

UNITED STATES OF AMERICA

NATIONAL TRANSPORTATION SAFETY BOARD

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In the matter of:

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PUBLIC FORUM ON TRUCK AND BUS

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SAFETY: A DECADE OF PROGRESS

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NTSB Conference Center
490 L'Enfant Plaza
Washington, D.C. 20024

Tuesday,
May 10, 2011

The above-entitled matter came on for hearing, pursuant
to notice at 8:30 a.m.

BEFORE: ROBERT L. SUMWALT, Chairman

APPEARANCES:

ROBERT L. SUMWALT, Forum Chairman

Technical Panel:

RAFAEL MARSHALL, Ph.D., M.P.H., Manager, Truck and Bus
Safety Forum

PETE KOTOWSKI, Investigator-in-Charge, Office of Highway
Safety

JIM LEBERTE, Senior Accident Investigator, Motor Carrier
Safety Specialist, Office of Highway Safety

GARY VAN ETTEN, Motor Carrier Specialist, Office of
Highway Safety

JANA PRICE, Ph.D., Office of Research and Engineering

ROBERT DODD, B.S., Sc.D., Chief, Safety Research and
Statistical Analysis Division, Office of Research and
Engineering

Interested Parties:Industry Table:

TIM BLUBAUGH, Truck Manufacturers Association

DAVE OSIECKI, American Trucking Associations

PETE PANTUSO, American Bus Association

RICHARD SCHWEITZER, National Private Truck Council

State Government Table:

KAREN MORTON, American Association of Motor Vehicle
Administrations

RANDY WEST, Commercial Vehicle Safety Alliance

WILLIAM SCHAEFER, Commercial Vehicle Safety Alliance

Union and Driver Associations Table:

LaMONT BYRD, International Brotherhood of Teamsters

CALVIN STUDIVANT, United Transportation Union

ELLEN VOIE, Women in Trucking

TODD SPENCER, Owner-Operator Independent Drivers
Association

APPEARANCES (Cont.):

Interested Parties (Cont.):

Advocacy Table:

PETER NONIS, American Automobile Association
 HENRY JANSY, Advocates for Highway and Auto Safety
 JEFFREY BURNS, National Transportation Council
 MATTHEW BRUMBELOW, Insurance Institute for Highway
 Safety

Federal Government Table:

BRANDON HILLER, Government Accountability Office
 CLAUDE HARRIS, National Highway Traffic Safety
 Administration
 WILLIAM QUADE, Federal Motor Carrier Safety
 Administration
 STEPHANIE PRATT, National Institute for Occupational
 Safety and Health
 MONIQUE EVANS, Federal Highway Administration

Subject Matter Experts:

Carrier Oversight:

BRYAN PRICE, Federal Motor Carrier Safety Administration
 STEVE KEPPLER, Commercial Vehicle Safety Alliance
 ROB ABBOTT, American Trucking Association
 TODD SPENCER, Owner-Operator Independent Drivers
 Association
 KENNETH PRESLEY, United Motorcoach Association
 NORM LITTLER, American Bus Association

Truck Operations:

LARRY MINOR, Federal Motor Carrier Safety Administration
 STEVE KEPPLER, Commercial Vehicle Safety Alliance
 ROB ABBOTT, American Trucking Association
 TODD SPENCER, Owner-Operator Independent Drivers
 Association

APPEARANCES (Cont.):

Subject Matter Experts (Cont.)

Bus Operations:

ROBERT MILLER, Federal Motor Carrier Safety
Administration

STEVE KEPPLER, Commercial Vehicle Safety Alliance

MICHAEL JORDAN, Martz Trailways

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P R O C E E D I N G S

(8:30 a.m.)

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2
3 CHAIRMAN SUMWALT: Well, good morning, ladies and
4 gentlemen, and welcome to the NTSB's boardroom. My name is Robert
5 Sumwalt and I'm a board member with the National Transportation
6 Safety Board, and it is my distinct pleasure and honor to serve as
7 the chairman for this forum on truck and bus safety.

8 For those of you who are perhaps unfamiliar with the
9 NTSB, let me give you a brief description. We're an independent
10 agency charged by Congress to investigate transportation
11 accidents, to determine the probable cause, and then to issue
12 safety recommendations to prevent the reoccurrence of those
13 accidents. And our goal is to figure out what happened and then,
14 more importantly, figure out why it happened so that we can work
15 to prevent similar accidents in the future.

16 The forum that you are attending that will take place
17 over the next 2 days has three objectives. First, we will review
18 the progress since the NTSB's 1999 and 2000 hearings on truck and
19 bus safety. Secondly, we will discuss current issues and
20 initiatives. And finally, we will identify emerging issues that
21 we should stay on top of over the next 10 years.

22 As for the first objective of the forum, I know that
23 some of you were active in our forums that we held in '99 and
24 2000, and just out of curiosity, let's see a show of hands of
25 those who did participate in those forums.

1 A fair number, and I want to thank you for your
2 participation then and thank you for coming back now. But for the
3 rest of you, I think that you'll find this to be very informative,
4 educational, and I hope that the forum will lead to as many
5 insights as did the previous hearings and forums that we had.
6 During the next 2 days, we'll hear a lot about the successes in
7 truck and bus safety and about areas where improvements are still
8 necessary.

9 Why don't we just start the day by framing the
10 discussions with safety data and talking about some of the
11 accomplishments?

12 In 1999, heavy vehicle-related accidents claimed over
13 5,300 lives and caused more than 176,000 injuries. The fatality
14 rate was .18 per 100 million vehicle miles traveled. Ten years
15 later, in 1999 (sic), the heavy vehicle-related accidents claimed
16 about 3,600 lives, by far the lowest loss of life ever recorded in
17 the FARS database. And even more impressively, the fatality rate
18 in 2009 dropped to only .107 per 100 million vehicle miles
19 traveled, 40 percent less than 10 years earlier.

20 The fatality rate due to heavy vehicle accidents has
21 been dropping steadily since 2005 and I can't help but to believe
22 that this is largely due to the safety efforts of everyone
23 assembled here, and we should take pride in those accomplishments.
24 But at the same time, we must remind ourselves that each little
25 data point in these represents -- each data point in these

1 statistics represents a family member who will never come home to
2 loved ones. We must never forget that. Every time the NTSB sends
3 a Go Team to an accident, we're reminded of how destructive
4 accidents can be to everyone involved and we're also reminded how
5 much more needs to be done to minimize the likelihood of serious
6 accidents.

7 Yesterday marked the anniversary of the May 10th, 1999
8 Mothers Day accident in New Orleans, and since then we've launched
9 over 40 major investigations involving heavy commercial vehicles
10 and we've issued more than 400 recommendations to improve truck
11 and bus safety. These recommendations encompass areas such as
12 data collection, driver fatigue, roadside barrier warrants, bus
13 roof strength, driver distraction, collision avoidance
14 technologies and many more. It is because of our deep involvement
15 with each of these accidents that we are so determined to get each
16 of our safety recommendations implemented.

17 We are joined this morning by a forum of members from
18 the Truck Safety Coalition, individuals who have survived
19 accidents involving commercial trucks, and the family members of
20 those who tragically did not survive.

21 On behalf of my fellow Board members and the NTSB staff,
22 I'd like to offer our deepest condolences for your loss and we are
23 welcomed by your attendance at this forum and we do welcome your
24 attendance at this forum, and we will use this opportunity to
25 ensure that such tragedies never happen again.

1 And this brings us to the second objective of the forum,
2 which is to discuss current activities to improve truck and bus
3 safety. This is where we will dedicate most of our time during
4 the next 2 days. This is arguably a very exciting time for the
5 industry, with several important changes to be introduced and
6 others that are not far behind.

7 The largest change is the advent of FMCA's Compliance
8 Safety Accountability program, better known as CSA. This is a
9 program that we at the Safety Board have long anticipated, and I
10 look forward to learning more about CSA's continued implementation
11 and progress.

12 Other big changes include the New Entrant Safety
13 Assurance Process, the proposed changes to the hours of service,
14 and the proposed electronic onboard recorders regulation.

15 Later this afternoon we will discuss bus operations and,
16 in particular, low-cost carriers. This is a growing industry that
17 has created a rule sots (ph.) of sorts in inner-city bus travel.
18 However, recent accidents have made many wonder whether this
19 segment of the industry deserves further scrutiny.

20 Now, tomorrow morning, we will start at 8:00 in the
21 morning and we will cover a variety of important topics including
22 driver safety, driver health, and emerging technologies. We
23 frequently hear that over 90 percent of accidents can be
24 attributed to operator error, but many of these errors originate
25 from operational and environmental factors that place our drivers

1 at risk. In other words, a large majority of accidents can be
2 prevented by focusing on the needs of our drivers. The session on
3 driver safety will explore driver risk factors and other barriers
4 affecting safety. That session will be followed by one on driver
5 health.

6 Driving, as many of you know, is a difficult profession.
7 Most long-haul drivers are paid by the mile, meaning that they
8 have little time to exercise and to eat a healthy meal, sort of
9 like being an NTSB Board member. Many drivers suffer from health
10 problems that can potentially put themselves at the traveling
11 public's risk. And this is something that I saw firsthand in
12 September when I traveled with our Go Team to Bethesda, Maryland
13 and saw an accident that involved the driver who had a fatal heart
14 attack.

15 There are several initiatives in this area to improve
16 driver health, and let's use this forum to share ideas and
17 experiences to reduce the risk of driver safety and health. And
18 tomorrow we will end with two sessions on emerging technologies,
19 one on crash avoidance and one on crash mitigation.

20 When you think about it, it's truly amazing how far
21 technology has come in the past decade. Antilock braking has
22 provided the foundation for a host of crash avoidance
23 technologies, crash avoidance systems. Several carriers have been
24 in the forefront, equipping their vehicles with these
25 technologies.

1 In our final session, we'll explore crash mitigation
2 technologies, technologies that can reduce the risk of death and
3 injury for those involved in an accident, such as advances in
4 passenger restraints, vehicle crash-worthiness, and vehicle
5 underride protection systems, as well as highway barrier systems.

6 And the third and final objective of the forum is to
7 discuss emerging issues that will require all of your attention
8 within the next decade. This is probably the most difficult of
9 all of our objectives, yet gathered here in this room are some of
10 the most knowledgeable people in the transportation industry. And
11 I'm sure that many of you have insights on the direction that we
12 need to go in order to reduce further truck and bus related
13 accidents.

14 The number of trucks and buses on the roads continues to
15 increase year over year, as does the number of passenger vehicles,
16 and all of these vehicles will be sharing space on an aging
17 roadway infrastructure that is already over capacity and straining
18 under increasing demands. Clearly, continued improvement in
19 safety under these conditions will be challenging, but I certainly
20 believe that we're up for the challenge.

21 Now, I'm sure how you will -- you're probably wondering
22 how are we going to cover all of these issues in 2 days? Well,
23 the simple answer is, we can't. There's a lot to be covered. So
24 what we're going to do is we are going to keep the docket open
25 until June the 15th so that the parties can submit additional

1 information. And I hope that when we leave tomorrow afternoon, we
2 will leave with a better understanding of everyone's stake in
3 these issues so that we can continue to work together to minimize
4 the safety of risk for all involved.

5 And finally, I'd like to mention that tomorrow, May
6 the 11th, is when the United Nations kicks off a Decade of Action
7 for Road Safety. Every year, around the world, 1.3 million people
8 are killed in roads and 50 million are injured in roadway crashes.
9 That's phenomenal. 1.3 million people killed on the roadway and
10 50 million injured in crashes across the world every year.
11 Roadway crashes are the leading cause of death among those 40
12 years and younger, and projections indicate that death and
13 injuries will increase by about 65 percent over the next 20 years
14 unless there's a global commitment to safety and prevention.

15 So I'd like to commend the United Nations, the World
16 Health Organization, and organizations such as Make Roads Safe for
17 their efforts to improve global road safety. We are all part of a
18 bigger fight and we must all do what we can to make travel safer
19 for ourselves and for our children.

20 I'd like to provide some brief introductions in the
21 audience. We are honored to have FMCSA administrator, the
22 Honorable Anne Ferro. Anne, thank you. Welcome.

23 And joining me on the dais -- I know that you're
24 thinking that these guys are sitting up here just for their pretty
25 faces and that's only partially the reason they're here. In

1 addition to that, they're here because of their extensive
2 knowledge of transportation safety issues.

3 To my right, we have Dr. Rafael Marshall, who is the
4 project coordinator and the coordinator of this forum, and he is
5 the forum officer for the next 2 days. We have Mr. Pete Kotowski,
6 who is an investigator-in-charge for the NTSB. To my far left is
7 Gary Van Etten, motor carrier specialist. And immediately next to
8 me is Jim LeBerte, senior accident investigator and motor carrier
9 safety specialist.

10 They'll be joining me on the Technical Panel this
11 morning, but throughout the course of the next 2 days, we'll be
12 joined by, up here on the dais, additional NTSB staffers and
13 they'll rotate off and on. And so I'll introduce them now so
14 you'll have an idea of who they are so you can be on the lookout
15 for them.

16 From the Office of Highway Safety, we have Dr. Robert
17 Molloy, Chief of the Report Development Division; Dr. Jana Price,
18 Senior Human Performance Investigator; Michele Beckjord, Senior
19 Survival Factors Investigator and Project Manager. You all can
20 stand and make yourselves recognized. We have Rob, Jana, Michele.

21 Dennis Collins, Senior Accident Investigator; Jennifer
22 Morrison, Vehicle Factors Engineer; Dr. Tom Barth, Survival
23 Factors Investigator; and David Rayburn, Senior Highway
24 Investigator.

25 And from the Office of Research Engineering, Dr. Robert

1 Dodd, Chief of the Safety Research and Statistical Analysis
2 Division; Dr. Kristin Poland, Senior Biomechanical Engineer in the
3 Vehicle Performance Division; and Shane Lack, Senior Mechanical
4 Engineer in the Vehicle Performance Division.

5 We also will use a party forum, a party process, for
6 this forum. Seated before you are parties to this forum and each
7 of the parties has extensive knowledge and experience in truck and
8 bus safety. The way I look at it is that the parties are selected
9 to make sure that we are asking the right questions, to make sure
10 that we are asking deep, probing questions about the relevant
11 issues. And so they will be joining us to ask questions of our
12 subject matter experts on each panel. So in addition to the
13 Technical Panel asking questions, we'll also have the parties who
14 will be questioning as well.

15 So why don't we go ahead and introduce -- there are
16 several parties seated at each table, so why don't we just start
17 right up here on the very front. If you can, if you will, go
18 around each table, introduce yourself and the party that you
19 represent, and please use the microphone. I thought we'd have a
20 handheld mike, but apparently it's not working.

21 MR. BLUBAUGH: Hi, my name is Tim Blubaugh. I'm here
22 with the Truck Manufacturers Association here at the party table
23 for -- the industry party table.

24 MR. OSIECKI: Good morning. My name is Dave Osiecki.
25 I'm with the American Trucking Association and I appreciate the

1 opportunity to be here. Thank you.

2 MR. PANTUSO: Good morning. I'm Pete Pantuso with the
3 American Bus Association. Thank you.

4 MR. SCHWEITZER: And I'm Rick Schweitzer representing
5 the National Private Truck Council.

6 CHAIRMAN SUMWALT: Thank you very much.

7 So that's our industry table. Next is the government
8 table.

9 MR. HARRIS: Claude Harris, National Highway Traffic
10 Safety Administration.

11 MR. HALLER: Brandon Haller with the Government
12 Accountability Office.

13 MR. QUADE: Bill Quade with the Federal Motor Carrier
14 Safety Administration.

15 MS. PRATT: Stephanie Pratt with the Centers for Disease
16 Control and Prevention, National Institute for Occupational Safety
17 and Health.

18 MS. EVANS: And Monique Evans with the Federal Highway
19 Administration.

20 CHAIRMAN SUMWALT: Thank you.

21 I guess back in the corner we have the -- is that unions
22 and drivers table? I'm sorry, I can't --

23 MR. BRUMBELOW: This is the advocates table. I'm --

24 CHAIRMAN SUMWALT: Advocacy table, thank you.

25 MR. BRUMBELOW: -- Matthew Brumbelow with the Insurance

1 Institute for Highway Safety.

2 MR. BURNS: Jeff Burns with the Truck Safety Coalition.

3 MR. JASNY: Good morning. I'm Henry Jasny representing
4 Advocates for Highway and Auto Safety.

5 MR. NONIS: And Pete Nonis with AAA.

6 CHAIRMAN SUMWALT: Thank you.

7 Now we would have the unions and driver associations
8 table.

9 MR. STUDIVANT: Calvin Studivant representing the United
10 Transportation Union.

11 MS. VOIE: Ellen Voie, Women in Trucking Association.

12 MR. BYRD: I'm LaMont Byrd representing the
13 International Brotherhood of Teamsters.

14 CHAIRMAN SUMWALT: Thank you.

15 And state governments.

16 MR. WEST: Okay. Randy West, the Commercial Vehicle
17 Safety Alliance.

18 MS. MORTON: Good morning. I'm Karen Morton with the
19 American Association of Motor Vehicle Administrators.

20 CHAIRMAN SUMWALT: Are there any other party members
21 that are in the audience who have not come forward?

22 (No response.)

23 CHAIRMAN SUMWALT: Okay, thank you.

24 MR. SPENCER: My name is Todd Spencer. I'm one of the
25 panelists, but I'm also one of the party representatives over at

1 the table. I noticed LaMont just switched my name place and I'm
2 not sure I'm comfortable with him sitting behind me.

3 (Laughter.)

4 CHAIRMAN SUMWALT: We'll have the record note that.

5 MR. PRESLEY: And Ken Presley with the United Motor
6 Coach Association.

7 CHAIRMAN SUMWALT: Thank you.

8 MR. LITTLER: Norm Littler with the American Bus
9 Association.

10 MR. KEPPLER: Steve Keppler, Commercial Vehicle Safety
11 Alliance.

12 MR. ABBOTT: I'm Rod Abbott with the American Trucking
13 Association.

14 MR. SPENCER: And again, I'm Todd Spencer with the
15 Owner-Operator Independent Drivers Association, small business
16 truckers. Our members are actually evident and prominent in every
17 section of trucking, including labor, motor carrier, management,
18 from small to pretty good size carriers, actually.

19 MR. PRICE: And I'm Bryan Price with the Federal Motor
20 Carrier Safety Administration.

21 CHAIRMAN SUMWALT: All right, thank you. We welcome you
22 all and we're delighted you're here, and we will be relying
23 extensively on your expertise and good probing questions.

24 So the way we've set it up -- and we met in this room
25 yesterday with the party members. Each party spokesperson for

1 each table will rotate each panel so that they can -- everybody
2 can have the opportunity to be a spokesperson. And so that's the
3 way we'll do that.

4 Why don't we just talk about a few housekeeping notes?
5 As a reminder -- I'll follow my own lead here. And if you will
6 silence these devices?

7 As far as emergency exits, as you know, there is some
8 construction going on out front, so there are a couple of exits
9 here, around this side and around this side. That takes you
10 farther into the building. It takes you into a maze of hallways.
11 If you need to get out of the room, that will get you out of the
12 room, but it'll get you farther into the building, so keep that in
13 mind.

14 If you need to get out, go back out through the doors in
15 which you came and if you make either a left or right turn when
16 you hit the sheetrock, you can keep going straight and that will
17 take you into a garage. I've asked our managing director to make
18 sure that some signs are put there because it's not clear that
19 that is an exit, with the construction. So if you go straight to
20 the sheetrock and then head like you're going to the stairways
21 that you came down and keep walking, there's a door there and that
22 will actually take you into a garage and then you can find
23 daylight and head out of the garage.

24 We've got agendas of the forum. They're on the table
25 back in the lobby area there. And the agenda along with the

1 biographical information of the invited participants and a
2 description of the parties are also posted on the NTSB's website,
3 www.nts.gov.

4 I want to emphasize that the forum is a non-adversarial
5 sort of proceeding. We really want to -- again, we want to ask
6 good, probing questions but it's not to really stand up and grill
7 a witness or our subject matter experts. Ask good, hard questions
8 but let's keep it collegial. The discussions are intended to find
9 solutions in support of working together towards a common goal of
10 improving highway safety.

11 We have a very full agenda and we will certainly
12 appreciate your cooperation in keeping us on schedule. We ask the
13 panelists to respect the time limits. As we said yesterday, each
14 party table will have 10 minutes per questions, per round, and I
15 think there's a timing light, yeah, right out there. So police
16 yourselves, 10 minutes per table, and if necessary, we can in some
17 occasions do a follow-up round, but I'd like for the follow-up
18 round to be the exception rather than the rule.

19 Our purpose is really -- I've got a balancing act.
20 We've gathered here to get good information, that's why we're
21 here. But also, we've got to keep a semblance of order here and
22 keep us on schedule, so let's keep that in mind.

23 So I think we're ready to begin and, Dr. Marshall, would
24 you please introduce the first panel?

25 DR. MARSHALL: Okay. We begin with a discussion on

1 carrier oversight where we'll examine government determination of
2 carrier fitness, including the new entrance screening process and
3 other federal, state, and industry oversight initiatives.

4 Our Technical Panel members for the session are Pete
5 Kotowski, Gary Van Etten, and Jim LeBerte.

6 Mr. Kotowski, would you please introduce your subject
7 matter experts?

8 MR. KOTOWSKI: Thank you. On today's panel, the Session
9 1 panel, consists of Mr. Bryan Price from the Federal Motor
10 Carrier Safety Administration; Mr. Todd Spencer from the Owner-
11 Operators Independent Drivers Association; Mr. Rod Abbott from the
12 American Trucking Association; Mr. Steve Keppler from the
13 Commercial Vehicle Safety Alliance; Mr. Kenneth Presley from the
14 United Motor Coach Association; and Mr. Norm Littler from the
15 American Bus Association.

16 Mr. Price, do you have a presentation or statement you'd
17 like to open with?

18 MR. PRICE: I do. Thank you very much.

19 Okay. Thank you for the opportunity to talk about what
20 we think are three very, very important initiatives in terms of
21 carrier oversight. I'm going to touch very briefly on three topic
22 areas, the first of which is our New Entrant Safety Assurance
23 Program. I'm going to speak a little bit about a vetting process
24 that we have established specifically for passenger carriers and
25 household goods carriers. And then also, I'm going to give a

1 brief overview of our Compliance, Safety, Accountability
2 initiative.

3 Okay, in terms of our New Entrant Safety Assurance
4 Program, this is something that was mandated by Congress just a
5 little over 10 years ago, and essentially what this program is
6 designed to do is to educate new motor carriers as they come into
7 the industry, make sure they're familiar with all the safety
8 requirements and make sure that they operate safely.

9 The program that we have established essentially sets up
10 an 18-month monitoring program and within that first 18 months of
11 operation, we go out physically onsite to these new entrant
12 carriers' places of business and conduct what we refer to as a new
13 entrant safety audit.

14 Okay, kind of complementing the new entrant program, a
15 separate and distinct process we have set up, we refer to as our
16 vetting process. Now, what the vetting process is established to
17 do is make sure that what we refer to as chameleon carriers aren't
18 reincarnating and coming into the business as new operations.

19 So what we essentially have set up is a process whereby
20 where a passenger carrier or a household goods carrier, when they
21 apply for authority to operate with the FMCSA, we take that
22 application, effectively tell the motor carrier they're not
23 allowed to operate until we assure ourselves, by looking at
24 various databases, that they are fit, willing, and able to operate
25 and that they aren't, in fact, some other carrier that's

1 previously had a history of problems with our agency.

2 Okay, now with respect to the Compliance, Safety,
3 Accountability model, this is really broken down into three
4 components or three program areas. We have a new Safety
5 Measurement System that allows us to better prioritize our
6 resources, determine who the high-risk motor carriers are.

7 Along with that, we have a broader array of
8 interventions we've begun implementing. And essentially what this
9 is, is just alternatives to the full-blown compliance review that
10 allows us to get to more motor carriers, to get to more motor
11 carriers sooner.

12 And then the last piece of the Compliance, Safety,
13 Accountability model is a new safety fitness regulation and that's
14 the one piece of the CSA model that's going to require us to do a
15 rulemaking.

16 In terms of the new prioritization or status tool, this
17 new Safety Measurement System, this is something that we rolled
18 out nationally and implemented across the country in December of
19 last year. And we look at it as a significant improvement over
20 the prior system in that it's allowing us to better identify who
21 the high-risk carriers are; gives us a more refined picture also
22 of what a motor carrier's specific program areas are. And I
23 expect we'll have some dialogue during this session on some of the
24 details of that system.

25 This is just a screenshot to give you an idea of some of

1 the information that's publicly available. In this new
2 measurement system, we have motor carrier performance broken down
3 into different areas we call BASICS, or Behavior Analysis Safety
4 Improvement Categories. And one of the things you might note is
5 that the majority of these BASICS or these areas we evaluate motor
6 carrier performance in are driver related, because at the end of
7 the day, our research is telling us, obviously, that driver
8 behavior/driver performance is a big contributor to what's causing
9 the crashes out there.

10 Okay, the second piece of the model, the new
11 interventions toolbox, again, this is a piece of the CSA model
12 that we've implemented significant elements of, one of the most
13 significant of which is automated warning letters that we kicked
14 off earlier this year that more or less puts carriers on notice
15 when they're having safety performance problems. They're intended
16 to get to a set of the industry or a subset of industry that we
17 otherwise wouldn't have the resources to get to.

18 And then you'll see also, we have our expanded toolbox
19 for our field staff to touch upon areas like focused compliance
20 reviews and what we call the safety management cycle where we're
21 delving a little deeper into carrier operations to not just look
22 at what their violations are, but to determine why those
23 violations are occurring so that we can offer more constructive
24 recommendations.

25 And then lastly, the last piece of the CSA model --

1 again, this is the piece that's going to require a new regulation.
2 We expect to publish a notice of proposed rulemaking later this
3 year, and what this will effectively do is allow us to update
4 carrier safety ratings on a more regular basis and make better use
5 of performance data. Thank you.

6 MR. KOTOWSKI: Mr. Spencer, do you have a presentation
7 or statement?

8 MR. SPENCER: I do. I do.

9 First off, I want to mention that my background is
10 trucking and pretty much dedicated my entire career to this
11 particular profession. For 7 years, I was an over-the-road driver
12 and while I don't do it often, I still do it occasionally so I
13 make certain I know how.

14 You know, as it's been mentioned here, most safety
15 issues actually involve drivers, and the key to a safe operation
16 or an unsafe operation is going to generally be the ability of
17 drivers and the skill they represent. You know, one of the things
18 that -- one of my biggest frustrations right now that I can tell
19 you that's shared by the broader driver community right now is
20 that this is an industry that has come off its very best safest
21 year in history, since we've -- you know, since we've started
22 keeping data. I mean, trucking has absolutely never been safer.

23 The key to that is drivers, and while I know pretty much
24 throughout the transportation community and the enforcement
25 community people are patting themselves on the back talking about,

1 wow, we did a great job, whether it's enforcement or whatever,
2 everybody gets the credit. But there's really only one place that
3 the credit belongs and that's with the drivers that are out there.
4 Those men and women do it, they do it every day, they do it for
5 far less compensation than they certainly deserve and they do it
6 without hardly, hardly any recognition of just how good they are
7 at what they do.

8 And you know, we, all of us Americans, the saying
9 "Without trucks, America stops" is absolutely true. Every one of
10 us couldn't exist, do what we do, we couldn't survive, we couldn't
11 survive more than a few weeks without the trucks out there. So at
12 every opportunity we need to be recognizing those people and
13 encouraging the good ones, letting them know that they're
14 appreciated.

15 When it comes to -- for our members and the vast
16 majority of drivers, these are experienced people. They're good
17 at what they do. They like what they're doing. What they don't
18 have, in most instances, is any kind of a reasonable support
19 system, any kind of a reasonable support system that kind of takes
20 care of their needs, that allows them to do their job safely.

21 When I look at so many of these initiatives, we have
22 lots of activity, but we really have very little accomplishment.
23 So much of what we're doing really isn't focused in the direction
24 that it should be. The Large Truck Crash Causation Study that
25 some of us complained for years that there was no effort made to

1 actually look at what's causing crashes, that study, when it was
2 finally done, is basically junk. It's worthless in terms of
3 actually identifying things that could be used to improve motor
4 carrier safety. When we set up these kinds of functions, we focus
5 on the actions of truck drivers, but any analysis of accident data
6 shows the leading cause of truck crashes is the other drivers, the
7 drivers they share the roads with.

8 Now, we've just come off an unprecedented year for
9 safety performance for commercial truck drivers. That's because
10 there were fewer and fewer new drivers put out there on the road.
11 This is an industry, trucking is an industry that goes through
12 drivers like oats go through a horse. Driver turnover is going to
13 always be linked to higher accidents, always. There's no
14 substitute for experience.

15 It's really abysmal that this is an industry that
16 there's still no training required for it for commercial drivers,
17 none whatsoever. You know, it's an economic issue to some. It's
18 very much a safety issue out there on the road.

19 Looking at CSA, I've gotten some heat for saying I think
20 this is a much more intelligent way for the agency to go about
21 doing its job, to focus on what it needs to be focused on. It's a
22 work in progress, lots of problems that we see. For the first
23 time what CSA does is it does put the onus on motor carriers to be
24 responsible for the people they put behind the wheel. You know,
25 for eons they simply said, well, we got rid of the problem; we

1 fired the driver. And they're replaced by another one that'll
2 make the same mistakes, that's untrained or under-trained, and
3 doesn't have a support system to do a good job.

4 We see the positive for -- it is performance based. We
5 also see -- again, it's a work in progress. We're not sure FMCSA
6 is looking at the right things, the violations are weighted in the
7 right way. We see major problems out there on the road with the
8 quality of inspections, the quality, the data; lots of bad, bad
9 inspections and drivers getting bad marks on their records for
10 basically junk. I'm almost out of time.

11 New entrants, that whole process is a total waste of
12 time and total resources. I mean, how ludicrous is it that we're
13 going to give somebody permission to operate commercial vehicles
14 throughout the country and sometime between now and the next 18
15 months we're going to go out and make a determination whether or
16 not they can do that safely? That needs to be done upfront.

17 The vetting process that was mentioned for motor coach
18 operators and household goods, guys, that's got to be done upfront
19 and it's inexcusable that it's not. I mean, we have resources
20 that need to be dedicated in that area that are currently in other
21 areas that simply aren't productive.

22 And I'm out of time, so I'll be quiet.

23 MR. KOTOWSKI: Thank you, Mr. Spencer.

24 Mr. Rob Abbott.

25 MR. ABBOTT: Yeah, I have a PowerPoint presentation I'd

1 like to --

2 MR. KOTOWSKI: Yes, sir.

3 MR. ABBOTT: If we could. Thank you.

4 And my name is Rob Abbott. I'm the vice president of
5 safety policy for the American Trucking Association. Obviously,
6 my role is to promote and defend the interests of the trucking
7 industry as they relate to safety issues.

8 With respect to carrier oversight, I really want to
9 touch on three areas: One, of course, CSA new entrants; and then
10 I want to talk a little bit about some next steps that I think are
11 logical and appropriate for continued improvement in truck safety.

12 With respect to CSA, I'd like to point out that ATA is
13 very supportive of CSA, and although we're supportive, we are
14 advocating for improvements in the program. We think the program
15 has many positive attributes and I think sometimes we don't often
16 put the emphasis or focus on those positive attributes that we
17 need to. One is that, of course, it focuses more on safety
18 performance and paperwork. We've been critical of the agency's
19 safety rating process over the years because it focused on
20 paperwork violations, and this will primarily put the emphasis on
21 roadside inspections and crashes.

22 We also think it's appropriate that it will focus
23 limited resources where they're needed. As you know, under the
24 current safety rating model, they do a compliance review and it's
25 a comprehensive review and includes many areas that aren't known

1 or thought to be deficient. So by focusing on those areas that
2 are known or thought to be deficient, the agency can more
3 effectively use its resources and potentially visit up to 40
4 percent more carriers. And it'll also, eventually, when they're
5 completed with the safety fitness determination rulemaking,
6 provide real time safety fitness assessments of carriers.

7 Current criticism of the program now is that you can
8 have a safety rating that was issued last time you had a
9 compliance review, which could be up to 15, 20 years ago, perhaps.
10 Really, it snaps you on a time and doesn't tell us anything good
11 or bad about the motor carrier today.

12 So those are some of the positive attributes. With
13 respect to improvements that are needed, certainly one that we've
14 been very vocal about is the need for crash accountability
15 determinations. As you well know, most of you, the system looks
16 at all crashes regardless of accountability or preventability,
17 which we don't think necessarily presents an accurate picture for
18 most motor carriers in terms of their likelihood of future crash
19 involvement, particularly a carrier who was rear-ended on several
20 occasions. That, to me, doesn't say a lot about their propensity
21 to be involved in a future crash.

22 Some of the severity weights assigned to violations, we
23 believe could stand some improvement because they are not
24 necessarily tied to crash risk and the ultimate goal of the
25 program is to reduce crashes. And so we think there is some

1 tweaking that could be done there with respect to violation
2 severity weights.

3 And, of course, Todd referred to some of the data
4 quality issues and we certainly share the concern about those with
5 respect to consistency in the data from state to state, the
6 ability of carriers to challenge and correct bad data, and the
7 need to get better data from the states, more complete data, and I
8 can talk a little bit more about that today. But, on balance, we
9 think it's a very positive program that holds a lot of promise
10 with some improvement.

11 With respect to new entrants, while we support the
12 program, we think that the program should certainly be
13 strengthened. New entrants, according to FMCSA data and data done
14 by Volpe, research studies show that new entrants have higher
15 violation and crash rates. And the agency recently acknowledged
16 that as a result of those new entrant audits, that they have a
17 very high initial failure rate on those new entrant audits and
18 they have a high revocation rate of their authority. So that
19 tells us that it's important to intervene much sooner than 18
20 months. We know the average is less than 18 months, but obviously
21 many are left to the 18-month mark.

22 And so we think a couple of things need to happen there.
23 One is that there needs to be some online training or some
24 training of some sort and an exam before they're allowed to
25 operate in commerce. And then we need to have that initial safety

1 audit sooner, perhaps at the 6-month mark.

2 Finally, with respect to next steps, I just think that
3 we need to talk a little bit about how we're tied to a particular
4 model, and that is writing new rules and enforcing them. As the
5 old saying goes, you keep doing what you're doing, you're going to
6 get what you've got. And I think in this area, we could frustrate
7 ourselves a little bit by saying, look, let's write new rules and
8 enforce them, when we know the agency has very limited enforcement
9 resources. They only have the ability to audit a small percentage
10 of motor carriers and they only have data on approximately half of
11 them.

12 So we think that some of the tools that could be
13 employed to leverage the interest and willingness of the industry
14 to improve safety are things like an employer notification system,
15 which would provide employers with more timely notification of
16 moving violations by drivers. Driver moving violations certainly
17 have predictive value. Having timely notification, according to
18 DOT's own study, would prevent thousands of crashes and so we're
19 advocates of that.

20 We're advocates of the drug and alcohol test
21 clearinghouse that would close a known loophole in the system to
22 prevent drivers who have tested positive and have circumvented the
23 evaluation and treatment program from escaping the consequences of
24 their actions. We'd like to see some incentives to deploy
25 advanced safety technology so we can test those in the real world

1 laboratory.

2 And then, finally, we think that the government could
3 play a role in helping us to identify best practices that are most
4 effective in reducing crashes. Thank you.

5 MR. KOTOWSKI: Thank you, Mr. Abbott.

6 Mr. Keppler, do you have a presentation to offer?

7 MR. KEPPLER: I do. If we could pull up the
8 presentation?

9 Thank you very much for the opportunity to be here
10 today. CVSA represents the enforcement agencies throughout North
11 America. Core activities involve supporting the roadside
12 inspection program, certification of the officers that do that
13 work, development of training in cooperation with FMCSA, as well
14 as a number of other activities related to outreach and education
15 of a number of the areas targeted towards, for example, brake
16 safety, driver safety, training in other areas that really help
17 supplement our mission to save lives.

18 I have a number of things that I'd like to cover, but in
19 the time allotted I'll try and touch on the high points.

20 A lot comes down to, out of the gate, enforcement
21 operational efficiency and effectiveness. There are some things
22 we think that could be changed with respect to the Motor Carrier
23 Safety Assistance Program. States are being challenged to do more
24 with less. Administrative burdens on grants have really grown and
25 that's an area we think needs some improvement, particularly with

1 respect to maintenance of effort requirements, they can be a very
2 big drag on the states in their ability to improve on their
3 programs and really design innovative strategies.

4 We're supportive of CSA and we think it allows a lot of
5 good, positive attributes, allowing to touch more carriers, being
6 more surgical in how enforcement's doing their work, being more
7 performance based. We do think from a regulatory perspective in
8 streamlining, it would be more effective with smart regulation, to
9 review the regulations on a periodic basis to ensure they're
10 meeting their intended purpose, as well as to ensure they're
11 consistent with policy guidance and also interpretive guidance in
12 the regulations.

13 Technology is a key enabler for enforcement and we think
14 that that's something that's very important moving forward,
15 allowing us to be a force multiplier in the field, extending our
16 reach. Training is critical for moving forward.

17 The new entrant program, we're very supportive of that
18 program. It's had an important and critical impact on safety.
19 States value this program both in terms of its ability to touch
20 more carriers and provide the education. And a number of states
21 are moving towards intrastate programs, some of the things Rob
22 indicated. Several states have online testing and education
23 programs. One of the issues has been how we deal with the intent
24 carriers in terms of those that are intrastate moving to
25 interstate. We also believe the program ought to be 100 percent

1 funding program continuing to move forward and be a pay-as-you-go
2 program.

3 Accountability, safety exemptions, as well as size and
4 weight, drug and alcohol testing, some of this I'll get into
5 later. We believe there needs to be more accountability
6 throughout the supply chain for those that have decisions that
7 impact on safety and that's an area that needs a lot of work.

8 There are a number of exemptions and exceptions to
9 regulations that create challenges for enforcement, to ensure
10 uniformity and consistency. That's an area we think needs some
11 additional work.

12 There are a number of drivers that are driving that
13 shouldn't be. Accountability on the drivers. Rob talked about
14 the drug and alcohol clearinghouse. We're certainly supportive of
15 that program. Medical standard, revising medical standards;
16 standing up the registry; a number of things that we think can
17 provide more accountability on drivers as well as the carriers
18 that are employing them.

19 Data timeliness, quality and reciprocity. This is a big
20 issue. CSA really is driving this. It's something we've been
21 focused on for a number of years but really has become acute of
22 late. We recognize this is a challenge. We, I think, are working
23 collaboratively with FMCSA to move us in the right direction, as
24 well as the industry.

25 Quality and accuracy is key. Our states are being

1 measured continuously on their ability to make sure data is
2 quality, is timely and is accurate. Accuracy rates are very, very
3 high, in the upper 90 percentiles. So in terms of timeliness in
4 reporting that data, it's certainly something that's working out
5 very well.

6 The vetting process we think is absolutely critical. As
7 soon as that carrier enters the business, we need to ensure that
8 that vetting process is being applied across the board to ensure
9 that we're checking out, to really identify those chameleon
10 carriers as they enter the system, making sure that we get the
11 unscrupulous operators out of there before they get into business
12 because data shows they are causing crashes.

13 Another thing with respect to that, we need to
14 continually look for alternate data sources to supplement what is
15 being put into the system today, ensuring that we're looking at
16 things like IFTA and RP (ph.) data; state data, like state
17 -- Secretary of State data, to ensure, as we're going through this
18 vetting process we're looking at all the resources we have at our
19 fingertips to identify the unscrupulous operators and take action
20 on them.

21 At the end of the day, all the data comes down to
22 roadside. All this data that's being collected and submitted to
23 the information systems ultimately drive what happens on the road.
24 We need to ensure we're providing the tools to enforcement to do
25 their jobs effectively and in a timely fashion and they're focused

1 on the right things. We believe that we've made a lot of strides
2 in this process of late. We think CSA's going to continue to move
3 that process in the right direction.

4 The last thing I'll note here is on safety culture. We
5 do believe that safety is a culture -- it's a habit; it's not a
6 fad -- and those carriers that live it day in and day out are not
7 only more safe but they're more profitable. So we think that
8 that's something we continually need to do and promote within the
9 industry and the traveling public. Thank you very much.

10 MR. KOTOWSKI: Thank you, Mr. Keppler.

11 Mr. Presley, do you have a presentation to offer?

12 MR. PRESLEY: Yes, sir. I do.

13 MR. KOTOWSKI: Okay.

14 MR. PRESLEY: First I'll start with who is the United
15 Motorcoach Association? We were established in 1971. We have
16 approximately 900 bus and motor coach companies in North America
17 as members, over 300 associate industry suppliers, and 82 percent
18 of our members have been members over 3 years and over half of
19 that number have been members over 10 years.

20 What type of business do we do? The vast preponderance
21 of the motor coach industry is charter; 98.5 percent of our
22 business is charter business. As you can see, we have a spread of
23 business here, but the scheduled service is 18.6 percent.

24 And who are our passengers? The vast majority of our
25 passengers, 41 percent, is students; 29 percent is senior

1 citizens; and 7 percent is military.

2 Fifty-four percent of our members advise us they are
3 aware of illegal operators in their area and when we ask what
4 makes these carriers illegal, 36.3 percent of them say they have
5 no operating authority; 75.8 percent, poor maintenance; 34.1
6 percent of those carriers have improper insurance; and a
7 particular concern is 68.1 percent violating hours of service.

8 When we ask our members what is their single most
9 important concern, they tell us that driver training -- our
10 members largely feel like their access to resources in improving
11 driver training is lacking, so we continue to work on that and
12 improve on that.

13 When we ask our members is fatigue a concern, 62.7
14 percent of our carriers responded positively that it was a
15 concern. But we were pleased to find out that 62.4 percent of
16 them have a formal fatigue management program so while they are
17 concerned about fatigue, they are answering that fatigue with a
18 formal management program.

19 And then we ask our members should the current hours of
20 service regulations be changed, 84 percent say no, they're very
21 comfortable with the current hours of service, they're adapted to
22 it, and the tours seem to be largely adapted to the current hours
23 of service.

24 Our reaction to CSA 2010, despite all the alerts and the
25 presentations that were given on 2010, all of sudden they are very

1 nervous. They found out that minor violations count and they're
2 dealing with it. It truly is beginning to change behaviors. But
3 we do have concerns.

4 Will CSA 2010 reveal passenger carriers that have an
5 increased propensity for crashes? Will there be adequate vehicle
6 driver inspections of passenger carriers? We still are concerned
7 that there will be enough inspections.

8 And do the values assigned directly correlate with the
9 propensity for a crash? We want the owners better connected with
10 these violations.

11 Is the safety management system adequate to aid
12 consumers in selecting a safe passenger carrier? We do think
13 there needs to be better uniformed training for the inspectors.

14 We're concerned about the Data Q process right now. Is
15 it fair and is it efficient?

16 And we are concerned about random en route inspections.
17 I know CSA very much wants this, but we're concerned about
18 passenger safety, we're concerned about keeping schedules, we're
19 concerned about comforts of the passengers and we're concerned
20 about passengers with disabilities.

21 We're also concerned about the current discussions on
22 new entrants. New entrants basically face a chronological
23 challenge when they're starting their business and it's a case of
24 the chicken or the egg. Generally, a new carrier, a new entrant,
25 they have to have authority before they can purchase a vehicle and

1 that's a lender-driven thing. They have to have the vehicle.
2 They have to have the authority before they can purchase
3 insurance. They have to have authority before they can screen and
4 hire drivers. And, of course, they have financial obligations
5 that are coming on very quickly.

6 With the -- let's see, I'm running out of time, so I'm
7 going to skip over this.

8 The current requirements are performance standards and
9 we're concerned that those standards will not be able to
10 adequately evaluate those standards until there's been some
11 operational standards. UMA recommends that new entrant passenger
12 carriers complete a minimum of classroom or some equivalent of
13 training regarding the Federal Motor Carrier Safety Regulations
14 and they obtain a certificate of completion and then they pass an
15 exam demonstrating proficiency with the Federal Motor Carrier
16 Safety Regulations.

17 And I see I'm running out of time, so I'll stop here.

18 MR. KOTOWSKI: Thank you, Mr. Presley.

19 Mr. Littler.

20 MR. LITTLER: Thank you. I have a PowerPoint. Thank
21 you.

22 I'm Norm Littler, Vice President of Safety, Security,
23 and Regulatory Programs for the American Bus Association and the
24 executive director of the Bus Industry Safety Council. The
25 PowerPoint here is somewhat lengthy, but I've been assured it will

1 be available on the NTSB website, so I'm going to move through it
2 quickly and try and summarize as much as I can.

3 To start with some of -- the subject of this particular
4 panel, we support CSA and the new entrant programs, but we do
5 share some of the same concerns as the trucking industry and as
6 Mr. Presley has pointed out.

7 We are and have been very, very supportive of the
8 enhanced and stepped-up passenger carrier enforcement efforts over
9 the past several years and we've seen some, I think, very good
10 results coming out of that.

