

TESTIMONY OF
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DEPUTY ASSISTANT SECRETARY FOR POLICY
AND INTERNATIONAL AFFAIRS
BEFORE THE HOUSE COMMITTEE ON
PUBLIC WORKS AND TRANSPORTATION
INVESTIGATIONS AND OVERSIGHT SUBCOMMITTEE

JUNE 27, 1990

GOOD MORNING. THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE THE COMMITTEE TO DISCUSS THE ISSUE OF OVERWEIGHT CONTAINER-CARRYING TRUCKS ON THE HIGHWAYS.

BEFORE I GO ANY FURTHER, I WOULD LIKE TO INTRODUCE THE PANEL THAT IS WITH ME HERE TODAY. THEY ARE HERE TO ASSIST ME IN ADDRESSING ANY QUESTIONS YOU MIGHT HAVE. TO MY LEFT ARE RICHARD LANDIS, ASSOCIATE ADMINISTRATOR FOR MOTOR CARRIERS, FEDERAL HIGHWAY ADMINISTRATION; AND JOSEPH ANGELO, DEPUTY CHIEF, MERCHANT VESSEL INSPECTION AND DOCUMENTATION DIVISION, COAST GUARD. TO MY RIGHT IS JOHN CARNES, CHIEF OF THE DIVISION OF PORTS AND INTERMODAL OPERATIONS, MARITIME ADMINISTRATION.

BACKGROUND

THE PROBLEM OF OVERWEIGHT VEHICLES CARRYING CONTAINERS BEGAN TO RECEIVE WIDESPREAD RECOGNITION IN THE SPRING OF 1988. IN PARTICULAR, MOTOR CARRIERS COMPLAINED ABOUT A GROWING NUMBER OF OVERWEIGHT VEHICLE CITATIONS ISSUED TO DRIVERS OF TRUCKS TRANSPORTING MARINE CONTAINERS. IN MAY 1988, THE NATIONAL MOTOR CARRIER ADVISORY COMMITTEE REVIEWED THE ISSUE AND REQUESTED THAT THE FEDERAL HIGHWAY ADMINISTRATION CONSIDER THIS PROBLEM AND, IF POSSIBLE, DETERMINE THE EXTENT TO WHICH INTERNATIONAL MARITIME

CONTAINERS WERE BEING TENDERED TO MOTOR CARRIERS SO AS TO RENDER CONVENTIONAL HIGHWAY TRANSPORT VEHICLES OVERWEIGHT.

THE DEPARTMENT OF TRANSPORTATION HAS SUBSEQUENTLY BEEN EXAMINING VARIOUS ASPECTS OF THIS ISSUE, BOTH IN THE CONTEXT OF AN ONGOING ANALYSIS OF ALL OVERWEIGHT VEHICLES AND AS A UNIQUE SUBSET.

THE FEDERAL-AID HIGHWAY ACT OF 1956 PLACED LIMITS ON THE WEIGHT OF VEHICLES OPERATING ON THE INTERSTATE SYSTEM TO PREVENT THE PREMATURE DETERIORATION OF THIS VITAL HIGHWAY NETWORK AND TO PROTECT THE SUBSTANTIAL FEDERAL INVESTMENT IN THIS SYSTEM'S CONSTRUCTION. FEDERAL WEIGHT LAWS ARE APPLICABLE ONLY TO THE INTERSTATE HIGHWAY SYSTEM, WITH STATE LAW GOVERNING WEIGHT LIMITS ON ALL OTHER HIGHWAYS. SOME STATES ALLOW SIGNIFICANTLY HEAVIER TRUCKS OFF THE INTERSTATE, BUT A FEW CONTINUE TO IMPOSE LOWER LIMITS. STATES OFTEN HAVE DIFFERENT WEIGHT LIMITS, AS WELL AS DIFFERENT APPROACHES TO VEHICLE WEIGHT ENFORCEMENT. ENFORCEMENT OF BOTH FEDERAL AND STATE LIMITS IS ASSIGNED TO THE STATES.

VEHICLE WEIGHT LIMITS ARE NOT TRULY UNIFORM EVEN ON THE INTERSTATE SYSTEM, HOWEVER. THE GRANDFATHER CLAUSES IN SECTION 127 OF TITLE 23 OF THE US CODE ALLOW TRUCKS TO EXCEED FEDERAL LIMITS IN A GIVEN STATE, PROVIDED THOSE VEHICLES WERE LAWFUL UNDER STATE LAWS AND REGULATIONS IN EFFECT IN 1956 OR -- IN THE CASE OF AXLE SPACING TABLES -- 1975. TWENTY-THREE STATES AND THE DISTRICT OF COLUMBIA HAVE AT LEAST ONE AXLE-WEIGHT LIMIT THAT IS HIGHER THAN THE FEDERAL WEIGHT LIMITS FOR SINGLE AND TANDEM AXLES, AND 30 STATES ALLOW TRUCKS TO OPERATE ON INTERSTATE HIGHWAYS WITH GROSS VEHICLE WEIGHTS EXCEEDING THE FEDERAL MAXIMUM WEIGHT LIMIT OF

80,000 POUNDS. THIS DIVERSITY CREATES REAL OR PERCEIVED COMPETITIVE DIFFERENCES AMONG STATES AND PORTS AND ALSO PRESENTS A MAJOR PROBLEM TO SHIPPERS WHO MUST TRANSPORT CARGO ACROSS INTERNATIONAL OR INTERSTATE BORDERS AT WEIGHTS THAT DO NOT EXCEED THE LOWEST LIMIT.

