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MOTORCOACH SAFETY

(110–19)

HEARING

BEFORE THE

SUBCOMMITTEE ON
HIGHWAYS AND TRANSIT

OF THE

COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

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March 16, 2007

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Highways and Transit

FROM: Subcommittee on Highways and Transit Staff

SUBJECT: Hearing on Motorcoach Safety

PURPOSE OF THE HEARING

The Subcommittee on Highways and Transit is scheduled to meet on Tuesday, March 20, 2007, at 10:00 a.m., in room 2167, Rayburn House Office Building, to examine the safety of motorcoach operations in the United States in light of several fatal accidents; the Federal regulations that govern motorcoaches, including accessibility regulations; the recommendations of the National Transportation Safety Board with respect to bus safety; and the response of the Federal Motor Carrier Safety Administration in light of these accidents and findings.

BACKGROUND

Overview of the Motorcoach Industry

A motorcoach, or over-the-road bus (OTRB), is a bus that is designed for the inter-city transportation of passengers and has an elevated passenger deck located over a baggage compartment.

According to the 2006 Motorcoach Census, 39,068 buses provided 631 million passenger trips and traveled 2.44 billion miles in 2005. This represents an increase from 38,490 buses providing 595 million trips over 2.38 billion miles in 2004. In 2004, 47 percent of the miles covered by over-the-road buses were for providing charter service to groups of people, while intercity buses made up 27 percent of miles. Commuter transportation by over-the-road bus accounted for an additional 12 percent of miles; tour and sightseeing groups made up another 10 percent of total miles; and four percent were used by shuttles transporting people to and from airports and other uses.

The over-the-road bus industry has a wide range of companies in terms of size. In 2004, the vast majority – more than 93 percent – were small carriers, operating 25 or fewer buses. These 3,300 small carriers ran 48 percent of the industry's buses and accounted for 217 million passenger trips. Only 39 carriers, or one percent of the total industry, operated more than 100 buses. These large carriers provided 34 percent, or 202 million, of the industry's passenger trips and operated 25 percent of its buses. Mid-sized companies, with fleet sizes of 25 to 99 motorcoaches, accounted for 7 percent of the carriers, 27 percent of the motorcoaches, and 30 percent of trips.

Federal Regulation of the Motorcoach Industry

Federal Motor Carrier Safety Administration (FMCSA)

The Federal Motor Carrier Safety Administration (FMCSA), a modal agency of the U.S. Department of Transportation (DOT), is the federal agency responsible for commercial truck and bus safety. According to FMCSA, the agency's primary mission is to reduce crashes, injuries, and fatalities involving commercial motor vehicles. The FMCSA sets minimum safety standards that motorcoach companies must follow for the buses they operate and the physical qualifications and operating rules for their drivers. These safety regulations include rules to ensure that the motorcoach is in proper working condition and is systematically maintained; the driver is physically qualified and licensed; and the driver maintains accurate logs of hours-of-service.

In March 2006, as part of testimony before the Subcommittee on Highways, Transit, and Pipelines, FMCSA announced a National Motorcoach Safety Program with an emphasis on six areas: (1) increase the number of motorcoach compliance reviews, which are investigations of a company's safety practices; (2) develop and implement a separate compliance review prioritization system for motorcoach carriers; (3) establish formal motorcoach inspection programs within all States; (4) improve safety data; (5) reduce motorcoach fires; and (6) expedite safety audits of new entrant motorcoach carriers.

As part of this initiative, FMCSA intended to develop a quantitative, analytical system to prioritize motorcoach companies for a possible compliance review. A compliance review is an on-site examination of a motor carrier's records and operations to determine whether the carrier meets the FMCSA safety fitness standard and has adequate safety management controls in place to ensure compliance with safety requirements related to: drug and alcohol testing; commercial driver's license standards; financial responsibility; safe operation of vehicles on highways; maintenance of crash records and reports; hours of service; inspection, repair, and maintenance of vehicles; and other factors. FMCSA initiates a compliance review based on poor safety performance data in one or more of its safety evaluations areas - crashes, driver, vehicle, and safety management.

The agency stated that an enhanced focus on buses was needed because of the relatively small percentage of bus companies that FMCSA regulates compared to the far larger number of trucks and other commercial motor vehicles; and because the availability of motorcoach safety data is more limited than that of property carriers due to infrequent roadside inspections of buses. The agency assured the Committee that it would increase focus on motorcoach data collection, and establish a separate database to track bus safety information.

Compliance with the Americans with Disabilities Act

The Americans with Disabilities Act (ADA), signed into law in 1990, prohibits discrimination on the basis of disability by employers, public accommodations, state and local governments, public and private transportation, and in telecommunications. In response to this law, DOT issued regulations that required vehicle modifications to accommodate individuals with disabilities. Each fixed-route OTRB company had to ensure that one-half of its fleet consisted of accessible buses as of October 2006. The entire fleet must consist of accessible buses by October 2012. Until the fleet of a fixed-route OTRB company becomes fully accessible, the company must provide accessible service to passengers with disabilities on a 48-hour advance notice basis. A "demand responsive" company, such as a charter or tour bus operator, must provide service in an accessible bus to passengers with disabilities on a 48-hour advance notice basis. Less stringent requirements are in place for small fixed-route and demand-responsive operators. These requirements include providing service in an accessible bus to passengers with disabilities on a 48-hour advance notice basis or providing equivalent service, such as in a passenger van.

Section 3038 of the Transportation Equity Act for the 21st Century (TEA 21) established a grant program under the Federal Transit Administration to provide funding for the incremental capital and training costs associated with meeting the requirements of the DOT over-the-road bus accessibility rule. Assistance is available to operators of buses used substantially or exclusively in intercity, fixed route, over-the-road bus service. In addition, assistance is available to operators of over-the-road buses in other services, including local commuter, charter, and tour service. Capital projects eligible for funding include adding lifts and other accessibility components to new vehicle purchases and purchasing lifts to retrofit existing vehicles.

National Highway Traffic Safety Administration (NHTSA)

The National Highway Traffic Safety Administration (NHTSA) is charged with improving safety on our nation's highways by reducing the number of accidents and the consequences of those accidents that do occur. According to NHTSA, an average of 10 deaths a year are the result of motorcoach crashes. Although the agency does not regulate the operation of motorcoaches, NHTSA is responsible for issuing and enforcing Federal Motor Vehicle Safety Standards (FMVSS), which set performance criteria that every new motorcoach must meet. These standards include crash avoidance protection measures and occupant restraint systems.

National Transportation Safety Board (NTSB)

The National Transportation Safety Board is the United States' transportation accident investigative agency. Its primary responsibilities include determining the probable cause of transportation accidents, coordinating Federal assistance to families of victims of catastrophic aviation accidents, and making safety recommendations based on its investigations. Since its inception in 1967, NTSB has investigated more than 10,000 surface transportation accidents and issued more than 12,000 safety recommendations in all modes of transportation.

In 1999, the NTSB released a Highway Special Investigation Report on Bus Crashworthiness Issues. This report and its recommendations were based on an analysis of six school bus and 36 motorcoach accidents, and an evaluation of the Federal Motor Vehicle Safety Standards (FMVSS). The 36 motorcoach accidents NTSB investigated resulted in 168 occupant fatalities; 106 of these occupants were killed in a rollover. Of those occupants killed in a rollover, 64 people were ejected from the motorcoach. Among the many findings of its report, the NTSB determined that one of the best ways to protect motorcoach passengers during an accident is to prevent them from being thrown out of their seats or ejected from the vehicle. As a result, one of NTSB's recommendations was that NHTSA develop protection performance standards for motorcoach occupant protection systems. More than seven years later, this recommendation is still on the NTSB's most wanted list.

Even though new standards have not yet been finalized, NHTSA has conducted a joint study with Transport Canada, the Federal agency responsible for most of Canada's transportation policies, to determine the best methods for improving motorcoach occupant protection. The results of this study were released earlier this month. NHTSA and Transport Canada focused their study on improving glazing on motorcoach windows and the structural integrity of motorcoach roofs during a rollover to prevent ejection of passengers. NHTSA concluded that more information needs to be gathered before any new regulations are adopted.

The Rise of "Curbside Operators"

Curbside operators are low-fare motor coach companies that operate fixed-route, intercity bus service, primarily, but not exclusively, between cities along the Northeast Corridor. These carriers pick up and drop off passengers on the street rather than in traditional bus terminals. These carriers are also referred to as "Chinatown buses" since these carriers began by serving Asian communities along the Northeast Corridor, transporting restaurant and other workers between the Chinatown neighborhoods of cities. Many of the operators continue to originate and terminate in these sections of cities. Due to the popularity and expanded ridership of these low-cost carriers, additional curbside bus companies have emerged.

In March 2006, the Subcommittee on Highways, Transit and Pipelines held a hearing on curbside operators. At the hearing, FMCSA testified that according to the agency's safety scoring system, many of these carriers consistently rank far worse in safety compliance than other bus companies. Based on this data, and media accounts of safety violations by these carriers, FMCSA conducted a week of surprise inspections of 400 buses in October 2005. This sweep revealed more than 500 safety violations, including defective brakes, serious maintenance problems, driver hours-of-service violations, and excessive speeding.

In addition to the poor safety record of many curbside carriers, the hearing also highlighted that these carriers are not in compliance with ADA accessibility regulations, largely due to the high cost of having to purchase new lift-equipped buses, or to retrofit old buses. According to recent media reports, these companies continue to routinely deny boarding to passengers in wheelchairs because they cannot accommodate them. They also deny boarding to passengers who are blind because they refuse to allow seeing-eye dogs on board. FMCSA has maintained that the agency does not have jurisdiction over the enforcement of ADA regulations, and does not consider a curbside company's compliance

with these regulations in determining fitness to operate. Last year, Peter Pan Bus Lines sued FMCSA for failing to enforce accessibility regulations. In December 2006, the U.S. Court of Appeals for the D.C. Circuit vacated FMCSA's decision to refuse to consider one curbside carrier's lack of compliance with DOT's ADA regulations. The case has been sent back to FMCSA, and the agency is in the process of reviewing the statute but has not determined how the Court's decision will impact its regulatory activity.

Recent Accidents and NTSB Recommendations

On March 2, 2007, a bus carrying a college baseball team plunged nearly off an overpass in Atlanta, Georgia. Investigators indicated that the bus was traveling southbound in the high-occupancy vehicle lane of Interstate 75, and mistook a left exit ramp for a through lane. The driver drove up the ramp to an overpass, past a stop sign, slammed into a concrete barrier, flipped, and fell 30 feet to the pavement below. The crash killed seven people and injured 29 others, many of them critically. Although the NTSB has not finished its investigation, poor design of the exit has been noted as a contributing factor in several other accidents that have occurred at this location.

On February 14, 2003, a motorcoach carrying a church group from Temple to Dallas, Texas, crossed the median of the road, hit an oncoming vehicle and tipped on its side after the driver attempted to stop quickly in heavy rain. Five passengers in the motorcoach died as a result of the accident, as well as the driver and a passenger in the vehicle that the motorcoach hit. In response to this accident, earlier this month, a jury in Texas held the bus manufacturer, Motor Coach Industries, liable for failing to install seat belts and laminated glass in their vehicles. Motor Coach Industries is planning to appeal this decision. Neither of these safety features is required by federal regulations and installation of seat belts was not included as recommendation in NTSB's report on this accident.

On September 23, 2005, 44 residents of an assisted living facility near Houston, Texas, were being evacuated to move out of the path of Hurricane Rita when a fire started in the right wheel tire hub. A passing motorist notified the bus driver of a problem, but by the time the driver pulled over and got out of the bus to inspect the problem, flames were already radiating from the right-rear tire wheel. As a result of the fire, 23 passengers were fatally injured, two were seriously injured, and 19 received minor injuries.

NTSB determined that the cause of the fire was insufficient lubrication of the right-rear axle wheel bearing. In addition, NTSB determined that the operator of the motorcoach, Global Limo, had failed to conduct proper vehicle maintenance, pre-trip driver inspections, and post-trip driver reports. Prior to the accident, Global Limo had undergone both state and federal safety inspections and received a "satisfactory" rating despite having numerous safety violations noted in the inspections. One of the 22 conclusions NTSB drew from this investigation was that the FMCSA's compliance review system is inadequate in detecting and preventing unsafe motor carriers from operating. Among its many recommendations, NTSB has suggested that FMCSA adjust the compliance review process to ensure that all violations are factored into a carrier's final rating.

Curbside bus companies have also been involved in a number of high-profile accidents in the last few years, and one carrier, Fung Wah, has a high rate of incidents. In 2005, there were two bus fires involving curbside companies, one of which was a Fung Wah

bus traveling to New York from Boston. In September 2006, a Fung Wah bus rolled over in Auburn, Massachusetts, injuring 34 passengers. On January 3, 2007, a Fung Wah bus lost its two back wheels early on a trip to New York. On February 14, 2007, a Fung Wah bus on the way to New York from Boston was involved in a minor accident during a winter storm. The driver lost control and hit a guardrail on the Massachusetts Turnpike (I-90) in Allston, Massachusetts. To date, the NTSB has not investigated any accidents involving curbside operators.

WITNESS LIST

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HEARING ON MOTORCOACH SAFETY

Tuesday, March 20, 2007,

HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
SUBCOMMITTEE ON HIGHWAYS AND TRANSIT,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:00 a.m. in room 2167, Rayburn House Office Building, the Honorable Peter DeFazio [chairman of the subcommittee] presiding.

Mr. DEFAZIO. The Subcommittee will come to order. Today, we are going to consider issues relating to motorcoach safety.

I appreciate the witnesses being here. One of the witnesses, the Chairman of the NTSB, has a fairly short time line. We know that Mr. Hill is very generous with his time, as he was last week, but we will try and not keep either of you too long, and meet your schedules. We do appreciate your being here.

Late last year, the Committee held a hearing on the issue of curbside service, and a number of issues relating to safety of the traveling public came up. Some of that, I believe, I know is addressed in some of the testimony here today. I still consider that to be an evolving issue that merits more attention by this Committee. We will be discussing that.

Motorcoach travel is quite safe when compared to other modes, but even one avoidable death is too many. I believe that there are improvements in the system that can be made that could avoid unnecessary death. We are going to have some testimony here about Wilmer, Texas, and that horrible, horrible tragedy there; and also some testimony regarding the Atlanta, Georgia crash earlier this month.

The NTSB has a number of recommendations relating to motor carrier and motorcoach safety that have not been accepted by or fully addressed by the administrative agency, and we will want to discuss the reasons for that and whether or not some of their proposals should be implemented in the near future.

We also will have some discussion of the FMCSA's oversight, which relates back to a couple of these tragedies, and is an ongoing issue, also relating back to the curbside service which I mentioned earlier.

So there is a lot of material to cover. I look forward to your testimony.

With that, I would recognize the Ranking Member for his opening remarks.

Mr. DUNCAN. Thank you very much, Mr. Chairman, for holding the hearing today. Motorcoach safety is an issue which is often

overlooked until there is a serious accident and lives are lost, like the very tragic, very sad bus accident two weeks ago in Atlanta and other accidents.

It is an amazing statistic that unfortunately more people are killed in three and a half or four months on the Nation's highways than have been killed in all U.S. aviation accidents combined since the Wright Brothers' flight in 1903. But that points up the really serious challenge that we face in this area of highway safety.

Today, we will hear from witnesses who believe the Government's regulatory oversight of buses is adequate, and they safely transport people on our roads. Other witnesses believe the regulations are not stringent enough and the Federal Government does not provide sufficient enforcement of these safety regulations. They would like more regulations imposed on the bus industry possibly even requiring seat belt use on buses.

In my opinion, safety should be the top priority for motorcoach operators. It certainly is the top priority for this Subcommittee. Intercity and charter buses transport up to 57 people in a single bus. Moving that many people is a huge responsibility and should be taken very seriously. But 93 percent of the motorcoach industry is comprised of small companies. These are Mom and Pop businesses and they only operate a few buses. They have extremely high operating costs to run the businesses.

When I was in law practice, I represented a bus company that operated three buses. All three of their drivers had driven well over one million miles each without any accident. In fact, I think they were really close to five million or ten million miles without any accidents.

I am concerned about imposing unnecessary burdens which may not have a safety impact on these small businesses. These small businesses are the backbone of the entire motorcoach industry. I believe we need to find a balance here for ensuring the safety of motorcoaches, while not overwhelming these companies.

Small business supports the U.S. economy. It is imperative to keep these companies in mind when we consider additional safety regulations. It is irresponsible to create more regulations simply for the appearance of safety. The big guys, the big companies can handle the costs of additional regulations, but small businesses sometimes can be put out of business just by a small increase in operating costs.

I am confident that the motorcoach industry can remain safe without additional regulations if the Government does its job properly.

Again, let me reiterate that the safety of people traveling on buses and the safety of the drivers sharing the road with these buses should be our top priority. But we need to make sure that any additional regulations that are adopted actually really do improve safety, as opposed to only imposing additional burdens on these small businesses.

Thank you, Mr. Chairman, again for holding this hearing. It is a very important topic, and I look forward to hearing the testimony from our two panels.

Mr. DEFAZIO. Okay, with that, we will move forward to our witnesses in the order in which they are listed. So that would be, first, Administrator Hill.

TESTIMONY OF JOHN H. HILL, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Mr. HILL. Thank you, Chairman DeFazio, Ranking Member Duncan, and members of the Subcommittee. Thank you for inviting me to discuss the Federal Motor Carrier Safety Administration's safety oversight role in motorcoach operations.

Mr. Chairman, FMCSA was conceived out of the need to achieve stronger commercial motor vehicle safety. It is our mandate. More than that, the agency consists of dedicated professionals to whom highway safety is the highest priority.

Motorcoaches are one of the safest forms of commercial passenger transportation, as you indicated, Mr. Chairman. When such vehicles are involved in crashes, however, the potential for catastrophic loss of life and injury is significant. We saw that as indicated in your comments today in the tragic crash on March 2.

However, compliant or not, it is our agency's responsibility to implement programs to implement the safety of motorcoach transportation. To that end, FMCSA has established a National Motorcoach Safety Program that emphasizes six areas: one, increasing the number of motorcoach compliance reviews; secondly, ensuring motorcoach companies have a higher priority within our compliance review prioritization system known as SafeStat; third, establishing formal motorcoach inspections within all States; four, improving the collection and analysis of safety data; five, reducing motorcoach fires; and six, expediting safety audits of new entrant passenger carriers.

Addressing each of these areas is essential to improving passenger vehicle safety. FMCSA is focusing on motorcoach safety and the compliance review numbers bear this out. In fiscal years 2005 and 2006, FMCSA and the State police and law enforcement agencies exceeded our compliance review goals established in our performance budget by over 30 percent.

Augmenting these efforts, FMCSA has established a national initiative to address unrated and high priority motorcoach operations. This project is expanding our agency's contact with motorcoach operators who have old safety ratings, no established safety rating, or appear to run unsafely. We expect to complete a compliance review and assess the safety rating for every unrated motorcoach carrier. We anticipate this to be about 1,600 by the end of the year.

We believe that bus companies deserve careful program attention and dedicated enforcement resources. Therefore, we will apply more stringent safety standards for passenger carriers through a reform of our risk pointer system known as SafeStat.

FMCSA has also been stressing motorcoach safety as part of the Motor Carrier Safety Assistance Program. Since 2004, our State and local law enforcement have initiated a series of motorcoach inspection and compliance review strike force activities to increase compliance with passenger safety.

The most recent inspection strike force was conducted during November, 2006, and included 14 States from Maine to Virginia.

Thanks to the 22 State and local police agencies that joined our staff in the activity, in just two weeks we did more than 1,300 safety inspections that were conducted on passenger vehicles and drivers.

As a result of strike force's like this, FMCSA and our State partners conducted more than 26,000 bus inspections in fiscal year 2006, which is a 103 percent increase over the previous fiscal year.

The use of safety data is critical to target our resources. In the past three years, there has been significant improvement in the timeliness and quality of safety data. This is due in part to the increased numbers of compliance reviews and inspections, as I have described.

FMCSA is also conducting a Bus Crash Causation Study to determine the reasons for and the factors contributing to serious bus crashes. The data collection for this study will be completed this May and the final report is due in December of 2007.

Another critical aspect of our safety program relates to the problem of motorcoach fires. It is vital that we gather and evaluate information on the causes, frequency, and severity of bus and motorcoach fires and analyze the bus fire data to measure the effectiveness of bus fire prevention.

To improve the collection and analysis of bus fire data, the FMCSA recently issued a statement to FMCSA field offices and our MCSAP partners reemphasizing that fires occurring in commercial vehicles, including buses, are crashes and must be reported to FMCSA. We are also working with the National Highway Traffic Safety Administration to capture bus fire information they receive through their monitoring systems.

Each year, approximately 900 new motor carriers enter the passenger arena. FMCSA has implemented a new entrant program placing greater priority on safety of passenger carriers. New entrant passenger carriers are now subject to an on site safety audit within nine months of beginning operations.

Since the Motor Carrier Safety Improvement Act of 1999, when FMCSA was created as an independent agency, the motor carrier population has increased steadily, with expected doubling of freight volumes by 2020. While independent assessments have concluded that our compliance and enforcement programs are effective, FMCSA's compliance review program is resource-intensive and reaches only a small percentage of motor carriers.

So to improve our outreach into motor carriers, FMCSA has developed an improved safety oversight process called the Comprehensive Safety Analysis 2010, or CSA 2010. The goal is to develop and implement more effective and efficient ways for FMCSA and its State partners to reduce commercial motor vehicle crashes, fatalities and injuries.

In concluding, whether it be a college student boarding a Greyhound bus for a summer cross-country trip, a senior citizens group traveling by charter bus to see the Grand Canyon, or a class trip to Washington, D.C., it is our duty to ensure our passenger carriers provide safe transportation.

Mr. Chairman, FMCSA is firmly committed to increasing safety for our Nation's traveling public. I know that thousands of State

and local law enforcement officers in your Districts are also dedicated to improving highway safety.

Thank you for giving me the opportunity to outline the work FMCSA is doing. I commend you, Mr. Chairman, for demonstrating strong safety oversight of the transportation of our Country's bus passengers, and I am happy to answer your questions.

Mr. DEFAZIO. Thank you, Administrator Hill.

Chairman Rosenker, you are recognized. You may give your prepared remarks. You may respond to statements made by the Administrator, and we can certainly get into things in questions.

Thank you. Go ahead.

TESTIMONY OF MARK V. ROSENKER, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

Mr. ROSENKER. Thank you, Mr. Chairman. I have submitted a formal statement for the record, with your permission, sir.

Good morning, Chairman DeFazio, Ranking Member Duncan and members of the Subcommittee.

Mr. Chairman, I would like to take this opportunity to thank you and the distinguished members of the Subcommittee and the staff for inviting the Safety Board to testify today on the topic of motorcoach safety, and for your continued interest in furthering the safety of our Nation's highways.

As you know, the Safety Board is charged with investigating major transportation accidents, including highway accidents, determining their probable cause, and making recommendations to prevent similar accidents from happening again. Changes in highway or vehicle design, driver training, occupant protection, and regulatory oversight are frequently recommended.

Today, I would like to discuss specifically motorcoach safety. As you know, intercity motorcoach travel, as you said, is one of the safest modes of transportation, with fewer than 17 fatalities in an average year. It is also one of the most popular forms of travel, transporting more passengers than either commercial air or rail travel.

However, in 2005, 33 persons riding in motorcoaches received fatal injuries. This is the highest number of onboard fatalities in at least 15 years. Unfortunately, one of the accidents I will discuss today, although extremely unique, made the largest contribution to the number.

The issues that I would like to highlight include motorcoach crashworthiness, motorcoach fires, and motorcoach maintenance and oversight by the FMCSA.

The Safety Board has long been concerned about the safety of those who ride motorcoaches. Quite frankly, people have a right to expect the highest level of safety when they pay for a ticket and place their safety in the hands of a motorcoach operator. One of the reasons motorcoach operations are so safe is because they usually provide a reasonable level of occupant protection when accidents occur. Unfortunately, the occupant protection provided in motorcoaches does not work well in all accident scenarios.

For example, we recently launched to the scene of a motorcoach accident in Atlanta that involved a baseball team from Boston University in Ohio. Although this accident occurred only 18 days ago,

we know from past experience that one of the major issues is likely to be the crashworthiness of the motorcoach. In this accident, seven people died. But perhaps more importantly, some of the occupants were ejected or partially ejected from the vehicle.

As you know, the motorcoaches use a form of passive occupant protection called "compartmentalization," which protects passengers much the same way an egg crate protects eggs. However, the Board has found that compartmentalization does not work in all crash scenarios.

Therefore, as a result of two exhaustive studies the Board did in 1999, we made six recommendations to NHTSA to improve motorcoach crashworthiness in four primary areas: first, develop standards for motorcoach occupant protection systems that protect passengers in frontal, side, and rear impacts, as well as rollovers; second, revise window glazing requirements to prevent occupant ejection through windows; third, require the emergency window emergency window exits to be opened easily and that they remain open during an emergency evacuation; and fourth, make motorcoach roofs stronger.

The next motorcoach safety issue I would like to discuss is that of motorcoach fires. On September 23, 2005, near Dallas, Texas, a fire engulfed a motorcoach carrying elderly evacuees away from the predicted path of Hurricane Rita. Twenty three of the 44 passengers were unable to escape the blaze and perished. This motorcoach fire shows the potential for catastrophe when passengers are unable to exit a burning motorcoach quickly.

As a result of its investigation, the Board made the following recommendations to NHTSA: require enhanced fire protection of fuel systems and use fire-hardened materials to limit the spread of fires that do occur; develop detection systems that provide an early warning to drivers of a potential fire so that passengers might have time to escape; and finally to establish acceptable egress times for motorcoaches.

Finally, I would like to talk about the oversight of the motorcoach industry by the Federal Motor Carrier Safety Administration. The Safety Board determined that the cause of the fatal bus fire near Dallas was insufficient lubrication in the wheel-bearing assembly of the motorcoach, which eventually led to the ignition of the tire and the catastrophic fire. This occurred because the motorcoach operator, Global Limo Incorporated, failed to detect this lack of lubrication and FMCSA failed to provide effective oversight of the motor carrier through its compliance review process.

As a result, the Board reiterated its longstanding recommendation to FMCSA to elevate the importance of driver and vehicle violations in evaluating the safety fitness of motor carriers and take more unfit carriers off the road.

Mr. Chairman, I know you share my desire to improve motorcoach safety, and I hope this information will assist you in accomplishing that goal.

This completes my oral statement and I would be happy to respond to any questions.

Mr. DEFAZIO. Thank you.

We will proceed now with the first round of questions.

Administrator Hill, you have heard Chairman Rosenker, particularly about the Wilmer crash. It wasn't a crash, but a fatal accident with the bus catching fire. How is it that, and the words are extraordinary, not just the Chairman, but other members of the NTSB used regarding the persistent, long-term violations by Global Limo. The word "appalling," among others, was used. Yet somehow, this company had been given a satisfactory rating by FMCSA. Have you looked at that? Do you understand how they could have been given a satisfactory rating, despite their persistent, long-term deficiencies in maintenance?

Since you did find deficiencies, but allowed them to continue to operate, why wasn't there a follow up?

Mr. HILL. Mr. Chairman, the tragedy that we are talking about here was awful. I wish that I could tell you a different story, but the satisfactory safety rating is something that happens in a snapshot in time. At the time that we went in and looked at it, they had the safety protocols in place, but there was obviously a denigration of that safety focus after we were in there.

I agree with you that the safety rating, and with the NTSB, that the safety rating process needs to be addressed. We have undertaken steps to do that, and we are working through the comprehensive Safety Analysis 2010 to do so. We are planning on pilot testing this next year. We are starting rulemaking processes this year on developing this, to change the safety fitness process. I am committing to this Committee and to the Board that we are going to follow through on this initiative.

Mr. DEFAZIO. Chairman Rosenker, would you respond to that? I thought that NTSB found that this was not something that had just recently occurred, but it was more persistent and endemic. How could it have escaped the notice of the FMCSA? Didn't the FMCSA find some deficiencies at the time of the original evaluation?

Mr. ROSENKER. They did, Mr. Chairman. They found seven. But the way that the system works, it doesn't necessarily look at the kinds of things that the NTSB believes should be focused upon. That is, the condition of the vehicle itself and also the driver, the capability of the driver, the training of the driver, the status of the driver, the medical condition of the driver.

Those are the things that we have found in our history of examining motorcoach accidents that have been the primary problems and the cause of terrible tragic accidents.

Mr. DEFAZIO. Do their 2010 changes give you some level of confidence that they will better address those? They seem to me pretty simple and focused, as opposed to bureaucratic evaluations. Is the bus safe? Is the driver safe? Pretty simple stuff, right? Does their new iteration of their safety inspection program get more at those root issues?

Mr. ROSENKER. This appears to be a comprehensive examination of their processes and how they are going to improve it. I am hopful. I am an optimist, but I can't tell you what is going to happen in three years, and who may administer that program when it finally does come to pass.

Mr. DEFAZIO. Administrator Hill, you have heard the condition of the vehicle itself and the driver. Do you feel that you are going

to better address what seemed to be, what most Americans would think, are the two most important and fairly simple to evaluate issues for their traveling safety? It is amazing to me that the old system, or the existing system, has been so deficient in these areas. How is that going to be addressed with the new system?

Mr. HILL. Mr. Chairman, I would say to you that there have been some independent evaluations of the compliance review process, and it has been found to be successful at addressing high-risk carriers. One of the challenges that we have as an agency is dealing with the volume of vehicles that are involved. When we go out and do a compliance review, our staff does, or the State enforcement person goes out, they are looking at a variety of the processes that we think roll into safety fitness evaluation, everything from drug and alcohol testing, the driver's piece to that, the medical piece; whether or not they are complying with hours of service. That process, depending on the size of the carrier, can take a considerable amount of time, or if it is a small carrier with one truck, it is a one or two day process.

