

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

DECEMBER 11, 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, Federal Highway Administration (FHWA). Secretary Dole and Administrator Barnhart have asked me to convey to this Subcommittee their 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 and other motor carrier employees and, of course, the public, has long been a concern to us. Noncompliance with commercial motor vehicle safety laws, regulations, and practices has been and will always be a major concern.

Before getting into the status of the rulemaking called for in the Motor Carrier Act of 1984, I would like to discuss some very encouraging developments.

As you may be aware, the Secretary has recently authorized the hiring of 150 new field safety investigators to enhance our efforts in carrying out the Congressional mandate to assign a

safety fitness rating to all motor carriers. To date, we have hired and provided initial training to almost 100 new safety investigators. The balance will be on board by next spring.

In addition, I am very pleased to announce that the reorganization within the FHWA, which will enable more effective execution of motor carrier functions, is now complete. There are now senior executive level service positions with separate organizations under my office which serve as focal points for motor carrier regulations and for motor carrier grant administration and technical assistance to the states.

Certainly, the enactment of the Motor Carrier Safety Act of 1984 has provided an additional significant step toward regulatory uniformity with the anticipated results of reduced truck and bus involved accidents. This trend is becoming more evident. Federal Highway statistics for 1984 show that vehicle registration, diesel fuel consumption, and miles of operation have been increasing. However, the accident statistics available through my office indicate that fatalities have decreased by 3% and injuries by 2% during that same time period.

Motor carrier safety efforts have been further enhanced by the recent passage of the Commercial Motor Vehicle Safety Act of 1986. I commend Senator Danforth for his leadership in the passage of this legislation which provides needed increased

funding for the Motor Carrier Safety Assistance Program (MCSAP) through 1991 and establishes the new Commercial Driver's License Program.

Today I would like to provide a summary of our efforts in implementing the requirements of both of these legislative initiatives.

MOTOR CARRIER SAFETY ACT OF 1984

The Motor Carrier Safety Act of 1984 required the Secretary to issue revised regulations pertaining to commercial motor vehicle safety. The Act required that the regulations be issued after consideration of costs and benefits, and the impact on state laws and regulations. While the Act indicated that the revised regulations be issued within 18 months of the date of enactment, the complete review and reissuance of the Federal Motor Carrier Safety Regulations (FMCSR) turned out to be a formidable task. The regulations address very technical equipment standards, as well as complex and controversial medical standards, which necessarily have required considerable research and study before initial drafts of revised regulations could be prepared. Further, each rulemaking action has to be supported by a cost-benefit analysis and a small entity impact analysis, and is subject to requirements of the Paperwork Reduction Act. While this process has been time-consuming, we believe that it will produce an improved system of safety regulation that will stand the test of time.

To assist this Committee, I will provide a brief overview of the progress and status of the rulemaking actions currently underway.

A Notice of Proposed Rulemaking (NPRM) was issued in June of this year which relates to the safety fitness determination process as required by Section 215 of the Act. This was not a simple task since it involved a complete review of our existing program. The NPRM proposed a process designed to accomplish the Congressional objectives by redesigning our on-site assessments, reviewing all available data, and collecting information from carriers through a questionnaire. The results of these reviews will be used to rate motor carriers as "satisfactory", "conditional", or "unsatisfactory". The docket comments to the NPRM are currently under review.

An example of the difficulty of this rulemaking can be seen by looking at the questionnaire which is intended to be a one-time reporting requirement for carriers to supply information on their safety practices and would be the basis for a permanent file on each carrier. Although the initial questionnaire to obtain information on a carrier's safety program is still in the proposal stage, we have developed and pilot-tested a Safety Review Procedure to determine whether motor carriers have adequate programs to check and monitor compliance with the safety regulations.

With regard to the reissuance of the major parts of the Federal Motor Carrier Safety Regulations, the Department has faced a significant number of complex tasks. For example, we have examined the potential cost burden on carriers that would result from upgraded driver qualification rules, specifically if biennial and post-accident drug screening are required. Other considerations in relation to drug screening have included chain of custody and the quality of specimen analysis. We have also been involved in developing the logistics of requiring every commercial vehicle in interstate commerce to be inspected annually (an estimated 5,000,000 vehicles). This has included determining whether these inspections should be done by the states, private garages, or carriers as self inspectors, and to what level of detail. The Department is also considering the paperwork burden, costs, and time that motor carriers would be required to incur in properly screening driver applicants, as well as the levels of work place protection carriers must afford employees to assure a safe working environment.

