

**STATEMENT OF  
THE HONORABLE JAMES L. OBERSTAR  
OVERSIGHT AND INVESTIGATIONS HEARING ON  
“FMCSA’S PROGRESS IN IMPROVING MEDICAL OVERSIGHT OF COMMERCIAL DRIVERS”  
JULY 24, 2008**

I want to begin by thanking all of the witnesses who are here to testify and answer questions on the very serious issue of medical oversight of commercial drivers.

I also want to express my personal disappointment that Administrator Hill is unavailable today to testify on this very serious issue. I am particularly perplexed that the Administrator was available and sufficiently prepared to answer questions from a reporter earlier this week but not questions from this Committee.

Medical oversight of commercial drivers and its impact on safety on our roads is an issue this Committee has been troubled by for many years. In 1999, Congress established the Federal Motor Carrier Safety Administration (FMCSA) as a separate modal agency within the U.S. Department of Transportation (DOT) and assigned this new agency responsibility for commercial motor vehicle safety. Congress charged FMCSA with an unmistakable safety mission: “(T)he Administration shall consider the assignment and maintenance of safety as the highest priority.” Tragically, we have made little progress in the number of deaths from crashes involving large trucks since

FMCSA's founding. In 2006, 4,995 individuals were killed, approximately the same number as in 1995.

The safety impacts from this failure to act are real. In 2007, NHTSA reported that "heart attack or other physical impairment" was a critical factor in approximately 4,000 serious truck crashes. In July 2000, a Tennessee State trooper was killed after a truck driver with a long history of severe obstructive sleep apnea collided with his patrol car which exploded upon impact. That wasn't the first tragedy for which this driver was responsible. In 1997, this same driver "blacked out" at the wheel, striking and seriously injuring two Utah state troopers. Still, by failing to report his history of sleep apnea to his doctor, the driver successfully obtained 4 consecutive medical certificates during this period.

Since 2001, the National Transportation Safety Board (NTSB) has made eight specific recommendations to improve medical oversight of commercial drivers and Congress has given the Administration specific mandates, but I regret to say that progress has been negligible. As NTSB will testify today, FMCSA's commercial driver medical oversight system is no more robust now than it was nearly 10 years ago.

One of NTSB's recommendations in 2001 was for FMCSA to establish a system where critical medical information – such as this driver's severe sleep apnea –

would be available to examiners performing DOT medical exams. Yet this is one of the recommendations where absolutely no measurable progress has been made.

Another area where FMCSA has failed to make any progress is in aiding detection of fraudulent medical certificates. NTSB has criticized the medical certificate form because it is not a controlled document, has no standard format, and can be freely reproduced. A dishonest driver can easily download the form from FMCSA's website and fill it out himself. Right now, there is no mechanism for inspectors to verify a card's authenticity.

Today, I am releasing a report prepared for me by Committee staff that looks at the issue of invalid medical cards. Last year, staff collected more than 600 medical cards from drivers at truck weigh stations which they attempted to verify with the medical examiners who allegedly issued the cards. The report documents 30 cases – 5 percent of the sample – where either the medical examiner didn't exist or the medical examiner indicated that their signature had been forged or adulterated. I am entering the report into the official hearing record.

FMCSA's efforts to address NTSB's recommendations have been grudging and painstakingly slow. In 1999, MCSIA mandated that FMCSA merge drivers' medical information with the CDL data system. That was nearly 10 years ago and still we have

no final rule. Administrator Hill appeared before this Committee last July – more than a year ago -- and told this Committee that FMCSA was in the process of “finalizing the Final Rule.” I hope that Ms. McMurray can provide a more realistic timeline for this final rule today — one to which we can hold the Administration accountable.

Interest in creating a registry of certified medical examiners dates back to at least 1978 when NHTSA commissioned a feasibility study on the issue. In 2005, SAFETEA-LU established a mandate that FMCSA create a National Registry of Certified Medical Examiners. My understanding is that FMCSA is still “studying” and “researching” the issue. The Administration has had 40 years to study and research this – it’s time to start seeing some action. Without this registry, we have untrained and untested examiners conducting these exams.

Earlier this week, the Government Accountability Office released a report revealing the results of work that Chairman DeFazio and I requested on the medical certification process for drivers with serious medical conditions. This report provides excellent – although horrifying – examples of what can happen when examiners aren’t up to speed on FMCSA’s medical requirements. We will hear more about these findings from Mr. Kutz.

This Committee applauds the trucking industry for opening its doors and employing individuals with illnesses and disabilities. If we allowed only individuals in perfect health to drive, we would solve all of our highway congestion problems. But making these allowances has to be done in a way that does not compromise public safety. Right now, there are simply too many defects in FMCSA's medical certification program to adequately protect the traveling public.

I look forward to discussing these important issues with our distinguished panel of witnesses.