

**STATEMENT OF RICHARD P. LANDIS
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FEDERAL HIGHWAY ADMINISTRATION
U.S. DEPARTMENT OF TRANSPORTATION
BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION
HOUSE OF REPRESENTATIVES
REGARDING THE IMPACT OF THE MOTOR CARRIER SAFETY ACT OF 1984
AND MATTERS RELATED TO TRUCK AND BUS SAFETY**

MARCH 19, 1986

Mr. Chairman and Members of the Subcommittee:

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, rules, and procedures necessary to carry out the Department's responsibilities for 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 revise the structure of the BMCS and establish direct line authority over its field offices. We are confident that these

organizational changes address the principal concerns of the Congress, the motor carrier industry, and others regarding the administration of FHWA's motor carrier and motor carrier safety programs.

I am very pleased to appear before this Subcommittee to provide information on FHWA's implementation of the Motor Carrier Safety Act of 1984 and other developments in our Federal Motor Carrier Safety Program. My testimony will also address our efforts in implementing the Motor Carrier Safety Assistance Program and our responsibilities for establishing minimum standards of financial responsibility for commercial motor vehicles operating in interstate commerce. We are certain that the Congressional wisdom in enacting this legislation will allow all concerned parties to take a giant step towards both regulatory uniformity and a reduction in the number of accidents involving trucks and buses.

Secretary Dole has asked me to convey to this Subcommittee her very strong 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, other motor carrier employees, and 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. The Department has taken positive actions, which I will address later, to ensure increased compliance with those laws and regulations.

Accident Rates

Let me begin today by speaking briefly about the safety record of the truck and bus industries. There have been allegations that economic deregulation of trucks has caused an increase in accidents. This is simply not the case. Our review of accident statistics indicates that increased accidents are a function of the increased exposure that accompanies economic and industry expansion and increased annual mileage. Comparison of accident frequencies of ICC regulated carriers and non-ICC regulated carriers indicates comparable accident experiences. Moreover, for the first 4 years following deregulation, which was also a period of economic recession, overall accidents went down. The increases in truck accidents in 1984 and 1985 has been during periods of economic expansion. Our monitoring of overall accident rates from 1980 to 1985 indicates that rates have been relatively consistent, lending more credibility to the exposure rationale than to whether carriers are subject to economic regulation.

While the number of accidents being reported to BMCS has clearly increased during the last 2 years, we have observed a significant decrease in the severity of those accidents. The preliminary counts for 1985 reports show a 3 percent decrease in the number of fatalities, and a 2 percent decrease in the number of injuries. These decreases correlate with the decreases we have observed in the fatality and injury rates when related to exposure. Similarly, our statistics indicate that bus deregulation has not adversely affected bus safety.

Act Implementation

The Act directed the Secretary of Transportation to reissue the Federal Motor Carrier Safety Regulations (FMCSR). These new regulations are to be minimum standards which all State and local motor carrier safety laws and regulations are required to meet. 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, and Part 395, Hours of Service of Drivers. A final rule addressing Part 394, Notification and Reporting of Accidents, was published in the Federal Register on February 20, 1986. NPRMs addressing the other parts of the FMCSR are being drafted or are going through the clearance process.

The Act provided that all State laws and regulations pertaining to commercial motor vehicle safety be submitted to the Secretary and the Commercial Motor Vehicle Safety Regulatory Review Panel. A notice, requesting these State 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. We are pleased to inform this Subcommittee that all 50 States and the District of Columbia responded and that the Department received over 40,000 pages of State laws and regulations.

The Secretary is also required under the Act to review, with the assistance of the Regulatory Review Panel, all State commercial motor vehicle safety laws and regulations. Based on

the recommendations of the Panel, the Secretary will make a determination as to whether State laws and regulations have the same effect as Federal regulations or are more stringent or less stringent. Less stringent laws and regulations will be preempted by Federal regulations. The Secretary will determine, based on recommendations of the Panel, whether Federal preemption of more stringent local motor carrier safety requirements is called for under the Act. This Panel was appointed by the Secretary, and the swearing in and organizational meeting was held in September of 1985. In January, the Panel held its second meeting and conducted an extensive review of the current FMCSR. A third meeting is tentatively scheduled for June. At that time the Panel will begin identifying the specific local laws and regulations which are within the scope of the review mandate.

We are also in the process of developing a computer program and an extensive data base which will not only assist in the Panel's review and assessment, but will also facilitate our continued monitoring of State motor carrier safety laws and regulations, as required by section 208 of the Act. To expedite this process, the FHWA recently awarded a contract to Dynamac Corporation to organize the information obtained from the documents submitted by the States. We expect to have a preliminary automated inventory of applicable State regulations and corresponding Federal requirements by July. 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 a future national data base of Federal regulation interpretations pertaining to commercial motor vehicle safety and hazardous materials transportation, will not only advance regulatory uniformity and, hopefully, lead to increased compliance.

