

**STATEMENT OF ANNETTE SANDBERG, ADMINISTRATOR  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
BEFORE THE  
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT  
MARINE  
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION  
UNITED STATES SENATE  
April 5, 2005**

Chairman Lott, Senator Inouye, and members of the subcommittee. Thank you for inviting me today to discuss the successes the Federal Motor Carrier Safety Administration (FMCSA) has had in enhancing safety on our nation's highways, particularly as they relate to the safe operation of commercial motor vehicles (CMVs) and their operators. I last appeared before this committee in June 2003, just one month after my confirmation hearing. Nearly two years later, I am pleased to report that CMV safety has greatly improved during my tenure as Administrator.

**FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION OVERVIEW**

As Secretary Mineta has said many times, safety is the centerpiece of the Administration's Safe, Accountable, Flexible, and Efficient Transportation Equity Act (SAFETEA). FMCSA is committed to that goal. Our agency was conceived out of the need for stronger CMV safety – it is our mandate. More than that, our agency consists of a group of dedicated professionals to whom safety is the highest priority. Toward that goal, FMCSA is working to reduce the unnecessary loss of life on our nation's highways. FMCSA is committed to achieving the Department's highway safety goal of reducing the fatality rate in all motor vehicle crashes by 41 percent from 1998 to 2008. Our part of that goal is to reduce commercial vehicle crash fatalities to 1.65 fatalities per 100 million miles of truck travel. Achieving our safety goal will be challenging, as commercial vehicle miles traveled are increasing at a rate faster than that of passenger cars. I am pleased to report that the FY 2003 CMV fatality rate of 2.3 is the lowest recorded since the Department initiated tracking in 1975.

Safety improvements like these cannot be accomplished without sound programs and adequate enforcement across all levels of government. Enforcement is the cornerstone of motor carrier safety. In FY 2004, Federal and State safety enforcement operations that ensured compliance with Federal Motor Carrier Safety Regulations included the following: more than 25,000 new entrant safety audits; over 11,000 safety compliance reviews; and nearly 3 million roadside inspections. As a result, FMCSA initiated more than 5,000 enforcement cases. In 2003, an Office of Management and Budget assessment found that FMCSA has achieved reductions in the large truck fatality rate in each of the past five years and is on track to achieve its ambitious long-term safety goals.

The Administration's SAFETEA proposal, transmitted to Congress in 2003 and updated in adjustments this February, proposes important advances to our motor carrier

safety program. I am pleased that items we believe critical for safety continue to be addressed by your Committee. They include: the penalty for denial of access to records, increased penalties for out-of-service violations, and safety fitness. We have also been working with Committee staff on some of our SAFETEA adjustments, specifically patterns of safety violations by motor carrier management and intrastate operations of interstate motor carriers, and we appreciate their willingness to work with us to increase safety in these areas.

However, in order for FMCSA to fully achieve its safety mission, we ask the Committee to address the following issues: the codification of the existing hours of service rule for interstate CMV drivers, Commercial Driver's License (CDL) improvements, the safety and security of the Southern Border, increasing penalties for unscrupulous household goods brokers, establishment of the medical review board and medical registry, mandatory fuel surcharge, and hazardous materials transportation safety.

### HOURS OF SERVICE

With regard to hours of service, I would like to report on the progress made since the most recent extension of the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21), on September 30, 2004. In the Surface Transportation Extension Act of 2004, Part V, Congress provided that the current hours-of-service rule will stay in effect until the Agency publishes a final rule addressing the factors in the July 2004 decision of the U.S. Court of Appeals for the District of Columbia Circuit, or September 30, 2005, whichever is earlier.

I established a dedicated hours-of-service task force that reports directly to me. This task force consists of some of the most highly respected professionals in our agency. Its work has already proved exceptional – since its creation the task force has issued its Notice of Proposed Rulemaking (NPRM) on the new rule and is on track to meet the September deadline. However, the new rule, like the old rule, will not please everyone. I am concerned that the revised rule will open the Agency and the Department to the same kinds of legal challenges we have experienced already. These challenges keep the industry and others in a constant state of uncertainty. For this reason, the Administration seeks the inclusion of language in the Senate reauthorization bill that will make the 2003 rule permanent and allow FMCSA the opportunity to revise the rule, if necessary.

Another issue of concern is the number of proposed exemptions to the hours of service rule. The old rule on hours of service contained statutory exemptions for various industries. These exemptions have been retained in the new rule. New blanket statutory exemptions for various industries increase the likelihood that tired drivers will be on the roads endangering the driving public.