11 Start out with a few facts. The commercial passenger
12 carrier industry right now, the bus industry, carries in excess of
13 750 million passengers a year and it's a very safe industry.
14 Until the late 1990s we averaged between 6 to 10 fatalities a
15 year; still too many. We were trying to drive those numbers down,
16 but they were consistent for 2 decades.

17 At the end of the '90s, we saw that starting to go the
18 wrong way and start to increase. We saw the frequency and
19 severity of bus crashes going up. We believe that all of these
20 crashes are preventable.

21 We're going to appeal here for a zero tolerance campaign
22 against unsafe bus drivers and, of course, unsafe bus companies.
23 We have seen that there's, really, a skewed percentage of numbers
24 associated with these kinds of companies when they're involved in
25 a crash. These tragedies we're speaking of were all preventable.

1 The following list here, if we look at them from 1999 to
2 2008, we have 15 companies out of the 67 involved in fatal bus
3 crashes. Those 15 companies accounted for 22 percent, but they
4 accounted for 54 percent of the fatalities. Post-crash they were
5 identified as either having significant safety management problems
6 or they were plainly illegal carriers.

7 We're calling for no place to hide. We've identified
8 six areas that we believe, if we move on, we can really make it
9 very tough to operate if you're not holding safety as your number
10 one priority.

11 First of all, more moving violation enforcement. We're
12 seeing serious moving violations as a terrific predictor of future
13 crashes. These have been identified in the large crash causation
14 study for the trucks, but we also had a study commissioned and
15 conducted by the University of Michigan Transportation Institute,
16 the UMTRI. They've also identified, and as you can see, moving
17 violations are a great predictor.

18 We're calling for zero tolerance for moving violations.
19 You see a bus being operated unsafely, pull it over. And that's
20 not just motor carrier officers, that's any sworn officer. Pull
21 the bus over, find a safe location, take the driver off the bus,
22 tell the passengers they'll be on their way soon, write a
23 citation, if appropriate, follow it up in court, make certain that
24 the state doesn't mask or plea down that charge. So follow it up,
25 because we've got to stop buses being operated unsafely and we see

1 it, the drivers out there, they know that very, very seldom are
2 they going to be pulled over on the road.

3 We need consistent state bus inspections. We can't give
4 anybody a place to hide and if your program is not up to the
5 standard, then you're creating a safe haven. And currently, we
6 don't have nearly enough good state bus inspection programs. It's
7 very difficult when you don't have a lot of carriers domiciled in
8 your state for the inspectors to keep their numbers up to maintain
9 their certification, but we need consistent state bus inspections.

10 Background checks. How is it now if you're rejected
11 from a hazardous material background check because of something in
12 your background -- you're on the watch list for whatever reason --
13 you can then go out and get a passenger endorsement? We would
14 like to have the same background check for bus drivers that HazMat
15 carriers have. Identify them, make certain they're who they say
16 they are, make certain the licensing process is solid.

17 Verification of out-of-service orders. Within 5 working
18 days, if you're placed out of service, somebody visit that
19 company, make certain they're not turning their wheels. If they
20 are, shut them down.

21 SMS alerts. If the system shows an alert, currently a
22 letter goes out, there may be a follow-up on it. We would ask
23 that within 5 working days somebody contact that company and find
24 out what's going on. If it's a matter of inappropriate violations
25 being filed and it's in the Data Q, or the complaint has gone to

1 CVSA, it's fairly simple. If they can't explain it, go and visit
2 them and find out what's going on. Separate bus passenger
3 carriers, the 3,600 companies out of that database of 700,000
4 carriers, and review it separately. That means those alerts are
5 going to come up to the top very quickly.

6 Also create a consumer site on the home page. Right now
7 you have to dig fairly deeply into the FMCSA website to find it.
8 Explain what it is, you can type in your ZIP code, you can pull up
9 a carrier and you can see, based on their SMS scores, in a
10 descending fashion. Now you can make a decision based on safety
11 and you're creating an incentive for companies lower down on the
12 list to get to the top of the list.

13 That's all I have. Thank you very much.

14 MR. KOTOWSKI: Thank you, Mr. Littler.

15 CHAIRMAN SUMWALT: I'd like to thank the panelists. We
16 all know the saying "I would've written a shorter letter if I had
17 more time." We all recognize the challenges of trying to condense
18 a lot of information into a 5-minute period of time, which you
19 were all asked to do. You all have done an exemplary job, so for
20 future panelists, I hope that you'll be able to follow that lead.

21 Mr. Kotowski, I'll turn it back over to you, sir.

22 MR. KOTOWSKI: Thank you, sir.

23 In this first session we're going to address government
24 oversight. So my first series of questions will be to Mr. Price
25 from the Federal Motor Carrier Safety Administration.

1 Mr. Price, once the Compliance Safety Accountability
2 program, CSA, is fully implemented, will the compliance review, as
3 we know it today, be discontinued?

4 MR. PRICE: I wouldn't necessarily refer to it as being
5 discontinued as much as I would call it an improvement over what
6 we see today. Really what the Compliance Safety Accountability
7 model gets to is allowing us to be more efficient, and in some
8 instances we're going to conduct what we call a focused compliance
9 review and concentrate on the known problem areas coming out of
10 the roadside inspections. In other words, concentrate on what the
11 measurement system is telling us a carrier's specific problems
12 are.

13 Now, at the same time we're going to continue to conduct
14 our full-blown compliance reviews that you referred to; in other
15 words, where we do the comprehensive look at a carrier's entire
16 operation. And there are different policies associated with that.

17 One that's of obvious interest to a group such as this
18 is passenger carriers. And with the motor coach industry, one of
19 our policies from the very beginning with CSA is if it's a motor
20 coach operator, when we do a compliance review on that type of
21 operation, we're going to do the comprehensive look at their
22 entire operation.

23 But at the end of the day, what we hope to do with this
24 new model is actually conduct more compliance reviews, get out to
25 the principal place of business of more carriers so that we can do

1 a more efficient and effective job at getting carriers that are
2 having performance problems to change their behaviors.

3 MR. KOTOWSKI: Thank you. Will third-party entities be
4 involved or utilized in the CSA process similar to the way they
5 had been used in the new entrant program?

6 MR. PRICE: Yeah, I know that's not something that, you
7 know, is on the table right now, that we've been actively
8 discussing. I think, you know, we're always looking at, you know,
9 potential data sources and ways that we can improve targeting who
10 the high-risk carriers are. But short answer to your question is
11 no, at this time we're not talking about bringing third parties in
12 to conduct CSA investigations in a manner similar to have been
13 done with new entrant in the past.

14 MR. KOTOWSKI: Okay. And when do you anticipate that
15 CSA could become fully operational as the program is designed?

16 MR. PRICE: Okay. Well, there's -- you know, there are
17 different components to the model, like I spoke to in my opening
18 remarks. There's the new measurement system to identify who the
19 high-risk carriers are and help us better prioritize our
20 resources. That piece of the model has already been fully
21 implemented across the country.

22 The second piece of the CSA model is -- you know, refers
23 to our toolbox for our field staff; in other words, the tools they
24 have at their disposal to more efficiently and effectively get at
25 the carriers. With respect to the new toolbox component model,

1 we've already implemented major pieces of that in all 50 states.
2 A big piece of that is the warning letter process I spoke to
3 briefly in my opening remarks.

4 Another piece of the CSA model that we've implemented
5 nationally refers to this focused review concept; in other words,
6 having our field staff have the flexibility that if a carrier only
7 has problems in one area out of our measurement system, for
8 example, having that flexibility to do the focused reviews.
9 That's something that's already been implemented.

10 What remains to be implemented is our new safety rating
11 process. That's the piece of the CSA model that's tied in to a
12 regulation or a new rulemaking and we're shooting to publish a
13 proposed rulemaking on our safety rating process by the end of
14 this calendar year.

15 MR. KOTOWSKI: Thank you. Is the evaluation of a motor
16 carrier in CSA based on information exclusively that's determined
17 through the SMS?

18 MR. PRICE: It's not entirely based on the SMS. Of
19 course, when we look at a carrier and we evaluate them in the
20 different behavior areas, for example, when we look at XYZ
21 Trucking and we're trying to determine does this company have an
22 hours of service problem, for example, we're actually looking at
23 two different sources of information. We're looking at the Safety
24 Measurement System, and the Safety Measurement System is going to
25 tell us how a carrier is performing from a roadside inspection

1 perspective, but at the same time we're also looking to see if
2 we've done a recent compliance review on that company.

3 And so at the end of the day, when we look at a
4 company's BASICS and whether or not they're above threshold or on
5 our radar screen, it can come from the roadside performance or
6 prior compliance review violations.

7 MR. KOTOWSKI: And data accuracy has been a concern that
8 was expressed in the SafeStat system and because of that some
9 areas were unavailable to the public. Have those entities or
10 those problems been identified in SMS and have they been
11 corrected? And as a follow-up to that, will all the data
12 contained in the SMS be released to the public as it was
13 previously in SafeStat?

14 MR. PRICE: Okay. Well, we face a lot of the same
15 challenges under the new measurement system as we did under our
16 prior system, known as SafeStat. Some of those -- I wouldn't
17 necessarily characterize the fact that we've withheld, like, the
18 crash evaluation from public view to be based upon data quality so
19 much as it was a fairness type of thing.

20 The simple fact of the matter is that the crash data
21 that we receive from the states today doesn't have a
22 preventability or an accountability determination on it. In other
23 words, we just get a raw accident report from the state that says
24 XYZ Trucking was involved in a crash and we don't know whether
25 that crash was their fault or whether, you know, it was the fault

1 of another party, like a passenger vehicle.

2 So one of the reasons why we restrict our assessment on
3 the crash data is because we don't want to unfairly characterize a
4 company as having a crash problem when, in fact, some of those
5 crashes might have been, you know, an intoxicated driver rear-
6 ending that company when they're legally parked.

7 So we're working on some solutions now, both short-term
8 and long-term that will allow us to, hopefully, at some point,
9 have accountability or preventability information associated with
10 our crashes so that we can put that information out on -- for
11 public view.

12 And I will say also, though, that even though we're not
13 putting our assessment piece associated with the crash data out
14 for public consumption, we still do -- if someone in the public
15 pulls up ABC Trucking on our public website, they can still drill
16 down into the company's data, look at a list of the crashes the
17 company's been involved with. But again, because we don't have
18 that preventability information, we're not putting our assessment
19 on there.

20 MR. KOTOWSKI: Thank you.

21 Mr. Van Etten.

22 MR. VAN ETTEN: Thank you.

23 Mr. Price, just a couple follow-up questions. The state
24 data problems that have been pretty much in existence for a long
25 time. Could you kind of fill us in a little bit more as to what

1 the FMCSA is doing working with their state partners to fix these
2 problems?

3 MR. PRICE: Sure, sure. And we've got a lot, you know,
4 that's been going on for some time now to address the data quality
5 concerns. We actually have a map of the United States that, you
6 know, is out on our public websites where on a monthly basis we're
7 evaluating each of the states in terms of the timeliness of their
8 inspection uploads, the completeness of their crash reports,
9 things of that nature, and it essentially puts like a
10 red/yellow/green designation on the state to assess their data
11 quality.

12 We're working in concert with our partners at Commercial
13 Vehicle Safety Alliance, continually, kind of beating the drum, if
14 you will, on consistency of inspection reports. We're working
15 with our software systems to hard code so that, for example, if an
16 inspector cites one particular violation, it won't allow them to
17 cite something that might be perceived as pyramiding similar type
18 violations.

19 So there's a number of different initiatives we have
20 ongoing right now getting at trying to improve the consistency and
21 the accuracy of inspection data.

22 MR. VAN ETTEN: Thank you. And just another, for
23 clarification for me, if not for anybody else, one of the BASICS
24 is the driver fitness area. Some of the other areas are pretty
25 self-intuitive, you know, hours of service violations and crash

1 data, that sort of thing. Could you tell me what all is involved
2 in the driver fitness BASIC, what constitutes that BASIC?

3 MR. PRICE: Sure. What kind of feeds into the driver
4 fitness BASIC from our roadside inspection, as well as our
5 compliance review information, it's really broken down into two
6 principal areas.

7 It's commercial driver's license-type violations. In
8 other words, the driver's stopped roadside and cited for operating
9 on a suspended license, not having a proper endorsement on their
10 commercial driver's license for the type of vehicle they're
11 operating. That's one source of information.

12 Probably the bigger contributor, though, to that
13 particular BASIC relates to violations associated with driver
14 medical certificates. In other words, if a company has a pattern
15 of drivers continually being inspected and not having the evidence
16 that they're medically qualified to operate or that they have
17 expired medical certificates, that's going to be a major
18 contributor to a company rising above our threshold in that area.

19 MR. VAN ETTEN: Thank you.

20 This next series of questions have to do basically with
21 the data quality and things that we have, and I'd like to address
22 my first question to Mr. Keppler.

23 Can you describe to us how data is uploaded from a
24 roadside inspection, what are the processes, the programs, and
25 where it goes from that point?

1 MR. KEPPLER: There are several ways with which data can
2 be uploaded. It really depends on the nature of the
3 infrastructure at the state level and the inspector workforce, how
4 many of them are equipped with computers versus handwritten
5 reports. Generally speaking, for those that are equipped with --
6 and also the level of communications capacity in the field,
7 whether they have access to the Internet at roadside. So it
8 varies depending on the state.

9 Most inspectors that do inspections on a routine basis
10 are equipped with laptops, so generally they're collecting that
11 data through the Aspen roadside software. Either shortly after
12 each inspection or generally at the end of the day, their workday,
13 they're uploading those inspections, whether it's at the location
14 roadside or they get back to the office, they'll be uploading that
15 data.

16 In some cases, when it's a handwritten report, that's
17 being submitted to a central office where it's being data entered
18 into the SafetyNet system, which is a state-distributed version of
19 the Motor Carrier Management Information system, and it's being
20 forwarded on from that point.

21 MR. VAN ETTEN: Now, this data that's uploaded, does
22 that include non-violations such as a warning or is it just the
23 violations are being cited that are going to be taken to court?

24 MR. KEPPLER: Any violations that's discovered
25 associated with that inspection, any violation of the regulations,

1 is being documented on an inspection report whether or not it goes
2 to court or not.

3 MR. VAN ETTEN: Thank you. My next question has to do
4 with placing vehicles out of service and the data that's involved
5 there. Specifically, if a vehicle is placed out of service in
6 Connecticut, let's say, at 1:00 in the afternoon, yet at 4:30 in
7 the afternoon that same truck is found in Massachusetts, is there
8 some way to know if that vehicle has been repaired or if the out-
9 of-service violation is still in effect or has been removed? Is
10 there some way for there to know? I'm looking at the timelines of
11 the data that's being uploaded.

12 MR. KEPPLER: Well, that question really depends on the
13 nature of the violation and whether or not the shift that officer
14 -- if that officer is still on shift or is that a location where
15 there are people there. But generally speaking, if a vehicle's
16 repaired and there's still someone there to verify that repair,
17 that information is then collected at that point; it's uploaded to
18 the system.

19 Again, violation of out-of-service orders, a lot of it's
20 a timeliness issue in terms of when that information is downloaded
21 to roadside, how they access that information, how it's provided
22 to them through the system. But generally speaking, the states
23 work -- particularly with out-of-service orders, they try to work
24 very closely, particularly in the neighboring states, when they
25 identify a jumper, if you will, to communicate that information,

1 whether or not it's through the system, the formal system, or
2 through the phone or through some other mechanism, to communicate
3 that information in a timely fashion.

4 MR. VAN ETTEN: Thank you. With the advent of the CSA
5 program and all of the different facets that are part of that, has
6 there been any additional burdens placed upon the state, any
7 addition of resources that are needed, as opposed to the prior
8 system, let's say, SafeStat? Are there different things that you
9 have to do now that are greater responsibilities?

10 MR. KEPPLER: Probably the biggest issue has been the
11 data challenges through the Data Q system that have resulted from
12 this SMS being launched. What our members tell us, last year
13 versus this year, on average, about 2- to 300 percent more data
14 challenges they're experiencing now than they were in the past.

15 So that's been a big burden on them and they have not
16 received additional resources to do that, to manage that issue.
17 They're doing their best with they've got and those challenges
18 can't be reviewed -- it needs to be reviewed by someone that's
19 competent. So it's impacting on, in some cases, the state's
20 ability to actually go out and do the work. So that's probably
21 been the biggest issue with CSA that we've seen over the past
22 year.

23 And I think we're working through those issues
24 collectively with FMCSA and best practices in managing that and
25 trying to communicate with the industry. One of the other things

1 we're seeing is a huge influx, carriers flooding the system with
2 challenges really without merit in some cases. So one of the
3 things we're trying to do is work to educate industry about what's
4 appropriate and what's not. So that's probably the biggest issue,
5 but I think a lot of folks are paying attention to it.

6 MR. VAN ETTEN: Thank you.

7 Mr. LeBerte, we'll pass the ball to you.

8 MR. LeBERTE: My line of questioning is going to be the
9 associations' perspectives on CSA and I'll start with Mr. Presley.

10 What do you see as the strengths and weaknesses of the
11 CSA processes as they affect your industry, the bus industry?

12 MR. PRESLEY: Well, the first impression, of course, is
13 there's a little bit of shock going on in the industry right now.
14 It is changing behaviors. In the world of risk management,
15 whatever you don't pay attention to eventually comes back to bite
16 you, and the fact that CSA encompasses minor violations is making
17 companies pay a little bit more attention to their vehicles and
18 their drivers.

19 I think the one thing, though, that CSA needs to do, and
20 hopefully this would be the next level, is make a direct
21 correlation between the propensity for a crash and a violation.
22 Right now, to some degree, it's a little bit of scorekeeping.
23 It's a little bit of consumerism, trying to present your company
24 well to the consumer, where in reality, there should be a direct
25 correlation to violations and the propensity for -- or the

1 increased propensity for crash.

2 MR. LeBERTE: Thank you.

3 Mr. Littler, same question: What do you see as the
4 strengths and weaknesses?

5 MR. LITTLER: Well, I think for the bus industry, the
6 strength is probably the fact that it's changed the focus, the
7 focus being now more on the on-the-road actions of the driver of
8 the vehicle as indicators of the safety culture within a company.

9 The weakness in the system for the bus industry is it's
10 totally dependent on the state-driven data, and if we don't have
11 consistently high quality bus inspection programs in every state,
12 then, again, we're not going to be measuring the -- our industry's
13 safety management across the board.

14 And currently, if you look at the number of states that
15 have, you know, the annual periodic inspection programs that have
16 been certified as meeting the FMCSA standard, we only have 24
17 jurisdictions that have qualified in that list. The last one, I
18 believe, was in 1997. And we need to have more effort on
19 consistent high-quality bus inspections everywhere. I mean, it's
20 totally dependent on that and without it, I think we've got a
21 problem and we'll continue to have a problem. Luckily, I think
22 we've seen a lot more focus in the last while on enforcement
23 efforts on the bus industry, which is good, in our opinion.
24 Unfortunately, we hate to see what's driving that, which is the
25 tragedies.

1 MR. LeBERTE: Thank you.

2 Mr. Rob Abbott, same question: What do you see as the
3 strengths and weaknesses?

4 MR. ABBOTT: Well, certainly as these fellows mentioned,
5 the performance-based elements of the program are very welcome and
6 I think, moreover, the motor carriers welcome the program because
7 it's a new ability to distinguish themselves from other carriers
8 who maybe don't share their commitment to safety. We've long
9 known that the federal agencies and state partners don't have the
10 resources to always hold all those carriers accountable and so
11 it's a frustration on the part of many safe, responsible carriers
12 that there's no means to hold these other carriers accountable.
13 And the system, through the availability of data does that.

14 Where it's limited is that the quality of the data
15 doesn't always paint an accurate picture of that carrier
16 performance, so those who are falsely indicted by the program feel
17 that the system is very inaccurate and it paints a picture of them
18 that isn't accurate and isn't right, and so there's some genuine
19 concern there.

20 And I think so the weakness is how do we improve the
21 data so that it can be very accurate, that it can leverage the
22 ability of the public, ensure shippers and the news media, to say
23 this, in fact, is an unsafe carrier in a very reliable way and so
24 we don't just have to rely on the enforcement partners to hold
25 people accountable, others can hold them accountable. But we

1 can't do that until we have good, solid data and we can remove the
2 disclaimer from their website that says you can't rely on this
3 data to make judgments about motor carriers. Once we can remove
4 that disclaimer because we know we have good, solid, reliable data
5 that's predictive, we'll really have a tool that'll be very
6 powerful.

7 In our view, the single greatest weakness to that right
8 now is the crash data, in that it includes all crashes regardless
9 of accountability. Probably past crashes are probably the single
10 greatest predictor of future crashes; I think, intuitively we
11 would all agree. And so if we can improve upon that data, that
12 makes sense.

13 But also there is a need to improve upon data at the
14 state level. Many of the states have varying ways to deal with
15 data correction requests and they're not always uniform, but
16 there's not always a uniform manner in which the data flows to the
17 agency and -- please know I don't mean this as a criticism,
18 necessarily, of the agency and the enforcement groups. I think
19 they have done a very good job of putting together a very good
20 program and I think they're to be complimented, not only for doing
21 that -- it's a very well thought-out program but it's also a
22 program that is very dynamic. They've been very responsive to
23 calls for improvements in the program.

24 But I think moreover, when we look at some of the data,
25 we recognize that they have real challenges with data that comes

1 from the states and I'll give you an example. Some states report
2 80 or 90 percent of their commercial motor vehicle crashes.
3 Others report less than 30 percent of their commercial motor
4 vehicle crashes. That's a real problem because we're comparing
5 carriers from both those states in a database. And they've done a
6 good job of trying to normalize that data, but it can't be
7 perfect. And so, we're comparing carriers from those two states
8 in a similar system and that's a genuine problem. So once we can
9 iron out all those data issues, I think we'll have a very good
10 system.

11 MR. LeBERTE: Thank you.

12 And Mr. Todd Spencer, same question.

13 MR. SPENCER: Well, you've heard many of the points that
14 I certainly would concur with. Again, we hear about major issues
15 with the quality of inspections. We are real concerned that the
16 data that we're going to look at -- we're looking at, we're
17 focusing on, really drilling down on, may or may not have a
18 correlation with who's crashing trucks, who's actually causing
19 problems on the highways. Much of the data is totally open to
20 misinterpretation. The BASIC that includes logbook violations, 70
21 percent of the violations that come in that area are what's
22 classified as form and manner.

23 And to give you an illustration that is absolutely
24 accurate and true; it really happened. We had one of our guys
25 written up for not putting the ZIP code down for the home terminal

1 address, the ZIP code. I mean, it's nuttiness.

2 And we sort of have this -- you know, this is one issue,
3 but it's sort of -- the underlying issue here is we sort of have
4 this zest going on right now for the need to write something up on
5 a truck. We're not going to stop one unless we can write
6 something up, so they're going to look until they find that. It
7 is really -- I mean, it's really, really frustrating for us, but
8 it sort of undermines legitimate support for the initiative,
9 overall.

10 You know, we mentioned weighting of violations. That's
11 been mentioned before. Some of that obviously makes no practical
12 sense or safety sense to us. It sort of does make political
13 sense, which maybe is why it's still there.

14 The absence of due process on this. I mean, currently
15 the Data Q challenge gets down to as simple as if that cop on the
16 other end that wrote that ticket believes it's good or wrote up
17 that report, it's going to stay even if it's total garbage.
18 Nobody reviews this stuff and it hangs with drivers and it can
19 have serious, serious ramifications.

20 I threw out the words due process. There currently
21 isn't any, and some of these issues won't get swept under the rug.
22 There will be major fights, major issues over this. There's
23 certainly plenty in Congress that would question the wisdom of
24 proceeding without certain safeguards for individuals in small
25 business.

1 MR. LeBERTE: Okay. Thank you.

2 All right, the next question. I'll direct it at
3 Mr. Presley first.

4 How do third-party organizations such as software and
5 driver information services assist or hinder carriers in
6 monitoring their CSA scores?

7 MR. PRESLEY: Currently, I'm not aware of anyone using
8 any third-party services. I think some of the trucking companies
9 are, but I'm not aware of any of the passenger carriers using any
10 of the third-party services.

11 MR. LeBERTE: And Mr. Littler.

12 MR. LITTLER: Similarly, I'm not familiar with any
13 companies right now that are using a third-party service for this.

14 MR. LeBERTE: Okay. And Mr. Abbott.

15 MR. ABBOTT: I was relying on them to spend a few
16 minutes answering while I jotted down some notes.

17 (Laughter.)

18 MR. LeBERTE: Anything else you'd like to talk about?

19 MR. ABBOTT: They do provide a great deal of value in
20 doing a couple of things. One, they make the data very actionable
21 for motor carriers by identifying the most common violations,
22 those that are most prevalent or tied to crashes, where they're
23 occurring, specific regions or terminals. But moreover, they make
24 the data actionable. They allow them to implement required
25 follow-up action, to say, look, let's impose progressive

1 discipline, training, and those sorts of things. So those are
2 very, very useful tools.

3 The other is that while carriers can get at their
4 carrier scores, they can't get at the relative score of their
5 drivers relative to the whole driver population; so they can't get
6 that percentile ranking. So with the third-party vendors, through
7 some reverse engineering, can attempt to give them some score that
8 is somewhat meaningful by comparing them against their other
9 drivers in their own fleet. And certainly, that tells them who of
10 that bunch are the safest or the least safe, but it doesn't tell
11 them how they compare to others in the population. But that is a
12 helpful tool.

13 MR. LeBERTE: Okay, thank you.

14 And Mr. Spencer.

15 MR. SPENCER: This is where economics drives innovation
16 and if we can create a need, then we'll step in and fill it.
17 We've heard about the third-party people for, gosh, probably 2
18 years. They spent -- they, and quite a few in the motor carrier
19 industry, spent an unbelievable amount of time basically with the
20 tone of "we're going to scare drivers straight; we're going to
21 scare them straight." They wouldn't dare do anything wrong
22 because of all of these draconian measures that are going to be
23 put in place.

24 You know, what's going on currently is -- I mean, we
25 think currently carriers need to have -- carriers certainly should

1 be accountable for the actions of their drivers. We're seeing --
2 drivers are the biggest casualties of bad, bad information and
3 with the third-party vendors, the third-party software and
4 applications that are going on right there, we expect to see major
5 issues with the quality of the information that they obtain by
6 various means. Probably much of that will be against privacy laws
7 and certainly violations of the Fair Credit Reporting Act. You
8 know, and it's kind of like garbage in/garbage out. I don't know
9 if FMCSA, the agencies, want to be in bed with stuff that violates
10 other regulations, but that's the system that's underway right
11 now.

12 MR. LeBERTE: Okay, thank you.

13 All right, my next question will be to Mr. Presley.

14 Overall, do you think the CSA evaluation process is
15 better or worse than the previous system?

16 MR. PRESLEY: Much better, much better. It captures a
17 lot more data and the more data that you have, the more rational
18 courses of action that you can take. So I very much think that
19 FMCSA is spot-on.

20 MR. LeBERTE: And Mr. Littler.

21 MR. LITTLER: I agree with Mr. Presley's evaluation.
22 The CSA is focusing on the areas now that are probably the
23 greatest predictors of crashes. I think it really does focus on
24 what it needs to focus on. I think it needs to be tweaked a
25 little bit more, but it's much, much better than what we had in

1 the past.

2 MR. LeBERTE: And Mr. Abbott.

3 MR. ABBOTT: I would agree. I mean, certainly one of
4 the best parts about it is that the violations are weighted
5 relative to their crash risk and that's very important. But I
6 think we'll really see the value in this program when we're able
7 to develop real time safety performance measurements that are
8 reliable.

9 The coming rulemaking on safety fitness determinations
10 is very important so that we're not looking at a safety rating on
11 a carrier that was issued 10 or 20 years ago, that it's a piece of
12 their current performance under current management. But in order
13 to get there, we need the data to be very reliable and tell us if
14 they truly are a safe or an unsafe carrier.

15 MR. LeBERTE: Okay, thank you.

16 And Mr. Spencer.

17 MR. SPENCER: We've got a ways to go, but I'm optimistic
18 we'll get there without -- with a minimum of court challenges,
19 maybe none.

20 MR. LeBERTE: Okay.

21 The next questions will be directed at UMA, ABA, and
22 OOIDA.

23 Does your organization or association offer some type of
24 template or model to your members to follow to address compliance
25 with the FMCSRs?

1 MR. PRESLEY: Currently, we offer the Bus and Motor
2 Coach Academy. It's an online curriculum sponsored by the College
3 of Southern Maryland. We have two tracks. One is for the
4 company, owners and management, and then we have another track for
5 drivers that give them direction in complying with the Federal
6 Motor Carrier Safety Regulations.

7 MR. LeBERTE: Okay.

8 Mr. Littler.

9 MR. LITTLER: We don't have a template, per se, on
10 directing how companies should follow the FMCSRs. We do -- have
11 partnered with various specialty companies that will help carriers
12 in their compliance. We have the Bus Industry Safety Council,
13 which we encourage all operators to visit, to take part with, to
14 network with, where you have the brightest and the best in the
15 safety and security world available to them and open to them so
16 that they can phone and ask questions. And any members of ours,
17 we have a direct line to my desk, which if I don't have the
18 answers, I can direct them to where they can get them.

19 MR. LeBERTE: Okay, thank you.

20 And I think Mr. Kotowski has some follow-up questions.

21 No? Okay.

22 MR. KOTOWSKI: Mr. Van Etten, new carriers --

23 MR. SPENCER: Did you want me to answer that question,
24 as well, on behalf of OOIDA?

25 MR. LeBERTE: Yes, yes.

1 MR. SPENCER: Yes, our organization does have template
2 guidelines. We provide information for what a new carrier, what a
3 new individual carrier, needs to do to comply with the
4 regulations. For the most part -- actually, half of the new
5 authorities that are granted right now by FMCSA are authorities
6 that are being granted to owner/operators and, again, the
7 characteristic of an owner/operator trucker is 20 years'
8 experience.

9 Now, they may not know what every form means or what
10 every word in FMCSA language means, but they've got 20 years of
11 experience safely operating trucks or they wouldn't do that. We
12 provide the tools that are necessary to support that. In that
13 particular area, I think, there isn't enough attention paid to the
14 driver community, the new driver community, in terms of a
15 knowledge of the regulations, understanding them, but, you know,
16 the CDLs are state-issued and that would be up to them, I'm
17 assuming, to do it. But that's where the focus should be,
18 absolutely, on the very upfront.

19 MR. LeBERTE: Okay.

20 And Mr. Abbott.

21 MR. ABBOTT: With respect to tools we provide,
22 generally, through our state trucking associations, they're closer
23 to the new entrants and the folks who need that assistance and so
24 many of them provide a variety of tools, including, generally,
25 seminars and new entrant training courses for them.

1 MR. LeBERTE: Okay, thank you.

2 MR. KOTOWSKI: Mr. Van Etten, on new entrants?

3 MR. VAN ETTEN: I was just wondering, Mr. Sumwalt, if we
4 were going to take a break or we're just going to continue on?

5 CHAIRMAN SUMWALT: We will take a break at 10:15, so
6 that's 7 minutes, so I'd like for the technical panel to wrap up
7 your questions in the next 7 minutes so that we can take a break.
8 However, if this is a good time -- so what we'll do is, yes, there
9 is a break on the horizon. We'll take a break at some point in
10 the near future. Then the parties will ask questions and then
11 we'll come back to the Technical Panel for wrap-up. So how --

12 MR. VAN ETTEN: I think this would be a good time
13 because we're going to move into a new subject area, new entrant.
14 Yes?

15 DR. MARSHALL: Actually, the parties will -- after our
16 break, the parties will ask their questions.

17 MR. VAN ETTEN: Okay.

18 DR. MARSHALL: So we have about 10 minutes or so to --
19 or maybe about 5 minutes to ask any more questions you have.

20 MR. VAN ETTEN: So you want to start on new entrant?

21 DR. MARSHALL: Yeah. And once the parties have their
22 turn at the questions, we'll have about 15 or 20 minutes of
23 follow-up questions. So let's continue on a little bit.

24 MR. VAN ETTEN: All right. The next subject matter is
25 the new entrant program and I would just start with Mr. Price.

1 Could you please describe for us in general terms the
2 new entrant process and how that works?

3 MR. PRICE: Okay, sure. When a company applies for a
4 USDOT number and is issued that number, they enter our New Entrant
5 Safety Assurance Program. And essentially, what it is, it's an
6 18-month monitoring program whereby within that first 18 months of
7 operation, we go out to their place of business and conduct what
8 we refer to as a new entrant safety audit. While a carrier is in
9 the 18-month monitoring period, obviously, the roadside data is
10 continually monitored.

11 We have facets of the new entrant program that look for
12 certain type of violations that we call expedited action
13 violations. So, for example, if a new entrant carrier is
14 inspected roadside and they have a particular violation that falls
15 into this expedited action realm, that triggers us to intervene
16 sooner, if you will, to either expedite the new entrant safety
17 audit or ask them to submit evidence of corrective action to us
18 immediately on those particular roadside violations. Then at the
19 end of the 18-month monitoring period, if the carrier has
20 successfully passed their new entrant safety audit, then they
21 graduate, if you will, into the pool of other carriers.

22 MR. VAN ETTEN: And for a carrier that wants to start,
23 where would they find the -- what information is available to them
24 to tell them how to begin their entrant into the transportation
25 area and where can they find that information?

1 MR. PRICE: Well, I think our website's -- you know, the
2 FMCSA website is a logical first place for a new entrant to start.
3 That's where a new entrant can go online and actually begin the
4 process of applying for a USDOT number. And then, within the
5 website, obviously, there is a host of educational information and
6 explanatory material that explains to a new entrant, you know,
7 what the safety requirements are, what their obligations are to
8 operate trucks safely.

9 MR. VAN ETTEN: Are there any commercial information
10 packets, programs, available?

11 MR. PRICE: There's certainly information that we make
12 available. We have information, all kinds of educational material
13 available on our website. But there are also -- you know, there's
14 -- you know, we talked about third parties. There's a host of
15 third parties out there that -- and through the state trucking
16 associations and so forth, that will provide to new entrant motor
17 carriers sample forms, summaries of the regulations and things of
18 that nature.

19 MR. VAN ETTEN: There's been some discussion earlier on
20 about the 18-month program and how FMCSA has 18 months to go out
21 and to actually inspect the carrier, and I was wondering if you
22 could, number one, tell us the rationale behind the 18 months and
23 then, you know, are there any considerations to shortening that
24 time frame?

25 MR. PRICE: Well, there are certainly some

1 considerations to shortening the time frame for certain types of
2 operations. I think, already by policy, if it's a motor coach
3 operator or passenger carrier, we don't allow a full 18 months
4 before we go out and conduct a safety audit. I believe, off the
5 top of my head, that's -- we have to conduct the safety audit of
6 passenger carriers within 6 months. So we're looking at all kinds
7 of improvements along those lines where certain types of carriers
8 we will intervene with sooner.

9 Another thing we're doing is, with the new entrant
10 carrier population is, you know, continually monitoring their
11 roadside data. I mentioned the violations that we refer to as the
12 expedited action violations that will necessitate us to intervene
13 sooner. But also, if a new entrant carrier happens to rise to
14 that level we would deem to be a high-risk carrier, they generate
15 enough inspection or crash activity, then we're going to conduct a
16 compliance review on them immediately, throw them into our pool of
17 regular carriers rather than keeping them in the new entrant
18 program.

19 MR. VAN ETTEN: Thank you. Chairman Sumwalt.

20 CHAIRMAN SUMWALT: Thank you. Thank you very much. So
21 yeah, we will take a break.

22 Before we break, I'd like to recognize two of my
23 colleagues. We've got the Honorable Mark Rosekind, who is an NTSB
24 board member. Member Rosekind, if you'd wave your hand so that
25 they can see you during the break.

1 And we have Honorable Earl Weener, who is seated in the
2 back, as well. So those are my colleagues, two of my colleagues.

3 And so we'll take a 15-minute break and we'll be back
4 at 10:30. Thank you.

5 (Off the record.)

6 (On the record.)

7 CHAIRMAN SUMWALT: Okay, if everyone would take your
8 seats, we'll start back again.

9 Okay. So we are going to go to the parties now and what
10 we've asked is that the parties, if you will, just police
11 yourselves. Somebody has a good size shoe, size 10 or something
12 like that, you can kick the speaker. We also have these lights.

13 But if you will, as I explained yesterday, if I'm having
14 to jump in and say, hey, you're out of time, something's going
15 wrong. So you all police yourselves, police your tables as far as
16 time is concerned. You've got 10 minutes per question. And we
17 will do a follow-up round.

18 We had a little caucus during the break and we would
19 probably keep the second round to about 5 minutes, but we're not
20 trying to cut anybody short, but we are trying to keep the thing
21 going. We've got a lot of material to cover over the next day and
22 three-quarters.

23 So anyway, let's start out with a 10-minute round and
24 we'll start out with industry associations right here.

25 MR. OSIECKI: Good morning again. Thank you.

1 Dave Osiecki, representing the American Trucking Association.

2 My first question is for Bryan Price, the FMCSA witness.

3 Bryan, could you discuss FMCSA's commitment -- and you
4 did this a bit earlier, but if you could go a little deeper --
5 FMCSA's commitment to implement a crash accountability
6 determination process as a part of CSA and perhaps what FMCSA sees
7 as the most likely approach to such a process? And then the third
8 part to the three-part question is whether the agency has a
9 specific timeline for implementation of such a process?

10 MR. PRICE: Okay. Yeah, I did speak to it a bit
11 earlier, the fact that, you know, right now we don't -- when the
12 raw crash data comes in from the states, we don't have a
13 preventability or accountability determination on that information
14 and that's one of the reasons why, again, that we restrict the
15 assessment piece of our measurement system from public view. We
16 don't want to, as I think Rob referred to, falsely indict anybody.

17 In terms of, you know, what we've got going on to try
18 and remedy that situation -- first of all, we've been pretty
19 public in saying that from a safety rating standpoint or even
20 publicly, we won't adversely impact any carrier's rating unless we
21 do some sort of a preventability or accountability determination.
22 We're bouncing around different options and ideas on the best way
23 to do this.

24 One of the things that's been discussed recently is the
25 possibility of, what we're referring to as kind of a mid-term

1 solution, is allowing carriers to file through Data Q's
2 preventability issues. So essentially, we would have a policy
3 whereby we would more or less tell the world we're going to count
4 -- because we don't have this preventability information, we're
5 going to continue counting it in our measurement system unless
6 you, as a motor carrier, can provide us a police accident report,
7 whereby we can take a look at that particular crash that the
8 carrier has filed an appeal on and if we take a look at that and
9 the police accident report clearly indicates that the trucking
10 company wasn't at fault in the crash, then we can remove that from
11 consideration in our measurement system.

12 Longer term, you know, what we would like to get to --
13 and this is a matter of resources, but potentially having contract
14 support staff that as the, you know, the 120,000 to 140,000
15 commercial vehicle crashes come in to us each year, having
16 contract support staff actually make that accountability
17 determination before it goes into our measurement system to begin
18 with.

19 Again, that's longer-term in nature. I think more along
20 the lines of what we might see in the short-term or the
21 foreseeable future, you know, in the next couple of years, is this
22 notion I spoke to of all the crashes are going to continue to
23 count on your record unless you file Data Q's that would come to
24 us or contract support staff.

25 MR. PANTUSO: For Bryan Price, as well. Pete Pantuso

1 from American Bus Association.

2 We know that compliance reviews are the only real way to
3 know if a carrier is operating safely and we know that there are
4 inequities from state to state that allow for safe havens,
5 especially for passenger carriers. Would it not make sense for
6 FMCSA to require that a percent of their MCSAP money be used for
7 bus inspections so that in every state we've got some level of bus
8 inspections taking place?

9 MR. PRICE: I think it's fair to say that we're
10 certainly encouraging states to have motor coach inspection
11 programs and we recognize that motor coach safety is a very key
12 piece to ensuring safety overall.

13 So, I guess, in direct answer to your question as to
14 whether or not it would make sense for us to actually require a
15 certain percentage of a state's MCSAP funding go towards motor
16 coach inspections, at this stage of the game, really what we're
17 looking at is, you know, performance-based programs and asking the
18 states to, as wisely as they can, identify what the high-risk
19 areas are within their state and what -- where they think they can
20 get the most bang for their buck with the MCSAP dollars.

21 CHAIRMAN SUMWALT: Okay, here's the way we would like to
22 do this. There will be one party spokesperson per table. We
23 talked about this yesterday and I don't believe you were here,
24 Mr. Pantuso, yesterday when we had our meeting. But we will have
25 one spokesperson per table. Now, you can rotate that at each

1 break but not during a panel. Are there any questions about that?

2 (No response.)

3 CHAIRMAN SUMWALT: Okay, thank you.

4 MR. OSIECKI: By default, I'm the spokesperson for the
5 industry table.

6 CHAIRMAN SUMWALT: I don't believe you were here
7 yesterday, either.

8 (Laughter.)

9 MR. OSIECKI: I read the notes that I -- well, anyway.

10 CHAIRMAN SUMWALT: Okay.

11 MR. OSIECKI: Who is this for?

12 UNIDENTIFIED SPEAKER: Bryan.

13 MR. OSIECKI: Bryan, this one is for you.

14 Why does the FMCSA not remove motor carriers from the
15 MCMIS database when the carriers cease operating? Apparently
16 fewer than one-half of the MCMIS carrier registrants are currently
17 operating. Is there a mechanism for removal other than a revised
18 MCS-150?

19 MR. PRICE: Well, what we do is we'll actually
20 inactivate their USDOT number at some point whenever we have
21 evidence that they're no longer continuing to operate. So, you
22 know, we track within our MCMIS database which carriers are active
23 and which ones are inactive.

24 MR. OSIECKI: Okay. Any follow-up? Okay.

25 On to the next question either for Mr. Keppler or

1 Mr. Price: What do you see as the role of wireless roadside
2 inspections going forward?

3 MR. KEPPLER: I'll take a crack at that, to start. As I
4 talked about in my opening statement, technology is a big enabler
5 for the future. We know there's a lot of research going on within
6 FMCSA to look at how we implement technology on a vehicle and move
7 that data off board.

8 One of the things we've been careful to discuss on this
9 issue is we don't view it as an inspection. It's sharing of data.
10 The actual physical inspection, you're never going to be able to
11 replace the inspector. So technology's a tool to assist in,
12 again, targeting high-risk operators, and to the extent we have
13 more data that's valid, relevant, and current to assist in that
14 process, we think it's a very effective thing we need to pursue.

15 MR. OSIECKI: Okay, thank you.

16 Bryan.

17 MR. PRICE: Yeah. The only thing I would add to what
18 Steve said is, you know, there's been a fair amount of testing
19 going on with the wireless roadside inspection concept, I believe,
20 down in Tennessee, possibly in New York and some other areas.
21 Kind of how we're approaching it at this point is, you know, more
22 or less taking a look through our crystal ball at the potential of
23 using it in the future.

24 One of the things we've kind of bounced around is kind
25 of similar to what Mr. Keppler referred to, is if at some point we

1 did start incorporating it into our measurement systems, for
2 example, it's not something that we would weigh the same as an
3 actual inspection that's being done. One of the things that we've
4 heard a lot from the industry is, you know, desire to have these
5 wireless inspections counted as like -- the same as a clean
6 inspection. And I think, you know, at least conceptually, the
7 approach we've been taking in thinking about the wireless roadside
8 inspection program is, if indeed we do get to a point in the
9 future of incorporating them into our measurement system and using
10 them as a reflection of safety, that we would definitely weigh
11 them less, you know, that they wouldn't count the same as a clean
12 inspection just because a guy drove by and wasn't flagged based
13 upon their credentials.

14 MR. OSIECKI: Thank you. A different question for you
15 again, Bryan: Could you please describe the results of the
16 University of Michigan Transportation Research Institute's
17 evaluation of the CSA pilot program and comment specifically on
18 whether UMTRI found any basics which do not have crash predictive
19 value?

20 MR. PRICE: Sure. What the pilot has essentially told
21 us is what we hoped to see going in, and it's that it allows us to
22 reach a broader segment of the motor carrier industry, to get to
23 more carriers with existing resources, through both our warning
24 letter process as well as our focus compliance review concepts.

25 Another thing we've seen in some of the preliminary

1 results from UMTRI is a validation of our measurement system. It
2 more or less told us what we knew intuitively and what we had seen
3 in some of our own analysis is that the measurement system is
4 indeed a good predictor of future crash risk.

5 When we step back and compare the prior SafeStat system
6 that was used to the new measurement system and we look at our
7 group of high-risk carriers, we're seeing that the group of high-
8 risk carriers that we're indentifying are a higher crash risk than
9 the group of high-risk carriers we were identifying under the
10 prior SafeStat system.

