

**STATEMENT OF JOAN CLAYBROOK, BOARD MEMBER
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**BEFORE THE UNITED STATES SENATE
SURFACE TRANSPORTATION AND MERCHANT MARINE SUBCOMMITTEE
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION**

Hearing on S. 1501, The Motor Carrier Safety Improvement Act of 1999

September 29, 1999

Senator Hutchison and members of the Surface Transportation Subcommittee, thank you for the opportunity to testify at this extremely important hearing. I am Joan Claybrook, Program Co-Chair of Advocates for Highway and Auto Safety and president of Public Citizen. Advocates is a national highway and motor vehicle safety organization that I am proud to have helped to start in 1989. We are a unique, non-profit group that is composed of a wide range of consumer, health, safety, and law enforcement organizations, and insurance companies and representatives who are dedicated to the belief that carefully focused actions to improve safety policies and practices at both the federal and state levels will reduce motor vehicle crashes, deaths, and injuries.

Advocates is celebrating its tenth anniversary this year. During the past ten years we have worked closely with the Senate Commerce, Science, and Transportation Committee on a wide range of issues affecting highway and auto safety. Because of this committee's leadership and the legislation that members and committee staff have proposed and persisted in championing through enactment, the American public is

driving safer motor vehicles, the government is providing better consumer information about auto safety, and motor carrier safety has been enhanced because of your timely initiatives on commercial licensing, truck and bus anti-lock brakes, as well as commercial driver drug and alcohol testing. The leaders of this committee are continuing this tradition of advancing public health and safety with these hearings on motor carrier safety and through Chairman John McCain's recent introduction of S. 1501.

Today's hearing and its subject could not be more timely or more pressing. Each year, thousands of Americans are needlessly losing their lives and suffering severe, often permanently disabling, injuries because of motor vehicle crashes involving large trucks. Sadly, the overall number of passenger vehicle deaths due to truck crashes has increased over the past seven years. In 1998, 4,212 occupants of passenger vehicles were killed in big truck crashes, an increase of 33 deaths over the 4,189 who died in 1997. Just as important are the injuries sustained by passenger vehicle occupants: almost 100,000 each year according to the National Highway Traffic Safety Administration (NHTSA). Overall, in 1998, 5,374 people died in truck crashes (an average of more than 100 people a week) and 127,000 were injured. If 400 people died every month in airline crashes, this Committee would be demanding the resignation of the Federal Aviation Administration (FAA) Administrator, holding emergency hearings condemning airline operations, and the newspapers would make it front page news. Why is it that truck crash deaths are considered routine, not a crisis?

These figures are disturbing enough on their own. However, when they are viewed from other statistical perspectives, they become especially alarming and demand a response from all levels of government:

- Large trucks are much more prone to be involved in fatal multiple-vehicle crashes

than passenger vehicles and their rate of involvement in such collisions has grown in 1998 to 84 percent. When big trucks have crashes with passenger vehicles, more than four out of five of these collisions result in deaths.

- Ninety-eight (98) percent of the people killed in crashes involving a passenger vehicle and a large truck are passenger vehicle occupants.
- Although big trucks account for only 3 percent of registered vehicles, they are involved in 9 percent of all fatal crashes and in 12 percent of all passenger vehicle deaths.
- Even more startling is the fact that more than one out of five (22 percent) of all passenger vehicle occupant deaths on our roads and highways result from crashes with large trucks.

I do not think that these horrifying facts and figures from NHTSA and the Insurance Institute for Highway Safety are a coincidence. They are unacceptable and intolerable losses that have increased dramatically since the Federal Highway Administration's (FHWA) Office of Motor Carriers (now the Office of Motor Carrier and Highway Safety) took a nosedive in the quantity and quality of its key safety stewardship at the start of the 1990's. FHWA's regulatory and enforcement lapses over the past several years were amply documented in 1997, 1998 and 1999 by devastating reports from the U.S. Department of Transportation (DOT) Office of the Inspector General (OIG), in oversight studies by the U.S. General Accounting Office (GAO), and through repeated criticism and calls to action issued by the National Transportation Safety Board (NTSB).