REGULATIONS GOVERNING THE ISSUANCE OF SPECIAL PERMITS FOR OVERWEIGHT TRUCKS ON THE INTERSTATE ARE ALSO GRANDFATHERED. A GROWING NUMBER OF STATES NOW INTERPRET THESE RIGHTS BROADLY AND ROUTINELY ISSUE PERMITS FOR GROSS WEIGHTS ABOVE 80,000 POUNDS. STATES WITH MORE RESTRICTIVE PERMIT POLICIES ARE UNDER PRESSURE TO CHANGE.

IN SHORT, COMPETITION AMONG THE STATES AND PORTS FOR MARITIME TRAFFIC AND OTHER BUSINESS OPPORTUNITIES IS MAKING THE LACK OF UNIFORMITY IN STATE AND FEDERAL WEIGHT LAWS MORE CRITICAL. THE STATES' WILLINGNESS TO ACCEPT CURRENT FEDERAL WEIGHT LIMITS ON THE INTERSTATE SYSTEM APPEARS TO BE DECLINING.

THE HIGHWAY DAMAGE ASSOCIATED WITH THE OPERATION OF OVERWEIGHT CONTAINER-CARRYING VEHICLES IS BUT A PART OF THE MUCH GREATER DAMAGE BELIEVED TO BE GENERATED BY OVERWEIGHT VEHICLES IN GENERAL. UNFORTUNATELY, WE HAVE NO QUANTITATIVE ESTIMATE OF THE DAMAGE CAUSED BY OVERWEIGHT VEHICLES. THIS INFORMATION GAP MAKES IT IMPOSSIBLE TO PRECISELY ESTIMATE THE HIGHWAY DAMAGE CAUSED BY THE SUBSET REPRESENTED BY OVERWEIGHT CONTAINER-CARRYING TRUCKS.

BEFORE I GO ANY FURTHER, I WOULD LIKE TO GIVE AS SIMPLE AN EXPLANATION AS I CAN OF THE FORMULA BY WHICH ALLOWABLE GROSS WEIGHT LIMITS ON THE INTERSTATES ARE CALCULATED. THIS FORMULA SUPPLEMENTS THE FEDERAL GROSS VEHICLE WEIGHT LIMIT OF 80,000

POUNDS. SINCE 1975, MAXIMUM GROSS VEHICLE WEIGHTS HAVE BEEN CALCULATED BY A FEDERAL FORMULA -- CALLED BRIDGE FORMULA B -- BASED ON THE NUMBER OF AXLES ON A VEHICLE AND THE DISTANCE BETWEEN THE EXTREME AXLES. AXLE SPACING AND DISTANCE RELATIONSHIP IS AS IMPORTANT IN DESIGN OF BRIDGES AS ARE THE AXLE WEIGHTS THEMSELVES. THE IMPORTANCE OF CONTROLLING AXLE WEIGHTS AS WELL AS AXLE SPACINGS CAN BE ILLUSTRATED BY WHAT HAPPENS WHEN A PERSON TRIES TO WALK ACROSS ICE THAT IS BARELY THICK ENOUGH TO SUPPORT HIS OR HER WEIGHT. WALKING UPRIGHT, THE PERSON IS LIKELY TO FALL THROUGH BECAUSE THE WEIGHT OR LOAD IS CONCENTRATED. IF THAT PERSON STRETCHED OUT PRONE ON THE SAME ICE AND WENT ACROSS, IT IS LESS LIKELY THAT HE OR SHE WOULD BREAK THROUGH. THE LATTER APPROACH IS MORE EFFECTIVE BECAUSE THE LOAD OR WEIGHT IS SPREAD OUT OVER A LARGE AREA.

PROBLEMS OF BRIDGE DEGRADATION OCCUR WHEN GROSS VEHICLE WEIGHTS INCREASE OR A GREATER NUMBER OF REPETITIVE LOADINGS OCCUR THAN WERE ANTICIPATED IN THE BRIDGE DESIGN PROCESS. HIGHWAY PAVEMENTS ALSO DETERIORATE THROUGH REPETITIOUS LOADINGS, BUT THE CAUSAL FACTORS ARE AXLE LOADS, NOT GROSS VEHICLE WEIGHTS. RELATIVELY SMALL INCREASES IN AXLE LOADS OR LOAD REPETITIONS CAN PRODUCE SUBSTANTIAL INCREASES IN THE RATE OF PAVEMENT DETERIORATION. ALSO, REPEATED APPLICATION OF HEAVY AXLE LOADS AND EXCESSIVE GROSS VEHICLE WEIGHT CAN ACCELERATE THE NEEDS FOR PAVEMENT RESURFACING OR RECONSTRUCTION, STRENGTHENING, OR REPLACING BRIDGE STRUCTURES, INCREASED LEVELS OF MAINTENANCE, AND INCREASED FINANCIAL BURDENS AND COMMITMENTS OF PUBLIC FUNDS.