So when you start adding in to doing an inspection at every compliance review, that adds significantly to the amount of time that it takes the investigator at the place of business. So what we have been trying to focus on is use the compliance review to look at basic safety management controls, and then the roadside inspections on which I testified to this Committee last week. We did over three million of those in the Nation last year. Those roadside inspections feed into a data system that allows us then to evaluate the safety and fitness of the vehicles.

Now, what we think will happen under CSA 2010 that you are asking about is we believe that there will be the opportunity then to rate carriers based upon what is happening at the roadside, as opposed to just what is happening when we go in and do a snapshot in time review of that company's operations. So we believe that it will help, but this is going to be a very big process. It is going to be a big sea change for the way we do business and the way the States do business.

Mr. DEFAZIO. So you are saying in the case of Global Limo that the FMCSA representative who visited basically just reviewed paperwork and never actually went out and looked at the buses, and that is the way the agency works.

Mr. HILL. I am saying that there are times that we inspect the vehicles, but it is not——

Mr. DEFAZIO. Well, the random checks on the road, you said how many last year?

Mr. HILL. Three million.

Mr. DEFAZIO. Out of how many operations, what percent of operations?

Mr. HILL. That is going to be——

Mr. DEFAZIO. Given how many trucks and buses there are. It has to be a pretty small percent.

Mr. HILL. It is.

Mr. DEFAZIO. Right. Okay. So instead of when certifying, I mean, actually sending someone out to one of these carriers, you just don't have the staff or the resources to actually physically inspect the ve-

hicles. Because you are saying it would take too much time. Basically, we are getting to a staffing issue, I believe here.

Mr. HILL. Well, that could be one factor. The other is the size of the carrier population and what is expected to be done. So what we are trying to do is look at all of the data that we have available.

Mr. DEFAZIO. Right. But I mean if you actually get physically to an operator, you would think, well, we don't get there very often. In fact, again, I appreciate the fact that there may be a statutory deficiency here, that new operators can operate up to 18 months before they are inspected, a loophole being utilized by curbside folks. And you are trying to get to them within nine months. Don't you think it should be before they begin operations? Why would we say, you are a startup; we know nothing about you; you have submitted your paperwork; we are going to actually come out and see if you are actually at that address, which in the case of the curbside people, they often are not; and maybe even go out and kick a couple of tires. Don't you think that would be a good thing to do before someone starts operating?

Mr. HILL. Mr. Chairman, if the Committee feels statutorily that we need to take a look at that, I would be glad to work with the Committee and do so.

Mr. DEFAZIO. Do you think that would be prudent, as a citizen who might consume this product? Would you want to get on a bus of a new operator that had not been inspected?

Mr. HILL. I would like to have the authority to do more things with safety than what we currently have in this area, but we do have laws that are in place that require us to allow as many people in the industry to join as we can.

Mr. DEFAZIO. Well, we need to look at that, and then you can say it is free market forces. If that operator kills people, then they probably won't get passengers next week. I don't know. I think the American public deserves better than that, so I am a less concerned about free entry and ease of entry into a business which involves the safety of the traveling public than I am about these new entrants providing and meeting minimum safety standards. So I have a concern about that, and we will have staff visit with you about that.

And then secondly, the issue of when audits are actually conducted, that it is just a paperwork audit. I just think that going out and looking at the condition of some of the equipment is pretty key. It seems to me that should also be included. Whether that requires some directive or requires more staff, I am not sure how we get there, but I would like to examine that issue, too.

Mr. HILL. That particular piece, Mr. Chairman, we can take care of administratively. We can definitely look at doing that a little bit more effectively in our new entrant process.

Mr. DEFAZIO. Okay. Thank you.

The Ranking Member?

Mr. DUNCAN. Thank you, Mr. Chairman.

First of all, these are pretty impressive statistics. You have 3,300 bus companies, 2.4 billion miles traveled by these companies, 595 million trips, and as Chairman Rosenker said, it is probably the safest form of transportation. We shouldn't lose sight of that.

On the other hand, everybody, no matter what their position, they should always be trying to improve and get better. We do want to try to make things as safe as possible.

On the other hand, there is an appropriate balance in every area. If you over-regulate a business, then you are going to raise the prices and you could potentially knock a lot of poor and lower income people out of a form of transportation that is very, very important to them. So you have to take those into consideration also.

How frequently, Administrator Hill, on average are these buses inspected?

Mr. HILL. Congressman Duncan, we are inspecting about 26,000 last year at the roadside. Now, I need to caveat that. In SAFETEA-LU, there was a prohibition against us doing inspections while the vehicle is en route, so we do it at point of origin or point of destination. We try to work that.

Mr. DUNCAN. Right. And there is a reason for that, because you didn't want to inconvenience all the passengers.

Mr. HILL. Well, we were concerned about roadside safety. We don't want a busload of people sitting alongside the road, and we want to make sure that it is safe.

But 26,000 of those inspections done last year, now, that still is a small number, but it is, as I indicated, double from what we did the previous year. So we are trying to take this Committee's guidance to improve motorcoach safety as a result of the curbside hearing, and improve our oversight. So we are really making sure that the States are much more involved in inspections of buses.

Mr. DUNCAN. I doubt that there are very many, there are probably not any agencies in the Federal Government that can say they have doubled their number of inspections from the previous year. That is quite an increase.

I do hope that because of this hearing that there is not pressure to suddenly start finding more violations. What I am more impressed with is that if people do find problems, they put on their reports how quickly they were corrected. That is an important thing.

Chairman Rosenker, in your testimony you name four areas: motorcoach crashworthiness, motorcoach fires, maintenance and oversight by FMCSA, and cell phone use by bus drivers. Which would you say is the number one, or would think is the most important?

Mr. ROSENKER. I hate to begin the process of selecting a priority, when all four of those together really is the answer to begin the process of preventing accidents altogether, and if in fact an accident does occur, it is a survivable accident. So it is really the combination of those areas together that will make this safe industry even safer.

Mr. DUNCAN. And you discussed the need for improved roof strength, and easier to open emergency window exists. How difficult or how expensive do you think it would be to correct or improve those areas?

Mr. ROSENKER. Well, as far as the pricing is concerned, we have not done a study on pricing. We just know what the results will be if in fact these are implemented. When we are talking about issues that would provide for additional standards, they would be

NHTSA's responsibility of oversight and what in fact those standards would be.

We are looking for a result. The result that we are looking for is a stronger roof. We are looking for stronger glass. These buses have very large picture windows. If in fact they break in a rollover, the potential for ejection is very high.

We are also looking for improved motorcoach occupant protection systems. These would be an entirely new examination of how we want to restrain people in seats. Currently, we compartmentalize. That is a good system in a forward accident or in a rear end accident. It is not a good system in a rollover.

So we don't have the answer specifically. That is what NHTSA is supposed to do. In a study that they have just released last week, they examined the issue of rollovers and how they would better improve restraints. It may well be a combination of passive and active systems. Some form may well be a belt. It may well be a bag. It may well be an improved compartment.

We are not prescriptive in our recommendations. We are looking for a result.

And finally on the issue of egress, we want to make sure that in the event the bus is on its side, you are able to get out through its roof.

Mr. DUNCAN. What did you feel was the most important lesson learned out of the Texas bus incident?

Mr. ROSENKER. Clearly in this case, preventive maintenance. There was no preventive maintenance in this case. It was, if something broke we would fix it. There was no plan to make sure that the buses were safe when they went out on the road. In this case, there was no grease, no oil in the bearings. Therefore, they got hot. They caught fire. And in this particular case, and a very, very unique one, Mr. Duncan, there were 44 elderly people, many of which were non-ambulatory. They had no chance of getting out in a big fire. No chance whatsoever.

Mr. DUNCAN. Administrator Hill, in those 26,000 inspections that you did last year, you said you doubled the number of inspections. Did the number of violations also double? Or was there some relation there? Were things getting better or worse from what your agency found out in those inspections?

Mr. HILL. Congressman Duncan, what we have found is that the motorcoach out of service rate is much lower, both for vehicle and driver, than it is for trucks. What we have found is that that has been a constant theme as we have done inspections through the years.

Now, what we have done in the last year since the curbside bus hearing is we have addressed some specific areas with those operators in the Northeast with the Task Force. We have identified 24 curbside operators in the Northeast area, that we could identify, anyway. Of that, we have taken up some enforcement actions. We have done safety or compliance reviews on all of those but one, and that one is pending. In that case, we have found two that have gone out of business after we visited them, and three have conditional ratings. We have taken enforcement cases for I think 15 times, including hours of service, drug and alcohol, and also one

company had speeding problems. So we specifically did enforcement cases against those curbside operators that were having difficulty.

Mr. DUNCAN. I remember that hearing, and you did have some operators in that area that the whole industry, I think, was upset about.

At any rate, thank you very much, Mr. Chairman.

Mr. DEFAZIO. Thank you, Mr. Duncan.

Mr. Altmire, do you have questions? Okay, no questions.

Mrs. Capito?

Mrs. CAPITO. Thank you, Mr. Chairman.

I want to thank the gentlemen for testifying.

I am very interested in this subject, particularly on the heels of the Atlanta tragic accident. I happen to have a daughter who travels with an athletic team, and they drive a lot of times in the middle of the night, rushing to get back for class after completing their athletic endeavors.

I would like to ask two questions. One is the relationship between the NHTSA, the NTSB, and the FMCSA, if I have them all. I think a lot of times people working in the right direction, trying to improve and make suggestions for safety, for driver safety, for vehicle safety, but sometimes there is a lack of coordination between the three entities that are working and other such entities, whether it is the States or other localities.

What kind of measures have you all put forward, or do you think would be good to put forward, to see that the right hand is talking to the left hand, and all going in the same direction?

Mr. HILL. Congresswoman, thank you for that question. One of the things that happens when the NTSB issues a recommendation, we are required at the Department level every month to go through an evaluation process of how we are doing on meeting rulemaking deadlines and also NTSB recommendations.

So we are required to report to our Deputy Secretary every month on the progress we are making with those specific recommendations. Also it requires us to coordinate with the sister agency, so that we have to show if this is a recommendation, as the Chairman has indicated today, that involves NHTSA, FMCSA involving motorcoach safety, we have to report on how we are coordinating and communicating with NHTSA and milestones that we are supposed to meet in making that recommendation. So we have internal processes.

And I can just tell you as an agency, we work very closely with the NTSB staff and also the NHTSA staff to try to, in this case, deal with bus fires. One of the charges that came out of the Wilmer bus fire investigation was the need to improve bus fire data. So we have been working with NHTSA to better identify sources of information about bus fires. We are also working with the fire group to deal with information they have in that arena. We are right now analyzing 550 bus fires that have occurred over the last 10 years to better get our hands around what is going on with these tragic instances so that we can then develop policy and regulatory agendas for how we should proceed accordingly.

Mrs. CAPITO. Did you have another comment?

Mr. ROSENKER. Yes, ma'am. Our business is to investigate accidents, to determine the probable cause, and from that probable

cause, develop a series of recommendations that will prevent that type of accident from happening again. We present them to our fellow agencies. Now, we are an independent agency, so we will operate by talking to the modal administrators of their agencies. We will talk to the departments. We will also talk to Congress. We will also talk to operators. We will also talk to manufacturers.

Our record is pretty good. Of the 12,600 recommendations we have issued in the 40 years that we have been around—and we will celebrate, if I can offer a little commercial, our 40th anniversary beginning in April—82 percent of what we have recommended has become either an operating change, a manufacturing change, a regulatory change, or a legislative change.

So we are proud of our record. I would like to see that become 100 percent and the Board will be working toward that.

Mrs. CAPITO. A quick question. Has there ever been any research into airbags in motorcoaches, side bags?

Mr. ROSENKER. There has been a good deal of research, but I don't know where the final assessment and analysis is. We are really interested in examining what this report, which was just released by NHTSA and Transport Canada, says about occupant protection in motor coaches.

Mrs. CAPITO. Okay, last question, most of the motor operators are small businesses. According to the data, only 1 percent of the companies in the industry operate more than 100 motorcoaches. Do you have available some special training for small businesses? I think we have identified this as part of the problem with the inability of some small businesses that are getting in this maybe without going through all the hoops, and then 18 months later then becoming inspected.

I think this is shining a light on a deficiency, at least in terms of small business training and safety awareness.

Mr. HILL. Congresswoman, one of the things that happened with the Congress back earlier than when I was with the agency was they set up the new entrant program as a statutory requirement. It said basically we want you to go out and we want you to help motor carriers understand what their responsibilities are under the law, and then make sure that you audit to see whether or not that happens after they first come into business.

We believe, as the Chairman has indicated, that the whole motorcoach industry is so sensitive with the commodities they haul. We didn't feel comfortable waiting for 18 months. That is why we administratively have moved that up to nine months to get in there and visit them.

Secondly, we are taking an approach that we do have information on our web site for new entrant motor carries, motorcoach operators. Secondly, we are visiting them. There are 900 of them in a given year that come into business, so we go out and make sure that they are visited. And then we provide tools to them, either through written materials or web site materials, and then we take them through the process to make sure that they have the systems in place—drug and alcohol, hours of service, and so forth.

So we are doing that. I think what we need to do is as we are seeing the new entrant process change, we have issued a notice of proposed rulemaking to change the way we look at new entrants,

to make it more stringent. We believe that as that goes into effect, we are going to see much more oversight of those new entrants, as the Chairman had indicated, on an earlier visit than we are now.

Mrs. CAPITO. Thank you.

Thank you, Mr. Chairman.

Mr. DEFAZIO. I thank the gentlelady for the good questions.

Ms. Fallin, go ahead. Mr. Oberstar is thinking, as he often does, so he will have questions soon.

Ms. FALLIN. Thank you, Mr. Chairman.

I heard you talk, Director Hill, that you have doubled the amount of inspections on the buses. I think it is very important for us in Government to have a culture of continuous improvement in all processes that we deliver.

I also heard you say that it would be helpful if you had authority to do more things for safety than the laws allow. I don't know what you meant by that, but if you could explain what we can do in Congress to help you, that the laws might allow you to do for safety.

Mr. HILL. Specifically, it was the interchange between the Chairman and I concerning the new entrants. He said we may have a statutory issue. Right now, the law says that we have to get in and do a new entrant audit within 18 months. So we can't withhold the ability to issue operating authority to anyone until we have had the new entrant review.

So I am not suggesting that we require every single person to show fitness beforehand. That would be something that we would have to work with the Committee on. But I do think that the motorcoach issue does require up front evaluation much more stringently than we do with people who haul general freight.

Ms. FALLIN. Okay. If I could do a follow-up question, Mr. Chairman. You were asked about the airbags and if there have been any studies for safety on airbags. What about seat belts? I know it is a cost factor, but what have the studies shown a far as cost factors versus safety?

Mr. ROSENKER. We have actually done some work early on in seat belts in motorcoaches. The jury is out. In some cases, you may have some unintended consequences of accidents which could be in fact just a minor injury, creating a serious injury with lap belts. So we have done some kinematic simulation and we are still not sure what the answer is.

We are looking at a systems approach, fully integrated. I don't want to give the impression that safety belts are bad. We have done very, very well with safety belts in automobiles. They have been extremely useful and extremely effective in preventing injury and fatalities. The question is how do you do that in a much larger compartment to guarantee that you have, in all kinds of situations, a safe restraining system, and that you won't do harm in what otherwise may well be a minor accident.

Mr. DEFAZIO. Thank you for your questions.

I would like to follow up on that. Was the qualifying word in there "lap" belt? What are you anticipating that could cause more injury if a bus were to go on its side or go on its top, and people are flung out. Let's go to the Georgia case, very recent, very tragic, especially when young people die so prematurely. I think those were mostly ejection deaths in that case. Weren't they?

Mr. ROSENKER. I am hesitant to tell you exactly what happened there, given the fact that we are only 18 days into that investigation.

Mr. DEFAZIO. But we know where the bodies were or weren't found.

Mr. ROSENKER. In some cases, we know exactly what happened, and in others we are still trying to analyze what happened.

Mr. DEFAZIO. Okay.

Mr. ROSENKER. If it is okay with you, Mr. Chairman, I would prefer to talk about the recommendations we have had after studying a number of motorcoach accidents that have been on the record for close to eight years.

Mr. DEFAZIO. Okay, that would be fine.

Mr. ROSENKER. And nothing has been done. They are in the areas, if you will, of NHTSA studying and ultimately coming up with a series of standards which talk about motorcoach occupant protection systems. The word is "systems," a fully integrated system, some of which will be active, some of which may be passive.

We are hesitant at the NTSB to say the answer is clearly using a safety belt in some way, shape or form. It may not be the best answer. It may well be in a bus where you have 50 some odd people to be doing something maybe with a bag, something with an active or a passive system that occurs when in fact a strike occurs or the roll occurs. We have some data that we have seen through our kinematic simulations that has not always proven that a belt is the answer.

Mr. DEFAZIO. Again, just if we could get at the bottom of this, is it because it was a lap belt, not shoulder harness lap belt? Or was it just restraining the person in the seat that caused the problem?

Mr. ROSENKER. It could be, and I hate to be——

Mr. DEFAZIO. You have raised the issue about its potential. I know the EU and Australia have gone ahead with safety belt or shoulder harness safety belt systems. I am just trying to get at the root of is it at the margin? What is the concern about restraining a person in the seat?

Mr. ROSENKER. If in fact we talk in terms of new vehicles, it is much easier to create the system. We certainly do not want to begin the process of retrofitting vehicles that are not designed to be equipped with either lap belts or a combination of a lap shoulder belt. We don't believe that is the answer. They are not currently designed to be able to handle that type of stress or that type of design.

Mr. DEFAZIO. If they were anchored to the seat?

Mr. ROSENKER. If they were anchored in any way, shape or form to even perhaps the floor panels, because the floor panel was not currently designed to hold them.

Mr. DEFAZIO. So we are where aviation was 10 years ago, where they did require lap belts, but the lap belts were developed to DC-3 standards, and we were flying jets. Therefore, the seats didn't stay anchored and the industry was very reluctant to have seats that would stay anchored, until finally a new standard was mandated and we actually began to have seats that were developed for jets and used in jets.

So you are saying basically what you would need is to say from this day forward, or promulgate a future rule for newly manufactured buses that either the seats as they are anchored to the floor people could be safely restrained in the seat, or they could be directly attached to the floor, which would be sufficient. But preexisting buses don't meet those standards and couldn't.

Mr. ROSENKER. Yes, sir. But in addition to that, there may well be even better systems out there, new technologies that may well include smaller bags. If you take a look at what some of the automobiles are doing now, they actually have side bags. That may well be an approach that could be looked at for the motorcoach.

As I say, we are not prescriptive at the NTSB. We are looking for what we believe is a fully integrated systems approach which will result in preventing people from being ejected or thrown in some way across the aisle.

Mr. DEFAZIO. Okay. Thank you. That was a digression.

Chairman Oberstar?

Mr. OBERSTAR. Thank you very much. I am delighted you have scheduled this hearing and are probing into this subject matter in depth. I want to thank you and Mr. Duncan for your thoughtful and carefully structured approach.

Intercity bus travels have been a matter of long interest, and more than appreciation, an economic issue in my District. Greyhound started between my home town and the neighboring community of Hibbing, Minnesota. They started bringing miners to work. Bus Andy, George Anderson founded Greyhound. Well, his neighbor asked him for a lift to work one snowy morning when he figured he couldn't walk and make it in time. After a few days, Bus Andy took a torch and cut his Hupmobile in half, welded a couple of rails in there, put some seats in, and started hauling miners to work for charge.

About the same time, General Motors came out with the first bus. He started it. By then he had named it Greyhound Services. My father was a great bus devotee. He said, if you can't walk there or take a bus there, you don't need to go there, wherever "there" was.

In 2005, while aviation was posting some 700 million passengers in the domestic air space, intercity buses carried 631 million passengers. That should cause us to stop, take stock, and think about the significance of this hearing and its subject matter.

Let me put it in further context. When we created the Federal Motor Carrier Safety Administration, I took language from the opening paragraph of the organic act of the FAA in 1958, and started the legislation with these words: "Safety in motor carriers shall be maintained at the highest possible level." That is the basic guidepost for FAA safety, and it has served us exceedingly well. I thought we ought to, if we are creating a new administration to manage safety for over the road vehicles, trucks and buses and vans and all the rest, that we ought to aim for the best, not just the safety that, as in aviation, the airlines can afford; not just the safety the bus companies or trucking companies can afford; but the highest possible level.

The National Transportation Safety Board has been our beacon for guidance on safety matters, finding what went wrong, giving guidelines to how to fix it in the future.

Mr. Hill, you come from a safety background, the Indiana Patrol. You understand the significance. You and I had a good conversation about several aspects of safety. Not all of the issues that are the subject of this hearing can be laid at your doorstep, but they are instructive for you.

Mr. DeFazio just raised a question about seats. As Mr. Rosenker knows, and Mr. DeFazio and Mr. Duncan as well from his work in aviation, many years ago when I chaired the Aviation Subcommittee, we pressed the FAA to improve the standards and strength of seats, because what happens so often in a crash is the seats shear off, people slide to the front, and are crushed and killed.

So FAA has imposed a 16G standard. Is there any such standard for motorcoaches? Mr. Hill? Mr. Rosenker?

Mr. HILL. I am not familiar with such a standard.

Mr. OBERSTAR. Have you given any thought to such a thing? Have you looked at past accidents and seen what happens to seats when they have a crash?

Mr. HILL. I would be glad to confer with my colleagues at NHTSA, and I would be glad to get back with the Committee on that. I am not familiar with any studies in that regard, sir.

Mr. OBERSTAR. Yes, I think you need some intermodalism here, and I think it would be very important to bring NHTSA into this discussion.

Chairman Rosenker?

Mr. ROSENKER. In the United States, we have no standard specifically for the passenger seat. However, overseas in Australia I believe they have a fairly significant G force. Yet in Europe it is I believe a 3G factor.

As far as the safety belt is concerned in a bus, there is only one requirement, and that is for the driver. That is today.

Mr. OBERSTAR. Yes. That is something that should be considered. I find when I take Amtrak, I sit down and I reach for my belt, and it is not there. Maybe you don't need it, but it should be a thoughtful consideration. That 33 passengers were killed in 2005 is too many. We should have a zero tolerance. That is what aviation's goal is, a zero accident objective.

What is even of further significance is that this hearing is being held and the consideration of safety practices in FMCSA at the very time that the border is being opened to Mexican trucks. The mindset of FMCSA in matters such as over the road buses will be important as an indicator of how you intend to proceed to enforce Mexican trucks.

Now, in the case of Global Limo, the FMCSA found egregious critical violations, and then shut the company down. But that is a rare occurrence, and that was in a unique circumstance. The out of service rate for commercial vehicles, both trucks and buses, is 23 percent last year. Now, if that is the case, and we have Mexican trucks and we are supposed to have inspectors in Mexico and in the United States, and they are going to have inspectors.

What are you thinking about as you proceed with enforcement of the existing intercity bus service and as you look forward to the penetration of Mexican trucks further into the United States? If we already have such a bad out of service record, can you then further delineate between trucks and buses of that 23 percent?

Mr. HILL. Yes, Mr. Chairman. Before you came in the room, Ranking Member Duncan asked me something about the performance of buses and the out of service rate. The out of service rate for buses is fairly consistent for the vehicle part. It is about 9 percent. The 23 percent that you quoted, sir, is related specifically to the truck out of service rate.

As far as the driver out of service rate, it is somewhere around 4 percent for the drivers of motorcoaches. So 9 percent versus 23 percent, I think you are right. We should not be satisfied with 9 percent. We should be looking for the 0 percent to 1 percent. There should not be out of service violations for motorcoaches or trucks. We need to have more improvement in that area.

So I am consistent with you. I am going to CVSA, which is the Commercial Vehicle Safety Alliance, next week to speak with all of our State partners. This is one of the things that I am going to be talking about, is the oversight from this Committee, the commitment to safety, and the fact that we need to continue to improve our activities in motorcoach oversight and not just rest on the improvements that have been made in the last 20 years.

Mr. OBERSTAR. The sooner that the companies understand that the FMCSA is going to be serious and tough and shut some companies down, they will shape up, because they don't want to be out of service. They don't want to be out of business. They have to be in business and in compliance.

Now, in response to an earlier question about the company that was inspected just a short time before its accident, you said that was largely a paperwork review. Explain what you mean by paperwork review.

Mr. HILL. The question was from Chairman DeFazio about, one, when we did the compliance review of Global Limo, why did we not find the vehicle-related defects. What I explained to him is that our compliance review under normal circumstances does not involve an in-depth inspection process of all the vehicles.

What we rely on primarily as far as vehicle inspections is from the roadside inspections and handle them randomly throughout the Country. So there was not an in-depth vehicle assessment at the time that that compliance review was made.

Mr. OBERSTAR. Do you have a sufficient number of inspectors to undertake these reviews? How many inspectors do you have?

Mr. HILL. We have 700 safety investigators throughout the Country. We have between 10,000 and 13,000 State trained inspectors and auditors and investigators among the various State jurisdictions. And when the Congress set up the Motor Carrier Safety Assistance Program, they were very intentional about wanting there to be grant programs given to the States. They wanted this to be a partnership. Having come from the State, I am very much interested in making sure our agency keeps that focus in pushing the work out.

For example, I came to the agency in 2003 and I was shocked that more States weren't doing compliance reviews, somewhere around 1,000 to 1,500 a year. I said, look, we have to get more State people involved in doing compliance reviews of carriers. They have more people than we do. They have the expertise, and are closer to the situation. They know this.

So we have now increased that last year up to over 5,000 compliance reviews by the State people. That is not satisfactory for me. So to answer your question, I want to see more resources dedicated to commercial motor vehicle safety, and that is one of the communications I am going to have with the States next week.

Mr. OBERSTAR. That is very good and commendable. I will close on a note that you go meet with those folks next week, and you tell them this Committee is serious about safety. We are serious about the partnership between the Federal and the State government. I participated in that, in crafting the language, although I thought we ought to have a stronger Federal role, but there is a partnership between the Federal Government and the State government in the construction of our highways and bridges and transit systems. There similarly should be a partnership on safety.

I will just give you one example. In the mid-1980s, I was Chair of the Investigations and Oversight Subcommittee. We were looking into aviation safety. We found major failures of maintenance in U.S. air carriers. The FAA Flight Standards District Offices reported to the Subcommittee that we don't have enough people to do these inspections; we are looking at paperwork, not engine work; we are looking at reports, we are not hands-on on the shop floor.

As a result of that, Congress and this Committee approved an authorization of an increase of $10 million to hire at least 1,000 more FAA safety inspectors, and train them, and put them out in the FSDOs, the Flight Standards District Offices.

So you can't do safety if you are just looking at the paperwork and looking at the reports. You have to be in the shops, in the offices, with the drivers. You have to be out on the roads.

Thank you.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Boozman?

Mr. BOOZMAN. Thank you, Mr. Chairman.

I really don't have any questions, but I have appreciated the discussion, and I appreciate you and Mr. Duncan holding the hearing. This is not the most glamorous subject in the world, but it is very, very important. So again, I appreciate it. Thank you.

Mr. DEFAZIO. I thank the gentleman.

Just to follow up on the Chairman's line of questioning, Administrator Hill. What is a compliance review versus what do we call the initial review when a new company is established? What do we call that?

Mr. HILL. A safety audit.

Mr. DEFAZIO. Okay. So does a safety audit include a thorough inspection of all the equipment, since a compliance review does not?

Mr. HILL. No, Mr. Chairman, it does not.

Mr. DEFAZIO. So in a safety audit, we are still not going out and physically looking at the buses there?

Mr. HILL. Mr. Chairman, the operative word there was "thorough." You said, do we do a thorough inspection. We do some inspections at the business, but it is not as robust as you are indicating that you would like it to be.

Mr. DEFAZIO. Okay. But a safety audit for a new entrant does include at least going out and taking a look at the equipment.

Mr. HILL. In some cases, it does, but it is not the normal.

Mr. DEFAZIO. That causes me an even new and higher level of concern. So we have someone who has entered into business. They are a new entrant. And I appreciate the fact that you are getting to them within nine months, and not 18 months, to look at mostly paperwork, but I just can't believe that at some point do all States require physical inspection of buses for new entrants? Do all States require that?

Mr. HILL. Not all States, no, sir. There are some that do. For example, in Indiana and I think in Ohio they have that kind of regime. The bus that was in question here in the Atlanta crash had been inspected by the Public Utility Commission authorities the Friday before that crash.

Mr. DEFAZIO. Right. But the one in Texas, for instance, Texas doesn't inspect buses.

Mr. HILL. Well, I don't know the answer, but I would be glad to get back with you. But several States do not require it. That is correct.

Mr. DEFAZIO. So we have the possibility that we have a new entrant, and they can operate for nine months under your current inspection regime, under your regulations up to 18 months, without any review of their operations, except for random safety checks on the highway. And then even when we do get someone there, we are not mandating at least an initial inspection of their equipment. That is correct, right? That is correct?

Mr. HILL. That is an accurate description. Yes, Mr. Chairman.

Mr. DEFAZIO. Yes, okay. If I could just return again to the Texas incident, I am again curious, and there is some discrepancy between when the compliance review was conducted versus when the deaths occurred. I have one source that says three months, and another that says 19 months. Do we know the answer to that?

Mr. HILL. I would feel better about getting back with you on the record, but I know that there was a compliance review that was done initially by our agency, and there was a review done by the Texas authorities. And then after the tragic event that occurred, we went back in and did a compliance review again. I would like to get back to you, if we could.

Mr. DEFAZIO. Okay. If we could nail down the chronology, the deficiencies found, when was the initial compliance review, what deficiencies were found, what further action was taken. Because I am puzzled. The driver did not speak, understand or read English; did not have a U.S. commercial driver's license; did not get a U.S. doctor to issue him a medical fitness certificate; and had never received training on the bus he was operating. I don't know where they got him. He maybe just snuck across the border and they put him in the driver's seat and he was a good price for the company.