I also want to stress here that these critical evaluations showing FHWA's failure to advance commercial motor vehicle safety are not confined to the safety problems of our domestic trucking operations, but extend to foreign operations as well. Indeed, the

GAO published two reports, in 1996 and in 1997, showing the abysmal failure of the U.S. DOT to ensure the safety fitness of drivers and commercial motor vehicles crossing into the U.S. at our southern border. And FHWA has not provided the kind of comprehensive inspection of these motor carriers to catch the dangerous vehicles and drivers, and provide a deterrent to those south-of-the-border trucking businesses that are violating our safety regulations. Even today, three years later, if this border were open to all truck traffic, there is *de minimis* capacity to detect the unfit and dangerous trucks and drivers.

Taken together, these crash facts and oversight reports make it crystal clear that major actions are needed quickly to stem this terrible tide of crashes, deaths, and injuries that cost our country dearly. Increasingly, the systemic defects of FHWA's administration of motor carrier safety have been revealed over the past several years, with a crescendo of failures documented in reports issued by several government organizations and in letters, testimony, and regulatory comments filed by safety groups and victims over the past year alone. I would like to submit for the record a chronology which includes all of the hearings, meetings, workshops, and plans proposed by the U.S. Department of Transportation to address this serious safety problem. (See attachment).

These basic failures by FHWA of its statutory responsibilities demand rapid -- but carefully crafted -- legislative corrections enacted by Congress. And Congress must pass comprehensive commercial motor vehicle safety reform legislation before it adjourns this year. The American public cannot endure another year of horrific reports of fatal big truck and bus crashes, confirmed by recent government figures, that are portrayed almost daily on television and in the newspapers. The issue is too important to await more plans and reports detailing the failures of the federal motor carrier safety program or

the release of new government figures confirming that the large number of truck-related deaths and injuries are a national disgrace. In fact, the public has recently weighed in on truck safety and the results are clear: the majority of Americans are very concerned about the safety of big trucks on our roads.

Today, Advocates is releasing for the first time the results of three recent polling questions on truck safety. Two public opinion questions were contained in a survey conducted this summer by Opinion Research Corporation International, prepared for the Consumer Federation of America and Advocates. When asked whether they would pay more for goods shipped by trucks in exchange for truck safety improvements, 78% of the American public said they would be willing to pay more. This clearly shows that consumers see an obvious benefit in paying more for their goods when lives are at stake. On another truck safety issue, motorists know that fatigued truck drivers behind the wheel are a safety hazard on the road, and that the problem would only be worsened by allowing longer driving hours. An overwhelming 93% of the public said that allowing truck drivers to drive longer hours is less safe, and 80% of respondents said that driving longer hours is much less safe. Moreover, a large majority of the public -- 81% -- said they would favor the installation of new technologies such as driver warning systems and black boxes in trucks to improve enforcement of motor carrier safety regulations, in a September, 1999 survey conducted by Lou Harris for Advocates. The American public continues to voice its concern on the issue of truck safety and now looks to the Congress and the Administration to make a real difference in saving lives.

Let me first state that the best fundamental reform of motor carrier safety is to transfer all of the safety regulation and enforcement responsibilities currently housed in FHWA to NHTSA. The NHTSA track record of timely, carefully targeted safety regulation and its field office infrastructure complements its excellent data collection, analysis, and crash research capabilities. NHTSA can and will do the job.

However, if a complete transfer of authority is not made to NHTSA, at a minimum some basic safety responsibilities need to be transferred to it, regardless of the final venue for core motor carrier functions currently administered by the Office of Motor Carrier and Highway Safety (OMCHS). At the top of the list is the duty for issuing regulations addressing the motor vehicle standards, maintenance, and safety performance of key components and equipment of commercial motor vehicles already in service. We simply can no longer tolerate FHWA's shortsighted regulatory actions to delay or avoid requiring important safety improvements for trucks and buses already on the road. That is why we strongly support the provision (Section 2) in S. 1501 that transfers to NHTSA the regulation of the safety equipment on existing trucks, trailers, and buses.

