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**BEFORE THE
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
UNITED STATES HOUSE OF REPRESENTATIVES
“HOW TO BEST IMPROVE BUS SAFETY ON OUR NATION’S HIGHWAYS”**

June 13, 2011

Chairman Mica, Ranking Member Rahall, and Members of the Committee, thank you for inviting me to testify today regarding the very serious issue of motorcoach safety.

As we know all too well, the past 3 months have marked the worst period in recent years for motorcoach safety, with tragic crashes causing 23 fatalities and numerous injuries. On March 12, a crash occurred in New York that resulted in 15 fatalities. On March 14, another crash occurred in New Jersey with 2 fatalities. On May 28, a crash in the State of Washington resulted in 2 fatalities, while on May 31, another crash in Virginia led to 4 fatalities.

Please allow me to begin my testimony by extending my deepest sympathy to the families who lost loved ones in these crashes, as well as the many additional individuals who were injured, and to assure them that we at the Federal Motor Carrier Safety Administration (FMCSA) are committed to doing everything we can to prevent tragedies like this from happening again. Safety is our number one priority at FMCSA. We have significantly increased our regulatory and enforcement actions over the past several years to improve passenger safety. However, the recent tragic events indicate that we have more to do, both at the Federal level and in working with our State and local enforcement partners.

FMCSA is committed to identifying all at-risk passenger carrier operations and taking appropriate enforcement actions to force company owners to improve their safety management practices, or shut down their operations. We are continually pursuing aggressive legal strategies against unsafe carriers. We have revised our enforcement policies to eliminate 10-day extensions on out of service orders and are putting carriers out of service as quickly as our authority permits. We have made a request to the Office of the Inspector General for immediate engagement.

On Tuesday, May 31, 2011, FMCSA issued an unsatisfactory safety rating and placed North Carolina-based bus company, Sky Express, Inc., out of service for violating multiple Federal safety regulations. Sky Express was the passenger carrier involved in a crash on I-95 near Fredericksburg, Va. that killed four people on Tuesday, May 31, 2011. Under the out-of-service order, Sky Express is prohibited from operating in interstate and intrastate commerce.

On Friday, June 3, 2011, FMCSA issued a cease and desist order against Sky Express after learning that this unsafe, illegal bus company was attempting to operate and sell tickets under different company names. The order was effective immediately.

As part of FMCSA's investigation of Sky Express and its commitment to pursue enforcement actions against unsafe "reincarnated" bus companies, the Agency has also subpoenaed the records of three internet web sites that have sold or may have sold tickets for Sky Express and other bus companies. Those web sites are www.gotobus.com, www.taketours.com, and www.2001bus.com.

The use of web sites to sell tickets to consumers is another challenge to effective passenger carrier safety enforcement. A single web site may sell tickets for multiple companies that share ownership, vehicles and drivers. As soon as one company is placed out-of-service the web site simply directs all of the passengers to one of the other bus companies. Then the out-of-service bus company leases or sells its buses to other bus companies serviced by the same web site, which then operate the same buses with the same drivers over the same routes. The web site owners are not regulated by FMCSA and in many instances appear unconcerned about the safety fitness of the bus companies they are representing.

U.S. Transportation Secretary Ray LaHood recently announced several new measures that FMCSA is taking to help ensure that passenger bus travel is as safe as possible. FMCSA recently announced a commercial driver's license learner's permit rule that will require more rigorous testing standards. FMCSA is also seeking new authority to strengthen passenger carrier and driver compliance with Federal safety regulations. And, through consumer outreach and information tools, it is empowering consumers to review safety records of bus companies before booking a trip. FMCSA has teamed up with State and local law enforcement to conduct unannounced motorcoach inspections at popular travel destinations throughout the spring and summer peak travel season. And we are reaching out to our State and local law enforcement partners, asking them to increase traffic enforcement on all commercial motor vehicles, especially motorcoaches.

First, on May 5, 2011, FMCSA issued a new final rule requiring anyone applying for a commercial driver's license (CDL) to first obtain a commercial driver's learner's permit (CLP). The rule also requires all State licensing agencies to use a CDL testing system that meets the American Association of Motor Vehicle Administrators' CDL knowledge and skill standards, and prohibits the use of foreign language interpreters to reduce the potential for testing fraud. Prior to this new rule, CDL applicants were not required to first obtain a learner's permit, and CDL testing systems were in some ways inconsistent from State to State. We believe this rule will strengthen the CDL testing programs and enhance national uniformity.

