

STATEMENT FOR DR. JOHN FEARNSIDES BEFORE THE SENATE SUBCOMMITTEE ON  
AGRICULTURAL PRODUCTION, MARKETING AND STABILIZATION OF PRICES ON JULY  
30, 1979

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you today to discuss the Department of Transportation's views on agricultural transportation issues.

Mr. Chairman, I am pleased to say that the Administration and this Department are committed to addressing the transportation needs of agriculture and rural America. On June 19, the White House announced the sixth in a series of rural development initiatives. Entitled "Improving Transportation in Rural America," this announcement deals with four key areas of transportation: (1) improvements in public transportation; (2) support for ridesharing; (3) rehabilitation of rail branchlines; and (4) expansion of commuter air service. In each of these four areas, the Administration has developed agreements among the government agencies involved--among them the U.S. Departments of Transportation; Agriculture; Commerce; Labor; and Health, Education and Welfare--to pool their technical, financial and human resources to meet the needs of rural residents and to assist actual and potential providers of rural transportation services. A task force has been assigned to monitor the progress of each agreement and it is empowered to "cut red tape" when necessary by expediting administrative grant and program procedures.

The members of this committee are well acquainted with the legislative mandate and background of the Rural Transportation Advisory Task Force. The Task Force, chaired jointly by the Secretaries of Agriculture and Transportation, has recently issued a preliminary report, "Transportation Services to meet the Growing Needs of Agriculture." The Task Force

in its preliminary report has addressed an entire range of tough transportation issues facing agriculture and rural America today, including rail car shortages, branchline abandonments, agricultural exemptions and backhaul restrictions for truckers, truck sizes and weights, and rural roads and bridges. The Task Force is conducting a series of public hearings on these issues and others throughout the country. We are optimistic about the progress of the Task Force in addressing these issues, and look forward to their final report in January 1980.

Finally, in response to an Administration commitment, the Department is working closely with the White House in a committee to examine the serious problems facing independent truckers. A second working group, headed by staff of the Department of Agriculture, is looking more specifically at the problems of truckers who haul exempt agricultural commodities. These two groups, which have been meeting recently, will work closely to develop recommendations over a 90-day period on Federal actions which can be taken to deal with the problems of independent truckers.

The transportation needs of agriculture, particularly in recent years, have placed some of the most serious and complex demands on our present transportation systems. The last decade has seen both growth and change in the agricultural sector of the United States economy. Growth in grain exports has been especially great. Exports in 1978 were 16 percent greater than in 1973, despite the fact that the 1973 level included a large part of the historic Russian grain movement. A second important development has been the large increase in on-farm storage capacity, which has given the farmer far greater control over the timing of the shipment of crops. The amount of on-farm storage in Nebraska for corn, for example, is about 2-1/2 times that of commercial, off-farm

storage. In South Dakota the amount of on-farm storage for all crops is about eight times that of commercial off-farm storage. This combination of on and off-farm storage makes it possible to store large portions of each harvest until the optimal shipping time occurs.

Unfortunately, adjustments in the transportation system have failed to keep pace with these changes. An outmoded regulatory system, particularly regarding railroads, but also affecting trucks, hinders responsiveness. Our rural roads and bridges, as well as the rail branchline system, are increasingly unable to handle traffic generated. Both independently and through the DOT-uSDA Rural Transportation Advisory Task Force, we have been working on improvements in these areas.

#### Railroads

There are many deep-rooted problems in the railroad industry, including poor equipment utilization, deteriorating roadbeds, power shortages, car shortages and a precarious financial position. These problems are particularly severe for many of the railroads serving our graineries in the midwest. They have been a long time in developing. For years we have tried to remedy some of these ills in the short run with costly and insufficient palliatives such as emergency car service orders.

These measures and others like them have not and will not solve the problems because they address only the symptoms of the rail illness. That illness is the inability of a corporation engaged in railroad

transportation to respond effectively to the changing needs of the economy and the shipping public. We believe that the present, outmoded regulatory environment is a basic cause of this inflexibility, and we are therefore recommending a fundamental change in the relationship between the Federal Government and the rail industry. We have met with various groups which represent farmers, processors, Boards of Trade, shippers, and receivers in fashioning the changes needed to improve railroad transportation for agriculture and we will continue to do so. We recognize that transportation capacity is important to agriculture and that participation of agricultural interests is necessary in rehabilitating the parts of the system that can serve tomorrow's demands adequately.