Even when FHWA finally gets around to extending the new vehicle regulations issued by NHTSA for in-service trucks and buses, it usually applies these safety rules only to a small portion of the existing fleet, by limiting its regulations to the maintenance of safety equipment on these vehicles required by NHTSA in standards for newly-manufactured commercial vehicles. This approach, however, avoids correcting widespread safety deficiencies for most of the existing fleet, especially for trailers which can have service lives as long as 20 years. For example, when FHWA published its final rule just several weeks ago requiring carriers to maintain rear underride guards on trailers to prevent these lethal crashes by small vehicles, the agency only made the rule prospective in application from 1996 onward, the effective date for NHTSA's standard for newly-manufactured vehicles. This ensures that the overwhelming majority of trailers on the road still fitted with the dangerous, obsolete Interstate Commerce Commission type of rear trailer guard required in 1953 will not be removed and upgraded to the current NHTSA standard. For many years to come, these inadequate, and even lethal, trailer guards will continue to threaten the lives of all the motorists who are unlucky enough to run into the back of a tractor-trailer.

Another example involves improved heavy truck conspicuity, where FHWA issued a final rule for combination truck trailers manufactured before a NHTSA regulatory compliance date.

The rulemaking took nearly six years and was a sham safety decision for trailers already on the road. In essence, FHWA essentially grandfathered trailers produced before the NHTSA compliance date by giving carriers up to 10 years to comply if they already had other, non-conforming retroreflective treatment of the sides and rear ends of trailers. This means that most of these trailers will reach the end of their useful service lives without being retrofitted to NHTSA specifications. In the meantime, FHWA has undermined the benefits of the NHTSA regulation by allowing thousands of existing trailers with non-complying reflective markings, even with colors such as blue and green, to continue to operate. Improving trailer visibility for motorists by requiring uniform markings is an inexpensive fix for a dangerous and costly problem, and importantly, reduces the chances of drivers of small passenger vehicles running into the back ends of trailers. Nevertheless, FHWA found a way for motor carriers to avoid ever having to comply with the rule.

These examples show why Congress must enact the provision in S. 1501 to transfer important safety regulatory powers to NHTSA so that timely, compatible policy decisions can be made by a single agency coordinating its new vehicle safety standards with standards to maintain and improve the safety performance of on-the-road trucks and buses.

In order to give full effect to Section 2 of S. 1501, and transfer regulatory authority over retrofit and maintenance of in-service commercial motor vehicles to NHTSA, Congress will also need to amend another law. Section 104(c)(2) of Title 49 United States Code, requires the FHWA Administrator to carry out duties and powers under chapter 315 of Title 49, which includes the authority to prescribe requirements for the safety of operation and equipment of motor carriers. Enactment of Section 2 of S.1501, without a corresponding amendment to Section 104, may create dual jurisdiction in both NHTSA and FHWA over these regulatory issues, a situation that will not lead to regulatory efficiency or improve safety. In addition, Section 104(d) prevents the Secretary of Transportation from transferring this authority from the

FHWA Administrator. To clarify this situation, S. 1501 should include a technical amendment that deletes the reference to chapter 315 now contained in Section 104(c)(2).

Similarly, we strongly support the provision in S. 1501 (Section 6) that transfers data collection, analysis, and administration of motor carrier reporting systems to NHTSA. The U.S. DOT OIG's April 1999 report stressed FHWA's poor data and data collection. Even in its recent rulemaking proposal to revamp the Motor Carrier Safety Assistance Program (MCSAP), FHWA itself admitted that it has no reliable state-by-state information on even the most basic data categories for commercial vehicle operations or commercial driver licenses. In addition, FHWA has repeatedly repudiated even the need for doing careful crash causation studies, including its public statements to that effect at a major NTSB hearing just this past March. FHWA does not know why or how many truck crashes happen. Moving the administration and evaluation of truck safety data, including crash causation analysis, to NHTSA is a baseline requirement of motor carrier safety reform. It is crucially important for Section 5 of S. 1501 to be made the law of the land.

Another central feature of agency reform contained in S. 1501 is the provision in Section 4 directing the Secretary to implement the safety improvement recommendations in the OIG's April 26, 1999, report (TR-1999-091). This provision is critical to the success of this legislation because it is the only provision in the bill addressing the safety inspection and compliance review responsibilities of motor carrier oversight. A complete and detailed fulfillment of the OIG findings and recommendations -- appropriately strengthened by the OIG's March 1997 report, as well as by GAO reports on safety in both domestic and cross-border commercial traffic, and by recent NTSB reports and hearing findings on truck and bus safety -- is pivotally important to the establishment of a vigorous safety inspection and compliance review system. A new, independent motor carrier agency is simply a bankrupt idea unless it is accompanied by a renewed motor carrier enforcement mission that addresses the enormous backlog of unrated carriers and

inadequate roadside and border inspections. Advocates strongly supports the purposes of Section 4, which is central to the success of S. 1501 in reforming the federal administration of motor carrier safety.