Overall, these exemptions compromise safety. They create enforcement problems, hamper accurate recordkeeping, encourage other industries to seek exemptions, and dilute the objective of providing drivers a more regular schedule to coincide with circadian rhythms. As Administrator of the Agency, I am charged with fulfilling its mandate of improving the safety of these drivers and the traveling public with whom they

interact. Exemptions to the hours of service rule without data and research to support the exemptions hamper the Agency's ability to fulfill our safety mission.

### CDL IMPROVEMENT PROGRAM

Another important initiative is the Commercial Driver's License improvement program. Critical to the safety and security of the United States, the CDL grant program is the latest in a series of efforts by our agency to improve and enhance the effectiveness of the CDL program. Since implementation of the CDL program in 1986, FMCSA has promulgated regulations addressing State compliance with the CDL requirements, initiated judicial outreach, expanded State CDL compliance review, and most recently developed a CDL anti-fraud program. In 2004, FMCSA conducted 16 compliance reviews of State CDL programs, strengthened oversight of annual State self-certification of CDL programs and allocated \$22 million in grant funding for States to address compliance, fraud, and security issues.

Also in 2004, FMCSA organized a working group of motor vehicle administrators and law enforcement staff to address anti-fraud initiatives. The group has made several recommendations to eventually be included in a model law enforcement program for preventing CDL fraud. This program, when fully implemented, will establish a framework for motor vehicle and law enforcement agencies to work collaboratively in addressing CDL fraud.

FMCSA is also partnering with the Office of Inspector General (OIG) to coordinate CDL fraud investigations by providing CDL-specific investigative expertise to State agencies, and where warranted, Federal prosecution for criminal violations. With FMCSA's assistance, the OIG is preparing training materials for their field investigators to assist in CDL-related investigations.

Finally, the CDL compliance review program now includes a specific anti-fraud component. The agency has included anti-fraud priorities as an eligible funding activity for CDL improvement grant funds. Not only has FMCSA elevated fraud issues with States during CDL compliance reviews and with CDL grant awards but also will continue to emphasize fraud awareness training to State law enforcement and motor vehicle personnel.

### HOUSEHOLD GOODS ENFORCEMENT

The Administration has requested greater enforcement of violations by movers of household goods (HHG). I know that the Chairman and members of this Committee have noticed an increase in consumer complaints about household goods carriers. The Administration's proposal establishes more visible enforcement through increased investigations and expanded outreach. Our efforts seek to increase consumer awareness and help citizens make better-informed decisions when moving across State lines. Additionally, we seek authority for State Attorneys General to enforce Federal household goods regulations against interstate carriers. We believe this authority will help reduce

abusive practices and makes sure there is consistency in enforcement across the country by having one set of regulations rather than many state regulations.

For FY 2005, FMCSA is conducting strike force activity in States where we have seen the highest level of complaints, with a goal of 300 investigations. These states are Florida, New York, New Jersey, and California. Since the beginning of the fiscal year, the Agency has conducted over 100 investigations, three times as many as in FY 2004, and is on target to meet its annual goal. FMCSA used the \$1.3 million appropriated to hire Federal employees to investigate HHG complaints and to conduct concentrated strike force activities, bringing together investigators from throughout the country to operate in a specific area for a short period of time. Currently, the Agency has 10 full-time safety investigators devoted to HHG enforcement and we have trained an additional 37 investigators to support this effort. Our agency is committed to eradicating this threat to American consumers.

### MEDICAL REVIEW BOARD

Another important aspect of our reauthorization proposal is the creation of a standing medical review board to provide the Agency with expert medical advice on driver qualification standards and guidelines, medical examiner education, and research, thereby enhancing our ability to adopt medically sound and up to date regulations. In the past, we have assembled expert medical specialists on an *ad hoc* basis to review the standards and guidelines for qualifying truck and bus drivers. Many of the standards in place now were adopted in the 1970s or earlier. A standing review board will greatly enhance the Agency's ability to adopt regulations that reflect current medical advances. Establishment of a medical registry would respond to the National Transportation Safety Board (NTSB), which issued eight safety recommendations in September 2001, requiring that FMCSA establish comprehensive standards for qualifying medical providers and conducting medical qualification exams.

