), which will contribute greatly to understanding the root causes of CMV-related crashes. On January 15, 2020, the Agency requested public comment on how best to design and conduct a study to identify factors contributing to all FMCSA reportable large truck crashes (towaway, injury and fatal). Since that time, we have been working diligently to advance the LTCCFS.

*Questions 3.* What is the agency doing to address the root causes of these crashes?

*Answer:* The forthcoming LTCCFS will contribute greatly to understanding the root causes of CMV-related crashes and will guide FMCSA’s future actions to reduce roadway crashes and fatalities. FMCSA continues to monitor crash data trends to determine what short-term and long-term actions should be considered to address the safety challenges. The Agency also continues to review heavy truck fatal crash data from the National Highway Traffic Safety Administration’s (NHTSA) Fatality Analysis Reporting System. The review of this crash data

enables the Agency to prioritize the work of its field offices and to work with our State partners who receive Motor Carrier Safety Assistance Program (MCSAP) grants to develop their Commercial Vehicle Safety Plans to target resources as addressing the safety challenges reflected in the crash data.

***Entry Level Driver Training.*** In 2015, FMCSA published a notice of proposed rulemaking for entry level driver training standards which included 30 hours of behind the wheel training for a Class A commercial driver's license. This was based on recommendations from the Entry-Level Driver Training Advisory Committee, which included safety advocates and representatives of drivers and motor carriers, who all agreed that entry level truck drivers should have some behind the wheel training before receiving their license. However, the final rule, which went into effect this year, does not require any behind the wheel training.

*Question 4.* Will you commit to reviewing the entry level driver training requirements to determine whether behind the wheel training should be required?

*Answer:* In accordance with the MAP-21 mandate for behind the wheel training, the Entry Level Driver Training regulations went into effect on February 7, 2022 and require training providers to offer both theory and behind-the-wheel training. FMCSA requires training providers to report the number of hours spent in behind the wheel training for each driver. This information will give FMCSA a basis to assess, over time, whether drivers who received more hours of behind the wheel training have better safety outcomes after they began operating a commercial motor vehicle (CMV), and whether the regulations should be further amended.

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**Questions for the Record from Hon. SINEMA to MS. HUTCHESON**

***Infrastructure Investment and Jobs Act Implementation.*** The Infrastructure Investment and Jobs Act (IIJA) created several grant programs for the Federal Motor Carrier Safety Administration (FMCSA) to carry out, including the Motor Carrier Safety Assistance program to help State highway patrols carry out enforcement activities as well as High Priority Grants to help fund the installation of technology and equipment to increase vehicle safety and reduce accidents.

*Question 1.* Can you provide an update on the implementation of these two programs?

*Answer:* On June 2, 2022 FMCSA announced over \$463 million in Motor Carrier Safety Assistance Program (MCSAP) grants to States to reduce CMV-involved crashes, fatalities, and injuries through uniform, equitable, and effective CMV safety programs. The MCSAP grant program includes funding to State and local law enforcement and other government agencies for safety inspections of trucks and buses, traffic enforcement activities, investigations of motor carriers in response to safety concerns, and audits of new trucking and bus companies to reinforce the importance of responsible operation and ensure the safe movement of goods and passengers in the U.S. economy.

The Bipartisan Infrastructure Law includes a 52 percent increase over fiscal year 2021 for MCSAP formula grants. MCSAP funds are an important tool to address the rising number of roadway fatalities and carry out the Department’s mission. All 50 States, the District of Columbia, and the U.S. territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands will receive federal funds.

FMCSA is currently reviewing grant applications submitted by state and local enforcement agencies and anticipate awarding the High Priority grants later this summer.

***Workforce Issues.*** At the hearing, several of my colleagues raised concerns about FMCSA’s implementation of the pilot program to allow 3,000 drivers between the ages of 18 to 21 who complete over 400 hours of training to drive commercial motor vehicles across state lines.

*Question 2.* Could you explain the progress FMCSA has made on implementing the pilot program so far? If FMCSA is instituting new requirements for the pilot program not authorized in the IIJA, could you explain the agency’s reasoning for the additional requirements?

*Answer:* The Infrastructure Investment and Jobs Act (IIJA), Section 23022, required FMCSA to establish the Safe Driver Apprenticeship Program (SDAP) within 60 days. To meet that ambitious statutory deadline, FMCSA has already:

- obtained emergency approval for an Information Collection Request (ICR) under the Paperwork Reduction Act;
- published the Federal Register notice announcing the SDAP and established the program requirements for motor carriers and apprentices;
- launched the SDAP website;
- Obtained approval for the Privacy Impact Assessment as required by the E-Government Act of 2002;
- published in the Federal Register the 60-day ICR notice for full approval; and
- awarded a contract to support the Agency's data collection and analysis requirements for the Safe Driver Apprenticeship Pilot Program.