There are two more features of the bill that we believe are forward looking and will ensure improved commercial vehicle safety on a national scale. First are the strong provisions mandating further strengthening of the successful Commercial Driver License (CDL) program by closing the last loopholes in the system and increasing the penalties for violations, as well as setting penalties for infractions overlooked in FHWA's regulations. Section 5 is particularly strong in its no-nonsense message to the states to administer its CDL programs to the highest standards. In particular, we support the decertification authority provided the Secretary to suspend a State's authority to issue commercial licenses until it complies with all of its responsibilities under federal safety regulations for the program. Although other, financial penalties suspending and reallocating federal funds can have significant deterrent effects, the legislated authority to issue a decertification order is a powerful incentive to the States in foreseeing and curbing abuses, particularly in view of the misadministration of this program in some states.

Second, we also strongly support the rulemaking action of Section 5 to integrate the federal medical certificate confirming driver qualification under the physical fitness standards of the Federal Motor Carrier Safety Regulations with the CDL in each State. If States issue renewed medical certificates on the same cycle as their CDLs, this will correct the abuse of drivers failing a medical examination but continuing to drive because their licenses have not yet come up for renewal.

The allied provision, mirroring FAA requirements, for a national registry of medical providers, will substantially improve the fail-safe approach to CDLs and physical qualification by ensuring a pool of health care providers with demonstrated knowledge about the special medical standards which apply to new CDL applicants and current license holders. A few years ago, there

was a strong majority among the members of an FHWA negotiated rulemaking committee supporting such a national registry, including motor carrier industry representatives, health care providers, and Advocates. There are just too many documented cases, corroborated by FHWA and the States, of drivers being certified by health care providers who are unaware of the higher medical standards that a driver must pass to become or remain eligible to operate a commercial motor vehicle in interstate commerce. Controlling the quality of the physical requirements required for operating a commercial vehicle in interstate commerce is long overdue because it will enhance the protection of the traveling public.

The provisions of S. 1501 which I have just reviewed are its great strengths and I believe they will go a long way toward reforming motor carrier safety. However, we believe there are other provisions, if incorporated in S. 1501, would advance safety even further. Let me review these briefly.

- **Compliance Reviews, Safety Ratings, and Roadside Inspections.**

In a September 13, 1999, interview with *Transport Topics*, published by the American Trucking Associations, a senior OMCHS official stated that the number of federal motor carrier compliance reviews would increase until they reach the 1992 average of more than 9,000 per year (roughly 770 per month). When that 1992 level is reached, OMCHS would take a look at safety and “see if we can ease off a bit.”

However, reducing the number of compliance reviews is the last thing that we need. This agency official failed to acknowledge that there are almost twice as many registered motor carriers today as there were in 1992: nearly 478,000 interstate motor carriers, according to FHWA figures. The OIG’s April 1999 report stated that FHWA has performed 30 percent fewer compliance reviews since 1995 while there has been a 36 percent increase in the number of registered interstate motor carriers in only four years. In fact,

in March 1998, the agency even failed to perform compliance reviews on 248 (or 15 percent) of the high-risk carriers recommended for such a review.

Given FHWA's indifferent attitude toward its oversight and enforcement mission, we believe that Congress needs to set a firm goal, perhaps even a specific number, for the agency's completion of motor carrier safety reviews. Without specific legislated targets, we are not confident that government regulators will ever overcome the enormous backlog of unreviewed carriers and carriers that are either unrated or bearing out-of-date ratings.

- **New Motor Carriers.**

Looking forward, we also recommend that the bill contain a provision requiring the Secretary to conduct rulemaking to establish a new motor carrier entrant proficiency examination. If the backlog of unreviewed and unrated carriers seems daunting, we need to avoid adding to it by allowing new applicants for interstate operating authority to begin operations simply by paying a fee and showing proof of insurance. FHWA records show that carriers early in their business lives are more prone to rack up violations, often in large part because their owners simply do not know the federal regulations that govern their interstate operations. This safety problem can be avoided by requiring applicant carriers to pass a federally prescribed proficiency test demonstrating their understanding of the Federal Motor Carrier Safety Regulations. Within a year of gaining operating authority, these new carriers should undergo a compliance review that either confirms or changes their initial safety rating.

