

CED-77-62
5-16-77

REPORT TO THE CONGRESS



BY THE COMPTROLLER GENERAL
OF THE UNITED STATES



THE FEDERAL MOTOR CARRIER SAFETY PROGRAM: NOT YET ACHIEVING WHAT THE CONGRESS WANTED

*Federal Highway Administration
Department Of Transportation*

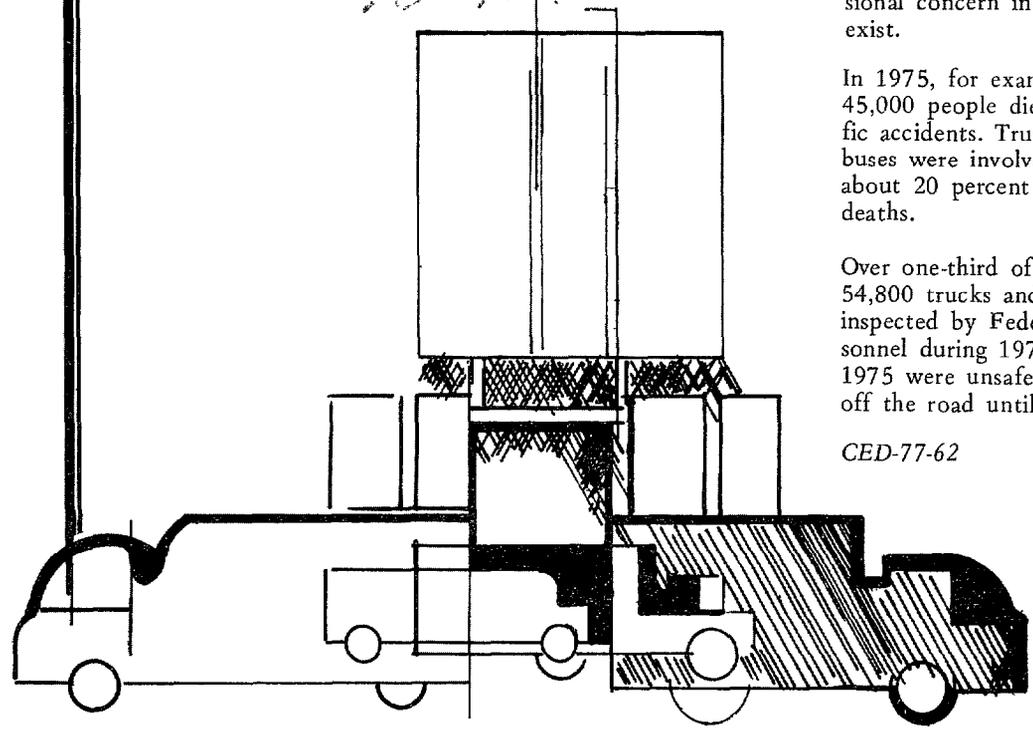
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Highway safety has increased since 1966. But in 1977 the Federal motor carrier safety program had not been improved as much as the Congress wanted. Problems which raised congressional concern in 1966 still exist.

In 1975, for example, 45,000 people died in traffic accidents. Trucks and buses were involved in about 20 percent of these deaths.

Over one-third of the 54,800 trucks and buses inspected by Federal personnel during 1974 and 1975 were unsafe and taken off the road until repaired.

CED-77-62



MAY 16, 1977



COMPTROLLER GENERAL OF THE UNITED STATES

WASHINGTON, D.C. 20548

B-164497(3)

To the President of the Senate and the
Speaker of the House of Representatives

This report identifies and describes factors limiting the effectiveness of the Department of Transportation's program to establish and enforce safety standards for interstate motor carrier operations. It also discusses the Department's efforts since 1966 to (1) address the safety problems which have raised congressional concern, (2) make sure that Federal motor carrier safety requirements are followed and enforced, and (3) coordinate its work with State agencies conducting related programs. We are making a number of recommendations to the Secretary of Transportation and the Congress for improving the effectiveness of the motor carrier safety program.

We made our review pursuant to the Budget and Accounting Act, 1921 (31 U.S.C. 53), and the Accounting and Auditing Act of 1950 (31 U.S.C. 67).

We are sending copies of this report to the Director, Office of Management and Budget, and to the Secretary of Transportation.

A handwritten signature in black ink that reads "Thomas B. Staats".

Comptroller General
of the United States

D I G E S T

In 1966 the Congress transferred responsibility for establishing and enforcing safety standards for interstate commercial trucks and buses from the Interstate Commerce Commission to the Department of Transportation to increase the effectiveness of the program.

Although highway safety has been increasing, 45,000 people died in traffic accidents in 1975 and many more were seriously injured. Trucks and buses were involved in about 20 percent of accidents resulting in deaths.

Nearly 11 years after the transfer, the Department of Transportation still has not brought Federal motor carrier safety to the level the Congress wanted. Situations causing congressional concern in 1966 still exist.

--In 1966 the Interstate Commerce Commission was severely handicapped by the limited number of accidents it could investigate. Today the Department of Transportation's Bureau of Motor Carrier Safety investigates fewer accidents than the Commission did. (See p. 7.)

--Eleven years ago the leading cause of driver errors resulting in accidents was fatigue. The Commission inspected too small a number of drivers, about 2 percent, to combat this problem. The problem is still severe. Yet, in 1975, the Bureau inspected less than 1 percent of the estimated 4 million interstate drivers. (See p. 7.)

--In 1966 the ratio of commercial vehicles to Federal safety investigators was about 21,700 to 1, and the Commission inspected about 3 percent of these vehicles. In 1975 the ratio was 32,500 to 1 and the Bureau inspected less than 1 percent of all interstate commercial vehicles. (See pp. 8 and 9.)

--In 1966 the Congress considered the Commission's staff too small to conduct motor carrier safety operations. The 158 authorized positions did not afford a reasonable opportunity to scrutinize carriers' operations frequently. In 1977, 234 positions are budgeted for the Bureau of Motor Carrier Safety. However, the Bureau's responsibilities have expanded to include new assignments in cargo security and motor carrier noise enforcement as well as increased emphasis on hazardous materials safety. The Bureau estimates that if its staff worked exclusively on safety surveys at carriers' terminals, 15 to 20 years would be needed to inspect every interstate carrier and shipper. (See p. 10.)

In addition, in view of the limited accident data being obtained, the continuing infrequency of safety inspections, and the high ratios of trucks taken out of service after inspection, little assurance exists that most motor carriers are operating in compliance with Federal safety regulations.

NEED FOR BETTER METHOD OF SELECTING CARRIERS FOR SAFETY SURVEYS

Since the Bureau considers safety surveys of carriers' terminals to be its most important field activity, it should improve the method used to select carriers for inspection. With the ratio of carriers to investigators at 1,300 to 1, the Bureau should establish a system to quickly identify motor carriers with the poorest safety records. A system capable of classifying carriers by types of violations and accidents would be an effective basis for directing the investigators' limited time.

The Bureau's practice of using some staff on initial inspections of carriers or inspecting carriers not surveyed within 6 years has some merit. However, in view of the Bureau's mission--reducing accidents caused by commercial vehicles--and its limited staff, its main effort should be directed to the known high-risk elements of the industry.

NEED FOR TIMELY AND MORE EFFECTIVE ACTION
AGAINST VIOLATORS OF SAFETY REGULATIONS

The Bureau also needs a more effective enforcement program to increase commercial motor carrier compliance with safety regulations. Its program has been handicapped by

- a lack of systematic procedures for developing cases suitable for enforcement,
- failure to establish time frames for processing civil enforcement cases, and
- assessment of low penalties.

In view of the limited number of enforcement cases begun by Bureau investigators and the number of cases subsequently dropped by regional counsels and the Department of Justice, the Bureau may have to establish specific criteria identifying when and how to develop enforcement cases.

In many past cases which were prosecuted, the Bureau imposed only minimum civil penalties after lengthy proceedings. This combination of low penalties and lengthy processing does little to discourage future violations. Enforcement cases must be processed quickly, and more vigorous use must be made of civil penalties.

Also, the Bureau's practice has been only to cite a driver for failure to have, or properly maintain, a daily log. This has had two results. First, it encourages a driver who wishes to drive excessive hours not to maintain a log. Second, it reduces a driver's risk of being removed from work. The Bureau's practice seems unreasonable because the log is important in determining fatigue, which contributes to many accidents.

The maximum amounts of criminal fines for safety regulation violations have not been revised since 1957 and are now seriously out of line with fines for violations of other Federal regulations.

Also, under the 1935 Motor Carrier Act (49 U.S.C. 301 et seq.), the Bureau's civil

penalties are not applicable to private carriers of property who fail to file accident reports or to common carriers who fail to keep equipment in good repair. Extending the Bureau's civil penalty authority under the 1935 act to cover these carriers and all motor carrier safety violations could promote more effective enforcement of safety requirements.

BETTER FEDERAL AND STATE
COOPERATION NEEDED FOR MORE
EFFECTIVE SAFETY REGULATION

Federal and State coordination of motor carrier safety activities varies widely and, in most cases, falls far short of what is attainable. Although the Bureau emphasizes cooperation, much more needs to be done.