Second, the U.S. Department of Transportation has put forth several new policy proposals designed to raise the bar for passenger carrier safety. One is a provision that would give the U.S. DOT greater authority to pursue enforcement action against unsafe

“reincarnated” passenger carriers by establishing a uniform, Federal standard to help determine if a new carrier is simply a reincarnation of an old, unsafe carrier. FMCSA is also proposing to require new motorcoach companies to undergo a full pre-authority safety audit before receiving commercial operating authority registration, revise current law to ensure a driver’s CDL can be suspended or revoked for drug- and alcohol-related offenses committed in non-commercial vehicles, eliminate the en route inspection prohibition, and raise the penalty from \$2,000 a day to \$25,000 for passenger carriers that attempt to operate without U.S. DOT authority. The public enjoys access to affordable and efficient passenger carrier services but this access in no way should be allowed to diminish the safety of these passenger carrier services. The measures the U.S. DOT is proposing will help us to better identify and swiftly weed out unsafe and irresponsible operators. Our Agency is committed to using every available resource to improve passenger carrier and driver safety.

Third, the public deserves transparent and ready access to safety information on passenger carriers so they can make the best choices for safe travel. Accordingly, last month, FMCSA unveiled a “Think Safety: Every Trip, Every Time” pre-trip safety checklist to help consumers review a bus company’s safety record, safety rating, and USDOT operating authority before buying a ticket or hiring a bus company for group travel. The checklist is now available online at FMCSA’s Passenger Carrier Safety web site <http://www.fmcsa.dot.gov/safety-security/pcs/Index.aspx>. FMCSA is also encouraging consumers to report any unsafe bus company, vehicle or driver to the agency through a toll free hotline at 1-888-DOT-SAFT (1-888-368-7238) or through FMCSA’s consumer complaint web site at http://nccdb.fmcsa.dot.gov/sv_disclaimer.asp. These new, free tools will empower consumers to select the safest bus companies and report any safety violation to Federal authorities. By placing bus safety resources at the public’s fingertips, we will help make motorcoach travel as safe as possible.

Fourth, FMCSA and its State and local enforcement partners are supporting improved passenger carrier safety with an increasing number of unannounced bus safety inspections across the country. Starting in March and lasting throughout the summer travel season, the enforcement campaign will target popular destinations such as amusement parks, national parks, casinos, and sports event venues.

Over the past five years, FMCSA has doubled the number of unannounced bus safety inspections and comprehensive safety reviews of the nation’s estimated 4,000 motorcoach companies. Roadside safety inspections of motorcoaches jumped from 12,991 in 2005 to 25,703 in 2010, while compliance reviews rose from 457 in 2005 to 1,042 in 2010. As an example of how we are continuing to emphasize safety enforcement, FMCSA and its State and local law enforcement partners conducted more than 3,000 surprise passenger carrier safety inspections resulting in 442 unsafe buses or drivers being removed from the nation’s roadways. The strike force issued out-of-service citations to 127 drivers and 315 vehicles during the unannounced inspections that took place from May 1-15, 2011.

FMCSA has taken a number of additional actions over the past several years to further improve passenger safety:

MOTORCOACH SAFETY ACTION PLAN

Safety is the U.S. Department of Transportation's number one priority across all modes of transportation. In 2009, Secretary LaHood sought to make significant improvements to motorcoach safety by tasking all of the appropriate DOT agencies to work together to establish a unified Motorcoach Safety Action Plan. The Department released the Plan in November 2009. It lays out concrete steps for addressing the driver-related cause of crashes, fatalities, and injuries, and enhancing motorcoach driver performance; , vehicle safety and maintenance, operator safety oversight, crash avoidance, and occupant protection. The Plan also focuses on the Department's strategy for improving data collection and analysis for motorcoach operations.

