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Committee on Appropriations**

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Motor Carrier Safety

**Statement of
The Honorable Kenneth M. Mead
Inspector General
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Mr. Chairman and Members of the Subcommittee:

We appreciate the opportunity to be here today to discuss motor carrier safety. Before we begin, we would like to commend the work of this Subcommittee for its contribution to the passage of the Motor Carrier Safety Improvement Act of 1999 and the establishment of the new Federal Motor Carrier Safety Administration (FMCSA). Without this Subcommittee's determination, we would not be here. We would also like to recognize the goal set by Secretary Slater in May 1999 to reduce commercial truck-related fatalities by 50 percent over the next 10 years. Currently, fatalities are about 5,400 annually and are targeted to decrease to 2,700 by 2009.

Today, we want to discuss three issues.

- **First, progress FMCSA has made to enhance its safety mission.**

Since the Congress began focusing on motor carrier safety, the Department has placed emphasis on enforcement efforts as shown by several indicators. Compliance reviews of motor carriers have increased, most high-risk carriers that were identified have been reviewed, and civil penalties have increased. In addition, FMCSA recently made detailed motor carrier safety information available to the public via the Internet. This information can be used by shippers, insurance companies, and other agencies that oversee or do business with motor carriers, to promote sound safety decisions. Congress provided the new administration with a clear mission focused on safety and gave it new tools to deal with motor carriers that violate the laws. FMCSA is headed in the right direction but has a long way to go to establish an effective oversight program, which will reduce fatalities as intended by the Secretary.

- **Second, actions are still needed to improve the motor carrier safety program.**

Inspection resources at our southern border crossings are not adequate; the mandatory shut down provision for unfit carriers contained in the Transportation Equity Act for the 21st Century (TEA-21) is not being used effectively; rulemakings take too long; and most importantly, the leadership needed to provide direction to the new FMCSA is not in place.

- **Third, our findings related to the Commercial Drivers License Program.**

The good news is that the primary objective of the original Commercial Drivers License (CDL) legislation, to limit drivers to a single license, has worked. Few commercial drivers have multiple commercial licenses. However, prior oversight

of the CDL program by the Federal Highway Administration was not adequate to identify significant problems. Additionally, some States have yet to pass legislation implementing Federal requirements; continue to mask driver convictions; and provide special licenses to drivers convicted of serious violations.

What this all means is that there are drivers on the road that should be disqualified. Because the systems for tracking disqualifying convictions are poor and oversight is weak, we could not quantify the number of drivers that should be disqualified. We do know that the provisions of law that require disqualifications of commercial drivers are not operating as intended.

Progress FMCSA Has Made to Enhance Its Safety Mission

Last year, we testified that FMCSA was not sufficiently effective in ensuring that motor carriers comply with safety regulations and that its enforcement program did not adequately deter noncompliance. Specifically, Federal safety investigators conducted few compliance reviews, a significant backlog of open enforcement cases existed, and civil penalties were considered a “cost of doing business.” Since that time, some progress has been achieved.

- The number of compliance reviews conducted has increased. During Fiscal Year (FY) 1998, safety investigators performed fewer than two compliance reviews each month. To address this problem, in April 1999, FMCSA issued policy requiring Federal safety investigators to perform an average of four compliance reviews per month. As a result, compliance reviews increased 30 percent to 6,650 in FY 1999. Based on compliance reviews done by Federal and state safety investigators in FY 1999, the number of unsatisfactory

safety ratings grew to about 18 percent or 1,600 compared to 15 percent or 940 in FY 1998.

- A greater number of high-risk motor carriers received compliance reviews. In March 1998, FMCSA did not conduct compliance reviews on 15 percent of the 1,650 targeted, high-risk motor carriers. One year later, only 6 percent of the 1,750 targeted high-risk motor carriers had not been reviewed.
- Civil penalties were increased in April 1999 to levels mandated by the TEA-21. As a result, penalty assessments increased 15 percent in FY 1999 to an average of \$4,300 per case and settlements for closed cases increased 10 percent.

Actions are Still Needed to Improve the Motor Carrier Safety Program

While improvements have been made in some areas, more work needs to be done to make the motor carrier safety program effective. Last year, we testified that a high rate of Mexican trucks entering the United States failed to meet U.S. safety standards, and that Federal sanctions against poor performing motor carriers were inadequate.

