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STATEMENT OF
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BEFORE THE
SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND TRANSPORTATION
COMMITTEE ON GOVERNMENT OPERATIONS
HOUSE OF REPRESENTATIVES
ON
GAO'S REVIEW OF THE FEDERAL HIGHWAY ADMINISTRATION'S
MOTOR CARRIER SAFETY ENFORCEMENT ACTIVITIES

Ms. Chairwoman and Members of the Subcommittee:

We appreciate the opportunity to be here today to discuss certain aspects of our on-going review of motor carrier safety enforcement activities. As you know, these activities are carried out by the Federal Highway Administration's Bureau of Motor Carrier Safety. At your request, our testimony will focus on (1) what system is used to select motor carriers for audit of compliance with motor carrier safety regulations, (2) how third party complaints of carrier noncompliance with safety regulations are investigated, (3) how motor carrier safety ratings are established, and (4) what actions are taken as a result of audits.

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Our review was performed at the Federal Highway Administration's Bureau headquarters and at 4 of its 9 regional offices. We reviewed in 13 states¹ enforcement activities of 25 federal motor carrier safety investigators, and we examined the records of about 1,500 safety audits performed by these investigators in fiscal years 1981 and 1982.

While the Bureau has a process to select, rate, and identify appropriate action based on audits, our initial indications are that the safety investigators' are inconsistent in their (1) use of the Bureau's priority list for selecting carriers for audit, (2) response to third party complaints, (3) development of ratings based on audits, and (4) identification of actions based on audits. At this time, we are still in the process of analyzing the data obtained during our review, and thus have not determined the overall effect and impact of the inconsistencies and variances on the enforcement program and use of resources.

BACKGROUND

The Bureau of Motor Carrier Safety administers a national program to enforce laws and establish regulations governing the safe operation of interstate commerce along the Nation's highways.

The federal motor carrier safety regulations governing the interstate transport of passengers and property include driver's qualifications to operate the motor vehicle, maintenance records

¹Arkansas, Delaware, Illinois, Maryland, Michigan, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Texas, Virginia, and West Virginia.

to ensure the vehicle operates safely, accident reports to identify unsafe carriers, and hours of service records to ensure that carriers are not having drivers operate vehicles beyond the hours established as safe.

The Bureau is comprised of a headquarters staff responsible for overall program administration, policy, and guidance, and a field staff organization that is responsible for auditing motor carriers' compliance with the Bureau's safety regulations. In fiscal year 1984 Bureau field staff numbered 191 of which 94 were investigators who were responsible for performing safety audits of the over 200,000 interstate motor carriers.

The Bureau field staff generally selects carriers for audit using a priority list of high-risk carriers developed by headquarters. The list ranks motor carriers based on a number of ranking factors such as accident rates, prior audit results, and whether the carrier has been audited previously. The use of the list helps the Bureau focus field resources on those motor carriers most warranting safety audits. While the list is the primary method for identifying motor carriers for safety audits, they are also selected based on complaints by third parties or, in some cases, carrier accidents. The safety audits are performed by the field investigators at the carrier's terminals where their operating records are kept. The results of the investigator's audits, include the investigator's assessment of whether carriers are in compliance with the regulations and the investigator's intended course of action as a result of the audit, are reported to headquarters.

During the audit the investigator rates the carrier's compliance with individual parts of the safety regulations and also recommends an overall rating for the carrier. Based on the safety investigator's assessment of carrier compliance the investigator may choose from a number of courses of action which includes:

- taking no action,
- closing the case out with a report for the file,
- requesting the carrier to respond in writing on what actions will be taken to correct areas of noncompliance,
- reauditing the carrier during the next year, or
- initiating an enforcement case to assess a fine against the carrier.

The Bureau assigns the carrier a final overall safety rating based on its consideration of the investigator's observations and opinions on the extent of compliance, and on the carrier's cooperation during the audit and the carrier's receptivity to the audit results. In determining the overall carrier rating, the Bureau compares the number of violations for each part of the safety regulations to the national average for each part. The Bureau also considers the investigator's recommended rating and any narrative comments made in the investigator's audit report. The Bureau uses its assigned rating (1) to respond to Interstate Commerce Commission inquiries on the safety record of carriers seeking extended operating authority and (2) as one of the criteria for prioritizing carriers for future safety audits.

CARRIER AUDIT SELECTION PROCESS

In 1982 the Bureau developed a uniform system for selecting carriers for audit by specifying selection criteria and annually

distributing to field offices a priority list of carriers meeting the criteria. Carriers are rank-ordered on the list based on criteria that includes factors such as accident rates, prior audit results, and whether the carrier has been previously audited. In fiscal year 1984 about 32,000 carriers were on the priority list based on their meeting one or more of the criteria and on the significance of specific criteria used. The Bureau intended safety inspectors to follow the list's priorities but permits deviations to investigate third party complaints and accidents.

Bureau field offices we visited used the list differently and relied on their judgment in deciding which carriers to audit. For example, the Albany, New York Regional Office instructed its safety investigators to select carriers for audit only from the list, but specific selection was left to the discretion of the investigators. The Homewood, Illinois Regional Office, on the other hand, weighted the headquarters criteria and subsequently developed its own list broken down into a high priority list and a secondary priority list. Investigators were instructed to audit all the carriers on the high priority list and as much of the secondary priority list as possible.

The list is intended to give priority to those motor carriers most warranting safety audits. However, its inconsistent use may not result in the best use of field investigators efforts. In addition to the priority list, the investigators respond to third party complaints.