But I am just curious as to how long he had been there, and they only had six drivers. We are not talking about a big company. If

you are coming in and reviewing the paperwork, and the company has six drivers, how could we miss the fact that the guy is an illegal immigrant who has no training, no license, and no medical review? I mean, how could that happen? That has to have been a contributory factor here.

Mr. HILL. Mr. Chairman, all I can say to you is that when we did the review, it is possible that more drivers could have been hired after we did the review, but that is something that I will have to delineate in the current review.

Mr. DEFAZIO. We would also like that chronology if we could, too.

Mr. HILL. Yes, sir.

Mr. DEFAZIO. Was this person on staff at the time of the review, and somehow did we miss those extraordinary deficiencies.

Chairman Rosenker, am I pronouncing your name properly?

Mr. ROSENKER. Yes, sir. Very well. Thank you.

Mr. DEFAZIO. All right. I just wanted to make sure. People always butcher mine, so I am sensitive to that.

I want to ask you to quantify back. It is a point you have made, but I just want to get at the bottom. There have been 65 recommendations, according to our records, since 1999 to the Federal Motor Carrier Safety Administration, and only 26 have been closed, which when you talked about your overall recommendations and statistics, historically you had an 80 some odd percent closure rate. In this case, by my rough estimate, we are pretty far below 50 percent here. We are in the low 40s.

Could you tell us which of those you think, again for the record, are the most important that have not yet been acted upon? I assume none of these are frivolous. I don't think NTSB proposes frivolous things, but some of them might be potentially expensive. Is that the problem? Could you just enumerate a little bit, or elaborate?

Mr. ROSENKER. Sir, 36 remain open of the 65. The actual percentage rate from 1967 until today, the 40 years of the NTSB, is about 72 percent. So we would like to see the Administrator bring that up by about 10 percent. At least he would be average, and frankly we would like to see him even go beyond that.

Mr. DEFAZIO. We don't think of him as an average guy. We would like him to beat the average.

Mr. ROSENKER. I would agree, sir. I would agree.

Mr. DEFAZIO. All right.

Mr. ROSENKER. The areas that we are particularly interested in are that of dealing with the driver; that of medical issues. We have put out eight recommendations, seven of which are still open. Now, they have a Medical Review Board that is getting ready to work on a host of the medical issues that I believe we have suggested.

Part of the problem, Mr. DeFazio, is it takes too long from the time we make a recommendation to the time the FMCSA and frankly NHTSA and in some cases other modal agencies, to implement what we have said. These are well thought-out recommendations. These are documented by virtual analysis of accidents. And because of that, when you implement them, we genuinely believe you can begin the process of prevention, and if in fact you have an accident, mitigating the tragic results.

Mr. DEFAZIO. Thank you.

Mr. Hill, do you care to respond?

Mr. HILL. Mr. Chairman, the medical issues that are involved in the most wanted list and also in the open recommendations are something that we have been working on very hard at FMCSA. Let me just point out a couple of things that we are doing.

My predecessor when she came in and I was her Chief Safety Officer, we really worked hard at getting the rulemaking backlog improved. Medical processes are part of that. We have set up the Medical Review Board. We are dealing with preparing right now regulatory action to deal with the National Registry, so we would have an examiner registry to make sure that the people that are doing exams are meeting standards, and then we can track it and make sure that they are complying with what the guidance from this Committee has been.

And then the Medical Review Board has met three times. They are meeting again in April. They are going to be giving us recommendations on how we should then proceed with changing our regulations. Most of these medical regulations have been in place for a number of years. I know this Committee has given us specific guidance in SAFETEA-LU about diabetes exemptions and so forth.

So we are trying to make sure that our medical standards reflect current science. So we are working to do that. We have a great panel of people that are putting that together. We have issued a notice of proposed rulemaking for combining the medical certification with the commercial driver's license. That comment period has closed. We are now going through the comment analysis phase, and we are going to prepare, then, the final rules so that we can get it out.

We want to get this done. We want to get this most wanted list taken care of. I am anxious to work with the NTSB on doing it. One of the things I would like to say to the Chairman and this Committee for the record is that we are getting a lot of guidance from people that think that we ought to just model some other medical program that is in place, specifically the FAA, which is a much different set of people. We are dealing with six million drivers. It is going to complicate the costs. It is going to complicate the oversight.

So what we are trying to do is to make sure that we come up with a rule that meets the guidance that Congress has said, within the constraints of cost/benefit that we must deal with as an agency.

Mr. DEFAZIO. Okay. Thank you.

Mr. Dent?

Mr. DENT. Thanks, Mr. Chairman.

Good morning. Mr. Hill, I have a question for you with respect to safety matters. In the safety scoring database that FMCSA maintains, SafeStat, some bus companies appear to have no record of inspections by Federal inspectors. How does a bus company not have any inspections, yet still retain its operating authority?

Mr. HILL. Congressman Dent, one of the things that I talked about earlier in this hearing was the need to prioritize the bus compliance review process differently than what we have been doing. When we first got the initial set of recommendations from the hearing in Wilmer, Texas, in which the bus fire we have been discussing came out, I think one of the Members made a very as-

tute observation that there are some of these motorcoach companies that have never had a compliance review, and some of them have been in business for a number of years.

I came back to staff, and I said this is unacceptable. We have got to get every one of these passenger carriers rated, even if it means diverting resources. So what we are going to do between now and the end of the year is we are visiting every unrated, that means a carrier that has never had a compliance review with us, we are going to visit every one of those carriers to make sure that they have a safety rating in place, so we can track their performance better.

So that is something that we are doing. And then we have increased the number of inspections from what we did last year significantly. We are going to continue to address that by requiring the States to have a bus inspection program in place. Some States have not been doing bus inspections, so we are requiring that as a part of receiving grant funding.

So to answer your question, we want to make sure that there are better inspections, better compliance reviews so that we can better track these motor carriers.

Mr. DENT. That leads to my next question, which is there have been reports of bus companies failing their safety inspections, and FMCSA is revoking the company's operating authority. And then within a short period of time, a few days, the bus company resumes operations. So how is it possible and what additional steps need to be taken to ensure that an operator that is shut down for non-compliance doesn't simply restart operations under a different company or corporate name?

Mr. HILL. This is a huge issue for us because you are right. That has been the practice, not just with bus companies, but with truck companies that want to skirt the safety violations. So we are working. One of the requirements of SAFETEA-LU is that we are supposed to have a rule in place that will allow us to better track these carriers when they go out of business. So we are in the process of trying to define what kind of identifiers can we label a corporate entity with, and track the movement of those people, and at what level, to make sure that we know that when a carrier does stop operation because of our safety practices, we can track where they are going.

At this point, what we are doing is we are dealing with anecdotal information that we receive from our investigators. We also rely on the SafeStat prioritization scheme. When we see a carrier coming up as unsafe, we go back and verify whether or not that carrier has been having similar problems.

So we are trying to use some of our existing resources, but we are also looking to the future to write a rule to address this.

Mr. DENT. Okay. Thank you for that answer.

At this time, I will yield back the balance of my time. Thanks, Mr. Chairman.

Mr. DEFAZIO. I thank the gentleman for his questions.

Mr. Coble?

Mr. COBLE. Mr. Chairman, I apologize for my belated arrival. I had a Judiciary hearing earlier.

Mr. Hill, let me ask you this. There have been reports of bus companies that fail safety inspections, and the FMCSA then in response revokes the company's operating authority. And then within a few days, the bus resumes operations, I am told. How is this possible? And what additional steps need to be taken to ensure that an operator that is shut down for non-compliance doesn't simply restart operations under a different corporate name?

Mr. HILL. Congressman Coble, as I was mentioning earlier in the hearing——

Mr. COBLE. This may have already been addressed. Has it been?

Mr. HILL. I would be glad to answer the question.

Mr. DEFAZIO. I think the gentleman's question is a little different. I think he is asking if you actually do get to the point of enforcement and basically having them suspend operations, I believe the gentleman is saying even though they received that order, they begin operating again. Not that they have been approved to operate again, but they continue or begin to operate. Is that the gentleman's question?

Mr. COBLE. Yes.

Mr. DEFAZIO. I don't think that has been addressed.

Mr. COBLE. Okay.

Mr. HILL. I know that, Congressman Coble, this was a problem especially in the Northeast with some of the curbside operators after last year's hearing. This was an issue that was brought up. So what we have done is in the last year we have directed a series of strike force activities to address these curbside operators. We have identified 24 of them to date.

We have also been dealing with enforcement action against them. So we are trying to first of all identify who they are, so that we know who the principal owners are, and then we have gone in and visited them. And then secondly, when we find complaints or violations of another curbside operator, we go to make sure that this is not a recreated entity, by looking at the names and the information we have from the earlier compliance review.

The one thing that we have not had in place is we have not had compliance reviews of all these carriers done. So we have now identified these 28 companies, and I said earlier that 18 of them have been visited with ratings; three are conditional; two have gone out of business; and one is pending a review.

So we are trying to build our database so that we know exactly what is going on. As I indicated in the earlier questions, we are now in the process of developing a rule that will allow us to take enforcement action against people that recreate themselves.

Mr. COBLE. It appears you are on top of this. I am encouraged to hear that.

Thank you, Mr. Chairman.

Mr. DEFAZIO. I thank the gentleman for his question.

If we can go back just to this issue. My understanding is that an operator has to fail in two or more areas to get an unsatisfactory. Is that correct? So even if they are abysmal over here in the driver ratings, if over in the other categories they are okay, you would not give them an unsatisfactory? Is there a level at which, within one category, they have problems that you would give them an unsatisfactory rating? Or is there some regulation that precludes that?

Mr. HILL. No, it is an internal process, and that is one of the reasons why we are looking at the comprehensive safety analysis, 2010, to redo the way we do safety ratings, sir.

Mr. DEFAZIO. So currently that is the case?

Mr. HILL. Yes, that is correct.

Mr. DEFAZIO. So someone can have a whole bunch of drivers over here that are just like the Wilmer driver who is an illegal alien and no drug testing, no competence, no license, no medical, no nothing, but we wouldn't flunk that company if we found out they had someone like that? Under current rules, we couldn't?

Mr. HILL. We could take enforcement action, but we would not revoke their operating license or give them an unsatisfactory rating.

Mr. DEFAZIO. Boy, that does not give me much confidence. I think Mr. Rosenker would say these are two critical things. Could you tell us what those two critical things are?

Mr. ROSENKER. Mr. Chairman, you are on target as far as the NTSB is concerned. We believe that there needs to be some weight to these issues, the weight to the issues on driver performance, driver medical categories, driver knowledge, a whole host of issues which are directly attributed to the driver's capability to drive that vehicle safely.

In addition, we believe there needs to be high weight put on the safety of the vehicle itself. If the vehicle is the Wreck of the Hesperus, then we believe the FMCSA ought to be able to say this vehicle is not safe to be put on the road and it will not be in our enforcement procedure.

Mr. DEFAZIO. Mr. Hill?

Mr. HILL. May I follow up, sir?

Mr. DEFAZIO. Sure. Okay.

Mr. HILL. Mr. Chairman, I would just say to you, we don't just give them a rating that is satisfactory or conditional, and then allow them to go into oblivion. We do have a system called the Inspector Selection System, ISS, which essentially provides roadside inspectors with a score of whether or not these vehicles and drivers and their safety practices are meeting standards. So if they are having deficiencies, as you have outlined, in this area of driver deficiencies, that is going to show up in this inspector score, and they are going to be required to be inspected as they go through a weigh station or they get stopped along the roadside. So we do have some oversight.

However, the safety rating piece that you specifically asked about, that is accurate.

Mr. DEFAZIO. I guess the question would be, and again this goes back, which you can't answer specifically, about their rating, how they receive that rating, and whether or not those items were identified, and the ISS was stopping the Global Limo vehicles. Because as I understand it, they were switching off license plates. They had illegal drivers. They were not doing maintenance. And somehow, they didn't ring any alarm bells until they killed 44 people.

Mr. HILL. The Chairman is well noted on that, and I am going to have to concede that there were some deficiencies in this whole mess.

Mr. DEFAZIO. I think we really need to kind of compare. This could be a really instructive case of comparing, since we did actually have a compliance review, and comparing what was identified; what that triggered; what follow up; and what actually happened; and the findings of NTSB and others that we will have soon, as I understand it, about what deficiencies existed after the fact.

So this may be really an instructive model to where the system doesn't really track in a linear way. I am just appalled. There ought to be certain level of violation in one category where you just say, look, you have this guy driving who doesn't have a CDL, doesn't have a medical, doesn't speak the language, doesn't know how to drive the vehicle. We are taking license plates back with us, and you get in touch when you straighten this stuff out, and we will send an inspector by again.

Mr. HILL. Mr. Chairman, one of the things that I would just say to you is that in the case of the tragedy that occurred in Llano, there is another story that can be told here. The bus company had been visited. They did have the safety practices in place. We had done inspections just within days before.

Mr. DEFAZIO. No, that goes to the second issue, which is containing people in the vehicle and the integrity of the vehicle. I understand. I am not saying that your system always fails. There are a very few bad apples out there, obviously, or we would have a lot more problems. But we have to get the bad apples out of the barrel a little more expeditiously. That is a very simple way of putting it, but I think that is what the public would expect. I don't know, I do.

Do either of you have any further reflections or closing statements? Otherwise, we will move on.

Mr. HILL. Could I just say one thing in regard to this?

Mr. DEFAZIO. Sure.

Mr. HILL. I think it goes to the heart of what you are saying, Mr. Chairman. There was a program that was put in place several years ago, what we now call PRISM. Basically, what this does is it comes out actually the 1991 ISTEA. It allowed for the linkage of the safety performance with the registration system, which in the past were not conjoined. So we have right now I think 27 States that have the legislative authority to revoke registration plates of motor carriers that are found to be not in compliance with safety regs. I think that is a good thing.

If we could have more States participating in that, we are working that very hard. But I think that is an area where we can get to the heart of this because as States have the authority to revoke registration, then you don't just have somebody violating a service order, you have somebody violating registration laws. And when they don't have the plates, that is a lot easier to detect than just an out of service order. So just a point of order, sir.

Mr. DEFAZIO. Well, I would be very interested in working with the Department on that, and would be happy if you provided some details to correspond with those States and State legislatures and suggest that that would be a prudent step for them to take. So if you could provide some follow-up information, a list, I would be happy to follow up on that.

Mr. HILL. Okay. Thank you, Mr. Chairman.

Mr. DEFAZIO. Yes?

Mr. ROSENKER. Mr. Chairman, I thank you for the opportunity to be before the Committee today. I enjoyed the opportunity to be next to my friend, Administrator Hill. He has a tough job. I believe he and his colleagues at the FMCSA are as dedicated to safety as we are at the NTSB, and as the folks over at NHTSA are.

All I would ask is that the Administrator take a look very carefully at our recommendations, and work with his staff to expeditiously implement them, and get that number from 72 percent to perhaps 84 percent or 85 percent, because as the Chairman said, you are well above average, Mr. Administrator.

Mr. DEFAZIO. I thank you both. This is a very big job, given the volume of the vehicles. I just know that we have to do better. So thanks to you both for being here today and helping contribute to ideas for improvement. I appreciate your time.

With that, I would dismiss this panel and call the next panel to come forward.

I thank the second panel for being here. We will begin with Mr. Crean.

TESTIMONY OF CHRIS CREAN, DIRECTOR OF SAFETY AND SECURITY, PETER PAN BUS LINES

Mr. CREAN. Mr. Chairman, members of the Committee, my name is Christopher Crean, and I am the Director of Safety and Security for Peter Pan Bus Lines.

First and foremost, I would like to thank you for the opportunity to appear today and discuss the issue of bus safety. For the past 17 years, I have had the pleasure to work for Peter Pan Bus Lines, which is located in Springfield, Massachusetts. Peter Pan was founded in 1933 and has for 74 years made safety a priority in its operations. Because or that commitment, I have been an active member of the American Bus Association, Bus Industry Safety Council, and an associate member of the Commercial Vehicles Safety Alliance, and a board member for the local chapter of the National Safety Council.

I know we are here today to discuss bus safety. It is quite simple. If we want to improve bus safety, then let's simply begin enforcing the regulations and funding the enforcement effort. New entrant audits must be conducted within a time frame that FMCSA has laid out. New entrants must be held accountable for failure to implement and comply with the regulations.

The safety audit process does very little, in my opinion, to take potentially unsafe carriers off the road. If a carrier should fail a safety inspection or an audit, the license of that carrier should be suspended or revoked until that carrier comes into full compliance.

Secondly is the issue of curbside carriers, which I am sure you have heard a lot about. These carriers offer low cost service at the expense of public safety. These carriers operate daily in defiance of Federal and State law. FMCSA has initiated some enforcement action against these carriers, but it is has been very much an uphill battle. When these carriers are subject to enforcement action, they simply change their name, their registration, their address and DOT number, and continue operation with a different paying scheme and a different name.

FMCSA must immediately become aggressive in the auditing and enforcement of all curbside carriers. As a matter of fact, I would say that FMCSA should treat curbside carriers in the same manner they would treat me if my company was not in compliance with FMCSA guidelines.

Lastly, please let me mention the issue of SafeStat, a tool designed for both the consumer and the enforcement community to identify unsafe carriers. SafeStat does a great job identifying unsafe carriers. Unfortunately, it ends there. Carriers identified by SafeStat as unsafe are allowed day to day to continue their operation without even a hint of possible enforcement action.

I ask, what is the point of identifying an unsafe carrier if nothing is going to happen to that carrier? These carriers know nothing will be done and that is why accidents will happen and public safety will continue to be jeopardized. As a carrier who each and every day puts his best foot forward, as one who makes sure that his carrier is so safe that even his family and friends will ride on it, I say enough—enough with the carriers who violate the law; enough with the carriers who jeopardize the lives of thousands of innocent individuals whose only fault is sharing the highway with them. I say enough. These carriers must comply with the law. We must close the gap, and we must end the free ride for these carriers.

Gentlemen, Mr. Chairman and Members of the Committee, thank you for the opportunity to speak. I am open to any questions. Thank you.

Mr. DEFAZIO. Thank you.

Mr. Scott?

TESTIMONY OF BRIAN SCOTT, PRESIDENT, ESCOT BUS LINES

Mr. SCOTT. Thank you, Mr. Chairman.

Chairman DeFazio, Mr. Duncan, members of the Committee, I appreciate your calling this hearing today and the opportunity to represent the bus and motorcoach industry in my testimony. This Committee has a long and distinguished record of promoting safety on the roadways and lies at the center of our Nation's public discourse on the best practices to achieve safe and efficient travel.

On behalf of the United Motorcoach Association, it is my goal to provide the Committee our perspective on the factors that have contributed to our industry's venerable safety record and our goal of improving that record.

We are all here with heavy hearts today, Mr. Chairman, as this hearing comes on the heels of the tragic accident in Atlanta that killed seven and injured many more. On behalf of the UMA, our thoughts and prayers are with the families of those affected.

My name is Brian Scott. I am President of Escot Bus Lines of Largo, Florida. I also currently serve as the Chairman of the United Motorcoach Association, the leading national association for bus and motorcoach operators. Our company was founded in 1983 by my parents, Louis and Diane Scott. We are proud to say that Escot Bus Lines remains a local family owned and operated company serving the Tampa Bay and Central Florida communities for nearly a quarter century.

Our family's commitment to safety is responsible for our growth from a two-bus company in 1983, to a medium size business by our

industry standards. We enjoy the highest safety ratings available from the U.S. Department of Transportation and the United States Department of Defense.

Today, my sister Pam and I run the business, while my parents remain involved as advisers on our board of directors. We operate 45 buses and motorcoaches, conduct over 500,000 charter passenger trips, and 1.7 million employee shuttle passenger trips annually.

Much like Escot Bus Lines, the bus and motorcoach industry represents a true small business success story, where most companies are family owned and multi-generational. There are nearly 3,600 bus and motorcoach companies in our Nation, operating nearly 40,000 motorcoaches, providing 631 million passenger trips annually. The average company employs 46 individuals. Each bus and motorcoach represents an industry average of 4.23 employees, and 75 percent of the industry consists of fleets of fewer than 100 units. Indeed, nearly one half of the industry consists of fleets 24 units or fewer.

To meet customer expectations of safety and comfort, the bus and motorcoach industry has been quick to adopt safety advancements such as anti-lock brake systems, engine brakes, and high back seats that have become standard due to the industry's rapid adoption. These safety advancements continue to be adopted, while the purchase price of a motorcoach has increased rapidly. Where a motorcoach cost approximately $175,000 20 years ago, today's modern motorcoach routinely tops $425,000.

Today, technologies such as global positioning systems monitor drivers' behavior in ways unimaginable a decade ago. Cameras monitor and record driver and passenger activity, as well as the immediate environment. Electronic tire monitoring systems reduce the likelihood of tire failures and fires, while fire suppression systems are increasingly being utilized.

Our industry prides itself on an excellent safety record, but despite averaging fewer than 10 fatalities each year, one fatality is one fatality too many. Safety isn't just a management function with our business. It is our business.

If our customers lose confidence in our ability to transport them, we lose our business. There is a direct correlation between safety and success. The United Motorcoach Association offers the public a detailed, online consumer guide to purchasing motorcoach services, and a student's guide in an effort to aid the Nation's consumers in selecting a safe, reliable bus and motorcoach operator.

The UMA, along with offering routine safety-related assistance in seminars at our annual conventions, hosts an annual safety management seminar held at the NTSB's academy in Ashburn, Virginia, which has exceeded its capacity every year.

Earlier this year, UMA's board of directors announced the launch of the Bus and Motorcoach Academy, which is accredited by the College of Southern Maryland. This training academy will serve as a source of basic operational knowledge for owners and management, along with courses that one has the knowledge and skills of our industry's most valuable assets, which are our drivers.

UMA also works with the Bus Industry Safety Council and the Commercial Vehicle Safety Alliance in continuing efforts to develop

and propagate safe operating practices. For new operators coming into the fold, UMA also has a new operator's guide, which goes over all the details that an operator needs to know in order to be a safe and profitable operation.

In conclusion, the over the road intercity bus industry remains a vital component of our Nation's economy, with services affording access to jobs, education and health care. Our industry is a critical component to our Nation's travel and tourism industry. The bus and motorcoach industry is represented by the United Motorcoach Association and stands ready to assist Congress and the National Highway Transportation Safety Administration in the further development and implementation of safe practices and equipment, grounded in sound science and testing, that improves the safety for our Nation's 690 million annual over the road intercity bus passengers.

Thank you, Mr. Chairman, Mr. Duncan and Members of the Committee your indulgence. Again, I am honored to testify before this Committee and would welcome any questions.

Mr. DEFAZIO. Thank you.

Mr. Hamilton?

TESTIMONY OF BRUCE HAMILTON, PRESIDENT/BUSINESS AGENT, AMALGAMATED TRANSIT UNION NATIONAL LOCAL 1700

Mr. HAMILTON. Thank you, Mr. Chairman and Members of the Committee. My name is Bruce Hamilton. I am the President of Amalgamated Transit Union National Local 1700, representing Greyhound employees nationwide.

On behalf of our members and all ATU members who operate intercity bus service, including those at Peter Pan Lines, I am very grateful for your interest in intercity bus safety, and for the opportunity to testify.

Today, I will briefly touch on safety issues of concern to the ATU, including the need for increased enforcement of existing Federal standards, vehicle safety standards, and the issues of driver fatigue, and of public security.

The first issue is, and has been, one of primary concern to the ATU. That is the emergence of numerous low cost carriers that skirt Federal safety regulations and other things. Since Mr. Crean of Peter Pan has done such a good job of going into that issue, I will just say one thing, which is that there is simply no excuse for continuing to allow these unsafe companies on the road. We must be more aggressive with the enforcement of safety and other regulations, and the penalties must be significant enough to deter violations.

On a related issue, steps must be taken to ensure that these and other bus companies employ drivers that meet the English language requirements of Federal regulations and other Federal motor carrier safety regulations that a commercial motor vehicle driver must be able to read and speak English sufficiently to converse with the general public, to understand highway traffic signs and signals, to respond to official inquiries, and to make entries on reports and records.

Despite this, some States actually allow applicants for a commercial driver's license to take the CDL test in a foreign language.

Driver fatigue is another issue that has often been cited as a contributing cause of bus accidents. Despite this, the DOT in the recent past has proposed increasing the number of hours that an intercity bus operator is allowed to drive. The ATU urges this Congress to oppose any proposals to increase the hours of service for bus drivers. In fact, we would support certain further restrictions on those hours in order to reduce driver fatigue and to reduce accidents.

I strongly believe that the best way to reduce drive fatigue is to increase driver wages and benefits. Decline in wages in the industry has put pressure on drivers to work longer hours in order to make a living. By passing the Employee Free Choice Act, Congress can make it possible for all bus drivers to bargain collectively for better wages, benefits and working conditions, which will improve safety. I want to thank the Members of this Committee who voted recently to pass this important legislation. I urge you to call upon your colleagues in the Senate to do the same.

On the issue of vehicle safety standards, tire blowouts and fires, which have previously been discussed, are big, big concerns for the members I represent. We need the better reporting that has been discussed of any of these incidents. We need more research on the causes of blowouts and fires in order to prevent them. We also need research on issues such as seat belts and airbags and window glazing to determine if there are improvements that can be made to current vehicle standards that could save lives.

Another top concern for the industry and my members is security. The ATU strongly supports legislation introduced by the leadership of this Committee that would provide significant funding for both operating and capital expenditures to enhance the security of our Nation's intercity bus network. While the threat of terrorism against our industry is real and must be addressed, we must also take measures to protect bus drivers from everyday assaults.

In this realm, we urge Congress to clarify provisions of the Federal criminal code to ensure that crimes against intercity bus employees are treated the same as crimes against transit, school bus, and charter bus operators.

Further, we must revise incident reporting requirements for intercity bus operations to include assaults against employees. This will allow us to determine the extent of the problem and to identify measures to address it.

Finally, I want to urge the Committee to adopt a national ground transportation policy that will ensure that all American citizens in urban and rural communities alike have access to safe and affordable transportation, especially in emergency situations. Since deregulation of the industry, we have seen the abandonment of service to thousands of communities across the U.S. In many cases, Greyhound was the last remaining means of public transportation. Now, citizens in these communities are left without necessary public transportation.

The tragic events of 9/11 and of Hurricane Katrina demonstrate the importance of having buses available across the U.S. to safely

transport people out of harm's way. A strong national bus program would meet this need.

Again, thank you for the opportunity to testify. I would be happy to take questions.

Mr. DEFAZIO. Thank you, Mr. Hamilton.

Ms. Gillan?

TESTIMONY OF JACQUELINE S. GILLAN, VICE PRESIDENT, ADVOCATES FOR HIGHWAY AND AUTO SAFETY

Ms. GILLAN. Thank you very much.

Good morning, Chairman DeFazio and Representative Duncan. Thank you very much for having these hearings. I am Jackie Gillan, Vice President of Advocates for Highway and Auto Safety, a coalition of consumer health, safety, and insurance companies working together to improve safety on our highways.

Motorcoach safety is a serious concern for anyone who uses this growing and affordable mode of transportation. Unfortunately, when it comes to motorcoach safety, consumers are forced to travel wearing a blindfold.

The recent bus crash involving a college baseball team points out several major issues that need to be examined in this crash, such as the role highway design may have contributed to the confusion of the bus driver; also the design and structure of motorcoaches lacks state of the art safety systems that could better protect occupants in a serious crash. For example, many motorcoach fatalities occur because occupants are ejected from the vehicle because of a lack of seat belts and advance glazing on windows, and weak bus roofs.

Finally, there are the issues I will address this morning relating to the chronic and continuing failures of the Federal Motor Carrier Safety Administration to exercise its legal authority to regulate the safety of the motorcoach industry and protect the public.

Motorcoaches with the capacity to carry up to 58 people and log large numbers of vehicle miles every year are really the commuter airlines of the highways. Yet motorcoach safety is not being held to the same high standards as aviation safety, both for operators and for vehicle safety oversight.

Let me briefly highlight some of these failings. First, there is no reliable information on State bus inspection programs. Even though Congress passed the law in 1980 requiring the Secretary of Transportation to prescribe standards for annual or more frequent inspection of commercial motor vehicles, including motorcoaches, as of 2001 only 25 of the 50 States had approved periodic bus inspection programs, and that was the last year we could get information off the FMCSA web site.

I am pleased this morning that Administrator Hill mentioned that beginning this year, FMCSA will require every State to have a bus inspection program. That is really 20 years overdue.

FMCSA relies on its SafeStat system to identify which motor carriers present the highest risks of having crashes and of committing motor carrier safety regulatory violations, but this is a very flawed system. Recent evaluations by the DOT Inspector General and Oak Ridge National Laboratory criticized the system for not being objective. Many motor carriers are mistakenly identified as high-risk

safety risks, when they are not. Many motor carriers fail to be identified as high-risk safety risks when they are. And the data used is completely unreliable.

Third, FMCSA conducts too few compliance reviews and too many of these compliance reviews are out of date. FMCSA is required by law to assign safety ratings to all motor carries, but has never come close to that goal. In 2005, out of the nearly 20,000 motor carriers transporting passengers with the agency, only 547 compliance reviews were conducted. Executive Coach Luxury Travel, the motorcoach company involved in the recent crash in Georgia, had a satisfactory rating, but that was assigned on January 31, 2001. We believe that a safety rating assigned more than six years ago is not a reliable guide to a motor carrier's safety quality. In fact, in their safety rating that was assigned, one of the four safety evaluation scoring areas was left blank.

My testimony includes a sample that we did of nine States, and looking at the compliance reviews and safety ratings for those motorcoach companies. Oregon had 23 motorcoach companies register in the State. Of these, 12 had satisfactory ratings within the last five years, but not one of the 12 motorcoach companies with a satisfactory rating had scores in all four safety evaluation areas. Oregon still has one company that got a safety rating back in 1986, and five motorcoach companies registered in the State were not rated at all.

In Tennessee, we found 78 registered motorcoach companies, and one-third were not rated.