AS IS THE CASE FOR THE GENERAL CATEGORY OF OVERWEIGHT VEHICLES, THERE ARE SAFETY PROBLEMS ASSOCIATED WITH EXCESSIVELY HEAVY CONTAINER-CARRYING VEHICLES OPERATING OVER HIGHWAYS. EXTREMELY HEAVY MARITIME CONTAINERS CAN DECREASE A TRUCK'S BRAKING CAPACITY AND INCREASE THE STRESS ON THE TRUCK'S MECHANICAL COMPONENTS. VERY HEAVY CONTAINERS MAY OVERSTRESS TIRES AS WELL AS BRAKES, RESULTING IN TIRE FAILURE AND POSSIBLE LOSS OF STEERING CONTROL. THE CARGO WITHIN A CONTAINER MAY ALSO IMPAIR SAFE VEHICLE OPERATIONS IF IT IS IMPROPERLY SECURED OR UNEVENLY DISTRIBUTED. IF CONTAINERS ARE LOADED IN WAYS THAT GIVE THEM A HIGH CENTER OF GRAVITY OR THAT LEAVE THEIR CONTENTS SUSCEPTIBLE TO SHIFTING, THE VEHICLE CARRYING THE CONTAINER MAY BE PRONE TO ROLLOVER ACCIDENTS.

ANALYSIS UNDERTAKEN ON THIS PROBLEM

BECAUSE OF THE HIGH INTEREST IN THE PARTICULAR PROBLEM OF CONTAINER-CARRYING TRUCKS, SEVERAL ANALYSES HAVE BEEN CONDUCTED.

A DEMONSTRATION WAS CONDUCTED IN MARCH 1988 IN NEWARK, NEW JERSEY, TO INVESTIGATE THE FEASIBILITY OF DISTRIBUTING AXLE LOADS OF CONTAINER-CARRYING VEHICLES TO COMPLY WITH HIGHWAY WEIGHT LIMITS. SPONSORED BY THE BI-STATE HARBOR CARRIER'S CONFERENCE, THE STEVEDOR OPERATORS INTERMODAL COMMITTEE, MAHER TERMINALS, AND THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, THE DEMONSTRATION INVOLVED ASSEMBLING FIVE DIFFERENT TRUCK TRACTORS, SHIPPING CONTAINERS, AND TRUCK CHASSIS IN MORE THAN 75 DIFFERENT CONFIGURATIONS. THE BI-STATE HARBOR CARRIERS' "WEIGH-IN" SHOWED

THAT COMPLIANCE WITH INTERSTATE HIGHWAY WEIGHT LIMITS WOULD BE DIFFICULT FOR A LOAD EXCEEDING 38,000 POUNDS OF CARGO IN A 20-FOOT CONTAINER OR A LOAD TRANSPORTED ON A 27-FOOT CHASSIS OR A LOAD EXCEEDING 44,000 POUNDS OF CARGO IN A 40-FOOT CONTAINER WERE TRANSPORTED ON A 40-FOOT CHASSIS.

IN JUNE 1989, A SECOND WEIGH-IN WAS CONDUCTED IN NEWARK, NEW JERSEY, USING INNOVATIVE CONTAINER CHASSIS WITH LIFT AXLES, ADDITIONAL AXLES, AND/OR EXTENDABLE CHASSIS. THIS DEMONSTRATION SHOWED THAT IN CASES WHERE CONTAINERIZED CARGO SLIGHTLY EXCEEDED THE WEIGHT THRESHOLDS ESTABLISHED BY THE EARLIER WEIGH-IN, INNOVATIVE CONTAINER CHASSIS COULD REDISTRIBUTE THE LOADS TO COMPLY WITH FEDERAL WEIGHT LIMITS. ALTHOUGH THESE INNOVATIVE CHASSIS ARE BECOMING MORE READILY AVAILABLE, THE TREMENDOUS INVESTMENT IN EXISTING CONTAINER CHASSIS AND THEIR LONG SERVICE LIVES WILL LIKELY RESULT IN ONLY INCREMENTAL REPLACEMENT WITH CHASSIS HAVING BETTER WEIGHT DISTRIBUTION CAPABILITIES.

IN AN EFFORT TO DETERMINE WHAT THE EXTENT OF THE PROBLEM WITH MARINE CONTAINERS MIGHT BE, THE FEDERAL HIGHWAY ADMINISTRATION UNDERTOOK AN ANALYSIS OF CONTAINERS IN OUR EXPORT AND IMPORT TRADES. THE JOURNAL OF COMMERCE MAINTAINS A DATA BASE KNOWN AS THE PORT IMPORT/EXPORT REPORTING SERVICE (PIERS) CONTAINING INFORMATION DERIVED FROM WAYBILLS AND BILLS OF LADING FOR CONTAINERS EXPORTED THROUGH U.S. PORTS. IN A 1989 PAPER TITLED ANALYSIS OF PORT IMPORT/EXPORT REPORTING SERVICE (PIERS) DATA TO REVEAL POTENTIALLY OVERWEIGHT CONTAINER MOVEMENTS ON AMERICA'S HIGHWAYS, FHWA WITH THE ASSISTANCE OF THE MARITIME ADMINISTRATION ANALYZED A SAMPLE OF PIERS DATA, FOCUSING ON THE COMMODITIES AND