Senate bill S. 796, the Railroad Deregulation Act of 1979, is a comprehensive measure designed to make fundamental changes in economic regulation of the rail industry, to move from reliance on regulation toward reliance on market forces wherever possible. The bill contains a system of checks and balances, designed to work together to assure that shippers are protected by competitive market forces that work so well in the rest of the economy. Regulatory protection is retained only in those rare instances where market forces alone prove inadequate to protect the public. We believe a comprehensive approach is essential if we are to develop an improved, rational, efficient transportation system. I would like to briefly discuss the major sections of our proposed bill.

One major section deals with ratemaking. The most important practical changes are to legalize contract rates and effectively encourage demand-sensitive rates. Maximum rate regulation would be phased

out over a transition period of five years. During this period a zone of reasonableness would exist within which carriers could raise their rates by not more than seven percent annually, plus inflation, as long as the rates are not discriminatory. A shipper could seek protection against rate increases greater than this by showing that he was captive and had no practicable alternative to shipping by rail. If the shipper can do so, then the burden shifts to the railroad to prove that the rate was reasonable. During the five year period the Department is required to conduct two studies to determine whether competition is proving to be an adequate regulation of rates. While many studies already make clear that competition will protect the vast majority of shippers, the bill would require DOT to recommend legislative changes if either of these studies uncovers evidence that ending maximum rate regulation will leave any particular shippers without adequate protection. Minimum rate regulation, requiring carriers to set rates that cover the incremental costs of a movement (plus a return on investment), will be maintained indefinitely. The antidiscrimination provisions of the current statute (as interpreted by the courts) will also be maintained indefinitely.

Cases would be brought before the ICC only by the specific shippers actually affected by a rate. The Commission would no longer be able to initiate rate suspensions or investigations on its own motion. Decisions would have to be rendered within four months. After a three year transition period, rate changes could occur contemporaneously with publication, rather than after 30 days notice as is now the case. This system is already in place for motor carriers and barges carrying agricultural products. There is no economic regulation of the

rates charged by these modes to move agricultural commodities and rates can and do change daily. Also, such rates are generally not published. The rail bill would, however, require the railroads to publish all rail rates upon their effective date. Essential terms of contract rates will also be made public so that shippers in similar circumstances can secure similar terms.

Under the bill, railroads could set their own joint rates and divide revenues as they choose or they can choose to publish proportional and local rates. But they must continue to maintain through routes just as they do now. Thus, shippers will still be able to secure service by negotiating with a single railroad just as they do at present. Antitrust immunity to discuss joint rates will be confined to those carriers actually participating in a movement for which a rate is proposed, or those offering to participate in new movements.

Let me say at this point that we are beginning to see railroad deregulation in the fresh fruit and vegetable industry and it works. The SP and Conrail, for example, have teamed up on the "Salad Bowl Express" offering reliable seventh day service between California and Newark. This service is moving far more produce than has moved by train in years - up to three trains a day during the harvest peak. Prices fluctuate with demand, and perhaps most surprising, but at the same time, most encouraging, Conrail got a good division and in return provided good service. SP is enthusiastic about this and sees bigger traffic gains down the road.

A second major section of the bill concerns rail operations. The bill will curtail the power of the ICC to issue car service orders

directing railroads to move specific cars to designated areas, carriers or shippers, and will allow such intervention (by DOT) only in times of true national or transportation emergencies as determined by the President. Limiting the use of this authority to genuine emergencies will allow the railroads to have greater control over their day to day operations. We simply cannot look to the government any more to decide who should get which cars on which days. But fundamental rules of economic fair play are kept.

The common carrier obligation of railroads is retained in the bill -- the railroads will be required to provide service to everyone willing to pay the lawful, going rate. The only exception will be to permit railroads to honor terms of prior contracts or other obligations for cars, which is the only basis on which such contracts can work.

A third major area of the bill deals with the structure of the industry. To make railroads healthy enough to meet future demands, not only must their revenues be improved, but their costs must be cut. We believe restructuring of the railroads; physical properties is an essential element in improving their financial condition. We address the problem of excess rail plant capacity. But we assure shippers and communities that rail service will continue whenever the real costs of providing such services are covered either by rates or by subsidy. When discussing abandonment it is important to realize that states, shippers, carriers, and labor have opportunities to investigate alternatives to abandonment where a line is losing money today. Four principal alternatives exist: (1) coordinating of facilities, where two unprofitable branch lines serve an area and when consolidation of traffic on one of the lines will

bring up the volume and revenues on that line sufficiently to make it profitable; (2) providing for investment in lines before they are abandoned, so that they can be made profitable; (3) facilitating negotiations between labor and management to save both the branch line and jobs; and (4) developing truck/rail intermodal transportation packages as a means of eliminating the need for branch lines. This last approach has frequently improved the prices paid to farmers for their grain by actually lowering transportation costs.