- The President has stated, unequivocally, that the southern border will not be opened until the safety of Mexican trucks can be assured. In FY 1999,

39 percent of the Mexican trucks inspected at the border failed to meet U.S. safety standards.

A greater Federal inspection presence is still needed at the U.S.-Mexico border. FMCSA's budget requested only 20 additional border inspectors. While the additional inspectors would bring the total number of Federal inspectors at the border to 60, this is only about half the number of inspectors we recommended in our December 1998 audit report. A 126-inspector force is needed to provide at least 2 inspectors at every border crossing during all hours of operation and to provide additional inspectors at crossings experiencing higher volumes of commercial traffic.

- Last year, Federal safety investigators stated that they had difficulty interpreting the broad definition of imminent hazard, which resulted in a lower level of shut down sanctions for repeat violators. Criteria for declaring the imminent hazard condition has not been issued to the safety investigators.

In June 1998, TEA-21 authorized the mandatory shut down of unfit carriers after a specific safety improvement period. This provision is still not being used. It has not been implemented nor have guidelines for its implementation been issued. In FY 1998, 4 motor carriers and 35 passenger and hazardous materials motor carriers were shut down because of safety violations, while in

FY 1999, only 1 motor carrier and 27 passenger and hazardous materials motor carriers were shut down. During the first quarter of FY 2000, only two passenger and hazardous materials motor carriers were shut down.

- Timeliness in the rulemaking process must be improved. FMCSA has identified 30 rulemakings it believes necessary to implement the requirements of the new law, including the establishment of minimum requirements for new entrant motor carriers and the certification of safety investigators. However, in past years the rulemaking process for motor carrier safety has taken a long time. In 1999, only three significant rulemakings for motor carrier safety were completed. The rulemaking for reflective marking of commercial vehicles took 5 years to complete. In addition to the controversial hours of service revision, the over 3-year old motor carrier registration system rulemaking is not complete.
- With the new legislation, Congress gave the FMCSA an enormous opportunity to improve motor carrier safety. But the key to success is strong leadership, a vision focused on safety and expedient implementation of the legislation. The Department is finding it very difficult to fill the Administrator or Deputy Administrator positions in this last year of the current Administration.

The Acting Deputy Administrator has stated key leadership positions, such as the Chief Safety Officer and the Associate Administrators for Enforcement; Program Development; and Research, cannot be filled until, at the earliest, October 2000. Those positions are awaiting approval from the Office of Personnel Management (OPM), which is expected by mid-March. Even after OPM approval they are unlikely to be filled because FMCSA claims the funds needed for the remainder of FY 2000 to pay for the six senior leadership positions are not available. We estimate the cost of these six positions for the remainder of the fiscal year to be approximately \$500,000, including benefits.

The Department of Transportation (DOT) needs to fill these key leadership positions as quickly as possible. Strong leadership will help ensure that FMCSA sets the proper direction for a strong motor carrier safety mission.

Improvements Needed in the Commercial Drivers License Program

We determined that actions taken by DOT and state governments have achieved one of the main goals of the CDL program mandated by Congress in 1986. Our tests showed that few drivers hold commercial driver licenses in more than one state. Out of 9.4 million CDL holders, only .007 percent may be duplicate licenses.

The new motor carrier law closes loopholes in the existing CDL program and gives FMCSA enhanced enforcement tools. For example, states are prohibited from allowing commercial drivers to participate in programs that withhold traffic convictions from driver records. These programs are commonly referred to as “masking” programs. For the first time, FMCSA will be able to stop states from issuing CDLs if they do not substantially comply with Federal requirements. However, a comprehensive oversight program by FMCSA and vigorous action by the states are required to implement and enforce the provisions of the new legislation.

During our recent audit of the CDL program, we attempted to measure the effectiveness of the current commercial drivers’ license program. We found there was no centralized database to record data on convictions and disqualifications of commercial drivers. On average, fewer than 5 percent of all drivers within a state hold commercial drivers’ licenses. Consequently, states do not have computer programs to manage their CDL programs nor do they capture consistent and complete data on commercial drivers.