CARGO WEIGHTS CARRIED IN 20-FOOT AND 40-FOOT CONTAINERS, WHICH ARE USED IN APPROXIMATELY 90 PERCENT OF CONTAINERIZED FREIGHT MOVEMENTS, AND THE CONTAINERS' PORTS OF ORIGIN AND DESTINATION. BASED ON THE WEIGHT THRESHOLDS DETERMINED BY THE FIRST DEMONSTRATION "WEIGH-IN", THE FHWA ANALYSIS REVEALED THAT APPROXIMATELY 33 PERCENT OF ALL 20-FOOT AND 40-FOOT CONTAINERS MOVING THROUGH U.S. PORTS CARRIED CARGO LOADS THAT WOULD LIKELY CAUSE THE VEHICLES CARRYING THESE CONTAINERS TO VIOLATE FEDERAL HIGHWAY WEIGHT LIMITS IF CARRIED BY TRUCK. THE PROBLEM IS MORE PRONOUNCED FOR EXPORT CONTAINERS THAN FOR IMPORT CONTAINERS: THE SAMPLE GIVES AN INDICATION THAT 41 PERCENT OF EXPORT AND 17 PERCENT OF IMPORT 40-FOOT CONTAINERS WERE POTENTIALLY OVERWEIGHT. THE FHWA ANALYSIS ALSO FOUND THAT THESE POTENTIALLY OVERWEIGHT CONTAINERS FREQUENTLY CARRIED HIGH-DENSITY COMMODITIES.

TRANSPORTATION/ECONOMIC FACTORS CONTRIBUTING TO THE PROBLEM

MUCH HAS BEEN WRITTEN ABOUT THE CAUSES OF THIS APPARENTLY INTENSIFYING PROBLEM. I WILL TRY TO PROVIDE YOU WITH A SUMMARY OF OUR UNDERSTANDING OF THE FACTORS THAT CONTRIBUTE TO IT.

THE INTERNATIONAL NATURE OF MANY INTERMODAL CONTAINER MOVEMENTS, WHICH HAS RESULTED IN A GLOBAL ECONOMY, PLAYS A MAJOR ROLE. BECAUSE CONTAINERS CAN BE USED IN SO MANY WAYS AND IN SO MANY PLACES, CONTAINER CONSTRUCTION STANDARDS ARE ESTABLISHED BY AN INTERNATIONAL INDUSTRY CONSENSUS GROUP, THE INTERNATIONAL ORGANIZATION FOR STANDARDIZATION (CALLED ISO), WITH

REPRESENTATIVES FROM MANY COUNTRIES. THE STANDARD 20-FOOT AND 40-FOOT CONTAINERS WERE DEVELOPED TO ENSURE INTERCHANGEABILITY, AND THE MAXIMUM WEIGHTS -- THE SUM OF THE CONTAINER'S WEIGHT AND THAT OF THE CARGO IT CARRIES -- IS BASED ON THE STRUCTURAL INTEGRITY OF THE CONTAINER, NOT THE TRANSPORTATION USE TO WHICH IT IS PUT. THE SO-CALLED GROSS CERTIFICATED WEIGHT OF THE CONTAINER IS SET BY ENGINEERING TESTS AND IS MARKED ON A PLATE PERMANENTLY ATTACHED TO THE CONTAINER.

THESE LIMITS ARE DESIGNED TO ENSURE THAT THE CONTAINER WILL NOT BE OVERLOADED. HOWEVER, BECAUSE THESE CONTAINERS ARE SO WELL-BUILT, A MARINE CONTAINER THAT IS LEGALLY AND SAFELY LOADED FOR WATERBORNE OR RAIL TRANSPORTATION CAN BE ILLEGAL OR UNSAFE FOR U.S. HIGHWAY USE, DEPENDING ON THE WEIGHT, DISTRIBUTION, AND/OR EQUIPMENT. THIS SAME CONTAINER MAY NOT BE OVERWEIGHT IF LOADED ON A SHIP OR A RAILCAR. FOR EXAMPLE, 20-FOOT MARINE CONTAINERS CAN SAFELY AND EFFICIENTLY CARRY 7,800 POUNDS MORE THAN THE INTERSTATE WEIGHT LIMITS INDICATED IN THE FIRST DEMONSTRATION TEST, AND 40-FOOT CONTAINERS CAN CARRY 31,200 POUNDS MORE. AT THESE HIGHER WEIGHTS, THESE CONTAINERS ARE NOT ILLEGAL IF CARRIED BY A MODE OTHER THAN HIGHWAY.

