

STATEMENT OF RICHARD P. LANDIS  
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U. S. DEPARTMENT OF TRANSPORTATION  
BEFORE THE  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE  
REGARDING THE IMPLEMENTATION OF THE  
MOTOR CARRIER SAFETY ACT OF 1984

OCTOBER 29, 1985

Mr. Chairman and Members of the Committee:

Good Morning. My name is Richard P. Landis and I am the Associate Administrator for Motor Carriers, a position recently established within the Federal Highway Administration (FHWA) to serve as a primary focal point in the Department of Transportation for all motor carrier transportation matters. This position is the result of a new organizational arrangement within the Department designed to provide a high level point of access for the trucking industry and the public to make known their views on significant motor carrier issues. As Associate Administrator for Motor Carriers, I am directly involved in the development of proposed legislation, regulations, and procedures necessary to carry out the Department's responsibilities pertaining to motor carrier transportation. The Bureau of Motor Carrier Safety (BMCS) has been placed under my jurisdiction. The first order of business under this reorganization was to establish direct line authority over its field offices and revise the structure of BMCS. We are confident that these organizational changes address the principal concerns of the Congress, the motor carrier industry, and others concerning the administration of the agency's motor carrier and motor carrier safety programs.

I am very pleased to appear before this Committee to discuss the important task of implementing the Motor Carrier Safety Act of 1984 (Public Law 98-554, Title II) (the Act). The Department certainly shares this Committee's interest in promoting the safe operation of commercial motor vehicles on this Nation's highways. Minimizing work-related dangers to the health and safety of drivers and other motor carrier employees and, in fact, the public, has long been a concern to us. Increased compliance with commercial motor vehicle safety laws and regulations has been and will always be a major concern. My testimony here today will speak to the positive action being taken to ensure increased compliance with those laws and regulations. We are certain that Congressional wisdom in enacting this legislation will allow all parties concerned to take a giant step toward regulatory uniformity and resultant reduction of truck and bus involved accidents.

The Secretary of Transportation has been directed to reissue the Federal Motor Carrier Safety Regulations (FMCSR) within 18 months of enactment of the Act. These regulations are to be minimum standards that will ensure that (1) commercial motor vehicles are safely maintained, equipped, loaded, and operated; (2) the responsibilities imposed do not impair the ability of drivers to operate their vehicles safely; (3) the driver's physical condition is adequate to enable them to operate commercial motor vehicles safely; and (4) the operation of the commercial motor vehicles does not have deleterious effects on the physical condition of the drivers. Presently, the Department has

under consideration nine rulemaking actions. These include Notices of Proposed Rulemaking (NPRM) regarding Part 391, Qualifications of drivers, Part 399, Employee safety and health standards, Part 395, Hours of service of drivers, and a final rule addressing Part 394, Notification and reporting of accidents which are being reviewed within the Department. NPRMs addressing other fine parts of the Federal Motor Carrier Safety Regulations (FMCSR) are being researched and drafted. It is our intention to meet the 18-month deadline.

The Act provided for the submission of all State laws and regulations pertaining to commercial motor vehicle safety to the Secretary and the Commercial Motor Vehicle Safety Regulatory Review Panel. A notice, requesting the State's laws and regulations, was published in the Federal Register on February 22, 1985 (50 FR 7357). Simultaneously, the Secretary sent a similar personal request to the Governors of the 50 States and the Mayor of the District of Columbia. The laws and regulations from all the jurisdictions requested have been submitted and received. Pursuant to section 209 of the Act, the Commercial Motor Vehicle Safety Review Panel was appointed by the Secretary from lists of candidates submitted by the House and the Senate. A swearing in and organizational meeting was held on September 5 of this year.

The Secretary, with the assistance of the Regulatory Review Panel, will review all State commercial motor vehicle safety laws and regulations. Based on the recommendations of the Panel, the Secretary will make a determination of whether preemption is

called for under the Act. We are now in the process of developing a computer program and an extensive data base to facilitate the expeditious and thorough review and continued monitoring of State laws and regulations required by section 208 of the Act. A research Request for Proposal (RFP) was prepared and published in the Commerce Business Daily. The closing date for submission of the proposals was October 12, 1985. We anticipate actual work will begin in early December of this year. Once the data base has been established and the software is in place, we will have the only automated national data base containing an inventory of laws pertaining to commercial motor vehicle safety. We envision the use of this automated data base by Federal and State authorities through a nationwide telecommunications network. This program, coupled with an interpretations data base of Federal regulations pertaining to commercial motor vehicle safety and hazardous materials transportation which will also be available nationally, will not only advance regulatory uniformity but will surely lead to increased compliance.