Another important issue is there are no training requirements for the operator of a bus responsible for the lives of 55 people on board. There is no certification needed to apply for an entry level CDL, and no instruction is needed to seek and gain the additional special endorsement to operate a motor coach in interstate commerce.

Other areas that will affect motorcoach safety are clearly the issue of the pilot program, when we see NAFTA and CAFTA bus operations in the United States. I won't discuss that, but it is certainly dealt with in my testimony. There are still serious problems with motorcoach passenger companies coming across the border.

At the end of my testimony, we have many conclusions and recommendations. Clearly, every State needs to have a bus inspection program. We need to accelerate the reform of data reporting. We need to make sure that compliance reviews are done. No motorcoach company should receive a satisfactory rating unless all four safety evaluation areas have been completed.

We also need to ensure that there is adequate entry level and advanced motorcoach driver training, and that we need to ensure that the CAFTA motor carriers that will be coming into the United States are subject to the Section 350 requirements for Mexico-domiciled motor carriers.

And lastly, we need to do a lot more to improve Federal motor vehicle safety standards for bus and motorcoach crashworthiness, especially to prevent unnecessary deaths and injuries due to occupant ejection.

Thank you very much.

Mr. DEFAZIO. Okay, thank you.

Just following up on your testimony, so you are saying that if I had a commercial driver's license, and I applied to a carrier, there is no training required on the bus that I might operate?

Ms. GILLAN. No.

Mr. DEFAZIO. None?

Ms. GILLAN. If you get your CDL, and you wish to drive a motorcoach, to get that additional endorsement on your CDL to allow you to do that, it is a multiple choice test. There is no skills requirement. DOT issued a rule on entry level driver training some years ago. It was so weak that Advocates and other safety groups sued. The U.S. Court of Appeals unanimously overturned it. Two years later, they still have not issued any basic skills requirements for entry level CDLs or for motorcoach operators.

Mr. DEFAZIO. So what do they say? Are they working on it?

Ms. GILLAN. I don't know. I guess I should have planted that question to find out. We are certainly anxious to find out.

Mr. DEFAZIO. Okay. The Committee will follow up on that.

Mr. Hamilton, do you want to tell us what your members, what kind of training they have at Greyhound?

Mr. HAMILTON. At Greyhound, and also at Peter Pan Lines, we are very proud of the training program that we have. It is peer training. The experienced drivers train the new applicants. It is a very extensive program.

Mr. DEFAZIO. Do they actually drive the vehicles?

Mr. HAMILTON. They actually drive the vehicles. When I became a Greyhound bus driver 35 years ago, the first thing that we did was go out and drive a bus in a parking lot in Minneapolis. There is a lot of newfangled stuff that they use these days that we didn't have when I first was brought on. But it took four weeks, with the first just driving in areas that could suffer no harm, and then over the road, and also extensive training dealing with passengers as well.

Mr. DEFAZIO. Okay. Do either Mr. Crean or Mr. Scott want to address that issue?

Yes, Mr. Scott?

Mr. SCOTT. We have a 40 hour training class that we put all new hires through, which includes classroom and behind the wheel programs.

Mr. DEFAZIO. Great. And we have already heard about Peter Pan?

Mr. CREAN. Yes, but I would just add to that. Our is a six to eight week training program. They do drive the bus before they get out there. They are with a senior instructor. In addition to operating the coach, there are other factors that we also throw in there, and that is the onset of safety, security, customer relations, and most importantly Americans with disabilities. They go through that amount of training as well.

Again, we are in the people business. We are into delivering customer service. So in a lot of aspects, our driver is similar to a pilot. He needs to know how to interface and react with his passengers in the event of an emergency, and how to make sure that customer comes back again and rides our coach.

Mr. DEFAZIO. Mr. Crean, in your testimony I found something interesting. It just sort of rang a bell with me. Many years ago, I took

a degree in gerontology and worked in counseling gerontology. What I found was an interesting phenomena, which at the nursing home where I worked, which was a very prestigious nursing home in the San Francisco area, the inspectors seemed to stay around a really long time.

So I asked some of the senior staff, I said, are we having problems? They said, oh, no, this is just really kind of a pleasant environment for them. They really don't want to be out in some of those holes in Oakland and other places where there are unbelievable problems that are going to cause them a lot of work. It is not a pleasant place to be.

I found in your testimony where you say that larger carriers end up becoming the victim of increased compliance reviews when the so-called unsafe carriers have an accident. Is that really your experience? Suddenly, you haven't had the accident, you have a training program, but suddenly the inspectors are showing up at your operation instead of putting more scrutiny on new entrants and/or these other lower budget kind of operators.

Mr. CREAN. Yes. Consider the fact that I am on the East Coast and we have a large number of curbside carriers. Those curbside carriers make the news quite often as a result of accidents, operating under unsafe conditions, and so forth. So as a result of that, we see an increase in roadside inspections.

Well, that increase in roadside inspections basically affects myself and Greyhound, who operate on those roads each and every day. We certainly don't operate routes to avoid those inspection sites. We go through them.

These smaller carriers who have one or two buses, the chances of seeing a roadside inspection are slim to none. The only way they are going to catch up with them by——

Mr. DEFAZIO. Do they stop every bus when they do a roadside inspection?

Mr. CREAN. Not every bus. It depends on what they are looking for.

Mr. DEFAZIO. So if they saw a Peter Pan Bus come, they could say, well, we know Peter Pan is a high end operator; we are going to let them go by; we are going to wait for one of these low end operators to come rattling up blowing blue smoke out the exhaust.

Mr. CREAN. Well, Mr. Chairman, that is if that low end operator takes that route. These roadside inspections are on major highways. There are other ways to avoid those inspection sites, and some go to the trouble to purposely avoid those inspection sites. So if one of those individuals flips a bus or is involved in an accident, we see the publicity of increasing inspections. What happens is I see a large number of inspections show up at our South Station Terminal let's say to do safety checks on the very drivers who, before they are even dispatched, their logs, license and so forth are checked. We are not going to allow them to operate should they not be.

So really, we are inspecting the people who don't need the inspecting. We need to go deeper into the trenches and start looking at these other carriers.

Mr. DEFAZIO. So we need a little better intel on the part of where they are targeting their inspections, like really trying to track

down some of these curbside folks and catch them as they are beginning a route, before they can disperse. Are they using CBs or something to communicate with each other to find out where the inspections are at so they can avoid them by changing routes or those sorts of things? Or are the inspections always in the same places on the same routes, so they know if we just stay off that highway, it is very unlikely we will get inspected?

Mr. CREAN. Most of the inspections are usually in the same places. We have pushed FMCSA to do destination inspections, such as at amusement parks or so forth. That is where you are catching a lot of these smaller carriers. But again, in some instances these smaller carriers will drop their people off and leave just to avoid the inspection. But those are the people they need to get to. Those are the people they need to look at.

In my feeling, to walk into a company and look at a file or a vehicle within the first 10 or 15 minutes, you are going to know whether that company has a safety program or not, first of all, by introducing them to a safety person. Companies that you walk in that don't have driver files, no drug and alcohol program, it is pretty obvious and the paint is on the wall that there are no safety standards. That place just simply operates for a profit and a profit only.

Mr. DEFAZIO. You said one other thing that caught my attention, SafeStat. You said maybe SafeStat can identify people, but there is no follow up or enforcement once we have identified these problem people.

Mr. CREAN. Yes. If you go online to the SafeStat site, you can see the various curbside carriers who have been inspected, whose safety rating is extremely high [sic], which pretty much characterizes them as an unsafe carrier, yet they continue operation day to day, and pretty much put the rest of us in jeopardy.

There is no action taken, and there is no consequence. What is the point of complying if there really is no consequence? We see the point of complying because we need to comply. It makes sense, and it is good all around business. But for other companies, it is more just seen as a cost of doing business, and safety should be looked at. We are pretty much the other way, concerned about the innocent lives of thousands of people each and every day who travel on the highway. Quite honestly, some of these carriers really don't care.

Mr. DEFAZIO. Ms. Gillan, you talked about receiving a satisfactory rating only if you are satisfactory in every category. I think that goes to a line of questioning that I was pursuing with the Administrator, where although your drivers may be unsatisfactory, if they didn't go out and look at your equipment, which they don't, but they rated it as satisfactory because the paperwork said it was maintained, then we wouldn't get an unsatisfactory rating for that company. Is that what you are trying to get at here?

Ms. GILLAN. Yes, absolutely. There are four categories that they have to rate them on, and yet if you look at the satisfactory ratings, for instance, in Oregon and with the company that was involved in the crash, many of the boxes are empty. So then you have to ask yourself, how do you get a satisfactory rating if these boxes are left empty, such as in the case of the company involved in the crash, where safety management, that box was left empty.

So how can you get a satisfactory rating if there is nothing in there indicating that your safety management systems and procedures are out adequate.

Mr. DEFAZIO. Okay. All right.

Mr. Duncan?

Mr. DUNCAN. Thank you, Mr. Chairman.

In all these areas, what we need is balance and common sense. I say that from this standpoint. Your industry is a little bit unusual in that many, many industries are just going more and more towards the big giants. Any industry that is very highly regulated, first the little guys go out of business, and then the medium sized ones, and the industries end up in the hands of a few big giants. And you still have a lot of small businesses in your industry.

Now, a lot of times, the biggest companies want more regulations so that the little guys will be run out, and the regulators like more regulations because it gives them more power. Plus, it is a lot easier for a Government regulator to inspect one large company than it is to inspect 100 small companies.

But there are problems with that. First, you hurt a lot of small businesses. Secondly, you drive up the price of whatever service is being provided. I mean, I can give you many examples, but in 1978, there were 157 small coal companies in East Tennessee. Then we opened up an Office of Surface Mining there, and now there are no small coal companies.

I am wondering, Mr. Crean, do you believe that there are not enough safety regulations that FMCSA should institute more safety regulations?

Mr. CREAN. No, sir. There are safety regulations. They just need to start enforcing the regulations. The only clause I will put to that is there needs to be some bite in it. There is no reason to comply if there is no consequence. For some of these carriers, there is little.

Mr. DUNCAN. How much does it cost your company to comply with the ADA regulations? Do you have any idea?

Mr. CREAN. Well, it is an additional cost on our vehicles of about $30,000 to $35,000 to have that bus equipped with a lift. In addition to that, there is additional training for the driver that costs us about $8,000 to train a driver. We hire anywhere from 20 to 30 drivers per year, and we buy about 10 to 15 buses per year.

Mr. DUNCAN. Mr. Scott, besides the regulations, are there other pressures on your company to have safe buses and safe drivers?

Mr. SCOTT. Well, first of all, I would agree with Mr. Crean here that there are regulations that are on the books that I believe are effective regulations, but they need better enforcement. I believe that FMCSA needs more resources to be able to do that.

I also agree that destination inspections is a great way to inspect buses because Disney World is a good example. For instance we being located in Florida, you can go there on any given day and probably see 100 buses there. So they know where they go, and that is the best place to get them.

But the biggest pressure I would say on our business is our own success, to continue to succeed. We have been in business since 1983, and I know Peter Pan Bus Lines and Greyhound as well have long, distinguished histories. You don't get that way by doing

things unsafe, whether or not FMCSA has ever been in to visit you or not.

You have to perform and your customers aren't going to ride with you if you don't provide safe equipment, training drivers, uniformed drivers, clean equipment, and on-time service. So really it is your own policies and procedures and the standards that you set for yourself, if you want to be successful in this bus industry or not.

Mr. DUNCAN. I will add to that. I am very pro-business, but unlike some of them, I decide I am pro-trial lawyers to a certain extent, too, because I can tell you that that is a tremendous pressure or incentive to operate a safe company. You certainly don't want to be sued, do you?

Mr. SCOTT. No, not at all. We obviously carry the highest levels of financial responsibility of anybody on the road.

Mr. DUNCAN. I was going to ask you about that. I understand from some of these small bus companies that their insurance rates have gone up tremendously since 9/11. Have your rates gone up as well? Would you give us some idea roughly of what we are talking about?

Mr. SCOTT. Prior to 9/11, I was paying $3,800 per bus annually for $5 million worth of coverage. Today, I am paying closer to $10,000.

Mr. DUNCAN. About $10,000 per bus?

Mr. SCOTT. Right.

Mr. DUNCAN. So it has just about tripled.

Mr. SCOTT. Pretty close to it, yes. And many carriers choose to carry additional umbrella policies as well, which we also do that, just to ensure that we are providing adequate levels of protection for our customers and the traveling public.

Mr. DUNCAN. And it has gone up that much in years of relatively low inflation. We have probably had about 20 percent at the most inflation since that time, 15 percent to 20 percent.

In your testimony, you said you don't believe that seat belts would make motorcoaches safer. Would you explain to me why you say that?

Mr. SCOTT. They need to be tested. Honestly, it really can't be said at this point whether they would make motorcoaches safer or not. I think that without adequate testing and without science and statistics to support the proven safety of seat belts in motorcoaches, I think it is a dangerous presumption to move forward with an untested technology, when the safety of our industry is as good as it already is.

Now, everybody will agree that one fatality is one fatality too many, but there are unintended consequences that can sometimes arise when you do things that are not tested. The margin of error for failure on the side of improving motorcoach safety with an untested technology is greater than the margin for improvement.

I can say that this industry, if there is the technology out there that is proven and tested to save one life, this is an industry that will get behind it. There is no question about that. Our future and our lives are built on that. But like I have said, when we have an average of 10 fatalities a year, which one is too many, we better make sure that it works, to make sure that we are truly adding to the safety, and not detracting from it.

Mr. DUNCAN. Who are these curbside operators, Mr. Hamilton, or any of you? Are they immigrants, legal or illegal?

Mr. HAMILTON. There are all sorts of curbside operators. In the Northeast primarily, they started out running service from Chinatown to Chinatown in New York and Boston, New York and Philadelphia, New York and Washington, DC.

I think that there has been a lot of investigation about who they are. They are obviously very, very well funded.

Mr. DUNCAN. The Chairman said organized crime is involved. Do you that is true?

Mr. HAMILTON. That is the common belief. I certainly can't prove that, but they are obviously very well-heeled.

Mr. DUNCAN. Does your union, besides whatever training these companies might give to their drivers, does your union do things to encourage drivers to be safer?

Mr. HAMILTON. Yes. For one thing, we negotiate with Greyhound. The rules that we have negotiated with them exceed the Federal standards in hours of service and, well, I am not sure how many other areas, but also the union exists to make sure that our drivers are protected. So we hold the company to a very, very high standard.

Mr. DUNCAN. Ms. Gillan, do you agree with the Chairman of NTSB when he said that he thinks this is the safest form of transportation?

Ms. GILLAN. I think that motorcoach transportation is safe. However, FMCSA's jurisdiction is over all passenger-carrying carriers. So while I think that the statistics and data on motorcoach transportation look good, that is not always the case for some of the smaller buses, the jitneys and some of the other carriers out there that are transporting passengers.

I do think, though, that the recent crash of the baseball team points out that there is certainly a lot more that we should be doing. As I said in my statement, intercity motorcoach transportation is really becoming almost like our commuter airlines on the highways, in that, as my testimony points out, I think that there are some really serious flaws and shortcomings in how the Federal Motor Carrier Safety Administration is regulating and overseeing the safety of this industry, and there is a lot of room for improvement.

Mr. DUNCAN. Well, I will just get this off my chest while I can, but these insurance companies are a little bit of a pet peeve of mine because, I mean, they have this myth going on medical malpractice. I read where on medical malpractice, the amount of judgments in the last five years has gone up 4.9 percent, while the premiums went up 131 percent, I think it was.

And then when you tell me that your insurance premiums on the buses have gone up from $3,800 per bus, Mr. Scott, to $10,000 per bus, in an industry where the statistics just don't justify that at all. And all these Government departments and agencies are throwing out the word security and this greatly exaggerated threat of terrorism to get more funding. And these insurance companies are just doing greatly unjustified increases in premiums. It is just totally ridiculous, really.

But at any rate, Mr. Chairman, that is all I have. Thank you for calling this hearing.

Mr. DEFAZIO. Thank you, Representative Duncan. I couldn't agree with you more on the insurance issue. That really caught my attention. We had the airline CEOs in and had them all lined up, and they were talking about the need to continue the terrorism risk insurance. And then they talked about how much their general liability had gone up. It had gone up 400 percent.

I said, well, if the Government is assuming the terrorism risk, and there haven't been any major crashes, why would your general liability have gone up by 400 percent? And so I asked them, and this is where I am going to ask the gentleman from Tennessee, if they would advocate for my bill to take away the antitrust exemption, which the insurance industry enjoys. I have a bill that I will bring to the gentleman's attention on that, because you can't collude with Peter Pan, and Greyhound can't collude with Peter Pan and set the market. You'd go to jail.

But the insurance industry can and does legally collude, and say, hey look, if you write lower bus policies, you might take some of my business. How about we both just keep our clients? We will keep our clients, you keep yours, but let's jack it up 50 percent. Okay, what a deal. They can do that.

Just to frame it as a question to the two operators, have they given you any rationale about, boy, there have been some huge settlements here. You won't believe our losses in the line of bus insurance, and that is why it has gone up 300 percent. Have you heard from your carriers along those lines?

Mr. SCOTT. I think what you find in bus insurance these days is it is true that judgments have gone up. Where typically in a $5 million bus policy, that working layer of insurance was probably zero to $100,000 or in there. And now over the last 10 years, you have seen that expand to include that first $1 million is the working layer. And now you are seeing some cases that it is going beyond that.

So I do believe that judgments have gone up. But I do believe that after 9/11, the markets went down, and insurance companies need to make there money somewhere, and if they are not making it in the market, bus insurance is an attractive industry for insurance companies that don't understand the bus market because there are large dollars in premiums there. So they can look at that as somewhat of a cash cow and say, hey, we can write bus insurance and collect a lot of premium, but they don't understand how to manage bus claims.

That is when some of them really get a pretty good licking and will pull the market out, and that allows for a lot of market swings in terms of fluctuations in insurance dollars. But since 9/11, it went up dramatically. It seems to have leveled off. I haven't seen any significant increases in the last two years. It does seem to have leveled off.

Mr. DEFAZIO. I can't remember, was it Mr. Crean who talked about the destination inspections? Or was it you, Mr. Scott? You say you know where, say, these rogue companies are going, and that is the place to get them. Maybe it was you, Mr. Scott, that talked about it.

Mr. SCOTT. Well, just to use the example of Florida. If a bus is coming to Orlando, you can bet it is going to be going to one of the theme parks at some point in time. You have Disney World, Universal Studios, MGM Studios. You have all of these theme parks there. That is the best place to do them.

A roadside inspection where you are taking a bus off of the highway loaded with passengers is not a very attractive situation for the passengers or FMCSA or the bus operator. But when the passengers are at their destination, the bus most oftentimes is going to be sitting there for a good few hours. That is the best time to do it.

And if there is a situation where the bus is going to be put out of service, there is an opportunity to replace it, whereby the passengers are not inconvenienced.

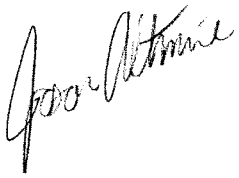
Mr. DEFAZIO. That is an excellent suggestion. Mr. Hill is no longer here, but we will make certain that perhaps they need to just circulate their folks down into Chinatown or wherever, and find out where the buses are headed, and then say, they are headed to Charles Street in Boston. Why don't you meet them there at 6 o'clock?

I think that seems to me an excellent suggestion on how we might be able to, as opposed to setting up on major highways with the complications of having passengers on board, and only catching the companies that follow a fixed route and aren't trying to evade them. It seems to me to be a little more nimble, I guess. That is an excellent suggestion.

I want to thank the panel. I think you have raised a number of issues here that need to be addressed. This Committee will continue to be persistent in this area.

Thanks very much for your testimony and we appreciate your time.

[Whereupon, at 12:20 p.m., the subcommittee was adjourned.]



Subcommittee on Highways and Transit

Hearing on the "Motorcoach Safety"
Tuesday, March 20, 2007

Statement – Congressman Jason Altmire (PA-04)

Thank you, Chairman DeFazio, for holding this important hearing today on "Motorcoach Safety." I appreciate your attention to this issue and for the time we are taking to examine motorcoach operations, federal regulations that govern motorcoaches, and overall bus safety.

Motorcoach travel is an important mode of transportation in western Pennsylvania and in my district. Local residents use it to commute to work on a daily basis. Students rely on it as an affordable option to travel home. Seniors ride it as a reliable means of transportation to visit family, friends, and other cities. At one time or another, we have all experienced a motorcoach ride and, when we do so, we expect that certain basic safety measures are in place, regular maintenance is performed on the vehicles, and drivers are properly licensed and trained. Recent bus accidents and fires involving passenger fatalities, however, demonstrate the need for proper regulation, inspection, and compliance to ensure passenger safety is a top priority for all motorcoach carriers.

I look forward to the testimony from the panel of witnesses regarding how we can improve motorcoach operations and overall safety.

Thank you again, Mr. Chairman. I yield back the balance of my time.

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Statement of Rep. Harry Mitchell
House Transportation and Infrastructure Committee
Subcommittee on Highways and Transit
3/20/07

--Thank you Mr. Chairman.

--Like everyone, I was deeply saddened to learn about the tragic bus accident earlier this month in Atlanta, Georgia, in which a charter bus carrying a baseball team from Bluffton University plunged 30 feet off an overpass onto Interstate-75.

2

--The crash killed 7 people and injured 29 others, may of them critically.

-- The National Transportation Safety Board is investigating, but it appears that the driver mistook an exit ramp for a through lane.

--It also appears that poor design of that particular exit has been a contributing factor in several other accidents that have occurred at the same location.

3

--Congress has a duty to protect bus passengers as well as other motorists who make use of our interstate highway system.

--Working together I hope we can prevent this kind of horrible accident from happening again, in Arizona, or anywhere else in the country.

--With that in mind, I look forward to today's testimony, and yield back the balance of my time.

Remarks of U.S. Rep. Nick Rahall
Motorcoach Safety
Subcommittee on Highways and Transit
2167 Rayburn House Office Building
March 20, 2007

Mr. Chairman, thank you for giving me the opportunity to speak to this issue and I appreciate all of the continued attention both you and Mr. DeFazio have brought to the ongoing discussion on the safety of the motorcoach industry.

I thank the Administrator Hill of the Federal Motor Carrier Safety Administration, as well as Chairman Rosenker of the National Transportation Safety Board for being here today. I also thank the other witnesses for sharing with us their experience and knowledge on this issue.

The motorcoach industry is an important part of the tourist industry and in turn, has helped West Virginia's economy through increased tourism revenue. The expansion of bus service to southern West Virginia's tourist destinations has a positive, practical effect on all aspects of our state's economy. The same is true across the country. Millions of people a year are brought to tourist spots in West Virginia and throughout America by the bus industry. In turn, the tourists generously spend money lodging, eating, shopping and sightseeing – all benefiting local economies. Because of the motorcoach industry's trips to southern West Virginia, thousands of West Virginians are employed; helping them put food on their families' table, send their kids to college and give back to their communities. It is this important role in which we need to be diligent and ensure the safety of these motorcoaches on which an important part of our economy rides.

While the service the motorcoaches offer is valuable indeed, their increased usage has left some concerned, whether its because of a perceived lack of oversight in the industry, or a lack of proper safety modifications. I would hope this committee would address these concerns in a balanced manner which would recognize the large number of Americans who choose to travel this way, and arrive at their destinations safely.

Mr. Chairman, thank you again for allowing me to participate in today's hearing, and I ask that my statement be included as a part of the official record.

United States House of Representatives
Committee on Transportation and Infrastructure

Hearing on
Motorcoach Safety

Testimony of

Christopher M. Crean
Director of Safety and Security
Peter Pan Bus Lines, Inc.
1776 Main Street
Springfield, Massachusetts, 01103
800-237-8747 ext 1432

INTRODUCTION

Chairman DeFazio, and members of the subcommittees, my name is Christopher M. Crean and I serve as the Director of Safety and Security for Peter Pan Bus Lines.

Chairman DeFazio please accepts my "thanks" for scheduling this hearing and for your consideration of the issue of motor coach safety.

Peter Pan Bus Lines started in Springfield, Massachusetts, with four seven passenger limousines and a 122 mile route connecting Northampton, Springfield, Worcester and Boston. Peter Pan Bus Lines now provides daily service throughout the northeast corridor including Boston, New York, Philadelphia, Baltimore and Washington D.C. Our fleet of 230 motor coaches carries 4 million passengers and travels 25 million miles per year. Founded upon the principles of Safety, Quality, Dependability, Satisfaction and Fairness, Peter Pan prides itself as being one of the safest motor coach companies on the road today.

Safety is a priority at Peter Pan Bus Lines and has been since its founding in 1933. Our commitment to safety is seen daily in our operation as well as in my active participation in industry safety associations. I am the past Chair and once again the current Vice Chairman of the American Bus Association Bus Industry Safety Council (BISC). The mission of the Bus Industry Safety Council is to develop and promote methods, materials and procedures to improve motor coach safety. Members of the council participate in the development and certification of training programs; the issuance of recommendations to the American Bus Association and other associations, regulators, lawmakers and organizations; the refinement of industry definitions and guidelines on best safety practices; accident review panels; the publication and dissemination of safety bulletins and alerts; and the support of safety competitions and leadership programs. In addition, members of the BISC serve on one of three committees and must have a demonstrated proficiency in the committee's functional areas. The committees are as follows:

Human Performance Committee —addresses driver safety and health, performance, recruitment and retention issues, and best practices for drivers. The committee will also evaluate currently available training materials, and develop new training materials based on industry needs.

Government Activities Review Committee—helps achieve industry consensus on regulatory safety issues. The committee will develop industry recommendations and best practices to help companies achieve regulatory compliance.

Vehicle Technical Operations Committee—addresses all aspects of vehicle development and maintenance, and serves as a liaison with manufacturers of motorcoaches and component parts. The committee will develop best practices for maintenance and other materials.

I am also an associate member of the Passenger Carrier committee of the Commercial Vehicle Safety Alliance (CVSA). CVSA is an association of state, provincial, and federal officials responsible for the administration and enforcement of motor carrier safety laws in the United States, Canada and Mexico. Its membership includes all 50 states, the District of Columbia, and all of the 13 Canadian provinces and territories, the country of Mexico, the U. S. Territories of Guam, Samoa, the Virgin Islands and Puerto Rico, and the U.S. Possession of the Northern Marianas. CVSA member jurisdictions are represented by various Departments of Transportation, Public Utility and Service Commissions, State Police, Highway Patrols and Ministries of Transport. In addition, CVSA has several hundred associate members who are committed to helping the Alliance achieve its goals. These associate members include truck and bus companies, industry associations, insurance companies, manufacturers, safety product and service providers, research organizations, commercial vehicle drivers, academia, and individuals dedicated to highway safety. Lastly, I am a member of the Board of Directors for the local chapter of the National Safety Council. The National Safety Council is a nonprofit, nongovernmental, international public service organization dedicated to protecting life and promoting health. The NSC is a membership organization, founded in 1913 and chartered by the U.S. Congress in 1953.

NEW ENTRANT RULES

Under the Motor Carrier Safety Improvement Act of 1999, the FMCSA is required to review a new motor carrier for safety compliance within the first 18 months of operation. More effort must be given to insure that new motor carriers comply with all FMCSA mandates including compliance with ADA regulations. According to FMCSA "New Entrant Safety Assurance Process" it has identified 11 regulations as essential elements to basic safety management controls necessary to operate interstate commerce. The 11 regulations essential to basic safety management are as follows:

1. *Sec. 382.115 (a)/Sec. 382.115 (b)--Failing to implement an alcohol and/or controlled substances testing program (domestic and foreign motor carriers, respectively).*

2. *Sec. 382.211--Using a driver who has refused to submit to an alcohol or controlled substances test required under part 382.*

3. *Sec. 382.215--Using a driver known to have tested positive for a controlled substance.*

4. *Sec. 383.37(a)--Knowingly allowing, requiring, permitting, or authorizing an employee with a commercial driver's license which is suspended, revoked, or canceled by a State or who is disqualified to operate a commercial motor vehicle.*

5. *Sec. 383.51 (a)--Knowingly allowing, requiring, permitting, or authorizing a driver to drive who is disqualified to drive a commercial motor vehicle.*

6. Sec. 387.7(a)--Operating a motor vehicle without having in effect the required minimum levels of financial responsibility coverage.

7. Sec. 391.15 (a)--Using a disqualified driver.

8. Sec. 391.11 (b) (4)--Using a physically unqualified driver.

9. Sec. 395.8 (a)--Failing to require a driver to make a record of duty status.

10. Sec. 396.9 (c) (2)--Requiring or permitting the operation of a commercial motor vehicle declared "out-of-service" before repairs are made.

11. Sec. 396.17 (a)--Using a commercial motor vehicle not periodically inspected.

Based on this recommendation, FMCSA proposes that failing to comply with any one of the following 11 regulatory violations would result in an automatic failure of the safety audit. Should a carrier fail the audit the carrier's license to operate should be suspended and not reinstated until the carrier is in full compliance.

SAFE STAT

Individuals wishing to investigate the safety performance of a company can simply go online and view the documentation that FMCSA has regarding a particular company. The problem with this system is the information regarding safety performance is usually deficient on new or small carriers and carriers identified as "unsafe" are allowed to conduct business as usual. Safe Stat is an excellent tool for both the consumer and the enforcement community because it identifies the unsafe companies. The problem becomes funding, there is funding to identify the problem carrier but very little funding to investigate and correct the identified problem. The end result is a paper game, the larger carriers, who invest a great deal of resources into safety, end up becoming the victim of increased compliance reviews when these so called "unsafe carriers" have an accident. Inspecting the "Big Guys" or the identified safe carriers portrays the image to the general public that something is being done by the Federal Government to address a problem of safety, when in all actuality FMCSA ends up wasting its time inspecting the companies that do not need inspecting.

