STATEMENT OF SECRETARY OF TRANSPORTATION BROCK ADAMS, BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION REGARDING TRUCKING REFORM, JUNE 26, 1979

Mr. Chairman and Members of the Committee:

I appear today to discuss the Administration's proposal for reforming the economic and safety regulation of the trucking industry. I appreciate the opportunity you have provided to outline the problems built into the present system and the solutions we propose for dealing with those problems.

Alfred Kahn and Charles Schultze are also here today to address the issue of inflation, and the effects that deficiencies in the regulatory system have on the economy.

I am here to discuss those aspects of the regulatory system that are of serious concern to the Department of Transportation in its major role as formulator of national transportation policy. These involve distortions that the regulatory system creates in our freight transportation network.

The Administration is not arguing the case for total deregulation. That is not proposed in our bill, but we do believe, Mr. Chairman, that significant improvements can be made in the present regulatory system without dismantling the system entirely. This is what we have proposed.

Both the regulated truckers and the so-called unregulated truckers are burdened now with many restrictions that are unnecessarily complicated and, in many cases, capricious.

Truck transportation in the United States is a 44-year-old patchwork quilt of regulations. New patches are being added regularly. Old patches are wearing out. The perimeters are always changing. Is tree bark exempt from regulation? What if it comes in bags? What if it's been boiled? What about manure? How about frozen dinners? This week, wheels cut from hickory logs are exempt, but hickory meal or sawdust isn't. What will be the rule tomorrow? This type of new rule must be made constantly, under the existing law.

As you know, Mr. Chairman, when the trucking industry was first regulated in 1935 -- due in part to support from the railroads, who did not wish to compete against an unregulated industry -- American farmers fought successfully to remove agricultural items from regulation on the basis that farm trucks should be able to go market without regulation. But the job of determining what is and is not an exempt agricultural commodity has fallen to the ICC, which has made the distinction in different ways at different points in its history.

As a consequence, we have today a situation in which butchered beef is not an exempt commodity, but cut-up chicken is. And manure is exempt until it is put in bags and processed, at which point it becomes a regulated commodity.

The intricacies of the regulatory labyrinth could keep an army of lawyers busy full-time, and, in fact, does. The ICC publishes a book -- which it is forced to update frequently -- that lists examples of what freight is exempt and what is "hot".

The existence of this regulatory maze is a problem in itself, of course, because it diverts an inordinate amount of the industry's time, money and energy to the task of understanding and working within the system. That energy could be better-used in the physical transportation of freight to its destination, an activity that would contribute far more to the economy.

Similarly, the Commission is forced to devote an inordinate amount of its time to rate questions -- questions that frequently could be decided more fairly and easily by the normal functioning of the marketplace. The ICC recently spent nearly an entire year -- just one week short of an entire year -- determining whether shipments of lawn sprinklers to Southern California and other western points should be charged at the rate for metal sprinklers or at the rate for plastic sprinklers. These sprinklers, apparently, had metal bodies but plastic housings. An ICC review board finally had to decide the matter.

The kinds of restrictions that the ICC imposes on truck certificates defy all rules of logic. One trucker may be permitted to haul heavy machinery as long as it is uncrated, but is prohibited from hauling it if it is shipped in crates. Another can carry glass containers not exceeding one gallon in capacity, but not larger containers. Consider

the carrier who can transport empty gingerale containers from one point in Virginia to one point in Pennsylvania over a specified route and with no intermediate stops allowed even if he could pick up business along the way. A midwestern general commodity carrier is permitted to haul goods between Omaha and Denver -- a distance of 540 miles by direct Interstate highways -- but only if he goes by way of Cheyenne, Wyoming, a distance of nearly 900 miles. An agricultural hauler may be permitted to carry milk -- but not yogurt or ice cream.

Or he may be permitted to haul goods in only one direction. Prior to 1975, half the new trucking authorities contained no backhaul authority at all. Even today, a significant percentage of new certificates permit only one-way trips.

Consider the plight of the independent trucker who can haul grain from farm to market, but cannot haul animal feed back to the farm in his empty truck. But more than that, consider the waste of precious diesel fuel that such a restriction entails.

And in the meantime, service to smaller shippers and smaller communities suffers, for the ICC's enforcement powers are not geared to ensuring that truckers engaged in common carriage fulfill their obligations to provide service fairly and to all comers. It is doubtful that any regulatory agency, of a manageable size, could hold an industry as widespread as trucking to such an obligation; certainly the ICC does not do so and does not have the resources to do so.

There are, today, basically two kinds of common carrier service to small communities: profitable and nonexistent.

