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STATEMENT OF
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RESOURCES, COMMUNITY, AND ECONOMIC DEVELOPMENT DIVISION
U.S. GENERAL ACCOUNTING OFFICE
BEFORE THE
SUBCOMMITTEE ON TRANSPORTATION
COMMITTEE ON APPROPRIATIONS
UNITED STATES SENATE
ON
BUDGETARY EFFECTS OF THE ELIMINATION OF ICC'S
TRUCKING REGULATORY RESPONSIBILITIES

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here to discuss the budgetary effects of the possible elimination of the Interstate Commerce Commission's regulatory responsibilities for trucking.

In 1980, the Congress partially deregulated the trucking industry, relaxing rate and entry regulation. However, most interstate truckers are still required to receive operating authority from the Interstate Commerce Commission (ICC), and their rates still generally require approval by the ICC. In this Congress, three bills to complete the deregulation of the trucking industry have been introduced by Senator Packwood, Senator Danforth (on behalf of the Administration), and Representative Moody. All three bills eliminate rate regulation for commercial trucking, and either eliminate entry regulation, confine it to carriers of household goods, or restrict it to considerations of

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safety and financial responsibility. The bills differ in the extent to which they eliminate other forms of ICC regulation of trucking, and in the extent to which they pre-empt state regulation of trucking.

You asked us to estimate how many staff-years could be saved if the ICC's responsibilities for trucking regulation were eliminated. You also asked that we break this estimate down to show the staffing commitments for each regulatory function, to show the effect of eliminating some but not others, as provided in various deregulatory bills pending in the Congress. Finally, you asked that we bring together analysis that would be helpful to the Congress in deciding which regulatory functions to keep and which to eliminate. Our testimony today focuses primarily on the budgetary effects of trucking deregulation. Additional analysis on the desirability of eliminating various trucking regulatory functions will be included in a subsequent report.

To answer these questions, we developed a list of ten regulatory functions based on an analysis of ICC's authorizing legislation and on discussions with ICC staff. We assembled data from ICC documents and staff on the resources they used for the various trucking regulatory functions in fiscal year 1985. We allocated staff-years for general management functions, such as those in the Managing Director's and Commissioners' offices, to the different regulatory functions in proportion to the number of people who worked directly on the various functions.

We analyzed the advantages and disadvantages of repealing various ICC functions based on literature on trucking regulation and on discussions with representatives of industry and shipper groups, government officials, lawyers, and economists.

ICC'S REGULATORY FUNCTIONS AND THEIR BUDGETARY REQUIREMENTS

In fiscal year 1985, the ICC had a total of 916 staff-years and used about 483 to regulate trucking. This figure includes 335 staff-years directly assigned to trucking regulatory functions and 148 general management staff-years that we have allocated to ten regulatory functions in proportion to the direct staff.

If these regulatory functions were eliminated, the reduction in general management staff might be somewhat less than the amount of such staff time allocated to each function. However, while we have allocated these general management staff-years to the regulatory functions, we had no basis for estimating the reduction in general management staff that deregulating each function would permit. The attachment shows both the directly assigned and general management staff-years allocated to each regulatory function.

The ten regulatory functions, with their staff-year allocations, are as follows:

- Rate regulation, including maintaining records of filed tariffs and reviewing the proposed rates: 111 staff-years;
- Entry regulation, including reviewing applications for operating authority and enforcing prohibitions against carriers operating outside of their approved operating authority: 130 staff-years;
- Safety regulation, consisting of consulting the Bureau of Motor Carrier Safety's safety ratings as part of ICC's review of applications for operating authority: 4 staff-years;

- Insurance regulation, including monitoring cancellation notices received from insurers and carrying out proceedings to revoke authority of carriers who do not find insurance: 72 staff-years;
- Antitrust enforcement, including supervising rate bureau antitrust immunity, reviewing mergers, and enforcing prohibitions on predatory and discriminatory pricing: 23 staff-years;
- Cargo damage liability rules ("Carmack"), namely enforcing the "Carmack Amendment" requirements that liability for damage to cargo falls entirely upon the common carrier (subject to certain exceptions), unless the carrier's liability has been released by the explicit agreement of the shipper, and that the carrier give the shipper the option of having the carrier assume full liability for the shipment: 51 staff-years;
- Data collection and processing pursuant to the ICC's regulatory responsibilities: 16 staff-years.
- Owner-operator protections, including prohibitions on illegal "lumping" (i.e., coercing a truck driver into having his truck loaded or unloaded by terminal or warehouse personnel) and enforcing rules which govern how owner-operators can lease their trucks and services as drivers to motor carriers: 58 staff-years;
- Household goods consumer protection rules, including protecting consumers from overcharges and specifying cargo damage claims procedures: 17 staff-years.
- Mexican carrier registrations, pursuant to the Motor Carrier Safety Act of 1984: 1 staff-year.

ISSUES TO BE CONSIDERED IN FURTHER TRUCKING DEREGULATION

Budgetary issues

All three trucking deregulation bills would eliminate much of ICC's rate and entry regulation, functions that consumed about 241 staff-years out of ICC's 916 total. However, two of the bills, Moody and Packwood, would retain regulation for household goods carriers, which required about 52 direct staff-years in FY 1985. The Packwood bill also retains an entry standard based on safety fitness and financial responsibility for all motor carriers currently regulated by the ICC, and transfers responsibility for enforcing this entry rule to the Department of Transportation (DOT). Under the Packwood bill, DOT may need some portion of the 130 staff-years ICC devoted to entry regulation to carry out this more limited entry regulation.