CURB SIDE OPERATORS

Curbside operators are motorcoach operators who boast of providing low cost service primarily between cities along the east coast. The offered service typically begins on street corners in Washington, D.C., Philadelphia, New York, Boston, Providence and in my own back yard of Springfield Ma. From these street corners they operate between the larger cities. These services are also offered along the U.S. - Mexican border. Typically, the curbside operators have no discernible maintenance facilities, no administrative or sales offices and seem to operate on a "shoestring".

Also problematic is the fact that the bus drivers hired by these curbside operators often speak little, if any English.

The operators I have just described are operating in defiance of federal and state law and nothing could be further from the truth than the assertion that they do so for the public good. It is important to realize that this is not a scenario of "David" fighting "Goliath." These carriers are in fact, in violation of several important United States laws and regulations. These laws include the Americans with Disabilities Act (ADA), federal DOT safety regulations and federal environmental quality regulations.

These curbside operators are not safe, and when they operate their service in an unsafe manner they give the bus industry a bad name, force good operators into curtailing service, and make a mockery of our efforts to provide safe and efficient transportation to the nation. In addition, these operators as a class have a litany of safety deficiencies. News reports, police accident reports and passenger complaints all present the picture that these curbside operators lack the proper equipment, trained drivers and the necessary safety protocols. It is in all of our interests to get these so-called curbside operators to obey the law or get them off the road.

Under its regulatory authority FMCSA has initiated some enforcement actions against the curbside operators. This enforcement has been very much an up hill battle due to the fact that these carriers openly and notoriously change their names, state registrations and addresses to continue operations even after the federal regulatory agency has ordered them to shut down their unsafe operations.

Congress should insist that FMCSA uses all the tools they have to stop unsafe carriers from gaining operating authority and prevent them from ignoring the law once they have operating authority. In addition, Congress must insure that FMCSA has the financial resources to enable it to enforce its rules. To identify an unsafe carrier is one thing; to actually do something about it is another. It is time to provide funding then start doing something about what we know.

CONCLUSION

The law is the law and it should be applied fairly to all. FMCSA must get serious about denying or revoking authority to carriers who cannot or will not abide by the mandates the agency has clearly spelled out. If an individual is caught operating his/her personal vehicle in an unsafe manner or under the influence of drugs or alcohol he/she would be subject to license loss and possible incarceration. If a driver or owner of a motor coach willfully violates the hours of service rules, fails to maintain equipment in a safe and proficient manner, allows an individual to operate who has a suspended, revoked or cancelled license, or violates other FMCSA regulations this company or individual will possibly be subjected to a conditional rating. Should these items be discovered as a result of a serious accident then the carrier would more than likely simply change its name and apply for a new D.O.T number. There is something very wrong with that picture, and together, for the sake of public safety, we must fix this picture.

Thank you Mr. Chairman and members of the committee. I will be happy to answer any questions the committee may have for me.

STATEMENT OF JACQUELINE S. GILLAN

VICE PRESIDENT

ADVOCATES FOR HIGHWAY AND AUTO SAFETY

BEFORE THE SUBCOMMITTEE ON HIGHWAYS AND TRANSIT

HOUSE COMMITTEE ON
TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

MARCH 20, 2007

750 First Street, NE, Suite 901, Washington, DC 20002 • 202-408-1711

Good morning. My name is Jacqueline Gillan and I am Vice President of Advocates for Highway and Auto Safety (Advocates), a coalition of consumer, health, safety, medical and insurers working together to advance federal and state programs and policies that prevent deaths and injuries on our neighborhood streets and highways. I commend the Subcommittee for holding hearings on the safety of motorcoach operations.

Motorcoach safety is a serious concern for anyone who relies on and uses this growing and affordable mode of transportation. Unfortunately, when it comes to motorcoach safety, consumers are forced to travel wearing a blindfold. Many of us in this hearing room have put our excited child on a bus for an out-of town school field trip, waved goodbye to our retired parents as they took off for a vacation, or participated in a church trip with family and friends that relied on hired bus transportation. Some have even taken advantage of low cost fares to travel between Washington, DC and New York or Boston on buses boarded at street corners in downtown locations. Despite the widespread use of motorcoach transportation in our everyday lives, the public is almost completely in the dark about the safety of motorcoach companies because of chronic and continuing failures by the Federal Motor Carrier Safety Administration (FMCSA) to exercise its legal authority to regulate the safety of this industry and the failure of the National Highway Traffic Safety Administration (NHTSA) to require basic safety improvements to ensure the crash avoidance and crashworthiness of buses and motorcoaches.[1] My testimony this morning will highlight the government studies conducted over many years that have identified and substantiated lax federal oversight, the inability of FMCSA to keep unsafe motorcoach companies and drivers off the road, the inexcusable lack of easily-accessed public information to provide consumers with critical safety information, and recommendations for congressional and agency actions.

Motorcoach Crashes Are Serious and Deadly

Less than three weeks ago, a motorcoach hired to transport college students from Ohio to Georgia, plunged over a bridge parapet on March 2, 2007, at a T-intersection terminating a left-hand exit lane on I-75. The vehicle struck the bridge parapet at right angles and plunged to the roadway below the ramp. Of the 35 passengers and a driver on board, six were killed and six others, including the coach of the school's baseball team, were transported to the hospital with severe injuries. There are major issues involving highway design in this crash, including a left-hand exit lane with inadequate signing that is indicated as advisable in the Manual on Uniform Traffic Control Devices, the federal standard governing traffic engineering devices and practices for all U.S. streets and highways, and a bridge parapet that was incapable of restraining a heavy commercial vehicle, topics that will undoubtedly be addressed by the National Transportation Safety Board (NTSB) which is investigating the crash.

On September 23, 2005, less than two years ago, a motorcoach carrying nursing home residents fleeing the imminent landfall of Hurricane Rita caught fire and exploded, initially killing 24 of the 44 people on board who were residents and employees of a Dallas-area nursing home. The National Transportation Safety Board (NTSB) is still in the process of investigating that horrific crash. A hearing held by NTSB just last month, on February 21, 2007, archived on NTSB's web site,[2] concluded that there were multiple failures of major proportions in almost every area of motorcoach operation in this tragic crash, including poor evaluation of the

company by the contracting party, an assisted living business that has facilities nationwide; poor maintenance by the motorcoach company that was directly linked to this catastrophic crash; and chronic failures of FMCSA oversight and enforcement that allow motorcoaches like this company and others, such as curbside operators, to conduct unsafe operations with impunity.

Nearly eight years ago, on May 9, 1999, a motorcoach traveling on I-610 in the heart of New Orleans, Louisiana, with 43 passengers aboard, ran off the road, struck a guardrail that was powerless to stop it or change its deadly trajectory, broke through a chainlink fence, collided with a raised earth embankment, and finally slid to a halt. Twenty-two passengers were killed, and the bus driver and 15 passengers received serious injuries. Only 6 passengers escaped with minor injuries.

Every one of these catastrophes and many others reflect an unrigorous and undemanding approach to safety. There are thousands of small commuter airline flights every day in the U.S., yet in most cases each aircraft is carrying fewer passengers than an over-the-road motorcoach that, filled to capacity, is transporting 55 to 58 people. The issues and concerns of motorcoach safety are in many ways much more akin to passenger aviation safety than they are to large truck safety.

Despite the millions of passengers and billions of air miles flown each year, passenger aviation often concludes a year without a single crash fatality. Unfortunately, public authorities have chronically overlooked motorcoach safety despite the far higher risk of traveling by highway. Motorcoach safety is not being held to the same high standards as aviation safety both for operators and for vehicle safety oversight. This failure to ensure strict oversight and safety compliance is systemic in nature and exists at both the federal and state levels. Both FMCSA and state commercial motor vehicle (CMV) authorities are not adequately inspecting motorcoaches and safety auditing motorcoach companies to ensure that dangerous companies are prevented from continuing to operate. Safety information on motorcoach companies is being compiled by FMCSA that is inaccurate and late. In addition, the method that FMCSA uses to score motorcoach safety, the Safety Status Measurement System or SafeStat, and the system of evaluation, Compliance Reviews, that is used to assign safety fitness ratings, have been shown repeatedly to be unreliable and unequal to the important task of identifying the motor carriers at high risk of crashes. In addition, even the basic, once-a-year bus safety inspection required by federal regulation is apparently not being carried out by half the states.

There also are obvious problems with the crashworthiness of motorcoaches for protecting occupants against severe and fatal injuries. In the most recent crash in Georgia, and in many others investigated in the last several years by NTSB, occupants were ejected through side windows and, in the case of the horrific crash in Georgia that just occurred, apparently ejected through the windshield. These deficiencies, mostly due to a lack of leadership and willingness to make safety regulation and oversight the highest priority at all levels of government, can and must be corrected.

Motorcoach Crashworthiness

Because motorcoaches carry up to 58 passengers, when a crash does occur it can be both catastrophic and deadly. Since 1999 alone, NTSB has investigated and reported on nine major motorcoach crashes. Those nine NTSB-investigated crashes took scores of lives and inflicted

injuries on hundreds of people. In many cases, those severe injuries represented a lifetime of disability for the victims.

Motorcoaches and buses currently are very top heavy, with high centers of gravity especially when fully laden with passengers. Rollover propensity is much higher than for passenger vehicles. So the first order of business is to reduce the tendency of motorcoaches and buses to roll over in severe crash conditions. Second, apart from the issue of how to keep passengers in their seats to avoid injuries sustained within the compartment when crashes do occur, there is the major issue of preventing occupants from being ejected from the crash-involved bus or motorcoach. Advanced glazing and as well as side window and windshield bonding strength must be specified in improved federal standards so that when side windows are fixed or deployed in a closed position, the glazing cannot be dislodged or penetrated by occupant impacts permitting ejection. Advanced glazing of various designs is currently available to prevent occupant ejection.[7] However, NHTSA to date has taken an on-again, off-again attitude towards this important countermeasure, and then only with regard to passenger vehicles. Little interest has been shown at the agency in anti-ejection, advanced glazing for motorcoaches and buses. In fact, a search of NHTSA's web site returned very few entries on even the topic of bus and motorcoach occupant ejection. However, NHTSA and Transport Canada released a study just two weeks ago that is optimistic about the value of advanced glazing as a safety countermeasure in bus and motorcoach windows to prevent occupant ejections, especially in rollover crashes.[8]

Advocates cannot find any overall data from NHTSA's National Center for Statistics and Analysis about the percentage of ejections that occur in buses of all kinds and in motorcoaches. However, ejection figures even for passenger vehicles are very frightening and, given the ability of a motorcoach to transport up to 58 passengers plus a driver, the issue of occupant ejection is a very real one that needs attention by NHTSA. The major topic of occupant restraint within the motorcoach passenger compartment and the additional prevention of ejection in catastrophic events have been engaged by both the European Economic Community[9] and Australia.[10] While Three-point belts restraining motorcoach occupants became mandatory in Australia 13 years ago. It seems obvious that some method of keeping motorcoach occupants in each of their seats is badly needed so that they do not impact both unforgiving interior surfaces and equipment in motorcoaches, as well as to prevent their ejection from the vehicle.

FMCSA's Bus/Motorcoach Safety Program Suffers From Multiple, Chronic Failures

Motorcoaches in interstate commerce are motor carriers regulated by FMCSA along with trucks in interstate freight operations that exceed 100,000 pounds gross vehicle weight.

According to figures from FMCSA, there are just under eight million large trucks on our highways and streets today, but less than 800,000 buses of all kinds.[11] This 10-to-1 proportion already balances the scales heavily in favor of concentrating on large truck safety. Even as the FMCSA is failing in its stewardship of large truck safety, it is also failing to focus on the comparatively smaller number of motorcoach companies that carry millions of passengers daily in the U.S. FMCSA estimates that, in 2005, the latest data available, there are about 20,000 passenger-carrying companies conducting interstate operations with more than a quarter million vehicles operated by more than 436,000 drivers.[12] Nevertheless, the agency has not been able to fulfill its obligation to ensure public safety on buses and motorcoaches.

FMCSA Lacks Reliable Information on State Annual Bus Safety Inspections

The Secretary of Transportation is required to prescribe standards for annual, or more frequent, inspection of CMVs, including motorcoaches, or approve an existing state inspection program that the Secretary finds is equally effective.[14] Nine years ago last month, the Federal Highway Administration (FHWA), which had jurisdiction of truck and bus safety prior to the establishment of the FMCSA in 2000, issued a notice on that status of state bus inspection programs.[15] A subsequent notice in 2001 added a final state, Ohio, which the agency had deemed to have a periodic inspection program that met the requirements of a program in the CFR, at least with respect to church buses. In that notice, FHWA listed 25 of 50 states with approved, equivalent periodic inspection programs.[16]

Although Advocates' staff performed a search of FMCSA's current web site for state bus inspection programs, we could not find any entries on the current status of state compliance with the requirements of 49 CFR Part 396, including any updated listing of states that may have instituted periodic bus inspection programs in the intervening six years since the last notice that accompanied the closing of the relevant docket for adding new states. We also do not know how comprehensive each bus inspection program may be in each of the 25 listed states. It may be the case that some of the other states listed currently do not inspect all buses or do not inspect over-the-road motorcoaches.

Timely information on state bus inspection programs – whether they are still current and how well and often they inspect motorcoaches, as well as any other types of buses, for safety compliance – is not available to the public on FMCSA's web site. It should be stressed here that the minimum period for the required inspection is only once a year.[17] Since it is well known that inspection of CMVs, including motorcoaches, needs to be much more intensive and frequent than for personal or light motor vehicles, a once-a-year inspection regime is clearly no guarantee of safe motorcoaches. Many companies even in states that have bus inspection programs can come into compliance just for an annual inspection, only to allow major safety features of their motorcoaches to fall into disrepair or become inoperative soon after passing the annual inspection. Advocates could find no information from FMCSA's web site on the effectiveness of state motorcoach inspection programs to detect safety problems or how well or for how long state motorcoach inspection programs ensure compliance with all federal motor carrier safety requirements.

FMCSA Suffers from Major Data Deficiencies for Identifying Motor Carriers That Are High Safety Risks

Chronic problems of data adequacy, including accuracy, completeness, and timeliness, have compromised both the FHWA's Office of Motor Carriers and FMCSA's effectiveness for many years in conducting their compliance and enforcement programs. These defects continue today, as pointed out below, and have been documented by federal government oversight investigations that stretch back into the middle and late 1990s.

For example, the U.S. Department of Transportation (DOT) Office of the Inspector General (OIG) issued a report in early 1997 showing that database problems used to prioritize all motor carriers for compliance reviews were endemic at FHWA OMC, the agency of jurisdiction that preceded FMCSA.[18] The data deficiencies found included inadequate numbers of carriers covered in the agency's database, failure to include state and local records of crashes and

violations of local traffic laws, and inaccurate and delayed data submissions by the states. These severe data problems covered trucks, buses, and motorcoaches alike.

A follow-up OIG study was conducted two years later, in 1999, and found the same defects as the 1997 study, as well as a failure of FHWA to ensure that local enforcement agencies accurately and completely report crashes, traffic violations, and roadside inspection results.[19] Those data problems were found by the OIG to undermine any effectiveness of the Safety Status Measurement System (SafeStat) to identify and target motor carriers with high-risk safety records by, for example, targeting compliance reviews for the worst companies. SafeStat problems will be discussed below in a separate section of my testimony.

These criticisms of the serious defects in FHWA's data system were extended by the OIG in early 2000 to the newly created FMCSA's use of the Commercial Driver Licensing Information System (CDLIS).[20] The OIG found that both FMCSA and the states were failing to collect information on driver disqualifying violations and also failing to disqualify drivers even though a state's CDLIS data bank showed that drivers who should be disqualified were still operating their vehicles.

These findings of data inadequacies were mirrored in findings and testimony from the U.S. General Accounting Office (now the Government Accountability Office) (GAO) that began before the creation of FMCSA and have continued until the present.[21] Sadly, the careful evaluation of severe data problems at FMCSA and specific recommendations for improvement have gone unheeded at the agency. In November 2005 the GAO issued yet another report on the failures of FMCSA to correct these deficiencies.[22] In general, GAO found that CMV crash data still do not meet general data quality standards of completeness, timeliness, accuracy, and consistency. One-third of CMV crashes that the states are required to report to FMCSA were not reported and those crashes that were reported were not always accurate, timely, or consistent. GAO also found that FMCSA had no formal guidelines for awarding grants to the states for their data improvement efforts. Moreover, even the agency's ratings of how well or badly states were performing in their data collection and transmission efforts were flawed because of the methodology used by FMCSA to develop the state rating system.

Timely, accurate, complete data are crucial to FMCSA's mission to identify dangerous motor carriers and to stop them from operating until appropriate safety corrections are made. We should never forget that this might be even more crucial for motorcoaches because of the large number of passengers that are simultaneously placed at risk of death or injury if they are patrons of a motorcoach company that fails to meet minimum safety standards.

Systemic Defects in SafeStat Undermine the Agency's Ability to Identify Motor Carriers with the Highest Safety Risks

SafeStat is a complex algorithm used by FMCSA to identify which motor carriers present the highest risk of having crashes and of committing motor carrier safety regulatory violations. Recent evaluations of SafeStat by the U.S. DOT OIG and by the Oak Ridge National Laboratory have both come to the same conclusions: SafeStat is not objective, many motor carriers are improperly identified as high safety risks, many motor carriers fail to be identified as high safety risks, and the data used to calculate SafeStat are unreliable for the reasons listed in the previous section of this agency review.[23]

The 2004 OIG report found that the usefulness of SafeStat was undermined by substantial weaknesses in the data reported to FMCSA by the states and motor carriers. Specifically, there was a lack of updated census data for 42 percent of the active registered motor carriers that had failed to meet the congressionally mandated requirement to update their registration every two years, and only 31 percent of these carriers had SafeStat scores for one or more safety evaluation areas. The OIG Report also found that about one-third of large CMVs involved in crashes each year had no reports in the database, six states did not report any crashes during a six-month period that was reviewed, and that 20 percent of the crashes in fiscal year 2002 were reported six or more months late. There also were high levels of underreporting of moving traffic violations that had been identified during roadside inspections, as well as failures to identify carriers associated with violations or misidentification of carriers with violations. Finally, the OIG Report found that 71,000, or 11 percent, of the active interstate motor carriers were on record as having no power units and 98,000, or 15 percent, of registered carriers were on record as having no drivers.

The OIG Report also determined that these severe data deficiencies were not being corrected by FMCSA through the use of existing sanctions and incentives to promote better data reporting by states and motor carriers. FMCSA had not imposed sanctions on any states, including withholding basic Motor Carrier Safety Assistance Program (MCSAP) grant funds from states for failing to correct data quality problems. Even MCSAP incentive grant formulas are not adequate because the agency only uses timeliness of data submitted to make incentive calculations while data accuracy and completeness – which are crucial – are ignored.

As a result of these severe data defects, the OIG report recommended that the use of these defective data continue for internal agency purposes, but that they were not reliable enough for public use. As a result, FMCSA suspended posting these crash and safety data about motor carriers on its web site shortly after receiving the OIG report until these data met higher standards for completeness, accuracy, and timeliness. Those data are still not available on FMCSA's web site location called Analysis and Information Online. As discussed in the previous section, the latest GAO report issued November 2005[24] shows that little progress has been made by FMCSA in nearly two years to correct these system defects in its data system for determining the safety of motor carrier management and operations.

One of the OIG's recommendations in this report was for FMCSA to hire a contractor to conduct a new study for revalidating SafeStat. Oak Ridge National Laboratory performed this review, and its study was sent to the agency dated October 2004.[25] Unfortunately, this evaluation uncovered fundamental defects in SafeStat that the prior OIG evaluation had not detected:

- **SafeStat Is not Objective:** The basis of SafeStat ultimately is subjective, based upon expert consensus opinion or judgment, and therefore has no meaningful statistical relationship to the data used to operate the system's algorithm for detecting high safety risk motor carriers.
- **Most Motor Carriers Are improperly Identified as High Safety Risks:** The identification of nine of every 10 motor carriers as high safety risks is mistaken and only an artifact of the data and the use of those data in the SafeStat algorithm.

- **The Data Used in SafeStat Are often Unreliable:** As was also found both by the OIG and GAO, the data used in SafeStat are defective. About half the states either report CMV crash data late, underreport the number of CMV crashes, or overreport the number of CMV crashes. Also, the data sufficiency criteria are unrealistic, do not support a sound statistical use of the data gathered by FMCSA, and often result in many motor carriers not receiving a safety ranking.

With regard to this last point, although the Oak Ridge Report does not specifically address the implications of the data sufficiency issue in detail, the criteria for being ranked strongly favor larger carriers with more power units, drivers, and higher annual vehicle-miles-traveled. Many small carriers with few power units and drivers cannot achieve the exposure necessary to be safety ranked, yet many small motor carriers are apparently at high risk of safety violations. This is particularly true of motorcoach companies, which often have few buses in each fleet. Because they are not identified by SafeStat, these small motor carriers "fly under the radar" of detection by FMCSA for oversight and enforcement.

We do not know exactly what steps FMCSA is taking to correct these baseline defects of SafeStat, the system the agency relies on to make its calculations for tagging motor carriers as high safety risks and subjecting them to CRs and more roadside inspections. Although Congress directed that motor carrier data systems be ensured for accuracy, reliability, and timeliness both in the Transportation Equity Act for the Twenty-First Century[26] and in the ensuing legislation creating FMCSA, the Motor Carrier Safety Improvement Act of 1999,[27] these mandates have still not been fulfilled.

Because many interstate motorcoach companies have relatively few power units and drivers, we are concerned that both the data on motorcoaches sent from the states and the calculations of SafeStat are not identifying at-risk motorcoach companies.

FMCSA Performs Few Compliance Reviews and Fails To Assign Timely Safety Ratings

A central problem compromising agency effectiveness in overseeing motor carrier safety and reducing FMCSR violations is the annually low numbers and percentage of both roadside inspections and compliance reviews (CRs). For example, the recent, tragic motorcoach crash in Georgia at the beginning of March of this year that took several lives and inflicted severe injuries involved a motorcoach company, Executive Coach Luxury Travel, Inc., of Ottawa, Ohio. That motorcoach has one of the more recent CR safety fitness ratings: Satisfactory, assigned on January 31, 2001. As we point out below, this is not an assurance of contemporary operating safety fitness. The rule of thumb we use at Advocates is a safety fitness rating assigned more than five calendar years ago is no longer a reliable guide to a motor carrier's safety quality; and using a five-year timeframe for safety fitness relevance is very indulgent. On this basis, the safety fitness rating of Executive Coach Luxury Travel, Inc., is out of date and no longer a reliable indicator of safety fitness. I might also point out here that the safety fitness rating of the company is fairly typical even when a Satisfactory rating is assigned: one of the four Safety Evaluation scoring areas is blank. Unfortunately, the blank area is the overall Safety Management score for the motor carrier.

FMCSA has a mandate inherited from FHWA OMC to safety rate all motor carriers.[28] However, as pointed out in the OIG report of March 26, 1997, FHWA in 1992 basically decided that it would no longer attempt to fulfill the statutory requirement to safety rate all registered interstate motor carriers.[29] As Advocates will show below in a sample of a few states, only a small portion of registered motorcoaches have been assigned timely, reliable safety ratings.

The implementing regulations for conducting CRs specify criteria for assigning one of three safety rating categories to a motor carrier: Satisfactory, Conditional, Unsatisfactory.[30] The well-known 1999 OIG report cited earlier in Advocates' testimony found that FHWA's OMC was not sufficiently effective in ensuring that motor carriers comply with safety regulations and that the enforcement program did not deter noncompliance.[31] One of the primary reasons found by the OIG for this ineffective enforcement outcome was the paucity of CRs performed along with the low number and percentage of motor carriers receiving either Conditional or Unsatisfactory ratings.

At the time the OIG report was released it was estimated that there were about 480,000 registered motor carriers of all kinds,[32] so the figure of 6,473 CRs performed in 1998, the most recent year for which the OIG had data, represents only 1.3 percent of all registered motor carriers. This figure, in turn, includes only a tiny number of safety rated motorcoaches. Moreover, the OIG report found that of the carriers receiving CRs with safety ratings, only 1,870 – or only about 0.4 percent – had received less-than-Satisfactory ratings. Of this number, only 971 received a rating of Unsatisfactory. This means that only about 0.2 percent of all registered motor carriers were given Unsatisfactory safety ratings.

On its face, it is improbable that assigning Unsatisfactory safety ratings to only 0.2 percent of registered interstate carriers has a deterrent effect on what in 1998 was about 480,000 registered motor carriers, including several hundred motorcoach companies. Indeed, the OIG found that a deterrent effect was not even evident for the carriers that received either Conditional or Unsatisfactory safety ratings. For example, the OIG report pointed out that of the 1,870 carriers that received either Conditional or Unsatisfactory ratings, 650 had over 2,500 crashes from October 1, 1994, through September 30, 1998, resulting in 132 fatalities and 2,288 injuries.

Other organizations have called for improvements to the safety rating process. For example, NTSB's current list of the Most Wanted Transportation Safety Improvements – Federal Issues[33] argues that the entire safety fitness regime operates too leniently with criteria that do not result frequently enough in motor carriers being shut down or drivers having their licenses revoked. NTSB points out that a pending Unsatisfactory rating occurs if two of six factors are found unacceptable, after which a general freight carrier has 60 days to correct the deficiencies or receive an Out-of-Service Order (OOS) that prohibits further operations. For hazardous materials (hazmat) and passenger motor carriers, the company has 45 days to correct the deficiencies or receive an OOS Order.

However, NTSB regards this system as simply permitting identified unsafe carriers and drivers to continue to operate. NTSB instead recommends that if a carrier receives an Unsatisfactory rating for either the vehicle or the driver factor, the bad rating alone should trigger a pending Unsatisfactory rating. According to NTSB, this recommendation has been reissued

annually since 1999, but FMCSA does not plan full implementation of any changes to its safety rating and other safety oversight processes until 2010.[34]

In its 1999 major report on motor carrier safety oversight and enforcement, the OIG found that the number of CRs performed by FHWA's OMC had declined by 30 percent since fiscal year 1995 even though there had been a 36 percent increase in the number of motor carriers over this period.

FMCSA's web site contains a National Summary for the most recent available year, 2005, for which data are available.[35] If one were to calculate the percentage of CRs performed in 2005 out of the total number of motor carriers listed for 2005 as registered with FMCSA, this amounts to about 1.4 percent of registered carriers receiving CRs. This figure represents no significant difference from the poor showing of FHWA OMC shown earlier in our review that was documented in the 1999 OIG report.

Recall that the 1999 OIG report indicated that 971 carriers out of approximately 480,000 registered companies received an Unsatisfactory rating. This means that current efforts to take dangerous carriers out of operation have resulted in even fewer assigned ratings of Unsatisfactory out of a much larger population of registered motor carriers (677,249), nearly one-third larger than in 1998. We also have been told that the number of registered motor carriers with FMSCA now exceeds 702,000 as of last year.

If the figures on CRs posted on FMCSA's web site are to be relied upon, it is clear that not only has there been no improvement in conducting CRs and assigning Conditional and Unsatisfactory ratings since the figures provided in the 1999 OIG report, the agency on a percentage basis appears to be even further in arrears in using this powerful safety oversight and compliance tool. However, this condition appears to be irremediable given the decision of FHWA OMC documented in the earlier 1997 OIG report no longer to attempt to perform CRs and assign safety ratings to all registered motor carriers.[36] This was borne out by the July 2001 testimony of the IG who stated that more than three-quarters of registered motor carriers in the U.S. had not been subjected to a CR and were operating without any safety ratings.[37]

Motor carrier safety oversight of passenger-carrying interstate companies as a part of overall motor carrier safety monitoring is also suffering poor attention at FMCSA. The figures for 2005 from the agency's Analysis & Information portion of its web site show only 547 CRs of the nearly 20,000 passenger transportation motor carriers registered with the agency.[38] This represents 2.7 percent CRs conducted that year of all registered passenger transporting interstate motor carriers.

When U.S. motorcoaches are stopped and inspected, the results are equally discouraging. For 2005, 12 percent of the motor carriers of passengers were placed out of service (OOS), a figure that has not changed over the last several years. Similarly, driver safety is a serious concern – driver inspections in 2005 placed 21 percent of U.S. drivers of intestate motor carriers of passengers OOS for failing to retain the driver's previous seven days logbook showing the driver's record of duty. In the same vein, 20 percent of these drivers – one in five – were found in 2005 to have no record of duty status logbook. These aggregate figures are not reassuring,

especially for patrons of interstate motorcoach companies, and they show essentially no progress in substantially improving motorcoach safety on a nationwide basis.

There Are Unresolved, Major Safety Problems with Bus and Motorcoach Oversight and Enforcement for Passenger Motor Carriers Operating in the U.S. under NAFTA and CAFTA.

North American Free Trade Agreement (NAFTA)

The safety enforcement figures for passenger carrying vehicle and drivers domiciled in Mexico are even more startling. It is clear that FMCSA is paying little attention to bus and motorcoach safety at our southern border. This is apparent from the agency's effort to mount a "demonstration program" for long-haul Mexico-domiciled motor carriers that openly dodges the ongoing safety problems of motorcoach and bus safety at our southern border. The IG's last report in January 2005,[39] and his testimony on March 6, 2007, before the Subcommittee on Transportation, HUD, and Related Agencies of the Senate Committee on Appropriations,[40] document the ongoing poor safety oversight of buses and motorcoaches crossing into the U.S. from Mexico. After years of opportunities to correct the safety problems and comply with the direction of Congress in Section 350 of the fiscal year 2002 appropriations legislation for the U.S. Department of Transportation,[41] FMCSA still does not have an adequate inspection and enforcement presence at the designated U.S.-Mexico bus crossing points. FMCSA figures on the Analysis & Information web pages show 84 active Mexico-domiciled motor carriers of passengers operating about 434 vehicles that are permitted to enter the U.S. and travel within the commercial zones of the four border states. However, traffic violations for these operations jumped from only four violations in 2004 to 49 violations in 2005. There is no explanation for this enormous increase in a single year.