Under our legislation, which offers greater possibilities for entry and greater pricing flexibility, service to small communities could improve significantly. Our studies indicate that most -- if not all -- small community trucking service is offered because it is profitable to the trucker. Increased flexibility of rates and entry could only ensure that more truckers would find such service economically advantageous.

Opponents of our proposal will tell you that our highways will be less safe if economic regulation is relaxed -- that without such regulation the highways will be besieged by thousands of shoestring truckers operating without proof of financial responsibility and without regard for safe operational procedures.

Let me make it clear that we will not let this occur. The Interstate Commerce Commission has no power to enforce safety regulations or standards, because the limited resources for truck safety regulation have been transferred to the Department of Transportation.

Existing safety standards can be strengthened, however, and this proposed legislation contains provisions that would increase the Department's safety enforcement powers. We are also proposing the establishment of a framework for a State grant program to implement a better Federal/ State program of inspection and on-site enforcement.

In the end, we believe, we will all benefit from the regulatory reform program we are proposing to you. Truckers will benefit from increased flexibility to respond to the demands of the marketplace, shippers and consumers will benefit from improved service and lower prices, and we will all benefit from improvements in the efficiency of our freight transportation system. Our fuel efficiency will be greater, our economy will be sounder, our highways will be safer.

These are more than simply laudable goals. They are also attainable goals. I urge you to give full and serious consideration to our proposals.

These are but some of the reasons for change. I have attached to this brief statement, a more extended discussion of why we need reform, what changes we propose, and some of the arguments used by opponents of reform. I request that these remarks be made part of the record, but I would like to discuss briefly the main provisions of the bill.

First, the bill would change the present ambiguous policy statement that governs all Commission actions and refocus the policy upon more competition, improved safety, and increased opportunities for small community service.

Second, the heart of the bill would lift the present commodity and route restrictions that today plague our carriers -- carriers who have already been found to be fit, willing, and able who have already passed the hurdle of the current public convenience and necessity tests. During a three year transition, these restrictions will be lifted and at the end of this period carriers will be able to travel between all points listed on their certificates in the most direct way, carrying whatever goods are tendered to them. The most onerous restrictions, which prevent carriers from filing their backhauls or stopping off at small communities along the route, will be removed immediately. The ICC will also be directed to institute a program allowing carriers to expand and rationalize their own systems.

Third, greater flexibility will be provided to new entrants. The public convenience and necessity and fit, willing and able tests are retained, but the burden of proof will be shifted to the opponent for the public convenience and necessity test. Competition is in the public interest, and we should insist that this be the presumption in all entry proceedings. Procedural expedition is also in the public interest and the bill sets strict time limits for entry and rate cases.

Fourth, carriers are provided a limited zone of rate flexibility; five percent up for the first two years, and seven percent thereafter; and 20 percent down for the first two years and down to cost thereafter. This is a sufficient zone to allow for flexibility and innovation but a zone with proper precautions against any unreasonable rate increases or possible predatory activity. Of course, increased entry is the best protection against both of these possible abuses, but the zone provides for extra safeguards.

The bill would also remove the present and special antitrust exemption that allows carriers to meet collectively and decide rates. Rate bureaus could continue to publish rates, and interline rate agreements could still be agreed to, in the way that other cooperative agreements are established in other industries, but cartel ratemaking would be outlawed.

Fifth, the bill contains a series of provisions to improve small town service: the policy statement and the new definition of public convenience and necessity stress small community service; a relaxed entry standard is provided in cases where there is no truck service,

where there's a rail abandonment, or where the applicant wishes to transport shipments under 500 pounds, a key concern to the small shipper and small community. Most important, the present agricultural exemption, which now applies only to unprocessed agricultural items, is expanded to include almost all agricultural items, all food, and all farm related materials. This last provision will benefit the farmers and the price-conscious food shopper.

Sixth, the bill provides stricter merger standards; greater flexibility for contract carriers; and increased freedom for private carriers.

Finally, as I mentioned the bill would improve DOT's truck safety program. Safety authority would be consolidated in the Department of Transportation, increased authority would be provided to the Department to deal with the problem of truck safety, and a framework for new Federal-State partnership would be established with both Federal and local funds to increase safety enforcement. I should add, Mr. Chairman, that, as the President announced, we expect very shortly to transmit additional provisions dealing with household movers.

This is but a brief overview of the problem and a course of action that addresses it. I look forward to working with you on this issue in the next few months.

This concludes my oral presentation, and with your permission, Alfred Kahn and Charlie Schultze will continue the discussion.