Based upon our review of motorcoach crash data we determined that driver fatigue, driver behavior, vehicle rollover, occupant ejection, and operator maintenance issues contribute to the majority of motorcoach crashes, fatalities, and injuries. As a result, FMCSA had responsibility for four priority safety-related action items in the Plan. These action items are:

1. Initiate rulemaking to require electronic on-board recording devices on all motorcoaches to better monitor drivers' duty hours and manage fatigue.
2. Initiate rulemaking to propose prohibiting texting and limiting the use of cellular telephones and other devices by motorcoach drivers.
3. Enhance oversight of carriers attempting to evade sanctions.
4. Establish minimum knowledge requirements for applicants seeking FMCSA authority to transport passengers.

We made substantial progress in each of these areas and I would like to take a few minutes to provide you with an update.

ELECTRONIC ON-BOARD RECORDERS

On April 5, 2010, the Agency took a significant step toward improving compliance with the hours of service regulations by reducing the number of fatigue-related crashes by publishing a final rule mandating the use of electronic on-board recorders (EOBRs) by motor carriers that transport passengers or property and that demonstrate serious non-compliance with the hours of service (HOS) rules. This action will reduce the likelihood of falsified or incomplete records of duty status by those carriers. The Final Rule establishes: 1) new performance-oriented standards for EOBR technology; 2) a mandate for certain motor carriers to use EOBRs to remediate regulatory noncompliance (a remedial directive); and 3) incentives to promote voluntary EOBR use

by all carriers. It is expected that approximately 5,700 motor carriers each year will be required to use EOBRS.

In addition, on February 1, 2011, the Agency published a Notice of Proposed Rulemaking (NPRM) that would broaden the first EOBR rule by requiring nearly all motor carriers to use EOBRs to monitor their drivers' compliance with HOS requirements. Specifically, FMCSA proposed mandatory installation and use of EOBRs in interstate commercial motor vehicles operated by motor carriers currently required to complete records of duty status, including passenger carrier operations. Additionally, the preamble to the rulemaking requests data and information about the safety of short-haul passenger carriers that currently are not required to maintain records of duty status.

The proposed rule would also establish specific requirements for supporting documents that motor carriers are required to obtain and keep, as required by section 113(b) of the Hazardous Materials Transportation Authorization Act (HMTAA) of 1994. Comments on the NPRM closed on May 23, 2011. We are currently reviewing the comments and anticipate publishing a final rule in early 2012.

DISTRACTED DRIVING

Driver distraction is a serious safety problem that poses an increasing threat to commercial motor vehicle (CMV) safety. To address this issue, FMCSA developed an approach that involves Federal rulemaking, outreach, and enforcement.

On September 27, 2010, FMCSA published a Final Rule prohibiting texting by all CMV drivers while operating in interstate commerce and imposing civil penalties on drivers and motor carriers that violate the prohibition. The final rule also provides the disqualification of CDL holders who have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that prohibits texting. We are working closely with the National Highway Traffic Safety Administration and with our State and local safety partners in developing enforcement strategies for those who violate this rule.

On December 21, 2010, FMCSA published an NPRM that would restrict the use of hand-held mobile telephones by CMV drivers. The Agency proposed new driver disqualification sanctions for interstate drivers of CMVs who fail to comply with this Federal restriction and for CDL holders who have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that restricts the use of hand-held mobile telephones. The comment period for the NPRM is closed, and the Agency plans to issue a final rule later this year.

ENHANCED OVERSIGHT OF MOTORCOACH OPERATIONS

FMCSA launched several initiatives to enhance its oversight of motorcoach companies, the drivers they employ and the vehicles they operate. These efforts include strict enforcement of the current safety regulations, more rigorous scrutiny of all

passenger carrier applications for operating authority, implementation of the Safety Measurement System to identify at-risk carriers for targeted enforcement as part of our new Compliance, Safety and Accountability program, or “CSA,” and improved oversight of the medical certification process for drivers.

FMCSA Motorcoach Strike Forces and Oversight

FMCSA routinely conducts strike force activities at national, regional and local levels to enhance our overall motorcoach enforcement program.