Similarly, FMCSA only conducted two (2) CRs on the 84 active Mexico-domiciled motor carriers in 2005, which amounts to 2.4 percent of these motor carriers of passengers. Even when there are few motor carriers under the agency's safety stewardship, its most intensive safety evaluation, the CR, is scarcely used.

The sad tale of nominal agency safety oversight of Mexico-domiciled passenger-transporting motor carriers continues. Almost one-third (31.43 percent) of the drivers of these passenger-carrying companies from Mexico had no commercial driver licenses when they were inspected and put OOS in 2005. One-fifth – 20 percent – have no record of duty status, that is, paper logbooks showing their compliance with federal commercial driver hours of service requirements. And over 17 percent were conducting passenger transportation without the vehicles registered with FMCSA for legal operating authority. One-fifth of the vehicles inspected were placed OOS (19.4 percent).[42]

It is clear that there remain unresolved safety problems with those buses and motorcoaches that are now permitted to enter and operate only within the U.S. commercial zones along the border. Since the bus-related safety issues that Congress required to be resolved under Section 350 before the border is opened have not been completed, the NAFTA "pilot program" surgically removes buses and motorcoaches from the proposed "pilot program." What will happen, Mr. Chairman, after the "pilot program" is completed and the U.S. border is open to commercial traffic? Will buses and motorcoaches carrying passengers from Mexico be

permitted free reign on U.S. highways even though they were not monitored under the "demonstration program"? Will buses and motorcoaches from Mexico be able to drop and/or pick up passengers in the U.S? Who will regulate, oversee and enforce violations? We have grave concerns about the road that the FMCSA and DOT are driving down in pell-mell fashion.

Central American Free Trade Agreement (CAFTA)

Aside from the unresolved issues of motorcoach and hazardous materials transportation across the U.S. border under NAFTA, another looming problem of long-haul non-U.S. motor carrier operations in the U.S. is the growing presence of non-North American (non-U.S. and non-Mexico) bus and trucking companies in the U.S. conducting long-haul operations. This issue has been addressed under the Central American Free Trade Agreement (CAFTA) that was ratified by Congress and signed on August 5, 2004.[43]

Unlike Mexico-domiciled long-haul trucking in the U.S., Central American long-haul truck and bus companies are not subject to any of the restrictions and requirements of Section 350. In fact, FMCSA plans on determining whether they comply with all of the U.S. safety standards, regulations, and law by simply asking each company to sign off on a certification statement.[44] There will be no pre-authorization safety audits as are required in Section 350 for awarding probationary operating authority to long-haul motor carriers from Mexico, for example. The agency will only perform a paper review for awarding operating authority, although FMCSA promises that it will conduct a compliance review within 6-12 months of registering each new CAFTA motor carrier and awarding operating authority, and within three months of any existing CAFTA motor carrier already operating in the U.S. This proposal implies, of course, not only that Central American motor carriers will, in the future, be allowed to traverse U.S. highways legally for months before a definitive safety examination takes place, but that the carriers already operating throughout the U.S. have never had compliance reviews. It should be stressed that one of the companies already conducting interstate operations in the U.S. from Central America is a motor carrier of passengers.[45]

In essence, Mr. Chairman, FMCSA will largely be relying on the authorities in Mexico to ensure the safety of commercial vehicles from Central America seeking entry into Mexico on their way to the U.S. We think the irony of this circumstance is apparent.

Another issue concerning non-North American motor carriers operating nationwide in the U.S. is FMCSA's statement that it will require them to only use drivers with valid commercial driver licenses and to have those drivers subjected to U.S. drug and alcohol testing. This appears to imply that, to date, these drivers have not necessarily had valid commercial licenses or drug and alcohol testing. It also begs the question of what is meant by a "valid commercial driver's license." There is a Memorandum of Understanding (MOU) between the U.S. and Mexico adopted 15 years ago that recognizes the Licencia Federal de Conductor (LFC) as equivalent to the U.S. CDL. One of the many objections to the original U.S.-Mexico MOU was its after-the-fact publication even though many safety organizations did not agree that the LFC is equivalent in quality to the U.S. CDL. We are not aware of any separate agreements formally recognizing the commercial license of each individual CAFTA signatory.

In the preamble of the cited rulemaking action, FMCSA also points out that there are already many illegal motor carrier operations conducted in the U.S. by citizens of Central

American nations who drive or fly into the U.S., buy a commercial motor vehicle, and then drive it through the U.S., down across our southern border, through Mexico, and into one of the Central American countries. These vehicles and their drivers have no legal operating authority, no valid commercial driver licenses, no insurance, and their vehicles may not comply with U.S. safety standards. To address this problem, FMCSA states that it will "educate" southbound non-North American motor carriers and later conduct "periodic strike forces" at the southern border to target non-registered southbound non-North American commercial motor vehicles. The vehicles and their drivers/owners will receive roadside inspection citations and sometimes will be placed OOS.[46]

This is an irresponsible stance that threatens safety because it turns a blind eye towards the operation of commercial motor vehicles and drivers who are illegally operating trucks and buses in interstate movement and violating numerous federal laws and regulations. Why aren't these illegal vehicles and drivers being stopped from operating in the states before they impact highway safety with crashes, deaths, and injuries? Why is FMCSA allowing these vehicles to travel hundreds, perhaps thousands, of miles before they are intercepted at the southern border? Why is the primary response an inspection and only ***sometimes*** putting them out of service? If the vehicle and driver are operating dangerously, why would FMCSA send them into Mexico to reach a Central American country, thereby endangering citizens in other countries to the south of the U.S.? Isn't this the agency just washing its hands of illegal, perhaps dangerous vehicles and drivers operating in the U.S.?

These and other questions about CAFTA commercial motor vehicle long-haul operations in the U.S. need to be carefully examined and answered before the southern border is fully open to all commercial motor vehicles coming through Mexico. There also needs to be a careful evaluation of whether the measures that FMCSA has proposed – and not yet adopted -- in its December 21, 2007, Federal Register notice are sufficient to ensure the quality of operating safety for long-haul motor carriers entering the U.S. from Central America.

State Examples Illustrate Chronic Deficiencies in FMCSA and State Motorcoach Safety Oversight

The following examples illustrate the chronic deficiencies in FMCSA's administration of Compliance Reviews (CRs) for motorcoaches by showing the results of Advocates' investigation into several states to provide a snapshot of the current status of interstate motorcoach safety. Advocates evaluated four states in early 2006 whose motorcoach CRs are currently listed on FMCSA's web site, Analysis and Information Online. Advocates reviewed Maryland in the mid-Atlantic area, Texas in the southern middle of the U.S., Wisconsin in the upper midwest, and Oregon in the far northwest. The motorcoach CRs for each state are arranged on FMCSA's website with the final safety rating – including entries that the carriers are unrated – following the four Safety Evaluation Areas of Accident, Driver, Vehicle, and Safety Management. In each instance, the states reviewed have only a patchwork quilt of CRs that, in most cases, are outdated or incomplete for scoring in all four Safety Evaluation Areas, or the carriers, in a few instances, have been assigned Conditional or Unsatisfactory ratings. Finally, a very large percentage of motorcoach companies are unrated – FMCSA has not performed CRs and the companies have no safety fitness ratings.

Maryland: Advocates found 100 Safety Rated motorcoaches in Maryland in our 2006 review.[47] Of these, 55 were unrated, five bore Conditional ratings, and 39 had Satisfactory ratings. None was rated Unsatisfactory.

However, of the 39 Satisfactory ratings, 27 were more than five years old and had been awarded in 2000 or earlier. Many of the Satisfactory ratings had been given in the 1990s, and one Satisfactory rating had been assigned in 1988. If we regard Satisfactory safety ratings more than five years old as essentially no longer an accurate or relevant indicator of contemporary operating safety, and add the unrated and Conditional rated carriers to these outdated Satisfactory ratings, then 87 of 100 listed passenger carriers do not have timely safety ratings.

But the story gets even worse. In many instances, even motorcoaches with Satisfactory safety ratings were not rated in all four (4) Safety Evaluation Areas. In fact, of the 39 passenger carriers out of 100 listed that carry Satisfactory safety ratings, only five had been reviewed for all four Safety Evaluation Areas. The most frequent missing evaluation area is the overarching finding of company Safety Management adequacy. Only the four motorcoaches assigned Satisfactory ratings in 2005 had been evaluated for Safety Management.

If a reasonable standard is assumed for the Maryland safety ratings of motorcoaches for both timeliness and completeness, as described above, then of the 100 companies listed on the FMCSA web site, only four carriers had Satisfactory ratings, were rated recently (within the last five years), and were reviewed for all four Safety Evaluation Areas. Although FMCSA provides this web site with state-by-state CR rating information as a consumer guide to selecting a good motorcoach for transporting a wide variety of people such as children, clubs, church groups, tour groups, and the disabled, there are almost no motor carriers in Maryland to choose from that have recent Satisfactory ratings that are also the result of findings for all four Safety Evaluation Areas.

We updated our review of the state after another calendar year had passed, and found that Maryland now has 124 registered motorcoach companies. Constraints of time for this testimony did not permit us to parse the numbers as finely as we did last year. Overwhelmingly, however, most carriers still have either no ratings assigned, ratings that are provided are mostly outdated, and even recently rated carriers assigned Satisfactory ratings have one or more of the four safety evaluation areas missing. However, there has been some progress: as compared with our earlier review, four carriers had CRs performed in 2007 with resulting safety ratings. Every one of these new additions to the state's CR list is rated Satisfactory. However, the top rating of Satisfactory even for these four CRs performed in 2007 have one or more missing Safety Evaluation Areas.

Texas: Texas fared a little better than Maryland in 2006 in our review, but not by much.[48] The Texas list from FMCSA for 2006 contained 193 active motorcoaches. Of these, 75 were rated Satisfactory, nine carry Conditional ratings, and 109 were unrated. None was rated Unsatisfactory.

Of the 75 Texas motorcoaches rated Satisfactory, 20 were assigned the highest rating more than five years ago. One carrier had its Satisfactory rating assigned in 1986. A high percentage of the Satisfactory ratings were assigned in 2005 and even in 2006.

However, on closer inspection this somewhat rosier picture is not so impressive. Two of the three 2006 Satisfactory ratings alone, for example, were missing three of four Safety Evaluation Areas and one was missing two of four Areas. Of all 75 Satisfactory rated motorcoaches in Texas, 64 were not rated in all four Safety Evaluation Areas. In many cases, two or even three of the four Areas had no findings. This even includes Satisfactory ratings that were just assigned in 2005 or 2006.

Performing the same, contemporary exercise for Texas as we did just now for Maryland, of the 193 motorcoaches listed by FMCSA for the state last year, only nine are rated Satisfactory, had that rating assigned in the last five years, and were rated in all four Safety Evaluation Areas. Again, not much to choose from for a consumer trying to find the safest motorcoaches in Texas, a big state where perhaps none of those nine carriers with the best, most complete, and most recent rating is close to the location where your group needs passenger transportation service.

We again did a quick review of Texas in early 2007 to find if any major changes had occurred. The state still has the same number of motorcoach companies, 283, that it had in 2006. However, there clearly has been substantial CR action taking place in Texas since one year ago. The number of CRs conducted has substantially increased, and the number of Satisfactory rated carriers has commensurately increased. Again using our rule of thumb that a safety rating should not be more than five (5) years old, Texas now has 92 acceptable Satisfactory ratings, and the agency has shown an increased willingness to assign Conditional ratings to motorcoach companies as compared with our review last year. We do not know why this flurry of CR activity took place recently in Texas, especially when other states have not experienced much change for the better.

Wisconsin: Wisconsin last year had 55 registered motorcoach companies currently listed on the Analysis and Information web site. Of these, 34 were rated Satisfactory, two were Conditional, and 19 were unrated. No carrier was rated Unsatisfactory. However, 28 of those 34 Satisfactory ratings were more than five years old. Three of the Satisfactory rated carriers were awarded this highest safety fitness rating in 1987. Only one motorcoach company of the 34 rated Satisfactory had all four Safety Evaluation Areas covered for the rating. Most motorcoaches rated Satisfactory had one or more of the four Evaluation Areas unchecked. Most carriers rated Satisfactory were not rated for overall safety management. One Satisfactory rating assigned in 2000 had none of the four Safety Evaluation Areas covered, so one wonders what the highest rating of Satisfactory could have been based on.

A year later, Wisconsin now has 58 registered motorcoach companies. Of these 38 have Satisfactory ratings gained in the last five years. So just a cursory look at Wisconsin shows some improvement in recent CRs for the state. Again, we do not know why FMCSA concentrated its efforts on substantially increasing the number of CRs in Wisconsin.

Oregon: For Oregon, only 17 motorcoach companies were listed as having received CRs when we looked at the state in March 2006. Of these, 11 were rated Satisfactory, with none rated in all four Safety Evaluation Areas. One motorcoach company was rated Conditional and five have no ratings. Seven of the 11 carriers rated Satisfactory were assigned this rating more than five years ago. One Satisfactory rated carrier was given its rating in 1986.

A year later Oregon now has 12 companies rated Satisfactory within the last five years. However, not one of those ratings have all four Safety Evaluation Area scores. Oregon also still has safety ratings stretching back to 1986 and, of the 23 motorcoach companies registered in the state, five are still unrated.

New States Reviewed in 2007 Reveal Ongoing FMCSA Safety Oversight Deficiencies

Florida: We looked at Florida, a very populous state, as a good example of a bigger state that should have lots of motorcoach companies. This expectation was borne out. The current FMCSA online tally for Florida shows 134 companies. Ninety-six (96) are unrated – 72 percent of registered carriers – so when Floridians are looking for a motorcoach company, almost three out of four choices have no safety fitness ratings. Of the remainder, only 19 with Satisfactory ratings had their CRs performed in the last five years, a really slim pool of candidates for Florida motorcoach patrons.

Tennessee: We reviewed Tennessee as a mid-sized state both in size and in population. We found 78 registered motorcoach companies. Twenty-seven (27) of the companies have no safety fitness ratings, more than one-third. Of the rest, 42 companies have Satisfactory ratings assigned in the last five years. However, only four of these have safety scores for all four Safety Evaluation areas.

Alaska: Next, we evaluated Alaska, a very large state that is only thinly populated. Alaska has three registered interstate motorcoaches. Two of the three have no ratings, and the third received its Satisfactory rating in 1986. Alaskan citizens and visitors essentially have no reliable safety choices for motorcoach transportation.

Michigan: Michigan is a large state that also has a large population, so it should have many motorcoach companies providing interstate transportation. There are 84 registered companies in the state. Forty-six (46) have Satisfactory ratings assigned in the last five years, about 55 percent. The remaining companies are non-starters for motorcoach patrons – either unrated, rated Conditional, or rated Satisfactory more than five years ago. We found only four the Satisfactory rated carriers within our five-years cutoff that had safety scores for all four Safety Evaluation Areas.

Louisiana: Finally, we reviewed Louisiana, a state that has suffered real heartbreaking losses in the last two years. Unfortunately, the state's long-suffering citizens also have to put up with sub par motorcoach safety rating efforts by FMCSA. Of the 41 registered companies in Louisiana, 22 – more than half – are either unrated, have Conditional ratings, or have Satisfactory ratings more than five years ago. The pool of plausible candidates for Louisiana residents and visitors is less than half the number of motorcoach companies with interstate operating authority.

One more fact needs to be emphasized here at this end of this brief review of just a few states: a Satisfactory rating for a motor carrier is not FMCSA's "Good Housekeeping" seal of approval. A Satisfactory rating from the agency does not mean superior or excellent safety operations and safety management. In fact, FHWA back in the 1990s at one point proposed defining the Satisfactory safety rating as "Not Unsatisfactory," a characterization that does not

exactly inspire confidence in a consumer seeking transportation services.[49] This is borne out by FMCSA latest juggling act on the safety rating process: in its new Comprehensive Safety Analysis 2010 (CSA2010) initiative, the agency has tentatively proposed the possibility of having just a two basket system for safety ratings – Continue to Operate and Unfit.[50] The Satisfactory, Conditional, and Unsatisfactory rating scheme would be eliminated and replaced with a "pass/fail" rating system. In the current system, even a Satisfactory rating simply means that a carrier receiving a safety audit could have just gotten across the threshold. In school terms, a carrier receiving a Satisfactory rating could have gotten a "D-" in the safety areas that were evaluated. Moreover, the Satisfactory rating grade was inflated by FHWA in the 1990s, essentially doubling the bad safety score that could still result in a Satisfactory rating.[51] However, absent serious safety problems with crashes, driver and vehicle safety oversight by the company, and overall safety management deficiencies, the Satisfactory rating can and will be awarded even to companies with mediocre safety records. We are also concerned that FMCSA will practice "grade inflation" so that many carriers that formerly would be assigned a Conditional rating will be moved up to the Continue to Operate category.

In the end, if you are a consumer looking for the safest passenger motor carrier in your state, you probably are left to your own devices to try to determine where to put your money and have the best chance of safe management, safe vehicles, and safe drivers to ensure that you and the others sharing the motorcoach safely reach your destination. You certainly will get little help from FMCSA's safety rating efforts.

Motorcoach Driver Qualifications Have Inadequate Federal and State Requirements

Current requirements for motorcoach drivers at both the state and federal levels are woefully inadequate. The driver for the horrendous 1999 Mother Day's motorcoach crash in New Orleans had slipped through several safety nets by the time he lost control of the vehicle and left the roadway into a dangerous roadside environment.[52] Although he had a current commercial driver license (CDL) with the additional bus endorsement and a medical certificate, he was suffering from several life-threatening medical conditions, including severe heart problems and partial kidney failure. He also had verified use of marijuana and of a sedating antihistamine. The medical certification process both at the state and federal levels should have pulled this driver from the road long before the crash. No commercial pilot with these severely impairing medical conditions could have continued to operate an aircraft with up to 55 people aboard. FMCSA, however, regularly grants two-year exemptions to commercial drivers who do not meet the federal vision standard or who are required to take intravenous medication for diabetes mellitus. These specially exempted drivers are permitted to operate buses and motorcoaches.

Motorcoach drivers are required to have CDLs with the additional bus endorsement. However, there are no training requirements in federal law and regulation for entry-level CMV drivers, and there are none for the additional endorsements for operating multi-trailer large trucks, hazardous materials vehicles, school buses, or motorcoaches. Moreover, motorcoach drivers only have to pass an additional, short knowledge test to gain the additional bus endorsement. Once again, there is no specific federal training requirement for an interstate commercial driver transporting passengers.

Although FHWA and FMCSA together have spent over 20 years studying CMV operator training issues, producing their own Model Curriculum for training both drivers and the trainers of those drivers, and conducting rulemaking pursuant to Section 4007(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA),[53] FMCSA did an abrupt about-face in May 2004 and issued a final rule that avoided adopting any basic knowledge and skills training requirements, including behind-the-wheel driving instruction, for entry-level commercial drivers.[54] Instead, the agency published a regulation that only required drivers to gain familiarity with four ancillary areas of CMV operation – driver qualifications, hours of service requirements, driver health issues, and whistleblower protection. FMCSA did not require any specific curriculum to be used for these areas of familiarity and no minimum amount of instruction was specified. Moreover, even though FMCSA determined that drivers in their first five years of CMV operation could benefit from basic entry-level training, the agency further reduced the meaning of 'entry-level driver' to the point where it was defined to include only drivers with less than one year of driving experience with a CDL. Note that the agency did not require driver training as a prerequisite for a candidate seeking an entry-level CDL.

This rulemaking outcome was a complete reversal from earlier agency statements that the majority of new commercial drivers were not receiving adequate training. The agency had repeatedly asserted that the CDL itself was only a licensing standard, not a training standard, and therefore could not be expected to do the job of training commercial drivers in both the knowledge and technical skills to comply with numerous federal and state motor carrier regulations as well as to safely pilot their big commercial vehicles on public highways.[55] Moreover, FHWA stated that the actions of the private sector alone on a voluntary basis were unlikely to improve the inadequate level of driver training that its contractor had found in an in-depth report completed in July 1995.[56] FMCSA restated this finding in its 2003 proposed rule, that entry-level drivers are in general not receiving adequate basic training in the knowledge and skills necessary to operate a large commercial vehicle.[57]

Nevertheless, FMCSA in its final rule contradicted its stance on the need for basic entry-level knowledge and skills training that it had consistently assumed throughout the protracted history of consideration and rulemaking on this crucial safety issue, including its support for entry-level training in its own 2003 proposed rule. Instead, the agency issued a final rule that excused almost all novice drivers from even being considered entry-level commercial drivers and required them to receive only perfunctory instruction in corollary areas of CMV operation.

Because FMCSA in its final regulation reversed its own findings that basic knowledge and skills entry-level driver training was inadequate and should be required, Advocates filed suit against FMCSA. Last year, in a unanimous decision, the U.S. Court of Appeals for the District of Columbia found that the final rule was arbitrary, capricious, and an abuse of agency discretion, and remanded the rule to FMCSA. *Advocates for Highway and Auto Safety v. FMCSA.*[58] In its opinion, the appellate court stated that the rule "focuses on areas unrelated to the practical demands of operating a commercial motor vehicle" and that the rule was "so at odds with the record assembled by DOT that the action cannot stand."[59]

Although an excellent bus driver training curriculum was forged by FHWA 20 years ago, there are no training requirements for the operator who is responsible for the lives of 55 people on board an over-the-road motorcoach, no certification is needed to apply for an entry-level

CDL, and no instruction is needed to seek and gain the additional, special endorsement to operate motorcoaches in interstate commerce.

As already shown above, when FMCSA's laissez-faire stance on the training, certification, and licensing of motorcoach drivers is matched with the extraordinarily weak and incomplete CRs of motorcoaches, as well as to the unreliable data used by the agency to assign safety scores to these carriers, there is only one, inevitable conclusion – both FMCSA and the states are failing to properly oversee and evaluate motor coach safety at every level of analysis – company, driver, and vehicle:

► The safety data from the states relied upon by the agency are inadequate and no longer available for public use.

► The SafeStat system cannot reliably discover which carriers are at high risk of safety failures in management and operations.

► The safety audit system of CRs is a patchwork quilt of largely unrated carriers or carriers with incomplete or outdated safety ratings.

► The training of motorcoach drivers is left to the vagaries of private sector efforts with no federal benchmarks for measuring what constitutes a safe operator.

It is unimaginable that this kind of government dereliction of public safety assurance and oversight would be tolerated for commercial airline travel.

Conclusion and Recommendations

It is clear that passenger transportation safety by over-the-road motorcoaches is not held to the high standards of commercial passenger aviation. Severe motorcoach crashes can take many lives in a single event and inflict severe injuries on numerous passengers. NTSB's studies and accident reports over just the past decade are testimony to the almost unimaginable tragedies that have occurred in catastrophic motorcoach crashes. Congress needs to take action to raise the level of motorcoach company safety and improve the quality of federal and state oversight.

- **Require Stringent State Bus Inspection Programs:** Bus inspection programs in the past have been incomplete or non-existent in many states. Congress should require all states to have intensive bus safety inspection programs that, at a bare minimum, require at least a once-a-year safety inspection with more frequent inspection intervals being highly desirable. Fulfillment of this requirement should be linked with each state qualifying for annual allocations of Motor Carrier Safety Assistance Program (MCSAP) funds.

- **Accelerate Basic Reform of Safety Data Reporting, SafeStat, and Compliance Reviews:** State safety data must be dramatically improved; SafeStat, including its algorithm, must be reformed from the ground up to reliably detect high-risk motor carriers; and the Compliance Review system must be reformed and dramatically expanded to keep safety ratings up to date. In particular, we are convinced that, given the very high risk exposure of up to 58 passengers being transported by interstate motorcoaches, Congress should direct FMCSA that no Satisfactory rating shall be awarded to any registered motor carrier of passengers unless all four Safety Evaluation Areas have been completed.

- **Upgrade the Testing Requirements for both Entry-Level CDLs and Special Endorsements:** Congress needs to direct FMCSA to ensure that both the Commercial Driver License entry-level examination and the additional, special endorsements are substantially improved as an adequate test of both knowledge and skills to operate a Commercial Motor Vehicle. It is especially important that there be improved testing of the special knowledge and skills needed to operate an interstate motorcoach.

- **Require Entry-Level Commercial Motor Vehicle and Advanced Motorcoach Driver Training:** Motorcoach professional drivers should be required to undergo both entry-level and special motorcoach operator training. A certification that a basic, federally-approved Commercial Motor Vehicle driving curriculum was administered and that the candidate successfully passed or graduated should be required to take the Commercial Driver License entry-level test. Similarly, advanced training education through a certified motorcoach driver training curriculum should be required as a condition for being tested for the additional, special bus endorsement.

- **Require in Legislation that All Interstate Passenger-Carrying Motor Carrier Drivers Be Required to Submit the Medical Examination Long Form to Each State Licensing Agency That Awards Commercial Driver Licenses:** In current rulemaking to integrate the commercial driver medical certification with the Commercial Driver License, FMCSA proposes that each commercial driver submit the medical certificate "short form" to state licensing authorities so that a national repository of timely information on the physical fitness status of commercial drivers can be electronically maintained and information on specific drivers quickly retrieved.[60] However, the agency is not requiring that the actual medical examination form be submitted to each state, despite the fact that several states filed comments with the docket pointing out that submitted fraudulent or unwarranted medical certificates to the states is a rampant practice that can only be curtailed by each state actually receiving the medical examiner's "long form" showing the specific results of the physical fitness exam, along with the "short form," the one-page medical certificate. Congress should require that, at a minimum, motor carriers of passengers in interstate commerce must have their drivers submit the long form to state licensing agencies, although it would be even more desirable for Congress to mandate that every commercial driver do so.

- **Federal Standards for Bus and Motorcoach Crash Avoidance and Crashworthiness Need to Be Improved:** Finally, improvements to the handling, rollover resistance, braking distance, crash avoidance capabilities of large buses and motorcoaches need to be proposed and adopted by NHTSA simultaneous with improved crashworthiness of these big vehicles when they are in crashes. A key action in this regard should be NHTSA addressing the major issue of occupant ejection prevention through a variety of countermeasures. We also need barrier systems throughout the U.S. required by Congress and the Federal Highway Administration that can withstand a large commercial motor vehicle impact and restrain and redirect the vehicle so it does not enter hostile roadside environments littered with fixed object hazards and is prevented from crossing over into opposing streams of traffic.

- **Require CAFTA Motor Carriers Entering the U.S. Comply with Section 350 Requirements for Mexico-Domiciled Motor Carriers:** FMCSA is currently in rulemaking to establish amended new entrant motor carrier requirements that, for the first time, recognize the safety issue of CAFTA motor carriers operating throughout the U.S. However, the agency will not conduct pre-authorization Safety Audits of CAFTA motor carriers prior to allowing them to be awarded temporary operating authority, as is required for NAFTA Mexico-domiciled long-haul motor carriers by Section 350 of the FY2002 U.S. DOT appropriations legislation. Both property-carrying and passenger-carrying motor carriers can gain operating authority to carry freight or passengers throughout the U.S. by only filing a paper application with FMCSA. Congress should amend Section 350 and make it applicable to both trade agreements' motor carriers, NAFTA and CAFTA. This includes extending the requirements for Office of the Inspector General verification requirements and audit reports in Section 350 to CAFTA motor carriers, and directing that no CAFTA motor carrier shall be awarded permanent operating authority unless a full CR is conducted and a safety fitness rating of Satisfactory assigned. We are recommending that Congress direct that no passenger motor carrier from south of the U.S. southern border should be allowed to operate with a Conditional rating, a common circumstance for U.S. passenger-carrying motor carriers.

Thank for this opportunity to provide this information to the Committee through our testimony. We are ready to respond to any questions you might have or to supply more information for the Committee's use.

Endnotes

[1] Although Advocates' testimony centers on over-the-road motorcoaches, much of our critique of motorcoach safety design, operating safety, and agency oversight also applies to other types of buses and to some passenger-carrying vans that fall under the jurisdiction of both FMCSA and NHTSA.
[2] http://www.ntsb.gov.
[3] http://www.ntsb.gov.
[4] *Traffic Safety Facts*, National Center for Statistics and Analysis, National Highway Traffic Safety Administration, 2005.
[5] E. Mayrhofer, H. Steffan, H. Hoschopf, *Enhanced Coach and Bus Occupant Safety*, Paper 05-0351, Graz University of Technology Vehicle Safety Institute, Austria, 2005.
[6] M. Griffiths, M. Paine, R. Moore, *Three Point Seat Belts on Coaches – The First Decade in Australia*, Queensland Transport, Australia, Abstract ID –5-0017, 2005. The authors report that, since 1994 when 3-point belts were required in motorcoaches, several serious crashes have occurred, no belted coach occupant has received either fatal or disabling injuries.
[7] Transport Canada and the National Highway Traffic Safety Administration (NHTSA) have jointly issued a report close to the date of the catastrophic motorcoach crash that occurred in Georgia on March 2, 2007. However, the report has not yet been posted on either Transport Canada's or NHTSA's web sites.
[8] *Motor Coach Glazing Retention Test Development for Occupant Impact During a Rollover*, Martec Tech. Rpt. #TR-06-16, Rev. 4, Transport Canada, August 2006.
[9] E. Mayrhofer, H. Steffan, H. Hoschopf, *Enhanced Coach and Bus Occupant Safety*, Paper 05-0351, Graz University of Technology Vehicle Safety Institute, Austria, 2005.
[10] M. Griffiths, M. Paine, R. Moore, *Three Point Seat Belts on Coaches – The First Decade in Australia*, Queensland Transport, Australia, Abstract ID –5-0017, 2005. The authors report that, since 1994 when 3-point belts were required in motorcoaches, several serious crashes have occurred, no belted coach occupant has received either fatal or disabling injuries.
[11] http://www.fmcsa.dot.gov/facts-research/facts-figures/analysis-statistics/cmvfacts.htm. There are no separate figures for motorcoaches provided, but the United Motorcoach Association estimates that there are probably about

45,000 to 50,000 commercial over-the-road motorcoaches in the U.S. There is, in addition, an unknown number of "private" motorcoaches such as those used for schools, church groups, and other organizations, some of which are interstate and must conform to most Federal Motor Carrier Safety Regulations. It is difficult to reconcile these figures with those from FMCSA (*see*, the text and footnote 10 below) and the figures provided by the American Bus Association in its *Motorcoach Census 2005: Second Benchmarking Study of the Motorcoach Industry in the United States and Canada*, September 2006, in which it is stated that in 2004 the industry consisted of 3,500 companies operating nearly 40,000 motorcoaches.