Last Congress, S. 1072 established a medical review board based on the Federal Aviation Administration (FAA) model for pilot standards. Neither FMCSA nor FAA believes the FAA model to be an appropriate one for CMV drivers. The sheer number of drivers and differences in the age and health characteristics of the driver population make this model an untenable one for FMCSA. The FAA has 6,000 authorized aviation medical examiners to perform yearly exams on approximately 270,000 pilots. FMCSA estimates that approximately 300,000 medical examiners perform exams on approximately 6.4 million CMV drivers on a biennial basis. While I appreciate the Committee's inclusion of the medical registry provision, I urge the Committee to rework the review board model and provide adequate funding to maximize our ability to set appropriate medical standards for CMV drivers.

### SAFETY AND SECURITY AT THE SOUTHERN BORDER

The Administration is committed to implementing fully the North American Free Trade Agreement (NAFTA) land transportation provisions. In June 2004, the U.S.

Supreme Court ruled in the Administration's favor in a suit that would have required environmental analyses of the rules. The most recent Inspector General audit for NAFTA implementation, released in January 2005, stated: "FMCSA has sufficient staff, facilities, equipment and procedures in place to substantially meet the eight Section 350 provisions for Mexican long haul trucks."

In preparation for allowing Mexican carriers beyond the commercial zones and in response to the mandates of Section 350 of the FY 2002 DOT Appropriations Act, FMCSA has deployed 274 inspectors, auditors, and investigators along the border to process these carriers. FMCSA has provided funds to the four southern Border States to hire additional inspectors and construct inspection facilities. As of December 10, 2004, 693 Mexican carriers have applied for authority to operate beyond the commercial zones. Of the 693 applications, 314 are ready for the mandated safety audit.

One of the requirements in Section 350 of the FY 2002 DOT Appropriations Act, which has been adopted in all subsequent DOT appropriations acts, makes the inspection procedures and decal of a non-governmental organization mandatory for Mexican CMVs. In one of the Administration's SAFETEA Adjustments, we propose that the required inspection decal be issued or approved by the Secretary of Transportation. We feel that this is an important function for which the Federal Government should be responsible.

#### HAZARDOUS MATERIALS TRANSPORTATION

FMCSA has implemented a comprehensive Hazardous Materials (HM) Security Program to improve the secure transportation of hazardous materials on our highways and protect the country from the threat of terrorism. The program includes an enforcement/compliance component as well as an outreach component.

A major element of the FMCSA HM Security Program involves FMCSA's new HM Permit Program. Carriers of extremely high-hazard materials are required to obtain a permit from FMCSA. This permit is contingent upon the carrier's developing and maintaining a satisfactory security program that meets the requirements of the HM Regulations and includes a communication component for permitted loads. FMCSA will validate the adequacy of the security plan for 1,200 carriers during FY 2006 using a Security Contact Review (SCR). The SCR includes an in-depth assessment of the adequacy of a carrier's security plan and its implementation as well as security training, communication requirements, and other requirements of the HM permit program.

#### MANDATORY FUEL SURCHARGE

The Nation has benefited enormously from our economic deregulation of the transportation industry. In the last 25 years, the free market for motor carrier services in particular has made important contributions to the growth and efficiency of our economy and helped to sustain its remarkable ability to create new jobs. Although the price of diesel fuel has risen sharply in the past few years, the allocation of those costs among the buyers and sellers of transportation is best accomplished through the working of the

marketplace, not by government prescription. The mandatory fuel surcharge for truckload transportation prescribed by section 4139 of H.R. 3 would insinuate government into commercial relationships in a way that is ill-advised and that would reverse a quarter-century of U.S. economic policy. For these reasons, the Administration strongly urges the members of this Committee, and other Senators, not to include language supporting a fuel surcharge in its reauthorization bill.

#### REGULATORY BACKLOG

Mr. Chairman, I am pleased to report that FMCSA's progress has been steady and our future is bright. One aspect of our progress of which I am particularly proud is how we have addressed our Congressional regulatory and reporting requirements. When I began as Administrator, there was a tremendous regulatory backlog. During my tenure, I have reduced this backlog by over 40%. I have met with your staff to update them on our progress. I ask that no mandated rulemakings be added to the Committee's bill. FMCSA needs to be able to set rulemaking priorities based on safety, not mandated timelines.

#### CONCLUSION

I wish to thank you for inviting me to discuss the achievements FMCSA has made toward reducing fatalities and injuries on our nation's highways. This reauthorization represents the first opportunity for our five-year old agency to step forward, stand on its own, and chart our course. I would be happy to respond to any questions you may have.