Some of the regulatory functions would be explicitly retained in the three bills. Consumer protection rules for household goods shipments would be retained in all three bills, either at ICC (under Packwood and Moody) or at the Federal Trade Commission (under the Administration bill), and all three bills would transfer responsibility for registration of Mexican carriers to DOT. The Packwood and Moody bills transfer responsibility for ICC's "Carmack" functions to DOT. The Moody bill also transfers ICC's data reporting authority to DOT.

All three bills would eliminate ICC's other regulatory functions. However, where these functions are not explicitly transferred to any other agency, other agencies with existing authority might take over some of the regulatory functions previously exercised by ICC, and may have to increase their staffing as a result. For example, if ICC no longer monitored whether truckers had their required insurance, DOT would assume

sole responsibility for enforcing insurance requirements, significantly increasing the number of carriers for which it had primary enforcement responsibility. Under all three bills, the Department of Justice (DOJ) and the Federal Trade Commission (FTC) would assume sole responsibility for antitrust enforcement in trucking currently shared with ICC. If ICC no longer collected data on the trucking industry, the Bureau of the Census would have the authority to gather additional data on trucking. While "Carmack" would cease to exist as statutory law under the Administration bill, it is possible that pre-existing common law, which in many cases had similar requirements, would once again become effective. Enforcement of these requirements would generally fall to private parties bringing suit in state and federal courts.

Whether these other agencies would need additional funding to handle these added responsibilities would depend on the enforcement approaches they adopted. For example, Census has already acted to begin gathering limited data on a sample of ICC-regulated truckers so as to provide some data on Class III carriers exempt from ICC reporting requirements. The Census survey requires substantially less data than formerly required by ICC of Class III carriers. If ICC stopped requiring reports from Class I and II truckers and Census expanded its reporting requirements for these carriers, Census might need additional staff, but would probably not need as many as are currently required at ICC.

Safety and insurance

Of all these budgetary uncertainties, the most significant is concerned with safety and insurance regulation. If the approach embodied in the Packwood bill is adopted, DOT would regulate entry, though the only criteria would be safety fitness and financial responsibility. Even this limited approach to entry

regulation, however, could require a substantial number of staff-years, since the 90 staff-years ICC had directly assigned for entry regulation in FY 1985 were largely for routine clerical work that would be required whatever the criteria specified for entry. If DOT chose to continue to enforce the insurance requirement as ICC does, by requiring notification of every policy cancellation, it would presumably need about the same number of staff-years as ICC had directly assigned for this purpose (50), and possibly some additional general management staff as well.

Other regulatory functions

In several cases we found a lack of useful data or analysis relating to the value of the other regulatory functions of ICC. In the case of antitrust immunity, for example, there was disagreement about whether antitrust immunity for collective price-setting raised prices significantly, but there were no data on the number of shipments actually shipped at collectively set prices, which would be an indicator of the impact of antitrust immunity for collective price-setting. In the case of owner-operator protections and consumer protections for household goods, we could find no data demonstrating how effectively regulation protected owner-operators or consumers.

In the case of cargo damage liability rules ("Carmack"), which are retained in the Moody and Packwood bills, there was some question of how effective these rules would be in the absence of rate regulation. Without administrative rate regulation, a carrier might offer to provide full liability coverage, but at a rate so far above the "released value" rate (i.e., the rate charged if the shipper releases the carrier from part of his liability) that full liability carriage might as a practical matter not be offered. However, the shipper could seek recourse through the courts to enforce a reasonable relationship between

the full-value rate and the released-value rate. It is not clear whether enforcement through the courts would be as effective as enforcement through the ICC.

Similarly, there was little in the way of persuasive analysis available on the need for data reporting requirements. There are some essential purposes for which ICC data are used, such as to generate parts of the Commerce Department's Gross National Product estimates. However, for many of the data ICC collects, we found no indication that essential public policy purposes would not be served if data were not available. The DOJ and the FTC believe that they can get all the data they need on an ad hoc basis either voluntarily or through their subpoena power, without any ongoing data collection effort. One problem with determining the need for data reporting requirements is that such needs are difficult to forecast in advance. The public policy issues of the future can be resolved more intelligently if appropriate data are gathered today, yet it is difficult to forecast what policy issues will arise in the future and what data should be gathered to resolve them.

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Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions you might have.

ICC staff-years for trucking regulatory functions
fiscal year 1985

<u>Regulatory function</u>	Directly assigned staff-years	General management staff-years	Total
Rate regulation	77	34	111
Entry regulation	90	40	130
Safety regulation	3	1	4
Insurance regulation	50	22	72
Antitrust enforcement	16	7	23
Cargo damage liability rules	35	16	51
Data reporting	11	5	16
Owner-operator protections	40	18	58
Household goods rules	12	5	17
Mexican carrier registrations	<u>1</u>	<u>0</u>	<u>1</u>
Total	335	148	483