Since the Federal motor carrier safety program does not provide funding to the States, no effective incentive to promote increased cooperation from the States exists. The Bureau, however, can improve its operations through better use of available State information.

RECOMMENDATIONS

Significant improvements in the operations of the Bureau of Motor Carrier Safety are possible. GAO is recommending a number of actions the Department should take to improve the management of the program. (See pp. 16, 28 and 33.) In addition, GAO is recommending that the Congress provide the Bureau with additional authority to enforce the Federal motor carrier safety regulations.

If the Congress still wants the Federal motor carrier safety program improved to the level envisioned in 1966, it should take action to strengthen the program. The following are several options which the Congress could choose from:

--Increase Bureau resources for performing important safety activities, such as safety surveys.

--Develop a program of positive financial incentives to encourage the States to enforce State laws and regulations that are similar to the Federal motor carrier safety regulations.

--Enact a combination of increased Bureau emphasis and positive financial incentives to the States.

The Department agreed with all of GAO's recommendations and described actions taken or planned to implement the recommendations. (See pp. 16, 28, and 33.)

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ABBREVIATIONS

ICC	Interstate Commerce Commission
GAO	General Accounting Office

CHAPTER 1

INTRODUCTION

The safe operation of commercial motor vehicles on our Nation's highways has long been a concern of the Federal Government. Federal regulation of motor carrier safety began over 41 years ago when the Motor Carrier Act of 1935, as amended (49 U.S.C. 301 et seq.), authorized the Interstate Commerce Commission (ICC) to establish and enforce safety standards for motor carrier operations.

In 1966 the Department of Transportation Act (49 U.S.C. 1651 - 1659) transferred ICC's responsibility for motor carrier safety and ICC's corresponding personnel to the Department of Transportation. The Department assigned this responsibility to its Bureau of Motor Carrier Safety within the Federal Highway Administration in April 1967.

BUREAU RESPONSIBILITIES

The Bureau's primary responsibility is to reduce commercial vehicle accidents and to decrease fatalities, injuries, and property losses. It does this through a national regulatory and enforcement program covering motor carriers in interstate and foreign commerce. Additional responsibilities the Bureau has been given since 1967 include

- enforcing regulations for the safe labeling, marking, packaging, and transporting of hazardous materials by interstate motor carriers and shippers (Hazardous Materials Transportation Act (49 U.S.C. 1801));
- enforcing motor carrier noise standards (Noise Control Act of 1972 (42 U.S.C. 4901-4918)); and
- promoting carriers' cargo security programs (Executive Order 11836, Jan. 27, 1975).

Interstate motor carriers subject to the Federal Motor Carrier Safety Regulations (49 C.F.R. Parts 390 - 396) 1/ are classified as either (1) for-hire carriers of property and passengers or (2) private carriers of property. For-hire carriers are further classified as common carriers, contract

1/Hereinafter referred to as the safety regulations. In addition, all references to motor carriers, unless otherwise noted, will apply to interstate motor carriers which are subject to the Federal motor carrier safety regulations.

carriers, and exempt carriers. These common carriers serve the general public, while contract carriers serve one person or a limited number of persons under contract. Interstate for-hire carriers, except those specifically exempted (such as carriers transporting selected agricultural commodities), are required to obtain operating permits and certificates from ICC and are generally referred to as ICC authorized carriers. The private carriers of property transport their own commodities and are not required to obtain ICC operating authority. In addition, the safety regulations also apply to a small number of carriers of migrant workers and foreign-based carriers.

Commercial carrier fleets range in size from one vehicle to thousands of vehicles. The sizes, shapes, and weights of the vehicles also vary widely.

According to Federal Highway Administration statistics, in 1974 over 24 million trucks and buses (excluding school buses) were registered in the 50 States and the District of Columbia. These statistics generally include light pickup trucks or compact vans as well as large trucks and buses. Our review focuses on trucks and buses with gross vehicle weight ratings--the maximum recommended weight of vehicle plus cargo--of over 10,000 pounds. These vehicles are often categorized as commercial vehicles.

Many States, under their own authority, conduct motor carrier safety activities. The States regulate the operations of intrastate carriers, which generally operate in a municipality or commercial zone within a single State, and interstate carriers operating through the State. In fiscal year 1975 the Bureau estimated that between 3.5 and 4 million vehicles (excluding local service and other lightweight vehicles) were operating in intrastate commerce. State motor carrier safety programs range from those with little or no resources to those with resources greater than the Bureau's.

In fiscal year 1975 the Bureau reported that its safety regulations applied to about 3.5 million interstate commercial vehicles operated by about 160,000 motor carriers. As of December 1976, the Bureau reported it had verified the existence of about 140,000 interstate carriers of record. The Bureau also reported that more carriers were being identified.

Under existing law, all carriers subject to Federal safety regulations can be required to register with the Bureau to facilitate their identification. However, the Bureau has chosen not to exercise this authority because it

does not believe the benefits are worth the cost. As a result, the Bureau must learn of new carriers by ways, such as observation, word of mouth, State reports, accident investigations, telephone directory searches, public complaints or inquiries, roadside inspections, and carrier applications for ICC operating authority.

BUREAU OPERATIONS

In addition to its Washington, D.C., headquarters, the Bureau has 79 field offices throughout the United States. As of July 1, 1976, the Bureau's staff (including clerical employees) totaled 234--62 in headquarters and 172 in field offices.

The Bureau primarily has divided its operations into (1) developing regulations for the safe operation of commercial motor vehicles and (2) insuring that motor carriers comply with the regulations.

Regulatory activity is conducted by the headquarters staff and generally involves developing a basis for establishing or revising safety regulations. The safety regulations contain detailed requirements on such matters as truck and bus driver minimum qualifications and maximum hours of service; commercial vehicle operational safety, inspection, and maintenance; and accident reporting.

Compliance activity is primarily conducted in the field through road checks of vehicles and drivers and investigations of the carriers at their terminals. If infractions are disclosed, the Bureau tries to obtain voluntary compliance from the carriers. If this fails, certain legal actions may be undertaken. In fiscal year 1975, the average ratios of motor carriers and commercial vehicles to the Bureau's 123 field investigators were about 1,300 to 1 and 32,500 to 1, respectively.

SCOPE OF REVIEW

Our review focused on motor carrier safety activities at three levels. At Bureau headquarters we interviewed officials and reviewed policies, regulations, practices, and procedures for administering the Federal safety program. At Bureau regional and State offices we interviewed regional directors, regional counsels, and safety investigators and examined certain activity reports, carrier files, and enforcement records. Plus, at seven State offices we interviewed officials responsible for administering the States'

motor carrier safety programs and examined program activity records and reports to compare these programs with the Federal program.

The programs reviewed were located in California, Colorado, Illinois, Indiana, New Mexico, Ohio, Wyoming, and Washington, D.C.

We also contacted Washington, D.C., representatives of the American Trucking Association to obtain their views.

CHAPTER 2

PROGRESS OF FEDERAL MOTOR CARRIER

SAFETY REGULATION

Nearly 11 years after its transfer from ICC, the Federal motor carrier safety program has not been upgraded or expanded to the level envisioned by the Congress. The Department of Transportation's annual budget justifications since 1968 have continually reported that the Bureau's limited funding and staffing have prevented the Bureau from conducting a balanced program adequate to monitor the operations of the growing number of interstate carriers. The Department and the Highway Administration, however, have not requested increased resources to fully address the congressional concerns.

ACCIDENT HISTORY

Highway safety has been improving steadily since 1966, when the traffic fatality rate for all vehicles was 5.7 deaths per 100 million vehicle miles. By 1975 that rate had declined to about 3.4. The total number of traffic fatalities decreased from about 56,000 in 1972 to about 45,000 in 1975. This decrease was attributed to such factors as the 55 mile per hour speed limit, safer vehicles, and safer highways. The Bureau does not know its contribution, if any, to the reduction; however, Bureau officials stated that over the years many motor carriers had developed comprehensive programs for improving the safety of their operations. Nevertheless, 45,000 people died in traffic accidents in 1975 and many more were seriously injured. The National Safety Council reported that about 20 percent of these deaths resulted from 11,140 accidents involving trucks and buses.

Accident statistics indicate that interstate commercial vehicles under the Bureau's jurisdiction are still involved in many collisions involving fatalities, injuries, and heavy property losses. These vehicles represent potential safety problems to other highway users.

Because of the way accident statistics are kept, we could not accurately determine the accident and fatality rates of all interstate commercial vehicles. Accident data published by ICC, however, showed that in 1965 interstate carriers of property and passengers, excluding private carriers of property, reported 36,583 accidents. These accidents resulted in 2,050 fatalities; 25,175 injuries; and

\$71.1 million in property damage. Interstate private carriers of property did not become subject to the Federal accident reporting requirements until January 1, 1973.

The latest accident data published by the Bureau indicates that in 1974 interstate motor carriers of property and passengers reported 26,076 accidents, which resulted in 2,506 fatalities; 29,064 injuries; and \$154.1 million in property damage. However, according to the Bureau, these figures are understated because a significant number of interstate carriers failed to report accidents.