11 In terms of some of the specific BASICS you asked about,
12 you know, when we step back and look at which of the BASICS in the
13 measurement system are the best predictors of future crash risk,
14 if you will, I think UMTRI has validated pretty much what our own
15 data analysis also told us, that, in particular, the unsafe
16 driving BASIC, which is, you know, issues such as speeding,
17 improper lane changes, has a very, very strong association with
18 future crash risk. Likewise, the fatigue BASIC, hours of service
19 compliance is a very, very strong association with future crash
20 risk, as well as our crash BASIC. I think Rob Abbott up here
21 earlier mentioned that prior crash experience is a good predictor
22 of future crash risk.

23 Now, to your point about were there any specific BASICS
24 that we didn't necessarily see this association with future crash
25 risk? Yes, there were some. In particular, the driver fitness

1 BASIC. We didn't see a direct correlation, if you will, or a
2 strong association that told us if a company is high in this
3 driver fitness BASIC, they're going to have a higher likelihood of
4 future crashes than the companies that are scoring well in that
5 BASIC.

6 So what we've done, kind of in response to that
7 information, is tried to work smarter and when we set thresholds
8 for where we're going to intervene with companies, we have more
9 tolerance, if you will, in that driver fitness BASIC. We set our
10 threshold that we're going to intervene up to the 80th percentile,
11 meaning unless somebody's above or doing worse than 8 out of 10
12 companies, we're not going to intervene in that area.

13 But you know, we recognize that just because we don't --
14 our data isn't showing us a strong association with future crash
15 risk, when we look at what kind of violations go into that BASIC:
16 commercial driver's license violations, you know, guys that don't
17 have proper license, medical certificate issues, we can't turn a
18 blind eye to our compliance responsibilities in that area, so
19 that's why we continue to use that BASIC to intervene with
20 carriers.

21 MR. OSIECKI: Thank you. Our table's time is up. Thank
22 you.

23 CHAIRMAN SUMWALT: Great. Thank you so much for
24 respecting the time, and we'll go to the federal government's
25 table now.

1 MR. QUADE: Okay, I'm Bill Quade with the Federal Motor
2 Carrier Safety Administration and I'll be the spokesperson for
3 this panel.

4 I'd like to ask Bryan Price a question first. I mean,
5 we covered a lot of topics about carrier oversight, but there was
6 one that wasn't discussed by any of the panelists and I was
7 wondering if you could briefly explain the PRISM program and how
8 that is important in the carrier oversight arena?

9 MR. PRICE: Sure, Bill. Yeah, our PRISM program is
10 actually a partnership with the state DMVs, the state agencies
11 that issue license plates to the IRP carriers; in other words, the
12 interstate carriers that operate trucks over 26,000 pounds. And
13 what this partnership has enabled us to do is a number of
14 different things. It enhances data quality in that every year
15 when a carrier renews their registration, they can't get those
16 plates renewed unless their MCS-150 or their census data is up to
17 date with FMCSA. So in that way, it's kind of established a new
18 partner, if you will, with the state licensing agencies to better
19 ensure we have data quality and accurate census information on
20 companies.

21 Another big piece of the PRISM program, though, is the
22 enforcement element in that -- I think Mr. Littler spoke to, you
23 know, when a company's placed out of service, we need to make sure
24 they're not operating. Well, what the PRISM partnership allows us
25 to do is if FMCSA issues an out-of-service order to a company, the

1 state agencies will step in and suspend that company's license
2 plates.

3 And then the last pieced of PRISM, which is significant
4 when we speak to the notion of reincarnated carriers or
5 chameleons. One of the things the PRISM program does is when a
6 company registers their trucks, they have to list the DOT number
7 of the carrier responsible for safety associated with those
8 individual vehicles at the VIN level. So, in effect, with every
9 single truck that's registered through the IRP, with their vehicle
10 identification number we have a DOT number linked to it.

11 Now, where that comes in handy is when we have a company
12 that may try and -- that if they're placed out of service, may try
13 and reincarnate, because what happens is when plates are renewed
14 in the PRISM program, the state DMV systems actually do a safety
15 check, if you will. They're looking at is this DOT number under
16 an out-of-service order? That's kind of a no-brainer. But the
17 real key to PRISM in this link to vehicles is it's also looking at
18 the actual -- the individual truck and saying is this VIN number
19 associated with a company that has previously been placed out of
20 service?

21 And when that happens, the IRP clerk or the licensing
22 clerk gets a message on their computer screen that says this
23 company is associated with an out-of-service company, we need to
24 see some sort of evidence that this isn't the company that was
25 placed out of service, a bill of sale on the vehicle or something

1 of that nature.

2 MR. QUADE: Thank you, Bryan.

3 And the Government Accountability Office, Bryan, would
4 like to know, after identifying chameleon carriers via the vetting
5 process, what are the -- challenges are there for FMCSA regarding
6 enforcement actions such as revocation of operating authority,
7 given the differences in state statutes regarding corporate
8 ownership, and what steps is FMCSA taking to address these issues?

9 MR. PRICE: Well, once we've identified a company as a
10 chameleon, I guess in terms of some of the challenges we face,
11 it's really a matter of, you know, we start out looking at the
12 individual state laws where the company is located, in other
13 words, the principal place of business. And oftentimes, the state
14 laws in a particular state are going to frame for us the level of
15 evidence we need, if you will, to document that it is a
16 continuation of a prior company and it is indeed a chameleon
17 carrier.

18 Kind of, on our end, also, we have our new applicant
19 screening process where, you know, we're looking into various
20 databases when we're doing our vetting process to make sure that a
21 company isn't a reincarnated version of a prior company.

22 MR. QUADE: Okay. Steve -- Mr. Keppler.

23 There was a lot of discussion on the panelists about the
24 data quality and the types of inspections that are coming in. Can
25 you speak to the data quality issues of the inspections that are

1 done by the state enforcement officers?

2 MR. KEPPLER: Sure. The purpose for CVSA is really to
3 help develop the inspection procedures and maintain the uniformity
4 and reciprocity of those inspections. One of the things, I think,
5 that's often a misnomer, if you will, there are 1.1 million
6 inspections annually of 3.5 million total that are clean
7 inspections. So the notion that everyone's out there writing
8 violations to write them just simply is not true, so -- and that's
9 very important because, again, one of the things that's critical
10 is when we find a carrier that's out of service, we need to take
11 action. But when a good inspection is discovered roadside, that
12 carrier warrants a clean inspection and warrants a decal.

13 So -- and there's a lot of quality activities that go
14 on. We have the Uniformity Ad Hoc Committee and a number of
15 things working collaboratively with the software to make sure the
16 software's doing what it's designed to do and working to make sure
17 that training is updated in a timely fashion.

18 MR. QUADE: Okay. To the industry members of the panel.

19 There was discussion on some of the opening statements
20 about training and the need for the United States to have a
21 training standard. Our agency has engaged in studies on this and
22 indeed rulemakings on this, and what I'd really be interested in
23 hearing is what data -- do you know of any data that shows a
24 correlation, a direct correlation, between training of commercial
25 motor vehicles and future safety?

1 Because obviously, to do a rulemaking, we're required to
2 demonstrate that there is a cost/benefit to the American people
3 for any, you know, costs we're putting on and, frankly, we don't
4 have a lot of studies with real hard evidence, and if there were
5 some, I'd be interested in hearing if you know of some.

6 MR. LITTLER: Bill, I'm going to go back to when new
7 entrant went into the Motor Carrier Safety Improvement Act and I
8 recall -- and I'm not certain where the studies were now, but I do
9 recall that there was an indicator that new companies, the crash,
10 serious crash rate in new companies was something that was of
11 concern.

12 We were looking at 4 and 5 years out after a new company
13 went into business, that there was an indication that they stood
14 at the greatest risk at that point. I think that was at the --
15 one of the convincing points for Congress to look at creating new
16 entrant. So our opinion is, obviously, if you got a carrier
17 coming into business, all the training that you can give them is a
18 good thing. We found that companies will operate for years and
19 what you don't know, you don't know, and in some cases ignorance
20 is bliss, but in this case, we believe very strongly in training
21 of carriers and monitoring their performance for those first few
22 years.

23 MR. QUADE: I was actually speaking more towards the
24 driver training aspect of the --

25 MR. LITTLER: And on the driver training, I mean, it's

1 the drivers' actions, and we've got companies in our industry
2 where drivers are never out of training; it's a constant process.
3 They are monitored, they come back in, training never ceases.
4 It's a difficult industry. It's a difficult task that they have,
5 not only driving, but driving with up to 55 people or more on
6 board. It's a challenge. So training, absolutely.

7 MR. SPENCER: Believe me, I'll jump in on that. I mean,
8 some things you know intuitively. I've seen or heard of studies
9 that show drivers, new drivers, are three times more likely to
10 crash within their first 2 years. I know I've seen it in various
11 FMCSA proposals, pilot programs, things like that, looking at
12 waivers, where they cite numbers of the greater likelihood of new
13 drivers that would replace experienced drivers crashing.
14 Certainly, the numbers are there.

15 This is kind of a tough, tough issue because way back in
16 the mid-eighties, trucking believed they had an image problem and
17 the whole world of trucking got together to come up with a
18 solution for it. The solution that all of the industry agreed on
19 was to elevate the standards and the quality of entry-level
20 drivers coming into the industry. It never went beyond that
21 because the motor carrier industry believed that if these guys
22 have to be better, more quality trained, they're going to cost
23 more.

24 So what training quickly -- the Professional Truck
25 Driver Institute was created. They started with some basic

1 outlines of what training should consist of, but it basically went
2 nowhere because, one, the carrier community would not support it,
3 and because their idea of training was that training that took the
4 amount of time that it needed for them to put a driver in a
5 seat -- and that may be 2 weeks, it may be less.

6 This is one of the big criticisms I have with the Large
7 Truck Crash Causation Study. Data, questions that should have
8 been asked, should have been determined to, simply weren't. But
9 intuitively, you know more is better, quality is better. Drivers
10 are held accountable for everything, all of the operation of the
11 vehicle, all of the components on the vehicle, and basically
12 they're trained on none of that.

13 We saw an example of what quality training and
14 experience can produce when Sully landed that plane in the Hudson
15 River. Now, would you like your next flight on an airplane to be
16 with a pilot that was 2 weeks -- that went to a 2-week school?

17 MR. QUADE: Thank you.

18 CHAIRMAN SUMWALT: Okay, so we'll go to the next table,
19 which is the -- let's see, it's the advocacy table.

20 MR. BURNS: This is a question for Mr. Price. It's got
21 three parts. What percentage of new entrants received compliance
22 review and safety rating within 18 months --

23 CHAIRMAN SUMWALT: And if you would, when you're the
24 party spokesperson, if you would identify yourself --

25 MR. BURNS: Okay.

1 CHAIRMAN SUMWALT: -- as well as the organization that
2 you represent and then also, when you read a question from someone
3 else at your table, it would be helpful if you'd just state who
4 that question is coming from, if you don't mind doing it that way.
5 Thank you very much.

6 MR. BURNS: My name is Jeff Burns. I'm with the Truck
7 Safety Coalition. This is a question from our advocates, Henry
8 Jasny, member of Advocates for Highway and Auto Safety.

9 First was, what percentage of new entrants received
10 compliance review and safety rating within 18 months? And what
11 percentage of those carriers receive an unsatisfactory rating?
12 And what percentage of those have an injury or fatal crash in that
13 period?

14 MR. PRICE: Okay, thank you. I'll have to get back to
15 you, for the record, on what the exact percentage is. I will say
16 that it's our goal that we get to all of the new entrant carriers
17 within 18 months to conduct a safety audit and that we're probably
18 in the high 90s of actually getting those safety audits done.

19 In terms of what percentage of the new entrant carriers
20 receive an unsat rating, we don't actually issue a safety rating,
21 per se, out of the new entrant safety audits. It's a pass/fail
22 criteria. And I can say that about 40 percent of the new entrant
23 carriers we visit, they fail the safety audit initially and are
24 put on notice that if they don't show us evidence of improvement
25 or compliance within 45 or 60 days, depending on the type of

1 carrier they are -- obviously less number of days for HazMat and
2 passenger carriers -- then they'll be prohibited from continuing
3 to operate.

4 As far as the third piece of that, what percentage of
5 the new entrant carriers are actually involved in a crash, either
6 in the 18-month monitoring period or after, again, that's
7 something I'll have to go back and talk to some of our data
8 analysts on to get you some specific numbers on that.

9 MR. BURNS: And this is a follow-up on new entrants.
10 It's our understanding that the form that was previously used for
11 -- planned for motor carrier authority had a requirement that new
12 entrants would acknowledge their obligation to know and follow the
13 regulations and that that's no longer used. Is there any form
14 that a new entrant must sign that contains any acknowledgement
15 regarding their requirement to know and follow the safety regs?

16 MR. PRICE: Yeah. I believe when you apply for a USDOT
17 number, that that certification is part of the process, that when
18 they sign their name on the bottom line, so to speak, that they
19 attest to the fact that they're knowledgeable of the Federal Motor
20 Carrier Safety Regulations and will operate in compliance.

21 MR. BURNS: Okay. This is a question from me for
22 Mr. Abbott or others: The minimum limits for insurance haven't
23 been changed since the early 1980s. Does ATA believe the limit
24 should be raised and, if so, what amounts would be appropriate?

25 And the second part from Mr. Jasny -- well, actually,

1 let's leave it at that.

2 MR. ABBOTT: You mentioned me or others. Is that at my
3 option or --

4 MR. BURNS: No, that's if anybody else wants to speak
5 after you're done.

6 MR. ABBOTT: I'd certainly be interested in
7 Mr. Spencer's thoughts on it.

8 I can tell you that I am aware that those limits have
9 not been adjusted and if I recall -- and this is some time ago
10 that they were originally set by statute. I think the question
11 mark is, is there real evidence of a problem? They're certainly
12 much higher than they are for passenger vehicles and in many
13 states, significantly higher.

14 The second question is, how do you do that in a way
15 that's responsible and doesn't significantly impact small
16 businesses? For large businesses, we can look statistically at
17 the likelihood of crashes and I think the underwriters will tell
18 you that they can, through their actual area data, develop
19 meaningful numbers.

20 For small businesses, it's a little more left to chance,
21 and unfortunately, an insurer is going to have to take the risk
22 that they might have a shock loss with a single carrier, and that
23 could result in a premium that could really be an insurmountable
24 obstacle for small businesses, and certainly, we wouldn't want
25 that.

1 Would you like to weigh in on a thought or two on that?

2 MR. SPENCER: Certainly. We've looked at this issue.
3 Most of our members buy a million dollars worth of coverage, which
4 is higher than what the minimum was set. I was around and
5 involved in this issue when the minimum levels for truck insurance
6 were raised, or liability coverage was raised last time, and I
7 know what chaos it created in the motor carrier community. I
8 mean, it actually created -- in the motor carrier community, yes,
9 but it also created chaos in the insurance industry in that their
10 insurers didn't have the capacity to actually cover as many trucks
11 as they had previously. They didn't have the reserves to do that.

12 And so what happened was premiums went way, way, way up
13 and lots of people had real problems getting coverage at all. It
14 wasn't just trucking. This happened with communities. There were
15 all kinds of people that couldn't get liability coverage. So
16 there are severe economic ramifications as -- and it certainly
17 would create the biggest obstacle on small business and, again,
18 from my perspective, and I think the facts will show, without any
19 real justification for it.

20 We've not seen where these things are -- where insurance
21 amounts are necessarily justification or causation for changing
22 behavior. The higher the limit for insurance just simply puts the
23 jackpot that much higher for trial attorneys and those that simply
24 see these as profit-making ventures, and, you know, in most parts
25 of the world they advertise fairly, fairly regularly. And again,

1 it simply increases costs without any real net benefit to that.

2 MR. BURNS: This is a question from Matthew Brumbelow
3 with the Insurance Institute for Highway Safety to Kenneth
4 Presley: How would random en route inspections be a safety
5 hazard?

6 MR. PRESLEY: Well, it certainly depends on where the
7 inspection incurs. There's been some discussions of having these
8 en route inspections at weigh stations and the question becomes is
9 there proper amenities such as restrooms or a place to get
10 beverages and what are you going to do with these passengers if
11 the bus is placed out of service?

12 Certainly, if the inspection is actually taking place at
13 roadside, we think that that's a very hazardous environment
14 because of lane drift and the potential for somebody to run into
15 the back of a bus and cause severe damage. So overall, en route
16 inspections just don't work for us. It also impedes schedules.
17 If you're trying to make a connection somewhere or trying to -- if
18 you're going to a special event or what have you.

19 MR. BURNS: And this is a question from Peter Nonis with
20 AAA. It's for Mr. Littler.

21 You mentioned no place to hide and gave six
22 recommendations, including firmer penalties. And can you suggest
23 how the judicial system expenses for enforcement and adjudication
24 process would work and how you would engage prosecutors in that?

25 MR. LITTLER: Well, I didn't specifically mention

1 stiffer penalties, but stiffer enforcement when it comes to
2 follow-up, and that means going to court. Obviously, there's an
3 education component here where the judicial system and prosecutors
4 need to be educated to the fact that, well, a driver is going to
5 argue that this is their livelihood, which is a powerful argument.
6 But their actions are placing multiple lives at risk, both from
7 the traveling public and from their passengers. So I think that
8 that argument should outweigh the other. And we've asked for many
9 years that these charges not be dismissed, not be pled down to
10 something much lesser or masked. So it's a matter of follow-up
11 and I think the follow-up needs to come from the officer who
12 issued the citation to go to court and press the charge, if it's
13 warranted.

14 And currently, we see in the industry, buses are not
15 routinely pulled over for a lot of moving violations. In some
16 areas, in some jurisdictions, they have been, but generally it's
17 not because you don't want to have a situation where you may have
18 all of these passengers sitting at the side of the road. But
19 we've suggested that there are ways to do it safely. Pull the bus
20 over, get on board; explain to the passengers that they'll be on
21 their way soon, you need to speak to the driver; take the driver
22 off; if it's appropriate, issue the citation and then follow it
23 up. And that's kind of where we are.

24 MR. BURNS: This is a question from Mr. Jasny at
25 Advocates: Mr. Price, under the CSA program will FMCSA change its

1 policy to place motor carriers out of service if only vehicle or
2 driver violations but not both are in the record?

3 MR. PRICE: Well, certainly what we're contemplating now
4 as part of our new safety fitness regulation is a ramped-up
5 standard, if you will. I think under our current safety rating
6 process, one of the criticisms in the past is that a company has
7 to have multiple areas of noncompliance before they're deemed
8 unsatisfactory or placed out of service.

9 And I think one of the things you'll see in this notice
10 of proposed rulemaking that, you know, we've spoken about in some
11 of our CSA listening sessions, is that we'll be proposing that
12 even single areas of noncompliance in these areas where we have a
13 strong correlation with future crash risk, those single areas
14 could result in a company being placed out of service and declared
15 unfit.

16 MR. BURNS: We're out of time.

17 CHAIRMAN SUMWALT: Thank you so much.

18 And now to the unions and associations table.

19 MR. STUDIVANT: Calvin Studivant representing the United
20 Transportation Union and this question is from the International
21 Brotherhood of Teamsters for the FMCSA.

22 CHAIRMAN SUMWALT: Could I interrupt you just for a
23 second? You're doing perfectly, but for some reason our court
24 reporter is not picking up the audio on your channel. And so what
25 do we need to do about that one? Audio.

1 Well, that's always a possibility there. We can revert
2 to a lower technology there. Let's see, in the audio booth, can
3 you try that to see if we can get some audio from this table to
4 the court reporter?

5 Go ahead and speak for a second and see if our court
6 reporter can hear you.

7 MR. STUDIVANT: Yes. This first question is for Bryan
8 Price.

9 CHAIRMAN SUMWALT: Okay. Well, apparently that's not
10 working. We'll take care of that, hopefully, during lunch. And
11 if you don't mind just grabbing -- perhaps you could sit at this
12 table here? And my apologies for the technical staff. Thank you.

13 MR. STUDIVANT: Okay. Bryan, CSA 2010 has some focus on
14 drivers and drivers have expressed concerns about being
15 responsible for issues and/or problems for which they had no
16 control. As CSA 2010 has been rolled out, are you seeing any
17 increase in whistleblower complaints from drivers? Have you
18 correlated the complaints with carrier noncompliance?

19 MR. PRICE: I don't think that's something that we've
20 specifically seen as of yet, like an increase in whistleblower
21 complaints. That's something we could reach out to our division
22 offices that oftentimes hear of these and sometimes even
23 coordinate with the Department of Labor on.

24 But we have heard concern, you know, from the driver
25 community about certain violations in our driver measurement

1 system that are attributed to the driver. And we're working
2 collaboratively with, like, the Owner-Operator Independent Driver
3 Association, for example, to kind of fine tune which violations
4 should and should not be attributed to an individual driver's
5 record.

6 MR. STUDIVANT: Okay. This next question is from UTU to
7 Todd Spencer: In your PowerPoint, you talked about the need to
8 recognize the good drivers. How do you propose we recognize the
9 good drivers out there in the industry?

10 MR. SPENCER: Could start by paying them. Truck driver
11 wages have been basically stuck since 1980. I mean, currently the
12 average is about \$38,000 to \$40,000, and if it were just simply
13 adjusted for inflation, it would be twice that. Major, major
14 issue. Obviously, we expect people to do a very difficult,
15 challenging job. They have to deal with all kinds of traffic, all
16 kinds of weather, be responsible in every way and we expect them
17 to do it for simply not much money. I mean, when the economy was
18 tanking 2 years ago, safety bonuses basically went on the block at
19 most companies. I mean, the economics aren't there.

20 Our system doesn't reward experienced drivers. And when
21 I say experienced, I mean there's no shortage of million-mile safe
22 truck drivers, no shortage of 2- and 3-million-mile safe drivers.
23 They're there. The concern that I have is that who's going to
24 replace those people when we have a system in place that basically
25 just, you know, keeps them down at the bottom. I mean, we don't

1 have people approach this as a career if we don't recognize them.
2 And the first way to start is pay them.

3 MR. STUDIVANT: Next question is from the UTU to the
4 American Bus Association: If a member of your organization
5 continued to operate illegal, do you bar them from your
6 organization and, if so, do you alert the proper authority?

7 MR. LITTLER: We monitor our members. First of all, any
8 member that joins the American Bus Association, they're vetted.
9 They sign a code of ethics and they agree to abide by that code of
10 ethics. Every year, when their membership comes due, they are
11 re-vetted and checked to determine what their safety status is and
12 if it is not up to where it should be, they are contacted. We are
13 very, very keen on making certain that members of the American Bus
14 Association live up to the standards of that code of ethics and
15 the highest level of safety.

16 MR. STUDIVANT: The next question is for Bryan Price
17 from the Women in Trucking: Could CSA potentially have an adverse
18 effect on safety if carriers hire new drivers who had no prior
19 violations and look good on paper?

20 MR. PRICE: I certainly don't think so. That's
21 something that we've had expressed to us before as a potential
22 concern, that some companies, rather than face the potential
23 liability associated with a driver that has a bad driving record
24 or that has violations on their record from prior inspections
25 might be better served, from a safety standpoint, to hire a rookie

1 driver, if you will, someone that doesn't have it. And we
2 certainly hope that's not the case. I don't think that's the
3 case.

4 I think, at the end of the day, when companies are
5 really looking at risk, there's an understanding that, you know,
6 an experienced driver is going to be more valuable and have less
7 crash risk than a newbie or someone that's right out of a driver
8 training school, for example.

9 MR. STUDIVANT: Okay. Our time is running out.

10 CHAIRMAN SUMWALT: Okay, good. Thank you. It looks
11 like you've got more time, but --

12 MR. STUDIVANT: I have no more questions at this time
13 for the panel.

14 CHAIRMAN SUMWALT: Thank you so much, I appreciate it.
15 And we are going to work on that audio issue. We could hear you
16 just fine here in the auditorium, but apparently the channel with
17 our court reporter wasn't getting it, so thank you.

18 And finally, the last table will be the state
19 governments.

20 MR. WEST: He was doing such a great job, I thought he
21 should just stick here and ask my questions, but apparently he
22 doesn't want to do that.

23 First question is from Karen Morton from the AAMVA
24 organization and this is for Bryan Price: Are carriers subject to
25 penalties and/or sanctions when there are safety audit findings?

1 And there's a follow-up question with that. It says:
2 If a carrier is found to be substantially noncompliant, can FMCSA
3 revoke the carrier's authority?

4 MR. PRICE: The answer to that is yes and yes. There
5 are several penalties associated with violations. When we conduct
6 a compliance review or a safety audit, there's always the
7 possibility that a carrier could face what we refer to as a notice
8 of claim; in other words, a letter that says you have these
9 particular violations, you owe the government money because of
10 these.

11 Second part of the question, you know, can a carrier
12 face registration of their authority or being placed out of
13 service, and again the answer to that is absolutely, yes. You
14 know, if a company -- if we document enough violations during a
15 compliance review, we'll propose that the carrier's safety rating
16 be unsatisfactory. And if that proposed safety rating becomes a
17 final unsatisfactory safety rating, the company's prohibited from
18 operating.

19 MR. WEST: Thank you.

20 The next question is from myself and I forgot to
21 introduce myself. I'm Randy West with the Commercial Vehicle
22 Safety Alliance. A fairly new employee with CVSA, I came from a
23 state, the State of Utah. Well, everybody comes from a state --
24 of mind or someplace. But I happen to come from Utah and very
25 interested in listening to some of these things there.

1 My question is, has there been any educational and
2 outreach provided to CMV drivers regarding CSA and its effect on
3 them? And just kind of follow up to Mr. Jensen's (sic) comment
4 there, as well.

5 MR. PRICE: Yeah, we've tried to do a lot of outreach to
6 educate the driver community about what CSA is all about and,
7 quite frankly, to dispel some myths. We've actively been involved
8 in getting on some of the satellite trucking radio shows that we
9 know are obviously listened to by the driver community.

10 We've created all kinds of, you know, just little pocket
11 cards that explain what CSA is all about and what it means for
12 individual drivers, and work through our outreach office in
13 distributing those at truck stops across the country, billboards
14 on major interstates about CSA and our website. And within the
15 CSA website itself, obviously too, there's a section on what CSA
16 means to individual drivers.

17 MR. WEST: Okay, thank you.

18 That's all the questions we have from this table at this
19 point.

20 CHAIRMAN SUMWALT: Right, thank you.

21 I want to congratulate the parties. I know that it's a
22 little awkward about how we're doing the questioning, you know,
23 that may seem a little awkward. You're trying to ask questions
24 for other people and that can be sometimes difficult, but I think
25 the way that you did it was exactly the way that we've done it in

1 the past and so thank you for that. Let's just keep doing it that
2 way.

3 We will allow for follow-up questions and originally we
4 said 10 minutes per table, then I said we might do 5-minute
5 follow-up. Why don't we just split the difference? We're going
6 to offer you 7 or 8 minutes for follow-up and it's -- I'd like to
7 point out that the follow-up is optional. You don't have to ask
8 questions during this next round, but we'd like to give you that
9 opportunity.

10 Just so everybody in the boardroom has the idea of the
11 big picture, we will plan to go until right around 12:30 and then
12 take a break. That's what the plan is. We may break just a
13 little before that depending on how long the questions go, but
14 that's -- you know, we're planning on breaking somewhere between
15 12:20 and 12:30.

16 And what we'll also do, in addition to you all rotating
17 who will be your table spokesperson during each next round, we'll
18 also rotate the order in which we start. We started over here
19 with the industry associations, so -- on the first time, so today
20 we'll start with the government table for the first round.

21 So again, you've got 7 or 8 minutes and, again, you all
22 have done an exceptional job at keeping your questions. I want to
23 reemphasize, we're not trying to limit what anybody is saying;
24 we're just trying to be able to keep this thing on a reasonable
25 schedule. So thank you so much for your continued cooperation.

1 Please begin.

2 MR. QUADE: Okay, thank you.

3 Bryan Price, there was a question earlier about what
4 information we provide a new entrant motor carrier when they join
5 the industry as far as educational information and I think you may
6 have gotten some additional information at the break. Can you
7 share that with the forum?

8 MR. PRICE: Yeah, sure. Thanks, Bill.

9 Yeah, in terms of specifics, what happens when a new
10 entrant carrier applies for a USDOT number, they're actually
11 provided a link to our specific educational and technical
12 assistance package which has, you know, sample forms, things of
13 that nature, and just kind of a summary of what a new motor
14 carrier's compliance responsibilities are.

15 On top of that, they're also mailed a drug and alcohol
16 brochure that goes into some of the details as to what their
17 responsibilities are in terms of drug and alcohol testing. And
18 then along with that is also a specific brochure on the new
19 entrant program itself that kind of explains to them as a new
20 entrant carrier how the program works, the fact that they're going
21 to be monitored for 18 months and that they'll be subjected to a
22 safety audit.

23 MR. QUADE: Okay. And Bryan, you commented a little bit
24 earlier in response to a question from, I think, the ATA regarding
25 the correlation of safety with the data in the new CSA program.

1 Is there anything else you wanted to share about how the data that
2 we're seeing, that correlates that the new CSA program is, indeed,
3 allowing us to identify unsafe carriers?

4 MR. PRICE: Well, just that, you know, at the end of the
5 day when we step back and take a look at have we made
6 improvements, and we do a comparison of the prior system. You
7 know, I was very glad to hear the industry folks speak to the fact
8 that -- you know, to a person everyone said it's an improvement
9 over the prior system. And from our perspective, too, when we
10 look at what our primary responsibility is, which is to get at the
11 high-risk carriers and remove them from the road, our
12 effectiveness testing is showing us that we do have a better
13 mousetrap, that this measurement system is doing a better job at
14 effectively identifying who the high-risk carriers are. They're
15 having more crashes than our prior group, and also telling us
16 specifically, better pinpointing for us what those problem areas
17 are.

18 MR. QUADE: Okay. And Bryan, a question from the GAO.
19 Right now there is no vetting to identify reincarnated
20 freight carriers outside of -- well, of household goods carriers.
21 What are the risks associated with that and what is FMCSA doing to
22 address those risks?

23 MR. PRICE: Okay, yeah. Right now, that is correct.
24 Our vetting process, in other words, our formal look, if you will,
25 when a company applies for authority to, you know, examine other

1 databases and really try and pinpoint if it's a reincarnated
2 carrier, that does apply just to the passenger carrier industry
3 and the household goods carriers at this point.

4 In terms of what we're doing with the general freight
5 carriers, if you will -- well, obviously, we're trying to detect
6 them. I think the PRISM program that I spoke to earlier is one of
7 the principal tools that we're using, you know, by tying in to the
8 VIN numbers and having our state partners at the DMV offices
9 assisting us in that regard. That's where we're making some
10 headway.

11 And then, also, you know, it just comes down to
12 knowledge down at the local level, our division offices being
13 aware of company locations and folks reincarnating. And talking
14 with our partners, you know, the roadside inspectors that know
15 equipment, that see the same operators day in and day out, those
16 are some of the things that we're trying to make use of to better
17 identify and go after the known chameleons on the freight side of
18 the house, if you will.

19 MR. QUADE: Okay. Mr. Spencer, a question from the
20 National Highway Traffic Safety Administration.

21 Are there any studies which show a correlation between
22 higher pay and better safety performance?

23 MR. SPENCER: Actually, I think Belzer, Mike Belzer, did
24 do studies that correlate with that. I also think that if you go
25 across -- if you look across our industry at who are the safest

1 segments of the industry, you'll find a correlation between pay
2 and safety.

3 MR. QUADE: And I think for -- again, I'll throw this
4 one out to any of the members of the panel.

5 One of the things that was discussed -- and again, a
6 number of the opening statements was the idea about requiring a
7 knowledge testing before we allow motor carriers into the industry
8 or requiring some set of standards. I was wondering whether you
9 have thoughts about how operationally that would work, how the
10 agency might address the myriad of potential fraud issues that go
11 with that, a carrier that hires a consultant for the purposes of
12 getting through the door and 2 weeks later, they're no longer
13 there, some of those types of issues. I mean, do you have any
14 thoughts on how the agency might do that?

15 MR. LITTLER: Well, we worked several years back, I
16 think now, went to Billings, Montana looking at the whole idea of
17 educational programs for new entrants coming in and what was
18 necessary and for carriers. I think we kind of blue-skied it at
19 that time in looking at how you would license --

20 MR. QUADE: Was that pun intended?

21 MR. LITTLER: Yeah, a little bit.

22 But -- and really, it did come down to where licensing
23 is conducted. And I guess this would possibly go to the folks
24 from AAMVA to work with us on this one and that would be you need
25 a licensing agency that can identify the individual going in who's

1 going to take the test, first of all. You have to make certain
2 they don't send in that surrogate that you're talking about.

3 And then it would be a computerized test with the test
4 questions generated on a random basis. But you'd have to
5 challenge their knowledge and I think that's probably the only way
6 it could be done and it would have to be done at the state licensing
7 level.

8 MR. KEPPLER: I was going to offer a couple things. I
9 know a couple of the states have implemented -- to get to the
10 basic concept of testing, I know Kansas has implemented a
11 requirement on their carriers. They require a 4-hour training
12 course that they go through. And as a result of that training
13 course, there's a testing requirement and -- them to demonstrate
14 their proficiency. And one of the things they found in the
15 follow-up activities when they do, do an audit is, when the
16 carrier says, well, I didn't know about this, they've got a
17 certificate they can show them that you completed this test.

18 Another one of our members, Colorado, they have a
19 similar process, a questioning process on the front end, and they
20 go in 3 to 6 months later, ask the carrier the questions again to
21 see how their knowledge level may have changed.

22 So there are several things out there that states have
23 implemented. I think as part of this screening on the front end,
24 I think it could be very valuable moving forward.

25 MR. ABBOTT: Can we extend for just a moment so I could

1 respond to the question? I know we're out of time.

2 CHAIRMAN SUMWALT: Go ahead and wrap it up. And make it
3 short, please.

4 MR. ABBOTT: I'll be very quick. I agree with most of
5 that. I mean, I think you can make a distinction between the
6 training and the exam component. The training can be done online,
7 the exam, obviously, there's some potential for fraud, so you'll
8 want to have that proctored in some way. You either have somebody
9 making a declaration under penalty of perjury or you have someone
10 witness that they took the exam at a DMV or maybe at the state
11 police, commercial motor vehicle division, somehow, but you put
12 the onus on the chief executive of the company to present himself
13 to take that exam and provide some sort of identification that
14 he's done so.

15 CHAIRMAN SUMWALT: Thank you for that and, again, thank
16 everyone for their attention to the time.

17 So we will now go to the advocacy table.

18 MR. BURNS: Again, I'm Jeff Burns with the Truck Safety
19 Coalition. This is a question from Mr. Jasny with the Advocates.

20 Mr. Leppler (sic), how many states have a proficiency
21 exam for new entrants?

22 MR. KEPPLER: It's a good question. I don't know the
23 answer to that. I can get back to you on that.

24 MR. BURNS: And, Mr. Price, a related question from
25 Mr. Jasny: Does FMCSA plan or have they discussed any requirement

1 of a proficiency exam for new entrants?

2 MR. PRICE: It's been discussed. I can't say at this
3 point how seriously, but I know in the past that, you know, as we
4 developed the new entrant program, that the possibility of a
5 proficiency exam has been discussed, but it's not currently part
6 of the new entrant program.

7 MR. BURNS: And this is a question from me for
8 Mr. Price: One goal for CSA was that the public, including
9 shippers, could use the public data to choose a safe motor
10 carrier. Now, there's a disclaimer on the front of the CSA
11 website that says -- that urges users not to use the data to draw
12 conclusions about a carrier's safety. We understand the language
13 was the result of the settlement of a lawsuit. Does that mean
14 that this language is going to stay on the website until the regs
15 are changed to allow the use of CSA for safety ratings?

16 MR. PRICE: I think you will see disclaimer language
17 remain on the website until we formally change our safety rating
18 process. That's, in fact, another reason why that disclaimer
19 language is there, is to kind of point users to the fact that the
20 information on the Safety Measurement System is valid, you know,
21 it is a reflection of where a carrier stands in our eyes right
22 now, whether above threshold or on our radar screen, so to speak.
23 But we also want to make sure that the public is fully informed
24 and looks at other databases and other information that's not
25 included as part of the measurement system. And the two things

1 that come to mind is a carrier's formal safety rating. You know,
2 we want the public to also look at what a carrier's formal safety
3 rating is. And also, our license and insurance database, and I
4 believe there's a link from the SMS, the Safety Measurement
5 System, site for that, to make sure that a carrier does have
6 authority and a proper level of insurance, as well.

7 MR. BURNS: This is a question from Matthew Brumbelow at
8 the Insurance Institute. It's for Mr. Littler.

9 Since that information is publicly available through
10 CSA, could the industry itself implement or maintain a user-
11 friendly system to make that so that consumers could more easily
12 identify the safest carrier?

13 MR. LITTLER: And the problem you have at the
14 association level is we don't have all of the carriers out there
15 that are members. We can link to the site that's currently
16 available within the FMCSA website where you can search for a
17 carrier based on a ZIP code, but that's -- the listing of those
18 carriers is not based on their safety records. I mean, you can
19 check that carrier when you find it, but you've got to then dig
20 down into their safety records and try and make a judgment based
21 on your knowledge or lack of knowledge.

22 MR. BURNS: This is a question from Mr. Jasny at
23 Advocates. It's to the panel. If anyone has any thoughts about
24 whether there is a need to require new entrants to show a minimum
25 level of financial ability, not financial responsibility of

1 insurance, but financial ability to operate safely?

2 MR. SPENCER: Jump immediately in on that simply
3 because, you know, again, as I said earlier, the new entrant audit
4 stuff, total waste of time and resource, total -- and it's worse
5 than that because it's statutory, so 40,000 new entrant audits
6 have to get done every year. We, as taxpayers, pay for that.
7 Now, but is that even -- is that the best use of anybody's
8 resources? I suspect not.

9 The scrutiny for new entrants, and actually for existing
10 entrants, sort of needs to be at FMCSA and it needs to be upfront.
11 You know, we've talked about -- we had talked about chameleon
12 carriers and reincarnated carriers, but we do -- I can't speak for
13 the agency, but I see no evidence that anything much at all is
14 done to identify them or identify the problems.

15 I've got a carrier that works the border on -- and it
16 isn't all that hard stuff. I've got a Mexico carrier. It's
17 got -- that has commercial zone authority and it also has to have
18 -- has U.S. operating authority. The only thing they changed on
19 their address, in one it actually says Mexico; the other it says
20 Nogales, Arizona. The designation for country is all that
21 changed; no phone number, no fax number. The name went from M&M
22 to L&M. I mean, this is simple, simple stuff.

23 The reincarnation stuff comes with the bus carriers all
24 the time, with truck carriers all the time. We've got one located
25 right at home that's been doing this stuff for 10 years, simply

1 moves across the state line. That carrier owes the State of
2 Kansas a million dollars. I'd think they'd want their money, but
3 we don't -- there is no simple enforcement to reach out. That's
4 where the priority needs to be upfront.

5 MR. BURNS: Did anybody else have any --

6 MR. KEPPLER: I'd actually like to offer a different
7 answer to that question. One of the things that we have concerns
8 about is in the penalty assessment structure. When FMCSA does
9 discover violators, one of the factors that they're required to
10 consider is ability to pay, and from our view, that provision
11 should not be there. The violation's the violation. Whether or
12 not the carrier can afford to pay it is kind of, in our sense,
13 immaterial. So that's -- I'll answer your question differently in
14 that respect.

15 MR. BURNS: Mr. Price, you don't have any thoughts on
16 that one, about whether a new entrant should be required to show
17 some minimum level of financial ability to operate safely?

18 MR. PRICE: Well, what I would say to that is I think I
19 agree with Mr. Spencer in some respects, and that is that I think,
20 you know, right now our vetting process, where we're looking at
21 companies coming into the industry, is limited to passenger
22 carriers and household goods carriers.

23 I think, ideally, if we had the resources to take a look
24 at these other, you know, 30-some-odd thousand carriers each year
25 that are applying for authority on the front end and vet them

1 upfront to make sure they're not a reincarnation of a prior
2 company, that we would be better served. It's a matter of
3 establishing and having the capacity to handle that kind of a
4 volume and apply the process that we're currently applying to the
5 passenger and household goods carriers.

6 MR. BURNS: The final question is to the panel and that
7 is -- I'm out of time.

8 CHAIRMAN SUMWALT: Thank you so much.

9 Okay. So the union and drivers associations.

10 MR. STUDIVANT: This is going to be quick. We just have
11 one question here. It's going to be to Rob Abbott.

12 The presenters have suggested that crash rates are
13 related to driver behavior, skills, and turnover. There's
14 evidence that there is an aging driver workforce which will result
15 in large influx of new drivers into the industry. Do you have
16 thoughts on what initiatives and programs should be implemented to
17 address new drivers coming into the industry?

18 MR. ABBOTT: Yeah. I mean, that is an area of concern,
19 particularly because we know that inexperienced drivers tend to
20 have higher crash rates and we know that particularly in the --
21 the average population is aging, but also commercial motor vehicle
22 operators, on average, are 10 years older than the average
23 population, so it's profound. I think it ramps up the need to
24 look very closely at how we're going to do entry-level driver
25 training programs in a way that's performance based.

1 I mean, we have a very real need to move essential
2 freight in this country and we've got to figure out how are we
3 going to meet that need and have the people to do it in a way
4 that's responsible and provides for training. And so my thoughts
5 are that we need to elevate that as an item on the national agenda
6 in terms of recognizing that in the next 10 to 15 years,
7 particularly as the economy grows and freight grows and traffic
8 grows, that we're going to have to do that. Do I have a specific
9 answer? No. But I agree with you that it's something that we
10 need to devote some resources and attention to.

11 MR. STUDIVANT: Okay, that's the only question we had
12 and I'd like to add that question came from the International
13 Brotherhood of Teamsters.

14 CHAIRMAN SUMWALT: Right. Thank you very much.
15 And the state governments.

16 MR. WEST: We really don't have any follow-up questions
17 at this point.

18 CHAIRMAN SUMWALT: Thank you.
19 And the industry associations.

20 MR. OSIECKI: Yes, thank you. This one -- question is
21 from Pete Pantuso from ABA to Mr. Price.

22 Bryan, more than 450 bus companies have passed DOD,
23 Department of Defense, inspections. Would it make sense for FMCSA
24 to accept these inspections so that the agency can direct their
25 efforts to other, perhaps, less safe passenger carriers?

1 MR. PRICE: You know, that's something that we have
2 looked at.

3 (Feedback.)

4 MR. PRICE: I don't know if that's me or you.

5 That's something we've looked at in the past, is the
6 possibility of taking some of the compliance reviews that are done
7 by -- I believe they're generally contractors that are done for
8 Department of Defense, do these compliance reviews.

9 When we looked at this several years ago, we noted that
10 they look at different areas or different elements of compliance
11 than we do. Like, for example, I know that they were looking at
12 things like cleanliness and comfort of the seats and things of
13 that nature.

14 In terms of whether it would make sense for us to use
15 that information or acknowledge it when we're deciding how to
16 direct our resources, I think if we step back and look at, you
17 know, how we're operating now, kind of right out of the chute our
18 first approach is to use performance data. So when it comes to
19 the motor coach carriers, we're going to go to those first that
20 are having performance problems through roadside inspection
21 activity, for example.

22 Now, on top of that, though, I think there's a
23 recognition or an understanding on our part, and this was kind of
24 highlighted in some of the comments, that we don't have a
25 tremendous amount of inspection data on motor coaches to

1 adequately ensure that our performance-based system makes sure we
2 get to as many motor coach companies as we should. So that's why
3 we supplement our performance-based approach under CSA with
4 additional lists, if you will, of motor coach operators.

5 I think the Department of Defense data and the reviews
6 that come out of that is certainly something that we could
7 consider, I mean, if I'm a division administrator and I've got two
8 bus companies that look equal sitting on my desk and I'm deciding
9 which one I should go see, you know, again, the very rare
10 circumstance where all things are completely equal, then I think
11 we might look and say, well, the Department of Defense had a
12 compliance audit done on this bus company 2 months ago, I need to
13 go see this guy on the other side of my desk first.

14 MR. OSIECKI: Thank you. Gosh, I feel like I'm picking
15 on you, Bryan, but here comes another one. This one's from me,
16 Dave Osiecki with ATA.

17 Earlier you commented on the high predictive value of
18 the unsafe driving CSA BASIC. FMCSA has also performed research
19 and found significant safety benefits from motor carriers that
20 receive more timely notification of driver moving violations. One
21 potential way to take advantage of this data is for FMCSA to
22 facilitate a driver violation notification type system. Does
23 FMCSA have a plan to pursue the development of such a system?

24 MR. PRICE: Yeah, I think we do. Are you speaking to
25 something like the employer notification system that's used in

1 some states?

2 MR. OSIECKI: Yes. Yeah, it's -- it sort of takes on
3 both names, depending on where you --

4 MR. PRICE: Okay. Yeah, I know we've got efforts
5 ongoing in that area. As to the exact status and what the
6 timeline is, I'll have to get back to you on that. But I know
7 that that is an area of interest to us, as well as other folks.

