



October 21, 2019

Via Elaine.Chao@dot.gov & US Mail

The Honorable Elaine Chao
Secretary of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Re: Docket No. FMCSA-2018-0180; RESUBMISSION OF ELD EXEMPTION APPLICATION PURSUANT TO 49 U.S. Code § 31315(b)(3) & 49 CFR 381.317; REQUIRED TO BE PUBLISHED IN THE FEDERAL REGISTER “UPON RECEIPT” PURSUANT TO 49 U.S. CODE § 31315

Dear Secretary Chao:

On August 9, 2019, pursuant to 49 U.S. Code § 31315(b)(3) and 49 CFR 381.317, the Small Business in Transportation Coalition resubmitted to the Federal Motor Carrier Safety Administration (FMCSA) --pursuant to authority delegated by you --its ELD Exemption Application in the matter of Docket No. FMCSA-2018-0180 requesting reconsideration of FMCSA's previous denial of our application.

Regulations.gov immediately published this application to the docket on August 12, 2019 at: <https://www.regulations.gov/document?D=FMCSA-2018-0180-1954>.

As you know, on August 23, 2019, you and I received an email from FMCSA's Associate Administrator for Policy Larry Minor, which acknowledged receipt of this resubmission and stated:

“This is to advise you that we are already working on the Federal Register notice to request public comment on your request...”

On October 9, 2019, I received a follow-up email from Mr. Minor, which stated:

“This is to advise you that I just completed my review of the draft Federal Register notice requesting public comment on the SBTC ELD application for exemption. We anticipate issuing the notice early next week. I will notify you with the publication schedule after the notice is delivered to the Office of the Federal Register.”

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Despite this representation by Mr. Minor, a Federal Register notice was not published the week of October 14th. Furthermore, as of today, October 21st, no such Federal Register notice has been effected by FMCSA and no notice appears on public inspection for tomorrow's Federal Register.

Federal Law is quite clear that you are required to publish exemption applications in the Federal Register "upon receipt." As 10 weeks have now passed since we filed our application, we believe your Department has clearly failed to comply with the law. We are disappointed your Department has repeatedly reneged on its promises to us in bad faith and that you leave us with no choice but to commence litigation to ask a Federal Court to compel agency action.

You may now expect same.

I am personally disturbed that FMCSA has a history of discriminating against trade groups I operate and retaliating against me individually for court filings I effect on behalf of industry and that we have had to seek the assistance of the Small Business Administration copied here to terminate such unlawful acts.

Sincerely,

/s/ JAMES LAMB

SBTC President

cc: SBA Ombudsman

Laurence Socci, Esq.

The Bopp Law Firm

Mr. Minor; Mr. Fromm; Mr. Mullen; Mr. Martinez