A SECOND FACTOR IS THAT THE SHIPPER COMPANIES AND FREIGHT FORWARDERS OWN THE CONTAINERS, BUT MAY NOT BE RESPONSIBLE FOR TRANSPORTING THE CONTAINERS. SHIPPERS ARE INCLINED TO LOAD A CONTAINER UNTIL IT IS FULL, SINCE MOST SHIPPING RATES ARE LEVIED ON A "PER BOX" BASIS RATHER THAN ON A CONTAINER'S LOADED WEIGHT. SOMETIMES SHIPPERS ILLEGALLY OVERLOAD A CONTAINER, IN WHICH CASE IT IS OVERWEIGHT WHETHER IT IS CARRIED ON A U.S. HIGHWAY OR NOT.

SOMETIMES SHIPPERS ARE SIMPLY UNAWARE OF THE TRANSPORTATION CHAIN FOR THAT CONTAINER AND DO NOT KNOW THAT A LEGALLY LOADED CONTAINER WILL BECOME ILLEGAL WHEN CARRIED ON A TRUCK IN A STATE WITH LOWER VEHICLE WEIGHT LIMITS. THE MULTIPLICITY OF STATE WEIGHT LAWS CONTRIBUTES TO THIS CONFUSION, PARTICULARLY FOR SHIPPERS ABROAD. WEIGHT LIMITS VARY FROM STATE TO STATE.

COMPLICATING THE SITUATION ARE THE VARYING CONFIGURATIONS OF CONTAINER-CARRYING TRUCK CHASSIS. AS INDICATED BY THE SECOND WEIGH-IN, A CHANGE IN CHASSIS AND/OR AXLE CONFIGURATION CAN SOMETIMES TURN AN OVERWEIGHT CONTAINER-TRUCK UNIT INTO A LEGAL UNIT. ADVANCES IN SUCH TECHNOLOGY ARE EXAMINED BY THE MARITIME ADMINISTRATION, WHICH HAS A STATUTORY MANDATE TO "STUDY MEANS AND METHODS OF ENCOURAGING THE DEVELOPMENT AND IMPLEMENTATION OF NEW CONCEPTS FOR THE CARRIAGE OF CARGO ... AND THE ECONOMICAL AND TECHNOLOGICAL ASPECTS OF THE USE OF CARGO CONTAINERS" WE BELIEVE THAT IT IS IMPORTANT TO CONTINUALLY EXAMINE SUCH TECHNIQUES.

RECENT FEDERAL MARITIME COMMISSION ACTION

YOU HAVE REQUESTED THAT WE DISCUSS THE TWO PETITIONS FILED WITH THE FEDERAL MARITIME COMMISSION (FMC) CONCERNING POSSIBLE REMEDIES FOR ALLEVIATION OF THE OVERWEIGHT VEHICLE PROBLEM. NOTICES OF THE PETITIONS WERE PUBLISHED IN THE FEDERAL REGISTER ON AUGUST 23, 1989, AND COMMENTS SOLICITED. THE FIRST PETITION, P3-89, PROPOSED MAXIMUM CONTAINER WEIGHTS, AND THE SECOND, P4-89, PROPOSED ELIMINATION OF "PER CONTAINER" RATES. THESE PETITIONS

WERE DENIED BY THE FMC IN AN ORDER DATED JUNE 5, 1990, ON THE GROUNDS THAT THE PETITIONERS HAD NOT PROVIDED A SUPPORTABLE OR APPROPRIATE BASIS FOR ACTION, AND THAT GRANTING THE PETITIONS WOULD INTERFERE WITH A CONGRESSIONALLY CREATED COMPACT BETWEEN THE FEDERAL GOVERNMENT AND THE STATES.

IN PRINCIPLE, THE DEPARTMENT OF TRANSPORTATION AGREES THAT WHOEVER OVERLOADS CONTAINERS IS RESPONSIBLE FOR SUBSEQUENT VIOLATIONS OF LAW RESULTING FROM OVERLOADING. THE DEPARTMENT REALIZES THAT THERE ARE PRACTICAL OBSTACLES TO APPLYING THIS PRINCIPLE, PARTICULARLY IN THE CASE OF IMPORT CONTAINERS. WE BELIEVE THAT THE DENIAL OF THE PETITIONS WILL TURN THE SEARCH FOR SOLUTIONS TO OTHER APPROACHES THAT WE WOULD LIKE TO EXPLORE WITH THE COMMITTEE. THIS IS AN EXTREMELY COMPLEX PROBLEM, AS THE COMMENTS TO THE DOCKET INDICATED. I WOULD LIKE TO BRIEFLY REVIEW OUR VIEWS OF THE TWO PETITIONS.

AS FOR PETITION P3-89, WHICH REQUESTED THAT THE FMC ESTABLISH MAXIMUM CONTAINER WEIGHTS, I HAVE ALREADY POINTED OUT THAT A MARINE CONTAINER THAT IS LEGALLY OVERWEIGHT FOR HIGHWAY TRANSPORTATION MAY BE SAFE FOR MARITIME OR RAIL TRANSPORTATION. ESTABLISHING MAXIMUM CONTAINER WEIGHTS COULD ELIMINATE SOME OVERLOADED CONTAINERS; HOWEVER, THAT MAY UNNECESSARILY HAMPER THE UTILIZATION OF CONTAINERS STRUCTURALLY CERTIFIED TO CARRY CARGOES HEAVIER THAN THE PETITION'S PROPOSED WEIGHTS. RESTRICTING CARGO WEIGHT TO LESS THAN THE CONTAINER'S DESIGN CAPACITY WOULD INTRODUCE ECONOMIC INEFFICIENCIES TO BOTH THE MARITIME AND RAIL MODES OF TRANSPORTATION. MARINE CONTAINERS MAY ARRIVE AT OR

DEPART FROM A PORT BY RAIL OR BE LOADED OR UNLOADED AT THE PORT, IN WHICH CASE THEY DO NOT AFFECT THE HIGHWAYS.