8 MR. OSIECKI: Okay. I think we still have a few minutes
9 and right back at you. For Mr. Price, question from me.

10 Could you please describe the research performed to
11 assign the violation severity weights within the CSA program and
12 comment on whether that research is available to the public?

13 MR. PRICE: Sure. Yeah, that's something that's been of
14 great interest to the public as well as the motor carrier
15 industry, and I guess what you're speaking to is the actual
16 violation severity weights that we put on individual violations or
17 groups of violations in our measurement system. The approach we
18 took is available to the public, and it's somewhat complex, but
19 I'll try and put it in layman's terms.

20 Kind of the foundation for the whole assignment of
21 violation severity is in some driver research we did, where we
22 looked at a pool of a quarter million drivers and looked at the
23 association between their violations and crash risk. So that
24 driver study we did, again, was kind of the foundation for it.

25 But I guess in terms of kind of a step-by-step process

1 of what we did, after we established this driver foundation where
2 we looked at, you know, again, the association with drivers and
3 the types of violations they were getting and crash risk, what we
4 essentially did is we took all the violations and the first step
5 was let's put them all in the appropriate BASIC in our measurement
6 system. Very straightforward, you know, put the vehicle
7 maintenance violations in Vehicle, put the hours of service
8 violations in Fatigue, and so forth. Then the next step in that
9 process, after we had everything sorted in the appropriate bucket,
10 is there was an understanding that we couldn't get down to the
11 individual violation level and look at the crash likelihood of
12 individual violations. So what we did is we grouped things so
13 that within each bucket or each BASIC, we established groups of
14 violations where we could put similar type violations in the same
15 bucket and assign similar weights.

16 So, for example, in Vehicle we would have a brakes
17 grouping and a lights grouping. And essentially what we did from
18 that is the statisticians ran regressions. And I'm not a
19 statistician, so I hope you don't ask me to explain all that. But
20 we ran regressions and looked at the association between crashes
21 and crash involvement of those 250,000 drivers I mentioned in the
22 foundation study and the crashes that they were involved in
23 associated with those violation groups.

24 So if anyone's interested in looking at that approach we
25 took, it is available. I think it's in the back of our SMS

1 methodology.

2 And I know we're short on time. The very last thing I
3 will mention in that regard, though, is because there's been so
4 much interest in these violation severity weights, what we have
5 done is we have asked the Motor Carrier Safety Advisory Committee,
6 which is made up of industry representatives, safety advocates,
7 enforcement personnel, we've asked them to more or less take a
8 fresh look at the approach we used to assign the violation
9 severity weights and come up with recommendations to improve them.

10 MR. OSIECKI: Thank you. Just one more question from
11 this table. It's from Pete Pantuso, ABA.

12 One of the current BASICS is labeled Fatigue, but most
13 items -- in fact, the majority of items under it are very minor
14 logbook mistakes and violations. Is there any thought within
15 FMCSA to rename this BASIC as it could be very misleading?

16 MR. PRICE: You know, that's been suggested to us that
17 maybe we should rename the Fatigue BASIC. It's something we heard
18 about at the last CVSA conference that there's, you know,
19 assertions that these minor, what are construed as paperwork
20 violations, form and manner-type violations, aren't necessarily
21 related to fatigue. So what we've done thus far is we've put in
22 parentheses on the website, it's Fatigue (Hours of Service) as
23 kind of our first attempt to try and convey that that BASIC is
24 about hours of service compliance and compliance with the logbook
25 regulations.

1 MR. OSIECKI: Thank you. That's all we have.

2 CHAIRMAN SUMWALT: Thank you, Mr. Osiecki.

3 Okay, for the parties. Are there any questions out
4 there that will just kill you if you don't ask? Is there that one
5 nagging question that you won't be able to sleep tonight if you
6 don't ask it? And if you have such, raise your hand. I'd like to
7 see. Okay, anybody else?

8 Okay, I don't want you to sleep poorly tonight because
9 tomorrow will be a long day, so go ahead and ask that one last
10 nagging question.

11 MR. OSIECKI: A very quick question for Mr. Keppler.
12 This is from me, ATA.

13 If you had to put a resource figure or number on the
14 additional resources needed at the state level to deal with the
15 current Data Q's issue and the future Data Q's issues and concerns
16 that you mentioned earlier, what would that be? What's the -- and
17 obviously, you don't need to get specific, but what's the
18 ballpark, if you have one?

19 MR. KEPPLER: We've done some investigation into this
20 and probably at a minimum, one additional person at the state
21 level and for some of the larger states, two or more. So if you
22 look at it from a body perspective, and that -- while we expect,
23 out of the gate, there continue to be a kind of ramping up of Data
24 Q's, it will level off at some point but it will never get to a
25 point where it was before, so that resource base needs to be

1 continued and sustained.

2 And it's not just the people, it's also the actual --
3 the training, the technology. A lot of states, what they're doing
4 is they've got a number of -- for example, one state in particular
5 brings in industry people as part of their adjudication process
6 for Data Q's. So the energy, the time, the money to support that
7 process, it's beyond just the people. It's those extra things
8 that are added on to that to facilitate timely responsiveness to
9 those issues.

10 CHAIRMAN SUMWALT: Great. Thank you all very much.
11 Great questions, great answers from the parties. We're going to
12 bring it back up to the Technical Panel and Mr. Kotowski.

13 DR. MARSHALL: Mr. Van Etten, on new carriers?

14 MR. VAN ETTEN: Okay. I want to congratulate all the
15 party members for co-opting all my questions. But I do have just
16 a couple more, just maybe two to clarify some things in my mind.
17 This question is to Steve and maybe to Bryan, if he wants to chime
18 in on it.

19 Do states have similar processes for identifying and
20 placing out of service an intrastate carrier, much like the FMCSA
21 does at the federal level, and what states have these programs and
22 how are they different from the federal programs?

23 MR. KEPPLER: The out-of-service orders, obviously
24 that's something that's at the interstate level. For those states
25 that have that authority to place carriers out of service at the

1 intrastate level, they do that. There's a lot of things that they
2 do collaboratively with FMCSA when we're dealing with these issues
3 in terms of ensuring that the information is timely so that they
4 can act on those orders effectively. But generally speaking, no,
5 because most of the carriers are interstate carriers. There's a
6 number of them that are intrastate, but it's generally focused on
7 the interstate population.

8 MR. VAN ETTEN: I probably should have prefaced that by
9 saying this would -- my question is more concerning about new
10 entrants.

11 MR. KEPPLER: Oh, I'm sorry.

12 MR. VAN ETTEN: Into intrastate.

13 MR. KEPPLER: Yeah, on the new entrant program, before
14 the program was launched in 2003, the states generally did not
15 have a screening program for intrastate carriers. With the
16 introduction of the new entrant program, many -- you know,
17 particularly ones that have DOT numbers now, are moving to that
18 regard. And also with CSA, some of them are looking to implement
19 CSA at the intrastate level as well as the interstate.

20 So that's been a huge value for the new entrant program
21 in terms of the resources to support. Otherwise, that data would
22 not be shared and there's a lot of issues going on with inter and
23 intrastate in reciprocity. So the resources available on that
24 issue and particularly with the chameleon carrier issue have been
25 invaluable in helping to track these carriers at the inter and

1 intrastate levels.

2 MR. VAN ETTEN: Thank you. Bryan.

3 MR. PRICE: Yeah, I'll just add a couple of things to
4 what Steve mentioned with regard to intrastate carriers. First of
5 all, you know, CSA was designed for the interstate population, but
6 we do have a lot of intrastate carriers in our database, a lot of
7 intrastate carriers, because a lot of states require intrastate
8 USDOT numbers of their intrastate carriers.

9 So one of the things that we've been doing is we run our
10 measurement system on all the carriers, all the intrastate
11 carriers in our database, so that we can make available to the
12 states listings, if you will, of who the intrastate carriers are
13 in their states that are having problems in our new measurement
14 system. And we know that a lot of states are using our intrastate
15 listings to conduct compliance reviews and to better target
16 compliance efforts on the problematic intrastate carriers in their
17 state.

18 And kind of getting back to, you know, the issue of new
19 entrants and detecting chameleons, we also, with regard to our
20 PRISM program, we've had a couple of different states express
21 interest, and we've given some grant money to states to develop an
22 intrastate PRISM program so that they can also establish this link
23 to vehicle identification numbers and license plates and detect
24 chameleon carriers at the intrastate level as well.

25 MR. VAN ETTEN: Thank you. Kind of a follow-up to one

1 of the other questions that was asked about the intra versus
2 interstate chameleon carriers, and some of the problems are that
3 there are problems with the states in terms of legally how do you
4 identify a chameleon carrier, a reincarnated carrier, and then
5 trying to put them out of service. Could you be a little bit more
6 specific on some of those problems?

7 MR. PRICE: Well, some of the challenge will go back to
8 state law, in some respects. I think out of the chute that's one
9 of the first things we evaluate is what are the individual state
10 laws in the state where the suspected chameleon carrier is? You
11 know, what is the level of evidence that we need to, what our
12 lawyers like to refer to as, to pierce that corporate veil and to
13 substantiate that indeed this company is just a continuation of a
14 prior company.

15 One of the things that what we think will help in that
16 regard is we've submitted some technical assistance information to
17 some of the congressional committees where we would like to see,
18 you know, at some point in the future in statute like a standard,
19 if you will, in U.S. Code that would define for us, you know, the
20 specific elements that we would work towards substantiating to
21 prove that an operator was a chameleon carrier.

22 We think that, you know, if we had something in statute,
23 in federal regulation at some point, we would have our federal
24 standard that would allow us to have a little stronger legal
25 footing and we wouldn't have to rely as much on what the state law

1 is telling us.

2 MR. VAN ETTEN: Thank you. That's all the questions I
3 have.

4 MR. KOTOWSKI: This question is for Mr. Price.

5 In the new entrant program, the safety audits that are
6 conducted, what is the timeline of that, the time that they're
7 actually being conducted? I know that we have the 18-month
8 period, but what are the timelines that they're actually being
9 conducted for passenger carriers and for property carriers?

10 MR. PRICE: Well, I think I misspoke earlier on the
11 passenger carriers. I said that our policy was to get to them
12 within 6 months; it's actually 9 months, but the vast majority of
13 the passenger carriers are actually seen within a 6-month time
14 frame. And bear in mind as well on the passenger carriers, that
15 they're subject to the vetting process where our vetting staff
16 ensures that they're not a reincarnation of a prior company before
17 they're allowed to operate at all.

18 As to the rest of the new entrant carrier population,
19 again, what our regulations and statute says is that we need to
20 get to them within 18 months, and I know that vast majority we get
21 to within that 18-month time frame. I'd have to go back and talk
22 to some of our new entrant coordinators to get a better handle on,
23 you know, kind of what the average is for when they get to them,
24 but we can certainly do that.

25 MR. KOTOWSKI: Thank you. In the safety audit process,

1 that's basically a review of the carrier's operations through a
2 visit, and part of that criteria there's a section that deals with
3 the vehicle inspection processes. If the motor carrier -- I mean,
4 what is the information that's relied upon in the safety audit
5 concerning that criteria of motor vehicle inspections?

6 MR. PRICE: Well, we certainly want vehicle inspections
7 to be done during the safety audit if vehicles are available.
8 Oftentimes, you know, the trucks are out running when we conduct
9 the safety audit, so what we're going to look at in addition to
10 that is the carrier's maintenance records, evidence of annual
11 inspection and things of that nature.

12 MR. KOTOWSKI: And if a motor carrier that you visit for
13 a safety audit has displaying a number of violations or problem
14 areas, what actions can be taken against that new entrant?

15 MR. PRICE: Okay. Yeah, if a company has substantial
16 violations that are uncovered while we're conducting the new
17 entrant safety audit, we effectively put them on notice that
18 they're going to be placed out of service and not allowed to
19 operate if they don't take corrective action.

20 I think we spoke earlier to the fact that right now,
21 about 40 percent of the new entrant carriers that we visit fail
22 the safety audit, initially. And what that failure of the safety
23 audit does is it starts a clock ticking where they have, again,
24 like 45 days if they're a HazMat or passenger carrier, or 60 days
25 if they're a regular carrier, to show us evidence that they've

1 fixed their compliance deficiencies or they're not allowed to
2 operate any longer.

3 MR. KOTOWSKI: Okay. And can a safety audit result in a
4 compliance review of a new carrier?

5 MR. PRICE: We used to have, before we kind of ramped up
6 our pass/fail criteria in our new entrant safety audit, we used to
7 convert the safety audit over to a compliance review. We're not
8 doing that any longer. And part of the reason we're not doing
9 that any longer is there's really more teeth from a pass/fail
10 standpoint in our new entrant safety audit procedures.

11 In other words, we can document the violations just the
12 same as if we had converted it to a full compliance review, but
13 what the pass/fail criteria that's set up in regulation allows us
14 to do is have a heavier hand, if you will, in enforcing the
15 carrier to show evidence of corrective action.

16 MR. KOTOWSKI: Okay, thank you.

17 Any other panel members?

18 CHAIRMAN SUMWALT: Dr. Marshall.

19 DR. MARSHALL: I have a question for Mr. Presley.

20 You mentioned in your presentation that 62 percent of
21 your members have fatigue management plans and I was just
22 wondering if you could tell us what the core features of these
23 fatigue management plans are?

24 MR. PRESLEY: Actually, that was the first time that we
25 had asked that question in the survey and we did not drill down to

1 what the actual components are. But in talking with operators, I
2 think the biggest thing that we're seeing is more analysis of the
3 charter trip itself and the demands on the driver and what the
4 hours of operation would be, and taking a very close look at when
5 the rest periods would be and if they're long enough. So we do
6 see the operators paying very close attention to how long the
7 driver's actually going to have off duty and making sure that they
8 get ample rest.

9 DR. MARSHALL: And a question for Mr. Price.

10 We've had a few accidents that we've investigated
11 recently that have involved drivers who were, from our evidence,
12 fatigued but yet they were within hours of service. So I was
13 wondering whether there's been any discussion of instead of
14 renaming the driver fatigue BASIC, instead maybe adding some
15 components that might be able to capture other aspects of fatigue
16 from a driver aside from just hours of service?

17 MR. PRICE: Yeah, I think the difficult part is being
18 able to quantify that. I mean, right now we're relying upon the
19 violation data that comes in to us from the states, which is
20 obviously linked to regulatory compliance. You know, at this
21 point, we're always looking for new data sources and ways we can
22 improve the system, but that's a tough nut to crack, if you will,
23 being able to quantify when an individual is fatigued and bring
24 that into our measurement system in a way that's equitable and
25 fair to everyone.

1 DR. MARSHALL: Have you learned -- I know that the FMCSA
2 is working, actually, on fatigue management guidelines. Is there
3 any lessons learned from that, that you might be able to carry
4 over?

5 MR. PRICE: There may be, and I know, you know, as part
6 of some of this look at fatigue management, we've looked at what
7 some other countries have instituted where we might be able to
8 pull out some lessons learned from them. I think Australia, for
9 example, if I'm not mistaken, is big into fatigue management, kind
10 of on top of hours of service compliance. So I think, to make a
11 long story short, it's just an area where there's an understanding
12 and a recognition that there's much more to fatigue than hours of
13 service compliance. It's just a matter of us being able to grab
14 the right research studies and, again, quantify it and build it
15 into our enforcement processes, possibly, or future regulation,
16 potentially.

17 CHAIRMAN SUMWALT: Thank you.

18 Mr. Keppler, you mentioned in one of your slides that a
19 safety culture -- I think that was the last bullet point on one of
20 your slides. So tell us how a carrier would go about establishing
21 a safety culture.

22 MR. KEPPLER: Well, certainly there's many different
23 ways. The first and foremost thing is to really understand and
24 have an appreciation for what impacts on safety and understand
25 your operations. Compliance with regulation is just the minimum.

1 So the carriers that are complying with the regulation may or may
2 not be safe. So one of the things that's important is that the
3 carrier understands their operation and when they're doing
4 different pushes and pulls on different aspects of it, being able
5 to measure how those are impacting on safety.

6 A big part of it is employees, is the employees of the
7 carrier, to ensure that they feel that they're part of the
8 solution, they're part of the corporate fabric of the company,
9 because at the end of the day, they're the ones that are making
10 the difference. I agree with Mr. Spencer on the industry side,
11 it's the drivers that are making the difference. So we need to
12 ensure -- and from our perspective, the cops, they're the boots on
13 the ground that are at the front lines of safety, so we need to
14 ensure we're taking care of them and giving them the tools that
15 they need to do the job.

16 CHAIRMAN SUMWALT: Hang on just a second. I'll follow
17 up and we can come back to that in just a second. You said that
18 the people on the front lines make a difference, and that's true,
19 but how about top level, top management support?

20 MR. KEPPLER: Oh, absolutely. You've got to have top
21 down and bottom up, because if you don't have that commitment from
22 senior-level management, it does not flow through the rest of the
23 company and the rest of the employees. They pay attention to
24 that. So you've got to have that commitment all the way at the
25 top and put a value on safety. It's not a cost; it's an

1 investment. So to the extent that top management is invested, not
2 only in sweat equity, but in financial resources, the rest of the
3 employees will see that and they'll respond to that.

4 CHAIRMAN SUMWALT: Thank you very much.

5 And I think, Mr. Price, you wanted to follow up and
6 Mr. Littner (sic), I think you did, as well.

7 MR. PRICE: Yeah, just one brief comment about safety
8 culture. You know, one of the things that often gets lost in a
9 discussion of CSA and all the discussion about the measurement
10 system and the intricacies there, is the safety culture piece of
11 it. And one key component of the CSA program that we're building
12 into it is when we do compliance reviews now, we're introducing
13 something we call the safety management cycle. We've got 10
14 states doing it so far and we're training up the rest of the
15 country later this year on that process. But what that safety
16 management cycle does is it allows us to not just document what a
17 company's violations are, but to kind of dig in to that culture
18 and determine why the violations are occurring from a safety
19 culture standpoint so that we can offer more constructive
20 recommendations.

21 CHAIRMAN SUMWALT: Thank you.

22 And Mr. Littner, you wanted to follow up?

23 MR. LITTLER: Thank you. I think Mr. Keppler just
24 nailed it. It really does need to be a top down. The chief
25 executive officer of any transportation company also has to be the

1 chief safety officer.

2 CHAIRMAN SUMWALT: Thank you very much.

3 Mr. Presley, I want to -- I'm going to call up a slide 6
4 that was in your presentation and -- there it is right there. So
5 what was the nature -- what was this; a survey of your membership?

6 MR. PRESLEY: Yes, sir. We asked our members if they
7 were aware of illegal operators immediately in their area. It's a
8 constant complaint that we have, operators calling us, telling us
9 about illegal operators, so we put this in our survey. And then
10 we went one step further and said what is the nature of the
11 illegal operation; what are they doing that makes them illegal?

12 CHAIRMAN SUMWALT: Let's pull that slide up one more
13 time so that we can look at it. So it says -- and what was your
14 return rate on this survey?

15 MR. PRESLEY: I think somewhere around 40 percent.

16 CHAIRMAN SUMWALT: That's a good measurement.

17 MR. PRESLEY: Yes.

18 CHAIRMAN SUMWALT: Good return rate. New operating
19 authority, about 36 percent; poor maintenance, 75, almost 76
20 percent; improper insurance, 34 percent; and hours of violation,
21 68 percent. So those are the problems that the companies are
22 perceiving?

23 MR. PRESLEY: That's correct.

24 CHAIRMAN SUMWALT: And yet, the next slide shows the
25 driver training -- and we'll go to the next slide: What is the

1 single most important issue? Driver training.

2 I'd like to think that the perceived problems, that the
3 single most important issue, that those two would track and I
4 don't see necessarily the tracking, the correlation between driver
5 training and those issues we just looked at.

6 MR. PRESLEY: Well, actually, those are actually kind of
7 separated in that the driver training issue is a concern that they
8 have with their own company.

9 CHAIRMAN SUMWALT: Okay. So they're saying that
10 everybody else has those problems?

11 MR. PRESLEY: No, no. Where we're talking about the
12 illegal operators --

13 CHAIRMAN SUMWALT: Okay.

14 MR. PRESLEY: -- the question was what is it that makes
15 these operators illegal; in other words, what was causing that.
16 And, of course, you saw that violates hours of service, and that's
17 a constant complaint. I think Norm would share that, is that
18 operators that are very conscientious look very closely at
19 complying with the hours of service, whereas oftentimes there are
20 carriers out there that will take those trips and violate the
21 hours of service.

22 CHAIRMAN SUMWALT: Thank you. You think if we have an
23 EOBR regulation for everyone, that that will -- how is that going
24 to impact the hours of service violations? Will it eliminate that
25 problem, take a good chunk out of it? What's your view on that?

1 MR. PRESLEY: The answer is we're not sure. You know,
2 the -- as best we can tell, the electronic onboard recorder
3 measures how long the bus has been running. There are situations
4 where a driver can use a commercial motor vehicle for personal use
5 after he has discontinued his trip. He can, you know, take the
6 vehicle and go to dinner or get away from the group, which we
7 think is important. We don't know how all that's going to go play
8 in.

9 CHAIRMAN SUMWALT: Thank you. And my final question is
10 also directed to you, Mr. Presley, and that is that you talked
11 about -- the question was asked about the potential safety
12 problems associated with conducting en route inspections. And
13 certainly, it made sense what you were talking about, the
14 possibility of rear-end collision would be a real concern. But
15 then you had some logistical problems to contend with, for
16 example, schedule concerns and what to do with the passengers if
17 the carrier was placed out of service on the side of the road,
18 basically. Is that -- am I saying that correctly?

19 MR. PRESLEY: Certainly. That is a concern,
20 particularly in -- as we get farther south and out west, the bus
21 gets very hot very quickly.

22 CHAIRMAN SUMWALT: Yeah.

23 MR. PRESLEY: The bus has been placed out of service and
24 you've got 57 passengers standing on -- you know, at a rest area
25 or a weigh station, that's not a good condition.

1 CHAIRMAN SUMWALT: I can understand those concerns. I
2 was an airline pilot for 24 years or something like that and, of
3 course, we always had to deal with the possibility of the FAA
4 showing up to conduct oversight and I guess if there were flagrant
5 violations, the FAA could shut us down. But I never knew of that
6 happening and I think the carriers made sure that that didn't
7 happen.

8 So could those things that you just mentioned as
9 logistical problems, could those serve as an incentive for
10 carriers to -- for motor carriers to make sure that they're not
11 placed out of service?

12 So I'll ask you that, Mr. Presley, and also Mr. Littner
13 has his hand raised, too. So --

14 MR. PRESLEY: Absolutely it is an incentive. And, of
15 course, the farther the bus away, the more it becomes problematic
16 to get a replacement bus or a replacement driver, so it does serve
17 as an incentive.

18 We do think that, however, that destination inspections
19 are very effective. You know, many of these buses are going to
20 the same places over and over and over: amusement parks, casinos,
21 various -- like Branson is a popular destination, Pigeon Forge.
22 So there are many opportunities to inspect those buses when they
23 arrive and the passengers have disembarked the coach.

24 CHAIRMAN SUMWALT: Thanks.

25 And Mr. Littler, I've been placing an "N" in your name,

1 and my apologies. But go ahead, please respond.

2 MR. LITTLER: Thank you. We have had situations where
3 buses have been placed out of service, the drivers have been
4 placed out of service at weight stations, and it does cause
5 problems, particularly in winter or in high temperatures where it
6 may take hours to get another bus there to take care of those
7 passengers. We have no problem with having inspections conducted
8 where full services are available for looking after the safety of
9 the passengers.

10 But the other one that I'd like to point out is buses go
11 to the same places. They pick up at the same places; they go to
12 the same places. That's where you find them all. If you look
13 right now at the Northeast quarter and if you want to speak with
14 somebody from several companies up in that area, Peter Pan Bus
15 Lines and Greyhound have been undergoing inspections during our
16 most recent blitz at weight stations all along that corridor. The
17 companies who don't want to be seen are simply detouring around
18 them. So you've got to get them where they pick up or drop off
19 their passengers.

20 CHAIRMAN SUMWALT: Great. Thank you very much.

21 This morning's session has been fabulous and I want to
22 thank our panelists, great subject matter experts, and a lot of
23 good information conveyed.

24 Mr. Spencer, I think if I let you talk, everybody would
25 shoot me because it's lunchtime. But -- that's what worries me.

1 I want to thank the parties, great cooperation there.

2 And so we're going to break for lunch. We'll come back
3 -- and actually, we're right on schedule. We will reconvene in 1
4 hour at 1:15. We are in recess.

5 (Whereupon, at 12:15 p.m., a lunch recess was taken.)

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A F T E R N O O N S E S S I O N

(12:40 p.m.)

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2
3 CHAIRMAN SUMWALT: Welcome back. I'm going to turn it
4 over to Dr. Marshall, who will begin the next panel.

5 DR. MARSHALL: Our next panel will discuss truck
6 operations, including such topics as electronic onboard recorders,
7 hours of service, safety culture, and vehicle size and weight.

8 Our Technical Panel members for this session are
9 Mr. Pete Kotowski, Mr. Gary Van Etten and Dr. Jana Price.

10 Mr. Van Etten, would you please introduce your subject
11 matter experts?

12 MR. VAN ETTEN: On the panel this afternoon we have four
13 experts: Mr. Larry Minor with the Federal Motor Carrier Safety
14 Administration; Mr. Todd Spencer from the Owner-Operator
15 Independent Drivers Association; Mr. Rob Abbott with the American
16 Trucking Association; and Mr. Steve Keppler with the Commercial
17 Vehicle Safety Alliance.

18 Mr. Minor, we'll start with you this afternoon. Do you
19 have a presentation?

20 MR. MINOR: No, I do not. I'm just here to answer any
21 questions you've got.

22 MR. VAN ETTEN: Well, thank you. And we'll pass on to
23 Mr. Spencer. Do you have a presentation for this panel?

24 MR. SPENCER: You know, I don't think -- at this
25 particular point, I don't think I have a presentation per se. I

1 would like to kind of follow up on what the Chairman seemed
2 interested in previously, but not quite interested enough to let
3 me expound on the subject. And I notice --

4 (Laughter.)

5 CHAIRMAN SUMWALT: You're going to get me back one way
6 or the other, I guess.

7 MR. SPENCER: And it is covered under here and I thought
8 about this before, the IDM safety culture.

9 CHAIRMAN SUMWALT: I'll tell you what, we do want to
10 hear it. Is that part of your -- is that part of what -- okay,
11 are you ready for him to go?

12 MR. VAN ETTEN: Well, I want to address Mr. Abbott and
13 see if he has a presentation, or Mr. Keppler, if he has a
14 presentation.

15 CHAIRMAN SUMWALT: We're just going to go and find out
16 who has formalized presentations and then we'll open it up,
17 because I want to hear what you've got to say, but I don't want to
18 disrupt Mr. Van Etten's flow here.

19 MR. ABBOTT: I do, because Mr. Van Etten asked me to
20 make sure I had one prepared and so I did.

21 MR. VAN ETTEN: Yeah, blame me.

22 (Laughter.)

23 MR. ABBOTT: Always.

24 MR. VAN ETTEN: Okay, Mr. Abbott, would you go ahead
25 with your presentation, please?

1 MR. ABBOTT: I can. Do we have a PowerPoint? Yeah, we
2 have some slides. Super.

3 All right. As I mentioned at the earlier session, I'm
4 Rob Abbott and I'm the vice president of safety policy for the
5 American Trucking Association. My responsibility is to protect
6 and defend and advocate the interests of the trucking industry as
7 they relate to safety issues.

8 With respect to truck operations, I'll talk about three
9 specific areas: of course, electronic logging devices, or EOBRs,
10 as they're sometimes called; hours of service, of course; and then
11 I want to touch a little bit on some priorities for future
12 improvements in truck operations and how we can make further
13 strides in improving truck safety.

14 With respect to the electronic logging devices, or
15 EOBRs, you might want to note that, of course, ATA is supportive
16 of laws and regulations mandating the installation and use of such
17 devices, adoption of the devices. We have some concerns about how
18 such a mandate would be implemented, and so the details are as
19 follows.

20 One is, of course, we're concerned about ensuring the
21 privacy of the non-hours-of-service-related data captured by the
22 devices. We think existing exemptions should be protected,
23 especially with respect to those drivers who are log exempt,
24 short-haul drivers, 100-mile-radius drivers, generally; that the
25 mandate should include some supporting documents relief,

1 especially with respect to driving time, because of the
2 reliability of the devices in tracking driving time; that we
3 believe a mandate should be simultaneously applicable to all
4 carriers, not smaller carriers first, then larger carriers, or
5 vice versa, in terms of a phase in; and that we also feel it's
6 very important for the agency to address some of the device design
7 and performance concerns that we have with respect to ensuring the
8 identification of the driver, performance specs, how the devices
9 communicate with law enforcement, et cetera. So we can talk a
10 little bit about that today, if you'd like.

11 With respect to hours of service, our position plainly
12 stated is that we support retention of the current hours-of-
13 service rules and believe that the proposed changes are both
14 unwarranted and would be harmful. The safety record of the
15 industry since 2004, as you know, has reached record levels and
16 has shown a steeper decline than that of passenger vehicles,
17 despite increases in truck mileage over the same period.

18 FMCSA's data that they developed for CSA shows a very
19 strong correlation between compliance with the current hours-of-
20 service rules and crash rates; that is, compliance with the
21 current hours-of-service rules result in very low crash rates. So
22 we think the logical recipe, then, is improving compliance with
23 the current rules. Hence our support for EOBRs.

24 And of course, we don't believe the safety benefits of
25 the proposed rule outweigh the enormous costs. And indeed the

1 agency has sort of acknowledged as such. More than sort of, they
2 acknowledged as such in their impact analysis to the proposed
3 rule.

4 So we believe that the real, true approach to fatigue is
5 to explore more effective solutions such as sleep disorder
6 screening and fatigue management plans.

7 I'd like to echo what Board Member Rosekind said at the
8 CVSA meeting, which is hours-of-service regulations are necessary
9 but insufficient, and that if we really want to address driver
10 fatigue, we have to look just more at rigid rules and hours a day
11 and hours of work, but we have to look at when are these crashes
12 occurring, what's the prevalence of them and how can we prevent
13 them. And we believe sleep disorder screening and fatigue
14 management plans should be a component to that.

15 Finally, I want to talk just for the next minute or two
16 about priorities for future improvement in terms of truck
17 operations.

18 Obviously, we think that, really, if we want to make
19 meaningful strides in continuing to improve truck safety, we'll
20 have to look at the primary causes of crashes and prioritize our
21 actions accordingly. With respect to the primary causes of
22 crashes, according to many sources, it's driver behavior. We have
23 to look at what those behaviors are. Are they speeding or other
24 moving violations? We also have to look at the relative role of
25 other motorists in that equation.

1 And my point here is not to finger-point or assign blame
2 but to understand that, you know, the vast majority of time when a
3 truck is rear-ended, or if there's a rear-end collision, is it the
4 passenger vehicle into the truck or vice versa? And what does
5 that tell us about countermeasures? And I think what that tells
6 us is that we have to focus on defensive driving training, perhaps
7 technologies, perhaps we have to look at conspicuity, but we also
8 have to look at education on sharing the road.

9 And so our countermeasures are -- among them, we've
10 advocated for speed limiters on all commercial motor vehicles;
11 we've advocated for employer notification systems that would
12 provide more timely notification of moving violations, which we
13 think would be important to impacting those driver behaviors early
14 on to prevent crashes; and finally education, awareness and
15 enforcement for all motorists, about sharing that space around
16 large commercial motor vehicles.

17 MR. VAN ETTEN: Thank you, Mr. Abbott.

18 Mr. Keppler.

19 MR. KEPPLER: Yes, I also have a slide I'd like to speak
20 from.

21 MR. VAN ETTEN: Thank you.

22 MR. KEPPLER: I take direction also.

23 (Laughter.)

24 MR. KEPPLER: Thank you. I'm going to touch on a couple
25 of things.

1 Hours of service. We have raised our concerns with
2 FMCSA regarding their proposed rules and I think from a different
3 perspective. The proposal in our view creates some loopholes that
4 present challenges for enforcement, particularly with, we believe,
5 the way the proposed rules, if they are put into place, there's
6 areas where drivers could hide hours.

7 Some of the definitional changes that they are
8 suggesting be made and also some of the hard breaks in there,
9 really will lead to drivers having to make difficult choices of
10 whether to continue the trip or to drive. Also with the restart
11 provision, putting drivers on the road at high traffic hours,
12 where most crashes are occurring. So we have some issues with
13 those, with respect to that.

14 And particularly one of our biggest issues is lack of
15 supporting documents as a requirement. Supporting documents are
16 required to be maintained by the carrier, but there's no
17 requirement to maintain those on the vehicle. So regardless of
18 whether EOBRs move forward or not, we believe there needs to be a
19 requirement to maintain supporting documents on the vehicle, and
20 it's particularly those documents that are time, date and/or
21 location stamped, to help verify hours of service, not just --
22 because the EOBR is recording principally driving time. There are
23 other things that the driver has to document with hours of
24 service.

25 So that's really -- and rolling into EOBRs, I think --

1 you know, one of the things I did want to point to was some of the
2 conversation this morning, and Rob alluded to it a little bit into
3 his presentation, we're supportive of an EOBR mandate. There are
4 some challenging issues right now with respect to standardization
5 with existing devices that are in the field today that are
6 allowed, and FMCSA's proposed changes, as well as things like
7 laptop computers that have electronic logging applications on
8 them. So one of the issues in the field is ensuring that you've
9 got standardization with these devices, particularly how they
10 interact with enforcement and to ensure that we've got a strong
11 certification program; they're tamper proof and those types of
12 things.

13 So we also have some issues with technology capacity in
14 the field and training. All of those things are being worked out.
15 These are implementation-related issues and we're working very
16 closely with FMCSA on these issues.

17 Again, back to the science piece of this. You know,
18 Bryan talked about it this morning. Rob alluded to it. The
19 fatigue driving BASIC has very strong correlation with crash risk.
20 Some have argued that EOBRs are not a safety tool; they are a
21 compliance tool. Well, that's true. However, if the rules are
22 structured properly and you can increase compliance with the
23 rules, then you impact safety. And I think that's an important
24 thing we need to keep into consideration here, that fatigue
25 driving BASIC has very good correlation with crash risk.

1 Truck parking. We believe it continues to be a major
2 concern. Something we're certainly supportive of, expanding some
3 of the existing requirements that are available, Section 1305 that
4 was available under safety, expanding resources to enhance truck
5 parking. It's a big problem out there. We recognize that.
6 There's a lot of -- we need to make this a higher priority.

7 I talked about, a little bit this morning,
8 accountability through the supply chain. Again, that's critical.
9 I think one of the things that we continue to struggle with is
10 making sure we can account for and value the driver's time more
11 than we do today. The tension is a big issue. I know that a lot
12 of people are focusing on that. We need to make sure we're giving
13 the driver the tools to be as efficient as he or she can.

14 Onboard safety systems. I know this is a topic for
15 tomorrow, to some degree, but we've been very strongly advocating
16 support for advanced onboard technology that has been proven to
17 work. We've actually been advocating for tax credits in Congress
18 for certain types of systems that have been proven to save lives,
19 and we know they are out there and the fleets are installing them.
20 And frankly, we need to incentivize them to adopt and to invest in
21 these technologies. Many of them are capital intensive and
22 they're reluctant to do so. We need to encourage and incentivize
23 those that are working and proven to work.

24 Driver behavior and performance. Fatigue management.
25 We're very supportive of fatigue management programs. There's a

1 number of examples where industry has done this on their own. We
2 find tremendous value, not just in safety improvement, but also
3 they're actually saving money. So those types of things we need
4 to continue to facilitate getting those out into the field.

5 The whole issue of driver behavior and performance, not
6 just on trucks and buses but on cars, we are very strong advocates
7 of ensuring that we're creating a safe operating environment
8 around that commercial vehicle. Four-wheelers are a big part of
9 the problem and we're taking enforcement action on them. So it's
10 something we are very strong supporters of.

11 And we talked a little bit this morning about safety
12 culture, and we need a carrot and a stick. People respond
13 differently and behave differently to different interdictions.
14 And we need to have different tools in the toolbox to make sure
15 that when we see something that's working, we need to support it
16 and we need to promote it and we need to facilitate it.

17 The last thing I'll note here on outreach is a lot of
18 successful safety initiatives, particularly with respect to NHTSA
19 with their impaired driving program and seatbelts. It's not just
20 enforcement. It's education and we need to expend more resources
21 in the outreach area to make sure that we're providing resources
22 to all the E's of safety. Thank you.

23 MR. VAN ETTEN: Thank you, Steve.

24 We've talked a lot so far about hours of service and
25 onboard recorders, but I want to start off this section here in

1 truck operations with something that we really haven't talked a
2 little bit about and hasn't been part of the presentations here,
3 and that's vehicle size and weight. And so what I'd like to --
4 have just a few introductory questions here about that topic, and
5 I'm addressing these to Mr. Minor.

6 Mr. Minor, we understand that there was a pilot program
7 to evaluate larger truck size and weights, and so my question is,
8 what was the result of that study and what were the safety
9 advantages and disadvantages of increasing the weights and size
10 limitations of these commercial vehicles that you found in your
11 study?

12 MR. MINOR: I think the study that you're referring to
13 is the Vermont-Maine pilot study conducted by the Federal Highway
14 Administration. So even though the FMCSA had some technical
15 representatives on that project, it really isn't an FMCSA study.
16 And it wasn't to evaluate overall changes to the size and weight
17 standards. It was to look at the requirements within those two
18 states and allow them to apply their state requirements to the
19 vehicles operating on the interstate network.

20 And I don't believe the final report has been published
21 on that and I'd have to defer any detailed questions about that
22 study to the Federal Highway Administration.

23 MR. VAN ETTEN: Okay, we will do that.

24 Mr. Keppler, do you have -- does CVSA have a stance on
25 increasing size and weight of these vehicles?

1 MR. KEPPLER: That's obviously a complicated issue.
2 From our perspective, we've got several things that we believe are
3 part of that conversation. One, in our view, we haven't seen the
4 safety data presented to justify any adjustments to increase sizes
5 or weights. Certainly there are pockets of areas that have had
6 some level of success, particularly LCVs in the West. But in
7 terms of safety data, we haven't seen the results of any
8 comprehensive approach to study this issue. And the last time
9 it's been comprehensively studied was quite some time ago.

10 So we believe, before any changes are considered, there
11 needs to be a very comprehensive approach to understanding the
12 scope of the problem. There's lots of things that we need to
13 consider with respect to size and weight, everything from vehicle
14 configuration type, to bridge -- to infrastructure, to safety, to
15 permitting programs, all of these things, to different patchwork
16 regulations around the country. Are those regulations effective?
17 All of these things we believe -- we don't know answers to a lot
18 of these issues and, frankly, in our view, we need to ensure we
19 fully understand all of the scope of the issues before we make any
20 adjustments.

21 I think, you know, vehicle size and weight, it's pure
22 physics. If you increase weight and you increase size, it creates
23 dynamic issues you need to be concerned about. Remember,
24 California is doing some statistical modeling looking at impact or
25 crush factor of increased weights and sizes and it's exponential

1 in terms of the damage it can inflict in the event there's a
2 crash.

3 So I think, from our perspective, we need to really get
4 a lot more smart people than me around a table and put in place a
5 really effective strategy for understanding and scoping the
6 problem further.

7 MR. VAN ETTEN: Thank you. And from the industry side,
8 Mr. Abbott, and then I will go to Mr. Spencer.

9 MR. ABBOTT: Are you sure you wouldn't like Mr. Spencer
10 to answer that first?

11 MR. VAN ETTEN: I'll take that however you guys want to
12 give it.

13 MR. ABBOTT: It was a nice try on my part.

14 I'm fortunate in this regard in that ATA has safety
15 policy or, pardon me, highway policy experts that focus on this
16 issue, so I regret I won't be able to share as much detail or know
17 as much about it as maybe you would hope. But I can tell you that
18 in some aspects we have advocated improvements in truck
19 productivity, where appropriate -- and where appropriate means on
20 certain routes where the roadways are designed for it -- provided
21 that they have certain limitations, especially with respect to
22 axle weights so that it's not increasing axle weights, because
23 that, of course, is a road wear issue and a stopping distance
24 issue. But as long as you retain the axle weights, there's a
25 substantial ability to improve the productivities of the vehicles

1 and in doing so you can reduce the growth in truck VMT. And of
2 course, truck VMT increases vehicle interaction and, as we know,
3 there's a safety implication of having more vehicles on the road.

4 And so we think there are some benefits there. We think
5 it needs to be explored and we could certainly see those benefits.

6 MR. SPENCER: I can assure you that on behalf of the
7 driver -- and actually the vast majority of drivers and the vast
8 majority of motor carriers, many with hundreds of trucks, have no
9 interest in seeing truck sizes and weights get bigger, heavier,
10 longer. They know from experience this is a net loser all around
11 for them. Obviously, it's certainly an economic net loser, but we
12 also know that we lose -- we, as an industry, lose in other ways
13 because productivity gains that, you know, that accrue to a few,
14 the costs of that are passed along to the entire industry through
15 higher taxes, higher fees. And again, those come across the
16 board.

17 You know, this is kind of an issue -- this is an issue
18 that has a long history. Your question about Maine and Vermont,
19 now they have particular interest in bigger and heavier to resolve
20 a problem that they more than likely should never have gotten
21 started. We have big shipping interests that are interested in
22 seeing loads get bigger, and it doesn't really matter what the
23 load is, whether it can be timber -- where it is there. Hell,
24 it's milk in some places. Sometimes it's steel. But they're
25 simply wanting to get more cargo moved for as little cost as

1 possible.

2 And wear and tear on the roads, those are real, real,
3 real issues. By simply opening the door to broader use, longer
4 combination vehicles become the de facto standards and one state
5 gets played off against another. It's a net loser all the way
6 around.

7 MR. VAN ETTEN: Thank you, sir.

8 Mr. Kotowski, for follow-up questions?

9 MR. KOTOWSKI: Thank you. I have one question for
10 Mr. Minor.

11 In the new stopping standards for commercial motor
12 vehicles, how does this affect -- or are the oversized vehicles
13 included in that, as well? Or are there specific formulas for
14 them that they have to meet?

15 MR. MINOR: That's what the National Highway Traffic
16 Safety Administration rulemaking on stopping distances, and the
17 best of my understanding is that would not necessarily cover large
18 combination vehicles.

19 MR. KOTOWSKI: I have nothing further.

20 MR. VAN ETTEN: Okay. Our next topic of interest here
21 is hours of service and we'll start with Dr. Jana Price.

22 DR. PRICE: Mr. Minor, I'd like to ask you the first
23 question. Could you please describe the current status of the
24 hours-of-service NPRM as well as the status of the litigation
25 affecting the hours of service?

1 MR. MINOR: Yes, I can describe our current proposal.
2 Basically, we proposed seven changes from the current hours-of-
3 service requirements:

4 First, the proposed rule would limit drivers to either
5 10 or 11 hours of driving time, followed by a period of at least
6 10 consecutive hours off duty, and on the basis of all the
7 relevant considerations, FMCSA is currently favoring a 10-hour
8 limit, but our ultimate decision will include careful
9 consideration of the docket comments.

10 Second, the NPRM would limit the standard driving window
11 to 14 hours, while allowing that number to be extended to 16 hours
12 twice a week.

13 Third, the actual duty time within the driving window
14 would be limited to 13 hours. That means, after they've completed
15 13 hours of on-duty time, the workday pretty much has to end.

16 Fourth, drivers would be permitted to drive only if 7
17 hours or less have passed since their last off-duty or sleeper
18 berth period of at least 30 minutes.

19 Fifth, the 34-hour restart would be retained, subject to
20 certain limits, and the restart would have to include two periods
21 between midnight to 6:00 a.m. and could be restarted no sooner
22 than 168 hours, or 7 days, after the beginning of the previously
23 designated restart.

24 Sixth, the definition of on duty would be revised to
25 allow some time spent in or on the CMV to be logged as off-duty

1 time.

2 And seventh, the oilfield operations exception would be
3 revised to clarify the language on waiting time and to state that
4 waiting time would not be included in the calculation of the
5 driving window.

6 And we're currently in the process of reviewing the
7 docket comments and hope to issue a final rule later this year.

8 DR. PRICE: Okay, I guess I was specifically referring
9 to a recent delay that was announced. I was wondering if you
10 could go into any details into the delay in the rulemaking, why
11 that came about and any information about the studies that were
12 recently published.

13 MR. MINOR: There's not a delay in the rulemaking per
14 se. What we did was we published a notice within the past week
15 requesting public comment or making it known that we've added four
16 research studies to the docket and allowing interested parties to
17 review those research reports and comment on whether the agency
18 should consider those research reports in making a final
19 determination on the outcome of the hours-of-service rulemaking.

20 So we're still planning to issue a final rule this year
21 and are going to try desperately to meet the court-imposed or the
22 settlement agreement deadline, even though it's looking less
23 likely that we may do so. But we are committed to doing that
24 final rule this year.