INVESTIGATION OF COMPLAINTS

Bureau and regional guidance requires that all third party written complaints about motor carriers not complying with specific regulations be investigated ahead of those carriers on the priority list. However, they do not specify how complaints are to be handled. We found that complaints were being handled differently among the field locations we visited. Differences occurred in (1) how complaints were investigated and (2) what was investigated.

--In three of the four regions we visited, safety investigators visited the carrier's place of business to investigate a complaint. However, in the fourth region investigators could write a letter to the motor carrier requesting a response to the complaint. In these instances, if the investigator believes the written response is satisfactory, then the case may be closed without verifying the carrier's response. Officials in this region advised us that some complaints were handled by phone or mail and closed without any further investigation.

--In the four regions we visited, the investigators responded differently to complaints. They would either (1) investigate only those areas contained in the complaint, (2) perform a complete safety audit, or (3) initially, investigate the areas mentioned in the complaint and subsequently if necessary, in the safety investigator's judgment, perform a full safety audit.

After completing the audit the investigators prepare a motor carrier rating.

CARRIER SAFETY RATINGS

Bureau instructions to field safety investigators provide that after a safety audit is completed the investigator should rate the carrier's overall compliance with the regulations as either satisfactory, conditional, or unsatisfactory. In addition, the investigators also rate the carrier's compliance with individual parts of the regulations (driver qualifications, vehicle maintenance, etc.) as either acceptable, marginal, or unacceptable. However, Bureau guidance on overall and individual ratings does not specify which factors or conditions should be present in choosing between rating categories.

The records of safety audits performed during fiscal years 1981 and 1982 by the 25 investigators included in our review indicated a wide variance among the overall ratings recommended by individual investigators. The use of a satisfactory rating by the safety investigators ranged from 12 to 98 percent of the time, conditional ratings ranged from 2 to 72 percent of the time, and unsatisfactory ratings ranged from 0 to 30 percent of the time. The following examples more clearly identify some of the variances we found.

One safety investigator, who conducted 41 safety audits during the 2-year period, recommended an overall satisfactory rating 98 percent of the time and never recommended an unsatisfactory rating. In rating compliance with specific regulations the investigator never gave an unacceptable rating and seldom gave a marginal rating.

In contrast, another safety investigator recommended an overall satisfactory rating 12 percent of the time, a conditional rating 72 percent of the time and an unsatisfactory rating 16 percent of the time. On over 80 percent of this investigator's 109 audits, he rated compliance with one or more of the individual regulations as unacceptable. On some audits this investigator rated compliance with individual parts of the regulations exactly the same but gave the carriers different overall ratings. For example, on two carrier audits compliance with all the individual regulations examined were rated acceptable, but the investigator recommended an overall satisfactory rating for one carrier and an overall conditional rating for the other carrier.

As previously discussed headquarters officials evaluate the results of each safety audit using information from the audit report and assign an final overall safety compliance rating of either satisfactory, conditional, or unsatisfactory. This rating is entered into the Bureau's management information system and is one of the criteria used to select carriers for the next year's audit selection priority list.

Although the Bureau has procedures for changing ratings, the Bureau may revise a carrier's safety rating to show that carrier compliance had improved without another safety audit being performed. As a result, carrier ratings can improve even though compliance with the regulations may not necessarily have improved. The Bureau has changed a carrier's conditional or unsatisfactory rating based on the carrier's sending a letter to the Bureau explaining correction of violations and improved compliance. The

changes in the overall ratings were made without audit verification that the stated corrections or improvements were made.

A carrier with a conditional or unsatisfactory safety rating would meet one of the factors for purposes of inclusion on the next years list. However, a carrier with an unsatisfactory rating that is changed to conditional or satisfactory, all other things being equal, will either appear low on the priority list thereby reducing its chances of being audited or may not appear on the priority list at all. Field rating revisions by headquarters can alter the placement of motor carriers on the priority list.

ACTIONS TAKEN AS A RESULT OF AUDITS

At the conclusion of a safety audit, an investigator must determine what action to take. The actions available range from no further action planned to initiating an enforcement action such as a fine, however, the Bureau encourages voluntary compliance with the federal motor carrier safety regulations. When investigators believe that a carrier will not willingly comply with the safety regulations, they can initiate a formal enforcement action that includes fining the carrier. Headquarters instructions do not specify the conditions or factors that should be considered in determining what course of action should be taken. As a result, the enforcement action being chosen by the safety investigator is judgmental.

Overall, we found that when safety investigators recommended an overall unsatisfactory rating, they initiated an enforcement case 50 percent of the time, scheduled a reaudit for another 24

percent of the time and for the remaining 26 percent of the time planned no action, prepared a report for the file, or requested the carrier to provide a letter explaining what actions would be taken to improve compliance. We also found variances in the actions taken by individual investigators. For example, three investigators always initiated an enforcement case against carriers with unsatisfactory ratings, and one investigator always scheduled a reaudit for carriers with such a rating. Another investigator initiated an enforcement case 40 percent of the time and took no action 60 percent of the time in cases of overall unsatisfactory ratings.

Safety investigators chose to take no action against carriers receiving conditional ratings anywhere from 0 to 87 percent of the time. About one-third of the 25 investigators took no action the majority of the time, and 4 investigators always took some action. On the other hand, about one-half of the investigators initiated enforcement cases against carriers with conditional ratings from 2 to 25 percent of the time. Four investigators, however, never chose either option.

No action was chosen most often by safety investigators when rating a carrier satisfactory. However, two investigators on two different audits, gave a carrier a satisfactory rating yet initiated an enforcement case against the carrier. These same investigators never rated a carrier unsatisfactory even though they had performed a total of 71 audits between them.

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As we complete our review, we will be focusing on ways to improve the management and oversight of the motor carrier safety program. This completes my statement. We would be glad to respond to your questions.