- **Minimum Penalties for Federal Violations.**

It is high time to stop the widespread federal practice of routinely either forgiving any monetary sanctions for safety regulation violations or reducing them to nominal sums so that carriers, when fined, simply regard the fines as incidental costs of doing business. The April 1999

OIG report underscored the chronic problem of federal enforcement officials looking the other way when stiff fines are called for. In response, the OIG called for legislation to raise the statutory penalty ceilings.

While we support this recommendation wholeheartedly, Advocates believes that the first order of business is to establish a floor for the minimum amounts that can be assigned for violations. We believe that a figure equal to one-half the maximum amounts listed in the Federal Motor Carrier Safety Regulations as the minimum permitted by law is a good benchmark. Curtailing regulators' discretion to forgive all fines or make them just a "slap on the wrist" will make motor carriers understand that safety violations can have serious financial consequences. We also suggest the committee adopt a strong provision in H.R. 2679, Section (b)(2), inserted at the request of Rep. James Oberstar (D-WI), that mandates agency imposition of the maximum civil penalties when enforcement officials find that a motor carrier has twice committed the same or related violations. Advocates supports this "get-tough" approach, which clearly will deter repeated violations and urges the committee to include a similar provision in S. 1501. We also support routine updating of the schedule of penalties in 49 Code of Federal Regulations to keep pace with the Consumer Price Index.

- **Conflicts of Interest.**

It is imperative that Congress imposes effective controls on the abuses involving FHWA's provision of federal funds to the trucking industry and its affiliates to conduct sensitive motor carrier safety research which directly affects prospective regulatory actions and policy choices of the agency. This is nothing more than the regulated industry producing studies to serve as the basis for the FHWA regulations governing the industry. It is using taxpayer dollars to pay the fox to dwell in the chicken coop. Right now, there are several research efforts underway, including investigations directly affecting commercial driver hours of service rules, being conducted by an arm of the trucking industry. Recent studies costing millions of dollars and taking several years,

such as the Driver Fatigue and Alertness Study conducted in part by the Trucking Research Institute of the American Trucking Associations, have prejudiced major rulemaking initiatives. Despite the numerous flaws in this and other research studies, FHWA most inappropriately continues to rely on them as a basis for its regulatory and other policy decisions. In three separate NTSB hearings held this year on motor carrier safety and technology, Chairman Jim Hall decried the prejudiced research conducted with the trucking industry concerning whether on-board recorders are needed to show commercial driver compliance with hours of service regulations.

This is a practice which NHTSA would never condone or engage in. Having vehicle manufacturers federally contracted and paid with taxpayer money to conduct research bearing directly on forthcoming regulations affecting the industry's safety standards is simply inconceivable. Yet this is exactly the practice consistently pursued by FHWA with study after study carried out by the trucking industry at a cost of millions and millions of taxpayer dollars directly impacting federal motor carrier safety standards. In a word, this practice must be stopped. A large part of the intransigent attitude of FHWA toward vigorous federal safety regulation is due directly to the research findings it relies on being produced by the regulated industry. If Congress wants to achieve significant changes in the way motor carrier safety standards are finally adopted, it must eliminate the conflict-of-interest problem in motor carrier safety research and regulation.

This pervasive, chronic problem of prejudiced research contracts provides important instruction on controlling any future federal appointments to high-level administrative positions regarding motor carrier safety. Congress also needs to enact strong conflict of interest provisions to ensure that any agency officials overseeing motor carrier regulation and enforcement have unimpeachable credentials. Employment in the motor carrier industry or strong financial ties to the industry through repeated contracted work, for example, should immediately disqualify any prospective candidate for an appointed position. If Congress creates a new, separate motor

carrier agency and does not address these two major conflict-of-interest issues of agency research and agency leadership, public confidence in the impartiality of the policy decisions of a separate motor carrier agency will be undermined from the start and, more importantly, a new era of motor carrier safety will not occur.