IT IS NOT CLEAR THAT THE PETITION WOULD HAVE PREVENTED ALL OVERLOADED MARINE CONTAINERS FROM TRAVELLING OVER THE NATION'S HIGHWAYS. ACCORDING TO THE PETITION, ONLY SHIPPING LINES MAY UNSTUFF CONTAINERS TOO HEAVY TO BE TRANSPORTED BY TRUCK. IN THE COMPETITIVE ENVIRONMENT OF THE MOTOR CARRIER INDUSTRY, SOME MOTOR CARRIERS MIGHT TAKE A CHANCE AND HAUL CONTAINERS THEY BELIEVE MIGHT BE OVERWEIGHT, SINCE UNDER THE TERMS OF THIS PETITION THE FINES WOULD BE PAID BY THE SHIPPER.

ON THE EXPORT SIDE, BY THE TIME THE CONTAINERS ARE DELIVERED TO OCEAN CARRIERS, THEY WILL HAVE ALREADY TRAVELLED OVER U.S. HIGHWAYS. SOME OCEAN CARRIERS MAY OPT TO MOVE THESE OVERWEIGHT EXPORT CONTAINERS BECAUSE THERE WOULD BE NO FURTHER THREAT TO U.S. HIGHWAYS.

ON THE IMPORT SIDE, OCEAN CARRIERS WOULD HAVE TO ARRANGE FOR SPECIAL HANDLING OF OVERLOADED CONTAINERS AND THEN COLLECT THE ADDED COSTS ASSOCIATED WITH SUCH HANDLING. IT MAY BE QUESTIONABLE BOTH FROM A POLICY AND AN EFFICIENCY STANDPOINT TO EXPECT ONE MODE TO POLICE ANOTHER.

THE PETITION WOULD HAVE ESTABLISHED MAXIMUM WEIGHTS FOR 20-FOOT AND 40-FOOT DRY CONTAINERS AND 20-FOOT, 35-FOOT, AND 40-FOOT REFRIGERATED CONTAINERS. ESTABLISHING A MAXIMUM CARGO WEIGHT FOR A GIVEN CONTAINER DIMENSION WOULD NOT ALLOW FOR THE RANGE OF CONTAINER TARE WEIGHTS RESULTING FROM DIFFERENT METHODS OF CONSTRUCTION. IN ADDITION, THERE ARE VARIATIONS IN THE TARE

WEIGHTS OF CONTAINER-CARRYING HIGHWAY VEHICLES. MOST CONTAINER-CARRYING VEHICLES HAVE THREE COMPONENTS: TRACTOR, CHASSIS, AND CONTAINER. DIFFERENT COMBINATIONS CAN ACCOMMODATE DIFFERENT CARGO WEIGHTS. FOR EXAMPLE, 20-FOOT CONTAINERS MAY BE CARRIED ON 5-AXLE VEHICLES WITH WIDE AXLE SPACING, PERMITTING A MUCH HIGHER PAYLOAD THAN THE CONVENTIONAL 3-AXLE CONTAINER-CARRYING VEHICLE WITH A MUCH SHORTER WHEELBASE.

PETITION P4-89, WHICH SOUGHT THE ELIMINATION OF "PER CONTAINER" RATES, MIGHT HAVE REDUCED A SHIPPER'S INCENTIVE TO OVERLOAD CONTAINERS, BUT IT WOULD NOT NECESSARILY HAVE ELIMINATED THE PROBLEM. SOME INCENTIVES WOULD REMAIN TO OVERLOAD CONTAINERS DUE TO THE "PER CONTAINER" RATES CHARGED BY SOME PORTS AND MOTOR CARRIERS FOR CONTAINER HANDLING, AND THE FACT THAT SOME MOTOR CARRIERS AND PORTS MIGHT ELECT TO TRANSPORT EXCESSIVELY HEAVY CONTAINERS TO ENHANCE THEIR COMPETITIVE POSITIONS.

THE ELIMINATION OF "PER CONTAINER" RATES ALSO SEEMS CONTRARY TO THE SPIRIT OF THE SHIPPING ACT OF 1984. "PER CONTAINER" RATES MOST APPROPRIATELY REFLECT THE COST OF CONTAINER HANDLING AND TRANSPORT, AND ARE SIMPLE AND GENERALLY VIEWED AS MOST REFLECTIVE OF THE COST OF SERVICE PROVIDED BY CARGO CARRIERS.

IN SUMMARY, ALTHOUGH THESE PROPOSALS HAD SOME MERIT FROM THE HIGHWAY SAFETY VIEW, WHEN PUT IN A BROADER CONTEXT THEY RAISED MANY QUESTIONS.