To complement these efforts, the FHWA wrote to each Governor and the Mayor of the District of Columbia requesting an analysis of their commercial motor vehicle safety requirements, including a comparison with the corresponding Federal requirements. A notice of this request was also published in the Federal Register on February 14. The State analyses should be available by the end of June 1986.

The Act requires that Federal standards be established 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 public rulemaking. An advanced notice of proposed rulemaking (ANPRM) was published in the Federal Register last January, and the Department is currently reviewing a NPRM.

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 1985, a new chapter for inclusion in the Motor Carrier Safety Training

Text. This chapter, entitled Chapter 10 - Complaint Investigations, sets forth in specific detail, instructions calling for timely investigations and reports, and confidentiality protection of the identity of complainants.

The Act also directed the Secretary of Transportation to consult with the Interstate Commerce Commission (ICC) and establish a new safety fitness procedure for owners and operators of commercial motor vehicles. We plan to issue a rule that fully meets the statutory requirement.

In addition, DOT will increase the BMCS investigative field staff by 150 safety specialists. We are now initiating recruitment of recent college graduates and professionals with specialized training in transportation and related areas.

After an initial training period of approximately 5 weeks at a DOT academy, the new safety specialists will be assigned with senior safety investigators for practical application of this training in monitoring motor carriers for compliance with the FMCSR. A shift in the emphasis of the BMCS program will target our resources and efforts to those carriers with safety problems, regardless of the size of the carrier. The key to this program will be a computer system that will integrate State inspection data, accident reports, and Federal inspection data.

Through this integrated computer system, we will identify problem and high risk carriers and contact them to offer education and technical assistance to correct their safety management practices. However, for those carriers that continue to operate unsafely, we will send in a team of safety specialists to do an

in-depth enforcement audit of their records and facilities and, if appropriate, will quickly proceed with civil or criminal penalties for violations. We expect to achieve significant improvements in both compliance and accident reduction through this effort.

The Act also required the Secretary to publish regulations which require that motor carriers of passengers domiciled in contiguous foreign countries 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.

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). The MCSAP, authorized by the Surface Transportation Assistance Act of 1982, has been enthusiastically endorsed by the vast majority of States. After a slow start it is now up and running. The appropriations for the program did not match the authorizations but were in amounts that could be fully utilized by the States for planning, recruiting, hiring, training, and equipping a credible field capability. We are now at the

point where we will realize the impact of the added presence of the State enforcement officers. In fiscal year 1987, the Administration proposes significant funding increases for the MCSAP. With the requested \$50 million level of funding, State forces will be a major deterrent to willful safety violators in truck and bus operations. Moreover, under our proposed reauthorization bill, States would be able to use Interstate/Primary funds for MCSAP activities.

State grantees are also participating in the development of a Management Information System called Safetynet. This system is designed to compile all commercial vehicle roadside inspection and enforcement data. As States begin to use this information system, we will be able to factor State inspection report data into the Federal safety management audit selection criteria. The tens of thousands of State vehicle inspections will provide a much larger data base on motor carrier noncompliance than the Department presently has available for interstate carriers. This will also give the States a similar capability for intrastate operations. State agencies will be able to access and utilize the Safetynet data for improvement of their intrastate programs.

Driver Related Issues

I would like now to discuss other issues related to commercial motor vehicle operators. A very important issue before us is that of alcohol and drug abuse in the commercial motor vehicle sector.

The FHWA has promulgated rules and standards pertaining to motor carrier companies and commercial vehicle drivers which cover preemployment checks, periodic physical examinations, and disqualification criteria for use or possession of alcohol or drugs. The rules require driver applicants to furnish motor carriers with information on their traffic and accident record, previous employment record, and the operator's claimed experience. Drivers are also required to submit all information which relates to a denial, revocation, or suspension of driving privileges. In addition, motor carriers are required to annually review the driving record of each of their drivers, and each driver must sign a certificate stating the driver's record of violations for the year.

Our rules also require that in order for an individual to drive in interstate or foreign commerce, he or she must be examined by a physician to determine the driver's medical qualification. Any individual who is clinically diagnosed as dependent upon alcohol or drugs is not physically qualified to drive, and a medical physician may not certify such an individual as qualified to drive. Drivers are required to be medically recertified every 2 years.

Drivers who have had their licenses revoked or suspended are disqualified from operating in interstate or foreign commerce until their privilege to drive has been restored. A major issue before the Department is that some drivers now carry more than one license to spread out their record of violations, and lessen the

chance that any one license will be revoked. We are looking at ways to address this problem of multiple licenses.

Further, a driver who is convicted of (or who forfeits a bond) operating a motor vehicle while under the influence of alcohol or drugs is disqualified for 1 year from driving in interstate or foreign commerce, if it is a first offense. Repeat offenders are treated more harshly with a 3-year disqualification.