RESPONSIBILITY FOR MOTOR CARRIER
SAFETY TRANSFERRED FROM ICC TO
INCREASE PROGRAM EFFECTIVENESS

In 1966 a Subcommittee of the House Committee on Government Operations conducted hearings ^{1/} on the Federal motor carrier safety program and other safety functions. The Subcommittee concluded that the program would be more effective if transferred from ICC to the new Department of Transportation.

The Subcommittee envisioned that the Department could (1) conduct a reasonable and broad study of the entire accident-prevention problem; (2) develop a comprehensive promotional and educational program; (3) help unify and coordinate enforcement actions; (4) perform research into accident prevention as it relates to drivers, vehicles, highways, and environment; and (5) expand the budget to insure adequate staffing and financing.

In May 1966 the ICC Chairman expressed support for the transfer of the motor carrier safety program. He stated that the ICC could only scratch the surface and that the program should be in the Department of Transportation where it could be expanded to adequately do the job.

PROGRAM PROGRESS

Each of the following sections compares the description of ICC's efforts in a program area at the time of the 1966 hearings with the Bureau's current efforts.

^{1/}Hearings on H.R. 13200 before a Subcommittee of the House Committee on Government Operations, 89th Cong., 2d Sess. 654 - 662, 799 - 803 (1966).

Accident data collection
and investigations

The 1966 hearings stated that:

"The Commission's safety work, although creditable, is severely handicapped by a lack of reliable and meaningful information as to the causes of motor-carrier accidents, particularly as to the many private carriers. To obtain pertinent facts relative to the cause of motor-vehicle accidents, there must be an investigation of accidents involving driver failure, explosives and other dangerous articles, fire, and mechanical defects or poor design."

In fiscal year 1965, ICC investigated 1,094 of the more than 36,500 motor carrier accidents reported. It performed 363 indepth investigations and 731 general investigations. 1/

The Bureau, in fiscal year 1973, investigated 830 of the more than 31,000 motor carrier accidents reported. It conducted 303 indepth and 527 general investigations. However, in fiscal year 1975, the Bureau conducted only 102 indepth investigations and 54 general investigations. The Bureau has deemphasized general accident investigations because of (1) limited information obtained from the investigations and (2) a need to perform work in other program areas--hazardous materials, noise control, and cargo security.

Driver safety

The 1966 hearings stated that:

"Driver fatigue is a factor in many accidents. ICC manpower capability is far too small to afford reasonable opportunity to scrutinize and take out of service a sufficiently high number of drivers to produce an awareness of the need of adequate rest."

1/Indepth investigations are thorough examinations, with accompanying reports, intended to uncover all the facts relating to the accident. General investigations are limited inquiries, without reports, intended to obtain only the obvious factual data concerning the accident, such as date and time.

Driver fatigue remains a major factor in commercial vehicle accidents. The Bureau has identified the driver as a principal factor in over 90 percent of commercial carrier accidents.

Under the safety regulations, motor carriers are responsible for seeing that drivers are qualified. Drivers are prohibited from driving when ill or fatigued; possessing or using narcotics, amphetamines, and other dangerous substances; or having consumed liquor within 4 hours of going on duty. Failure to comply with these regulations may result in legal enforcement action by the Bureau against the carrier and/or driver. (See ch. 4.)

Maximum driving and on-duty time are set according to the Bureau's hours-of-service rules. In addition, drivers must maintain, on a prescribed form, a daily log showing their off-duty time, driving time, and on-duty time during each 24-period. Drivers must retain these logs for Bureau inspection. Drivers who fail to comply with the hours-of-service rules are considered to be highway hazards and, when detected, are immediately taken out of service until rested.

In fiscal year 1965, ICC investigators inspected 46,601 drivers, or 2 percent of the estimated 2 million drivers in interstate commerce, and took 699 drivers out of service because of excessive hours of driving. During fiscal year 1975, Bureau investigators inspected 27,509 drivers, or less than 1 percent of about 4 million interstate drivers, and declared 705 out of service. However, some of these inspected drivers could have concealed excessive hours of driving to avoid being immediately placed out of service. The latest Bureau statistics on the results of its road check activity indicate that nearly one-half of the drivers inspected failed to prepare or maintain their daily logs properly. (See p. 25.)

Commercial vehicle inspections

The 1966 hearings stated that:

"Each year less than 3 percent of the commercial vehicles used in interstate transportation are inspected. Probably an even smaller portion of the total registered commercial vehicle are inspected. The condition of many of the interstate vehicles now inspected is found unsafe for operation and about one-third are impounded until repairs are made. With over 13 million commercial vehicles in

operation, a larger number must be inspected to assure a higher degree of compliance with prescribed and more uniform maintenance standards."

Federal inspection activities are still quite small. The ratio of vehicles to motor carrier investigators in 1966 was about 21,700 to 1; in 1975 it was about 32,500 to 1. In both fiscal years 1974-75, the Bureau inspected less than 1 percent of the estimated 4 million interstate commercial vehicles. Records show that over one-third of the 54,812 trucks and buses inspected by the Bureau during that time were considered highway hazards and were immediately taken out of service until repaired.

Information was not available on the States' inspection work on the estimated 4 million registered intrastate trucks and buses classified as commercial vehicles. However, the number of commercial vehicles inspected in fiscal years 1974-75 by the seven States in our review ranged from none in Wyoming to over 600,000 in California.

The risks posed by large commercial vehicles to other highway users remain high. Consider, for example, that the probability of a fatality occurring in a collision between a lightweight truck (under 10,000 pounds) and a car is 8 times greater than in a collision between two cars. Plus, the probability of a fatality occurring in an accident between a car and a large truck (10,000 pounds or more) is 10 times as great.

Frequency of terminal inspections

The 1966 hearings stated that:

"There are more than 119,000 motor carriers of record subject to compliance with ICC safety regulations. There is an urgent need for periodic examination of their compliance with the safety regulations and their safety of operation. Present ICC staff limitations prevent this as frequently as is necessary to assure a reasonable degree of compliance."

In fiscal year 1966, ICC conducted general inspections, or safety surveys, at the facilities of 6,855 carriers to determine their overall compliance with the Federal safety regulations. ICC also performed special inspections of 90 carriers to determine their compliance with Federal hazardous materials regulations.

During fiscal year 1975, the Bureau conducted safety surveys of only 4,844 carriers. Due to the increased emphasis placed on the safe transportation of hazardous materials, the Bureau also conducted 5,971 hazardous materials inspections during the same period; however, Bureau investigators arranged to have most of these special inspections coincide with their safety surveys.

The Bureau, in 1975, reported that if all its professional staff worked exclusively on safety surveys it would take 15 to 20 years to contact every interstate carrier and shipper. Other problems limiting the effectiveness of the Bureau's safety surveys activity are discussed in chapter 3.

Improving cooperation with other agencies

Regarding Federal and State cooperative efforts in matters relating to highway and motor carrier safety, the Subcommittee report stated:

"There is a great need for State and local authorities to adopt uniform regulations to the fullest extent, to join in their enforcement, and to establish lines of communication so that all agencies concerned with highway safety will understand at least the basic precautions which must be taken in dealing with dangerous commodities. Public Law 89-170 is designed to provide improved Federal-State cooperation in this area."

Although some progress has been made--the Bureau has cooperative agreements within all 50 States and the District of Columbia--cooperation varies from State to State, and, in most cases, falls far short of what is attainable. Also, the Bureau has not fully used the results of work performed by State agencies to supplement the efforts of its staff. The most evident management problems involve the exchange of data on work activities and accidents. (See ch. 5.)

Expanding program resources and research efforts

Finally, in 1966 the Subcommittee believed that ICC's manpower and funding were far too small to afford a reasonable opportunity to scrutinize carrier operations as frequently as necessary. In fiscal year 1966, about 158 authorized positions and \$1.3 million were used to carry out ICC's basic motor carrier safety functions.

In fiscal years 1968 through 1976, the Highway Administration spent an average of \$4.2 million yearly for activities of the Bureau and authorized it to have an average of 202 positions. The fiscal year 1977 authorization provides the Bureau \$6.9 million and 234 positions. However, as stated on page 1, Bureau responsibilities also have increased.

The Bureau's research into safety factors relating to commercial drivers and vehicles did not begin until 1971. Since then, an average of 3 studies have been initiated annually and 11 studies costing \$1.2 million have been completed. The Bureau's limited research effort has led to the following problems.

- The Bureau has delayed major rulemaking and denied petitions for rule changes because it lacked adequate data upon which to justify revisions. For example, the Bureau considers the driver to be a principal factor in over 90 percent of accidents involving commercial vehicles. It suspects that driver fatigue is a major contributor to many of these accidents and that a revision of the hours-of-service regulations, which are based on a 1940 study, may be warranted. Research in this area, however, has been conducted only on a fragmented basis since 1971.
- The Bureau lacks timely, specific, and reliable research information to support its positions on important safety issues. For example, legislation permitting increased truck sizes and weights on the Interstate System was signed into law on January 4, 1975 (23 U.S.C. 127). The Bureau supported the position that no undue safety hazards would result from raising the basic maximum allowable weight for trucks using interstate highways. Yet in June 1975, the Highway Administration implemented a research project to (1) determine if the increased size and weight limits of trucks presents any significant safety problems and (2) identify and evaluate solutions to the problems.