25 DR. PRICE: Thank you. For my next question, I'd like

1 to direct it to Mr. Abbott as a follow-up to something that you
2 said in your presentation.

3 If I can paraphrase, as I understand it, ATA is not in
4 favor of the hours-of-service NPRM changes but prefers instead an
5 approach that would include more sleep disorder screening and
6 fatigue management programs, and I'm wondering if you could
7 comment on what you think are necessary components of such
8 programs?

9 MR. ABBOTT: Well, I don't think we know and we don't
10 know enough about them, but we do know that changing the hours-of-
11 service rules wouldn't necessarily be the right recipe. I mean, I
12 think what we know is that the government has an interest in
13 addressing driver fatigue, but we also know that fatigue is a very
14 small part of the crash picture and also very, very few crashes
15 happen later in a driver's shift.

16 So the question is what percentage are fatigue related,
17 and, if so, if they're happening earlier in the shift, what
18 impacts them? And largely it's about what's happening when the
19 driver's off duty. It's the time we can't control.

20 And so I think we have to look at what's the nature of
21 sleep disorder screening, how prevalent is it, how are we going to
22 address it? And as we know, the agency is doing some research on
23 fatigue management plans. So we think if we really want to be
24 serious about fatigue, knowing that hours-of-service rules alone
25 are insufficient, we have to look at those other factors that play

1 into that.

2 And so the short answer is I don't think we know enough
3 yet, because they haven't really evaluated it. They've done the
4 Medical Review Board recommendations, which the agency is now
5 looking at. I believe MCSAC is going to be looking at that this
6 summer, and of course they're doing research on fatigue management
7 plans. So I think we need to elevate the priority that we place
8 on that.

9 DR. PRICE: Thank you. To both Mr. Abbott and
10 Mr. Spencer, some states have reduced rest areas and safe places
11 for commercial vehicles to park. Can you comment on how you think
12 this will affect the trucking industry in scheduling loads,
13 delivering products and obtaining rest?

14 MR. SPENCER: Certainly. Actually, the shortage of rest
15 areas is chronic in trucking and it actually has been for maybe 20
16 years now. We got just a little bit of a break from it because of
17 the economy, when the economy got so bad.

18 But, I mean, there are large, large percentages of
19 drivers that spend time hunting every night, trying to find
20 someplace to get off the road to sleep. And I say every night.
21 Some don't even bother trying to find someplace at night. They
22 drive through the night hoping they can find someplace after the
23 breakfast crowd leaves at a truck stop.

24 Rest areas are one of the first things to get cut back
25 when state budgets are tight. A major issue for commercial

1 drivers, a major issue for people that drive cars. And
2 realistically, where trucks park, where they're situated is one of
3 those costs that was basically transferred on to society as a
4 result of deregulation, and remedies are very, very elusive.

5 Something that's critical to point out is that drivers,
6 like -- you know, as Dr. Marshall mentioned, they run into
7 accidents where drivers were fatigued, maybe they went to sleep,
8 and the compliance is there with hours-of-service regulations. I
9 mean, there could be an onboard recorder in there. But drivers
10 are people and -- you know, I'm sure there will be somebody who
11 will get drowsy here this afternoon. It is key to safety that
12 drivers be able to get off the road someplace safe to park.

13 DR. PRICE: Thank you. Mr. Abbott.

14 MR. ABBOTT: Yeah. I mean, I would echo. I mean,
15 certainly this has been a problem for a very long time and it
16 persists, and there was a little bit of a dip during the
17 recession. But I think that there's a couple of things that play
18 into it.

19 One is that the proposed hours-of-service rule could
20 extend the 34-hour restart period up to 54 hours for some drivers,
21 which means that we would further exacerbate the problem. The
22 second is that, as we know, in some states they have a practice of
23 imposing limits in terms of the amount of time you can spend in
24 rest areas. So drivers are faced with a dilemma, either violate
25 that rule or violate the hours-of-service rules. And these are

1 drivers acting in good faith and wanting to comply with the rules,
2 who can't.

3 And so obviously the shortage of rest areas and the
4 ability to find places where they can do that is going to impact
5 time-sensitive freight, the cost of goods and some other things.

6 So there's a number of things we have to do to look at
7 that. One is, of course, increase federal funding for these
8 areas, but also maybe some smart technology to identify those
9 locations so the drivers don't have to go hunting for them to find
10 available rest spots.

11 DR. PRICE: Thank you. Mr. Van Etten.

12 MR. VAN ETTEN: I have a couple of questions regarding
13 the proposed hours-of-service rules. I guess what I'm looking for
14 here is how comfortable the industry is with the current set of
15 rules, whether you feel that the current set of rules, the 11 and
16 the 14, or the 10 and the 15 hours, how comfortable you were with
17 those and if there was any improvements. And then, what is your
18 position on the new proposed rules?

19 And we'll start with just either Mr. Abbott or
20 Mr. Spencer.

21 MR. ABBOTT: I'll spare you and go first this time;
22 how's that?

23 We're very comfortable with the current set of rules,
24 for a number of reasons. We think that they're based on an
25 exhaustive review of available research, and the agency has

1 concluded on a number of occasions that the rules are appropriate
2 and we know they function effectively. The dire consequences that
3 some predicted when they were imposed simply haven't happened.
4 They strike a crucial equilibrium and that equilibrium is finding
5 a way to move essential freight and protecting safety, and we've
6 been able to do both with this set of rules, which are also based
7 on the 24-hour cycle. And albeit, to a new driver, the rules
8 might seem somewhat complicated, the proposed rules are far more
9 complex and so that will lead to compliance issues and issues for
10 law enforcement as well.

11 And so the existing rules are good, with one exception,
12 and that's that many of our members would like to see some
13 flexibility to the sleeper berth provision that would permit
14 drivers to have a little more flexibility to use the sleeper berth
15 to take a short nap when it's appropriate.

16 But that being said, we're largely supportive of
17 retaining the current hours-of-service regulations.

18 MR. SPENCER: I could pretty much echo those same
19 comments. Obviously what we've heard from drivers over and over
20 is the need for flexibility, in that the nature of their work
21 basically requires them to work around everyone else's schedule.

22 There are times when you drive cars or trucks or
23 anything like that, traffic's going to be backed up for 2 hours at
24 a time. It is around here regularly. There would be drivers that
25 would much rather just pull over, stop before they get into messes

1 like that and take time off, take time off, rest, sleep. I mean,
2 they can, they can take naps.

3 The current rule, and of course, obviously the proposed
4 changes to the rule, don't address that situation any way at all.
5 In fact, they kind of penalize drivers that do that because you're
6 still expected to be where you're supposed to be on a regular
7 schedule. And again, you work around everyone else's.

8 What we've found is the rigidness of the sleeper berth
9 regulation that currently exists really does nothing to enhance
10 highway safety. It's discouraged a lot of people from actually
11 functioning as teams.

12 And if you're hauling certain types of munitions
13 shipments that require goods to be monitored all the time, I mean,
14 if a driver is doing that, he can't even go to the bathroom or get
15 anything to eat while the other driver's in the bunk. So
16 obviously drivers can't comply with them.

17 MR. VAN ETTEN: Thank you. Mr. Keppler, I know that
18 these proposed rules are rather complex. I was wondering if CVSA
19 had a position on those?

20 MR. KEPPLER: Yes, they are. That's one of the things
21 that we commented to the docket.

22 The hours-of-services rules are a balance between what's
23 practically doable in the field versus what's enforceable. The
24 more complex a rule is, the more difficult it is to comply with
25 and the more difficult it is to enforce. We have enough

1 challenges now with the different exceptions and exemptions to the
2 existing rules we have, and the complexity of hours of service is
3 -- right now, the current rules, our members are comfortable with
4 enforcing them.

5 Yes, we still have issues and falsification, yes. But
6 again, what we heard from our folks is, because of the complexity
7 and some of the rigidness of these proposals, many times drivers
8 will be forced to make a choice of whether to park or to drive.
9 And the definition changing from on-duty to off-duty time being in
10 the vehicle is again ripe for a falsification.

11 So those types of things, in our view, create more
12 challenges, not only with drivers complying but enforcing, and a
13 lack of supporting documents requirement to verify whether that
14 driver was what he or she was doing, also presents challenges with
15 this proposal.

16 MR. VAN ETTEN: Thank you. Mr. Kotowski, do you have a
17 follow-up question?

18 MR. KOTOWSKI: I just have one and I guess it would be
19 to, I guess, Mr. Abbott and it concerns scheduling issues. And I
20 guess as well as Mr. Spencer.

21 Scheduling issues. In the previous system where we had
22 the 15-hour rule, where the day could be extended because of the
23 ways that the rules were written, that you could, you know, take
24 into account off-duty time, not driving and so forth, as opposed
25 to the new rule where we have the 14 hours consecutive on-duty

1 time and that, I guess, remains in the new proposal, what type of
2 challenges has that presented to scheduling and maintenance and
3 just the overall operation of your members?

4 MR. ABBOTT: Well, it certainly, as you pointed out,
5 creates some challenges because it's a consecutive 14-hour clock.
6 But by and large it's helped many of our members because it really
7 empowers them to tell the shipper, "Look, I can't wait much
8 longer; my 14-hour clock is running and this is a hard stop." And
9 so that is helpful to a certain degree. And it also, as you know,
10 retains that 24-hour clock to a certain degree. So in our view,
11 it's favorable compared to the prior set of rules.

12 MR. SPENCER: This kind of gets to the really broader
13 issue of how a driver's time and how a truck's time is tied up
14 when it's on the road. And drivers generally have -- they work
15 around the schedules of every other -- of everybody that they
16 serve. I mean everybody's schedule. If there's a delay loading,
17 if there's a delay unloading -- I mean, you can go to refrigerated
18 warehouses to unload groceries -- or frozen food, if they need
19 what you've got on your trailer they'll unload you; if not, you
20 may sit out in the parking lot for 12 hours. You don't have any
21 way of knowing that ahead of time. Of course, that makes it
22 impossible for drivers to accurately comply with hours-of-service
23 regulations.

24 With the current arbitrary rules, rigid rules, trucks
25 run out of hours every day at shippers or receivers and they

1 legally can't leave the property. But I can assure you, they
2 can't stay on that property either. We have to have some
3 flexibility that doesn't currently exist.

4 You know, drivers or, for that matter, carriers
5 themselves can't really resolve this issue without others stepping
6 up to the plate. There does need to be other accountability on
7 the part of shippers and receivers and other stakeholders to this
8 process. There has to be some incentive to get trucks out -- in
9 and out on time.

10 I mean, there is a cost that has been broken down and
11 pegged by, I believe, from FMCSA, of \$3 billion, of tying trucks
12 up. You know, and that's principally drivers. It affects
13 fatigue. It affects their ability to comply with hours-of-service
14 regulations. And, you know, all but maybe a half a dozen carriers
15 in the country, you know, are pretty much taken advantage of with
16 this system.

17 MR. VAN ETTEN: Thank you. Dr. Price has a follow-up
18 question.

19 DR. PRICE: Thank you. I just have one final question
20 about fatigue, hours-of-service related questions.

21 I guess I was a little confused, Mr. Abbott, that in
22 your presentation it sounds like ATA is advocating fatigue
23 management systems as an alternate to or as something that would
24 create an additional layer on top of hours of service, and yet I'm
25 not hearing anything about what those programs should include.

1 And I've heard many times people say that fatigue management
2 programs are essential and yet I rarely hear more about what such
3 programs should include.

4 So I guess I would open it up maybe to the entire panel,
5 if any of you have any suggestions about what you think fatigue
6 management programs should include to be successful at mitigating
7 fatigue?

8 MR. ABBOTT: I'll take the first crack at that. And I
9 saw, if you would, your facial expression when I answered the
10 question that maybe I missed the mark there.

11 We think that there's been this sort of misplaced focus
12 over the last 15 years merely on the rules. And if we think that
13 fatigue is a problem and we don't know really the extent, but we
14 don't think it's the extent to match the focus that's been placed
15 on it, actually, but the problem is that we've been focusing
16 exclusively on rules.

17 And so this research the agency is working on hasn't
18 been matured. We know that a couple carriers have pilot programs.
19 So I don't think we know enough about them, but we do think that
20 if we're going to be serious about it, we have to look beyond the
21 rules.

22 And I regret, I don't have much more to share with you
23 on that, but I think we do have to say, okay, if we want to solve
24 the problem, is simply focusing on the rules the solution? And
25 our answer is no.

1 DR. PRICE: Are there other panelists who want to
2 comment?

3 MR. MINOR: Yes, I'd like to follow up on that.

4 We share the ATA's view that we want to do more than
5 focus on just complying with the rules. While the rules are very
6 important for trying to prevent fatigue-related crashes, you have
7 to do much more than just go by the letter of the regulations;
8 that a lot of it involves working with the shippers, working with
9 the receivers, trying to get some regularity to the driver's
10 schedule. There's just a multitude of factors.

11 And one of the things that we asked our Motor Carrier
12 Safety Advisory Committee to do recently was to put together some
13 recommendations on what a good fatigue management program should
14 incorporate. So we do have some of that input from our Motor
15 Carrier Safety Advisory Committee. It is posted at the Motor
16 Carrier Safety Advisory Committee website and you can get to it
17 via the main FMCSA website.

18 So we do recognize the value of fatigue management
19 programs to be used in addition to the hours-of-service
20 regulations. So it's unfortunate that so much time and energy is
21 focused on the rulemaking piece of it, as to going above and
22 beyond the letter of the regulations and focusing on all of the
23 other factors that could influence driver fatigue.

24 DR. PRICE: Thank you. Any other panelists like to
25 comment?

1 MR. SPENCER: Well, yeah, obviously there are many other
2 factors. If you're talking about fatigue management, the only
3 thing that overcomes fatigue is sleep. And of course, the
4 environment that the overwhelming majority of truck drivers live
5 in, as we've already talked about, there are not places for them
6 to get off the road to get restorative sleep and I really can't
7 under -- or overemphasize that statement.

8 I mean, you know, there was a proposal put on the table
9 and will be again. It's called Jason's Law and it's named after
10 Jason Rivenburg. And Jason was trying to deliver to a receiver.
11 The receiver wouldn't take the goods. He said, you'll have to
12 come back tomorrow morning. So he went to the closest place he
13 could find to try to get sleep -- it was an abandoned service
14 station -- and he was killed, killed and robbed for seven bucks.
15 And, you know, it just sort of -- this is common stuff. You know,
16 that's the place to park.

17 We have environmental issues that the whole country is
18 concerned with. Most drivers sleep in the cabs of their trucks,
19 yet, unless there's an auxiliary power unit, and most trucks don't
20 have those, the drivers any more cannot idle their trucks for
21 either heat or cool, so there's simply no way to get restorative
22 sleep.

23 I mean, these are things that are generally left up to
24 the drivers. You know, you're on your own. That's kind of where
25 the safety culture is and -- you know, and it's really coming

1 apart at the seams.

2 DR. PRICE: Mr. Keppler.

3 MR. KEPPLER: Just let me offer a couple of thoughts.
4 Obviously, critical is health and wellness of the driver. We need
5 to take a better -- have a better understanding of what's
6 contributing to that driver's health and wellness, and fatigue is
7 very individual.

8 So you need to take a personal interest in the drivers
9 and understand their scheduling, their sleep patterns, do sleep
10 disorder screening. If you find an issue, there needs to be some
11 treatment or some remediation applied. So all of those things are
12 critically important in understanding the fatigue phenomenon.

13 So those are things that -- and performance. I think
14 one of the -- another example of how technology has really helped
15 to advance in this area is a number of carriers, particularly in
16 the motor coach and bus industry, have implemented onboard camera
17 systems. So what that is becoming is a huge value to driver
18 training and performance and monitoring drivers, and carriers are
19 using that information and rolling that back in the training
20 programs and saying, hey, look, here's where I'm seeing issues
21 arise when you're out on the road.

22 So that type of thing really is beneficial in providing
23 that feedback back to the driver so he or she can understanding
24 what's impacting on their fatigue level.

25 DR. PRICE: Thank you. Mr. Van Etten.

1 MR. VAN ETTEN: Any more follow-up questions? No?
2 Dr. Marshall.

3 DR. MARSHALL: Mr. Spencer, I'm sure you're aware that
4 about 12 years ago we had pretty much the same discussion on
5 shippers and receivers, and I'm a little dismayed that there seems
6 to be, according to you, nothing that's happened to reach out to
7 them either through the trucking industry or the federal agencies.
8 Has there been anything that's been done to make sure that they
9 realize what the drivers are going through to get sleep?

10 MR. SPENCER: You know, I would imagine that -- I mean,
11 they have every reason to say this isn't my deal -- this isn't my
12 deal; I have no reason to be concerned.

13 For a brief few moments in time when the supply of goods
14 to ship greatly exceeds the number of trucks, trucking companies
15 have a little bit of clout with shippers and receivers for a brief
16 moment. And, you know, the same is going to be true for whether
17 or not they collect a decent rate, a rate decent enough to
18 actually pay a good driver a good enough pay for them to want to
19 stay in this business.

20 But the imbalance, you know, happens just like that and
21 it has for years and years and years and years. And trucking is
22 an industry that's prone to overcapacity, simply because drivers
23 get paid only for miles driven. I mean, there really is no fixed
24 cost of employee -- relatively, I mean, there's a very, very low
25 barrier to entry. It's prone to overcapacity and so it just

1 invites that kind of treatment. And will it change? The only
2 time I ever see it change is when the ICC said you must.

3 DR. MARSHALL: Does anybody else have any other
4 comments?

5 (No response.)

6 DR. MARSHALL: Mr. Van Etten.

7 MR. VAN ETTEN: Our next topic is electronic onboard
8 recorders. That's kind of the next subject matter that we want to
9 take.

10 So Chairman Sumwalt, do we want to go ahead and start
11 with that now or do we want to go to the parties and have them ask
12 questions on what we've covered so far?

13 CHAIRMAN SUMWALT: No, let's go ahead and finish up from
14 the Technical Panel and then we'll move out to the parties after
15 you're completed.

16 MR. VAN ETTEN: All right. Okay. Well, I have a couple
17 of general overall questions and again, this is to each of the
18 witness folks.

19 How effective have these onboard recorders been in
20 tracking hours of service and monitoring driver activity? And
21 what do you see are the advantages of using these devices and what
22 do you see are the disadvantages of using these devices?

23 And again we'll start with Mr. Minor, if you would,
24 please.

25 MR. MINOR: I think, overall, we believe that electronic

1 onboard recorders are very effective at monitoring drivers' hours
2 of service, specifically looking at the driving time. Because the
3 electronic onboard recorders intricately synchronize with the
4 operation of the vehicle, it means that we will have accurate
5 information on the driving time, and for the newer generation of
6 electronic onboard recorders, especially the ones that meet our
7 technical specifications in our April 2010 final rule, you have
8 the GPS capability, or similar technology.

9 So you have automatic date, time and location
10 information on where the vehicle changed duty statuses and for how
11 long it was operating. That means that you have less of a
12 likelihood that the driver could give you false information about
13 the location where these duty status changes occurred. So we
14 believe that the newer technology devices are very, very helpful
15 at giving you an accurate record.

16 And the one disadvantage is that when the vehicle is
17 stopped, you really don't know exactly what the driver is doing.
18 Even though the driver may have entered off duty, you don't know
19 whether the driver is doing some other non-driving related task.
20 So that is the one disadvantage, that when the vehicle is stopped,
21 you really don't have an accurate read on what the driver is
22 doing. You do have an accurate read on the location at which it
23 stopped and how long it was there, but you don't have accurate
24 information on exactly what the driver was doing.

25 MR. VAN ETTEN: Thank you. Mr. Spencer.

1 MR. SPENCER: I would certainly concur with Larry's
2 comments about, when the vehicle is stopped, you have no idea what
3 a driver is doing, whether they're off duty or whether they're
4 working.

5 I mean, you know, an onboard recorder is simply a much
6 more expensive recordkeeping device, subject to the same drawbacks
7 and falls and failings as paper logbooks. And as has been
8 mentioned here, they're not going to tell whether a driver is
9 sleepy. They can't tell if a driver needs to stop or rest. They
10 can't tell what driver has been doing or, for that matter, will be
11 asked or required to do.

12 So we think it is a very -- this is not something that
13 -- this may make you feel warm and fuzzy about hours-of-service
14 compliance, but it just simply isn't there.

15 MR. VAN ETTEN: Mr. Abbott.

16 MR. ABBOTT: I think if you talk to motor carriers that
17 have adopted the devices, every single one of them will tell you
18 that it's improved their compliance records, specifically and
19 profoundly with respect to certainly paperwork violations. The
20 most cited log violations during roadside inspections are log not
21 current and log form and manner violations. And EOBRs solve that.

22 And so it will get rid of the most prevalent violations.
23 Sometimes probably a couple hundred thousand of them that your
24 guys will no longer have to write. And so that's certainly
25 favorable.

1 The second, of course, is that we know that it will do a
2 very good job of tracking driving time. I don't think anybody
3 disputes that. So it will improve compliance in that area.

4 It's potentially a problem with tracking on duty and not
5 driving time. I don't think people would disagree that there's
6 some difficulties there, that we're going to need some other means
7 of verification. But that being said, on duty and not driving
8 time is not the prevalence of the driver's time. Most of the time
9 generally is spent driving and that's the time we're concerned
10 with.

11 I think there's a small caution, in that, historically,
12 at the roadside you hear, anecdotally, that the carriers with
13 these devices have very high compliance and good roadside
14 inspection rates and some of that is because they have very good
15 compliance and sometimes that's because the roadside inspection
16 officer doesn't want to look at the EOBR because there were many
17 different devices. They have a great deal of confidence in them
18 themselves and they don't spend the time looking at them, but
19 perhaps they should.

20 Well, with a mandate for adoption, all law enforcement
21 officers are effectively going to have to learn how to read them
22 and use them and understand the data, and that's very important.
23 So we won't have perhaps an irrational sense that a carrier has
24 compliance just because they have the device. We'll actually have
25 to verify that by looking at the data within the device.

1 So that's a very important component, is making sure
2 that the device will communicate to the law enforcement officer in
3 a way that that officer can read and understand the data. That's
4 important.

5 MR. KEPPLER: Rob's taken some of my comments.

6 We are supportive of a mandate across the board for
7 EOBRs and we do think, principally, we firmly believe it will
8 increase compliance. Those that have adopted them, it has
9 increased their compliance. Again, as I mentioned earlier, if the
10 rules are structured properly, then we will ultimately impact
11 safety.

12 Right now we do have some issues with the current
13 devices that are allowed under rules, and partially because, in
14 terms of the market penetration, it's not where it needs to be.
15 So a lot of officers aren't as comfortable with the devices as
16 they could be. There's multiple -- many of them out there.
17 There's a lack of standardization in terms of how they interact
18 with the officer, what information is presented to him or her,
19 when it's presented and how it's presented. Those types of things
20 are a concern. We do need to work on that issue. We do need to
21 develop increased training and that's something we're working on
22 very closely.

23 And I think the lack of a strong certification program
24 for the devices and the whole issue of whether they're tamper
25 proof or tamper resistant, that's another area that we think needs

1 some further work.

2 You know, we talked a few minutes ago about speed
3 limiters. Speed limiters are required in Ontario and Quebec right
4 now. One of the things that are our enforcement members have
5 found up there is there's five different ways that they've been
6 tampered with.

7 So as we move forward with technology, we need to ensure
8 that we've got that comfort level: we've got a strong
9 understanding of buyer beware that these devices are built to a
10 high standard; there are security protocols built in; we have
11 confidence in the data as current, it's not been tampered with; if
12 there are issues that are edited, if a driver -- if documents or
13 information is edited, we can track that information.

14 So while I think on the whole we're very strong
15 supporters of EOBRs. And again, these things aren't
16 insurmountable, but there are some things we need to work through
17 with implementation to make sure that once they're out there, in
18 large measure, we've tried to address all of these major issues
19 and dealt with them appropriately.

20 MR. VAN ETTEN: Thank you. Chairman Sumwalt, you wanted
21 to go to the parties; is that correct?

22 CHAIRMAN SUMWALT: Let's see. Are there any further
23 questions from the Technical Panel at this point?

24 MR. VAN ETTEN: On onboard recorders?

25 CHAIRMAN SUMWALT: I'm sorry? Yeah. So we want to

1 finish up all of the questions from the Technical Panel at this
2 time. So yes, if you need 10 minutes or so, that'll be fine.

3 MR. VAN ETTEN: Okay.

4 CHAIRMAN SUMWALT: Thank you.

5 MR. VAN ETTEN: Okay, we'll move on. This is to the
6 carriers, to Mr. Abbott and to Mr. Spencer.

7 What issues do you see in the proposed FMCSA rules
8 regarding the mandatory installation of EOBRs?

9 UNIDENTIFIED SPEAKER: I'm sorry, I didn't --

10 MR. VAN ETTEN: What issues do you see in terms of
11 mandatory EOBRs? Do you see an issue there?

12 MR. ABBOTT: In terms of the NPRM?

13 MR. VAN ETTEN: Correct.

14 MR. ABBOTT: Well, I think from our perspective there's
15 a couple issues. One is retention of the current exemptions. It
16 doesn't make sense, in our view, to mandate their use for people
17 who are currently log exempt. And these are drivers, generally
18 local drivers, who operate almost exclusively within 100 air-mile
19 radius and report for and release from the same duty spot each day
20 within 12 consecutive hours. We don't think there would be a
21 benefit to installing the devices for those types of drivers.

22 There's also some technical concerns with respect to the
23 device. One of them, for instance, is driver identification. The
24 mandate last year for noncompliant carriers basically says that
25 the driver identifies himself to the device by driver number

1 assigned to the motor carrier. So let me give you an example.

2 My motor carrier says, "You're driver 51." So I get in
3 the vehicle and I tell it I'm driver 51 and it tracks my hours.
4 There's the potential for fraud there.

5 And so the question is, is there a better way to
6 identify the driver? And the agency has sort of been stumbling on
7 this issue because we can't use a personal identifier such as a
8 Social Security number and have that data transmit back to the law
9 enforcement folks. Correct me if I'm -- okay, thank you.

10 And so I think we have to find better ways to ensure
11 that we're talking about one single driver, a single identity, to
12 reduce the prevalence of fraud.

13 And there are other issues there with respect to the
14 device design specifications and making sure they're tamper proof,
15 which I'm sure Steve could offer some thoughts on. But I think,
16 you know, merely mandating a single device doesn't get us there.
17 We have to look at how we impose the mandate and what does the
18 device look like?

19 Because right now we're talking about EOBRs, and EOBRs
20 are generally fleet management systems. They're multifunctional
21 devices that are very robust and do any number of things. We're
22 not talking about mandating those. We're talking about mandating
23 a device that merely does hours-of-service compliance. And EOBRs
24 typically are these fleet management devices, and hours-of-service
25 compliance is a component of them.

1 There are devices that pretty much just do electronic
2 logging, and sometimes that's not a device on the dash. The one I
3 think they used in the impact analysis for the mandate for
4 noncompliant carriers is a black box that plugs into the engine
5 and communicates to a cradle to the cell phone.

6 And so we have to decide what do these devices look
7 like? How do they transmit to law enforcement and how are they
8 going to read them? How are we going to keep the records? How
9 are we going to identify the driver? All of those issues are very
10 important as you consider the mandate.

11 MR. VAN ETTEN: Mr. Spencer.

12 MR. SPENCER: Well, obviously, there are a host of
13 technical issues that need to be considered before this proposal
14 could get very far at all and actually have any real results.

15 You know, one of the things that I am glad that finally
16 started being acknowledged here is that, one, those that currently
17 have onboard recorders, they're simply not being checked. Never
18 have been. When these systems first started coming around, one of
19 the first big carriers that had them said one of his drivers tells
20 me this thing cheats far better than I ever could. And that is
21 where it is.

22 You know, we find it absolutely outrageous that people
23 would be advocating an across-the-board mandate for -- that would
24 impact trucking that's 90 percent small business and it's the big
25 business people that are doing the lobbying for the mandates.

1 It's absolutely crazy from a cost-benefit analysis perspective.

2 But I mean, the other thing that makes -- that I think
3 ought to just blow this stuff out of the water is that onboard
4 recorders, if you can't actually prove that they're going to
5 improve highway safety -- and the carriers that we see that use
6 them now aren't safer than other carriers. There isn't a
7 connection. I mean, we're wasting our time talking about
8 mandates. I mean, it's not a productive use of our time.

9 MR. VAN ETTEN: Thank you. Mr. Kotowski, do you have
10 any follow-up questions?

11 MR. KOTOWSKI: I just have one follow-up question. Go
12 ahead, Steve.

13 MR. KEPPLER: I just wanted one clarification. With all
14 due respect, I did not say they weren't being checked. I said
15 that officers weren't comfortable with them.

16 MR. KOTOWSKI: My question goes to you, Mr. Keppler, and
17 it concerns the roadside enforcement aspect of dealing with
18 electronic onboard recorder-equipped vehicles. Currently, right
19 now, with the hard logs or the handwritten logs and the roadside
20 inspections, there's support documentation that the drivers carry
21 with them to use to validate. In the absence of an electronic
22 onboard recorder, are they still required and do they still have
23 to produce the support documentations?

24 MR. KEPPLER: That's one of the issues we've pointed out
25 and will be saying this -- we said this in our comments to hours

1 of service and we'll say it in our EOBR comments, that while
2 drivers are carrying those documents, they're not currently
3 required to retain those on the vehicle. Carriers are required to
4 retain those at the principal place of business when a compliance
5 review is conducted. We believe that requirement needs to be on
6 the vehicle as well, whether you have an EOBR or not, to verify
7 the hours of service of the driver.

8 MR. KOTOWSKI: And are drivers required to carry with
9 them a logbook in the instance that there is a failure with an
10 electronic onboard recorder?

11 MR. KEPPLER: If there's a failure, they're required to
12 produce documentation of the hours of service. How they produce
13 that is up to them.

14 MR. KOTOWSKI: Thank you. For Mr. Minor. On the
15 retention of records, on the records of duty status, currently, I
16 believe it's 6 months that the carrier is to maintain those. Are
17 there any special provisions or requirements for electronic data
18 from electronic onboard recorders, how it has to be maintained and
19 how long does it have to be retained?

20 MR. MINOR: Under our rulemaking for electronic onboard
21 recorders, the record retention period would still be the same,
22 retaining the records for 6 months. So if the driver completed
23 his record of duty status electronically or with the handwritten
24 record, you'd have to keep both of them for 6 months, along with
25 any supporting documents.

1 MR. KOTOWSKI: Is there a specified way that the
2 electronic data is to be retained?

3 MR. MINOR: Yes, our regulations do cover that, both
4 with the automatic onboard recorders that meet the requirements
5 that we had originally put into place in the late 1980s, and under
6 our final rule that we published last year for electronic onboard
7 recorders that meet the new technical specifications. We actually
8 get into the file format to ensure that there's greater uniformity
9 in how those records are created and how they're stored and we
10 cover all of the record retention requirements for those
11 electronic records.

12 MR. KOTOWSKI: Thank you. No further questions.

13 CHAIRMAN SUMWALT: Okay, it appears there are no further
14 questions from the Technical Panel, and we will move now to the
15 parties.

16 And just for planning, this session will go about
17 another hour. So if you need to get up and stretch or something,
18 that's fine. But we will go to -- we'll start with the advocacy
19 table at this point, since the other two have started first. And
20 so it's Mr. Burns again?

21 MR. JANSY: No, Henry Jansy.

22 CHAIRMAN SUMWALT: Yes, sir.

23 MR. JANSY: Pursuant to your request that we should
24 rotate, I'm with Advocates for Highway and Auto Safety and I'll be
25 asking the questions.

1 The first few questions -- first four dozen questions
2 are on hours-of-service issues, and the first few are for
3 Mr. Minor.

4 Mr. Minor, as you know, in the record of the rulemaking
5 on hours of service that your agency is presently conducting,
6 crash risk increases after 8 hours of consecutive driving. So the
7 increase under the current rule, from 10 to 11 hours, increases
8 the risk at the highest exposure -- increases the exposure at the
9 highest level of risk by 50 percent. Current hours-of-service
10 rules increase total driving and work hours by over 25 percent.

11 Evidence shows that drivers are working longer hours,
12 driving longer hours, and that crash risk, even according to the
13 study that was released this past week by the agency, increases
14 with the number of hours on duty, according to the Hanowski study.
15 Nevertheless, your surveys show that drivers are not getting any
16 more sleep under the current rule than they were under the
17 previous rules.

18 And finally, the current rules distinguish between bus
19 and motor coach hours of service, which left buses and motor coach
20 drivers under the 10-hour limit with no restart provision, even
21 while they were applying those change provisions to truck hours of
22 service.

23 So the question is, have the current hours-of-service
24 rules for truck and freight that allow more driving and work
25 hours, have they eliminated driver fatigue as a safety issue?

1 MR. MINOR: I think it's fair to say that no, we do not
2 believe that the current rule completely eliminated the issue of
3 fatigue driving. Even though the current rules have been in place
4 more or less since January of 2004 -- they've been in effect since
5 January 2004, there are still fatigue-related crashes that occur,
6 and we believe that our proposed rulemaking would make further
7 improvements in the reduction in fatigue-related crashes.

8 MR. JANSY: Okay. And do you have an estimate for what
9 the percentage of fatigue-related crashes are?

10 MR. MINOR: That information is presented in the
11 preamble of our current notice of proposed rulemaking. I don't
12 have it at my fingertips and rather than give you some misleading
13 information, we could provide that information for the record.

14 MR. JANSY: Okay. A question from Matt Brumbelow from
15 IIHS: Under the current hours-of-service rules, around 20 percent
16 of drivers admit that they've fallen asleep while driving in a
17 given month. What would the realistic expectation be for the
18 proposed rule's effect on this figure?

19 MR. MINOR: I think you're getting into an issue that we
20 had discussed previously and that's the issue of fatigue
21 management versus hours of service. So you've got hours-of-
22 service regulations and just following them strictly to the letter
23 may not necessarily take care of all the different factors that
24 contribute to fatigue. So you may have some drivers that are
25 nodding off even though they're in full compliance, and it's not

1 necessarily because there is a terrible flaw in the regulation;
2 it's because they are not really placing the appropriate focus on
3 fatigue management.

4 If there's not any attempt to try to have some
5 regularity to the schedule, if the driver is not taking advantage
6 of the opportunities to rest when it's presented to them, if the
7 driver really isn't getting a good night's sleep because of some
8 medical issue, if there's any of these other factors present, it
9 doesn't matter what the hours-of-service regulations say, you've
10 got some issues with fatigue management going on there.

11 So what we're trying to do through this rulemaking is to
12 improve to the best of our ability what the regulations say based
13 on the best available data and the research that's in front of us,
14 and then working with the industry to try to work on the issue of
15 fatigue management plans and trying to promote those.

16 MR. JANSY: Okay. This is a question from Mr. Burns
17 from the Truck Safety Coalition. You may have already partially
18 or fully answered this.

19 What is FMCSA doing to assist motor carriers in
20 developing management systems for comprehensive fatigue
21 management?

22 MR. MINOR: In the area of trying to assist them in
23 basically developing fatigue management programs, one of the
24 things that our Motor Carrier Safety Advisory did a couple years
25 ago was to at least make that one of the best safety practices,

1 one of their recommendations for best safety practices for motor
2 carrier safety management programs.

3 And then recently, this past year or so, they developed
4 more detailed recommendations for how motor carriers could go
5 about constructing a fatigue management program, some of the key
6 elements that they need to consider.

7 And one of the things that the agency is currently doing
8 with our Canadian partners is the North American Fatigue
9 Management Program, and hopefully the results of that study will
10 be out very soon to give additional information to the industry on
11 how to go about setting up an effective fatigue management program
12 that you could use in addition to the hours-of-service
13 regulations.

14 So you have your hours-of-service regulations as a
15 baseline to tell you where the absolute out-of-bounds markers are,
16 but then you have the fatigue management program to help cover all
17 of the other aspects that could contribute to a fatigue-related
18 crash.

19 MR. JANSY: Thanks. This is for anyone on the panel or
20 the whole panel.

21 Driver fatigue can occur for drivers even if they're
22 within the hours-of-service limits, as Larry Minor just stated,
23 that drivers in their off time may not get enough sleep. Research
24 on fatigue relies as a standard test on the performance vigilance
25 test to determine driver alertness and ability to perform

1 properly.

2 Should performance vigilance testing, PVT tests, be
3 given as part of roadside inspections to drivers?

4 MR. KEPPLER: To be honest, I'm not familiar with the
5 performance vigilance test, so I can't accurately answer the
6 question.

7 You know, fatigue is a difficult issue and enforcing
8 fatigue -- enforcing hours of service is fairly prescriptive. So
9 that's something that we can handle pretty well, I think.

10 The concept of looking for the development of some
11 objective assessment of fatigue is something worth pursuing, and
12 the applicability of that test, I think, is really based upon what
13 the test would entail and those types of things.

14 So since I'm not familiar with the test, I can't really
15 comment on whether or not it's relevant to be done roadside.

16 MR. SPENCER: Geez, Henry, I'm curious if there's
17 anybody in this room that won't yawn this afternoon or hasn't
18 already. I mean, sometimes fatigue just happens.

19 You asked a question, what would anybody think about
20 that? We think the particular testing that you're talking about
21 would be absolutely outrageous and, even if you were to do it, I
22 don't think it could show you anything.

23 You know, right now we're just kind of winding down a
24 little bit with an adventure that went on in Minnesota and, you
25 know, was pretty much largely embraced by Indiana and Iowa, where

1 they've decided there were a series of questions and if they asked
2 a driver and he didn't answer those questions right, or wrong,
3 either way, they'd cite him up for being fatigued. And obviously
4 they did that based on no research, no competent, credible
5 research. Thankfully the judge recognized that and so
6 appropriately advised.

7 But, I mean, you know, we know this is kind of an
8 evolving issue, but it better be an issue that's more than junk
9 science.

10 MR. JANSY: Well, let me follow my question up with a
11 follow-up question for you, Todd.

12 In the past, drivers were pulled over if they were
13 thought to be under the influence of alcohol and made to walk a
14 line or touch their nose. That was replaced by breathalyzer
15 testing, which is objective, scientific, well based. PVT tests
16 are used -- and half of the research that comes out on performance
17 of drivers use PVT tests.

18 If there were an objective breathalyzer-type test that
19 could be administered and you would find out whether the driver's
20 too tired or fatigued to perform their job as a driver, wouldn't
21 you want to support that and get the fatigued drivers off the
22 road?

23 MR. SPENCER: We want a system where drivers that need
24 to rest, that need to sleep, are able to get off the road and get
25 that rest without fear of being fined or fired. The current

1 system we have is all about fines and firing, you know, and
2 obviously drivers have -- you know, they have really no recourse.
3 The tighter the regulations get in terms of laying out a specific
4 window, the greater likelihood you're going to have drowsy
5 driving.

6 You know, I don't know how many people in this room
7 sleep 8 hours a night. If I slept 8 hours a night once a month, I
8 would be absolutely shocked. The regulations say drivers are
9 supposed to be off duty for 10 consecutive hours. This stuff
10 doesn't really match the real world. It doesn't match the real
11 world of drivers. This stuff doesn't match the real world that
12 most of us live in, yet, somehow or another, we don't see drivers
13 as being people. It's the nuttiest stuff in the world.

14 MR. JANSY: Okay, let me turn to Mr. Keppler. I have a
15 question about enforcement.

16 Currently you enforce two sets of rules: one for bus
17 and motor coach drivers that it's 10 consecutive hours and no
18 restart; and for truck drivers it's 11 consecutive hours and has
19 the restart. Do you have a problem with changing the enforcement
20 requirements for truck drivers, if you're already enforcing a
21 10-hour rule with no restart for bus and motor coach drivers?

22 MR. KEPPLER: Well, as I will say in the next panel, we
23 believe it's time to revisit the hours of service for motor coach
24 operators, to look at whether or not they need to be changed and
25 look at the relevant science. And frankly, to be honest, since

1 there is a restriction and law that doesn't allow inspectors to
2 inspect buses roadside, they're really not being looked at, and
3 that's an issue.

4 Now, they're being looked at, at destination locations.
5 And because we have two sets of rules, it's manageable and the
6 number of bus inspections, as dedicated units -- not all states
7 that have -- they have varying levels of bus inspection programs.
8 So is it optimal? No. But is it manageable? Yes.

9 CHAIRMAN SUMWALT: Thank you, Mr. Jansy.

10 We'll now go the unions and driver associations table.
11 And hopefully your microphone will be working now, but if not,
12 we'll take care of that.

13 And just as a reminder, we're not planning a follow-up
14 round for any other party questions. That first session was sort
15 of an exception. So I just want to remind everybody of that.
16 Thank you.

17 MS. VOIE: Thank you. My name is Ellen Voie. I'm the
18 president of the Women in Trucking Association. We actually
19 represent both drivers and carriers, so I should probably be half
20 between these two tables.

21 Our first question is from the Teamsters and this is for
22 Mr. Minor. IBT supports the use of EOBRs to assist in enforcing
23 the hours-of-service rule. We are, however, concerned about the
24 devices collecting non-hours-of-service data and who has access to
25 that data.

1 Has the agency considered ensuring that drivers and
2 representatives have access to the data to enable them to defend
3 themselves in the event the carrier uses the data to impose
4 disciplinary action?

5 MR. MINOR: Basically, what we mentioned in our
6 rulemaking notices concerning electronic onboard recorders is that
7 we're not trying to gather any additional hours-of-service
8 information than we already require with a handwritten record of
9 duty status. So we're looking for information on the driver's
10 duty status, whether that's driving time, on duty and not driving,
11 sleeper berth time, off-duty time, date, time and location for the
12 changes in duty status. So we're only looking for the same hours-
13 of-service-related information that we request or require with a
14 handwritten record of duty status.

15 With regard to who within the carrier management
16 hierarchy has access to the data, we leave that to the carrier,
17 that if the carrier managers want to keep the information and
18 control access to it, we leave it to the carrier management. We
19 assume that the drivers would have access to copies of this
20 information, but we recognize that we do have the requirement to
21 make sure that this information is tamper resistant so that the
22 drivers can't alter it. They can have annotations of special
23 notes they want to make. If the driver is, for example, using the
24 vehicle as a personal conveyance for some short distance, then
25 they can make that annotation.

1 But as far as all of the details of the rights to the
2 information within the carrier employee population, we do not
3 really address that with our regulations.

4 MS. VOIE: This is to Mr. Keppler of the CVSA and this
5 is from Women in Trucking.

6 On your slide you talked about driver behavior,
7 performance and camera systems, and we're very interested in
8 whether you've done any research on how the camera includes the
9 effect of changes on driver behavior, especially in a situation
10 where there's teams or driver trainers/trainees, specifically in
11 the area of both training, compliance and harassment issues.

12 MR. KEPPLER: Well, to my knowledge, I think these
13 systems have been mostly -- the applications are mostly in the
14 transit and the motor coach industry, not in the trucking
15 industry. And in my conversations with the people that are using
16 these devices and the companies that manufacture them, the
17 principal use of the device is not punitive. It's used as a
18 training tool for the drivers, to say, look, here's where you may
19 have made some mistakes and here's how we can correct it.

20 So it's really -- that's the application it's being used
21 for. It's not being punitive and it's being used also in terms of
22 having -- some of that information is being used to apply to
23 simulator companies as well. So they're designing simulators
24 around some of the scenarios they're seeing real life.

25 So I think that type of -- so to answer your question,

1 no, we're not doing any research. That type of information, as
2 well as some of the naturalistic driving work that's being done,
3 particularly at Virginia Tech, is really, in my view, providing
4 huge benefits towards all of these things that will help us make
5 advances in the future really to help -- you know, the question
6 came up in an earlier panel about training drivers. That's
7 invaluable information for the future, to help give those drivers
8 optimal, real-life scenarios so that they can improve performance.

9 MS. VOIE: Thank you. This is from the UTU to
10 Mr. Abbott.

11 You mentioned a speed limiter device installed in
12 trucks. Would this create drivers not meeting customer demands,
13 and also would this now become a possible hours-of-service issue?

14 MR. ABBOTT: I think the first half of your question is,
15 would drivers no longer be able to meet customer demands because
16 they can't speed? Is that the premise of the question?

17 MR. STUDIVANT: No, it's not the speed issue; it's the
18 customer demand. If someone in the trucking industry -- they may
19 have to be at a warehouse location at a certain time. I think
20 Mr. Spencer talked about it earlier. The Jason's Law. The reason
21 that carrier wouldn't take the load, I don't know.

22 But I guess the question is, if I'm not able to -- would
23 the speed device be below the speed limit, above the speed limit
24 or at the speed limit? I mean, what would be the restrictions for
25 the speed device?

1 MR. ABBOTT: I think we've advocated that they -- in our
2 original petition at -- and this goes back a way -- 68, I think.
3 We've now suggested 65. So a national limit of 65 on those
4 devices. I'm not sure how many jurisdictions permit speeds -- and
5 I don't suspect Steve commits all of that to memory, although he
6 commits a lot to memory -- above 65. So no, we would mandate --
7 suggest that they be mandated at 65 for all vehicles.