POSSIBLE REMEDIES

THE DEPARTMENT SUPPORTS ACTIONS TO REDUCE THE INCIDENCE OF OVERWEIGHT CONTAINER-CARRYING HIGHWAY VEHICLES THAT WOULD BE CONSISTENT WITH THE FOLLOWING GOALS:

- ENSURE SAFETY AND PROTECT THE PHYSICAL INTEGRITY OF THE HIGHWAY SYSTEM;
- ENCOURAGE TECHNOLOGICAL DEVELOPMENT; AND
- AVOID BARRIERS TO INCREASED WORLD TRADE AND TO EFFICIENCY AND PRODUCTIVITY;

ONE ACTION HAS ALREADY BEEN TAKEN IN THE MARITIME AREA THAT MAY EVENTUALLY CONTRIBUTE TOWARD A SOLUTION IN THE HIGHWAY AREA. RECENT INITIATIVES IN THE INTERNATIONAL MARITIME ORGANIZATION -- IMO -- WILL, AFTER ENTRY INTO FORCE, RESULT IN THE ACTUAL WEIGHT OF CONTAINERS APPEARING ON SHIPPING DOCUMENTS.

THE COAST GUARD REPRESENTS THE DEPARTMENT BEFORE THE IMO, WHICH IS THE MAJOR INTERNATIONAL MARITIME SAFETY ORGANIZATION. THE COAST GUARD HAS RESPONSIBILITY FOR IMPLEMENTING AND ENFORCING VARIOUS INTERNATIONAL CONVENTIONS OF WHICH THE UNITED STATES IS A PARTY. ONE IS THE INTERNATIONAL CONVENTION FOR SAFE CONTAINERS (CSC), WHICH WAS ADOPTED BY IMO IN 1972. THE MAIN PURPOSE OF THIS CONVENTION AND ITS IMPLEMENTING U.S. LEGISLATION WAS TO ESTABLISH MINIMUM STRUCTURAL REQUIREMENTS FOR CONTAINERS TO ENSURE SAFETY IN THE HANDLING, STACKING, AND TRANSPORTING OF CONTAINERS WORLDWIDE. THE CSC DEALS WITH STRUCTURAL REQUIREMENTS. ANOTHER CONVENTION, THE SAFETY OF LIFE AT SEA CONVENTION (SOLAS), IS THE MAJOR INTERNATIONAL CONVENTION FOR THE PROTECTION OF LIFE AND PROPERTY

ON BOARD SHIPS AT SEA AND CONTAINS OPERATIONAL REQUIREMENTS. THE TWO ARE INHERENTLY CLOSELY RELATED.

UNDER THE CSC, ALL CONTAINERS USED IN INTERNATIONAL TRANSPORT ARE REQUIRED TO HAVE A SAFETY APPROVAL PLATE AFFIXED TO THE CONTAINER. THE MAXIMUM GROSS WEIGHT OF THE LOADED CONTAINER IS ON THIS PLATE. UNDER THE CSC, THERE IS NO UPPER LIMIT ON WHAT THIS MAXIMUM GROSS WEIGHT CAN BE, PROVIDED THE CONTAINER IS DESIGNED, CONSTRUCTED, AND MAINTAINED TO THE STANDARDS OF THE CSC. SIMPLY PUT, THE STRONGER THE CONTAINER IS DESIGNED AND BUILT, THE HIGHER THE ALLOWABLE MAXIMUM GROSS WEIGHT.

THE PROBLEM OF CONTAINERS BEING LOADED TO MORE THAN THE MAXIMUM GROSS WEIGHT OF THE SAFETY PLATE HAS BEEN DISCUSSED AT IMO FOR THE PAST FEW YEARS. DURING THIS PAST YEAR, THE COAST GUARD PLAYED A MAJOR ROLE AT IMO IN THE DEVELOPMENT OF MEASURES TO MINIMIZE THIS PROBLEM.

THESE MEASURES ARE TWO AMENDMENTS TO THE SOLAS CONVENTION, SUGGESTED BY THE UNITED STATES AND APPROVED BY IMO'S MARITIME SAFETY COMMITTEE RECENTLY. THE FIRST AMENDMENT WOULD PROHIBIT CONTAINERS FROM BEING LOADED TO MORE THAN THE MAXIMUM GROSS WEIGHT INDICATED ON THE SAFETY APPROVAL PLATE UNDER THE CSC.

THE SECOND AMENDMENT REQUIRES THE SHIPPER TO ENSURE THAT, BEFORE A CONTAINER IS LOADED ON BOARD A SHIP, THE GROSS WEIGHT OF THE CONTAINER IS IN ACCORDANCE WITH THE GROSS WEIGHT DECLARED ON THE SHIPPING DOCUMENTS. THIS REQUIREMENT PLACES THE BURDEN ON THE SHIPPER TO ENSURE THAT THE SHIPPING DOCUMENTS ACCURATELY REFLECT THE GROSS WEIGHT OF THE CONTAINER, SO THAT THOSE HANDLING THE CONTAINER IN THE TERMINAL AND ON THE SHIP KNOW WHAT THEY ARE

DEALING WITH. IF A VIOLATION IS DISCOVERED, THE CONTAINER CAN LEGALLY BE SET ASIDE UNTIL THE VIOLATION IS CORRECTED. THESE AMENDMENTS COULD ENTER INTO FORCE AS EARLY AS NOVEMBER 1992.