FMCSA is on target to begin accepting applications from motor carriers to participate in SDAP later this summer.

The SDAP included several requirements on motor carriers and apprentices that wish to participate in the program that are important for prioritizing safety and ensuring compliance with existing regulations. For example, a motor carrier seeking to participate in SDAP must not have a conditional or unsatisfactory safety rating, must not have any open enforcement actions, must not have a crash rate above the national average, and must not have a driver or vehicle out-of-service rate above the national average. In addition, an apprentice must not have had his or her license suspended, revoked, cancelled, or disqualified for a violation related to 49 CFR 383.51, or been convicted for being under the influence of alcohol as prescribed by State law.

FMCSA also required that motor carriers sign up for the Department of Labor's (DOL) Registered Apprenticeship Program. The Department saw an opportunity to meet the short implementation deadline and attract a broad range of participants to the program by leveraging an existing, successful framework that has a proven model for success. Utilizing the DOL framework will incentivize participants to join the program through the significant benefit to participants offered by the registered apprenticeship program, including its rigorous training standards; mentorship and pay requirements; and equal employment protections. In addition, FMCSA has been able to leverage existing motor carriers already part of DOL's Registered Apprenticeship program and work with the industry to encourage more to register. Overall, FMCSA has seen a positive response from the trucking industry on the Registered Apprenticeship requirement and continues to work closely with industry in fulfilling the goals of the pilot. Additionally, there is the potential to encourage not only recruitment, but retention by utilizing the structure of the DOL program, which will help reduce turnover and keep safe drivers on the road. The DOL's Registered Apprenticeship Program has a proven model for success that has shown higher retention rates and higher pay for an apprentice throughout his/her career, as current retention rates show that 91% of the apprenticeships who complete a program are still employed 9 months later.

*Question 3.* Are there any other steps Congress could take to address workforce challenges in the trucking industry?

*Answer:* The Congressional direction provided in the Bipartisan Infrastructure Law (BIL) will enable the Agency to work with researchers and stakeholders to address workforce challenges in the trucking industry, including investing in driver recruitment and retention issues. FMCSA will work to study the impacts of driver compensation on safety and driver retention, as well as driver detention time and how such delays adversely impact the safe and efficient movement of goods through the Nation's supply chain.

The establishment of the statutorily mandated Women of Trucking Advisory Board (WOTAB) will inform the best means and methods of attracting more women into the trucking profession. The WOTAB will be responsible for reviewing and reporting on policies that provide education, training, mentorship, or outreach to women in the trucking industry and recruit, retain, or advance women in the trucking industry. The recommendations of the WOTAB will help inform FMCSA and Congress on ways to facilitate support for women pursuing trucking careers and to expand opportunities, training, and outreach for women in trucking

In addition, the establishment of a Truck Leasing Task Force (TLTF) will contribute significantly to addressing workforce challenges. As part of the Biden-Harris Administration's Trucking Action Plan, the TLTF will evaluate the impacts of commercial motor vehicle lease agreements and potential best practices for future agreements. The TLTF will examine common lease-purchase agreements and their potential impact on the on-road safety performance and financial solvency of owner-operators.

I believe that each of these initiatives, prompted and supported by Congress, will help address workforce challenges within the industry.

***Truck Safety.*** I have concerns that over 5,000 Americans lost their lives in crashes involving large trucks in 2021, and that 13 percent more crashes involving large motor vehicles occurred in 2021 compared to 2020. Data indicates that many fatal commercial motor vehicle crashes take place at higher rates of speed. FMCSA has published a Notice of Intent to initiate a rulemaking to institute speed limits on certain motor vehicles that operate in interstate commerce.

*Question 4.* Do you have an update on when the supplemental notice of proposed rulemaking related to speed will be published? If so, what speed limit will FMCSA propose?

*Answer:* On May 4, 2022, FMCSA published an advance notice of supplemental proposed rulemaking (SNPRM) announcing the Agency's intent to move forward with a rulemaking to require that motor carriers operating commercial motor vehicles (CMVs) in interstate commerce set the electronic engine control unit (ECU) to a maximum speed to be determined through the rulemaking. The public comment period ends on July 18, 2022.

As of June 15, there were approximately 14,600 public comments to the notice in the docket. At the end of the comment period, the Agency will consider the data and information provided by commenters in determining the specifics for the SNPRM and will continue to work with member offices, stakeholders, and industry.