For instance, in October 2010, we conducted a two-day strike force at the Bands of America/Super Regional Championship at the Alamodome in San Antonio, Texas. We inspected motorcoaches from 12 different companies, found 45 violations and placed 4 vehicles out-of-service. Although this is a small event, we conducted the strike force because more than 50 high school bands from across Texas use motorcoaches to attend the competition. We wanted to be sure these trips ended safely.

Recently, as a direct result of one of FMCSA’s priority investigations and our safety partnerships with State and local enforcement agencies, we protected 250 eighth-graders from Tomlinson Middle School who were surprised while on a field trip to Washington, D.C., when police impounded their chartered buses at Arlington National Cemetery. The five motorcoaches transporting these students were operating without insurance or registration, and one had a pair of bald tires. Affordable Bus Charters Inc., based in Connecticut, had sent the buses out on the field trip even though the vehicles’ registrations and insurance had lapsed. The buses were placed out of service and the students and their luggage were safely transferred to new compliant buses.

Over the past several months, we have conducted strike force activities in Atlantic City and Six Flags in New Jersey; Rocket Space Center and the 31st Annual NAIA Softball National Championship in Alabama; at the Foxwoods and Mohegan Sun Casinos in Connecticut; at the Red Hawk Casino and Yosemite National Park in California; at casinos in Tunica and Biloxi, Mississippi; at the Lincoln/Juarez Bridge in Laredo, Texas; and at the Bryce Canyon National Park in southern Utah.

In the next 3 months, we plan to have strike force activities at Yellowstone National Park and Grand Teton National Park in Wyoming; at the cruise ship terminals in Bar Harbor and Portland, Maine; at Yellowstone National Park in Idaho; and at the Grand Canyon in Arizona, just to name a few.

Last year, between August 23 and September 3, FMCSA conducted a national passenger carrier strike force. During that time period, FMCSA along with our State and local safety partners, conducted 5,679 passenger vehicle inspections, 324 compliance reviews, 31 new entrant safety audits, and 35 Americans with Disabilities Act (ADA) reviews. We discovered more than 900 driver violations that required over 200 drivers to be placed out-of-service, and more than 350 drivers were cited for hours of service violations. We also discovered more than 5,600 vehicle violations and placed over 900

vehicles out-of-service. As a result of these compliance reviews, 9 percent of the passenger carriers received safety ratings of “Conditional” and 2 percent received proposed “Unsatisfactory” safety ratings.

In 2009, FMCSA conducted a national passenger carrier strike force for two weeks in May. Again, FMCSA worked in conjunction with our State and local safety partners to conduct 8,699 passenger vehicle inspections, 548 compliance reviews, and 53 new entrant safety audits. We discovered over 1,700 driver violations that required over 275 drivers to be placed out-of-service. We cited more than 500 drivers for hours of service violations, and we discovered over 7,000 vehicle violations and over 900 vehicle out-of-service violations cited. As a result of these compliance reviews, 9 percent of the passenger carriers received “Conditional” safety ratings, and 3 percent received a proposed “Unsatisfactory” safety rating.

We thank our State and local law enforcement officials for their efforts to support these activities to improve passenger carrier safety nationwide.

Aggressive Enforcement and Legal Actions

FMCSA has expanded our enforcement activities in innovative ways, within the limits of our current authorities, from being focused only on motorcoach companies to holding company officials and consultants accountable. One example occurred in July 2010 when FMCSA issued a Notice of Claim to Ernesto Segura Silva for a civil penalty of \$78,170 charging him, and the two motor carrier company names he had used, with 36 violations of 6 separate motor carrier safety requirements. A separate Claim for \$55,270 was issued to Mario A. Garcia, a consultant, for his actions in aiding and abetting Mr. Segura and his unfit motor carrier operation to evade Federal regulations and continuing to transport passengers after a final unsatisfactory safety rating, without operating authority and in violation of FMCSA Orders to Cease.

The Notice of Claim issued to Mr. Garcia charged him with 34 violations of Federal requirements, including making false statements and providing false or misleading information in the new entrant registration process. This was the first time FMCSA had charged a safety consultant for the consultant’s actions in aiding a carrier in violating Federal regulations. Mr. Garcia had also started his own passenger motor carrier by taking a motorcoach and driver from Mr. Segura after FMCSA rejected Mr. Segura’s application for operating authority. FMCSA immediately sought an injunction in Federal District Court against Mr. Garcia and his passenger motor carrier company. On November 30, 2010, the Court entered an order approving a Consent Decree that permanently enjoined Mr. Garcia and this passenger carrier from operating any commercial motor vehicle in interstate or foreign commerce. The Consent Decree also enjoins, Mr. Garcia from aiding any motor carrier in evading FMCSA regulations, operating without authority or operating in violation of an FMCSA order.