8 The second half -- and I'm sorry, could you restate the
9 second half of the question?

10 MS. VOIE: Would this become a possible hours-of-service
11 issue by not meeting customer demands?

12 MR. ABBOTT: Well, the hours-of-service issue is that,
13 obviously, currently with logs they look at miles accomplished
14 within a reasonable time. And there's current guidance on that
15 that says, look, how many miles can you accomplish in 10 hours or
16 11 hours? Which creates a difficulty for motor carriers who do
17 reasonably accomplish those miles, but someone says, well, look,
18 that's not realistic. So the onus is on the carrier to show, hey,
19 I could accomplish that run; I was not driving more hours than you
20 think I was, or I was not speeding; that can reasonably be
21 accomplished.

22 So the speed limiter sort of helps take care of the
23 issue there of, you know, is the onus on the carrier to prove
24 their own innocence? So we think that'll be helpful.

25 And we certainly advocate this because (a) a great

1 number of fleets already govern their vehicles and they want to
2 share the road with others who share their commitment to safety.
3 But also, moreover, we know that, of course, driver factors have a
4 great deal of prevalence in crash causation and particularly
5 speeding is one of the primary related factors to crashes. So we
6 think that's appropriate.

7 MS. VOIE: This question is for Mr. Minor and this is
8 from the Teamsters: Would you explain how the EOBRs will be used
9 to track hours-of-service compliance for carriers originating in
10 Mexico?

11 MR. MINOR: For carriers originating in Mexico, if
12 they're subject to a mandate for EOBRs, then the EOBR would have
13 to track their duty status for the prior 7 to 8 days while they're
14 in the U.S. So if they just came over today, they'd still have to
15 have an accurate record of duty status covering the prior week,
16 and the EOBR would give us an electronic record of that and the
17 carrier would still be required to retain that information for 6
18 months under our record retention requirement for hours-of-service
19 information and supporting documents. So the Mexicans would be
20 held to the same standard as the U.S. carriers.

21 MS. VOIE: Thank you. This is for Mr. Keppler and this
22 is from Women in Trucking. For women, personal safety is a huge
23 priority, a top priority for us, and you talked about a safety
24 culture. Have you investigated or looked at any ways that the
25 driver's security, especially when they're parked, affects how

1 driver safety on the road -- personal security, as far as, well,
2 stress and --

3 MR. KEPPLER: The short answer is no, we haven't.

4 MS. VOIE: Okay.

5 MR. KEPPLER: Obviously, with some of the things that go
6 on out there in certain locations, I can understand how that would
7 be an issue. I'm certainly happy to go back and talk to some of
8 our members and see if any of them have looked at that issue
9 specifically.

10 MS. VOIE: Great. This is from the Teamsters and this
11 is for Mr. Abbott and Mr. Spencer.

12 If the 14-hour provision empowers the driver relative to
13 encouraging a shipper or receiver to expedite the loading or
14 unloading of a truck, how would a 13-hour driving window, as
15 proposed in the hours-of-service rulemaking, affect the driver?

16 Mr. Spencer.

17 MR. ABBOTT: Do you want to go first?

18 MR. SPENCER: Go ahead.

19 MR. ABBOTT: All right. Well, we think the 13-hour
20 window does a couple of things. First of all, it certainly
21 reduces industry capacity and productivity, and of course any time
22 you reduce capacity and productivity, you increase the need for
23 more drivers and vehicles. And obviously, as we talked about
24 earlier, we're going to be facing a more profound need for more
25 drivers because the driver workforce is aging. And of course, we

1 have some concerns about adding this sort of influx of
2 inexperienced drivers to the driver pool.

3 The other issue is with respect to that 13-hour window.
4 What the agency has proposed is breaks at certain hours. And
5 while in some places that's appropriate, there's two problems
6 there. One, you can't always take a break because the rest area
7 isn't there. Or, two, it requires you to take it within that
8 first 7 hours or at least 30 minutes of it. So there's sort of a
9 flexibility issue there if you encounter congestion or some other
10 things.

11 And finally, one of the research studies that the agency
12 just released discusses how breaks from driving, both off-duty
13 breaks but also on-duty breaks, have some value and although the
14 off-duty breaks have more value according to the research, the
15 on-duty breaks also have some value. So I think we have to
16 evaluate that and consider that in the context of that 13-hour
17 provision.

18 And so have I hit on everything you would say?

19 MR. SPENCER: Pretty much.

20 MR. ABBOTT: All right, go ahead.

21 MR. SPENCER: Pretty much. I mean, I don't see where --
22 I don't see how the industry can possibly comply with when
23 everything stops at 13 hours. I mean, again, drivers are not
24 going to be able stay at shippers or receivers, so something's got
25 to give.

1 And while I didn't get asked the specific question about
2 speed limiters, every legitimate safety study ever done concludes
3 the same thing: highway safety is most enhanced when all vehicles
4 are traveling at the same speed. Many states have speed limits of
5 70 and some are even going beyond that.

6 The last thing I want to see happen for truck drivers is
7 somebody mandates something for them that actually holds them down
8 below the prevailing speed of traffic and takes the ability of the
9 control of the truck away from the professional driver that needs
10 it behind the wheel.

11 MS. VOIE: Thank you. We're out of time.

12 CHAIRMAN SUMWALT: Thank you very much, Ms. Voie.

13 State governments.

14 MS. MORTON: Hi. Karen Morton from AAMVA. We have
15 three questions for Mr. Minor, all from CVSA.

16 The first question: Should FMCSA create regulations for
17 shippers and receivers to ease hours-of-service constraints on
18 drivers and motor carriers?

19 MR. MINOR: In response to that question, at the plant,
20 they currently do not have the statutory authority to write
21 regulations covering shippers and receivers. However, we do
22 recognize that it's a very important part of the equation.

23 So we're certainly open to having some dialogue with the
24 shipper and receiver community, trying to heighten their level of
25 awareness about their impact on drivers' compliance with the hours

1 of service, and their impact on carriers trying to have fatigue
2 management programs. So we welcome the opportunity to engage in
3 the dialogue, but we do not currently have authority to write
4 regulations in that area.

5 MS. MORTON: Okay. The second question: Has FMCSA
6 considered a third party or separate entity to certify EOBRs?

7 MR. MINOR: That was something that we considered when
8 we developed the notice of proposed rulemaking that we put out
9 back in 2007, and we made a decision at that time that we didn't
10 want to get into the certification process; that we had 20 years
11 of experience with automatic onboard recorders, that the devices
12 have been out there in the market without any federal oversight as
13 to who's building devices, and just relying on the self-
14 certification process among the manufacturers, that seemed to
15 serve us well for more than 20 years and we didn't think that it
16 was necessary to get into that arena for EOBRs at this time.

17 MS. MORTON: Okay, thank you. Last question: Has
18 consideration been given to creating a standard readout format
19 that all EOBRs would be required to display?

20 MR. MINOR: What we tried to do with our April 2010
21 final rule that established new technical specifications for EOBRs
22 was to have great uniformity in the way that the devices operate
23 and the way that they display information on the machine and the
24 way that the information is printed out, including uniformity in
25 the electronic file format.

1 And one of the things that we did is, working with
2 the CVSA, we've developed some nonproprietary software that the
3 inspectors could use to read the electronic file from the EOBR so
4 they could actually download it from the device and read it on
5 their laptops and get a uniform display that way. So that's one
6 of the things that we are working on to make sure that it's a lot
7 easier for the inspectors to use, a lot easier for the carriers to
8 use, so that we have greater levels of enforcement when the
9 inspectors encounter vehicles that are equipped with EOBRs.

10 MS. MORTON: Very good, thank you.

11 CHAIRMAN SUMWALT: No further questions? Thank you.

12 Okay, the industry table.

13 MR. OSIECKI: Good afternoon. Perhaps the state table
14 would like to cede their 7 additional minutes to the industry
15 table, since we have lots of questions? Just kidding. But if
16 you'd like to do that, we'd be happy.

17 We do have seven questions and most of them are geared
18 towards both or either CVSA or FMCSA. In the first case, a
19 question from Rick Schweitzer, representing the National Private
20 Truck Council, for either CVSA or FMCSA.

21 How do you justify the statement that the fatigued
22 driving BASIC has a strong correlation to crash risk, with the
23 earlier statement that perhaps 70 percent of driver fatigue
24 violations are paperwork issues rather than hours-of-service
25 violations?

1 MR. MINOR: I think it's safe to say that what we tried
2 to do with the CSA program is have lots and lots of outreach so
3 that all of the stakeholders can come to the table, look at what
4 we are thinking of for the Safety Measurement System and give us
5 some feedback.

6 We think that the hours-of-service violations are very
7 important and I don't think we've ever gone through the list of
8 hours-of-service violations to try to say that 60 or 70 percent of
9 them are just form and manner versus substantive violations of the
10 hours-of-service regulations.

11 We think that the fatigue violations are very important
12 and that they should be prominent in a Safety Measurement System.
13 And we have reached out to stakeholders to give us feedback on
14 that, and when we come forward with the notice of proposed
15 rulemaking on the new safety fitness determination process based
16 off of the data in the SMS, we will be seeking additional public
17 comment on it.

18 So it's not that we've made a final decision and we're
19 not open to any further comment, and that once we make the
20 decision we're never going to look back, but it is an open process
21 where we're seeking feedback from the stakeholders and we're
22 receptive to anything that you've got to offer.

23 MR. OSIECKI: Steve.

24 MR. KEPPLER: To add, I guess, I'm not familiar with the
25 SMS methodology in terms of how they looked at that issue. I will

1 say a couple things.

2 One, the ATRI just recently researched -- released a
3 study looking at -- which was a re-release of previous work where
4 they looked at the prevalence of driver violations to crash risk.
5 If you look at that data -- I don't remember the exact numbers,
6 but I believe hours of service and hours-of-service form and
7 manner violations specifically had in the neighborhood of 50-
8 percent higher crash risk. Those drivers that had hours of
9 service and form and manner violations, it was in the 46 to 42
10 percent range, if I recall correctly.

11 And it gets back to this issue of safety culture. A lot
12 of people think that those are nitpicking violations and, you
13 know, some have merit to that statement. But, you know, if you're
14 taking compliance seriously, that needs to permeate throughout
15 your entire operation. So while some people may think that's not
16 important, regulatory compliance and being serious about what
17 you're doing is important. So I think that that's how I would
18 respond to that question.

19 And again, I didn't make up the methodology, but
20 clearly, from what Bryan indicated earlier today, there is a
21 correlation of crash risk for that BASIC.

22 MR. OSIECKI: Thank you. The second question. This is
23 from me, from ATA, for you, Steve. Earlier in your remarks you
24 referred to perhaps greater education and awareness and
25 enforcement aimed at all vehicles.

1 Could you address the TAC (ph.) program in terms of what
2 it is, how many states have a program as a part of their MCSAP,
3 and CVSA's position on greater traffic enforcement through a TAC-
4 like program in more states?

5 MR. KEPPLER: Sure, a couple questions there. I'm not
6 exactly sure how many states have a TAC program. I think it's in
7 the neighborhood of 10. I don't know, Larry, if you had an answer
8 to that. But it is basically an enforcement program that's
9 partnership with industry, that really allows officers to ride
10 with drivers and when they see violations of four-wheelers or
11 other vehicles operating unsafely around the trucks, there's
12 another team member from the office and they radio ahead and they
13 pull over that driver and take traffic enforcement action.

14 We're a big supporter of increased enforcement of four-
15 wheelers around trucks. It's something we've looked at. You
16 heard some of this earlier today. There are several studies.
17 Anywhere from 56 percent to upwards of 75 percent of large truck-
18 related crashes are not related to the CMV driver, and about
19 three-quarters of large truck-related crashes are multi-vehicle
20 crashes.

21 So if we're going to try and really reduce the number
22 down to a point that we're all happy with, we can't ignore the
23 four-wheeler; we need to focus on it.

24 One of the things CVSA has worked on over the last year
25 and half is a training program for youth drivers. We looked at

1 the fatals within large truck-related crashes. Drivers between
2 the ages of 16 and 25, 26 percent of all large truck-related
3 crashes are drivers in that age group, which is a staggering
4 number. I think logic would dictate that to be the case, but it's
5 really a big number.

6 So we partnered with ATA, with the Arizona Trucking
7 Association, with support from FMCSA, to develop a training
8 program -- and Arizona DPS, called Teens and Trucks. And we
9 launched that program last year and we've trained a lot of youth
10 drivers and 47 states are using it, and 8 provinces.

11 So it gets to that point of the commercial driver has
12 limitations on what he or she could do to impact on that whole
13 crash picture. So if we're really going to make an impact, we've
14 got to get to everybody else around the truck.

15 MR. OSIECKI: Okay, thank you, Steve.

16 This is for Larry Minor. This is again from
17 Rick Schweitzer, representing NPTC.

18 What is the status of the FMCSA's consideration of a
19 regulation to establish sleep apnea as a disqualifying condition,
20 given that the quality of a driver's rest might have more impact
21 on fatigue than mere numbers of hours worked?

22 MR. MINOR: A couple of years ago our Medical Review
23 Board provided us with recommendations on sleep apnea and it had a
24 laundry list of the risk factors that we should consider in
25 determining whether a driver is at risk for having sleep apnea and

1 whether that driver should be medically disqualified.

2 The agency has not initiated any rulemaking in response
3 to that recommendation, yet. But one of the things that the
4 agency is considering for later this year is to have a joint
5 session of our Medical Review Board and our Motor Carrier Safety
6 Advisory Committee to give us some practical recommendations for
7 how we might go about addressing the issue of sleep apnea,
8 recognizing that one of the big factors that we have to consider
9 is the cost for the medical test to determine whether a driver has
10 sleep apnea, that it could be several thousand dollars. And if we
11 look at the list of risk factors that the Medical Review Board
12 identified and then looked at the population of drivers that are
13 likely to have to undergo this testing, it would be a tremendous
14 economic burden on the driver population. And some of those
15 drivers may not actually have sleep apnea, yet they have to
16 undergo this very, very costly test.

17 So given the potential impact on drivers, we thought
18 that this would probably be a perfect opportunity to bring
19 together the current panel of doctors in our MRB with our Motor
20 Carrier Safety Advisory Committee to just give us a better feel
21 for how we might go forward and address this in a practical and
22 effective manner.

23 MR. OSIECKI: Okay. Thank you, Larry.

24 Our next question is from Norm Littler, representing
25 ABA, to Steve Keppler.

1 You said that you would like to see a change to the
2 hours-of-service rules for commercial buses. What do you envision
3 those changes to be and what is the basis for your proposal?

4 MR. KEPPLER: Actually that's not what I said. I said I
5 think they need to be looked at. Whether or not a change is
6 warranted is really up to the research and the work that's being
7 looked at. I think it's important that we haven't looked at that
8 area, the industry, for some time. The last 10 years we've
9 focused on the trucking industry. Particularly, there have been a
10 number of crashes that are recent where fatigue has been indicated
11 in a motor coach crash. So it's something that we think needs to
12 be looked at. Whether or not there's a change warranted is really
13 up to what the science says.

14 MR. OSIECKI: Okay. Thank you, Steve.

15 Back to Mr. Minor. This question is from Tim Blubaugh
16 with TMA: How many integrally synchronized EOBRs are in service
17 today, and is FMCSA aware of any vehicle integration issues with
18 those EOBRs?

19 MR. MINOR: Well, our regulations have allowed automatic
20 onboard recorders since the late 1980s and that old rule still
21 requires that the devices be integrally synchronized. So in
22 theory, all of the devices out there are supposed to be integrally
23 synchronized.

24 Now that doesn't necessarily mean that it has to be
25 hardwired. You could use Bluetooth technology or similar wireless

1 technology to do the communication between the vehicle and the
2 device. But under our current regulations and the new technical
3 specifications that we published in April 2010, all of the devices
4 are supposed to be communicating with the vehicle, such that they
5 are integrally synchronized.

6 MR. OSIECKI: Okay, thank you. This question is for
7 Steve Keppler of CVSA and it's from me at ATA.

8 Does your organization support better enforcement of the
9 current hours-of-service rules through mandatory EOBRs, or does
10 CVSA support changing that current hours-of-service rules to move
11 to the more complex proposed changes?

12 MR. KEPPLER: We support stronger enforcement of the
13 existing rule, as well as mandatory EOBRs, as compared to what the
14 agency has proposed. We think the proposal, in our estimation,
15 because of enforceability issues, potential for falsification, we
16 think that will not in our view have an improved impact versus
17 what we have today with an EOBR mandate.

18 MR. OSIECKI: Okay, thank you. And I know we're in
19 yellow and we're down to one last question. Do we have time?

20 CHAIRMAN SUMWALT: Yes, sir. Thank you.

21 MR. OSIECKI: Okay, thank you. Back to Mr. Minor and
22 this is from ATA: Do the proposed crash reduction benefits of
23 FMCSA's proposed hours-of-service changes outweigh the societal
24 costs of the changes?

25 And then part two of the question is, could you discuss

1 how the agency derived health benefits in its 2010 NPRM and
2 compare it to the health benefits from the November of 2008
3 changes -- or November of 2008 final rule. I apologize.

4 MR. MINOR: With regard to our estimates of the costs
5 and benefits, I can tell you what we actually said in the
6 rulemaking proposal, the one that's currently out there.

7 As far as the cost, looking at the package with the
8 10-hour option, we estimated that at a little over \$1 billion.
9 With the 11-hour option, we estimated the cost at \$520 million a
10 year. As far as benefits with the 10-hour option, we estimated
11 the safety benefits at \$1.4 billion per year, and for the 11-hour
12 option, we estimated that at over a little -- over \$1 billion a
13 year for benefits. And looking at the net benefits for both
14 options, we thought that both options were cost beneficial, with
15 the net benefits for the 10-hour option being \$380 million a year,
16 and the net benefit for the 11-hour option being \$560 million a
17 year.

18 So we did acknowledge that the 11-hour option is more
19 cost beneficial than the 10-hour option. But we thought, for
20 safety reasons, we prefer the 10-hour option and that that is
21 still cost beneficial at \$380 million a year. So that's what we
22 did state in our notice of proposed rulemaking.

23 And in terms of comparing the recent notice of proposed
24 rulemaking with any previous notice of proposed rulemaking on
25 hours of service, we have to note that that's not quite an apples-

1 to-apples or oranges-to-oranges comparison, that you're mixing the
2 two, that they were two totally separate packages, so you could
3 get totally different estimates for the costs and benefits if
4 you're travelling back through time like that, going back 2 or 3
5 years to a previous iteration of a proposal versus the most recent
6 hours-of-service proposal.

7 And with regard to the question about how we went about
8 estimating the health benefits, we looked at the latest available
9 research concerning the amount of sleep that people would get and
10 reducing the total number of hours per week that someone would
11 work, that there are some predicted health benefits in terms of
12 reduced prevalence of certain medical conditions, because you've
13 had more opportunity to rest during the week and you didn't work
14 quite as many hours per week.

15 So with the current proposal that we have out on the
16 street, we estimate that it would reduce the overall number of
17 hours per week that a truck driver would work and that there are
18 some health benefits to that. And that made a big difference in
19 our comparison between the 10-hour option and the 11-hour option,
20 because, as you recall from our previous rulemaking notices from
21 several years ago, when we compared 10 versus 11, 10 was on the
22 wrong side of zero in terms of the cost benefit analyses.

23 But now that we have moved to include the health
24 benefits, both numbers, the 10-hour option and the 11-hour option,
25 move farther to the right, so that now both the 10 and the 11 are

1 cost beneficial options. And as I've indicated, we prefer the
2 10-hour option based on the data that's available to us.

3 MR. OSIECKI: Okay, thank you.

4 CHAIRMAN SUMWALT: Thank you, Mr. Osiecki.

5 And now to the federal government's table.

6 MS. EVANS: Good afternoon. I'm Monique Evans with the
7 Federal Highway Administration. Our first question is for
8 Mr. Minor.

9 To clarify, does FMCSA's EOBR proposed rule require
10 local drivers, those operating within a 100-air-mile radius, to
11 have EOBRs?

12 MR. MINOR: No, it does not. What we proposed in our
13 rulemaking on EOBRs is that all of the carriers who are currently
14 using the handwritten record of duty status, that those carriers
15 would be required to use electronic onboard recorders. So we did
16 not propose to cover the drivers who are primarily operating out
17 of the 100-air-mile radius exception.

18 So anyone that was currently using the time cards as the
19 means of keeping tabs on their drivers because they fell into that
20 100-air-mile radius exception to doing handwritten logbooks, those
21 drivers would not be forced to use EOBRs. Only the ones who are
22 currently doing the logbooks.

23 MS. EVANS: Thank you. The next three questions are
24 from NHTSA and they're related to speed limiters and they're
25 intended for Mr. Keppler, Mr. Abbott and Mr. Spencer.

1 CHAIRMAN SUMWALT: Excuse me. Can you get just a little
2 closer to the microphone for us? Thank you.

3 MS. EVANS: Sure. Would you like me to repeat that?

4 CHAIRMAN SUMWALT: That's okay, but I think the court
5 reporter is also having a little trouble hearing you. Thank you.

6 MS. EVANS: Okay, great. The first question is, have
7 speed limiters, which are mandated in Canada, proven to be safety
8 effective?

9 MR. KEPPLER: To my knowledge and talking with the
10 Canadian provinces, I don't think they have completed their
11 analysis yet, looking at -- I think they've been in effect now for
12 a little over a year and in my understanding the evaluation has
13 not been completed yet on their safety efficacy.

14 MS. EVANS: Okay. The second question: Is there common
15 software for reading speed limiters?

16 MR. SPENCER: Not to my knowledge. And that is one of
17 the issues that's going on in Canada and obviously it would be
18 going on here. I think the Truck Manufacturers Association raised
19 some legitimate issues in regard to pursuing this. You know,
20 again, truck manufacturers aren't really big on sharing
21 technology, any of this kind of technology, back and forth. So
22 they won't readily be doing that.

23 But you know, probably the more important question is,
24 you know, do speed limiters really have any positive impact on
25 highway safety? And we've never seen any.

1 You know, speed is one of those issues that basically
2 gets blamed for all sorts of ills, yet, you know, in most
3 instances where speed is a factor in a crash, it's too fast for
4 conditions. And actually I do think -- I did note with interest,
5 there was not a truck -- in the Large Truck Crash Causation Study,
6 there wasn't a single truck running over the speed limit involved
7 in those studies.

8 You know, the safest roads that we have in America are
9 the interstate highways and fewer than 10 percent of large truck
10 crashes take place on those roads. Those are where you want
11 trucks to be going maximum speeds to make their time, the safest
12 roads we have.

13 MR. ABBOTT: With respect to your software question, I
14 honestly don't know the answer, but I'm sure that NHTSA will
15 figure that out when they do the rulemaking which we petitioned
16 for and we're grateful they're going to do that rulemaking. I
17 think an important component of that is the companion rulemaking
18 from FMCSA to prevent people from tampering with the devices or
19 modifying once they're installed in the new vehicles.

20 With respect to speed limiters generally, I don't think
21 anybody could argue with a fact that they're necessary and
22 appropriate for preventing truck drivers from exceeding the speed
23 limit. And certainly we all know that speed is one of the largest
24 contributing factors to crashes in all types of vehicles. We've
25 advocated for a national 65-mile-per-hour speed limit for all

1 vehicles to address the differential issue that Mr. Spencer
2 raised. So certainly because force equals mass times
3 acceleration, and because of the relationship between speeding
4 factors in crashes, we think it's appropriate to slow down all
5 vehicles.

6 MS. EVANS: Okay. How do you define tamper proof?

7 MR. ABBOTT: Are you talking in the context of EOBRs?

8 MS. EVANS: Yes. Well, speed limiters.

9 MR. ABBOTT: Oh, speed limiters.

10 MS. EVANS: Well, actually both.

11 MR. ABBOTT: You know, again, that's something that
12 we're going to have learn from Canada about them. And certainly
13 if you challenge someone to try and defeat a device, many of them
14 will find a way to do it and that's why we have to make them more
15 than just tamper evident, but tamper proof, to the degree
16 possible. And I think that's a twofold challenge: One is, how do
17 you make it so that a driver or a motor carrier can't modify the
18 device so that the vehicle is capable of exceeding that speed?
19 The second is, how do you make it so that if they were to have
20 done so, that you could detect that it had been done? And I think
21 those two elements together are important components of a future
22 rulemaking.

23 MR. SPENCER: Obviously, great advancements are being
24 made in the field of electronics every day and you know, don't
25 think for a minute that these areas won't be part of -- won't be

1 included in the advancement of electronics.

2 Now, the speed limiter stuff, I mean, you know, you
3 could set a speed limiter any way you want. But, I mean, you
4 control truck speed by lots of different ways. One of the things
5 that truck manufacturers pointed out is that a truck can come out
6 of the factory set any which way, but an operator could put any
7 kind of size tires on the truck and obviously it'll be going
8 faster than what it was originally set.

9 MR. KEPPLER: That was one of the things I was going to
10 mention. And we've provided -- have reached out to our members in
11 Canada and provided input to your research team that's working on
12 this. Our members in Quebec and Ontario have found several
13 different ways how speed limiters have been tampered with. Tire
14 size is one of the issues. There is a software program that's
15 been developed that can trick the ECM into telling -- messing with
16 gear ratios.

17 So there's been some things. We provided some of this
18 input to your research team on what we found from the enforcement
19 perspective up in Canada.

20 MS. EVANS: The next question is from NIOSH.

21 Is lack of adequate parking area still a barrier to
22 compliance with HOS rules and to drivers obtaining quality rest?

23 MR. ABBOTT: If you would ask drivers today, the answer
24 is unequivocally yes, both for the reasons of the availability of
25 the rest areas but also the time limits placed on them by certain

1 states. And I don't think there's any question that that's the
2 case, that we still need additional rest areas for truck drivers.

3 MR. SPENCER: A major issue that appears to be getting
4 worse, not better, and it will be much worse if the economy really
5 cranks up at some point.

6 MS. EVANS: Okay. And for Mr. Keppler.

7 Could you elaborate on the naturalistic driver research
8 being done by Virginia Tech and how it's likely to influence
9 future activities?

10 MR. KEPPLER: Well, I think there is a member of your
11 panel tomorrow that'll probably be able to talk more specifically
12 on that issue. Ron Knipling probably -- he's probably more
13 authoritative to talk on that.

14 But I think they've received a number of data elements
15 looking at how drivers are behaving in certain situations and how
16 that's impacted on not just crashes but near misses -- I think
17 that's a piece of data that the naturalistic driving information
18 really helps us with that we've never had before -- and what are
19 the circumstances surrounding those near misses?

20 And this gets to one of the issues, I think, we're
21 continually trying to challenge -- you know, look at, is with
22 crash reports and crash investigations, in many cases, the
23 individuals that are conducting those reports aren't certified
24 CVSA individuals. They're the local municipality or police
25 department. It's just the first one to the scene. So they may

1 not understand the characteristics of the industry and how the
2 drivers operate and how the vehicles operate and the dynamics. So
3 oftentimes they may code something that may or may not be entirely
4 accurate because they don't understand all the questions to ask.

5 So I think one of the values that that information will
6 help us, is understand what's transpiring in these near misses,
7 and also trying to get a better handle on how vehicle performance
8 issues may be impacting on crashes or near misses.

9 You know, brakes are a major issue, continue to be a
10 major issue in roadside inspection. How the lack of braking
11 performance impacts on that vehicle's ability to stop or to slow
12 down in those near misses or in those crashes, I think, is
13 important information we need to do further work on.

14 MS. EVANS: And one final question. Driving too fast
15 for conditions is a common check box for law enforcement to check
16 when investigating a crash, but that doesn't necessarily mean they
17 were speeding. Can you speak to the differences between the data
18 that's coming from those crash reports and how it might be
19 influencing the notion of speed as a -- speeding beyond the speed
20 limit as a factor in the crashes?

21 MR. KEPPLER: That's a good question. And that's kind
22 of what I was talking in my last comments, about understanding how
23 a truck operates and what's a safe following distance and what's
24 speed versus not, you know, what's the proper headways. So it's
25 an interesting question.

1 I think, you know, the crash causation study data really
2 gives us a good visibility into that issue because the people that
3 actually did the work and did the investigations and asked the
4 questions were certified inspectors, so they understand how those
5 things operate. So it's an interesting question.

6 In any event, speed is a major problem. It's something
7 that concerns us, and not just speed but differential speed. It's
8 a big issue that is left unanswered in terms of how that impacts
9 on performance, particularly at higher speeds.

10 So it's a good question. I don't have an answer for
11 you, in terms of the percentage of following too fast versus
12 speed.

13 MS. EVANS: Thank you.

14 CHAIRMAN SUMWALT: Great, thank you.

15 I'm trying to figure out if I should ask Mr. Osiecki. I
16 want you to be able to sleep tonight. I want to ask that one
17 question one more time because I suspect you're going to raise
18 your hand.

19 Is there any question that you have not asked that you
20 just can't sleep tonight if you don't ask? If that's the case,
21 raise your hand. Oh, my goodness.

22 MR. OSEIECKI: I'm going to sleep well tonight.

23 CHAIRMAN SUMWALT: Okay, all right. So everybody's
24 okay? All right. Great.

25 So we're going to come back to the Technical Panel, to

1 the Board of Inquiry, for some follow-up questions.

2 And Mr. Van Etten? Great.

3 Dr. Price.

4 DR. PRICE: Just one quick one. With respect to the
5 conversation about speed limiters, my understanding is that in
6 Europe and Australia they've been using adaptive speed limiters
7 with a lot of success, to -- either using GPS technology or sign
8 reading technology. And so I just wanted to know if there --
9 especially, I guess, FMCSA, if there's anything in the works to
10 evaluate such systems for use in the U.S.?

11 MR. MINOR: FMCSA does not have any current plans to do
12 any evaluation. We're working closely with the National Highway
13 Traffic Safety Administration in responding to the American
14 Trucking Association's and Road Safe America petitions to require
15 speed limiters in the U.S.

16 And we'll be following suit with NHTSA's rulemaking,
17 that once NHTSA does the rulemaking to establish standards for
18 speed limiters, we would do a companion rulemaking to make sure
19 that the motor carriers do not tamper with or remove the speed
20 limiters from their commercial vehicles. But we haven't examined
21 that particular technology.

22 DR. PRICE: Thank you. Does ATA have any position on
23 adaptive speed limiting?

24 MR. ABBOTT: I don't know that we do, but I can tell
25 you, intuitively, it seems to make sense. I mean, certainly we

1 have to limit the vehicles mechanically to sort of the higher
2 range that a vehicle is capable of legally. But that doesn't take
3 into account the fact that somebody could still speed in a
4 45-mile-per-hour zone. So certainly I think that would deserve
5 some merit and investigation as NHTSA conducts the rulemaking.

6 DR. PRICE: Thank you.

7 CHAIRMAN SUMWALT: Mr. Kotowski? Dr. Marshall?

8 DR. MARSHALL: I have one question. In the spirit of
9 looking ahead, I wanted to ask this question. I know that -- I
10 believe in Australia and I think Canada, as well, the regulators
11 provide carriers with some flexibility in hours of service if they
12 can show that they have effective measures in place for driver
13 safety and health. And I just wanted to get the panel's comments
14 on where they believe hours-of-service rules should be 10 years
15 from now.

16 UNIDENTIFIED SPEAKER: You can't really say, can you?

17 MR. MINOR: Well, I can't say where we'll be in 10 years
18 from now. Hopefully not in court.

19 (Laughter.)

20 MR. MINOR: But we did receive two previous requests to
21 allow a pilot program where the carriers would have an alternative
22 to the current proscriptive hours-of-service rules. We did
23 analyze the public comments and we did turn down those requests.

24 So we are open to the process under our current
25 procedures for waivers, exemptions and pilot programs, so that if

1 anyone has any great ideas as far as some alternatives to the
2 current hours-of-service rules, something where they would try out
3 a pilot program that they think would do a better job at
4 preventing fatigue-related crashes, we are certainly open to that
5 under our current regulations and procedures. But to date, we
6 really haven't seen any proposals that would give us any comfort
7 that the measures that they would use would at least ensure a
8 level of safety that's equivalent to the regulations.

9 MR. ABBOTT: I certainly think it would be appropriate,
10 especially if we want to explore some flexibility, which is
11 absolutely needed to account for things like finding rest areas,
12 the demands of shippers, but also understanding that the agency,
13 in the mandate for EOBRs last year published an FAQ in which they
14 said that fatigue is a factor in 5.5 percent of crashes. If
15 that's the case, that's a very small percentage, and we know that
16 an even smaller percentage of fatal crashes occur in the latter
17 hours of driving.

18 So if we believe that fatigue is a factor, drowsy
19 driving and fatigue driving might happen in different hours of the
20 shift. So what we have to do is look at the more effective means
21 to address that, but also provide flexibility so that a driver
22 who's drowsy in the fourth hour can take a nap in his sleeper
23 berth for a couple of hours, and that we can accommodate that and
24 really address the true factors that address those crashes.

25 MR. SPENCER: My solution is relatively simple and

1 probably far more productive. If the driver can demonstrate -- if
2 a driver has 10 years of safe driving experience, the regulations
3 simply don't apply. You're not going to come up with a regulation
4 that's going to be smarter than his ability to be able to drive
5 safely. In lots of instances, he may drive safely despite what
6 others do. But, I mean, by then a driver has clearly warranted
7 it, earned it, and you give every driver something clearly,
8 something worthwhile to shoot for.

9 MR. KEPPLER: I think as it relates to hours of service,
10 I think the fatigue management approach is something that we think
11 is a definite worthwhile investment of time and energy to figure
12 out how that can improve safety. We don't think that can or
13 should replace hours of service. There's always going to be a
14 need for hours of service. We think it's over and above. And
15 providing tools with industry to help manage that issue on their
16 own, and providing mechanisms and resources to assist those that
17 are found to have sleep issues, is something I think we need to
18 encourage.

19 But I do want to mention one thing, I think, that is
20 beyond hours of service, but it's related to fatigue management
21 programs and it's this concept of alternative compliance.

22 The American Transportation Research Institute recently
23 issued a report where they looked at traditional compliance, a
24 compliance review, and they based it principally on size of the
25 motor carrier's operation and they looked at crash performance

1 prior to the compliance review and crash performance 12 months
2 after the compliance review. And they looked at 5 years' worth of
3 data. And interestingly enough, pretty consistent across the
4 board, that as the size of the carrier grew, the impact of that
5 compliance review on safety, as it's defined in the study crashes,
6 was less effective. And logic would dictate that to be the case.
7 You know, larger carriers have safety departments, they have
8 compliance staffs out the wazoo, where the smaller carriers don't
9 generally and they're just trying to keep the truck moving. So
10 the traditional compliance review had a very big impact positively
11 on crash performance.

12 So one of the things that I think what ATRI looked at in
13 this study is the notion of what else do we need to do to help
14 provide incentives for people to do things on their own, absent
15 regulations?

16 We talked about safety culture. We talked about
17 regulatory compliance as a minimum. But things like fatigue
18 management programs, if there's ways that we can -- and we can to
19 some degree substantiate the impact of these programs that
20 industry is doing on their own, we can substantiate their impacts
21 on safety. We need to look at that and we need to look at whether
22 or not there's some way we can recognize that investment formally
23 in terms of the safety fitness determination of that carrier.

24 So in terms of looking out ahead, those are areas, I
25 think, that are worth -- fatigue management programs, things like

1 electronic notification systems, onboard safety systems, these
2 things that have proven themselves to impact safety, absent
3 regulation -- again, there's a place for regulation, there's a
4 place for enforcement, but looking at those types of things out
5 into the future of how we can incentivize that type of behavior
6 and again try and implement that systemic safety culture we're
7 trying to get to.

8 DR. MARSHALL: Thank you. Chairman.

9 CHAIRMAN SUMWALT: Thank you.

10 Mr. Spencer, I know now for 3 hours you've been wanting
11 to answer a question. Well, now, around here you can't answer a
12 question unless there's been a question posed. So what I'm going
13 to do is I'm going to pretend like I asked a question and then you
14 answer it.

15 MR. SPENCER: Hey, is it time for the break?

16 (Laughter.)

17 CHAIRMAN SUMWALT: It is, but we risked being shot last
18 time, but that's okay, I'd love to hear what you've got to say,
19 because you've been wanting to say it for 3 hours, so --

20 MR. SPENCER: Well, have I covered everything?

21 Actually, I think it's really, really interesting that
22 the same people that talk about putting speed limiters on trucks,
23 pay their drivers by the mile and virtually none of them pay them
24 anything for their time at all. I think that's really, really
25 interesting and curious and it shouldn't be lost on those in the

1 community, you know, that are proposing -- I mean, that reality is
2 there and it's kind of like -- you know, it's really more of the
3 same thing, we're going to -- you know, while we love these guys,
4 you know, they're out there on the road and if there's a problem,
5 go after them. And they all too often look to the government to
6 basically be their HR department and their background checkers and
7 all of this other stuff and these are things that simply never
8 produce net benefits and never produce net results.

9 So was that the question you were going to ask,
10 Mr. Chairman?

11 CHAIRMAN SUMWALT: I'm sure that was it. That was it.

12 (Laughter.)

13 MR. SPENCER: All right, thank you.

14 CHAIRMAN SUMWALT: Thank you. I do want to follow-up
15 with a couple questions. You had talked about, Mr. Spencer, the
16 quality of life in a sleeper berth and the fact that it's hard for
17 people to find parking spaces. They can't idle their engines in
18 many states and many of them don't have APUs.

19 Our Chairman went out, what's that, 5 weeks ago and went
20 to a Women in Trucking meeting in Louisville and rode 3 days in a
21 truck and she learned a lot and she came back and she told us
22 about some of the problems that truckers are facing these days.
23 And frankly, it was interesting to me, the fact that if you do
24 require a CPAP machine, for example, if you don't have an APU,
25 you're probably going to run the battery of the CPAP machine down.

1 Issues like that.

2 I was on a serious XM program yesterday on the Road Dog
3 channel, called Freewheeling. And Double Clutch from Georgia --
4 you may know Double Clutch -- he called and he was very concerned
5 about the quality of sleep that he gets in the sleeper berth. He
6 was, you know, saying that it was only 76 degrees where he was,
7 but he did not get a good night's sleep because he didn't have an
8 APU.

9 So I'm very concerned about these issues. What are we
10 going to do about it? Are there solutions for it?

11 MR. SPENCER: Well, obviously, as a former truck owner,
12 you know, I had a lot of say of whether or not how my truck would
13 be equipped. But obviously, we speak for -- you know, those guys
14 that own their trucks, they're not the majority out there that are
15 impacted by these things.

16 If you drive the same equipment all the time, sleeping
17 in a sleeper, I mean, actually I could do that more naturally than
18 sleeping in my bed at home because I actually spent more time in
19 that sleeper. I mean, it was a very, very comfortable
20 surrounding. But that's not the case when it's obviously 10
21 degrees or, for that matter, maybe 20, 30 below. I mean, it does
22 get that cold. Trucks go everywhere and it's winter everywhere.
23 And sometimes trucks have to do that 70, 80, 90, 100 degrees.

24 Now, I didn't have an auxiliary power unit. I basically
25 suffered through a lot of that stuff. I slept in trucks before

1 when it was with the truck running and I couldn't even keep it
2 warm.

3 I mean, certain aspects of that are a part of the
4 business, but people aren't going to make lifetime commitments to
5 being basically not really treated very well. You look to replace
6 jobs like that and to the extent that that happens in our industry
7 to some of our best drivers, and it will -- I mean, they'll look
8 for things that are certainly a better life than this, better to
9 provide for their family and have a better home life. And they
10 will. And you know, we've got to be able to do better than that.

11 Again, it basically requires bringing other people to
12 the table. And it obviously also requires an honest evaluation
13 about how trucking works, the economies for drivers. I mean,
14 there really is no separating economics from safety. There really
15 isn't. Without one, you're simply not going to have the other.
16 That's going to be certainly -- I mean, we've learned that's true
17 in aviation. You know, it's certainly true in trucking and there
18 are -- you know, there's no kind of regulations that you're going
19 to be able to come up with that are basically going to circumvent
20 that.

21 CHAIRMAN SUMWALT: Well, I want to thank you for your
22 answer. In fact, I want to thank the entire panel. And some of
23 you have served double duty. You've been up there since 8:30 this
24 morning. And so it's been an exceptional afternoon. I know it is
25 that time of the day where everybody is naturally sleepy, but we

1 will remedy that for a few minutes.

2 We'll take a break and come back at -- let's come back
3 at 3:40. So that gives you just about 15 or 17 minutes. We are
4 in recess.

5 (Off the record.)

6 (On the record.)

7 CHAIRMAN SUMWALT: Okay, we'll go to our last panel of
8 today. And just so you can plan, I don't think we published this
9 time anywhere, today we are going to end at 5:45. That's what the
10 plan is and we will end at that time. Remember, I was an airline
11 pilot and we all know that the airline's always on time. So
12 anyway, we will end on time.

13 And, Dr. Marshall, will you please proceed to introduce
14 the next panel?

15 DR. MARSHALL: The next session is on bus operations and
16 its purpose is to explore the operational and oversight issues
17 unique to the commercial bus industry, with an emphasis on the
18 fast-growing intercity bus sector.

19 The Technical Panel is comprised of Mr. Pete Kotowski,
20 Mr. Gary Van Etten and Dr. Robert Dodd.

21 Mr. Kotowski, would you --

22 MR. KOTOWSKI: Thank you. The panel for bus operations
23 will be Mr. Robert Miller from the Federal Motor Carrier Safety
24 Administration, Mr. Steve Keppler from the Commercial Vehicle
25 Safety Alliance, and Mr. Michael Jordan from Martz Trailways.

1 Mr. Miller, do you have a presentation?

2 MR. MILLER: Yes, I do. I have an opening statement and
3 a few slides later in the comments.

4 MR. KOTOWSKI: Proceed.

5 MR. MILLER: First of all, I'd like to thank
6 Member Sumwalt for inviting us here today, and I'm going to try to
7 describe the indescribable or at least try to frame the discussion
8 on this phenomenon called curbside operators.

9 The term curbside operator commonly refers to low-cost,
10 intercity transportation providers that don't traditionally use
11 bus terminals and favor curbside or storefront origins and
12 destinations, typically in the inner city.

13 The term curbside operator usually refers to small
14 companies that had their roots in cultural ties to the community
15 along the Northeast Corridor. However, recently, larger carriers
16 have saturated the Northeast market and continue to expand their
17 scope of operations. The growth of the curbside operation is due
18 to the introduction of these legacy carriers and the substantial
19 opportunity for rapid expansion by small companies.

20 As currently used, the term curbside operator now
21 includes mainstream legacy carriers as well as other carriers
22 rooted in the cultural beginnings. However, curbside operations
23 have expanded well beyond the Northeast and are now found in
24 almost every major U.S. market.

25 I want to be clear that curbside operators are not an

1 industry segment; it's a business model. The intercity bus
2 industry began as small individual companies with complex business
3 relationships with one another, often resulting in commingling of
4 drivers and equipment, a practice that continues today with
5 curbside operators. With the introduction of the larger carriers,
6 curbside operations have changed substantially.

7 The curbside operators began by offering low-cost
8 service, enabled by avoiding the terminals which have fees
9 associated with the tenancy of those terminals. Their ticket
10 sales were originally made in storefronts and on street corners,
11 strictly for cash. Eventually the Internet became the model and
12 tickets were sold online. There are many websites you'll find out
13 there offering ticket sales for multiple companies, at various
14 prices.

15 For example, the business model offers advance bookings
16 for as little as \$1 from Washington, D.C. to New York City, with a
17 day-of-departure ticket price averaging about \$20. As the bus
18 fills up, the price of the ticket increases based on the number of
19 seats available. The ticket prices are strictly Internet based.
20 And most of the companies out there are using that similar
21 strategy as well as continuing to sell tickets for cash at
22 storefronts.

23 Another unique phenomenon that this model presents for
24 us is the Internet brokers of tours and tickets selling directly
25 to customers and representing themselves out as the actual

1 transportation provider.

2 Now, the identification of curbside operators is not a
3 simple task. The term curbside was established based on a
4 business model and is not a data element in any established
5 system. The definition is also fairly subjective. Establishing a
6 requirement to identify a bus company, or any company, as a
7 curbside operator would be problematic.

8 In 2005, the Federal Motor Carrier Safety Administration
9 began developing a list. It's an anecdotal list, informal, of
10 companies that we identified as potential curbside operators.
11 Using simple parameters of Internet searching, the newspaper and
12 other publications, we identified these companies for the purposes
13 of conducting roadside safety inspections and compliance reviews.

14 Now, we conducted safety inspection strike forces
15 beginning in 2005, twice a year, that expanded to nationwide
16 annual national strike forces beginning in 2009. And through the
17 increase in the number of compliance reviews and inspections that
18 we're doing on the industry, we've been able to improve our
19 ability to monitor the overall industry through the performance
20 data collected at the roadside.