Because this rulemaking would be considered significant under Executive Order 12866 it must undergo review by the Office of Management and Budget prior to publication. While we cannot say definitively when the SNPRM will be issued before we have a chance to analyze all submitted comments, at this time we anticipate publishing the new speed limiter proposal in the second half of FY 2023.

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**Questions for the Record from Senator Rosen to Ms. Robin Hutcheson**

*Autonomous Vehicles.* As the first state to legalize autonomous vehicles back in 2011, Nevada has been at the forefront of smart mobility. That includes the country's largest autonomous vehicle demonstration on one of Las Vegas's busiest routes, and the construction of a testing track for self-driving robot delivery vehicles.

We don't want this domestic AV investment to move to foreign markets where countries have already enacted "rules of the road" that we have yet to adopt here in the U.S. That's why I recently joined a letter led by Senator Peters about how the Department of Transportation plans to address the future of autonomous vehicles.

*Question 1.* Ms. Hutcheson, if confirmed, how would you lead coordination efforts between FMCSA and other relevant agencies within the Department of Transportation that work on safety standards for autonomous vehicles?

*Answer:* Safety is the number one priority for FMCSA. Our safety mission not only allows us to work with advocates and industry to help guide safe innovation that leads to safer outcomes, but our work can help the public understand the ways new vehicle technology may help us achieve our safety goals. If confirmed as FMCSA Administrator, I would continue to coordinate the Agency's regulatory development and research efforts concerning automated commercial motor vehicles with the National Highway Traffic Safety Administration's (NHTSA), the Federal Highway Administration's (FHWA), and the Federal Transit Administration's (FTA) autonomous vehicle activities. I would also continue to participate in cross-cutting projects led by other modal Agencies including, for example, the National Roadway Integration of Automated Driving Systems Project being led by FHWA, as well as joint participation in ADS standards development activities by both FMCSA and NHTSA staff. We are committed to working across agencies and with all partners and stakeholders to understand and prepare for the safety opportunities that automation may support.

*Question 2.* Ms. Hutcheson, if confirmed, how do you plan to engage with stakeholders in the AV space, including innovative startups, which make up a significant portion of the AV ecosystem?

*Answer:* FMCSA continues to work closely with the trucking industry to understand the implications of deploying automated driving systems in commercial motor vehicles. As

automated driving systems (ADS) mature, they may enhance or degrade trucking operations in ways we have not considered previously. FMCSA has met with several innovative startups and developers at their testing locations and operational depots and will continue to meet with ADS developers and heavy truck manufacturers both online and at industry conferences.

If confirmed, I will continue to work with all stakeholders – including developers, manufacturers, advocates, labor, and others – to advance FMCSA policy on automated and autonomous vehicles in a way that promotes innovation, supports American ingenuity and workers, and supports deployment of technology that improves safety

*Question 3.* FMCSA’s 2022 Analysis, Research, and Technology Forum suggested that the agency is gearing up for a future with self-driving trucks. Ms. Hutcheson, what tools will you need, if confirmed, to enable data collection activities in order to inform future standards around autonomous truck safety so that we can remain globally competitive in the AV space? And if confirmed, will you work to ensure FMCSA keeps track of the various autonomous truck testing or demonstration projects in different states?

*Answer:* If confirmed as the new FMCSA Administrator, I would leverage our relationships and partner with the NHTSA, FHWA, the scientific community, and academia to develop safety performance metrics and seek to conduct field operational tests and other field experiments to collect safety data that will inform future ADS policy and regulatory decisions. In terms of additional tools needed, an appropriate limited exemption from the Paperwork Reduction Act would significantly reduce the time needed to initiate research and technology deployment projects and to collect empirical data from a representative sample of research subjects.

If confirmed as FMCSA Administrator, I would continue to track various autonomous truck testing and demonstration projects in partnership with NHTSA, including through their AV TEST<sup>1</sup> and Standing General Order (SGO)<sup>2</sup> programs, as well as existing tracking efforts by the Office of the Secretary’s Intelligent Transportation Systems - Joint Program Office. FMCSA will also leverage our own Motor Carrier Management Information System (MCMIS) to track the safety performance of motor carrier fleets that are operating ADS-enabled trucks.

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<sup>1</sup> For more information see <https://www.nhtsa.gov/automated-vehicle-test-tracking-tool>.

<sup>2</sup> For more information see <https://www.nhtsa.gov/laws-regulations/standing-general-order-crash-reporting-levels-driving-automation-2-5>.