I would like to highlight briefly the actions taken to date to put truck safety issues before the public.

Part 394 - Accident Reporting

A Final Rule was published in the Federal Register on February 20, 1986, (51 FR 6121). The threshold for property damage accidents was raised from \$2,000 to \$4,200, the definition of bodily injury was clarified, and the clarifying the issue of timely filing was addressed.

Part 391 - Qualification of Drivers

In a NPRM issued on May 13, 1986 (50 FR 17572), we proposed to establish more stringent driver qualification rules for drivers of vehicles used to transport certain hazardous materials. Our proposed rule includes a 25 year minimum driver age requirement, one year commercial vehicle experience, road testing in the type of vehicle to be driven prior to issuance of a license, a requirement that drivers hold only one driver's license, more rigorous testing requirements regarding knowledge of hazardous materials regulations, and mandatory biennial drug screening.

The FHWA amended the Federal Motor Carrier Safety Regulations effective June 12, 1986, by revising the prohibitive language of the nonalcoholic drug medical standard for interstate and foreign commerce drivers. This amendment prohibits the use of certain drugs, whereas the previous rule prohibited the driver from having a current clinical diagnosis of drug dependence. This change in the rule was necessary because the previous language could allow known drug users to continue to drive commercial motor vehicles in spite of the knowledge of their drug use. In addition to the final rule, the FHWA requested comments and information on the question of whether the prohibited nonalcoholic drugs should include all controlled substances on the Drug Enforcement Administration's Schedules of Controlled Substances. Further, comment was requested on whether chemical testing of

body fluid of all drivers in interstate or foreign commerce should be recommended or mandated and when such testing should take place (i.e., preemployment, biennial physical examinations). Also, comment was requested on what should be the procedure for confirmation of test results and specimen handling security.

Part 395 - Hours of Service of Drivers

In a NPRM issued on May 9, 1986 (51 FR 17214) we proposed to review the commercial vehicle driver hours of service standards, principally to address opportunities for paperwork burden reduction and to clarify and incorporate interpretations. Because the existing hours of service regulations have been subjected to a great deal of research, lengthy rulemaking proceedings, and civil litigation over the past few years, we are not considering any major changes. The proposed changes relate to information items on driver duty status records, clarification of the 100-mile radius exemption for on-board record keeping, and assuring that all compensated work is counted as "on duty" time in computing drivers' hours of service limitations on a daily and weekly basis.

Part 390 - General

In an ANPRM issued on January 23, 1985 (50 FR 2998) we requested comment on a proposal to incorporate new conforming statutory definitions, modify the definition of "exempt

intracity operation", require standard vehicle identification, clarify current ambiguities in the regulations and eliminate redundancy.

Part 392 - Driving of Motor Vehicles

In an ANPRM issued on January 23, 1985 (50 FR 2998) we requested comment on any items the interested public felt should be addressed under this part.

Part 393 - Parts and Accessories Necessary for Safe Operation

In an ANPRM issued on January 10, 1985 (50 FR 1245) we proposed to establish specific requirements for axles, brake systems, frame assemblies, lights, natural gas fuel systems, steering systems, suspension systems, and wheels and rims which were previously covered only in general terms by the regulations.

Part 396 - Inspection, Repair, and Maintenance

In an ANPRM issued on January 10, 1985 (50 FR 1245) we requested comment on a proposal to establish for motor carriers Federal inspection standards as required by Section 210 of the Motor Carrier Safety Act of 1984 which can be accomplished by a State inspection program, an authorized self inspection program, or by a private vendor, to assure every interstate commercial vehicle is thoroughly inspected at least once each year.

Part 399 - Employee Safety and Health Standards

In an ANPRM issued on January 23, 1985 (50 FR 2998) we requested comment on a proposal to require a general duty clause for both employers and employees to provide a safe working environment in, on, or about a commercial motor vehicle.

We have made progress and we are proceeding to complete other related efforts as quickly as possible. Fortunately, Congress provided for the automatic adoption of the existing Federal Motor Carrier Safety Regulations which were not revised within the 18-month period.

Let me share with you an example to illustrate the complexity of the issues we face in the rulemaking process. The FHWA issued an NPRM on July 3, 1986, proposing to rescind the exception from the requirements relating to front brakes currently provided for trucks and tractors with three or more axles. The NPRM requested public comments by August 4, 1986. On its face, the rulemaking addresses only one issue-- proposing to require working brakes on all wheels of new vehicles engaged in interstate commerce and requiring retrofitting of vehicles manufactured after July 24, 1980. Existing equipment manufactured before that date would be exempt. We felt that the grandfather provision was necessary due to the limited availability of replacement parts.