21 And with that, we move on to the safety -- excuse me --
22 the compliance, safety and accountability Safety Measurement
23 System. We're now using that system to identify and to target for
24 compliance review activities those companies doing performance --
25 having performance indicators.

1 If you'll notice in the slide that's on the screen right
2 now, you'll see that in 2006 we did 646 compliance reviews of
3 motor coach companies. In 2007, we began to fully increase our
4 activities in that area. We more than doubled the number of
5 compliance reviews we're doing on motor coaches and we've
6 sustained that over the last 4 years.

7 It's important to also note that in addition to this --
8 this is strictly the motor coach industry compliance reviews. We
9 do an additional several hundred compliance reviews of companies,
10 private motor coach companies, school bus operators and some of
11 the smaller bus operations, as well as the transit industry, for
12 the level of regulatory oversight.

13 Similarly, from 2006 to -- excuse me, '05 to '06, we
14 more than doubled the number of compliance -- or, excuse me,
15 roadside inspections we're doing on motor coach and buses, from
16 32,000 to over 65,000. And again, we've sustained that annually
17 for the last 5 years.

18 And the last slide I'll have on this particular issue is
19 specific to motor coaches. Of those 65,000, approximately 65,000
20 roadside inspections annually, 25- to 28,000 of those are on the
21 motor coach industry.

22 So as you can see, FMCSA, over the last 5 years, has
23 substantially increased its effort and oversight of the industry.

24 I also want to point out that each of our states
25 includes a motor coach inspection component as part of their

1 commercial vehicle safety plan as a requirement of the MCSAP grant
2 funding, and all states are performing some level of inspection
3 activity based on the risk and carrier population in their states.

4 The one last thing I'd like to say before I close my
5 remarks is that it's important to note that our strategies address
6 the entire motor coach industry. Our safety regulations apply to
7 the entire bus industry, the same. So one segment or another
8 segment isn't necessarily scrutinized more than the other. The
9 entire industry is subject to our oversight.

10 Thank you very much, sir.

11 MR. KOTOWSKI: Thank you. Mr. Keppler, do you have a
12 presentation?

13 MR. KEPPLER: Thank you very much. I'll just mention a
14 couple of things and I think some of this has been covered a
15 little bit earlier in comments this morning and this afternoon.

16 With respect to hours of service, we do think that it's
17 time that we need to look into this issue with respect to the
18 motor coach industry. As Bob indicated, there's been quite a
19 dramatic shift of late in the industry demographics and how the
20 carrier population movements are occurring.

21 So while we don't want to -- we don't have an expected
22 outcome of this work, we do think that it's worthwhile
23 investigating, and whatever the science shows us, if there's
24 indeed a need to change, we ought to pursue that option. The
25 thing to keep in my mind from our perspective is if we're going to

1 go down that road, if there are going to be changes, we need to
2 make sure that they're simple, understandable and enforceable.
3 That's key.

4 The en route inspection restriction. This is something
5 that was enacted in SAFETEA-LU and it's created a big problem for
6 the states that are conducting motor coach -- that have motor
7 coach inspection programs. And particularly, the limitation
8 basically limits their ability to do roadside inspections on motor
9 coaches unless there's an obvious defect or safety hazard.

10 We believe that that is not something that is
11 appropriate. We've been working with Congress to try and repeal
12 that provision because we think, ultimately, that's not a
13 statutory issue; that's really a policy issue that the states
14 ought to determine.

15 They have the mandate to conduct inspections when, where
16 and how they should because they have the safety mandate.
17 Granted, we understand there are passenger and other
18 considerations that need to be taken into consideration, but in
19 our view, that's not the tradeoff that we're willing to accept.
20 Safety is more important.

21 Bob talked about some of the changes in demographics. I
22 think there's still a lot of confusion with a lot of folks in
23 terms of how this is changing and making sure we're all educated
24 in the regulatory environment of what regulations apply to who.
25 This definition of camionetas, the curbside operators transit,

1 what regulations apply to who, when and where.

2 Obviously, that's something, as the state programs have
3 grown, we've certainly seen a lot of value FMCSA has provided in
4 helping educate the states. But I think that's something we need
5 to continually work on to make sure we're understanding the
6 dynamics of the industry, how they're changing their operations,
7 how these low-fare operators are really impacting on safety. So
8 that's something we think needs a little bit more investigation.

9 Stronger regulation enforcement and outreach. As has
10 been talked about a little bit in earlier panels today, obviously,
11 as Bob indicated, every state is required to have a state
12 inspection program. The challenge for the states becomes --
13 clearly, with tight budgets and resource constraints, with some of
14 them laying off, with furloughs, they have to really focus their
15 energies on what's high risk and what's causing the crashes.

16 And generally speaking, the motor coach industry has
17 been very safe in total, but frankly, you know, when there's a
18 crash, it's a big high-profile issue. How you quantify that is a
19 challenge, and how you dedicate resources to that. So we think
20 that's an ongoing issue we need to work through.

21 But as we move forward, in consideration for the future,
22 you know, resources need to be made available, more resources for
23 motor coach inspection programs, but they should not come at the
24 expense of existing programs, the existing MCSAP program. We
25 think additional resources are necessary to be made available to

1 the states, and to the extent locals are involved as well.

2 There are several pieces of legislation moving through
3 Congress right now on this issue. You know, there's a lot of
4 areas that I think -- and I'll give FMCSA credit on things they've
5 taken to task lately, with all the work they're doing with
6 encouraging the states to do more inspection activity. Our
7 members have responded with an incredible amount of vigor in terms
8 of more enforcement and outreach. It's an area, I think, we need
9 to continue to work on.

10 FMCSA does have information available on their website
11 to locate a motor coach operator that's in your location.
12 Certainly we think that ought to be more prominently displayed.
13 We ought to be communicating to all purchasers of transportation
14 the importance of safety, what decisions to make, how to go about
15 making those decisions. And frankly, marketing low-budget
16 operations that can't cover the cost of the trip is something we
17 need to look at. Frankly, you get what you pay for, and when
18 people are looking at that, they're looking at cost as a major
19 factor. We need to change that dynamic.

20 And the last thing I'll note is on the data issue. As
21 we are learning more and conducting more work and more operations,
22 we need to make sure that we're making informed and educated
23 decisions that are based upon the best available knowledge and
24 data and science. It's very quick and easy to make snap decisions
25 based upon what happens in the media. And I think it's important,

1 as we understand where we sit moving forward, that we're doing all
2 we can to gather all the relevant information to make as informed
3 decisions as we can moving forward. Thank you.

4 MR. KOTOWSKI: Thank you.

5 Mr. Jordan.

6 MR. JORDAN: Yes. As a member of the Trailways system,
7 Martz Group is a midsized motor coach company ranking 11th largest
8 in the nation. We operate 190 motor coaches, with 320 drivers
9 transporting passengers 9,987,000 miles during 2010. Our total
10 workforce is 540 employees and we have been owned by the same
11 family for over 100 years.

12 We service our customers from fixed terminals, remote
13 locations such as malls, and curbside in cities such as Manhattan.
14 We provide line-run service, charters and excursions.

15 All of our coaches are washed, cleaned and pit-inspected
16 for safety by a mechanic before each trip a coach makes.
17 Driver/vehicle inspection reports are reviewed and potential
18 safety issues corrected before the coach is placed into service.
19 All coaches are on a computer-tracked maintenance schedule for
20 safety and reliability.

21 However, by maintaining terminals, garages, and a strict
22 maintenance and safety program, we are at a great price
23 disadvantage with companies who do not operate at our standard.
24 Our goal is not to be the least expensive motor coach company, but
25 one of the safest and most reliable.

1 An examination of the motor coach industry reveals a few
2 giants, several midsized companies and many, many small companies.
3 The smallest carriers of passengers are defined as operating a
4 fleet of less than 10 coaches. They account for the majority of
5 all passenger carriers. And this is not to say that a small
6 carrier is not operating safely, but to simply emphasize that a
7 very small carrier may not have the resources to provide the
8 safety training and the maintenance necessary to operate a safe,
9 reliable motor coach company.

10 We commit considerable resources to safety and we have
11 invested greatly in technology. All of our coaches are equipped
12 with GPS centrifugal force cameras to monitor driver behavior and
13 incidents.

14 We have ordered three-point passenger seatbelts in all
15 coaches purchased since 2009 and will continue to do so. This
16 upgrade in our safety program adds \$12,000 to the cost of each
17 coach we purchase. We encourage passengers to use the seatbelt as
18 part of our standard passenger safety announcement. Our
19 experience with passenger seatbelt is the design must be such as
20 not to cause discomfort to passengers.

21 Secondly, despite our encouragement, a great number of
22 passengers do not use the safety belt on our coaches. When asked,
23 some have expressed to me that discomfort is the reason.

24 All of our coaches are ordered with double-pane windows
25 because we believe they provide a higher protection to our

1 passengers in the event of an accident, something fired or thrown
2 at the coach, which has happened, or flying road debris.

3 Our newer coaches are equipped with electronic
4 stabilizers to reduce the risk of rollover going into a curve at
5 too fast of a speed. I've always had particular concern of a
6 commercial motor vehicle exiting a freeway onto a ramp where the
7 motor vehicle has been traveling at a fairly high rate of speed.

8 But I will say this, that the emphasis to improve safety
9 has to begin with driver performance. Driver performance begins
10 with hiring. Companies must carefully vet potential candidates,
11 as we do, including a sufficient probationary period after they
12 are released from driver training. I truly believe that prior and
13 present performance is a general reliable predictor of future
14 performance.

15 We should establish, as we do, a do-not-hire risk
16 evaluation. For instance, we will not hire anyone who's had a DUI
17 conviction in the past 7 years.

18 We provide an intensive training program, regardless of
19 your experience driving a motor coach. We treat all entries into
20 Martz as a new hire, and our motor coach training program lasts
21 approximately 5 weeks and it includes classroom training, our
22 simulator training; it includes crisis driving on a skills course,
23 and approximately 50 hours of behind-the-wheel training in a
24 myriad of highway and road conditions.

25 We have a training simulator that we believe is unique

1 in the industry. We have taken a motor coach and converted it
2 into a mobile classroom on wheels. It has a state-of-the-art
3 simulator, modern audio and visual components to it, and in short,
4 we take our training coach to where our drivers are to conduct our
5 training.

6 And we never stop training. We continually train with
7 safety meetings, with safety handouts, with playing safety videos
8 on a continuous loop. Truly, truly, an investment in safety is a
9 big payoff for Martz.

10 I will only mention one thing that has me concerned with
11 safety and that's the failure of drivers to use seatbelts. A
12 driver who is not using a seatbelt cannot control the coach when
13 that coach is subjected to a violent maneuver. He is sitting
14 there trying to fight the centrifugal force that is going to throw
15 him from the seat. The only handhold he has is the steering wheel
16 and he's very likely to try to brace his feet against the floor
17 and in some cases could accidentally depress the accelerator.

18 I feel so strongly about seatbelt use by drivers that
19 I'm going to recommend that all future motor coaches be equipped
20 with a seatbelt that is of a high visible color, such as a bright
21 orange, to make it very easy for law enforcement to see if that
22 driver is belted, and for company safety compliance officers to
23 see if that driver is belted.

24 I will tell you that drivers who do not wear seatbelts
25 are the same drivers who will violate other laws and other safety

1 policies. It's in their behavior.

2 And I will also say that we use a progressive discipline
3 policy that has dealt with -- eventually, it's designed to change
4 your behavior. And I strongly believe that all discipline has to
5 have an educational component, because discipline without
6 education to change behavior is simply to leave a driver bitter
7 that he was disciplined and he sees no end result to that
8 discipline. The two components have to be married together.

9 CHAIRMAN SUMWALT: Thank you, Mr. Jordan.

10 MR. JORDAN: You're welcome.

11 CHAIRMAN SUMWALT: Thank you very much.

12 MR. KOTOWSKI: Mr. Jordan, the first question is, in
13 your company's operation, you described that it's multifaceted and
14 one of those components you indicated was the curbside type of
15 operation.

16 Could you give us an idea of the percentage of your
17 operation and number of buses that you have committed to those
18 types of runs?

19 MR. JORDAN: All of our line runs -- I'll use Manhattan
20 as an example. The majority of our line runs into Manhattan have
21 a curbside component. We go uptown and downtown, service Wall
22 Street, et cetera.

23 We still sell our tickets from our terminals. We do not
24 operate selling tickets from curbside. But our operation curbside
25 is somewhat different from our normal operation, in that, first,

1 we received permission from the city of New York to pick up and
2 drop at designated bus locations. As opposed to a standard
3 terminal, where our driver is mandated to stand outside of the
4 door to assist passengers, our driver remains in the seat and we
5 do not load or unload luggage in a curbside operation. We simply
6 pick up and drop and it's a matter of providing a high level of
7 service to our customers. Otherwise we'd bring them into Port
8 Authority in Manhattan and they would be looking for
9 transportation to their worksite.

10 MR. KOTOWSKI: Are there any restrictions in the cities
11 that you service about discharging or picking up of passengers
12 along the street?

13 MR. JORDAN: Correct. As I had stated, we have
14 established routes that have been approved by the city of New
15 York, for example. Otherwise you're operating illegally.

16 MR. KOTOWSKI: For Mr. Miller. We heard earlier some
17 discussion concerning hours-of-service issues and it's been
18 addressed, and openly, about the difference between the hours of
19 service for motor coach operations and passenger carriers.

20 Could you just give us a history about why there is a
21 difference and what the expectations of FMCSA are in addressing
22 those issues?

23 MR. MILLER: Well, in the final rule in 2003 for the
24 hours of service -- actually in the NPRM leading up to that final
25 rule, we actually did propose some changes to the hours-of-service

1 regulations associated with bus operations, motor coach
2 operations. However, based on the comments to the docket and the
3 limited research in motor coach hours-of-service issues, the
4 agency elected to focus our attention on changes to the truck
5 hours of service and not make any changes to the motor coach hours
6 of service at that time. Considering the fact that the changes
7 that we were making would have the biggest safety impact on the
8 industry as a whole, where the trucking industry, more drivers
9 would be affected by those changes, that was the decision at that
10 time.

11 Our next step was then to go and conduct further
12 research on hours of service associated with motor coach
13 operations. Unfortunately, as everybody in this room is aware, we
14 spent the last several years addressing the current rules as
15 written and we have not had the opportunity to pursue that larger
16 research effort.

17 MR. KOTOWSKI: And earlier we talked about, in the new
18 entrant rules, the entrant program that FMCSA has, and in
19 particular the vetting process that takes place with household
20 good carriers and with passenger carriers.

21 Could you explain that vetting process for new
22 applicants, please?

23 MR. MILLER: Yes. When a new application for operating
24 authority comes in for a motor coach operation -- and household
25 goods, but we're focusing on motor coaches today, the first thing

1 we'll do is we'll run the information against our current database
2 to see whether we have any indicators that this company already
3 exists in the system or is similar to another system, for example,
4 comparing addresses, names of the company, names of the entities
5 involved. Depending on how the data search goes, if flags go up,
6 for lack of a better term, further investigation is conducted.

7 The key aspect of it is that you try to find out whether
8 a company who already exists in our database has either been
9 placed out of service by the agency or for some other reason is
10 not supposed to be operating; are they trying reincarnate
11 themselves? At the end of the vetting process, if our data shows
12 that there is nothing, that they don't already exist in the system
13 or we can't demonstrate that they're trying to reinvent
14 themselves, then the operating authority will be issued.

15 MR. KOTOWSKI: And just as a follow-up to that, do you
16 have a number of carriers, like in 2010 or so, that actually
17 applied or were eliminated through the vetting process?

18 MR. MILLER: I don't have those numbers in front of me,
19 but we certainly could provide them for the record.

20 MR. KOTOWSKI: Thank you.

21 This question is for Mr. Keppler from CVSA.

22 Understanding the different operations between motor
23 coaches and freight carriers, we've spoken about the en route
24 inspections and so forth, and the prohibition against that,
25 obviously, that you were opposed to. There are some other aspects

1 of motor coach inspections that create some difficulties on the
2 roadside, other than just passenger safety and adequacy for
3 conducting those inspections. Could you tell us some of the
4 specialized equipment and some of the additional things that are
5 required for motor coach inspections?

6 MR. KEPPLER: Sure. There are some differences. As you
7 indicated, consideration for the passengers is important. Also
8 the equipment, bus ramps, and if a pit is not available is an
9 important consideration. You know, contingency plans, in the
10 event a situation occurs and a vehicle or a driver is put out of
11 service, ensuring there's a plan in place.

12 So those are some of the major issues, I think, that are
13 a little bit unique than trucks. Depending on the inspection
14 team, how many individual inspectors are inspecting the bus. So
15 those are some unique characteristics that really need to be
16 considered. The actual inspection procedure itself, there are
17 different things looked at on a motor coach versus a truck. So
18 those are some of the major -- and obviously safety, officer
19 safety and roadside safety.

20 One of the things that we think is important is,
21 practically speaking, a Level I inspection is not something that
22 would be -- if this restriction was lifted, would be something
23 that would be a routine occurrence roadside. We would believe
24 that mostly Level IIs and IIIs would occur, which are driver
25 credential inspections and a walk-around inspection. And those

1 generally take on average 15 to 25 minutes.

2 So in terms of the potential inconvenience to the
3 passengers, we don't believe that that's a major issue. Now if
4 there's an out-of-service condition, that's another issue. But
5 hopefully, once this restriction is lifted, or hopefully it would
6 be lifted, carriers would take a little bit more responsibility to
7 ensure, before they get their drivers and vehicles out on the
8 road, to ensure they're in proper working order so those issues
9 don't present themselves.

10 MR. KOTOWSKI: And you mentioned that -- and I think
11 this is the first time we heard the term, in doing the inspection,
12 the team. Is there a difference between the operations? I mean,
13 does it require more than one person to do a motor coach
14 inspection than a truck inspection?

15 MR. MILLER: Generally it's two- or three-team
16 inspections, depending. But generally, yes, we have procedures
17 for both.

18 MR. KOTOWSKI: Thank you.

19 Mr. Van Etten.

20 MR. VAN ETTEN: Yes, I just have one question now and
21 another one later on.

22 For Mr. Jordan. The State of New York has what's
23 commonly referred to as 19-A process for motor coach drivers. I
24 wonder if you could explain that to us?

25 MR. JORDAN: New York State has their own standards for

1 motor coach drivers. We are a member of the 19-A with New York.
2 A matter of fact, we just submitted our last year's compliance
3 report to them within the last couple of weeks.

4 New York has a standard that is very strict for motor
5 coach drivers. They track accidents, moving violations. If
6 you're going to transport school children, we have to submit our
7 drivers' fingerprints to New York, et cetera, et cetera.

8 In short, 19-A is a compliance law that's unique to the
9 State of New York. There's times when you look at it and you say
10 there's some redundancy in it. But in order to operate in New
11 York, we have to be in compliance.

12 MR. VAN ETTEN: And this 1980 requirement is for all
13 motor coach drivers, bus drivers?

14 MR. JORDAN: All motor coach drivers who are going to
15 operate in the State of New York.

16 MR. VAN ETTEN: Yes. And just to ask your opinion, do
17 you think this is a good program or do you think it could stand
18 some improvement? Or what's your opinion of the program?

19 MR. JORDAN: Well, I do know it makes extra paperwork
20 for me, but putting that aside, I can't pass judgment on the
21 success of the program. Whether it's increasing safety or not, I
22 don't have that knowledge. But there is quite a bit of reporting
23 that we have to do to New York on a regular basis and an end-of-
24 the-year report.

25 MR. VAN ETTEN: Thank you.

1 Mr. Keppler, I'm sure you're aware of the 1980
2 requirements. Since it's just in New York, it's unique to New
3 York, in your opinion or in the opinion of the CVSA, is this
4 something that you think would be a benefit for other states to
5 adopt?

6 MR. KEPPLER: Well, frankly, I've actually talked to the
7 folks up there that run the program and they have not done a
8 formal evaluation of the program in terms of its efficacy on
9 safety. So I think, you know, rendering an opinion, I think, at
10 this point wouldn't be something I'd be comfortable saying. I do
11 know the licensing folks feel that the program is working fairly
12 well.

13 There are some, as Mr. Jordan indicated, some
14 redundancies in terms of what's required at the 1980 program
15 versus what's required at the federal level, and there are some
16 benefits to the program that some of our folks have -- the
17 fingerprints, the background checks, those types of things,
18 there's additional requirements over and above what the current --
19 the federal law.

20 But there are some issues, I think, that are of concern
21 -- well, not concern, but have been presented to us, things like
22 certain requirements with respect to the program in terms of
23 trying to understand how much time the operator spends in New York
24 during a particular year. Trying to verify that issue is a bit of
25 a challenge. But I do know that they are conducting about 1,000

1 reviews a year on these operators. So the state is taking a very
2 proactive stance in overseeing those operators that are part of
3 that program.

4 So while there's a lot of paperwork required, it's not
5 just a paperwork exercise. They actually are following up and
6 making sure they're doing their due diligence and doing the
7 compliance verification activities that are required.

8 MR. VAN ETTEN: Thank you. That's all I have for now.

9 DR. DODD: Okay. Well, my first question is for
10 Mr. Miller. How many interstate bus operators would you estimate
11 currently offer scheduled services nationwide?

12 MR. MILLER: We have approximately 3800, what we call,
13 for-hire motor coach operators in our database that have operating
14 authority and the authority to provide that level of service in
15 interstate.

16 DR. DODD: And of those, do you have an estimate of how
17 many or what percentage, perhaps, might be engaged solely in the
18 curbside type of operation which you described earlier in your
19 presentation?

20 MR. MILLER: That's a very good question and the answer
21 to that question is that we don't know specifically. As
22 Mr. Jordan announced in his presentation, that they provide some
23 level of curbside operation that would not be considered part of
24 the traditional curbside operation in our earlier days.

25 We don't have specific data on that in our system that

1 would identify a company as a curbside operator, and given the
2 complexity of trying to define the issue, we would not have that
3 specific number. So we have some anecdotal data, but we do not
4 have a specific register, if you will, of curbside operators.

5 DR. DODD: Well, you anticipated one of my questions
6 about the data element. I was going to ask whether or not there
7 is a way to identify these operators in the data, and clearly
8 there is not, based on what you say.

9 Is there any plan to try and identify these operators at
10 some point in the future? Or is there any benefit to doing that?

11 MR. MILLER: We certainly could look at that. Again,
12 when we look at -- from our perspective and from our agency's
13 perspective, when we look at the motor coach industry as a whole,
14 we look at the entire industry from a safety perspective. To try
15 to identify a curbside operator specifically through some flag or
16 data element, again, given the definition, discount curbside
17 operator, what's a discount? A discount to me may be different
18 than a discount to you and to somebody else. So defining what a
19 discount is, is one issue.

20 And the type of operation; it's a business model. So
21 there is really no requirement to identify a segment of the
22 industry based on their business model.

23 You know, anecdotally, I was discussing this with some
24 of my colleagues earlier today, that -- I go back to the trucking
25 industry 15, 20 years ago when it was warehouse-to-warehouse

1 distribution and now it's production to just-in-time delivery to
2 the customer. It's a similar transition of the intercity bus line
3 terminal to terminal to curbside to curbside. So I mean, while
4 they're not 100 percent exactly, but from a business perspective,
5 it's a good analogy.

6 DR. DODD: Okay, thank you.

7 This next question is for the whole panel, but I'll
8 start with Mr. Miller. You cited in your presentation that
9 there's been an intermingling of drivers and equipment among the
10 smaller operators that are doing what we're calling curbside, low-
11 cost operations. Does this intermingling of drivers and buses
12 causes any safety problems or compliance problems?

13 MR. MILLER: Not necessarily. The one issue is that any
14 driver can drive for any company, provided that they're properly
15 qualified, licensed and trained to do what they need to do. So
16 operating a bus for multiple companies is not unusual, given the
17 state of the industry.

18 Where it can create a problem for us is, when we do
19 compliance reviews or investigations of a company, making sure
20 that we -- you know, the activities about that driver are fully
21 vetted to make sure we're applying the safety findings from one
22 company to the like.

23 Now, one of the things we have implemented in our data
24 systems is a driver information resource tool, where we can look
25 at a driver's performance data and analyze that from not only the

1 company that they're currently working for, but to also see if
2 there's an roadside inspection or crash data in our database for
3 other companies during that same period of time. So that helps us
4 in our investigative technique.

5 MR. KEPPLER: A couple things I would add is a lot
6 depends on the type of company. Obviously, Mr. Jordan's company
7 is very responsible. They take safety very seriously and have
8 implemented a number of measures beyond regulatory requirements
9 because it's good business sense. But as he also indicated, Bob
10 indicated, a majority of the industry are smaller operations
11 and -- that tend to evade detection, if you will, and operate in
12 the inner cities where our members are not. They're out there on
13 the roadways and other arterials.

14 And some of that's done just by the nature of the
15 business, but some of that's done purposely and that's an issue,
16 getting to your specific question about safety. It's those types
17 of smaller operators who we really need to expend more energy on
18 identifying and finding them and doing something about it, because
19 it's hurting him and he's doing the right thing. And that's the
20 gap we need to really to get to and get our arms around the scope
21 of that problem.

22 MR. JORDAN: I suspect you're talking about what was
23 commonly referred to in the trucking industry as a casual driver,
24 that you can drive for ABC Company today and CD Company tomorrow.

25 We will not accept a driver who has not been trained by

1 us. He may come to us with 6 or 7 years of driving experience
2 from another motor coach company, but until we qualify him through
3 our training program, he does not become a Martz driver. I look
4 at that type of thing as difficult to police and you may not have
5 a quality driver.

6 I can within a week's time teach virtually anyone in the
7 room to aim a motor coach down a highway. It's a whole different
8 story to teach you to operate it safely. And when you look at
9 this, a driver can come to a company such as one of these small
10 two- or three-operation curbside companies with a CDL from a
11 school and he's hired and he's put behind the wheel of a motor
12 coach to transport 50 families.

13 And I always look at it that way. It's not 50
14 individuals in our coach, they're members of a family. We're
15 transporting 50 families and we're very, very careful about who
16 drives our coach.

17 DR. DODD: Okay, I just have one more question and this
18 is for Mr. Miller and Mr. Keppler.

19 Could you describe to me the difference between a new
20 entrant safety audit and a compliance review? What are the
21 differences? And perhaps you might even address the labor burden
22 of doing that kind of activity.

23 MR. MILLER: There's two -- well, several comparisons
24 and differences. First and foremost is the safety audit and the
25 compliance review, the types of records we review at the company's

1 place of business are the same. With a safety audit we're
2 reviewing a limited sample of documents, you know, three drivers'
3 qualifications, files, licensing and the like, maintenance records
4 for three vehicles and the like, to establish whether a company
5 has the basic management practices in place to operate safely. In
6 a compliance review we'll expand that sample to a broader segment
7 of their operation, depending on the size and the scope of the
8 company. So as far as what documents we look at, they're
9 basically the same; it's just the amount of documentation we
10 review.

11 Now, with regards to a new entrant safety audit as
12 opposed to a compliance review, there's not a rating that comes
13 from a new entrant safety audit. As we heard earlier today, the
14 company either passes or fails the safety audit. If they fail the
15 safety audit, they're required to submit to us, within a time
16 frame of 45 or 60 days, a corrective action plan.

17 Now, that corrective action plan is not simply a letter
18 that says, I'm going to do A, B, C or D to correct my safety
19 deficiencies or to install a safety management plan. What we want
20 to see in addition to the commitment to what they're going to do
21 for management oversight, the documentation supporting that. So
22 for example, if they say that they're going to have an annual
23 inspection program for the vehicles, we want to see the copies of
24 the annual inspections; we want to see the new licenses and the
25 like.

1 With the compliance review, the different outcome is
2 that a rating currently comes from a compliance review. You can
3 either get an unsatisfactory, conditional, or satisfactory rating
4 from that compliance review. Of course, if you get an
5 unsatisfactory compliance review, they also have the opportunity
6 to present a corrective action plan as well. Otherwise, we'll
7 place the company out of service.

8 And I guess the final difference from a compliance
9 review versus safety audit is if the violations noted or found
10 during a compliance review are so egregious or so prevalent that
11 enforcement action is required, then we will take appropriate
12 civil forfeiture enforcement.

13 MR. KEPPLER: Bob did an extremely good job explaining
14 the differences. A couple of things I might add. Generally, a
15 safety audit will take 4 to 6 hours. A compliance review can take
16 weeks. Depending on the nature, sometimes longer. If there's
17 enforcement action, that's another major difference. Typically
18 enforcement doesn't result from a safety audit. A compliance
19 review, it does.

20 And also the compliance review tends to be more front
21 work, more prep work is required because it's a targeted sample.
22 When you're going in to review records, it's a more performance-
23 based sampling methodology that the investigators are using,
24 because obviously they want to target the high-risk areas of the
25 company's operation versus a safety audit, which generally isn't

1 that level of diligence.

2 DR. DODD: And just one last follow-up. Why would you
3 initiate a compliance review? Is it for cause or is it a random
4 process?

5 MR. MILLER: Actually, compliance reviews, we have the
6 authority to conduct a compliance review of a company at any time.
7 Typically the method or the reasons why we will conduct a
8 compliance review is through a complaint, if we get a written
9 complaint about a company that's operating unsafely, or wherever
10 the complaint comes from.

11 But the primary reason or the primary targeting system
12 we're using is CSA's Safety Measurement System, using the roadside
13 performance data that identifies companies that are performing
14 poorly in one or more of the BASICS, and based on the hierarchy of
15 those scores or those assessments, carriers are identified as
16 mandatory compliance reviews or recommended for compliance review.
17 And then, based on the BASIC findings, we'll make a decision as to
18 whether we're going to do a comprehensive compliance review of
19 that company or a focused compliance review of that company.

20 But the majority of the compliance reviews we do are
21 based on the safety data at the roadside, identifying them as
22 having safety deficiencies in their performance.

23 DR. DODD: Okay, thank you very much.

24 MR. VAN ETTEN: Yes, just one question. This could go
25 to any of the three panelists. We've known about that these motor

1 coach accidents that have been happening here recently, and we
2 know that there's been an increase in stepped-up enforcement
3 effort and we've seen a lot of vehicles and drivers put out of
4 service, and there's been a lot of media hype, and it's just being
5 well known what's going on. I look at that and then I understand
6 that it is difficult to identify what we call a lost-cost,
7 curbside operation. But having said all of that, do we have an
8 idea, do we really know how safe or unsafe these low-cost,
9 curbside operations actually are, and are they the ones that are
10 really causing the problems?

11 MR. MILLER: We don't have any official studies that
12 would compare those, that business model type of carrier, to say
13 whether they're more safe or less safe than the industry as a
14 whole.

15 I will say that, you know, going back to 2005 when the
16 curbside phenomenon was first being addressed, that when we
17 conducted compliance reviews of those companies that we identified
18 anecdotally, that we did find safety deficiencies. As we
19 increased our level of effort in compliance reviews with that
20 community, we found that compliance started to improve. Early on,
21 the issue was a factor of not only -- it wasn't necessarily
22 commitment to safety as much as it was an understanding of the
23 safety regulations. Now, I'm not going to say that every curbside
24 operator out there is committed to safety. However, we have --
25 those that we have visited have shown improvement over time.

1 What I would say is that -- one of the other things I
2 didn't point out in my presentation is that we do over 1,000
3 compliance reviews of motor coach operators a year. That's more
4 than 25 percent of the industry on an annual basis. So we're
5 attempting to try to get to every motor coach operator within a
6 5-year period.

7 I will say that the safety ratings, when I looked my
8 anecdotal data, you know, the short list that I have, that most of
9 those carriers have a satisfactory rating and have had a
10 compliance review within the last 2 years.

11 So the level of effort of oversight of this industry is
12 ongoing. Why we're doing those compliance reviews, during our
13 strike forces, during our annual strike forces, as well as if the
14 safety data is pointing us there, we're going to go and visit that
15 company again and take appropriate action.

16 MR. KEPPLER: Gary, it's a very good question, I think.
17 I tried to point out a little bit in my presentation, we need to
18 get a better handle on the population of the data.

19 As Bob indicated, the business models are changing. You
20 know, we'll go back to the trucking industry, the evolving of, you
21 know, truckload versus LTL, the different segments of the
22 industry. And there's been a lot of -- there's fairly defined
23 segments now on the trucking side and we've got a pretty good
24 handle, but I don't think we're there yet on the bus side. I
25 think we have a pretty decent understanding and anecdotal

1 information. It's an area, I think, that we need further
2 exploration and work to try and get a handle on that.

3 The other thing that I think hasn't been discussed yet
4 is the notion of the school buses being used in charter service.
5 We see that as a growing phenomenon that presents some challenges
6 for us from a safety perspective, because our folks see those
7 school buses and they're exempt; they're being used for school.
8 But are they being used really for school or are they being used
9 for charter services? So again, that's another area that we see
10 some potential issues we need to get our arms around a little bit
11 more effectively.

12 MR. JORDAN: If I may, I have concerns when you look at
13 a curbside operation that simply parks that coach in an empty lot
14 overnight, the driver reports back to it in the morning, no one is
15 inspecting the coach, the driver is charged with maintaining the
16 cleanliness of the coach, and I wonder about where he's getting
17 time to do that?

18 And in short, it's not an operation or a coach that I
19 would ride any distance in. And I say that from my heart. They
20 simply just dump the coach off. It's usually a very old piece of
21 equipment. A driver reports back in the morning and takes it and
22 picks up his passengers. Very often they're selling tickets on
23 board the coach. That's their ticket office. Very difficult for
24 a legitimate company that works very hard at safety and
25 reliability to compete with them financially.

1 MR. VAN ETTEN: Thank you. That's all the questions I
2 have.

3 MR. KOTOWSKI: Mr. Miller, you commented about the task
4 force. Could you describe for us the goals of the task force and
5 what their activities have been recently?

6 MR. MILLER: Well, beginning in 2005, we started
7 conducting roadside inspection strike forces in the Northeast
8 Corridor twice a year, once in the fall and once in the spring, to
9 start augmenting our SafeStat system at that time to get the
10 performance data we needed to identify poor performing companies.

11 We've expanded that to national strike forces over the
12 years. Starting in 2009, we had our first national strike force.
13 It might've been 2008. I don't know the exact year.

14 But at any rate, what's entailed there is a combination
15 of efforts: (1) roadside inspections, clearly; origin and
16 destination activity; (2) compliance review and safety audit
17 activities of either known poor performers or companies that have
18 not been rated yet or have not had a compliance review yet; (3)
19 traffic enforcement activities. We heard earlier today that, you
20 know, speeding, lane changing, improper operation of the vehicle
21 in an traffic environment. Just last weekend Delaware had a 3-day
22 strike force on stopping motor coaches operating unsafely.

23 The fourth one is outreach and education, working with
24 our industry partners to conduct outreach activities with the
25 industry and with the public, you know, teaching them how to find

1 safe bus companies.

2 And then last and not least, but not as a prevalent, is
3 the homeland security and drug interdiction activity that some of
4 our jurisdictions will do as part of their motor coach inspection
5 activity, specifically in the New York/New Jersey area, leading
6 into the bridges and tunnels, as well as some of our border
7 operations.

8 MR. KOTOWSKI: Thank you.

9 And for Mr. Keppler. This is a follow-up.

10 In the inspection process, the inspectors are certified
11 in particular levels and particular types of vehicles. How many
12 Level I overall inspectors are there? Are you aware?

13 MR. KEPPLER: Level I certified, it fluctuates daily.
14 But generally in the U.S. it's in the neighborhood of 10- to
15 12,000.

16 MR. KOTOWSKI: And how many of those inspectors are
17 certified for motor coach inspection?

18 MR. KEPPLER: Oh, that's a good question. I don't know
19 the answer to that. I could find that out for you, though. But
20 not a very large percentage.

21 MR. KOTOWSKI: Thank you.

22 Dr. Marshall?

23 CHAIRMAN SUMWALT: Any other questions from the
24 Technical Panel? That's it? Okay, good. So follow-ups and we'll
25 be through with this session at 4:40.

1 So Dr. Dodd, I'll tell you what, if you want to do them
2 now or you can do them at the tail end.

3 DR. DODD: Why don't we do them at the tail end?

4 CHAIRMAN SUMWALT: Okay, that's fine. Okay. Okay,
5 that'd be great. We'll go now to the parties. And let's see. So
6 the advocacy table started the last time. We'll start with the
7 union and driver associations table this time.

8 MR. BYRD: I'm LaMont Byrd and I'm with the
9 International Brotherhood of Teamsters. My first question is from
10 Women in Trucking, posed to Mr. Jordan.

11 What percentage of your drivers are women? And have you
12 found any safety differences related to gender?

13 MR. JORDAN: First, no safety issues related to gender.
14 Second, I will give you the number at our Wilkes-Barre operation.
15 We have 110 drivers; 4 are women.

16 MR. BYRD: Okay. From the UTU to Mr. Keppler.

17 Occupancy in school buses varies because the bus is used
18 for both elementary and high school students, so the size of a
19 student is an issue. Would the occupancy of the bus change to
20 meet safety requirements?

21 MR. KEPPLER: Let me try and understand your question.
22 You're asking whether or not the occupancy capacity of the bus
23 will change to try and meet safety needs? That's really not a
24 question that I'd be able to answer. That's really probably more
25 of a NHTSA question to answer, if it's a design standard issue.

1 For seatbelts and other types of devices, if that impacts, I
2 wouldn't be equipped to answer that question. Sorry.

3 MR. BYRD: Okay. My next question is to Mr. Miller.
4 It's a question I have.

5 As the industry has grown and the number of inspections
6 has increased, has your agency experienced the corresponding
7 increase in staffing and funding to carry out these activities?

8 MR. MILLER: The level of activity that we conduct is
9 with the existing FMCSA staff that we've had for the last several
10 years. Obviously we're going through a reauthorization process
11 now, so the level of staffing may change. We don't know.

12 However, I failed to mention earlier that FMCSA
13 conducting these compliance reviews and these inspections, we're
14 actually doing that in concert with our state partners. The
15 MCSAP, the Motor Carrier Safety Assistance Program grantees,
16 Mr. Keppler representing CVSA here, representing that group,
17 they're our key partners in conducting the roadside inspections.
18 They do the bulk of that activity.

19 And as far as the level of resources increasing, we've
20 been doing it with the existing resources we've had for the last
21 several years.

22 MR. BYRD: Okay, thank you.

23 To Mr. Jordan, from Women in Trucking.

24 The trucking industry doesn't usually hire drivers based
25 on their personality or ability to get along with customers. How

1 much is personality a factor in your hiring decisions in your
2 industry?

3 MR. JORDAN: It certainly is a factor. A matter of
4 fact, during our basic training, we provide customer relation
5 training to all of our drivers, because what we're looking at are
6 inviting guests into our home, so to speak, and we want to make
7 sure they're properly treated. So, indeed, we do look for a
8 personality type.

9 MR. BYRD: This question is to Mr. Jordan, from the UTU.
10 19-A certification in New York, is that required for all
11 passengers or just for those who transport school students?

12 MR. JORDAN: No, it's required for all of our drivers
13 who operate in New York, and because we're frequent visitors to
14 New York, all of our drivers are 19-A qualified.

15 MR. BYRD: Another question to Mr. Jordan, from Women in
16 Trucking.

17 You said that you train your drivers. Do you consider
18 the experience of a Class A CDL driver in your hiring practices?
19 The Class A driver would be one who has had experience operating a
20 truck.

21 MR. JORDAN: Actually, they're quite comical to watch
22 the first time they try to back the coach up. They invariably
23 turn the wheel the wrong way. But no, we don't hold that against
24 them, except I tell them our coach won't bend and make sure they
25 don't bend it.

1 (Laughter.)

2 MR. JORDAN: And we bring them as new entries,
3 regardless of past driving experience. As I explained, we -- a
4 matter of fact, we just put a young lady in service yesterday who
5 had driven for another motor coach company for about 5 years, but
6 we still put her through our entire training program and, quite
7 frankly, she was glad that she went through the program.

8 MR. BYRD: This question is to Mr. Jordan, from UTU.

9 What is the cost to the company to train a driver and
10 how long do you stay with the driver to make sure that he or she
11 is acceptable if the initial 5-week program is not sufficient?

12 MR. JORDAN: First, we estimate it costs us about \$2,000
13 to train each driver. Rough cost.

14 Basic training lasts about 5 weeks. But if we have a
15 driver who we think is going to work out and needs a little more
16 time, we will continue that driver in the training program. We
17 then follow up with 30-, 60- and 90-day evals of the driving
18 performance. And at the end of 30 days, we send the driver a
19 questionnaire asking them to comment on our training program and
20 what the driver found beneficial and making suggestions to us to
21 improve it.

22 MR. BYRD: And I have, I think, one final question to
23 Mr. Jordan, from UTU.

24 Greyhound and Peter Pan are reputable companies. They
25 partner a low-cost carrier known as BoltBus. Coach USA is the

1 parent company of Megabus. So how do we know if these companies
2 are not owned by larger companies?

3 MR. JORDAN: Well, I suspect Greyhound now is owned by a
4 mega giant down in Dallas, Texas. I think they do business as
5 First Company. Megabus, Coach USA, they're owned by a company out
6 of Scotland, called Stagecoach.

7 In short, as I said earlier, there are a few giants and
8 then a handful of companies about the size of Martz. Peter Pan is
9 a bigger company than we are.

10 But, in essence, when you look at these large companies,
11 I know many of their safety people through interacting with them
12 and you can be pretty assured that they take safety as seriously
13 as we do. They're not the concern. My concern is the person who
14 goes out there and for 40- or \$50,000 can get his hands on a beat-
15 up motor coach and go into business.

16 MR. BYRD: We have no further questions.

17 CHAIRMAN SUMWALT: Great, thank you.

18 To the state governments now.

19 MR. SCHAEFER: Hi, I'm Will Schaefer with CVSA. I have
20 a couple of questions. These are my questions and the first two
21 are to Mr. Jordan as well.

22 The first one is, you mentioned your 5 weeks of
23 training, 50 hours of on-road, some crisis training. I was
24 impressed. Being a former transit driver myself, I was impressed
25 with your training description and I'm curious if you know what

1 the average training for your industry might be? Or, rather, for
2 not those big companies, but the smaller companies, what the
3 average might be and what the minimum might be?

4 MR. JORDAN: I really can't comment. I have no idea
5 what other companies are doing. But I do know, again, when we're
6 talking about some of these very, very small companies, they're
7 just looking for a driver with a CDL.

8 I know a company locally in the Northeast and the joke
9 was that he told a driver to take the coach down the road and turn
10 around and come back in the garage, and tomorrow he was
11 transporting passengers.

12 MR. SCHAEFER: My second question for you, Mr. Jordan,
13 is, how long do your drivers stay with your company?

14 MR. JORDAN: We have drivers with us for 25, 30 years.
15 We give special safety awards to our drivers. Our drivers are
16 given cash bonuses twice a year for safety. They're given two
17 extra vacation days a year for safety. We give them all a nice
18 safety award at the end of the year. Those who have more than 10
19 years safe driving get a special award, including a higher cash
20 award. But we have drivers who have been with us 20, 25. We have
21 one driver who's been there 30 years.

22 MR. SCHAEFER: Thank you.

23 I have one final question and it's for really anyone on
24 the panel.

25 In one of the previous panels there was a comment made

1 from the United Motor Coach Association, I guess an illustration
2 from a survey of, I think, their members, as to what they
3 perceived were, I guess, illegal operators out there and some
4 information about that. My question really is simply what are
5 some key oversight or enforcement actions that would illuminate
6 who those illegal carriers are?

7 MR. MILLER: Well, as I said earlier, our CSA Safety
8 Measurement System, that's one of our key systems to identify
9 simply by safety performance on the roadside. So that's number
10 one.

11 We also augment the SMS data with two additional or what
12 we call supplemental inputs to our mandatory or investigate one
13 bucket, one of which is not having proper operating authority or
14 having lapses in authority or in insurance, some of those types of
15 indicators that our system will show that they're operating and
16 they shouldn't be, as well as carriers who have had ratings that
17 are more than 5 years old.

18 One of the things, as I mentioned earlier, we're trying
19 to get to a place where we can revisit every motor coach company
20 at least once every 5 years. So you know, as we heard in earlier
21 testimony this morning, a safety rating from 20 years ago is a
22 snapshot in time of what the rating was 20 years ago. So we want
23 to make sure with the motor coach industry, specifically, because
24 of the commodity they transport, which is people, that we try to
25 refresh that.

1 Now, obviously, if the SFD rulemaking comes into play
2 through the NPRM process later this year, that'll help us also
3 identify carriers through the safety data as unfit and to take
4 appropriate action to remove them from service.

5 MR. KEPPLER: A couple thoughts. I think certainly the
6 amount of increased inspections, inspections, you know, roadside
7 as well as destination inspections, increased compliance reviews,
8 the safety audit activity, obviously that enhancement needs to
9 continue to go on.