CONCLUSION

The Department of Transportation has not upgraded the Federal motor carrier safety program to the level envisioned by the Congress. Although the fatality rate for motor carriers is falling, trucks and buses are still involved in

about 20 percent of all motor vehicle fatalities. Furthermore, the situations which caused congressional concern in 1966 still exist. They include

- lack of reliable and meaningful information about the cause of motor carrier accidents,
- limited capability to insure that drivers are observing the Federal hours-of-service rules,
- limited inspections of motor carrier vehicles,
- infrequent reviews of motor carrier safety operations, and
- limited cooperation and coordination between Federal and State motor carrier safety agencies.

In view of the limited accident data obtained, the continuing infrequency of safety inspections, and the high ratio of trucks taken out of service after inspection, little assurance exists that most motor carriers are complying with Federal safety regulations.

CHAPTER 3

NEED FOR BETTER METHOD OF SELECTING

CARRIERS FOR SAFETY SURVEYS

The Motor Carrier Act, as amended, gives the Bureau authority to inspect motor carriers' facilities and records and to investigate suspected violations of the law. The act also imposes a corresponding duty on carriers to allow inspections of their records and equipment.

The Bureau collects considerable data on the carriers' safety operations from sources such as road checks, safety surveys, accident reports, and State inspections. Yet, it has no procedure for systematically analyzing the data to (1) assess the safety risks associated with each segment of the industry (for example, vehicles or drivers), (2) assess compliance by carriers, and (3) direct investigation activities to the carriers with the most violations and accidents.

Safety investigators rely on their memory to keep track of carrier violations and accidents and use this knowledge as a primary basis for determining which carrier terminals to survey. As a result, investigators do not always select motor carriers most in need of safety surveys.

SAFETY SURVEY SELECTION PROCEDURES

A safety survey is an audit of a motor carrier's operations to (1) determine the degree of compliance with safety regulations, (2) advise the carrier of its safety responsibilities, and (3) provide educational and technical assistance to carriers in safety matters. During a survey, a safety investigator reviews driver qualifications, hours-of-service, and daily logs; accident reporting practices, and vehicle maintenance policies and practices. About half of the Bureau's surveys stem from complaints; the remainder are self-initiated. Each safety investigator in the seven States reviewed was responsible for the safety records of an average of 1,006 carriers, ranging from 755 carriers to 1,300 carriers, of which less than 35 were annually surveyed.

In setting fiscal year 1975 plans for its safety investigators, the Bureau first segregated the carriers into groups according to the number of drivers employed.

Next the plan provided that, on the average, each investigator should perform 20 safety surveys of carriers employing less than 20 drivers; 23 surveys of carriers with 20 to 99 drivers; and 2 surveys of carriers having 100 or

more drivers. However, Bureau instructions did not contain specific procedures for selecting motor carriers to be surveyed. Thus, the investigators used their own criteria in selecting carriers to survey.

MOTOR CARRIERS WITH POOREST SAFETY RECORDS NOT SURVEYED

To find out if investigators were selecting the carriers with the poorest safety records, we analyzed the safety survey selection procedure in two States. We compared the safety records of 16 of the 35 motor carriers surveyed by three safety investigators in fiscal year 1975 to the safety records of motor carriers of the same size and general location that were not surveyed during that year. The criteria the three investigators used to select carriers and the carriers' safety records are summarized below.

<u>Criteria for terminal survey selection</u>	<u>Motor carrier</u>	<u>Number of safety violations since prior survey (note a)</u>	<u>Number of accidents since prior survey (note a)</u>
The motor carrier had not been surveyed recently or had never been surveyed and/or the safety investigator was using the terminal survey to train a new employee	A	1	0
	B	2	3
	C	0	14
	D	7	0
	E	<u>b/3</u>	<u>b/0</u>
The motor carrier never had a terminal survey	F	<u>b/4</u>	<u>b/0</u>
	G	<u>b/4</u>	<u>b/0</u>
There was a shortage of travel funds and motor carrier was nearby	H	1	0
Roadside checks showed the drivers and vehicles were violating safety regulations	I	5	0
	J	<u>b/53</u>	<u>b/0</u>
The safety investigator was going to be in the area of the motor carrier on other work	K	0	0
	L	0	1
	M	0	1
	N	0	0
	O	<u>b/0</u>	<u>b/0</u>
The investigator could not remember why he selected this carrier for survey	P	27	1
	---	---	---
Total	<u>16</u>	<u>107</u>	<u>20</u>

a/Figures tabulated by GAO after reviewing data in each carrier's file at Bureau field offices.

b/Represents the total for fiscal year 1975 because the terminal had not been surveyed before.

A limited review of the Bureau's files disclosed 24 motor carriers that had from 10 to 488 safety violations, or an average of 106 violations more than the 16 investigator-selected carriers. The types of violations were generally the same. Further, 11 of the 24 motor carriers were involved in from 14 to 752 accidents, or an average of 126 more accidents than the 16 carriers surveyed.

Following are three examples comparing the safety records of the surveyed carriers with the records of carriers not surveyed.

--A safety investigator selected as training locations for new investigators three motor carriers not recently surveyed. Bureau records showed that the carriers had from 0 to 2 safety violations and from 0 to 14 accidents since their previous survey. Four other motor carriers had from 14 to 84 safety violations. Plus, one of the four carriers had been involved in 20 accidents since its last survey. These four carriers also could have been used for training purposes.

--A safety investigator selected two carriers because their terminals had never been surveyed. These carriers were brought to the investigator's attention by a report on a roadside check. The carriers had each been cited for four safety violations and had no recorded accidents. Yet Bureau files contained records on five other motor carriers having from 10 to 43 safety violations. Plus, three of the five carriers had been involved in from 1 to 19 accidents since their last survey.

--A safety investigator selected a carrier in the same city as the Bureau's field office because limited funds prevented travel. This carrier had only one violation and no accidents since the Bureau's last terminal survey. Yet, four other carriers in the same city averaged 76 safety violations ranging from 22 to 155. Three of the four carriers averaged 104 accidents, ranging from 23 to 250, for the same period.

We asked the three safety investigators concerned with the above examples why the motor carriers with poor records were not selected for safety surveys. One investigator said he didn't have the time or a method of tracking safety records to pick the carriers most needing inspection. Another investigator said he had no way of knowing that the motor carriers not surveyed actually needed a survey more than

the ones he selected. The third investigator said that he didn't realize the carriers not selected were in such bad shape.

In September 1976, after our discussions with the investigators, the Highway Administration directed the Bureau to emphasize in fiscal year 1977 conducting safety surveys of carriers which have never been surveyed or have not been surveyed within the past 6 years. The Highway Administration expects this emphasis to improve the safety of selected carriers' operations and to reduce their accident involvement by providing a thorough understanding of safety regulations.

CONCLUSIONS

The Bureau should take steps to improve its method of selecting carriers for inspection. In view of the average ratio of carriers to investigators (1,300 to 1), the selection process should provide for quick identification of the motor carriers with the poorest safety records. A system capable of classifying carriers by types of violations and accidents would be an effective basis for directing the investigator's limited time.

Using a portion of the Bureau's resources on (1) initial inspections of carriers or (2) inspecting carriers not surveyed within the last 6 years has some merit. However, in view of the Bureau's mission and its resources, we believe that the Bureau's main effort should be directed at the known high-risk elements of the motor carrier industry.

RECOMMENDATION TO THE SECRETARY OF TRANSPORTATION

To improve the management of the motor carrier safety program, we recommend that the Secretary of Transportation require the Administrator of the Federal Highway Administration to develop an information system to identify motor carriers most in need of safety surveys.

AGENCY COMMENTS AND OUR EVALUATION

In comments on this report (see app. I), the Department said its recently established Motor Carrier Census File is an initial step in developing an automated capability for selecting carriers in need of inspection. The Department believes the system will ultimately assist in identifying high risk carriers as candidates for inspection, thereby maximizing the impact of the inspection process.

Our discussions with Bureau officials show that the new system was conceived in fiscal year 1974, and except for the Census File, is still a long way from providing a centralized source of timely and comprehensive information on carrier's safety status. Furthermore, the Bureau has not developed any target dates for completing the system. We believe the Department's plans to develop an automated motor carrier safety information system, should lead to better selection of the carriers most in need of inspection; however, the Department needs to insure that the system is completed in a reasonable time frame.

CHAPTER 4

NEED FOR TIMELY AND MORE EFFECTIVE

ACTION AGAINST VIOLATORS OF

SAFETY REGULATIONS

The policy of the Bureau of Motor Carrier Safety is to encourage voluntary compliance with Federal motor carrier safety regulations. Voluntary compliance starts when the Bureau gives a motor carrier a copy of the safety regulations. Formal enforcement action is a last resort. It is taken only when the Bureau is convinced that nothing else will induce a carrier to obey the safety regulations. The objectives of the Bureau's enforcement program are to deter flagrant violators of safety regulations, discourage future violations, and convince carriers to upgrade their safety programs.

We reviewed the handling and disposition of civil and criminal enforcement cases initiated by Bureau investigators in seven States to determine the effectiveness of the enforcement program and to formulate a basis for commenting on the validity and benefits of attempts to strengthen the Bureau's enforcement authority.