This issue proved not to be simple, although the Commercial Motor Vehicle Safety Act of 1986 recently clarified many of the

questions. Thirty-seven (37) parties filed comments to the docket. Twenty-three (23) parties supported the rule, twelve opposed it. Two commenters addressed front wheel limiting valves, which were not included in the proposal. Those in support included manufacturers, state enforcement agencies, labor unions, and major trade associations. Those opposed included an owner operator association, individual owner operators, and several trucking companies. The principal concerns of those against the proposal were cost, limited availability of parts and the continued belief that front-wheel brakes induce jackknifing.

In an effort to substantiate or refute the jackknifing concern, on September 19, 1986, the Department conducted a public demonstration of commercial vehicles braking on dry and wet surfaces, with front wheel brakes engaged and disengaged. The demonstration was performed to test stopping capability, vehicle stability, and directional control with operable front brake systems manufactured with modern day technology and standards. The demonstration was conducted at the Department's vehicle research center at East Liberty, Ohio. The demonstration tests illustrated the benefits of operable front brakes. The demonstration was well attended and we expect the results will convince drivers and trucking companies that front-wheel brakes indeed improve the safety of commercial motor vehicle operations. A final rule has been prepared and is now under internal management review. We expect to issue the final rule requiring front brakes by January 25, 1987, as required in the Commercial Motor Vehicle Safety Act of 1986.

COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1986

Now, I would like to turn to the other aspects of our implementation of the Commercial Motor Vehicle Safety Act of 1986. This legislation increased MCSAP funding and established the Commercial Driver's License Program. The increased MCSAP funding will allow the states to significantly expand their vehicle inspection and enforcement activities. MCSAP authorizations through 1991, coupled with the extension of contract authority to the program, provide a stable funding source for the states to plan and implement a comprehensive enforcement program over the next few years. It is fully expected that this comprehensive enforcement program will reduce truck and bus accidents significantly.

The Commercial Driver's License Program contained in the 1986 Act will require a person to pass written and driving tests before being issued a license by a state to operate a commercial motor vehicle. It will prohibit an operator of a commercial motor vehicle from having more than one license. The potential positive effects on the safety of the traveling public as a result of the new license program are as far reaching as any initiative the Department has undertaken in many years.

On August 8, 1986, we issued an ANPRM (51 FR 27567) requesting comment on consideration of national driver license standards for a classified commercial motor vehicle operator's

license. We also requested comment on the possibility of requiring that a driver have only a single license and a single driving record. Comment was also requested on the feasibility, scope, and practical implementation of such a program. With the advent of the Commercial Motor Vehicle Safety Act, we now have explicit authority to expedite this rulemaking.

To date, we have developed implementation plans needed to meet the Act's deadlines and have started our work on many of the provisions. We are forming a DOT Coordination Group composed of senior staff from the FHWA, the National Highway Traffic Safety Administration (NHTSA), and the Office of the Secretary. This group will resolve the critical policy issues that emerge during implementation and provide a forum for DOT offices so that we can meet the Congressional deadlines. Implementing the Program offers special challenges. However, we expect that we will successfully implement the program on time. Our preliminary plans include the following activities:

1. We will establish minimum Federal testing and driver licensing standards that correspond with the different classes of commercial vehicles.
2. We will establish a unique identifier to be used by the states that is a valid, reliable indicator for verifying the identity of an individual and recognizing his identity when searching the national clearinghouse for the records of other licensed drivers and the disqualification records.

3. We will take full advantage of the latest technologies for the unique identification of individuals and for telecommunications. We plan to enter into an agreement with some non-Federal entity to carry out the clearinghouse function. The clearinghouse will need to be linked with state information systems for timely responses to inquiries about the identity of drivers and their licensing and driving record status.
4. We will actively seek the participation of the states, the motor carrier industry, and commercial vehicle drivers in meeting our joint responsibilities under the law.
5. During the next 3 years, we will use the Supplemental Grants made available in the 1986 Act to fund selected state pilot projects to expand on existing state licensing activities. This will enable us to gain early practical experience in testing procedures and the licensing program administration. The results of these pilot projects may be incorporated into other implementation efforts, including the minimum Federal standards and the clearinghouse.
6. We will involve the public and industry through the rulemaking notice and comment process, and through public meetings. We will also work with established Departmental advisory committees, where possible, to seek assistance on our implementation activities.