The FMCSR further prohibits the operation of a commercial motor vehicle by an individual using alcohol or other drugs. Section 392.4 provides that no driver shall be on duty (not just driving) and possess, be under the influence of, or use any Schedule 1 drug or substance, narcotic or any derivative thereof, amphetamine or any formulation thereof, or any other substance which renders a driver incapable of safely operating a motor vehicle. In addition, the rules require that no person may consume, or be under the influence of an intoxicating beverage, within 4 hours before going on duty or operating a vehicle. A driver may not possess an intoxicating beverage while on duty or driving, except for beverages manifested and transported as part of the shipment. A motor carrier which allows a driver to go on duty after using alcohol or drugs is also in violation of the regulations. These provisions do not apply, however, to a driver who possesses or uses a drug under the instruction of a physician who has advised the driver that the substance will not affect the driver's ability to safely operate a motor vehicle.

The FHWA has issued a proposed rulemaking to revise the drug rule and medical standard to prohibit the simple use of drugs as

contrasted to the present requirement of a clinical diagnosis of drug dependency. A NPRM was published on October 1, 1985, and some 214 commenters have submitted their views to the docket. Our preliminary review of the docket found an overwhelming majority of commenters in support of the proposed tightening of the rules. The commenters included States, physicians, motor carriers, trade associations, and individuals.

Our current rulemaking is intended to increase the ability to screen out individuals who abuse alcohol or other drugs and who use drugs illegally. We do not want these people operating commercial vehicles on our highways.

Moreover, the significant increase in roadside inspections conducted by the States under the MCSAP, as authorized by the Surface Transportation Assistance Act of 1982, is greatly enhancing our efforts toward intercepting and removing drivers operating commercial vehicles while under the influence of drugs or alcohol.

The requirement in the new Motor Carrier Act of 1984 to review, revise, and readopt the FMCSR is providing us with an opportunity to reexamine the regulatory standards currently on the books, and strengthen them where required. As an example, the Department is considering the feasibility and effectiveness of a mandatory drug screening requirement for drivers of hazardous materials and cargo tanks.

Concerning a related subject, the Department is examining ways to assist the States in improving licensing, screening, and disqualification systems for drivers in intrastate commerce. Some

of the ways examined include conducting research into improved licensing methods, upgrading the National Driver Register, and promoting State adoption of administrative disqualification of unfit drivers as is done at the Federal level.

The concept of a national drivers license for commercial motor vehicle operators is currently being looked at. We believe that a concept which has the Department establishing national licensing standards, to be implemented by State licensing officials, rather than a Federal driver's license, has some merit. This approach could go a long way in meeting the problem of commercial vehicle drivers using multiple State licenses. We would prefer to cooperate with State licensing officials on this issue, rather than duplicate the State efforts or their expertise in this traditional State function.

Coordination Within DOT on Hazardous Materials

The Federal Highway Administration works very closely with the Research and Special Programs Administration (RSPA) in the formulation of new rules that affect the highway movement of hazardous materials. Although RSPA has the delegated responsibility for publishing the regulations, the development of single modal rules is shared with the other DOT operating administrations. Most recently, FHWA and RSPA initiated a joint rulemaking dealing with the standards for highway cargo tank manufacture, maintenance, and repair. This rulemaking was preceded by almost 3 years of joint staff effort to produce a highly technical document. Also, in the area of requests for

highway movements exemptions received by RSPA, all such applications are reviewed, comments furnished, and concurred in by FHWA technical staff. Regular meetings are conducted among DOT modal administrations in order to exchange information and plan mutual activities related to hazardous materials transportation regulation and enforcement. Interpretations are reviewed by each administration and personnel made available to assist in complex hazardous materials cases, or in performing field examinations. We believe there is an excellent degree of cooperation and coordination between RSPA and FHWA.

Financial Responsibility

As a result of the capacity shortfall and escalating costs of insurance, DOT is considering alternatives in meeting the minimum financial responsibility requirements of the Motor Carrier Act of 1980 and the Bus Regulatory Reform Act of 1982. We have received petitions from a common carrier seeking authority for self insurance, from a bus association seeking an interpretation that high self retention is allowable, and from a truck association seeking changes in the use of evidence of insurance. Based on these petitions, we are planning to open a public docket to receive views and comments on alternatives or revisions to the regulations that we issued to implement the statutes.

Overview

We believe that the truck and bus safety issue is a paramount concern of the Congress, the Administration, and the industry.

The reorganization of our motor carrier safety program, major increases in program resources and full funding of the MCSAP will certainly produce significant improvements in truck and bus safety.

While we are in this period of transition, we fully expect the program improvements and application of additional resources to have an effect. We have the support of the industry, which is a key ingredient to change. We are eager to take advantage of that support to induce improvements.

That concludes my prepared statement. I will be pleased to answer any questions you may have.