We believe the Bureau's enforcement activities could be more effective if (1) the Bureau developed specific criteria for use in identifying cases suitable for enforcement action or prosecution, (2) cases were processed faster, (3) the fines and penalties assessed were closer to the maximum allowed, and (4) civil enforcement authority were expanded to include all carriers subject to the safety regulations and all types of safety regulation violations and maximum fines for both civil and criminal violations were increased.

CRITERIA NEEDED TO IDENTIFY AND PROCESS ENFORCEMENT ACTIONS

Enforcement action is not initiated for all Federal safety violations the Bureau detects. Rather, individual investigators decide whether to start an enforcement action. If road checks and safety surveys show the motor carrier is continually or flagrantly violating safety regulations, a safety investigator may start enforcement action. The Bureau, however, has not issued any criteria indicating when it is appropriate to start an enforcement action or any guidelines for the timely processing of such actions.

Enforcement cases initiated

Wide variances exist between the number of safety violations detected and the number of enforcement cases initiated by investigators. For instance, in fiscal year 1973--the latest year for which data was available--Bureau investigators detected over 40,000 safety violations during nationwide road checks of 22,644 vehicles and drivers. The Bureau does not maintain summary data on the number and types of violations detected during its safety survey activities; however, based on our review of Bureau survey reports, numerous safety violations are detected annually. Quite often Bureau accident investigations also reveal flagrant safety violations by carriers and drivers. Yet, during fiscal years 1973 and 1974 Bureau investigators developed only 1,027 cases warranting enforcement action.

Many cases that Bureau investigators prepare are not approved by regional counsels for referral or are not accepted by the Department of Justice for criminal prosecution. The Bureau actually sought enforcement action on 886 of the above 1,027 cases. Examinations of 1 regional counsel's records showed that 11 of 21 cases submitted for review by investigators in fiscal year 1975 were closed without any enforcement action because 6 cases were too old, 2 lacked merit, and 3 were unsatisfactory for other reasons. Of the 60 criminal cases handled in another region in fiscal years 1973-75, the Bureau, on the basis of regional counsel advice, did not submit 11 cases for prosecution and U.S. attorneys declined to prosecute 18 other cases.

Enforcement procedures

When the safety investigator thinks enforcement action is necessary, he collects evidence and prepares a case report on the carrier's violations. The report and related evidence are sent through the Bureau's regional director to the Highway Administration's regional counsel for disposition. The regional counsel reviews the case and decides which, if any, of the following available enforcement actions is most appropriate.

<u>Enforcement action and violations</u>	<u>Applicable to</u>		
	<u>ICC carriers</u>	<u>Exempt carriers</u>	<u>Private carriers</u>
Civil penalties--violations of recordkeeping and reporting requirements	x	x	
Cease-and-desist orders--violations of any requirements	x	x	x
Criminal prosecution--violations of any requirements	x	x	x
Injunctions--violations of any requirements	x	x	x
Denial, suspension, or revocation of ICC operating authority--violation of any requirements	x		

Of the five types of enforcement actions available to the Bureau, it generally only uses criminal prosecution and civil penalties. Bureau officials and regional counsels initiate and conclude civil penalty proceedings while criminal actions must be referred to the Department of Justice.

Civil penalties

A regional counsel reviews violation reports to determine the appropriateness for civil penalty action and the adequacy of legal support. During this review the counsel considers the carrier's size and compliance history, the number and severity of past violations, the carrier's ability to pay the claim, and the extent of evidence supporting the case.

The counsel begins the civil penalty process by sending the carrier a notice of claim for the maximum penalty. The notice advises the motor carrier of the option to contact the region to discuss a compromise on the claim. The carrier may then negotiate the claim with the counsel and the Bureau's regional director. If an agreement is reached, the carrier pays the reduced penalty. If not, the counsel either brings suit against the carrier or drops the claim. Carriers have generally agreed to pay reduced penalties.

Criminal prosecution

Before deciding that criminal prosecution is appropriate, the regional counsel reviews a case report for legal support and considers the same factors as in a civil penalty case. In addition, the counsel considers whether the Bureau's evidence shows that the motor carrier knew the safety regulations and willfully violated them.

After the counsel decides a case has merit and criminal action is appropriate, he sends it to the U.S. attorney in the judicial district where the motor carrier has its home office. The U.S. attorney reviews the case for the same factors as the regional counsel and decides the case's priority in relation to other Federal cases on the docket. If the U.S. attorney decides the case does not have merit, he declines to prosecute. Cases with merit are often disposed of through a plea-bargaining process similar to the negotiating process used in civil cases. The court has final say on the plea-bargaining arrangements.

According to Bureau and other Highway Administration officials, they prefer civil penalty over criminal prosecution to enforce safety violations because:

--Civil cases take less time to process than criminal cases.

--Primary responsibility for handling civil cases rests with the agency charged with safety, while criminal cases must be handled by U.S. attorneys.

Processing times

The Bureau has not developed time guidelines for reviewing and completing civil cases. The Bureau cannot control processing times for criminal cases--they depend on the workload of the U.S. attorneys and on court dockets.

We examined the 52 civil cases and the 98 criminal cases initiated in the States reviewed and handled by four Highway Administration regional counsels in fiscal years 1973, 1974, and 1975. We then compared the processing times for civil and criminal cases. The processing time was measured from the date the counsel received a case to the date when negotiations were completed or when the court rendered a decision.

Although Bureau and Highway Administration officials believed civil cases were being prosecuted faster than criminal cases, on the average civil cases took 353 days to

process--28 days longer than the 325-day average for criminal cases. The following schedule shows a breakdown between criminal and civil cases for each regional counsel.

<u>Regional counsel</u>	<u>Type of cases</u>	<u>Number of cases</u>	<u>Range</u>	<u>Average</u>
			----- (days) -----	
#1	Criminal	21	35 to 341	198
	Civil	16	61 to 410	199
#2	Criminal	9	116 to 367	254
	Civil	1	(a)	363
#3	b/Criminal	8	105 to 735	314
	<u>b</u> /Civil	11	221 to 481	307
#4	Criminal	60	84 to 897	381
	Civil	24	104 to 1,648	476

a/Only one civil case processed.

b/Calendar year 1974-75 cases.

In one region, the Bureau regional director and regional counsel took 476 days to process an average civil case as follows:

--172 days for the counsel's review.

--304 days to negotiate the amount of the claim.

Delays in processing civil cases were directly attributable to (1) large backlogs of cases of all types in the counsels' offices and (2) problems in contacting and arranging meetings with carrier representatives.

ASSESSMENT OF LOW FINES AND PENALTIES MAY
LIMIT EFFECTIVENESS OF ENFORCEMENT ACTIONS

Four of the laws the Bureau administers provide criminal penalties for violations. Criminal penalties vary under each law. The penalties range from a maximum \$500 fine and no imprisonment (Motor Carrier Act of 1935, as amended) to a \$50,000 fine and/or 2 years' imprisonment (Noise Control Act of 1972).

The Bureau also can assess maximum civil penalties of \$500 for some violations of the motor carrier regulations (see p. 25)

and an additional penalty of \$250 each day the violation continues. Civil penalties for each violation of Federal hazardous materials regulations can be as high as \$10,000.

Bureau instructions provide that the following factors should be considered in determining what civil penalty to assess--the carrier's size, ability to pay, and compliance record; the gravity of the violation; and the Bureau's treatment of similar cases. The instructions, however, do not include specific procedures to guide the Bureau regional directors and regional counsels in determining the relative weight to be given each factor.

Collection of penalties

We reviewed 52 civil cases from fiscal years 1973, 1974, and 1975 and compared civil penalties collected to the maximum possible penalties.

The review was limited to cases involving the civil provisions of the 1935 Motor Carrier Act.

Two of the 52 civil cases developed were dropped. Another was subsequently converted to a cease-and-desist order for which no monetary penalty was assessed. The maximum penalty assessed by the bureau directors and regional counsels for the 49 completed cases totaled about \$487,000. Of this amount, only about \$148,000 was collected. The penalties collected ranged from \$375 to \$9,000, averaging \$3,023.

Carrier compliance after enforcement action

In 5 States we examined Bureau files on the 28 motor carriers which had been subject to a completed enforcement action in fiscal years 1973-74 for indications of voluntary compliance with safety regulations. The examination included analyzing the nature and frequency of the safety violations. We found that neither civil nor criminal enforcement action promoted voluntary safety compliance by carriers.

Of the 28 motor carriers examined, 18 continued to violate safety regulations and were again cited for the same offenses for which they had been previously fined. Following are examples of motor carriers which continued violating safety regulations.

--Before 1973 one motor carrier was fined \$3,000 in two criminal enforcement cases for requiring or permitting excessive driving hours and for requiring or

permitting drivers to falsify daily logs. Another enforcement action in 1973 carried a civil penalty of \$5,000, and again it was for drivers falsifying their logs. Later road checks disclosed over 94 violations, of which 15 were for false logs. In mid-1975 a safety survey of the carrier revealed more than 200 instances of drivers falsifying their logs. Consequently, in January 1976 a fourth enforcement action was initiated against this carrier.

--The Bureau brought enforcement action against a carrier several times before 1973 for more than 1,000 instances of requiring or permitting excessive driving hours and for requiring or permitting drivers to falsify their daily logs. A 1973 enforcement case brought a \$4,000 fine against the motor carrier for the same types of violations. Bureau files indicate that since then, road checks have disclosed 161 safety violations--35 for falsifying logs.