The Act requires the establishment of Federal standards for annual, or more frequent, inspections of commercial motor vehicles for compliance with 49 CFR Part 393, Parts and Accessories Necessary for Safe Operation, and the retention of such inspection records by the motor carrier companies. We are in the process of establishing these Federal standards through notice and comment rulemaking. An advanced notice of proposed rulemaking (ANPRM) was published in the Federal Register last January, and the Department is currently reviewing a NPRM. Issuance and publication in the

Federal Register is required 1 year after rulemaking is initiated. A NPRM proposing revision of 49 CFR Part 393, Parts and accessories necessary for safe operation, is also in concurrence channels within the Department.

The Act calls for timely investigation of any nonfrivolous, written complaint alleging a substantial violation of the FMCSR. To comply with this requirement, the BMCS issued, in May of this year, a new chapter for inclusion in the Motor Carrier Safety Training Text -- Chapter 10, Complaint Investigations. This chapter sets forth, in specific detail, instructions calling for timely investigations and reports and confidentiality protection of the identity of complainants.

The Secretary of Transportation was directed to consult with the Interstate Commerce Commission (ICC) and establish a new safety fitness procedure for owners and operators of commercial motor, including existing motor carriers as well as new entrants.

The safety fitness rating procedures are to include (1) initial and continuing requirements to be met by motor carriers to prove their safety fitness; (2) a means to determine whether such persons meet the safety fitness requirements; and (3) specific deadlines for action by the Department and the ICC in making safety fitness determinations. The Act established a 1-year time frame for the accomplishment of this task, and the submission of a copy of the procedure to Congress. We have been diligently pursuing this objective.

The ICC, as a part of the licensing procedure, is agreeable to requiring new applicants to obtain a provisional safety rating

from the DOT. Under such an arrangement, if issued as final rules, carriers already of record, who have not been rated, would be required to file a "Declaration of Safety Fitness" with the DOT to obtain a provisional safety rating. This mechanism would result in requests from new entrants for provisional safety ratings, which would be made by a multipage submission in the form and manner prescribed by DOT. The process would require new entrants to supply information which will enable us to assess safety fitness and assign a provisional rating. Procedural rules, promulgated by each agency, will establish the time frames for handling such requests and for action by DOT and ICC.

The procedural rules will be issued under the provisions of the Administrative Procedures Act, with opportunity for public comment. A draft NPRM has been developed and coordinated with the ICC. It is currently undergoing internal review by the DOT and will then be sent to the Office of Management and Budget as required by DOT rules and Executive Orders governing rulemaking.

The Secretary is to publish regulations requiring motor carriers of passengers domiciled in contiguous foreign countries to carry proof of financial responsibility coverage on board each motor vehicle entering the United States. A final rule on this matter was published in the Federal Register (50 FR 7061) on February 20, 1985. The Department has also sent letters to each foreign motor carrier of record advising them of this regulation, which became effective on the date it was published.

Various sections of the Act require that studies be made and reports on each study be submitted to the Congress.

The "Penalties Study" requires us to study and make recommendations to the Congress on the effectiveness of civil and criminal penalties established pursuant to the Act deterring violations of commercial motor vehicle regulations and in effectively prosecuting such violations when they occur. The FHWA has published a Request For Proposal for this study. Two proposals were received and are being reviewed at the present time. We expect to award a contract in the near future. We are on target with the 2-year mandated time frame.

The "Heavy Truck Study" which requires a comprehensive study of safety characteristics of heavy trucks has been assigned to the National Highway Traffic Safety Administration (NHTSA) by the Secretary. Section 216 directs the Secretary to undertake a comprehensive study of the safety characteristics of heavy trucks, the unique problems related to heavy trucks, and the manner in which such trucks are driven. The Department has completed its work plan, and already has contract efforts underway to examine the specific problems directed by the section: handling, braking, stability, crashworthiness, and driver performance. The plan of the study will be to review the State and Federal accident files for all relevant data, to synthesize everything that is known on these subjects from engineering studies and other pertinent sources, to cross-check the data, and to make findings and recommendations for future research. We will solicit a broad range of opinion on these subjects, through public symposia and

written comments, as it prepares its report. Our schedule calls for completion of the study by September 30, 1986, the date specified in section 216.