[12] http://ai.fmcsa.dot.gov/International/border.asp?dvar=3&cvar=pass&redirect=HistoricalOverview.asp&p=1. However, other FMCSA documents portray a very different interstate passenger carrier population, as few as 40,000 motorcoach companies. It is difficult to reconcile all the conflicting figures the agency provided in different document in different locations on its web site. *See, e.g.*, http://www.fmcsa.dot.gov/facts-research/research-technology/conference/rt-forum-2005-ppt1.pps - 2005-12-3. These figures are perplexing because they contrast sharply with the figures for the preceding year. In 2005, FMCSA lists 436,877 drivers of 255,223 passenger-carrying motor vehicles for 19,980 registered interstate motor carriers. However, in 2004 the number of vehicles is given as 209,515. Similarly, the number of drivers for 2004 is dramatically less – 295,049 – than the number for 2005. It is difficult to believe that the number of interstate motorcoach vehicles soared by about 45,000 in a single year, with a complementary, amazing increase of over 145,000 professional drivers in just one year. FMCSA needs to explain why there are such wide variations in the data sheets on its web site for the number of passenger-carrying vehicles and drivers for two adjacent years.

[13] Section 4008(a)(2), Transportation Equity Act for the Twenty-First Century (TEA-21), Pub. L. 105-178, 112 Stat. 107 (June 9, 1998).

[14] Title 49 Code of Federal Regulation (CFR) Part 396; Sec. 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. § 31142).

[15] 63 FR 8516 *et seq.*, February 19, 1998.

[16] 66 FR 32863 (June 18, 2001).

[17] Section 210, Motor Carrier Safety Act of 1984, ***need citation***, codified at 49 U.S.C. § 31142.

[18] *Motor Carrier Safety Program – Federal Highway Administration*, Report Number AS-FH-7-006, March 26, 1997.

[19] *Motor Carrier Safety Program – Federal Highway Administration*, Report Number TR-1999-091, April 26, 1999. That report had been preceded by testimony delivered by the OIG before the Subcommittee on Transportation, Committee on Appropriations, United States House of Representatives, February 23, 1999, in which he emphasized that FHWA could not identify which motor carriers were the highest safety risks because of the agency's poor data system, and stressed that action needed to be taken because the number of truck-crash fatalities was increasing each year. *Surface Transportation Safety: Motor Carrier Safety and Related Matters*, Report Number TR-1999-055.

[20] *Motor Carrier Safety*, Statement of the Honorable Kenneth M. Mead before the Subcommittee on Transportation, Committee on Appropriations, United States House of Representatives, Report Number TR-2000-059, March 2, 2000; this was followed by a full audit report on the inadequacies of the disqualification programs of FMCSA and the states: *Disqualifying Commercial Drivers: Federal Motor Carrier Safety Administration*, Report Number MH-2000-106, June 30, 2000.

[21] *See*, Statement of Phyllis F. Scheinberg, Associate Director, Transportation Issues, Resources, Community, and Economic Development Division, *Truck Safety: Effectiveness of Motor Carriers Office Hampered by Data Problems and Slow Progress on Implementing Safety Initiatives*, GAO/RCED-99-122, March 17, 1999; Statement of Phyllis F. Scheinberg, Associate Director, Transportation Issues, Resources, Community, and Economic Development Division, *Commercial Motor Vehicles: Significant Actions Remain to Improve Truck* Safety, before the Subcommittee on Transportation and Related Agencies, Committee on Appropriations, United States House of Representatives, GAO.T-RCED-00-102, March 2, 2000.

[22] *Highway Safety: Further Opportunities Exist to Improve Data on Crashes Involving Commercial Motor Vehicles*, GAO-06-102, November 18, 2005, transmitted to the Subcommittee on Transportation, Treasury, the Judiciary, House and Urban Development, and Related Agencies, Committee on Appropriations, United States Senate; and to the Subcommittee on Transportation, Treasury, and Housing and Urban Development, the Judiciary, and District of Columbia, Committee on Appropriations, United States House of Representatives. This report unfortunately duplicates many of the same criticisms of agency data system failures that GAO pointed out back in 1999. *See*, *Truck Safety: Motor Carriers Office Hampered by Limited Information on Causes of Crashes and Other Data Problems*, GAO/RCED-99-182, June 29, 1999.

[23] *See, Improvements Needed in the Motor Carrier Safety Status Measurement System: Federal Motor Carrier Safety Administration*, U.S. DOT OIG, Report Number MH-2004-034, February 13, 2004; K. Campbell, R. Schmoyer, H. Hwang, *Review of the Motor Carrier Safety Status Measurement System*, Final Report, Prepared for the Federal Motor Carrier Safety Administration, Oak Ridge National Laboratory, October 2004.
[24] "Highway Safety: Further Opportunities Exist to Improve Data on Crashes Involving Commercial Motor Vehicles," *op. cit.*
[25] K. Campbell, R. Schmoyer, H. Hwang, "Review of the Motor Carrier Safety Status Measurement System," *op. cit.* The Oak Ridge SafeStat review was preceded by two evaluations conducted by the Volpe National Transportation Systems Center, which also found systemic deficiencies in SafeStat that prevented the algorithm from identifying high safety risk motor carriers. *See, Improvements Needed in the Motor Carrier Safety Status Measurement* System, February 2004; *SafeStat Effectiveness Study Update,* Volpe National Transportation Systems Center, March 2004.
[26] Pub.L. 109-59, 119 Stat. 1144 (Aug. 10, 2005).
[27] Pub.L. 106-159, 113 Stat. 1748 (Dec. 9, 1999).
[28] Section 215 of the Motor Carrier Safety Act of 1984 requires the Secretary to maintain, by regulation, a procedure for determining the safety fitness of an owner or operator of commercial motor vehicles. 49 U.S.C. § 31144.
[29] *Motor Carrier Safety Program*, Report Number AS-FH-7-006, March 26, 1997. The goal of assigning safety ratings to all motor carriers by September 30, 1992, was a self-imposed target by FHWA that could not be attained, as pointed out in the GAO report of January 1991, *Truck Safety: Improvements Needed in FHWA's Motor Carrier Safety Program*, Report No. GAO/RCED-91-30. At the time of GAO's preparation of this report, FHWA had not rated about 60 percent of interstate motor carriers. As GAO points out in this report, the agency decided that its safety oversight resources would be better spent than attempting to safety rate all motor carriers in accordance with legislative requirements. On October 1, 1994, FHWA discontinued safety reviews to assess unrated motor carriers.
[30] The most recent statement of the governing regulations for determining safety fitness is the FMCSA final rule of August 22, 2000 (65 FR 50919 *et seq.*), which was a response to the increased stringency of safety fitness requirements enacted in Section 4009 of TEA-21 that amended 49 U.S.C. § 31144, originally enacted by Section 215 of the Motor Carrier Safety Act of 1984 (P.L. 98-554, 98 Stat. 2832). This final rule amended the regulations for safety fitness determinations in 49 CFR Pts. 385 and 386. Pt. 386 contains the controlling criteria for making safety fitness determinations and Pt. 387 contains the rule of practice for the agency controlling the issuance of CR ratings, petitions, hearings, orders, and other administrative machinery for conducting the oversight and enforcement programs of FMCSA. It should also be noted that FMCSA recognizes that its administrative selection of the three rating categories of safety fitness, Satisfactory, Conditional, and Unsatisfactory, have been legislatively enshrined through explicit mention and use of the three ratings in Section 15(b) of the Motor Carrier Safety Act of 1990. 49 U.S.C. § 31144.
[31] "Motor Carrier Safety Program: Federal Highway Administration," *op. cit.*
[32] Census data from the Motor Carrier Management Information System (MCMIS) found at http://www.fmcsa.dot.gov. Also *see*, the December 15, 2005, GAO report, "Large Truck Safety: Federal Enforcement Efforts Have Been Stronger since 2000, but Oversight of State Grants Needs Improvement," *op. cit.*
[33] http://www.ntsb.gov/Recs/mostwanted/truck_safety.htm.
[34] *Id.*
[35] http://ai.fmcsa.dot.gov/ProgramMeasures. However, another location on the agency's web site lists 2004 CRs at a total of 10,104.
[36] *See*, "Motor Carrier Safety Program: Federal Highway Administration," *op. cit.*
[37] *Motor Carrier Safety at the U.S.-Mexico Border*, Statement of the Honorable Kenneth M. Mead, Inspector General of the U.S. Department of Transportation, before the Committee on Commerce, Science, and Transportation, United States Senate, July 18, 2001.
[38] All figures in the ensuing paragraphs on Mexico-domiciled passenger-transportation motor carriers are taken from the Analysis & Information part of FMCSA's web site that, in turn, are derived by the agency from its Motor Carrier Management Information System March 31, 2006, snapshot.
[39] *Follow-Up Audit of the Implementation of the North American Free Trade Agreement's (NAFTA) Cross Border Trucking Provisions: Federal Motor Carrier Safety Administration*, Report Number: MH-2005-032, Office of the Inspector General of the U.S. Department of Transportation, January 3, 2005.
[40] Status *of Safety Requirements for Cross-Border Trucking With Mexico Under NAFTA*, Statement of Calvin L. Scovell III, Inspector General, U.S. Department of Transportation, before the Committee on Appropriations,

Subcommittee on Transportation, Housing and Urban Development, and Related Agencies, United States Senate, CC-2007-026, March 8, 2007.

[41] http://ai.fmcsa.dot.gov/International/border.asp?redirect=TopTenD.asp&p=1.

[42] Once again, this figure conflicts badly with another figure also located in the same part of FMCSA's web site, where the agency lists the Mexico-domiciled motor carrier vehicle OOS as 12.6 percent for 2005. There is no way to determine which figure is accurate.

[43]Dominican Republic-Central American – United States Free Trade Agreement Implementation Act (Pub. L. 109-53, 199 Stat. 499, Aug. 5, 2004).

[44] 71 FR 76730 (Dec. 21, 2007).

[45] *Id.*

[46] *Id.*

[47] http://www.fmcsa.dot.gov/Passenger.

[48] *Id.*

[49] *See*, 61 FR 18866 *et seq.* (Apr. 29, 1996).

[50] Lest there be any doubt that any "passing grade" is not a sign of superiority or excellence in safety, this tentative safety rating system was characterized at the agency's November 16, 2006, Listening Session held in Washington, D.C., as Continue to Operate = Not Unfit.
www.fmcsa.dot.gov/safety-security/safety-initiatives/csa2010/csa2010-20061126.htm.

[51] This grade inflation for the Satisfactory rating was adopted in 1993-1994. In revisions to the Safety Fitness Rating Methodology done without public notice and comment, FHWA raised the passing score for a Satisfactory rating from the former range of zero percent to 16 percent for the Out of Service (OOS) rate, to a range of zero percent to 33 percent. Similarly, while the Conditional rating was formerly assigned to a motor carrier only if the vehicle OOS rate fell between 17 percent and 33 percent, a Conditional rating in the revised rating scheme was assigned only if the OOS rate was 34 percent or higher. These and other maneuvers essentially eliminated any Unsatisfactory rating for bad OOS ratings alone. Theoretically, it meant that a carrier could have a 100 percent OOS rating but still be assigned a Conditional rating. *See*, the agency's documentation of these changes at 59 FR 47204, September 7, 1993.

[52] *See*, NTSB Highway Accident Report HAR-01/01, *Motorcoach Run-Off-The-Road Accident, New Orleans, Louisiana, May 9,* 1999, adopted August 28, 2001.

[53] Pub.L. 102-240, 105 Stat. 1914 (Dec. 18, 1991).

[54] 69 FR 29384 *et seq.*, May 21, 2004.

[55] *See*, 61 FR 18355 *et seq.*, September 30, 1996.

[56] *Assessing the Adequacy of Commercial Motor Vehicle Driver Training: Final Report*, 3 vols, Applied Science Associates, Inc., for the Federal Highway Administration, Office of Motor Carriers, July 1995.

[57] *See*, 68 FR 48863, 48865(Aug. 15, 2003).

[58] 429 F.3d 1136 (D.C. Cir. 2005).

[59] *Id.* at 3-4.

[60] 71 FR 66723 (Nov. 16, 2006).

STATEMENT OF

BRUCE HAMILTON

PRESIDENT/BUSINESS AGENT

OF THE

AMALGAMATED TRANSIT UNION NATIONAL LOCAL 1700

BEFORE THE

HIGHWAYS AND TRANSIT SUBCOMMITTEE

OF THE

U.S. HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE

HEARING ON MOTORCOACH SAFETY

MARCH 20, 2007

ATU NATIONAL LOCAL 1700, AFL-CIO
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Mr. Chairman and members of the Committee:

My name is Bruce Hamilton and I am the President/Business Agent of the Amalgamated Transit Union (ATU) National Local 1700, representing approximately 3,000 employees of Greyhound Lines, Inc. The members of ATU National Local 1700 operate and maintain Greyhound vehicles and terminals throughout the United States.

It is my pleasure to appear here today on behalf of these members, as well as all ATU members operating intercity bus service in the U.S., including ATU locals representing employees of Bonanza Lines, Martz Trailways, and Peter Pan Bus Lines.

I was elected to the Executive Board of Local 1700 in 1999 and elected President of the local in January 2005. Prior to that, I was an ATU member and bus operator for Greyhound for almost thirty years. I know first hand the level of skill and training that is required of a bus driver, as well as the importance of maintaining a vehicle fleet that meets or exceeds federal safety standards.

Safety has always been a top priority for the ATU. We are extremely grateful for this Committee's decision to hold this hearing today and for inviting the ATU to participate on this panel.

The ATU's Commitment to Safety

According to the U.S. Department of Transportation (DOT), Bureau of Transportation Statistics, intercity bus travel, like that provided by Greyhound, is the safest mode of transportation over cars, trucks, trains, planes and other commercial vehicles.

The ATU is proud of the safe, efficient, friendly and affordable intercity bus service that our members provide across this country. We are committed to ensuring the continuation of this high level of service and we are willing to work with our industry groups and employers to ensure that we meet and, in many cases, exceed federally-mandated standards.

The ATU is especially committed to ensuring that our members, including operators and mechanics, receive comprehensive training and regular refresher courses that include hands-on experience and cover DOT requirements, including drug and alcohol testing, medical examinations, commercial driver's license (CDL) requirements, hours of service regulations, and vehicle standards, as well as additional safe driving skills, security and emergency evacuation practices, driving in adverse weather conditions and other unusual or difficult traffic conditions, compliance with the transportation provisions of the Americans with Disabilities Act (ADA), and health and safety precautions.

Enforcement of Existing Federal Safety Standards

While the safety record of this industry overall is good, the emergence in recent years of numerous low-cost carriers that skirt federal safety rules and other regulations has threatened this record and the continuation of the valuable service ATU members provide.

Particularly troublesome are the "curbside operators" that are operating in violation of crucial safety, security, environmental and civil rights laws and regulations. Repeated and flagrant violations of these rules - many of which my members can attest to - allow these companies to undercut established carriers, such as Greyhound, that follow federal rules and support good jobs for their employees.

While these rogue curbside operations have primarily been operating out of the Chinatown

neighborhoods of major cities on the east coast, including New York City, Boston, Philadelphia and Washington, D.C., we have recently seen similar bus operations providing service on the West Coast and across the Mexican border.

Unlike Greyhound and other large intercity bus operations, these curbside operators do not operate out of the cities' main bus terminals, instead they pick up and drop off passengers at unmarked curbside locations throughout these cities. Not only does this practice often violate local traffic and right-of-way laws, but it raises significant safety issues for passengers, pedestrians, and other drivers on the road who must navigate around these illegally parked vehicles.

Reports from passengers, ATU members, other legitimate bus providers, and state, local and federal officials paint a picture of operators who too often fail to comply with federal rules governing hours of service, drug and alcohol testing, driver qualifications, medical examinations, CDLs, proper registration, licensing, insurance and maintenance practices. In addition, there are numerous reports and complaints that these carriers fail to safely dispose of waste products and are not in compliance with the accessibility standards set by the ADA.

Several serious accidents reported in the media over the past few years offer stark examples of what happens when safety standards continue to be ignored.

Just this year, we have seen two accidents involving one of the more notorious curbside operators - Fung Wah. First, on January 3rd, a Fung Wah bus lost two wheels while traveling on the Massachusetts turnpike. In this incident, the driver was cited by police for negligent operations, having false log books and faulty brakes. A little more than a month later, another Fung Wah bus crashed on the Massachusetts turnpike. In this case, the company was

cited for failing to properly maintain equipment. Fortunately, there were no serious injuries in either incident.

Other recent incidents involving curbside operators include:

(1) a rollover accident (reportedly caused by speeding) in September 2006 that injured 34 Fung Wah passengers;

(2) an August 2006 crash involving a Shun Fa bus operating from Pittsburgh to New York that injured ten passengers;

(3) a bus fire in March of 2005 aboard a Travel Pack bus operating from New York to Boston; and

(4) another bus fire in August 2005 aboard a Fung Wah bus.

In these cases, the drivers and companies were found to be in violation of numerous federal and local laws, including various moving violations, failure to properly maintain equipment, driving on a suspended license, failure to comply with random drug and alcohol tests and hours of service requirements, and allowing non-English speaking drivers to carry passengers.

In most of these cases, the companies were fined but were allowed to continue operating - even where the Federal Motor Carrier Safety Administration's (FMCSA) own data showed these companies to have poor safety ratings.

We have seen the tragedy that can result from allowing companies with poor safety ratings to continue transporting the public. In September of 2005, 23 senior citizens who were being evacuated from the path of Hurricane Rita, died in a horrific bus fire outside of Dallas, Texas. The company, Global Limo Inc., while not technically a curbside operator, was operating despite having an extremely low driver safety rating. After the fire, federal inspectors found

168 violations of federal safety regulations and it was revealed that the driver of the vehicle was an unlicensed undocumented immigrant - who had been stopped for driving violations three times in the seven months before the accident.

There is no excuse for continuing to allow these unsafe companies on the road. We must be more aggressive with the enforcement of safety and other regulations - and the penalties must be significant enough to deter violations.

Today, when fines are issued as a result of a safety or other violation, the amounts are seen as simply a cost of doing business and are insufficient to deter unsafe operations. Furthermore, follow-up oversight and a consistent inspection regime are often lacking. Carriers may simply fix the problem identified - a band-aid solution - but then commit violations in other areas or when regulators are not paying attention. Some of these curbside providers simply "go out of business," under one name and quickly re-appear under another name.

Occasional and lax enforcement of our nation's safety and operational rules is simply not working. Regulators must begin a serious effort to ensure that all intercity bus providers are offering safe transportation in compliance with federal, state and local rules.

In particular, the FMCSA must immediately audit curbside and other low-cost operators to ensure compliance with hours of service rules, drug and alcohol testing requirements, driver qualifications, maintenance rules, other safety critical procedures and compliance with ADA requirements. This is the only way to protect the passengers and pedestrians.

On the local level, cities should require all fixed-route intercity bus providers to operate out of a central bus terminal where oversight, accountability and safety can be assured. In

addition, local transportation and public safety officials must ensure that bus operators are not continually violating parking and traffic laws - as is too often the case today.

Federal, state and local rules governing intercity bus providers exist to ensure that the entire industry operates safely and in the public interest. By allowing a fringe element of the industry to evade basic requirements and therefore operate a "cheap ride", legitimate providers are placed in an impossible competitive position. More importantly, the safety and well-being of passengers and other highway users is needlessly jeopardized. There is simply no reason for this double standard to exist. Federal, state and local officials must institute measures that will protect the traveling public from this growing safety threat on our nation's highways.

Driver Qualification Requirements

I would like to expand on one specific safety issue which I referenced earlier, and that is the inability of many of the drivers for curbside and other low-cost carriers to speak English. It is crucial that commercial motor vehicle (CMV) drivers be able to read road signs and digital highway signs, as well as speak and understand English in order to communicate with passengers and officials in an emergency.

It is believed that a Travel Pack driver's inability to speak English led to a bus accident in 2001 in New Brunswick, Canada, that killed 4 middle school students from Massachusetts. The driver flipped a bus after failing to heed signs warning of a sharp turn at the end of a highway exit ramp. And two years ago, a driver who could not read or understand low clearance warning signs, got his bus stuck under a low 9'6" clearance bridge in New York City.

Under federal motor carrier safety regulations, a commercial motor vehicle driver must be able to read and speak English sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to make entries on reports and records. Despite this, some states, including New York and Wisconsin, allow applicants for commercial driver's licenses to take the CDL test in a foreign language or to bring an interpreter.

A recent investigative report by a Boston television station, found that, over an 18 month period, every single bus driver cited in Massachusetts for not speaking English, obtained their CDL in New York. Massachusetts offers the test in English only.

Steps must be taken to ensure that CDL holders can speak and read sufficiently to understand highway signs, converse with passengers and law or emergency response personnel, and otherwise transport their passengers safely.

Bus Operator Fatigue

Another common problem in the bus industry is operator fatigue. This issue has often been cited as a contributing cause of accidents involving over-the-road buses. Despite this, the Department of Transportation in the past has proposed increasing the number of hours that an intercity bus operator is allowed to drive. The ATU, along with Greyhound, opposed the DOT proposal and, as a result, the proposal was eventually adopted only for non-passenger carrying motor vehicles.

As a result, intercity bus operators continue to be subject to a limit of ten hours of driving within a fifteen hour on-duty period after eight hours of off-duty time. The ATU would urge this Congress to oppose any future proposals by DOT to increase the hours of service that

bus operators are allowed to operate.

I strongly believe that the best way to reduce operator fatigue and accidents caused by operator fatigue is to increase wages and benefits for operators. Decline in wages in the industry has put pressure on drivers to work longer hours in order to earn a living. Drivers shouldn't have to wear themselves out at work to the point of risking killing themselves and their passengers in order to make a living wage.

One way to achieve this is to make it easier for intercity bus operators to organize and bargain for better wages and benefits. I want to thank the members of this Committee who voted recently to pass the Employee Free Choice Act. This important legislation will allow thousands of intercity bus employees the opportunity to join a union and fight for a fair wage and safe working conditions. I encourage you all to talk to your counterparts in the U.S. Senate and urge them to likewise pass this legislation.

Vehicle Safety Standards

Other motorcoach safety issues which have been raised recently relate to vehicle safety standards. These include issues such as the depth of tire treads, whether seat belts should be required on motorcoaches, and whether window glazing would prevent glass from shattering and passengers being thrown from vehicles. This last issue has been raised in connection with the recent tragic bus accident in Atlanta.

As a driver, I do not claim to be an expert in the field of vehicle standards and occupant protection measures. I do know, however, that tire blowouts and fires caused by tires do happen and are a concern for the members I represent. I would recommend better reporting of these incidents and further research on these issues and issues such as seat belts and

window glazing, to determine if current vehicle standards can be improved. Our drivers and passengers deserve it.

Security Issues in the Intercity Bus Industry

The final issue on want to touch on today is the issue of over-the-road bus security. I am aware that the leadership of this committee has introduced legislation that would provide significant funding for both operating and capital expenditures to enhance the security of our nation's intercity bus network. The ATU strongly supports these provisions.

In particular, I firmly believe that intercity bus employees must be trained to be aware of and to respond to security threats. The Rail and Public Transportation Security Act of 2007 (H.R. 1269) would provide the necessary funding and requirements for this training.

While the threat of terrorism against our industry is real and must be addressed, we must also take measures to protect our intercity bus operators from everyday assaults. Violence against bus operators is a significant safety and security issue. Not only do violent acts harm the driver, but they also put the passengers at risk.

In this realm, we would urge Congress to take action to clarify provisions of the federal criminal code to ensure that crimes against intercity bus employees are treated the same as crimes against transit, school bus and charter bus operators.

Specifically, we are seeking to modify the criminal code to clarify an ambiguity recently identified by the U.S. Sentencing Commission with respect to 18 U.S.C. 1992, which makes it a federal criminal offense to attack a rail or mass transportation vehicle or the driver of that vehicle. Without this clarification, intercity bus drivers, such as those who drive for

Greyhound, would be without the federal protection against attacks and assaults that virtually every other bus driver has, whether they drive charter buses, sightseeing buses, school buses, or transit buses.

Further, we would recommend revising the incident reporting requirements for intercity bus operators to include assaults against employees. This would allow us to better determine the extent of the problem and to identify measures to address it.

Conclusion

Again, I thank you for the opportunity to appear here on behalf of my fellow ATU Brothers and Sisters. I look forward to working with the Committee and with many of the other panelists here today, as well as with other representatives of transportation labor, including the Transportation Trades Department of the AFL-CIO (TTD), to address the motorcoach safety issues raised here today. I am happy to take any questions at this time.

STATEMENT OF JOHN HILL, ADMINISTRATOR
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION
BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
SUBCOMMITTEE ON HIGHWAYS, TRANSIT, AND PIPELINES
MARCH 20, 2007

Chairman DeFazio, Ranking Member Duncan, and Members of the Subcommittee, thank you for inviting me today to discuss the Federal Motor Carrier Safety Administration's (FMCSA) safety oversight role in motorcoach operations. I am pleased to discuss with you FMCSA's programs that will achieve our goal of improving bus safety on our nation's highways.

Mr. Chairman, FMCSA was conceived out of the need to achieve stronger commercial motor vehicle (CMV) safety – it is our mandate. More than that, our Agency consists of dedicated professionals to whom safety is the highest priority. Toward that goal, FMCSA is working to reduce the loss of life on our nation's highways.

Mile for mile, motorcoaches are one of the safest forms of commercial passenger transportation. For the last 10 calendar years, there has been a yearly average of 22.7 occupant-related fatalities. Approximately 3,700 interstate motorcoach companies are registered in our database to operate over 34,000 motorcoaches in the United States and approximately 100,000 motorcoach drivers have Commercial Driver's Licenses (CDLs) with passenger endorsements. This figure does not include school bus drivers who have CDLs with passenger endorsements, the vast majority of whom are not subject to most of our safety regulations.

RECENT MOTORCOACH CRASHES

On Friday, March 2, we all observed with horror the scenes from the motorcoach crash in Atlanta, Georgia, in which seven people were killed. Five student passengers and the motorcoach driver and his wife lost their lives when the chartered motorcoach transporting a baseball team from Ohio's Bluffton University to Florida plunged off an overpass onto an expressway below. Preliminary investigations seem to indicate that the motorcoach driver mistook a High Occupancy Vehicle exit ramp for a traffic lane, and did not stop at the top of the ramp.

The bus company involved in the crash, Executive Coach Luxury Travel Inc., has a satisfactory safety rating from a 2001 compliance review. More recently, 11 vehicle inspections and 5 driver inspections were performed during the 12 months prior to the crash, resulting in zero out-of-service violations. On February 23, 2007, just one week prior to the crash, the Public Utility Commission of Ohio inspected 5 buses at the company's terminal, including the one involved in the crash. No violations were found on the vehicle during the inspection. The driver involved in the crash relieved the previous driver from driving and boarded the bus at approximately 4:30 AM, only one

hour prior to the crash. Preliminary investigation shows the driver involved was not in violation of the hours-of-service regulations. Please be assured that we will continue to work with the National Transportation Safety Board (NTSB) as it finalizes its investigation and issues its findings.

NATIONAL MOTORCOACH SAFETY PROGRAM

FMCSA is and has always been committed to the safe transportation of passengers on our Nation's highways. Passenger safety continues as one of the highest priorities within FMCSA and we continue to increase our focus on this area. The Agency has established a National Motorcoach Safety Program that emphasizes six areas: (1) increasing the number of motorcoach compliance reviews (CRs), which are investigations of a company's safety practices; (2) ensuring motorcoach companies have a higher priority within FMCSA's compliance review prioritization system, known as SafeStat; (3) establishing formal motorcoach inspection programs within all States; (4) improving the collection and analyses of safety data; (5) reducing motorcoach fires; and (6) expediting safety audits of new entrant passenger carriers. Addressing each of these areas is essential to improving passenger vehicle safety. In addition, I will discuss the following two major initiatives: (1) our national initiative to address unrated and high priority motorcoach operations; and (2) FMCSA's Comprehensive Safety Analysis 2010 (CSA 2010) initiative.

Motorcoach Company Compliance Reviews

FMCSA is increasing the number of compliance reviews conducted on motorcoach companies. In FY 2005, FMCSA and our State partners conducted 457 motorcoach CRs, surpassing our established goal of 375 by 22%. Our goal for FY 2006 was to conduct 450 CRs and we conducted more than 600 CRs on motorcoach companies, an increase of more than one-third.

Augmenting these efforts is one of the two major new initiatives. Last month, FMCSA established the National Initiative to Address Unrated and High Priority Motorcoach Operations, a project to expand our Agency's contact with motorcoach operators who appear to run safe operations. We expect to visit approximately 1,600 companies as part of this initiative before the end of 2007.

Passenger Carrier Enhancements to the SafeStat System

The availability of motorcoach safety data is more limited than that of property carriers due to fewer driver and vehicle safety inspections and a fewer total number of CRs. However, we believe that bus companies deserve more careful program attention and dedicated enforcement resources because they transport people rather than cargo. As a result, FMCSA will apply more stringent safety standards for passenger carriers through a reform of our risk pointer systems. With this change, we will ensure that passenger carriers receive higher scrutiny through more frequent on-site reviews.

Motorcoach Inspections

While all States conduct motorcoach inspections, not every State has a formal motorcoach inspection program. Beginning in FY 2007, FMCSA requires State agencies that receive Motor Carrier Safety Assistance Program (MCSAP) grant funds to include a bus inspection program in their Commercial Vehicle Safety Plans (CVSPs), which describe the State's inspection and enforcement activities for the coming year.