--A September 1973 criminal action resulted in a \$2,000 fine against a carrier for failing to maintain driver qualification files and requiring or permitting drivers to make false entries in their daily log. A January 1976 safety survey revealed that the carrier had used a disqualified driver, used a driver not physically reexamined, did not require a listing of traffic violations from drivers, failed to maintain driver qualification files, required or permitted speeding, failed to report a fatal accident, failed to maintain an accident register, required or permitted drivers to drive more than 10 hours, required or permitted drivers to be on duty more than 70 hours in 8 days, and failed to require drivers to keep daily logs. Another enforcement case was initiated against this carrier.

Driver compliance

A Bureau investigator making a road check generally cites a driver when he does not carry a log or fails to maintain one properly. The driver is usually allowed to complete his trip but may be subsequently fined. Driving with logs showing excessive driving hours usually results in the driver being placed out of service until the required rest is obtained.

Since the Bureau generally does not seek enforcement action against individual drivers, not maintaining or inaccurately maintaining driver logs is less of a risk than possessing logs showing excessive driving hours.

During 1973 the Bureau put 818 drivers out of service because of hours-of-service violations. Summary data on 1973 road checks--the latest available data--shows that about half of the 22,463 driver violations were for either not preparing or not maintaining driver logs.

A review of 1974 and 1975 Bureau road check reports revealed that log violations are still the most frequently cited driver violations. Since Bureau road checks reach less than 1 percent of the estimated 4 million interstate drivers, the high incidence of drivers without properly maintained logs is an indication that many more drivers not inspected may be driving while fatigued or otherwise in violation of the hours-of-service regulations.

LIMITED ENFORCEMENT AUTHORITY

The Motor Carrier Act of 1935, as amended, provides several enforcement actions that the Bureau may impose for violations of the Federal motor carrier safety regulations. These enforcement actions, however, either do not apply to all types of carriers and safety regulation violations or have other serious limitations.

For instance, criminal penalties are applicable to all violations by all carriers. However, the maximum fines for violations of the Federal safety regulations have not been revised upwards since 1957. While a \$500 fine may have been substantial in 1957, it is unrealistically low today. Consider, for example, the fact that if a tractor trailer combination is operated with a noisy muffler and defective brakes, the maximum fine for the defective brakes is \$500 for each day of the violation while the noisy muffler could subject the carrier, under the Noise Control Act of 1972, to a fine of up to \$25,000 each day--\$50,000 each day if it is a second conviction.

While criminal penalties may be assessed against all carriers, the 1935 act limits the use of civil penalties. These penalties can only be used for violations of record-keeping and reporting requirements, such as failure to prepare or file an accident report, by common, contract, and exempt carriers and their employees. As a result, all other types of violations by common, contract, and exempt carriers and all violations by private carriers of property are subject only to criminal proceedings. These violations include failure to keep equipment in good repair, permitting drivers to operate vehicles in excess of 10 hours without necessary rest, and operating a commercial vehicle without a valid drivers license.

Other available enforcement actions--injunctions, cease-and-desist or consent orders, and interventions in ICC proceedings--are either unused or used infrequently because, according to the Bureau, they are too costly, require too much monitoring, and take years to complete.

BUREAU LEGISLATIVE PROPOSALS

The Bureau has submitted legislative proposals seeking expanded enforcement authority; however, none have been enacted into law. For example, in November 1975 the President submitted to the Congress a proposed Motor Carrier Reform Act ^{1/} that would have considerably deregulated the motor carrier industry. The proposed act, which was not enacted into law during the 94th Congress, would also have expanded Bureau authority to

--apply civil penalties to all violations by all carriers and

--provide a greater deterrent by increasing maximum fines and penalties for both civil and criminal violations.

Bureau and Highway Administration officials believe expanded civil penalty authority could help strengthen their enforcement of safety regulations.

Three other units of the Department of Transportation--the Federal Railroad Administration, the Federal Aviation Administration, and the Coast Guard--have authority to apply civil penalties to most safety violations. In each of these units, officials said that civil penalty was the most frequently used method to deter safety violators. They also said it was preferred over criminal prosecution because it was faster, less costly, required less legal documentation, and because civil penalties were more readily accepted by violators than criminal penalties.

CONCLUSIONS

The many safety violations in relation to the limited number of the carriers and drivers inspected each year leads us to believe that the Bureau's policy of encouraging voluntary compliance has not been effective. The program has been handicapped by (1) a lack of systematic procedures for identifying and developing cases suitable for enforcement,

^{1/}H. R. 10909, 94th Cong. 1st Sess. (1975); and S. 2929, 94th Cong. 1st Sess. (1975).

(2) failure to establish time frames for processing civil enforcement cases, and (3) assessment of low penalties. In view of the limited number of enforcement cases initiated by Bureau investigators and the subsequent number of cases dropped by the regional counsels and the Department of Justice, it may be necessary for the Bureau to establish specific criteria to assist investigators in identifying when and how to develop cases suitable for enforcement action.

In many instances, the Bureau imposes only a minimum civil penalty after lengthy processing time and the carrier continues to repeat its pre-existing pattern of violations of the safety regulations. We believe the combination of low penalties and lengthy processing times detracts from the objective of improving safety and discouraging future violations. Consequently, the Bureau needs to insure that enforcement cases are processed as fast as possible and that more vigorous use is made of civil penalties.

While greater penalties for violators of safety regulations would add to the importance of complying with the regulations, this may not be enough. The maximum criminal and civil penalties for safety regulation violations are now seriously out of line with penalties for violations of other Federal regulations.

We believe that extending the Bureau's civil penalty authority to cover all carriers who are now subject to the safety regulations and all safety regulation violations would promote more effective enforcement of safety requirements. If the Bureau could impose civil penalties for all violations, it could maintain a consistent position for handling similar cases and not have to process cases through the judicial system unless necessary.

In addition, the Bureau's practice of only citing a driver for failure to have or properly maintain a daily log encourages a driver who wishes to drive excessive hours not to maintain a log. The Bureau's enforcement actions seem unreasonable because the log is important in determining fatigue, which contribute to many accidents.

RECOMMENDATIONS TO THE SECRETARY OF TRANSPORTATION

To improve the effectiveness of the Bureau's enforcement program, we recommend that the Secretary of Transportation require the Administrator of the Federal Highway Administration to:

- Establish systematic procedures for developing enforcement cases to insure that cases will be uniformly and adequately prepared.
- Reduce the delays in the Bureau's civil processing time.
- Instruct Bureau regional directors and regional counsels to negotiate civil penalties closer to the maximum allowed to encourage greater compliance with safety regulations.
- Take stronger enforcement actions against carriers and drivers who fail to prepare or properly maintain driver logs.

RECOMMENDATION TO THE CONGRESS

We recommend that the Congress amend the 1935 Motor Carrier Act, as amended (part II of the Interstate Commerce Act) to provide the Bureau the additional authority to assess civil penalties for all violations by all carriers who are now subject to the motor carrier safety regulations and to increase maximum fines and penalties for both civil and criminal violations.

AGENCY COMMENTS

The Department generally agreed with our findings, conclusions, and recommendations (see app. I) and said it would take the following actions:

- Revise enforcement procedures with a view toward establishing more definitive criteria for selecting cases for enforcement action.
- Institute a study of procedural and institutional delays to improve the processing time to settlement of civil cases.
- Provide field program managers more definitive guidance on settlement of civil penalty cases to assure improved future safe operations on the part of the carriers.
- Review the Bureau's position of not ordering drivers out-of-service for failing to have drivers' daily logs.

The Department noted that it recognized the need to upgrade the Bureau's enforcement authorities and is considering support for introduction of such legislation.

CHAPTER 5

BETTER FEDERAL AND STATE COOPERATION NEEDED FOR MORE EFFECTIVE SAFETY REGULATION

Bureau and State motor carrier safety investigators often conduct their own inspections in the same general areas and at the same carrier facilities. Coordinated scheduling of such inspections could divide the work among the investigators, make better use of each other's work, and save the time of both the investigators and carrier employees and officials.

The Bureau could also make better use of available State motor carrier safety data to reduce its workload and extend the coverage of carriers.

COOPERATIVE AGREEMENTS

In an April 1965 report 1/, the House Committee on Interstate and Foreign Commerce disclosed widespread variances in Federal and State regulations applicable to motor carriers and procedures for enforcing carrier violations. These variances limited effective and uniform regulation of carriers' operations. The Committee recommended enactment of new legislation intended to strengthen motor carrier safety regulation by authorizing the Federal agency to make cooperative agreements with the various States. On September 6, 1965, the Congress enacted Public Law 89-170, which amended the Motor Carrier Act of 1935 to provide for more coordination among Federal and State agencies with motor carrier regulatory responsibilities.

A cooperative agreement is a formal arrangement for the exchange of technical information such as inspection reports and statistics, training assistance, joint investigation of motor carrier operations, and mutual cooperation in enforcement case work. Participation of all parties is strictly voluntary and the agreement can be canceled by either party. The Federal Government does not provide funding or incentives to the States under these agreements.