In February 2011, FMCSA successfully asked another Federal District Court to enter a Consent Decree against RLT Tours, a passenger carrier transporting daily commuters between Tobyhanna, Pennsylvania and New York City without necessary

operating authority. Following a compliance review, FMCSA had issued RLT Tours an unsatisfactory safety rating, revoked its operating authority and ordered it to cease operations. RLT ignored these orders and continued to operate. In response to FMCSA's request, the court order dissolved RLT Tours and a related company and prohibited them from operating in interstate commerce. The Court similarly barred the individual owners from operating in interstate commerce without proper operating authority, and it expressly enjoined them – and any persons with whom they were acting in concert – from applying for FMCSA operating authority without accurately disclosing their relationship to RLT Tours.

Even with all FMCSA has done, the tragic crashes over the last few months remind us that we must continue to push hard not to be complacent in enforcing our safety regulations on motorcoach companies and other CMV operators. FMCSA, the States and local agencies must sustain an aggressive approach to increase the number of inspections, reviews and enforcement actions.

Operating Authority Vetting Program

One of the most serious problems in the motorcoach industry is “reincarnated” carriers – unsafe carriers that FMCSA has shut down, but which “reincarnate” and seek operating authority disguised as a “new” company. To combat this problem, in August 2008, FMCSA implemented a more robust investigation of applications for passenger carrier operating authority, known as the vetting program.

Through the vetting program, FMCSA investigates the applicant's information to determine whether the applicant is fit, willing, and able to comply with the safety and other applicable regulations and to assess whether the applicant is attempting to evade enforcement actions for violations committed under another business name.

We believe the program is effective, and I assure you that we will maintain a high level of effort in this area. Since FMCSA started the program in 2008, the Agency has applied the vetting process to 2,929 applications for passenger carrier operating authority. We granted operating authority to 2,105 applicants, 717 carriers failed to successfully complete the application and either withdrew their applications or simply failed to respond to inquiries from the Agency, and 3 were rejected because the Agency determined the applicant was not fit, willing and able to comply with the safety and other applicable regulations.

The Vetting Program is one of our early success stories in raising the safety bar to enter the passenger carrier industry and we continue to seek ways to improve and strengthen this critical tool.

New Entrant Safety Audit Program

One of the concerns that came to light during the development of the Motorcoach Safety Action Plan was the perception that new motorcoach operators did not have the

knowledge or ability to properly maintain their vehicles. To aid in determining the validity of this perception, FMCSA modified the new entrant safety audit to ascertain the maintenance capabilities of new motorcoach companies. FMCSA added questions on whether the motorcoach company owns or leases a facility for the inspection, repair, and maintenance of its vehicles and on whether the company has an arrangement or contract for the systematic inspection, repair, and maintenance of its vehicles.

FMCSA also modified the new entrant safety audit to include a component on compliance with the ADA regulations for over-the-road bus (OTRB) companies. We now ask whether the carrier has the means to provide accessible service on a 48-hour advance notice basis by its owned or leased OTRBs. If the carrier does not have the means, we seek information on whether the carrier has an arrangement with another carrier that operates accessible OTRBs to provide accessible service for the first carrier.

FMCSA established an internal goal to complete the new entrant safety audits for passenger carriers within 9 months, rather than the 18 months required by statute. In FY 2010, FMCSA completed 77 percent of the passenger carrier safety audits within 9 months and 90 percent in 18 months. For FY 2011, to date, the percentages are 77 percent and 94 percent, respectively. On average, FMCSA conducts a safety audit on a new motorcoach company in less than 6 months.

Compliance, Safety, Accountability (CSA)

FMCSA's CSA program is an essential new tool that will allow the Agency to monitor and take appropriate enforcement action against a far greater number of passenger carriers and other motor carriers. This major initiative provides a more effective operational model so that the Agency can have a greater impact on large truck and bus safety while optimizing the resources of FMCSA and its State partners.