WE BELIEVE THAT THESE TWO NEW REQUIREMENTS ARE A NECESSARY FIRST STEP TOWARD RESOLVING THE PROBLEMS OF OVERWEIGHT CONTAINERS. IF THAT INFORMATION IS ALSO IN THE HANDS OF THE TRUCKER, HE OR SHE CAN DETERMINE WHAT EQUIPMENT IS NEEDED TO LEGALLY CARRY THAT LOAD. IT IS OUR UNDERSTANDING THAT THIS IS OFTEN NOT THE CASE, AND WE BELIEVE THE COMMERCIAL REASONS WHY THIS DOCUMENTATION GAP EXISTS SHOULD BE EXPLORED.

THE DEPARTMENT ALSO BELIEVES THAT IMPROVED STATE WEIGHT ENFORCEMENT IS A KEY ELEMENT OF ANY SOLUTION. FHWA CONTINUES TO PROVIDE STRONG ENCOURAGEMENT TO THE STATES TO USE FEDERAL-AID HIGHWAY PLANNING AND CONSTRUCTION FUNDS TO PURCHASE AND INSTALL WEIGHING EQUIPMENT, PARTICULARLY WEIGH-IN-MOTION (WIM) EQUIPMENT FOR TRUCK WEIGHT SURVEYS AND ENFORCEMENT. ALTHOUGH TRUCK WEIGHTS OBTAINED BY WIM EQUIPMENT ARE NOT AS ACCURATE AS THOSE OBTAINED ON PLATFORM SCALES, THEY ARE VERY USEFUL IN SCREENING TRUCK TRAFFIC TO IDENTIFY POTENTIALLY OVERWEIGHT TRUCKS, WHICH CAN THEN BE DIRECTED TO STATIC WEIGH SCALES, WHERE CITATIONS CAN BE ISSUED IF THEY ARE FOUND TO BE OVERWEIGHT. THIS PRACTICE ALLOWS SAFER AND MORE EFFICIENT TRUCK WEIGHING ACTIVITIES AT WEIGH STATIONS.

FHWA IS ASKING TO REVISE ITS STATE WEIGHT ENFORCEMENT REGULATIONS TO REQUIRE THAT STATE ENFORCEMENT PLANS BE BASED ON TRUCK WEIGHT SURVEY DATA AND ENFORCEMENT RECORDS. THE TRUCK SURVEY DATA WILL INDICATE WHERE AND WHEN OVERWEIGHT TRUCKS ARE

OPERATIONS AND ENFORCEMENT RECORDS COULD CONCEIVABLY INDICATE THE CARRIERS OPERATING THEM AND SHIPPERS THAT ARE CAUSING THEM.

FINALLY, THE DEPARTMENT BELIEVES THAT SHIPPER BONDING IS AN OPTION THAT SHOULD BE EXPLORED. BONDING HAS BEEN SUGGESTED AS A WORKABLE SOLUTION TO THE OVERWEIGHT CONTAINER DILEMMA BY SEVERAL PARTIES. IT WOULD ATTACK THE PROBLEM AT ITS HEART, WHICH IS AT LOADING, AND WOULD ADDRESS THE SEEMINGLY OUT-OF-REACH OVERSEAS SHIPPER. A SYSTEM IN WHICH ANY SHIPPER WOULD BE REQUIRED TO POST A BOND FOR THE PRIVILEGE OF HAVING CONTAINERS TRANSPORTED HAS BEEN PROVEN PRACTICAL IN MANY COMMERCIAL TRANSPORTATION TRANSACTIONS. APPLIED TO THIS ISSUE, BONDING COULD BE DEvised SO THAT A SHIPPER'S GUARANTEE WOULD COVER ANOTHER PARTY'S FINE IN THE EVENT OF A VIOLATION. IT COULD APPLY TO ALL VEHICLES ON THE HIGHWAYS, NOT JUST CONTAINERS TRANSPORTING IMPORTS. IT WOULD HAVE THE EFFECT OF SELF-REGULATION SINCE PRIVATE SECTOR UNDERWRITERS WOULD EITHER EVENTUALLY REFUSE TO BOND CHRONIC OFFENDERS OR SUBSTANTIALLY RAISE THEIR RATES. WE NOTE, HOWEVER, THAT THE BONDING REQUIREMENT WOULD BE RATHER AN ELABORATE NEW REQUIREMENT. NONETHELESS, THERE IS NOTHING TO PREVENT A CARRIER AND SHIPPER FROM ADOPTING THAT SYSTEM BY CONTRACT NOW. INDEED, THERE ARE MANY ASPECTS OF THE PROBLEM THAT SUGGEST COMMERCIAL SOLUTIONS.

THAT IS ALL MY PREPARED REMARKS. MY PANEL AND I WOULD BE HAPPY TO ANSWER ANY QUESTIONS YOU MIGHT HAVE.