In 1977 the Bureau reported that it had cooperative agreements with all 50 States and the District of Columbia which covered 84 of the 148 State agencies engaged in motor carrier safety activities.

1/H.R. Rep. 89-253, 89th Cong., 1st Sess. (1965).

LIMITED USE OF STATE DATA

The basic premise underlying a cooperative agreement is that information will be exchanged between Federal and State agencies. Although the Bureau had agreements with 11 agencies in the 7 States we visited, the usefulness of the agreements varied.

We found the degree of cooperation actually depended on the safety investigator's ability to establish a working relationship with State personnel. State agencies generally said the Bureau may have copies of their road check, safety survey, and motor carrier accident reports. The Bureau did not take full advantage of cooperative agreements with California, Illinois, Indiana, Ohio, and New Mexico to obtain available State reports on motor carriers. The following table shows what types of motor carrier safety reports were prepared by the seven States reviewed and obtained by the Bureau.

	<u>Type of report</u>		
<u>State</u>	<u>Road check</u>	<u>Safety survey</u>	<u>Accident</u>
Illinois	Never requested by Bureau	Not prepared by State	Sent on request
Indiana	Received routinely by Bureau	Not prepared by State	Sent on request
Ohio	Received routinely by Bureau	Never requested by Bureau	Sent on request
California	Sent on request	Sent on request	Sent on request
Colorado	Received routinely by Bureau	Received routinely by Bureau	Received routinely by Bureau
New Mexico	Sent on request	Not prepared by State	Sent on request
Wyoming	Not prepared by State	Not prepared by State	Received routinely by Bureau

Bureau officials in these States advised us that they cannot rely on State reports because States normally do not adequately consider Federal requirements, interests, or reporting methods. For this reason the officials did not

always request copies of State reports. However, our analysis of States' motor carrier safety activities revealed many similarities, and few substantial differences, in the procedures used by the Bureau and the State agencies.

COMPARISON OF STATE AND FEDERAL PROGRAMS AND RESOURCES

The States in our review have either adopted as State regulations the Federal motor carrier safety regulations in total or in part or have similar rules. However, Wyoming did not have a motor carrier safety program during the period covered by our review and is not included in the following discussion. Wyoming is now developing a safety program.

The following State agencies enforce compliance with State motor carrier safety requirements: Illinois State Police, Indiana State Police, Ohio Highway Patrol, Public Utilities Commission of Ohio, Public Utilities Commission of Colorado, Colorado State Patrol, New Mexico Motor Transportation Department, and California Highway Patrol. Combined they have over 2,000 people performing road checks, and the Bureau has 23 more investigators performing checks in these six States.

State road checks are made at rest areas and at permanent and portable weighing stations. Unlike the Bureau, State police and highway patrols stop vehicles on the highway when there is reason to believe State motor carrier safety regulations are being violated. Indeed, many safety violations are detected in this way. The violations detected are similar to those covered by the Bureau. For instance, some of the safety violations noted by each of the six State enforcement agencies are as follows:

- Lack of or improperly maintained driver logs.
- Driving excessive hours.
- Malfunctioning brakes.
- Unsafe tires.
- Defective exhaust or suspension system.
- Lack of emergency equipment.

Bureau and State investigators also look at many of the same areas during a motor carrier terminal survey. For example, Bureau, Colorado, and Ohio investigators look at driver qualification records, determine if all accidents have been reported, and ascertain if proper truck maintenance records have been kept. The investigators also check

driver logs for completeness and hours-of-service violations.

Several of the States we visited had active enforcement programs to deter violators of State safety regulations. For instance, in fiscal years 1974-75, enforcement agencies in three States cited 393,000 trucks and drivers for safety violations other than speeding. About 327,000 of those cited were given warnings and not fined. The remaining 66,000 were fined about \$1.4 million.

LIMITED COORDINATION

Six of the seven States visited conduct road check activities similar to the Bureau's. However, only Colorado, Indiana, and Ohio routinely provide their road check reports to assist the Bureau in detecting interstate motor carrier violations. Illinois does not send the Bureau its reports because an agreement has never been negotiated. California, New Mexico, and Illinois officials said if requested, they would forward their reports to the Bureau.

California, Colorado, and Ohio also conducted safety surveys. However, only in Colorado do Bureau and State officials coordinate their survey plans. The Bureau does not coordinate safety surveys with either the California or Ohio agencies, and, as a result, Bureau investigators and State investigators survey many of the same carriers. For example, we identified at least 42 Ohio-based carriers which were subject to duplicate surveys. Twenty-two of 42 carriers were visited by 2 enforcement agencies within 2 years even though many of the 4,119 Ohio-based interstate carriers were not visited at all during the period. In addition, in more than half of the reports the Bureau and State investigators disclosed many of the same violations.

BUREAU EFFORTS TO IMPROVE STATE COORDINATION

A July 10, 1975, Federal Highway Administration order established as a special emphasis area the enhancement of motor carrier safety by encouraging the States to update and enlarge their motor carrier safety activities. The July 1975 order stated that numerous State agencies were involved in related motor carrier safety activities, that the States must be encouraged to extend their cooperative agreements to include more of these agencies, and that exchange and analysis of data could lead to standardized approaches to promoting safe commercial transportation.

Our review indicated that the Bureau has made only limited progress in carrying out the intent of the order.

Bureau officials cite the lack of attractive incentives as the primary factor limiting increased Federal and State cooperation. Several Bureau proposals for a Federal financial assistance program to the States were not approved by the Department of Transportation. These proposals were turned down primarily because of the Bureau's lack of information on whether the present Federal program is achieving the desired safety benefits.

The Highway Administration has designated several program areas for special Bureau emphasis during fiscal year 1977 to enhance motor carrier safety. Included among the emphasis areas is a goal of encouraging States to enlarge their commercial carrier inspections and to conduct more frequent vehicle road checks.

CONCLUSIONS

Federal and State coordination of their motor carrier safety activities is of benefit to all concerned and is practical. The present extent of cooperation, however, varies widely. Unfortunately in most cases it falls far short of what is attainable. Although the Bureau has emphasized cooperation in the past, much more needs to be done.

Although cooperative agreements have been signed in each of the States we visited, the Bureau did not obtain all available State data on motor carrier operations.

Since the Federal motor carrier safety program does not provide funding to the States, no effective incentive exists to promote increased cooperation from the States. The Bureau, however, can improve its operation and coverage of motor carriers through better use of available State information.

RECOMMENDATION TO THE SECRETARY OF TRANSPORTATION

We recommend that the Secretary of Transportation require the Administrator of the Federal Highway Administration to use road check, safety survey, and accident reports provided by the States when formulating work schedules. The Highway Administration should rely on State reports to the maximum extent practical.

AGENCY COMMENTS

The Department stated that it has no authority to require States to submit motor carrier safety reports, but the Bureau would request appropriate State agencies to voluntarily furnish such reports for inclusion in the management information system now under development.

CHAPTER 6

OVERALL CONCLUSIONS, RECOMMENDATION TO THE CONGRESS, AND AGENCY COMMENTS

CONCLUSIONS

We believe that if the Congress and the Department of Transportation take actions along the lines recommended in chapters 3, 4, and 5, the Bureau's safety responsibility can be more effectively carried out. However, we also believe the Congress should consider a larger issue concerning the overall purpose and effectiveness of the Bureau's safety enforcement activity.

Interstate motor carrier safety is important and led the Congress in 1935 to pass legislation requiring the establishment and enforcement of safety regulations for interstate motor carrier vehicles and drivers. Enforcement of those regulations, however, has been limited. Consider, that in most cases, the problems highlighted in 1966 Subcommittee hearings as limiting effective management and execution of the Federal motor carrier safety program still exist today. While significant improvements in Bureau operations are possible, we believe, as did the Subcommittee in 1966, that it would require substantial additional resources before the Bureau could be fully responsive to the Subcommittee's concerns.

Commercial vehicles are still involved in many highway accidents involving fatalities, injuries, and heavy property losses. Driver fatigue resulting from excessive driving hours remains a primary cause of motor carrier accidents.

The Bureau's safety activities have undoubtedly resulted in many motor carriers making safety improvements. For example, motor carriers have developed comprehensive programs for improving the safety of their operations. In addition the Bureau's inspection efforts have resulted in safety benefits. Over one-third of the trucks and buses inspected by the Bureau in fiscal years 1974 and 1975 were considered imminent highway hazards and were immediately placed out of service until the unsafe conditions were corrected. However, since less than 1 percent of the 4 million interstate commercial vehicles and drivers are inspected annually, it is reasonable to believe that many more unsafe vehicles and drivers go undetected.

Although the Bureau's staff and expenditures have increased since being transferred from ICC, so has the Bureau's

area of responsibility. The Department of Transportation and the Highway Administration, however, have not requested more money for the motor carrier safety program as envisioned by the Congress. A contributing factor may be the Bureau's lack of specific and reliable information to indicate whether the Federal motor carrier safety program is effectively achieving desired safety benefits.