For those rail lines that cannot be made profitable, the bill's abandonment provision will allow the necessary rationalization of the rail system by providing clearer guidelines for the abandonment process. This will eliminate the burden such lines place on other traffic. We believe it is far better to permit the abandonment or subsidy of unprofitable segments than to provide a drain on a whole railroad that reduces quality of service and may ultimately lead even to bankruptcy. Under the bill, the ICC will continue to review proposed abandonment applications. There will continue to be a public convenience and necessity test, but the investigations will be subject to strict standards and strict time limits. An application must be granted if it is shown that operation of the line is losing money, or that the benefits to the public of abandonment exceed its costs to the public. Service would be continued, however, on a line that is purchased or subsidized by a responsible interested party.

#### Trucking Regulatory Reform

Turning, to your concerns about the implications of regulatory reform in the trucking industry for agricultural communities, I want to

emphasize that we share those concerns. DOT has a responsibility to insure that adequate transportation services are provided to all areas of our country - both urban and rural. We have submitted trucking regulatory reform legislation, S. 1400, which we believe will ultimately improve trucking services to the agricultural sector. We have substantial evidence -- much of it drawn from studies in the agricultural trucking area -- not only freight rates will go down with the liberalization of current regulation, but that service will improve when much of the regulation is removed. Moreover, we have carefully designed the Administration's bill to improve trucking service to small communities.

#### Rates

There is substantial evidence that truck rates are too high. Much of it comes from comparisons of similar truck freight moving in regulated and unregulated markets. A study done for DOT showed that unregulated New Jersey intrastate rates are 10-15 percent less than comparable interstate rates that are regulated. The rapid growth of "shipper associations" led us to initiate a study of their rate experience, and preliminary evidence shows that rates to their members are about 17 percent less than regulated rates. The famous USDA "chicken" study showed that rates on fresh and frozen poultry fell 33-36 percent after they became exempt: on frozen fruits and vegetables, relative rates fell by 25-33 percent during the period in which they were exempted. The percentages may differ, but the direction of change always seems to be the same. The Council of Economic Advisers has intensely examined all these studies and concludes that rates should fall by 15-20 percent once the regulatory reforms are implemented.

#### Quality of Service

Nor do the lower rates associated with the absence of regulation

mean inferior service: The DOT New Jersey report found that 97 percent of the shippers surveyed thought the service they got on unregulated intrastate shipments was equal to or better than the service they got on regulated interstate shipments. A 1972 survey of members of the National Broiler Council showed that unregulated trucking was overwhelmingly superior to regulated trucking. In terms of carriers' willingness to serve "off-line points," 69 percent of members surveyed felt unregulated carriers were better than regulated carriers, while only 3 percent felt the reverse. Studies conducted by the U.S. Department of Agriculture in 1958-1961, after truck rates were deregulated for a number of agricultural commodities, showed that service improved at the same time that rates for those movements dropped. Shippers were so pleased with the new unregulated for-hire service that they drastically reduced their private carriage operations: in the case of fresh poultry, the reduction was from 62 percent to 48 percent. The agricultural groups which will testify before the Subcommittee can speak of their satisfaction with the exemption for agricultural commodities. A 1978 GAO study reported that, after the 1977 expansion of unregulated commercial zone transportation, 98 percent of the shippers surveyed felt that service was unchanged or better.

Finally, there is evidence that shippers in other countries prefer the service they receive from unregulated trucking firms. Shippers in Great Britain, Belgium, Holland and Sweden had little or no complaint about the quality of service after regulatory reform, even to and from

distant or rural areas, and that they did not feel service would be better if their trucking industries were re-regulated. Shippers in Australia, even those in rural areas, felt that service was better after deregulation. Regulation of the intra-provincial trucking industries in Canada did not protect or improve service to small and rural communities, while the provincial government in Alberta, where trucking has been unregulated for 50 years, has found that their rural areas get adequate and fairly regular service at competitive rates.

#### Service to Small Communities under Regulation

We have been very seriously concerned during our deliberations on regulatory reform about its effect on service to small communities. We have invested heavily in terms of time and resources to examine the issue, and believe that our bill is designed not only to prevent the deterioration of such service, but to improve it.