10 A couple of other thoughts, I think, based upon your
11 question with the UMA presentation. Certainly we need to
12 encourage people to file complaints when they see this type of
13 illegal activity going on and file it to the people that can do
14 something about it. Obviously if UMA's got that kind of response
15 and they believe that's going on -- and I know a lot of this is
16 happening already, but we need to encourage that even more to
17 ensure that if you see something wrong, to tell someone about it
18 that can do something.

19 And I think the other thing I was interested in, in
20 Mr. Jordan's example in New York City, obviously, to get curbside
21 service, they need to get that permission from the city. So to
22 me, we need to engage those cities and municipalities more
23 directly and impacting on informing those carriers of what their
24 responsibilities are from a safety perspective and providing that
25 information back to -- you know, if they're a regulated carrier,

1 back to the state and FMCSA to help in understanding the nature of
2 the demographics of the carriers.

3 MR. SCHAEFER: I think that's all the questions our
4 table has.

5 CHAIRMAN SUMWALT: Great, thank you very much.
6 To the industry table now.

7 MR. LITTLER: Thank you. It looks like we've switched
8 over spokesperson. Norm Littler with the American Bus
9 Association.

10 My first question is from Dave Osiecki with ATA, to
11 Bob Miller.

12 How many of the 3600 motor coach companies in MCMIS have
13 enough roadside data to generate at least one CSA BASIC score?

14 MR. MILLER: I, unfortunately, don't have that data in
15 front of me, but we certainly can take a look at that data and get
16 a response for the record.

17 MR. LITTLER: Thank you.

18 And the next question is back to you again and this is
19 from Ken Presley with the United Motor Coach Association.

20 Are 19-A motor coach inspections reported or uploaded to
21 FMCSA for SMS accountability?

22 MR. MILLER: The 19-A bus -- the inspections?

23 MR. LITTLER: Right.

24 MR. MILLER: When you say 19-A inspections, you're
25 talking about the biannual requirement in the State of New York to

1 inspect all the bus --

2 MR. LITTLER: Correct.

3 MR. MILLER: They are or they have been. They're now
4 currently being stored as a Level VII inspection because it's a
5 state-mandatory program.

6 MR. LITTLER: Um-hum.

7 MR. MILLER: So yes, we have received them in the past.

8 MR. LITTLER: Thank you.

9 The next two questions are for Steve Keppler, and the
10 first is: CVSA members believe the current restriction on
11 conducting on-road inspections are too restrictive. How would
12 your members deal with inspecting carriers purposely avoiding
13 inspection locations by detouring around them, as they are in the
14 Northeast?

15 MR. KEPPLER: Well, obviously, we want to expend our
16 resources where the highest-risk operators are moving. And
17 certainly I think we do that with the trucking industry today. A
18 lot of states are implementing virtual weigh stations where
19 they're putting remote detection technology on arterials and side
20 roads that are reading DOT numbers, reading license plate numbers
21 and helping identify those carriers that are running around the
22 scales.

23 So certainly those are issues we're continuing to be
24 concerned about and if we're seeing that, that's something we need
25 to pay attention to.

1 MR. LITTLER: And part two of the question would be,
2 would CVSA consider conducting roadside inspections at full-
3 service truck stops where there may be inspection pits available,
4 or state-owned roadside rest areas where passengers can be safely
5 accommodated if the driver of the vehicle is placed out of
6 service?

7 MR. KEPPLER: Well, I think one of the things that's a
8 challenge with doing origin and destination inspections -- it can
9 be a challenge -- it can take resources, significant resources to
10 plan those activities and coordinate with the locations, and
11 particularly if they're private property, ensuring that you've got
12 that permission and you can work collaboratively, because some
13 folks, frankly, don't want you on their property because it can
14 impact business.

15 So certainly I think where it makes sense to do those
16 inspections and we can work out arrangements, it makes sense to
17 look at those options.

18 MR. LITTLER: State-owned rest areas.

19 MR. KEPPLER: Well, I think the thing that oftentimes
20 happens with rest areas is just is it flat enough where you can do
21 an inspection effectively? You know, there's those types of
22 considerations and, you know, transporting equipment. Are you in
23 the way of other types of spaces where other people can park?

24 So while it's not -- I'm not discounting that fact. I
25 think we're open to looking at all options. But I think, frankly,

1 from our perspective, a big part of that, of having that, of
2 removing that restriction from a roadside perspective, is the
3 deterrent effect. You know, frankly, a number of folks feel that
4 they can run out there without monitoring and oversight, and a big
5 effective part of enforcement is not just covert but overt
6 enforcement activity.

7 MR. LITTLER: Thank you.

8 Back to Bob Miller. We frequently hear from larger
9 members that they are continually being inspected by federal,
10 state and Department of Defense inspectors, yet smaller carriers
11 with one or two coaches are seen much less frequently. All of
12 these carriers typically go to the same or well-known
13 destinations. What is FMCSA doing to ensure that all carriers are
14 inspected with equal regularity?

15 MR. MILLER: Just to make sure I'm clear, are you
16 talking roadside inspections or compliance reviews or both?

17 MR. LITTLER: Basically wherever you're doing
18 inspections. I mean, we hear from carriers that are being
19 inspected almost on a daily basis and we know that there are other
20 carriers not being seen as frequently. So how are we trying to
21 balance the inspections and get some of the ones we're not seeing?

22 MR. MILLER: Well, one of the systems we use is the
23 inspection selection system, as to which companies we select for
24 inspection. As Steve just mentioned a moment ago, your origin and
25 destination is primarily -- well, it is where we're doing our

1 inspections.

2 MR. LITTLER: Right.

3 MR. MILLER: Now, I want to make a point as well, that
4 with the curbside operators, we do have the opportunity to do
5 inspections at those curbside --

6 MR. LITTLER: Right.

7 MR. MILLER: -- pickup and distribution points. So I
8 want to be clear about that, that just because they're operating
9 from curbside to curbside, they're not able to necessarily avoid
10 the inspection.

11 As to whether or not a company is being inspected more
12 frequently than others, obviously the number of vehicles in a
13 fleet would present themselves and the more often they're at a
14 location that we are doing an event, would have a higher
15 likelihood of being inspected. A smaller company with one or two
16 coaches, who is not going to the specific site that we're doing a
17 destination or origin inspection, would not necessarily be
18 inspected. So we try to get inspections on all the companies as
19 frequently as we can.

20 MR. LITTLER: But you would be targeting the inspections
21 primarily on their safety rating data?

22 MR. MILLER: Correct, yes.

23 MR. LITTLER: Okay. The second part of the question.
24 Of the over 1,000-plus CRs each year, how many are repeat CRs with
25 the same companies within 1 or 2 years, if any?

1 MR. MILLER: There will be a few. And, for example, a
2 compliance review that results in an unsatisfactory rating, we may
3 elect -- in lieu of a corrective action plan, we may elect to do a
4 follow-up compliance review to make sure that the corrective
5 action plan is sufficient, or we would provide to do an onsite
6 investigation of the company.

7 I don't have the exact number as to how many are repeat.
8 I would say it's not as many. Again, I will say, from the East
9 Coast, yeah, Norm, as you know, we have 40 percent of the
10 industry.

11 MR. LITTLER: Right.

12 MR. MILLER: And when we do these strike force
13 activities, I hear from my managers in those states like New York,
14 New Jersey and Massachusetts, where they have plenty of motor
15 carriers to choose from, and the smaller states are smaller
16 populations. You know, we try not to go back and revisit a
17 company just to do a motor coach company.

18 MR. LITTLER: Right.

19 MR. MILLER: So we will move those resources from West
20 Virginia, New Hampshire, into Massachusetts, Maryland, to help
21 augment the activities in those states. So we do try to make sure
22 we're not going back to see a safe company over and over again.

23 MR. LITTLER: Great, thank you.

24 The final question, Bob, would be -- and this goes kind
25 of to something that's come up in the last number of years and

1 that's ADA. There's a requirement to identify segments of the
2 motor coach industry since ADA rules apply differently to all
3 carriers, and within that to scheduled carriers because of the
4 size issues within the scheduled carrier population. Shouldn't
5 FMCSA begin to segment carriers based on the type of services they
6 provide?

7 MR. MILLER: Specific to the ADA oversight requirement?

8 MR. LITTLER: Yeah.

9 MR. MILLER: Well, we've conducted several strike forces
10 on the ADA oversight. We've done one in the East, the South, the
11 West and the Midwest. I believe we've done over 140, 130 ADA-type
12 evaluations, of which we found, I believe, two companies to be in
13 significant noncompliance, one of which we took significant
14 enforcement action against.

15 As far as segmenting the industry based on the service
16 that they provide, I think we're doing a very good job of
17 identifying the companies that need to be evaluated for ADA and we
18 will continue the ADA activities as required by the law.

19 MR. LITTLER: Thank you. No further questions from this
20 table.

21 CHAIRMAN SUMWALT: Great, thank you very much.

22 We'll move to the federal government's table.

23 MR. QUADE: Okay. Bill Quade with the Federal Motor
24 Carrier Safety Administration. I'm again going to serve as
25 spokesperson for the federal government. I'll start off with a

1 question for Bob Miller, from the GAO.

2 Are inspections of maintenance and repair facilities
3 included as part of the safety audits and compliance reviews of
4 motor coach operators?

5 MR. MILLER: Of the facilities themselves or just do we
6 look at the maintenance record? I'll attempt to answer because I
7 think I know --

8 UNIDENTIFIED SPEAKER: The facilities themselves.

9 MR. MILLER: The facilities themselves. One of the
10 requirements of the Federal Motor Carrier Safety Regulations is
11 that those individuals performing the inspection and repair of the
12 equipment have to be properly certified. That's one of the
13 requirements, especially of the brake requirements. So those
14 would be some of the records we would review to make sure whoever
15 is doing the inspection or repair activities are properly
16 certified.

17 Will we actually go to the inspection facilities? We
18 will if they're within a reasonable distance. There's no
19 requirement that a company does the inspection and repair at their
20 principal place of business. They can go to a third-party
21 provider to do that activity.

22 There's been a lot of discussion as to whether or not
23 that's a safety risk. Certainly you would want a company knowing
24 and doing their own safety activities. However, a smaller company
25 who might not have well-qualified and properly qualified people,

1 you might want them to go to a central facility to have that work
2 done with a qualified, well-trained individual that does bus
3 inspections and repairs daily.

4 However, regardless of whether they do the inspection
5 activity and repair activity at their place of business or another
6 location, we will review the records required by the regulations
7 to ensure that when defects are noted in either the driver/vehicle
8 inspection report or through the inspection process at the
9 roadside, that those repairs are made, that the annual inspections
10 are performed and then any other required routine maintenance is
11 conducted on the equipment.

12 MR. QUADE: And as a follow-up, where do we see curbside
13 operators having their motor coaches maintained or repaired?

14 MR. MILLER: It's a variety of places. Again, I just
15 kind of alluded to that. Some of the curbside operators will use
16 a central facility. There's a large bus repair and maintenance
17 facility in New Jersey that supports a considerable number of the
18 curbside operators. And again, that's a situation where those
19 individuals who are doing that work are well-trained, qualified
20 individuals to do it.

21 Our concern or our goal is to make sure that the
22 companies are actually bringing the vehicles to have that repair
23 and maintenance and the like being conducted, and we want to see
24 the records thereof.

25 So I don't know if I answered your question, Bill, but I

1 believe I did.

2 MR. QUADE: Okay. Mr. Jordan, a number of questions
3 regarding some of your programs at Martz.

4 How many hours of training do your employees get during
5 the 5-week training program?

6 MR. JORDAN: The drivers?

7 MR. QUADE: Yeah, the drivers. Sorry.

8 MR. JORDAN: It amounts to about 186 to 190 hours.

9 MR. QUADE: Okay. And you described your incentive
10 programs. Do you have any studies or information about how
11 effective those programs are?

12 MR. JORDAN: I didn't understand your question.

13 MR. QUADE: How effective have your incentive programs
14 been?

15 MR. JORDAN: I can't really judge that. I will say that
16 more drivers qualify for it than are disqualified. I do know that
17 our drivers look at their safety awards that they wear on their
18 uniform with a great deal of pride. So from that standpoint, I'm
19 hoping that it's an incentive, but I don't have any real way to
20 judge whether it's producing an effective result for us.

21 MR. QUADE: Okay. And a question from NIOSH.

22 You described the incentives and rewards. Could you
23 also describe your approach to responding to infractions of
24 company safety policy?

25 MR. JORDAN: Yeah, we have in place what I call a

1 progressive corrective discipline policy and it's designed
2 basically, with a few exceptions, on a 36-month time frame and we
3 look at preventable accidents, we look at moving violations and
4 other safety violations within that time frame. If you
5 accumulate, for instance, three preventable accidents in most of
6 our locations, your employment is terminated.

7 MR. QUADE: Okay. Bob, there's been a lot of talk about
8 the oversight and the size of companies. I think we want a couple
9 questions on that.

10 From your experience -- and I understand you probably
11 don't have this data in front of you -- what percentage of our
12 compliance reviews of motor coach companies are done on small or
13 medium-sized operators?

14 MR. MILLER: I would say a majority of them, given the
15 fact that the majority of the industry right now is the smaller
16 operations. In Eastern Service Center, for example, we're doing a
17 -- again, I don't have the data in front of me, but I would say
18 more than half are on small operators. Given the definition that
19 Mr. Jordan used of 10 coaches or less, I would say even probably
20 closer to 70 percent of them are that many.

21 MR. JORDAN: If I may, I suspect that the industry, if
22 we did a headcount less than 10 coaches, probably about 78 percent
23 of the industry.

24 MR. QUADE: And generally speaking, I mean, what are --
25 what's your experience with the results of reviews based on the

1 size of companies?

2 MR. MILLER: In general, I mean, we found compliant
3 carriers, very small carriers that are very complaint. We've
4 found large carriers with compliance issues. Again, the
5 commitment to safety at any individual company starts at the top.

6 And, you know, I'll have to say that listening to
7 Mr. Jordan speak today, I wish every motor coach company operated
8 with that safety program and had that level of vim and vigor with
9 regard to safety oversight. I will say that the entire industry
10 does not necessarily have that feel for it. But I will say that
11 we've found deficiencies in some of the largest companies in the
12 country and we've found deficiencies in the smallest companies.

13 So again, our oversight of the industry is such that if
14 the safety data is pointing us in that direction, if we evaluate
15 the data and we get the information that a company is performing
16 in an unsafe manner or had safety deficiencies, we'll address
17 those deficiencies appropriately. No matter how big or how small,
18 our oversight applies to all. That's kind of a phrase I use when
19 I meet with the industry.

20 MR. QUADE: Okay. Mr. Jordan, does Martz use speed
21 limiters on your buses?

22 MR. JORDAN: Yes.

23 MR. QUADE: And how effective do you believe they've
24 been or what's your experience with them?

25 MR. JORDAN: We believe that they are effective. We

1 have a firm belief that high speed in the event of an accident is
2 going to really bring the consequences of that accident
3 significantly higher. So therefore, we do use speed preventers or
4 speed retarders on all of our coaches.

5 Plus, we disconnect all cruise controls. We believe
6 that cruise control is looking for trouble. For instance, a
7 drowsy driver who has it on cruise control, if he set it at 65
8 miles an hour, he can be found sound asleep and that coach is
9 going to keep moving at 65 miles an hour, as an example. So we
10 have done that in addition to the speed controls.

11 MR. QUADE: And just out of curiosity, what do you have
12 the speed limiter set at?

13 MR. JORDAN: Sixty.

14 MR. QUADE: Okay. Bob, another question from the GAO.
15 And we've kind of covered this, but I want to make sure that we've
16 got all of the issues.

17 You responded to Mr. Dodd's question about the data
18 elements to identify curbside operators, that, regarding safety,
19 we deal with the industry as a whole, which I think you just spoke
20 to a little more. But in our presentation, your presentation, we
21 marked the rapidly changing industry with respect to the growth of
22 discount curbside operators.

23 Given the rapid change in the motor coach industry and
24 the reincarnated or chameleon carrier concerns, is there any
25 effort on FMCSA to spend some effort to better identify notable

1 curbside carriers in the data or study the issue further?

2 MR. MILLER: Well, certainly we're going to work with
3 the NTSB on a current effort that they've been tasked with from
4 Senator Schumer on the whole curbside operator issue. So we'll
5 work with them on conducting their study.

6 Again, anecdotally, the divisions in the FMCSA division
7 offices have a very good handle on or have a good handle on their
8 motor coach industry within their states. And so as we
9 investigate a company that has ties to another company or, you
10 know, they're in a community of companies, we will expand our
11 compliance review activities beyond just the company we're looking
12 at.

13 So, for example, if we're doing a compliance review of a
14 traditional curbside operator, we find some drivers. As I
15 mentioned earlier, we have the driver information resource tool.
16 We might run that tool and we'll find out that this driver had
17 been driving for two other companies and if there's a safety
18 problem for the current company, we might want to go look at the
19 safety records of the other company as well.

20 I've lost track of your question, Bill, but basically,
21 should we identify them? From my perspective, you know, just from
22 my personal experience, the identification of a company as a
23 curbside operator, we have the largest companies in the country
24 operating as curbside operators and we have the smallest companies
25 in the country operating as curbside operators. Again, defining

1 that and again the discount issue, what's a discount? \$25 to me
2 is a discount. It might be too expensive for you. I don't know.

3 So to actually put a label on it is difficult. That's
4 why we would prefer, from my perspective, to stay focused on the
5 entire industry, making sure that we keep the due diligence on the
6 roadside inspection activity, continue to augment our safety
7 performance data, continue to conduct the compliance reviews of
8 the companies that are having the safety deficiencies and
9 ferreting it out.

10 I will say one of the strategies we've used in the East
11 and in other parts of the country, from an enforcement
12 perspective, when we put a company out of service, we not only
13 name the company out of service, we're also naming the corporate
14 officials as part of that out-of-service condition, so that if
15 they do attempt to reincarnate themselves, the individual
16 themselves is already identified as unfit and unable to continue
17 to operator as a motor coach company. So those are some of the
18 strategies we've used.

19 MR. QUADE: Thank you. Thank you.

20 CHAIRMAN SUMWALT: All right, very good, thanks.

21 And finally we'll go to the advocacy table.

22 MR. BRUMBELOW: I'm Matt Brumbelow with the Insurance
23 Institute for Highway Safety. And the first question or three
24 questions are for Mr. Jordan, from the Truck Safety Coalition.
25 They have to do with your use of video in the coaches.

1 And first of all, did the drivers object to the use of
2 video? If so, the second part is, how did you manage that
3 objection? And then third, have you seen any specific
4 improvements in either crash rates or even just near crashes with
5 the use of video?

6 MR. JORDAN: First, initially the drivers resisted it as
7 a spy in the sky, I suspect, but they've now accepted it. Their
8 union has accepted it. So we do not have any difficulty. They
9 know it's there and they also know that it's been their friend on
10 many, many occasions and I think that had a lot to do with finally
11 accepting it.

12 Initially, we do not use it for harsh discipline. I'd
13 rather use it as a learning tool. However, we do use it as part
14 of their safety bonus; that if we see -- there's a certain
15 criteria that I use. One of them is seatbelts. The other is
16 following too closely, for example. If they have three within the
17 bonus period on the camera, they lose their bonus. So there is a
18 little sanction in it.

19 But at the same token, we hold training classes where we
20 have what I call let's have fun with video and we show an awful
21 lot of our videos to our drivers and ask them to talk to us about
22 what we could've done differently, what we did well to avoid the
23 crash, et cetera, et cetera. So it is at this point well accepted
24 by the drivers.

25 MR. BRUMBELOW: I have a question for you. You stated

1 that you're at a price disadvantage because of all of these safety
2 measures that you've taken. Is there currently any way that you
3 can advertise your safety performance with respect to your
4 competitors?

5 MR. JORDAN: Well, we do a small amount of advertising,
6 but it has nothing to go along that line. I suspect the best
7 advertising we have is our reputation in the Northeast, what I
8 call the great Northeast of Pennsylvania. When you ask who's the
9 bus company, I'm not ashamed to tell you 95 percent of the people
10 will say it's Martz.

11 MR. BRUMBELOW: And kind of to follow up on that, for
12 Mr. Keppler and Mr. Miller, is there really no way to leverage all
13 of the data that's being obtained from the inspection programs to
14 create kind of a safety marketplace where a consumer can look at
15 their various options and carriers and have something besides just
16 how much it costs for the ticket or to charter that specific
17 company?

18 MR. KEPPLER: Well, I think it's not a simple thing. I
19 think, from our perspective -- I talked about this a little bit in
20 my remarks, that we really need to communicate and we, the
21 community, need to communicate more directly to those that are
22 purchasing motor coach transportation, to talk to them about the
23 importance of safety and the ramifications of those carriers that
24 are not operating in a safe manner. And I think that will help,
25 and raise the consciousness of the people that are making those

1 decisions, that they really need to consider safety.

2 I really like Mr. Jordan's comment of he's not moving 50
3 people, he's moving 50 families. Those types of statements and
4 helping send those types of messages will help make people
5 understand that there are ramifications to their decisions. And
6 it's not just about the cheapest fare. It's about making sure
7 you're being a responsible caretaker of the people; you're
8 treating them like you're family.

9 So the more that we can get champions to get out there
10 and start communicating those messages, the better off we can
11 educate the public about making those types of decisions, and that
12 in and of itself will incentivize more people to be safer and to
13 make those smart decisions.

14 MR. MILLER: And on the FMCSA homepage we do have a one-
15 click link to finding a motor coach company in your general area
16 for use. We are continually enhancing that webpage. Not only are
17 we providing some of the safety information and direct links,
18 then, to the SMS data, but providing that level of communication
19 that Steve was just referring to, to say, look, it's not just
20 dollars and cents.

21 I mean, when you deal with the school systems, we do
22 outreach to our school systems and you talk to the principal of
23 the school and they say, well, we're going to hire a bus to take
24 our kids to some event, and price is the first thing on their mind
25 and you have to re-educate them to say, look, price is not the

1 bottom line. You know, you want to look at also the safety record
2 of that company to make sure that your students are going to get
3 there and back in a safe condition.

4 So we are working with outreach with the various
5 industry groups, the user community, if you will, and improving
6 our public outreach materials on our website.

7 MR. BRUMBELow: Thank you. A question for Mr. Jordan,
8 from the Advocates for Highway and Auto Safety.

9 You said that passengers choose not to use the belts
10 because of convenience or comfort, and have you tried installing
11 seatbelt use reminder systems in the seats themselves, or
12 announcements like those on airlines that require passengers to
13 belt up?

14 MR. JORDAN: Yeah. First, on the back of every headrest
15 we have it written in five languages to use your seatbelt.

16 Secondly, we do a standard DVD announcement, a CD
17 announcement concerning passenger safety and in that announcement
18 we encourage them to use the seatbelt. I would suspect, just
19 walking up and down a coach at random, looking, that perhaps 35
20 percent of them are not using the seatbelt. And I'm making a wild
21 guess at that. And I've asked several of them why. Comfort was
22 the reason. We are now looking at a different design for future
23 buses to see if we can improve on the comfort of the seatbelt,
24 because our goal really is to have 100-percent participation with
25 seatbelts.

1 And as I mentioned, we need to educate all motor coach
2 drivers how important it is for them to be safely buckled behind
3 that steering wheel. Secondly, most motor coaches do not come
4 with an audible alarm saying that the driver's not buckled in and
5 we want to add that to our future purchases.

6 Personally, I think it should be standard equipment and
7 I think the damn alarm should be so loud that you can hear it all
8 the way in the back of the bus, because I will tell you the best
9 advocates we will have to make that driver buckle up are the 50
10 people who want to have a nap and they don't want to listen to
11 that ringing. So I really believe that that's an important step
12 in setting the standard for passenger use of the seatbelt.

13 MR. BRUMBELOW: For Mr. Keppler, from Advocates for
14 Highway and Auto Safety.

15 Your statement included support for improved occupant
16 protection regulations, including seatbelts, and since most motor
17 coach passenger fatalities result from ejection, do you think that
18 requiring operators to get passengers to use belts would improve
19 safety?

20 MR. KEPPLER: Yeah, we're supportive of mandating
21 seatbelts. We think that they are a critical component to
22 enhancing safety moving forward. They're clearly the most
23 lifesaving safety device in vehicles. Data shows that upwards,
24 downwards and sideways.

25 I think to pick up on something that Mr. Jordan talked

1 about, is I think part of it is a cultural issue with all of us.
2 I go back to when we all went to school. When you rode the bus to
3 school, it was a social event. The kids are talking, they're
4 interacting with each other. So part of it, I think, is an
5 education at the youngest ages of the importance of wearing that
6 safety belt. We do in our cars. All of our kids do it when they
7 buckle up in our cars. But when they get on a bus, it's
8 different. So I think it's part of -- you know, I think a strong
9 message can be sent, you know, certainly requiring safety belts.

10 Individuals like Mr. Jordan that are taking a leadership
11 role, saying, I'm going to do it because it's the right thing to
12 do, and helping to infiltrate the rest of the community and the
13 rest of us about ensuring that when a riding passenger -- it's not
14 a silver bullet, you're not protected in all situations, and here
15 are the consequences, if you aren't.

16 MR. BRUMBELOW: Mr. Miller, you stated that you do
17 conduct inspections on the curbside operators at their pickup or
18 drop-off locations. But is it more difficult to carry those out
19 because those companies aren't using designated terminals?

20 MR. MILLER: Not necessarily. Well, like in New York
21 City, as Mr. Martz (sic) mentioned, there are specific locations
22 that the buses have to go to do the curbside. They queue up, if
23 you will, in these curbside-type operations. So we know where
24 most of the known activities are occurring, so we have the
25 opportunity to inspect the buses where they are.

1 Again, one of the -- those curbside operators are also
2 -- they're doing the origin at the curbside, but their destination
3 is typically a casino, a state park, you know, wherever, a hotel,
4 whatever the case may be. So we also like to set up our strike
5 force activities at those locations as well, to get -- you know,
6 going back to Mr. Littler's question, you know, to make sure we're
7 getting the variety of companies going to these different
8 locations and do the inspections.

9 Does it create some level of difficulty? Yes, but no
10 more than any other part of the industry of doing the bus
11 inspections in general, having the right -- the ramps available to
12 do it, the pits, if available, to do it, the location to do it.
13 You know, we do them here in the District of Columbia right in
14 front of the Native American museum here, right in front of the
15 Capitol building.

16 But the way that works is they go to those curbside
17 operations after they've dropped off their passengers and they
18 will escort the bus over to that facility and then do the
19 activity, and if all things go well, that bus goes on their way to
20 continue their route for the day. So we've developed techniques
21 to address that particular issue.

22 MR. BRUMBELOW: Thank you.

23 CHAIRMAN SUMWALT: Great. I certainly want to thank the
24 parties for all of your great questions. And before we move on
25 back to the Technical Panel, are there any burning questions that

1 just have to get asked that haven't been asked? Go right ahead.

2 MR. LITTLER: And this I'm going to address to the whole
3 panel.

4 CHAIRMAN SUMWALT: All right, let's make it a quick
5 question --

6 MR. LITTLER: Very quick.

7 CHAIRMAN SUMWALT: -- and a quick answer. Okay, a
8 2-minute question, a 2-minute answer.

9 MR. LITTLER: We recently heard Senate Commerce
10 Committee testimony from the deputy administrator of NHTSA, when
11 asked on the experience of the use of seatbelts in buses in
12 Australia -- Australia for the past decade has required passengers
13 through federal law to wear their seatbelts, and the testimony
14 from the deputy administrator was that the usage rate is still
15 only around 18 percent. Now, the question came from the advocates
16 table on the usage of belts and I'm going to place it to all the
17 panel members.

18 Without a federal requirement for passengers to wear
19 their belts, how do you anticipate that we would get belt usage
20 above what they're experiencing in Australia, where they have
21 mandatory requirements?

22 MR. MILLER: I'll take a stab at it. I don't know even
23 if we had the federal requirement. As you said, Australia has a
24 federal requirement and they're not experiencing the usage rate
25 increase. I don't have an easy answer to that question, other

1 than to say that through education and continually working with
2 the community to make sure that they understand that that seatbelt
3 could be the difference, you know, in a tragic event, of saving
4 lives.

5 MR. LITTLER: I mean, we support the installation of
6 seatbelts in new coaches, but we would like to know that they're
7 going to be used, because there's no point in having them if
8 they're not going to be used.

9 MR. JORDAN: If I may, quickly. Passing a law that
10 can't be enforced is just an exercise in futility. How do you
11 enforce the law? Education is the way to go and encouragement of
12 the passengers.

13 MR. KEPPLER: It's a good question, Norm, and if you
14 don't have that stick, if you will, for noncompliance, you're
15 going to have compliance issues. I think certainly education is
16 where you need to start and educating the passengers.

17 And I think another area that really needs to be
18 investigated, particularly -- and this is not necessarily as much
19 on the passenger side, but certainly the driver, is more seatbelt
20 enforcement. That's something we've focused on the last couple of
21 years and we've certainly seen seatbelt usage rates climb as a
22 result. So it's going to be a phased process. It's not going to
23 happen overnight.

24 MR. LITTLER: Yeah. And I guess my concern with this
25 would be that we can't expect the driver to enforce a seatbelt law

1 that doesn't exist. You can't force a passenger to wear a belt
2 where there's no requirement.

3 CHAIRMAN SUMWALT: Thank you.

4 Yes, one follow-up back here.

5 MR. BRUMBELow: From the Advocates for Highway and Auto
6 Safety. Do you know what the seatbelt use rate is on airlines,
7 with the similar enforcement difficulty?

8 MR. MILLER: I don't have that data available to me, so
9 I can't answer that question.

10 MR. KEPPLER: I don't either. I apologize, I don't have
11 that information.

12 MR. JORDAN: I just recently flew home from our facility
13 in Florida with the airplane Nazi. She made sure we were all
14 buckled up.

15 (Laughter.)

16 MR. JORDAN: And we just can't afford to have someone
17 patrolling the aisle of the coach, making sure everyone's buckled
18 up.

19 CHAIRMAN SUMWALT: Your point is well taken. This panel
20 was not expected to be experts on airline seatbelt usage, but your
21 point is well taken.

22 Any other burning questions?

23 (No response.)

24 CHAIRMAN SUMWALT: Okay, great, we're going to bring it
25 back up to the Technical Panel. Dr. Dodd.

1 DR. DODD: I have no additional questions at this time.

2 CHAIRMAN SUMWALT: Mr. Van Etten.

3 Yes, sir.

4 MR. KOTOWSKI: I have a couple. For Mr. Jordan. Under
5 the 19-A, as far as vehicle inspections are concerned, how often
6 are they required?

7 MR. JORDAN: We do not have our vehicles inspected by
8 19-A. Is that the question?

9 MR. KOTOWSKI: Yeah, that's correct.

10 MR. JORDAN: They do not inspect our vehicles.

11 MR. KOTOWSKI: And if you're 19-A compliant, then why
12 aren't the vehicles inspected?

13 MR. JORDAN: Because we're not based in New York. Our
14 drivers operate in New York, therefore our drivers have to be 19-A
15 compliant.

16 MR. KOTOWSKI: And under the 19-A compliance, what are
17 the time periods required for physicals?

18 MR. JORDAN: They're the same as the Federal Motor
19 Carrier Safety, that they have a valid medical card and a valid
20 CDL.

21 MR. KOTOWSKI: Okay, thank you.

22 CHAIRMAN SUMWALT: Thank you, Mr. Kotowski. And now we
23 go to Dr. Rafael Marshall.

24 DR. MARSHALL: I have no questions, thank you.

25 CHAIRMAN SUMWALT: So I guess it's up to me.

1 Mr. Jordan, I was very interested in what you had to say
2 about your carrier and it sounds like a very good carrier. Your
3 position is director of safety and training; is that correct?

4 MR. JORDAN: Yes.

5 CHAIRMAN SUMWALT: And who is it in the company that you
6 report to?

7 MR. JORDAN: The general manager. And a couple of other
8 people. Primarily the general manager.

9 CHAIRMAN SUMWALT: Do you have the authority to take it
10 higher than that if you're not getting what you need from the
11 general manager?

12 MR. JORDAN: Absolutely. The owner of our company -- I
13 told you we've been owned by the same family for 100 years and the
14 owner of our company is a fine gentleman named Frank Henry and he
15 drops in to chat with me frequently.

16 CHAIRMAN SUMWALT: Good, thank you.

17 Now how would you define -- what are the attributes, in
18 your opinion, of a safety culture?

19 MR. JORDAN: First, all safety culture has to begin with
20 the top, with leadership. If you don't have the basic premise of
21 leadership, and the rank and file doesn't see that everyone in
22 administration is committed to safety, you're never going to
23 develop a safety culture in a company.

24 And I came out of retirement to go back to work with
25 Martz because I was looking for a home and I found a place where

1 I'm very proud to say I'm part of, because they absolutely have
2 that culture from the very top, from Mr. Henry right through the
3 entire organization. We have safety committees where we meet
4 regularly and look at ways to not only improve our driving safety
5 but the safety throughout the entire company.

6 CHAIRMAN SUMWALT: Are you looking at the slide that I
7 pulled up from a presentation, talking about a roadmap to safety
8 culture? Because that's the very first thing on this list, is
9 management commitment and emphasis.

10 So explain to me how standardized is your operation with
11 your drivers, your mechanics? What's the discipline like in your
12 organization?

13 MR. JORDAN: As I said earlier, we use a progressive
14 corrective discipline policy. All through my career, my previous
15 career, I've always truly believed that discipline without an
16 educational component accomplishes nothing. Discipline without
17 training to change behavior accomplishes nothing except making the
18 individual who's receiving that discipline, bitter. So all of our
19 discipline has a training component tied into it.

20 CHAIRMAN SUMWALT: Okay, good. And if somebody goes out
21 and commits what I'm going to just loosely define as an honest
22 mistake, it's a good employee, but they get into a bad situation,
23 how are you typically going to deal with that?

24 MR. JORDAN: Well, we don't hang people for honest
25 mistakes, but we have to look at the safety policy. If the error

1 falls into one of the areas that the safety policy corrective
2 discipline covers, then that individual, regardless of the
3 circumstances, has to be subjected to it. Otherwise you have
4 developed an arbitrary discipline system which is unfair to
5 everyone.

6 CHAIRMAN SUMWALT: Are you familiar with the term "just
7 culture"?

8 MR. JORDAN: Yes.

9 CHAIRMAN SUMWALT: And what does that term mean to you?

10 MR. JORDAN: To me, that term -- I came from that
11 culture before I came to Martz. That means that we treat everyone
12 fairly, that we apply discipline fairly and across the board, that
13 we don't single someone out for disparity of treatment simply
14 because I didn't like the color of his shirt this morning.

15 CHAIRMAN SUMWALT: And when I talk about
16 standardization, do you have a standards manual whereby you have
17 a -- talk to us about that.

18 MR. JORDAN: Yes, we do. We have an employee manual
19 that's probably about this thick and everyone is issued it. It
20 deals with what's expected. It deals with our discipline policy.
21 It deals with our rewards policy. In short, if you can't find it
22 in there, you don't need to know.

23 CHAIRMAN SUMWALT: Another component on this slide that
24 I'm looking at, the presentation I did last week in Chicago, and
25 the third component of a safety culture is training. You've

1 certainly answered that. You say that you give 186 to 190 hours
2 of training per year.

3 MR. JORDAN: Yes, but we just don't train drivers. We
4 train all employees. We train employees in security matters. We
5 train employees on what to do in the event of a fire. In short,
6 we train the entire workforce.

7 We just completed a training program called Active
8 Shooter, what do you do if some lunatic comes into one of our
9 buildings with a weapon.

10 In short, we constantly train. We really rarely stop
11 training.

12 CHAIRMAN SUMWALT: And for a driver, for example, you
13 said 186 to 190 hours per year. That's per employee?

14 MR. JORDAN: No, that's their basic training. And as I
15 said, we do three ride-along follow-ups with someone from the
16 safety department, roughly at 30, 60 and 90 days, to see how that
17 driver is performing now that they're solo. We do a
18 recertification once a year of every driver, where we evaluate
19 their driving skills. And we do that both with our simulator and
20 with a ride-along.

21 CHAIRMAN SUMWALT: Of all of this training that you do,
22 how much of that is required by federal, state or local laws?
23 Percentage-wise.

24 MR. JORDAN: I'm trying to think of that and, frankly, I
25 don't know that any of it is.

1 CHAIRMAN SUMWALT: How do you go out and collect data on
2 what's happening in your operations? You talked about ride-
3 alongs, that's one way of doing it, and I think you mentioned that
4 you have drive cams.

5 MR. JORDAN: Yes. We also do covert road observations;
6 i.e., we go out and follow buses. And we have a minimum distance
7 that we want to follow that driver, a minimum of 12 miles.
8 Usually it's 15 to 20, but we set a minimum of 12 miles to observe
9 driving behavior. We're looking at turn signal use, lane change,
10 following distance and speed.

11 CHAIRMAN SUMWALT: You talked about, earlier, a concept
12 that I've wondered about. In fact, we had a Board meeting on an
13 accident that occurred in Dolan Springs, Arizona, and the driver
14 was not belted. And I asked the question then and I'm not sure
15 that I could get an answer on that. I asked, if somebody's
16 holding onto the steering wheel and the vehicle starts to yaw and
17 they're not belted in, they're going to go out of their seat and
18 the steering wheel's going to turn and the vehicle is going to go
19 out of control, which is probably what happened in that particular
20 accident.

21 MR. JORDAN: And it may even result in a rollover.

22 CHAIRMAN SUMWALT: Yes, it did roll over and there were
23 lives lost. Do you have data, any information on that?

24 MR. JORDAN: I do not. I just know from experience that
25 that's absolutely what's going to occur.

1 CHAIRMAN SUMWALT: Yeah, and I always wondered about
2 that too, because I think that when a driver is not belted in, not
3 only for the reasons we just talked about, not only is he or she
4 endangering themselves but they're endangering all of the
5 occupants of the vehicle as well.

6 MR. JORDAN: Absolutely. And I truly believe that, at
7 least for commercial motor vehicles, it should be a primary
8 offense in all states.

9 CHAIRMAN SUMWALT: You won't get any argument from me on
10 that.

11 Can you tell me, Mr. Jordan, what your vehicle out of
12 service is? Rate.

13 MR. JORDAN: I can't give you an exact number, but it's
14 very, very low. You're talking about roadside inspections?

15 CHAIRMAN SUMWALT: Yes, sir, I am.

16 MR. JORDAN: All of last year -- I hope my memory is
17 correct -- I only recall one.

18 CHAIRMAN SUMWALT: Okay.

19 MR. JORDAN: And that had to deal with a brake hose that
20 was rubbing.

21 CHAIRMAN SUMWALT: And that's one out of many. That's
22 less than one percent is what you --

23 MR. JORDAN: Oh, absolutely.

24 CHAIRMAN SUMWALT: A percentage of one percent.
25 Whereas, the national average for vehicle out of service is what,

1 anybody know?

2 MR. JORDAN: And I hope I'm correct in that. I'm doing
3 that from my memory.

4 CHAIRMAN SUMWALT: Would you be able to -- is that
5 proprietary data? I guess it's not proprietary because it's the
6 government that's doing the out of service. So would you be
7 willing to supply both vehicle out-of-service and driver out-of-
8 service data?

9 MR. JORDAN: Absolutely.

10 CHAIRMAN SUMWALT: That'd be great. You made the point
11 -- well, let me ask you this. Your pay. You say you have drivers
12 that have been there 20, 25, 30 years. Your driver pay, how does
13 it compare to the average pay?

14 MR. JORDAN: I think we're very competitive with the
15 industry. We have a unionized workforce, therefore their pay is
16 designed by contract.

17 CHAIRMAN SUMWALT: Yes.

18 MR. JORDAN: But I think that our benefit package is
19 extremely good and the pay is extremely competitive with the
20 industry.

21 CHAIRMAN SUMWALT: You mentioned something that caught
22 my attention. You said an investment in safety has a big payoff.
23 And do you have data on that?

24 Obviously, you are spending a lot of money on doing the
25 right kinds of things. In fact, you mentioned that it puts you at

1 a competitive disadvantage from strictly a cost perspective.

2 MR. JORDAN: Yes.

3 CHAIRMAN SUMWALT: So why are you doing these things,
4 and do you have data on the payoff?

5 MR. JORDAN: Well, I think, statistically, we do have
6 the data on the payoff. When we look at our out of service, when
7 we look at our driver compliance -- a matter of fact, I'm very
8 angry. I'll be very blunt about it.

9 When you go into the CSA you will see where I have eight
10 violations for fatigued drivers. None of them had anything to do
11 with hours of service. They had to do with driver laziness. One
12 driver didn't start his log. Another driver tried to do the log
13 but he did it incorrectly because I think we failed in training
14 him properly. And the rest weren't current to a last duty change.
15 But none of them had anything to do with us violating hours of
16 service. It had to do with driver behavior. And they all became
17 part of the discipline process.

18 I think our statistics is what stands for that
19 investment. But on the other side of the coin, this company has a
20 wonderful culture. I told you I'm proud to be a part of them.
21 And it's the right thing to do. It's that simple of a statement.

22 CHAIRMAN SUMWALT: But you don't have exact figures to
23 show that by spending X dollars, your return on that investment is
24 Y, do you? Or do you have anything like that?

25 MR. JORDAN: The only way we could do that would be to

1 do a comparable analysis, and not do it and see what happens if
2 we're not doing it, and we certainly don't want to take that risk.

3 CHAIRMAN SUMWALT: I can understand that. Hang on just
4 a second.

5 (Pause.)

6 CHAIRMAN SUMWALT: For the record, the Martz out-of-
7 service rate for drivers is 1.6 percent. The national average is
8 5.51 percent. The vehicle out-of-service rate is 4.7 percent and
9 the national average is 20.7 percent. So no need to supply the
10 data. Through the magic of the Internet we have those data. So
11 thank you and congratulations.

12 MR. JORDAN: You're welcome.

13 CHAIRMAN SUMWALT: It's been a fascinating conversation.
14 I thank you. I applaud the efforts that your company has taken.
15 As someone who is very interested in safety culture, it does
16 appear, from hearing your talk, that you are doing the right
17 things for the right reasons.

18 We don't want to ever get complacent. We have a saying
19 from Dr. Jim Reason, that if you believe you have a safety
20 culture, you're almost certainly mistaken. So never believe that,
21 just keep striving to be better.

22 This has been a very good day. It's been a long day.
23 Tomorrow will be every bit as good and even longer. But I want to
24 thank everybody for your excellent participation.

25 I once was a party member, I guess, on two occasions

1 when I was in the industry sitting on that side of the table and I
2 used to hear grumbling that, you know, the parties -- the NTSB
3 doesn't give the parties enough time to ask questions.

4 Well, Dr. Marshall has shown me -- he's broken it all
5 out and the party members actually have more time for the
6 questions than the NTSB. And I think that it should be that way.
7 We definitely appreciate your questions. As I said somewhere --
8 it seemed like about 3 days ago, but I think it was only 8:30 this
9 morning, that because of your participation we're getting better
10 questions. We are probing deeply. We're making deep dives into
11 these topics. And if you just do tomorrow what you did today -- I
12 think everybody did a superb job of interacting. Let's just do
13 that again tomorrow.

14 I want to thank the panelists.

15 Mr. Keppler, you will sleep well tonight. You've been
16 at it since 8:30 this morning. I don't know if you'll be back
17 tomorrow or not.

18 But in closing, I think we did -- I've only heard one
19 follow-up for the NTSB for the record and, Mr. Miller, that was
20 what you took -- and I saw you write it down. You took an action
21 item to get back with us on a particular item for -- I think it
22 was a question Mr. Kotowski asked.

23 MR. MILLER: Well, it's the number of new entrant
24 passenger carriers that were vetted and rejected, and we can
25 certainly do that, as well as one that Mr. Osiecki asked about,

1 the number of bus companies with at least one BASIC score. So we
2 will definitely submit those for the record.

3 CHAIRMAN SUMWALT: Great, thank you so much. And that's
4 the one that I caught and did hear another one, but I didn't hear
5 who that was for, so maybe that was from Mr. Osiecki. If there
6 are any other follow-ups that the parties have asked for, if the
7 panelists would please make sure that you respect those as well.

8 Enough talking on my part. We will start tomorrow
9 morning at 8:00 in the morning.

10 Dr. Marshall, anything else we need before we bail out?

11 Okay, we are adjourned until 8:00 in the morning. Thank
12 you very much.

13 (Whereupon, at 5:40 p.m., the public forum in the above-
14 entitled matter was adjourned, to be reconvened on the following
15 day, Wednesday, May 11, 2011 at 8:00 a.m.)

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CERTIFICATE

This is to certify that the attached proceeding before the
NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: Truck and Bus Safety: A Decade of
Progress

PLACE: Washington, D.C.

DATE: May 10, 2011

was held according to the record, and that this is the original,
complete, true and accurate transcript which has been compared to
the recording accomplished at the hearing.

Timothy Atkinson
Official Reporter