RECOMMENDATION TO THE CONGRESS

Interstate motor carriers safety is an important element of the overall highway safety picture but the Department of Transportation has made limited progress toward addressing the congressional concerns expressed in 1966. If the Congress still wants the Federal motor carrier safety program improved to the level envisioned in 1966, we recommend that it take action to strengthen the program. The following are several courses of action which the Congress could choose from:

- Increase Bureau resources for performing important safety activities, such as safety surveys.
- Develop a program of positive financial incentives to encourage the States to assume the responsibility for enforcing State motor carrier safety regulations which are similar to the Federal regulations.
- Enact a combination of increased Bureau emphasis and positive financial incentives to the States.

AGENCY COMMENTS

The Department agreed that the Federal motor carrier safety program has not achieved its full potential for risk reduction and commercial vehicle accident prevention. The Department stated that isolating the motor carrier safety program from the Department's other highway safety efforts may portray a misleading picture with respect to the level of protection afforded the public from undue risks from motor vehicle collisions. The Department said the safety features built into new highways; the motor vehicle safety standards for new vehicles; and Federal highway safety standards administered by the States represent an overall strategy to reduce highway accidents by all classes of highway users.

The Department said, however, that certain improvements in the operations of the Federal motor carrier safety program can be effected and that certain of the internal procedural deficiencies noted are already being addressed and the remainder can be undertaken in the near future.



ASSISTANT SECRETARY
FOR ADMINISTRATION

OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 4, 1977

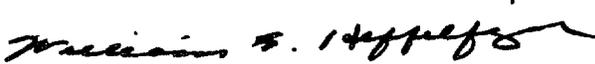
Mr. Henry Eschwege
Director
Community and Economic Development Division
U. S. General Accounting Office
Washington, D. C. 20548

Dear Mr. Eschwege:

This is in response to your letter of January 11, 1977, requesting comments on the General Accounting Office draft report entitled, "The Federal Motor Carrier Safety Program: Limited Progress Since 1966, Improvements Needed." We have reviewed the report in detail and prepared a Department of Transportation reply.

Two copies of the reply are enclosed.

Sincerely,


William S. Heffelfinger

Enclosures

DEPARTMENT OF TRANSPORTATION REPLYTOGAO DRAFT OF REPORT TO
THE CONGRESS OF THE UNITED STATESON

THE FEDERAL MOTOR CARRIER SAFETY PROGRAM:
LIMITED PROGRESS SINCE 1966,
IMPROVEMENTS NEEDED

Bureau of Motor Carrier Safety
Federal Highway Administration
Department of Transportation

SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

GAO reviewed the program activities of the Bureau of Motor Carrier Safety (BMCS) at Headquarters, regional offices, and detached duty stations, and examined State counterpart agency activities and interrelationships with BMCS. Comparisons were made of program outputs prior to transfer of the motor carrier safety function to DOT in 1967 to current program levels, as a measure of effectiveness. The GAO states that BMCS has evidenced little progress in the decade of 1966 to 1976 in adequately controlling the safety of operations of the 165,000 interstate motor carriers and the 4,000,000 vehicles and drivers subject to the Federal Motor Carrier Safety Regulations. This is due to the inability of BMCS to acquire and expend adequate resources to meet an expanding population of carriers, drivers, and vehicles, to successfully upgrade outdated sanctions, to take full advantage of State data, to timely process enforcement actions, and utilize systematic selection procedures to optimize its inspection and enforcement activities.

The GAO recommends that the Secretary require the Administrator of the Federal Highway Administration to improve the management of the Motor Carrier Safety Program through (1) improved procedures for selecting carriers and vehicles for examination, (2) more definitive guidelines to improve the quality of enforcement cases, (3) elimination of delays in enforcement case processing, (4) instructing staff to negotiate penalties closer to the maximum allowed, (5) strengthened enforcement actions against drivers who fail to prepare or maintain driver's daily logs, and (6) better utilization of State road check and safety survey data to assist in planning BMCS work activities.

SUMMARY OF DEPARTMENT OF TRANSPORTATION POSITION

It is the position of the Federal Highway Administration that improvements in the operation of the Federal Motor Carrier Safety Program can be effected. Certain of the internal procedural deficiencies noted are already being addressed and the remainder can be undertaken in the near future.

We do believe that examination of this program in isolation from the other highway safety efforts of this Department may portray a misleading picture of the overall posture of the agency with respect to the level of protection afforded the public from undue risks from motor vehicle collisions generally.

Certainly, the safety features built into new highways; the motor vehicle safety standards applicable to new motor vehicle manufacturers; and the State highway safety standards of the National Highway Traffic Safety Administration administered by the States represent an overall strategy to reduce highway accidents by all classes of highway users.

POSITION STATEMENT

The GAO report should be viewed in the context of new assignments in cargo security and motor carrier noise enforcement as well as expanded emphasis on hazardous materials safety which have been assigned to the Bureau of Motor Carrier Safety without commensurate resources.

While we agree with the principal thrust of the report that the Federal Motor Carrier Safety Program has not achieved its full potential for risk reduction and commercial vehicle accident prevention, certain weaknesses in the procedures utilized by BMCS were recognized and steps taken to overcome them during the period prior to the GAO review.

The specific recommendations made by GAO along with the FHWA response follow:

- (1) "Improve the management of the Motor Carrier Safety Program, by requiring the Administrator of FHWA to develop an information system to facilitate the analysis of motor carrier safety records to help investigators select motor carriers most in need of safety surveys."

The recently established Motor Carrier Safety Census File (a computer program to record carriers of record and store information received in a manner which will allow rapid retrieval) is an initial step in developing an automated capability to provide information to the field staff to assist in improving selection of carriers in need of inspection. This system will ultimately assist in identifying high risk carriers as candidates for inspection, thereby maximizing the impact of the inspection process.

- (2) "Establish systematic procedures for development of enforcement cases to assure that cases will be uniformly and adequately prepared."

Revision of the "Enforcement Program" chapter of the "BMCS Operations Manual" will be undertaken with a view toward establishing more definitive guidance on criteria for selecting cases for enforcement action.

- (3) "Eliminate delays in the Bureau's civil (forfeiture) processing time."

A study of procedural and institutional delays will be undertaken jointly by BMCS and the Office of the Chief Counsel to improve the processing time to settlement of civil forfeiture claim cases.

- (4) "Instruct Bureau Regional Directors and Regional Counsels to negotiate civil penalties closer to the maximum allowed, to encourage greater compliance with the safety regulations."

A directive will be issued to the FHWA field program managers providing more definitive guidance on the size of claims issued and use of settlement agreements to assure improved future safe operations on the part of the carriers.

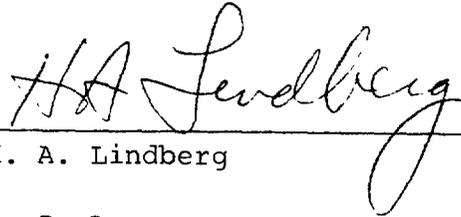
- (5) "Take stronger enforcement actions against drivers who fail to prepare or properly maintain logs."

The position of BMCS on not ordering drivers out-of-service for failing to have driver's daily logs will be reviewed, and questions on infringement on civil liberties will be reexamined.

- (6) "Require the Administrator of the Federal Highway Administration to obtain the State's road check safety survey, and accident reports for consideration in scheduling work, and rely on States' reports to the maximum extent practical."

The Department has no authority to require States to submit States' reports, but the appropriate State agencies will be requested to voluntarily furnish such reports to BMCS for inclusion in carrier safety files which will be incorporated into the Motor Carrier Safety automated management information system now under development.

The Department has recognized the need to upgrade BMCS enforcement authorities. We are considering support for introduction of legislation similar to that introduced in the last Congress which would upgrade BMCS enforcement authorities.

A handwritten signature in cursive script, reading "H. A. Lindberg", is written over a horizontal line. The signature is fluid and somewhat stylized, with the initials "H. A." clearly visible at the beginning.

H. A. Lindberg

For: L. P. Lamm
Acting Federal Highway Administrator

PRINCIPAL OFFICIALS
RESPONSIBLE FOR ADMINISTERING
ACTIVITIES DISCUSSED IN THIS REPORT

	Tenure of office	
	From	To
<u>DEPARTMENT OF TRANSPORTATION</u>		
SECRETARY OF TRANSPORTATION:		
Brock Adams	Jan. 1977	Present
William Coleman	Mar. 1975	Jan. 1977
John W. Barnum (acting)	Feb. 1975	Mar. 1975
Claude S. Brinegar	Feb. 1973	Feb. 1975
John A. Volpe	Jan. 1969	Feb. 1973
Alan S. Boyd	Jan. 1967	Jan. 1969
ADMINISTRATOR, FEDERAL HIGHWAY ADMINISTRATION:		
Lester P. Lamm (acting)	Jan. 1977	Present
Norbert T. Tiemann	May. 1973	Jan. 1977
Ralph R. Bartelsmeyer (acting)	July 1972	May 1973
Francis C. Turner	Feb. 1969	June 1972
Lowell K. Bridwell	Apr. 1967	Jan. 1969
ASSOCIATE ADMINISTRATOR FOR SAFETY:		
Howard L. Anderson	May 1975	Present
DIRECTOR, BUREAU OF MOTOR CARRIER SAFETY:		
Robert A. Kaye	Apr. 1970	Present
Kenneth L. Pierson (acting)	July 1969	Apr. 1970
George A. Meyer	Apr. 1967	July 1969

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