The NHTSA has also been assigned the "Truck Occupant Protection Study." This study will examine potential and known hazards to truck occupants and the means of improving truck-occupant safety. Section 217 directs the Secretary to study crash protection for truck occupants, by examining potential and known hazards and the means for improving safety for truck occupants. Particular problems to be examined include the incidence of fires in heavy vehicle crashes, the ejection of occupants during crashes, the crushing of the cab, and the hazards presented by the interior of the cab. Contract efforts are also underway on this study, which we expect to complete by October 30, 1986, the end of the two-year period specified in the statute.

The "Study of Safety Performance of Commercial Motor Vehicles" requires examination of the effectiveness of State regulations governing the operation of such vehicles in promoting safety. We must also investigate the need to subject those operations to Federal requirements. We do not expect any problems in reporting to the Congress on the results of this study within the prescribed time (2 years after enactment).

The Secretary has assigned the "Study of Safety Related Devices" to the NHTSA. Section 219 directs the Secretary to study the effectiveness of the regulations regarding the emergency

warning devices required to be carried on large commercial vehicles. An investigation of potential costs and benefits of requiring passenger automobile operators to carry emergency warning devices will be made. At this time, the Department is developing a study method to assess the effectiveness of the warning devices. The method will seek to overcome the lack of accident data in which the performance of the warning devices is known to have been a factor.

The study on significant health and safety hazards to which individuals engaged in the operation of commercial motor vehicles are exposed is being conducted by the Department in consultation with the National Institute for Occupational Safety and Health and the Secretary of Labor. We expect to complete this study within the 1-year time-frame established by the Act.

Section 228 of the Act amended the definition of "employee" in section 401 of the Surface Transportation Assistance Act of 1982 so that bus drivers can be covered by the employee protection provision of that Act administered by the Department of Labor. The amendment is scheduled to become effective on the 730th day after enactment. This section also required the Secretaries of Transportation and Labor to study and to report to Congress within

1 year on the need for that change. A draft report on the study is being reviewed by both Departments and a final report will be submitted to Congress in the near future.

#### Motor Carrier Safety Assistance Program

In recognition that motor carrier safety and hazardous materials transportation safety are mutual responsibilities of the Federal and State Governments, we have concentrated our efforts in increasing State involvement in the Motor Carrier Safety Assistance Program (MCSAP), rather than expanding the direct Federal program. The MCSAP, authorized by the STAA of 1982, is a cooperative endeavor between the Federal Government and States to promulgate and enforce uniform Federal and State safety and hazardous materials regulations applicable to all commercial motor vehicles and their drivers. One of the criteria a State must meet in order to qualify for an implementation grant is that the State adopt and enforce the Federal Motor Carrier Safety Regulations or similar State rules that are compatible with these Federal regulations. The objective of the program is to reduce truck and bus involvement in highway accidents by minimizing the hazards associated with large commercial motor vehicles being operated on the Nation's highways.

Fiscal year 1985 was the first full year of the MCSAP. Forty-nine States are now participating in the program, 28 in the implementation phase. The principal implementation activity is focusing on the area of recruitment, hiring, and training of State enforcement personnel. In order to ensure national uniformity and increased compliance, existing State enforcement personnel, in

addition to those recruited as a direct result of MCSAP, are being trained in the National Driver Vehicle Inspection Procedures utilized in the roadside inspection activity. Approximately 1,500 officers will have received training during this past fiscal year. A cadre of 490 man years of MCSAP funded personnel activity has performed an estimated 300,000 inspections over and above the inspections that would have been performed by the statutorily required base-year State level of activity.

We currently are evaluating the State plans for fiscal year 1986. Forty five States and 5 territories have applied for funding, 36 States and 1 Territory in the implementation phase. The funding for fiscal year 1986 depends on the outcome of conference action on DOT's appropriations bill, but we expect it to be higher than the 1985 level. Moreover, we expect an increase in production activity over that of fiscal year 1985. This will be primarily attributable to increased learning and efficiency of the current MCSAP sponsored personnel.

State grantees are also participating in the development of a Management Information System (Safety Net) designed to compile improved roadside inspection and enforcement data. As States begin to use this data information system, the States and Federal agencies will be able to factor State inspection report data into safety management audit selection criteria. The tens of thousands of State inspections will provide a much larger data base on motor

carrier noncompliance than the Department presently is using for interstate carriers. This will also give the States a similar capability for intrastate operations.

This concludes my prepared statement. I would be pleased to respond to your questions or provide additional material for the record to clarify or amplify the steps that we are taking to further improve our motor carrier program.