The research has shown consistently that when "the truck stops here" in a small community, 8 out of 10 of these trucks are likely to be either private or exempt carrier's trucks. Who carries most fresh produce to small communities? Carriers who are outside of ICC regulation, not the regulated carriers. If small community service is profitable for regulated carriers -- and studies show it can be -- the regulated carriers perform it. And when it isn't profitable for common carriers, they reduce their service or "farm it out" to a local carrier on an "interline" basis. When a shipper complains about poor service, the ICC may try to cajole the carrier into improving his service, but the ICC has never, in its 44 years of motor carrier regulation, revoked a

certificate for refusal to serve. What is the "common carrier obligation" if there is no credible threat of enforcement?

What we're left with is the question, in terms of small community service, does current regulatory policy keep the carriers in, or does it keep them out?

#### S. 1400 and Small Community Service

We strongly believe it keeps them out. Thus, we have included provisions in our bill designed to improve service to small communities.

First, the general policy statement that governs ICC decisions specifically directs the ICC to improve small town service. Existing law contains no such provision.

Second, in determining whether applications for entry meet the "public convenience and necessity" standard, the ICC is directed to emphasize increased service to small communities. There is no such requirement in existing law.

Third, existing certificate restrictions are liberalized to improve service to small communities. For example, many certificates today specify the actual highway a trucking company must use. If a truck leaves the designated highway to serve a town off the beaten track, it is violating the law. The proposed legislation makes it easier for trucking companies to obtain authority to serve small towns near current routes.

Many existing certificates do not allow trucks to make intermediate stops and serve towns between authorized points. These restrictions are particularly harmful to towns that are so small that trucking companies are unwilling to undergo the costly and often unsuccessful process of obtaining authority to serve them. The proposed legislation would remove these restrictions and permit carriers to stop at intermediate points.

Fourth, a program is established for phased route expansion without ICC approval; this program will emphasize increased service to small communities. There is no such program under existing law.

Fifth, the agricultural commodity and agricultural co-op exemptions are substantially broadened. This change will give carriers serving small towns increased opportunities to fill their trucks with commodities they cannot now carry.

Sixth, increased pricing flexibility will allow lower backhaul rates to small communities.

Seventh, any carrier that meets financial, safety, and insurance requirements (a "fit, willing, and able" carrier) may enter a point which an authorized carrier no longer serves, or which a railroad abandons. There is no such provision in existing law.

In sum, we believe the implications of regulatory reform of the trucking industry for agricultural and rural communities -- at least as the Administration has designed it in S. 1400 -- are very good indeed.

## Roads & Bridges

Turning to the subject of the adequacy of roads and bridges to handle truck traffic, problems clearly exist.

Many miles of intermediate and lower class rural highways are structurally incapable of handling a large number of heavy axle loads without excessive damage. Increases in either number of axle loads or the magnitude of axle loads would require additional pavement structure to accommodate the loading without increasing the rate of deterioration.

The Department's Eighth Annual Report to Congress on the Special Bridge Replacement Program revealed that as of October 31, 1978, there were 9,100 bridges on the Federal-aid system out of 242,000 inventoried that could no longer carry truck traffic. There were an additional 31,600 bridges that due to their functional obsolescence could no longer safely service the system of which they were an integral part. The inventory of all off-system highway bridges by December 1980 as required by the Surface Transportation Assistance Act of 1978 is currently 40 percent complete. As of July 1, 1979, out of an estimated 361,000 bridges off-system, 36,000 bridges have been uncovered that could no longer carry truck traffic, or will have to be rehabilitated immediately if they are to continue to carry limited truck traffic. In addition, there are 37,000 bridges that are functionally obsolete off the Federal-aid system.

There has been a great deal of public concern particularly in rural areas over the condition of the bridges both on and off the Federal-aid system. Many of these vintage structures can no longer safely service the adjacent communities and are imposing a hardship on citizens whose

daily living have become dependent on them. The social and economic hardship is usually greatest when a load-posted bridge is on the local system because it is frequently the only access to an area. Such load-posted bridges may prohibit emergency vehicles from servicing entire communities.

The FHWA has several programs that aid rural transportation. Among these are the principle intercity highway programs such as the Interstate and Federal-aid Primary programs. The Federal aid Secondary program is rural in scope and is primarily designed to address rural agricultural needs.

In addition, the Federal Highway Administration is engaged in a Research and Development Project, Project 5-M, concerning rehabilitation and maintenance for low volume roads. A major objective is to produce savings in the national economy and to the consumer by lowering the net cost of transporting agricultural, forest, and mineral resource products to collection and use centers. The Department anticipates significant improvements in agricultural roads through research and development projects and intends to continue this type of effort.

This completes my prepared statement, Mr. Chairman, I would be pleased to answer any questions either you or others may have.