- **State and Federal Motor Carrier Law and Regulation.**

According to the NTSB, perhaps one-half of the deaths from big truck crashes each year involve intrastate-only motor carriers. Because of the Tolerance Guidelines adopted by FHWA (49 CFR Pt. 350, App. C) as a result of the 1991 amendments to the Motor Carrier Safety Act, many states' rules significantly differed from the Federal Motor Carrier Safety Regulations for intrastate-only commercial vehicle operations. For example, medical standards in many states are lower for in-state CDLs. Also, a number of states have more liberal hours-of-service rules than the federal requirements, such as permitting drivers to operate trucks and buses for up to 12 continuous hours instead of 10 hours, the interstate limit. In some instances, statewide operations in larger states allowing longer driving hours result in longer trips and more annual vehicle-miles-traveled than some regional interstate carriers accrue in their operations traversing two or three northeastern states.

Congress has made it clear in successive hazardous materials transportation reauthorization acts that it expects the U.S. Department of Transportation to conform intrastate hazardous materials truck transport to the Federal Hazardous Materials Regulations issued by the Research and Special Programs Administration (RSPA). In fact, RSPA just this past year adopted new regulations requiring hazmat truck movements to comply with the federal safety rules, save for a few exceptions carefully crafted to reduce burdens on farmers and small businesses using small quantities of materials of trade.

If it is important to reduce risks to public safety from all hazmat incidents on our highways, we think Congress should take a careful look at reducing the public's exposure to the

increased risks of crashes resulting from intrastate safety regulations which often are not as stringent as the Federal Motor Carrier Safety Regulations. Let me emphasize again that in small vehicle-big truck fatal crashes, 98 percent of the deaths are suffered by the occupants of the passenger vehicles. This means that more than 2,000 fatalities may result from truck-car crashes with intrastate-only motor carriers. We strongly encourage Congress to adopt a provision directing the Secretary to conduct public rulemaking on whether the deviations by the States from federal interstate safety standards pose a safety threat that should be eliminated.

- **Commercial Driver License.**

Another important safety area which needs legislative attention in this bill is the extension of the CDL to drivers of commercial vehicles in interstate commerce between 10,001 and 26,000 pounds gross vehicle weight. S. 1501 pays close attention to refining the CDL system, but these changes, if enacted, will increase the already considerable differences between the CDL program and the requirements and penalties applying to drivers of big trucks below 26,000 pounds.

When Congress enacted the CDL program in 1986, part of the reason for confining CDLs to for-hire carriers of passengers and to private and for-hire freight carriers above 26,000 pounds was simply the burden involved in asking the States to implement across-the-board CDL systems for all commercial vehicles weighing 10,001 pounds or more. Also, in that era, single-unit trucks in the 10,000-26,000 pounds commercial vehicle segment were responsible for a smaller portion of the annual crash deaths and injuries compared with trucks more than 26,000 pounds.

In recent years, however, single-unit trucks in the lower weight range have contributed disproportionately to the annual truck crash death toll. In fact, fatality figures for 1997 and 1998 show that nearly one-third of all deaths in large truck crashes involve single-unit trucks. Many of these trucks are in interstate commerce, especially on a regional service basis, yet the disparity of the licensing approaches used by many States between their CDL requirements and non-CDL licenses for commercial vehicles in the lower weight range are even more glaring when compared

with pending proposals to further strengthen the CDL system.

For example, many states do not even issue a special truck license for drivers of single-unit trucks in the lower weight range or require these drivers to meet special safety standards. Apart from the medical qualification under federal regulations, the States do not have to require drivers of trucks between 10,000 and 26,000 pounds to take specific knowledge and skills tests. Furthermore, even though federal regulations prohibit any driver of any commercial motor vehicle in interstate commerce from having more than one driver license, only the CDL program for vehicles more than 26,000 pounds contains the safeguards for preventing multiple license acquisition. And, last, the real paradox is that the weight range division between trucks above and below the 26,000 pound threshold is essentially arbitrary. This arbitrary division has been made even more acute by FHWA's recent amendment to the federal regulations which now makes actual on-the-road weight – and not the weight *rating* assigned by a vehicle manufacturer -- the basis for whether a vehicle is or is not to be regarded as a commercial motor vehicle subject to the Federal Motor Vehicle Safety Standards.

The bottom line is that there are hundreds of thousands of single-unit trucks on the road right now that are more than 26,000 pounds whose drivers must have CDLs. But there are hundreds of thousands of single-unit trucks which fall below 26,000 pounds, sometimes only by small margins, whose drivers do not have to meet any of the standards or suffer the same penalties for federal violations prescribed for CDL holders.