Currently, FMCSA’s oversight of state commercial drivers’ license programs does not include tests to determine whether the states are taking appropriate action to disqualify commercial drivers based on information transmitted through the Commercial Drivers License Information System (CDLIS). Moreover, the

oversight process does not test the timeliness or completeness of data transmitted among the states. As a result, significant problems were not detected.

- We estimate that more than 14,000 convictions, nationwide, for Federal disqualifying violations such as driving under the influence or leaving the scene of an accident, are transmitted annually through CDLIS. However, 5 of the 10 states we visited did not properly use the information to disqualify commercial drivers. For example, Maryland did not use *any* out-of-state convictions transmitted through CDLIS to disqualify commercial drivers. In the first quarter of 1999, Maryland received over 400 conviction reports through CDLIS.
- Over 70 percent of the convictions transmitted through CDLIS occur after the 10-day time frame mandated by the 1986 CDL law. Ohio, for example, failed to electronically transmit as many as 1,700 convictions to other licensing states for a total of 15 months and not until we inquired about the discrepancy.

The States must also do their part to improve the CDL Program and to ensure implementation of the law. Some states have yet to legislatively adopt policies that are consistent with Federal regulations and other states have programs that permit drivers to operate commercial vehicles after being convicted of serious traffic violations.

- Federal regulations require the disqualification of commercial drivers who violate out-of-service orders. Our review of laws in nine states plus the District of Columbia (hereinafter referred to as 10 states) showed that the State of New York and the District of Columbia have not passed laws to comply with this Federal requirement. In another case, Tennessee has not adopted “improper or erratic lane change” in its policies, which is a specific disqualifying violation cited in Federal CDL regulations.
- The new law prohibits states from issuing special licenses or permits to disqualified commercial drivers. Currently, 22 states have such programs. For example, a Minnesota commercial driver, who had multiple violations over a 2 year period had his CDL privileges reinstated 8 times. The 1999 train crash in Bourbonnais, Illinois, which killed 11 people involved a truck driver operating a commercial vehicle under a “probationary” license issued by the State of Illinois.
- The new law prohibits state programs that “mask” convictions from commercial driver records. Currently, 26 states have these programs. For example, a Tennessee program, by state statute, permits probation for traffic violations. In these cases, the traffic violation is reported to the state-licensing agency only if the driver commits another violation in that court’s jurisdiction within a specific time period. Illinois’ officials estimate that 1.9 million

citations for both individuals and commercial drivers are withheld from driver records annually through Illinois' masking program.

The number of disqualifying violations transmitted through CDLIS will increase with the new violations. FMCSA must ensure its oversight review process tests state systems to verify they are recording all Federal disqualifying violations and taking appropriate disqualification actions.

Criminal Behavior Impacting Motor Carrier Safety

Our criminal investigations relating to motor carrier safety have focused on falsification of driver hours-of-service records, falsified drug and medical testing records, and CDL fraud and corruption. Since January 1997, OIG motor carrier safety investigations have resulted in 87 indictments; 77 convictions; and \$6 million in fines, restitution, and recoveries. As of today, 55 criminal investigations are ongoing.

FMCSA is doing a good job in referring unsafe motor carriers to OIG for criminal investigation, a trend that started in 1996. The successful criminal prosecutions of driver log fraud reflect the fact that some, albeit a small number, of companies are willing to compromise safety through intentional violation of the hours-of-service regulations, and conceal those violations from state and FMCSA safety investigators.

Regarding CDLs, an ongoing criminal investigation in the State of Illinois has resulted in charges against 30 state officials and driving school owners or employees that were illegally selling commercial drivers' licenses. To date, 20 of those charged have pled guilty. The investigation found state CDL testing officials soliciting and accepting bribes in exchange for allowing unqualified commercial truck student drivers to pass the written and practical tests. An estimated 500 unqualified drivers received CDL licenses as a result of these crimes. One driver who obtained his license through this scheme was involved in a 1994 fatal truck crash in which six children and one family member were killed. We will continue to work with FMCSA to investigate organizations and individuals who commit illegal acts and put the traveling public at risk.

Mr. Chairman, this concludes my statement. I would be pleased to respond to questions.