The Agency is well into the implementation of the CSA model which includes four major elements: (1) measurement; (2) intervention; (3) safety fitness determination; and (4) information technology. The measurement system pinpoints the specific safety problems involved, while the broader array of CSA interventions, including warning letters sent at the first indication of safety performance problems and various types of investigations for carriers with more severe safety performance problems, enables FMCSA to match the most appropriate intervention to seriousness of the carrier's specific safety problems.

In December 2010, FMCSA released to the public the new CSA Safety Measurement System (SMS) and began using the system for prioritizing carriers for enforcement interventions. Earlier this month, the Agency began sending warning letters to certain motor carriers nationwide. The warning letters are used to formally notify company executives about safety problems observed in our inspection and crash database so that appropriate corrective actions can be taken. FMCSA will closely monitor the safety records of these carriers for the next 12 months to assure that corrective action has indeed occurred. Failure of the carrier to address the safety performance problems may

result in tougher enforcement actions, including a Federal notice of violation, a notice of claim through which the Agency assesses civil penalties, or an off-site or on-site investigation. The investigations may also result in civil penalties for discovered violations.

FMCSA has implemented components to its CSA program to monitor the compliance and safety of motorcoach companies separately from trucking companies. For example, unauthorized for-hire motorcoach companies that have operational activity are made a top priority for an on-site investigation. In addition, FMCSA prioritizes motorcoach companies with below industry median performance in a safety evaluation area, companies that have operated for more than 2 years without an on-site investigation, or those that have operated more than 5 years since the previous on-site investigation.

Later this year, FMCSA will be issuing an NPRM that will propose changes to our current Safety Fitness Rating Methodology for commercial bus and truck companies. Through this rulemaking proposal, FMCSA would determine a carrier's safety fitness based on CSA data consisting of crashes, road inspection results and violation history rather than exclusively data from the standard compliance review. This proposal would enable FMCSA to assess the safety performance of a greater segment of the commercial motor carrier industry with the goal of further reducing large truck and bus crashes and fatalities and will speed up the process of shutting down carriers.

Enhanced Oversight of the Medical Certification Process

A critical part of ensuring the safe operation of all CMVs is the medical certification of drivers. Currently, FMCSA and its State partners check regularly during compliance reviews, new entrant safety audits, and roadside inspections to ensure that drivers have a valid medical card. When we discover that a driver does not have a medical card or a company is employing drivers without valid medical cards, the driver and carrier are subject to enforcement action, generally in the form of civil penalties. In addition, if during an inspection a driver is found to be operating a passenger carrying vehicle without a valid medical card, the driver is placed out-of-service.

On December 1, 2008, FMCSA published a final rule that merged the medical certification and CDL issuance and renewal processes. The rule improves the Agency's and the States' ability to monitor the medical certification status of interstate CDL holders. The final rule requires CDL holders to provide a copy of their medical certificate to the State driver licensing agency in order to be granted a CDL or to maintain their existing interstate driving privileges. If a driver fails to renew the medical certificate, or if the driver fails the physical examination, the CDL will be downgraded automatically to prohibit the operation of CMVs in interstate commerce.

The final rule became effective on January 30, 2009. States must implement the information technology system changes necessary to comply with the rule by January 30, 2012. All CDL holders must comply with the requirements to submit the medical certification information to the States by January 30, 2014.

The final rule requires States to make the CDL driver's medical certification status available electronically to motor carrier safety enforcement personnel. This will enable FMCSA and State enforcement personnel to determine during a roadside inspection whether a driver is medically qualified by reviewing the electronic record maintained by the State licensing agency. Federal, State, and local government enforcement officials would query the Commercial Driver's License Information System or the National Law Enforcement Telecommunication System to determine whether the driver had the required medical certification – something they cannot now accomplish.