This simply makes no sense. Given the disproportionate rise in single-unit truck-related crash deaths over the past several years, Congress needs to consider extending the CDL requirements below 26,000 pounds for commercial drivers in interstate commerce. If the rules for a CDL are going to be tightened, the safety payoff of stronger standards for commercial drivers of vehicles between 10,000 and 26,000 pounds also need to be addressed. The best way, now that we all have seen the tremendous benefits of the CDL, is simply to extend the CDL program

throughout the entire range of interstate commercial drivers.

- **North American Free Trade Agreement Truck Safety.**

Advocates continues to be very disturbed about the lack of concerted effort by the Department of Transportation to deal with the serious, pervasive foreign motor carrier safety violations occurring especially at our southern border. One of the problems in dealing with this in an effective and timely manner appears to be a lack of focused resources and personnel in the Department to put a well-crafted border safety plan into operation. There are several offices and individuals spread among the modal administrations and in the Secretary's office which have been assigned duties to improve border safety, including customs interdiction, criminal law enforcement, and motor carrier safety inspection. Congress should take a hard look at whether a single, focused resource – perhaps a single office – in one location should be created in the Department and charged specifically with the sole responsibility of taking actions to rapidly improve commercial vehicle safety at our borders. Right now, it seems as if almost everybody is responsible for some aspect of commercial motor vehicle border safety which, in the end, means that there really is no one whose sole job is to ensure quick improvement of border safety inspections. We believe that Congress should consider directing the Secretary to collect the expertise and resources spread throughout the Department dealing with border safety and house them in a single office, give them targeted goals to achieve in a time certain, and hold them accountable when those goals are not met. Without this, the same diffuse, indeterminate response to commercial vehicle safety violations at our southern border seems certain to continue.

- **Dual Mandate for Federal Motor Carrier Regulation and Enforcement.**

Even strong provisions in final legislation mandating comprehensive motor carrier safety reforms can be undermined if a “dual mandate” is established by law. By a “dual mandate” I mean legal permission for or direction to a new federal motor carrier safety agency to place safety policies and actions in the scales and weigh them against the productivity or economic interests of

the industry. This kind of dual role blunts the possibility of federal safety regulators choosing policies which maximize safety improvements. I cannot emphasize enough how important it is in legislating any new approach to federal motor carrier oversight to avoid underwriting this destructive approach to safety stewardship and, instead, to ensure that the sole mission of federal motor carrier oversight is safety enhancement. This is the reason the Bureau of Motor Carrier Safety (now OMC) was removed from the Interstate Commerce Commission (ICC) in 1966 and placed in the U.S. Department of Transportation.

● **Findings and Purposes.**

I would also like to support the addition of a strong preliminary section for S. 1501 stressing both general and specific actions that need to be taken by a reinvigorated federal motor carrier safety agency to achieve big reductions in truck and bus crashes, deaths, and injuries. The kind of legislative direction provided in a well-crafted findings and purposes section can have a substantial, positive impact on agency behavior. For example, the most recent hazardous materials reauthorization act contained strong, directive language for guiding the regulatory initiatives of the Research and Special Programs Administration, particularly in conforming intrastate hazardous materials surface transportation more closely with the requirements of the Federal Hazardous Materials Regulations.

Section 2 of H.R. 2679 contains exactly the kind of legislated guideposts for agency observance which produce much more impact on and control over subsequent strategic planning, problem identification, and policy choices than stating the same ideas in accompanying report language. Advocates endorses adoption of Section 2 as the preface for S. 1501 because it epitomizes the basic failures of federal motor carrier safety oversight and sets forth the central issues that need primary attention by federal safety regulators. In this regard, Section 2 is very similar to important findings and purposes sections that have introduced the pivotally important Motor Carrier Safety Acts enacted in the 1980s.

That completes my testimony. I again want to express my deep thanks that this committee has confronted the serious problem of commercial motor vehicle safety head-on in this session. We support your efforts and we support your bill. I hope that the modest but essential suggestions I have made today can make your strong bill even better. Advocates believes that these issues, which literally are matters of life and death, cannot be deferred to another session of Congress. We need a bill enacted now. I am pleased to answer any questions you may have about my testimony.