In addition to the medical certification rule, FMCSA is developing a National Registry of Certified Medical Examiners. Later this year, FMCSA plans to issue a final rule requiring that all healthcare professionals who issue medical certificates for interstate truck and bus drivers complete training on the Federal physical qualifications regulations and pass a test to verify they understand the requirements. Once this program is implemented, only medical certificates issued by examiners listed on the National Registry will be accepted. Medical examiners will be required to submit to FMCSA reports providing the name and a unique numerical identifier for each person who applies for a medical certificate. Certain other information will also be submitted to enable the Agency to monitor medical examiners' performance and to identify potential instances of "doctor shopping" – medically unqualified drivers making multiple attempts to obtain a medical certificate.

KNOWLEDGE REQUIREMENTS FOR NEW CARRIERS

FMCSA acknowledges that many of the new motorcoach operators that enter the industry each year do not have sufficient knowledge to put into place effective safety management controls for their company. The Agency initiated a rulemaking to address this issue.

On August 29, 2010, FMCSA published an Advance Notice of Proposed Rulemaking requesting public comment on the methods the Agency should consider implementing to provide further assurance that a new applicant carrier is knowledgeable about the applicable safety regulations before being granted new entrant authority. The Agency announced that it was considering whether to implement a proficiency examination as part of our revised New Entrant Safety Assurance Process and sought information concerning issues that should be considered in the development and use of such an examination.

In addition, the Agency requested comments on alternatives to a proficiency examination to complement the processes already in place to demonstrate that new entrant carriers are knowledgeable about applicable safety requirements.

FMCSA also tasked its Motor Carrier Safety Advisory Committee (MCSAC) to provide suggestions or recommendations on approaches that could be implemented to improve the existing new entrant safety assurance processes, procedures, and

requirements for ensuring that new entrant motor carriers are knowledgeable about Federal motor carrier safety mandates prior to beginning operations in interstate commerce. The MCSAC provided its letter report in September 2010, which included recommendations for mandatory testing of certain company officials responsible for ensuring compliance with the safety regulations and putting into place safeguards for ensuring that the individual taking the test would actually be responsible for implementing or maintaining the carrier's safety management controls.

The Agency is currently reviewing the comments to the ANPRM and the MCSAC report in preparation for developing an NPRM to request public comment on a regulatory approach for ensuring new entrant carriers have the knowledge needed to comply with the Federal safety regulations.

In addition to the rulemaking, FMCSA is conducting a study to evaluate the effectiveness of various types of training programs to provide a practical means of implementing a rulemaking concerning knowledge and understanding of the Federal Motor Carrier Safety Regulations. Preliminary results of that simplistic training effort are encouraging in regard to the effectiveness.

CONCLUSION

FMCSA's efforts to improve motorcoach safety could not be accomplished without the assistance of our State and local safety partners. We are working closely with the International Association of Chiefs of Police, the Governors Highway Safety Association, the Commercial Vehicle Safety Alliance, and others in promoting sustained traffic enforcement against unsafe CDL operators. In addition, we rely on our partnerships with safety advocacy groups and the many safety-conscious professionals in the industry to make our highways safer. With approximately 4,000 active interstate motorcoach operations, the industry has demonstrated that we can achieve much higher levels of safety performance than we witnessed in the past months. Recent crashes are tragic reminders that we have much more to do.

Going back to my testimony earlier this year, I again call upon all States to follow in the footsteps of Governor Cuomo. If State licensing agencies perform a top to bottom review of the CDL holders with a passenger endorsement that are based in their State, together we will begin to root out individuals that received a CDL under false pretenses or through fraudulent practices. Ensuring the integrity of the CDL and its holder is a key component to improving overall passenger carrier safety operations.

To that end, I want to assure you that everyone at FMCSA is committed to three core principles: The first is to raise the safety bar to enter the motor carrier industry; the second is to maintain high safety standards to remain in the industry. And our third core principle is to remove high risk drivers and carriers from operating. Everything we do is linked to one or more of these principles.

Mr. Chairman, we at FMCSA applaud you and your colleagues on the Committee and in the Congress for your leadership in the area of motor carrier safety. During these investigations into the recent motorcoach crashes, we have been in constant communication with many of you and your staff. We appreciate your support and your holding us to that high standard that we know must be achieved to avoid future crashes. As we go forward with efforts to reauthorize our highway safety program, we look forward to working with you to develop a plan that will help achieve great strides in the coming years.

I would be happy to answer any questions you may have.