FMCSA has also initiated a series of motorcoach inspection and CR strike force activities to increase the attention and focus on passenger vehicle safety. The most recent inspection strike force was conducted from November 13 to 25, 2006, by FMCSA's Eastern division offices and our MCSAP State partners. The strike force spanned 14 States from Maine to Virginia and included participation by Federal and State personnel including over 22 law enforcement agencies. Thanks to the commitment of our Federal staff and our many State and local police agencies, more than 1,300 safety inspections were conducted on passenger vehicles and drivers.

The increased activities generated by the strike force resulted in more than 26,000 bus inspections during FY 2006, double the previous fiscal year. The additional data enables FMCSA to better identify poorly performing passenger carriers for a CR by increasing the amount of passenger carrier safety data entered into Federal and State databases. In addition, FMCSA has encouraged States to increase the number of CRs they perform on motorcoach operations.

Improved Safety Data

The use of safety data is critical to properly target our resources. In the past three years, there have been significant improvements in the timeliness and quantity of our motorcoach safety data. This is due in large part to the increase in motorcoach inspections resulting from inclusion of bus safety inspection programs in the State CVSPs and the increased emphasis on inspection and compliance review strike forces. As a part of the Agency's national initiative to address unrated and high priority motorcoach operations, safety investigators are confirming data through contacts and personal visits to bus carriers.

FMCSA is also conducting a Bus Crash Causation Study to determine the reasons for and the factors contributing to serious bus crashes. The data collection for this study will be completed this May and the final report is due in December 2007.

Motorcoach Fires

Another critical aspect of our safety program relates to the problem of motorcoach fires. It is vital that we gather and evaluate information on the causes, frequency, and severity of bus and motorcoach fires and analyze bus fire data to measure the effectiveness of bus fire prevention. FMCSA is also taking immediate action to address the collection and analysis of bus fire data. FMCSA recently issued a statement to FMCSA field offices

and our MCSAP partners to re-emphasize our position that fires that occur in CMVs, including buses, while they are operated on our highways must be classified as CMV crashes.

New Entrant Passenger Carriers

Each year, approximately 900 new entrant passenger carriers register with FMCSA. Research has shown that new entrant motor carriers have significantly more non-compliance issues and a higher crash rate than more established motor carriers. FMCSA has implemented a new entrant program policy placing greater priority on the safety of passenger carriers. New entrant passenger carriers are now subject to an on-site safety audit within 9 months of beginning operations instead of the statutorily required 18 months for other motor carriers. Where we have indicators of safety problems, Mr. Chairman, we go in to the company immediately. In addition we have published a proposed rule to strengthen new entrant program standards for all motor carriers including a provision for bus companies regarding verification and education about compliance with the Americans with Disabilities Act (ADA). The public comment period for the proposed rule closed on February 20, 2007.

CURBSIDE CARRIERS

FMCSA has taken important steps in enforcing regulations that apply to curbside bus operators that provide fixed-route service among major cities in the northeast such as New York, NY, Boston, MA, Philadelphia, PA, and Washington, DC. In December 2003, FMCSA organized a task force to examine these companies. Some were providing for-hire fixed-route bus transportation without proper operating authority and/or adequate insurance. This marked the first time FMCSA had organized a task force to address a specific sector of the passenger carrier industry. In 2006, FMCSA identified 24 curbside bus companies that are domiciled in the Northeast corridor that operate approximately 200 motorcoaches. As of March 2007, eighteen of these curbside companies are assigned a satisfactory safety rating, three are assigned conditional ratings, two companies went out of business, and one is not rated. FMCSA plans to conduct a compliance review on the unrated company in the near future.

In October 2005, FMCSA organized a bus inspection strike force in the Northeast corridor that resulted in 403 inspections. Many of these inspections were conducted on curbside bus companies. In December 2005, FMCSA's Passenger Technical Advisory Group, a specialized group of field investigators, conducted a bus company CR strike force along the Northeast Corridor. The strike force conducted CRs on 14 bus companies in the States of Massachusetts, New York, Pennsylvania, Maryland, and in the District of Columbia. Eight of these companies were curbside carriers. Of the CRs conducted on these curbside carriers, six resulted in satisfactory safety ratings and three in enforcement actions, which can occur simultaneously with a satisfactory safety rating. The most common violations were related to drug and alcohol testing. FMCSA has found that some small bus companies do not comply with drug and alcohol testing regulations because this testing is sometimes regarded as unnecessary if the company owner knows

the driver personally. During the CRs, our investigators documented the compliance status with ADA regulations for over-the-road buses. Documentation was forwarded to the Department of Justice for further action if necessary. FMCSA has found the use of multi-jurisdictional strike forces to be an effective tool in identifying and apprehending unsafe carriers.

Comprehensive Safety Analysis 2010 (CSA 2010)

Since the Motor Carrier Safety Improvement Act of 1999 created FMCSA as an independent agency within the Department of Transportation, the motor carrier population has increased steadily with an expected doubling of freight volumes by 2020. At the same time, FMCSA's programmatic responsibilities have increased, including implementation of Congressional mandates such as the New Entrant Program, and increased emphasis on ensuring transportation security.

While FMCSA's compliance and enforcement programs have been demonstrated to be effective, FMCSA's compliance review program is resource-intensive and reaches only a small percentage of motor carriers. To improve our reach into motor carriers, FMCSA has developed an improved safety oversight process called Comprehensive Safety Analysis 2010 or CSA 2010, which is the Agency's plan to develop an improved operational model for its primary compliance and enforcement operations. The CSA 2010 initiative, which includes our State partners, will reshape how FMCSA approaches its safety mission. Its goal is to develop and implement more effective and efficient ways for FMCSA and its State partners to reduce commercial motor vehicle crashes, fatalities, and injuries. Key features of CSA 2010 are (1) more contact with more carriers and drivers, (2) improved data to better identify high-risk carriers and drivers, and (3) a wider range of interventions beyond safety audits and CRs to address high safety risk behavior earlier.

Collaboration with Other Agencies

Finally, our bus safety program involves collaboration with numerous other Federal agencies and State partners, more so than most FMCSA programs. FMCSA works cooperatively with other Federal agencies to improve the overall safety of motorcoach transportation. We have a mutually beneficial working relationship with the Department of Justice regarding ADA compliance and enforcement. We have collaborated with the National Highway Traffic Safety Administration on issues related to the nature and causes of bus fires. We are currently involved with the Federal Transit Administration in exploring the development of a bus inspection program for transit buses. Finally, we have assisted the Transportation Security Administration with administering grants to bus companies to improve security within the industry.

CONCLUSION

Whether it be a college student boarding a bus for a summer cross-country trip, a senior citizens' group traveling by charter bus to see the Grand Canyon, or a class trip to

Washington, D.C., it is our duty to ensure our passenger carriers provide safe transportation. The traveling public expects motorcoach transportation to be fatality free – the loss of one passenger's life is unacceptable. Mr. Chairman, during my tenure at FMCSA I have worked hard to accomplish the goal of increased safety for our nation's traveling public. I know the thousands of State and local law enforcement officers in your Districts are also dedicated to improving highway safety. Thank you for giving me the opportunity to outline the work FMCSA is doing to make this segment of transportation safer. I commend you, Mr. Chairman, for demonstrating a strong safety oversight in the transportation of our country's bus passengers. I would be happy to answer any questions you may have.

House Transportation and Infrastructure
Motorcoach Safety Hearing
March 20, 2007

John Hill, Administrator

QUESTION 1:

The accident that occurred in Wilmer, Texas, on September 23, 2005, which killed 23 people, was a primary focus of the hearing. Chairman Rosenker testified that the NTSB discovered appalling violations by Global Limo in its investigation in almost every category of federal regulations. Chairman Rosenker further stated that FMCSA conducted a compliance review 19 months before the accident and found "many of the same violations" that were found after the accident, when FMCSA deemed the company an "imminent hazard" and forced the company to cease operations. The information provided to the Subcommittee shows that these two compliance reviews took place on February 12, 2004, and October 7, 2005. Please provide the Subcommittee with the complete records documenting FMCSA's findings during these compliance reviews, including the records, information, and data received from the company as well as any FMCSA summary documents. Please include, for each review, a listing of every violation found, what federal regulations were violated, and specifically identify which violations were acute or critical violations, so as to impact Global Limo's safety fitness rating. Please also identify the violations that appeared in both the pre- and post-accident compliance review.

RESPONSE 1:

Attached are the following documents as well as supplemental information you requested:

1. The February 2004 compliance review;
2. The October 2005 compliance review;
3. A summary of the violations found in both reviews, identifying the regulatory violations and identifying each violation as critical or acute; and
4. A briefing paper on the investigation.

Please note that some of the records we are providing contain information generally protected by statutory exemptions under the Freedom of Information Act (FOIA, 5 U.S.C. § 552). Examples of this protected information, which the Department routinely does not release when the same is requested by the public under FOIA, include personal information, such as names, home telephone numbers, personal cell phone numbers, dates of employment, and drug testing results. We are providing the information and documents to the House Transportation and Infrastructure Subcommittee on Highways and Transit in an unredacted form, but do not waive applicable exemptions should the public request the same under FOIA.

QUESTION 2:

The Federal Motor Carrier Safety Administration issued a final rule in March 2004 establishing minimum training requirements for commercial motor vehicle drivers. This rule did not include a requirement for behind-the-wheel training. In December 2005, the U. S. Court of Appeals for the District of Columbia issued a seething opinion and overturned the rule. To my knowledge, more than a year later, FMCSA has yet to issue revised driver training requirements. Please provide a status report on this rule, a timeline for when the agency plans to issue revised standards, and whether the rule will include a requirement for on-the-road training for truck and bus drivers.

RESPONSE 2:

FMCSA has drafted a notice of proposed rulemaking (NPRM) to establish more rigorous entry-level driver training standards than those currently provided under the Federal Motor Carrier Safety Regulations. This rulemaking would require specific training for persons who must hold a commercial driver's license to operate commercial motor vehicles in interstate commerce. The rulemaking will consider the effectiveness of CMV driver training in reducing crashes, the appropriate types and levels of training that should be mandated, and related costs.

The NPRM is currently under review within the Department of Transportation (DOT). When the departmental review is completed, the NPRM will be submitted to the Office of Management and Budget for review, prior to publication in the *Federal Register*. Information about the status of this and other significant DOT rulemakings is publicly available on the Internet at *http://regs.dot.gov*. The regulatory identification number (RIN) for the entry-level driver training rulemaking is 2126-AB06. FMCSA anticipates publication of the NPRM by late summer, at which time all interested parties may review the proposal and submit comments to the public docket.

QUESTION 3:

During the second panel, the Subcommittee heard testimony from Peter Pan and Escot Bus Lines. These companies revealed that their motorcoaches are subject to frequent inspections at tourist attractions, such as amusement parks, by State inspectors. These vehicle inspections are done at random, and the exact time and place are not easy for a company to predict, unlike a roadside stop at a fixed or expected location. Does FMCSA sponsor or support any program to utilize federal inspectors at these destination-based inspections? Would the agency consider doing these types of inspections for curbside operators or other operators with problematic safety records, if the destinations are well known?

RESPONSE 3:

FMCSA has sponsored an initiative whereby all Motor Carrier Safety Assistance Program (MCSAP) States are required to include a plan to conduct motorcoach inspections at destinations and other locations where a motor carrier can make a planned

stop. This motorcoach inspection plan is required in the States' fiscal year 2007 Commercial Vehicle Safety Plans as a condition for receiving MCSAP funding. While FMCSA does utilize some Federal inspectors during strike force activities, the vast majority of motorcoach inspections are conducted by State MCSAP inspectors. FMCSA believes the current structure, having the States perform the majority of motorcoach inspections, supported by federal inspectors during strike force activities, is appropriate.

Regarding the second question as to whether the agency would consider doing destination inspections for curbside operators or other operators with problematic safety records, the answer is yes. FMCSA has organized a Northeast Corridor Task Force to address curbside operators and operators with problematic safety records in the New England to mid-Atlantic areas. A recent example was a bus inspection strike force in the Northeast corridor during the week of October 24, 2005. FMCSA staff from seven divisions teamed with 12 State and local agencies to conduct 403 bus inspections which resulted in 503 violations, including 69 out-of-service violations.

More recently, an inspection strike force was conducted in the Northeast Corridor from November 13 to 25, 2006, by FMCSA's Eastern division offices and our MCSAP State partners. The strike force spanned 14 States from Maine to Virginia and involved the efforts of fourteen FMCSA Division Offices and 22 State and local law enforcement agencies. There was a focus on known points of scheduled service departure and termination in major cities (Boston, New York, and Washington, DC). Inspections were also conducted at casinos, tourist attractions, and the Canadian border crossings. Thanks to the commitment of our Federal staff and our many MCSAP partners, more than 1,300 safety inspections were conducted on passenger vehicles and drivers resulting in 1,679 total violations, including 199 out-of-service violations.

QUESTION 4:

Administrator Hill, you mentioned in your written testimony that as part of the compliance reviews conducted on 14 bus companies in October 2005, FMCSA investigators "documented the compliance status with ADA regulations for over the road buses" and that "documentation was forwarded to the Department of Justice for further action if necessary." Can you specify how many carriers were not in compliance with these regulations and provide the Subcommittee with the details of the violations that were found?

RESPONSE 4:

FMCSA uses the ADA reporting requirement and the Agency's compliance review process to gather and provide information to DOJ on companies that may be in non-compliance with the ADA regulations. DOJ then reviews this information and uses it to investigate and prosecute motorcoach companies for violations of the ADA regulations.

During the compliance reviews that were conducted in October 2005, eight bus companies were discovered to have some type of non-compliance. There were seven

discovered instances of a bus company failing to submit the required reports and one company failed to properly record an accessible bus request. There were three other potential areas of non-compliance: two fixed route bus companies purchased new non-accessible buses and one company did not provide accessible bus service upon demand.

QUESTION 5:

It is my understanding that FMCSA is currently in the process of reviewing ADA regulations after a December 2006 U. S. Court of Appeals decision. The Court has ruled that FMCSA cannot refuse to consider lack of compliance with DOT's ADA regulations. Does the agency plan to check ADA compliance as part of a review of a carrier's fitness to operate as a result of this decision? Will a carrier be granted fitness to operate if the carrier is not in compliance with the regulations to operate lift equipped buses?

RESPONSE 5:

FMCSA issued a Certificate to Fung Wah Bus Transportation Inc. on May 12, 2005, authorizing it to transport passengers between New York, New York and Boston, Massachusetts over a specified regular route via Providence, Rhode Island. Peter Pan Bus Lines, Inc., and an affiliate had protested the application on the ground that Fung Wah was not willing and able to provide the service because of an alleged failure to comply with U.S. Department of Transportation regulations implementing the transportation provisions of the Americans with Disabilities Act (ADA). FMCSA rejected Peter Pan's protest in a decision dated October 26, 2005, and affirmed its prior grant of the application.

Peter Pan appealed this decision to the U.S. Court of Appeals for the District of Columbia Circuit. On December 19, 2006, the Court of Appeals vacated the FMCSA decision granting the operating authority and remanded the case back to the Agency. The Court disagreed with FMCSA's view that the language of the governing statute was unambiguous and did not allow the Agency to consider ADA compliance as an element of fitness in an application for operating authority. The court directed FMCSA to address the ambiguity by interpreting the statute, bringing to bear its experience and expertise.

The Court's mandate was issued in early February, 2007. Because the Court vacated the 2005 decision, the certificate of operating authority granted in 2005 is no longer in effect. FMCSA is treating Fung Wah's 2005 application as a pending matter. On February 16, 2007, FMCSA issued a procedural order allowing Fung Wah an opportunity to reply to the protest that it did not previously have, and allowing Peter Pan an opportunity to respond. Those filings have been received by FMCSA and a decision is pending. Until a decision is issued, we cannot state whether ADA compliance will be a criteria for issuing operating authority.

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Mark V. Rosenker
Chairman

Testimony of Mark V. Rosenker, Chairman
National Transportation Safety Board
Before the
U.S. House of Representatives
Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
Motorcoach Safety
March 20, 2007

Good morning Chairman DeFazio, Ranking Member Duncan and Members of the Subcommittee. My name is Mark Rosenker, Chairman of the National Transportation Safety Board. Mr. Chairman, I would like to take this opportunity to thank you and the Members of the Subcommittee and staff for inviting the Safety Board to testify today on the topic of Motorcoach Safety and for your continued interest in furthering the safety of our Nation's highways.

As you know, the Safety Board is charged with investigating highway accidents, determining their probable or root cause, and making recommendations to prevent similar accidents from happening again. Changes in highway or vehicle design, driver training, occupant protection, and regulatory oversight are frequently recommended. In 2006, the Safety Board did important work regarding automatic slack adjusters on large trucks, highway median barriers, toll plaza designs, collision warning systems, vehicle incompatibility, highway construction oversight, and cell phone use by bus drivers.

But today, the topic is motorcoach safety. Intercity motorcoach travel is one of the safest modes of transportation, with fewer than 17 fatalities on the motorcoach in an average year. It is also one of the most popular forms of travel, transporting more passengers than either commercial air or rail travel, according to industry estimates. However, according to the National Highway Traffic Safety Administration's (NHTSA's) FARS database, 33 persons riding in motorcoaches received fatal injuries during 2005. This is the highest number of on-board fatalities in at least the last 15 years. Unfortunately, one of the accidents I would like to speak about today made the largest contribution to that number.

Let me just touch on a few of the recent issues that the Safety Board has addressed in its accident investigations concerning motorcoach safety. Those issues include:

- Motorcoach Crashworthiness;
- Motorcoach Fires;
- Motorcoach Maintenance and Oversight by the FMCSA; and
- Cell Phone Use by Bus Drivers.

Motorcoach Crashworthiness

Even though intercity motorcoach operations are one of the safest modes of transportation, the Safety Board has long been concerned about the safety of those who ride in

motorcoaches. Quite frankly, people have a right to expect the highest level of safety when they pay for a ticket and place their safety in the hands of a motorcoach operator. One of the reasons motorcoach operations are so safe is because they usually provide a reasonable level of occupant protection when accidents occur. Unfortunately, the occupant protection provided in motorcoaches does not work well in all accident scenarios.

For example, just last week, our investigators were at the scene of a motorcoach accident in Atlanta that involved a baseball team from Buffton University in Ohio. The motorcoach took an exit ramp from the left lane, failed to stop at the end of the exit ramp, collided with and overrode a concrete bridge rail, and fell 30 feet to the highway below.

Although this accident occurred only 18 days ago, we know from past experience that one of the major issues is likely to be the crashworthiness of the motorcoach. In this accident, 7 people died, including 5 students, the bus driver and his wife. But perhaps more importantly, some of the occupants were ejected or partially ejected from the vehicle. We know from past investigations that keeping occupants within the vehicle is paramount to their protection. In addition, the vehicle itself must be strong enough to prevent intrusion into the occupant compartment. Finally, the seats, side panels, and other surfaces need to absorb energy when impacted by occupants in the crash scenario. When all of these concepts work together, it greatly increases the occupants' chance of survival.

As you know, motorcoaches use a form of passive occupant protection called "compartmentalization." One of the advantages of compartmentalization is that it requires no action on the part of the occupant to implement. Current passive safety features on automobiles include airbags and energy-absorbing materials on interior surfaces. For example, on school buses, compartmentalization provides a protective envelope consisting of strong, closely spaced seats, which have high, energy-absorbing seat backs--not unlike an egg crate. In concept, motorcoaches incorporate a form of compartmentalization, but it is less rigorous and less regulated than that of school busses.

In 1999, the Safety Board published 2 special investigation reports on the crashworthiness of motorcoaches. Those reports were the "Bus Crashworthiness Issues," in which we examined 6 schoolbus accidents and 40 bus accidents, and "Selective Motorcoach Issues," in which we examined 2 motorcoach accidents in detail.

What we found in these studies is that one of the primary causes of preventable injury in motorcoach accidents occurs when the occupant is thrown out of the seat during a collision. The overall injury risk to occupants can be significantly reduced by retaining the occupant in the seating compartment throughout the collision. In addition, we found that equipping motorcoach side windows with advanced glazing may decrease the number of ejections of unrestrained passengers and decrease the risk of serious injuries to restrained passengers during motorcoach accidents. Finally, we found that the strength and height needed to open an emergency window when a motorcoach is not upright poses a problem for some passengers, especially children, senior citizens, and some injury victims.

As a result of these findings, the Board made 6 recommendations to improve motorcoach occupant protection in 3 primary areas:

- Improved occupant protection systems to provide greater protection for side impact and rollovers and windows that prevent occupant ejection.
- Easy-to-open window and roof emergency exits that stay open; and
- Stronger bus roofs.

We asked NHTSA to develop and implement performance standards for motorcoach occupant protection systems that account for frontal, side, and rear impact collisions and rollovers. We also asked NHTSA to revise window-glazing requirements to prevent occupant ejection.

In addition, we asked NHTSA to revise the Federal Motor Vehicle Safety Standard 217 on "Bus Window Retention and Release," to require that emergency window exits be easily opened and that they remain open during an emergency evacuation when a motorcoach is upright or at unusual attitudes.

Finally, we would like to see requirements for motorcoach roof strength that provide maximum survival space for all seating positions and that take into account current typical motorcoach window dimensions.

In summary, surviving an accident depends on many factors. The structural integrity of the vehicle and passenger compartments, seat design, and restraint systems can all increase a person's likelihood of surviving a crash.

Motorcoach Fires

The next motorcoach safety issue I would like to discuss is motorcoach fires.

On September 23, 2005, a fire engulfed a motorcoach carrying elderly evacuees away from the predicted path of Hurricane Rita near Dallas, Texas. The 44 passengers were from an assisted-living facility in Bellaire, Texas; many needed to be carried or assisted onto the motorcoach by firefighters or nursing staff, and required almost 2 hours to board. Twenty-three elderly passengers were unable to escape the blaze and perished.

The following safety issues related to the fire were identified in this investigation:

- Emergency egress from motorcoaches;
- Fire resistance of motorcoach materials and designs;
- Transportation of partially pressurized aluminum cylinders; and
- Vehicle fire reporting and inconsistent data within Federal accident databases.

Fires on motorcoaches are not an unusual occurrence. In fact, some industry experts estimate that there is close to one motorcoach fire per day. However, to date, injuries and fatalities related to motorcoach fires are an extremely rare event. Still, the motorcoach fire we

investigated near Dallas shows the potential for catastrophe when passengers are unable to exit a burning motorcoach quickly.

Also, I want to make it clear that this accident involved very unusual circumstances, and many of the decisions to evacuate and the means to evacuate were made in the context of Hurricane Katrina, which occurred just over a month before this accident.

Here is what the Board found:

- The fire originated due to an overheated right-side tag axle wheel bearing assembly, which lacked sufficient lubrication. This overheated wheel assembly ignited the tire, spread up the side of the motorcoach, burnt through the fiberglass sidewall above the wheel well, and through the motorcoach windows, creating an entry path for the smoke and fire into the passenger compartment.

- Contributing to the rapid propagation and severity of the fire and subsequent loss of life, was the lack of motorcoach fire-retardant construction materials adjacent to the wheel well. The sidewalls of this motorcoach were made of fiberglass, and fire-hardening materials in this area are not required by regulation. The lack of fire-hardened materials reduces the time available for safe egress in the event of a fire.

- Also contributing to the severity of the accident was the limited ability of passengers with special needs to evacuate the motorcoach. The quick-spreading fire and thick smoke prevented nursing staff, bystanders, and rescuers from extricating most of the passengers with special needs from the accident motorcoach.

- For more than 30 years, the Safety Board has addressed the issue of motorcoach emergency evacuations. There is still no requirement for motorcoaches to demonstrate their emergency evacuation capabilities or meet any emergency evacuation parameters.

- Contributing to the acceleration of the fire was the proximity of the fuel lines to the tire wheel well, where the fire originated, and the combustible access panels which covered them.

- Although news media and film footage of the fire made it appear that there were explosions that may have contributed to the fatalities, the fireballs that occurred were the result of failed aluminum cylinders that were partially filled with oxygen. The oxygen cylinders were for the passengers' medical needs. However, these failures occurred after the smoke and heat of the fire made any further rescue attempt impossible.

- Because partially pressurized aluminum cylinders can fail when exposed to heat and fire, as occurred on the accident motorcoach, they still pose a potential danger to the general public and emergency responders.

- The Board also found that because tire fires are difficult to extinguish, early detection of potentially hazardous conditions in a wheel well area is critical.

- Finally the Board concluded that continuing analysis of motorcoach and bus fire data is vital to understanding not only the trends in vehicle fires, but also the success or shortcomings of measures taken by the Government and private industry to address this problem.

As a result of its investigation, the NTSB made the following recommendations:

- We asked NHTSA to develop a standard to provide enhanced fire protection of the fuel systems in areas of the motorcoaches and buses where the system may be exposed to the effects of a fire. In addition we asked that fire-hardened materials be used in areas, such as those around wheel wells, to limit the potential for flame spread into motorcoach or bus passenger compartments. In the interim, while standards are being developed, we asked the motorcoach manufacturers to use currently available materials and designs for fuel system components that are known to provide fire protection for the system.

- Since wheel well fires are so difficult to extinguish, we asked that NHTSA develop detection systems to monitor the temperature of wheel well compartments in motorcoaches and buses to provide early warning of malfunctions that could lead to fires so that passengers might have time to escape.

- We also asked that NHTSA continue to gather and evaluate information on the causes, frequency, and severity of bus and motorcoach fires, and conduct ongoing analysis of the fire data to measure the effectiveness of the fire prevention and mitigation techniques identified and instituted as a result of the Volpe National Transportation Systems Center fire safety analysis study.

- Finally, the Safety Board believes that NHTSA should evaluate current emergency evacuation designs of motorcoaches and buses by conducting simulation studies and evacuation drills that take into account, at a minimum, acceptable egress times for various postaccident environments, including fire and smoke; unavailable exit situations; and the current above-ground height and design of window exits to be used in emergencies by all potential vehicle occupants.

Motorcoach Maintenance and Oversight by FMCSA

The next motorcoach safety issue I would like to discuss is oversight of the motorcoach industry by the Federal Motor Carrier Safety Administration.

As discussed previously, the Safety Board determined that the cause of a fatal bus fire near Dallas, Texas, was insufficient lubrication in the right-side tag axle wheel bearing assembly of the motorcoach, which resulted in increased temperatures and subsequent failed wheel bearings. The high temperatures resulting from the friction led to the ignition of the tire and a catastrophic fire. This occurred because the motorcoach operator, Global Limo, Inc., failed to detect this lack of lubrication and FMCSA failed to provide proper oversight of the motor carrier through its compliance review process.

Here is what the Board found:

- The accident motorcoach was mechanically unsafe because the right-side tag axle wheel bearing assembly lacked sufficient lubrication, which resulted in high frictional forces and high temperatures, causing the wheel bearings to fail, overheat, and ignite the tire.

- Because neither Global nor its employees routinely inspected the hub oil level or undercarriage of the wheel well, they did not discover the lack of lubrication of the tag axle wheel bearings. This disregard for vehicle maintenance, pre-trip inspections, and post-trip driver vehicle inspection reports led to a wheel bearing failure that resulted in a catastrophic fire and loss of life.

- Global Limo Inc. violated several Federal safety regulations pertaining to its drivers and vehicles, thereby exhibiting a lack of concern for safety management controls. For example, with reference to driver violations, Global did not ensure that its drivers were properly licensed to drive a motorcoach in the United States and failed to conduct the required postaccident alcohol and illicit drug testing. With reference to vehicle violations, Global operated a passenger-carrying commercial vehicle, which had an expired temporary trip tag, was not registered in the United States, displayed the license plate from another vehicle, and had not been systematically or adequately maintained. These violations especially concern the Safety Board because we have repeatedly made recommendations to FMCSA to place greater emphasis on driver and vehicle violations in its compliance review process.

- Federal regulations and inspection criteria do not require inspection of wheel bearings to ensure adequate lubrication and thereby prevent wheel bearing failure and resulting wheel well fires.

- Most motorcoach maintenance manuals do not provide a specific warning of the danger of inadequate wheel bearing lubrication and the potentially serious consequences of wheel bearing failures.

- Although FMCSA collects data on numerous safety violations when it conducts compliance reviews of motor carriers, ironically, approximately 85% of those violations are not included in the calculations of the motor carriers' rating. By not recognizing these violations in its calculations, FMCSA is allowing potentially unsafe carriers to continue to operate, without consequence.

- Finally, as we have done in several accident investigations over the past 8 years, the Safety Board again concluded that the current FMCSA compliance review process does not effectively identify unsafe motor carriers and prevent them from operating, especially when violations are found in the areas of driver and vehicle safety.

Unfortunately, FMCSA is only able to conduct compliance reviews for a small fraction of the almost 911,000 motor carriers in this country. However, in this particular accident,

numerous driver and vehicle safety violations were uncovered in a review performed by the Texas Department of Public Safety (DPS) in April 2002. But at the time, the Texas DPS had no authority to force Global to cease operations. In February 2004, FMCSA conducted a compliance review of Global in which it found similar violations pertaining to drivers and vehicles. Nonetheless, FMCSA rated Global as "satisfactory." Finally, 19 months later, after the bus fire near Dallas, FMCSA went back to Global and conducted another compliance review in September 2005. In this review, FMCSA found many of the same violations as in its previous compliance review; however, this time FMCSA gave Global a safety rating of "unsatisfactory" and declared that Global's operations created an "imminent hazard" to public safety. FMCSA issued an order for Global to cease operations.

Concerned that motor carriers with significant regulatory violations for drivers and vehicles are still receiving satisfactory ratings, the Safety Board once more focused on Federal standards for determining the safety fitness of carriers. As a result, the Board made the following recommendations:

- The Safety Board asked FMCSA to revise the Federal Motor Carrier Safety Regulations to prohibit a commercial vehicle from operating with wheel seal or other hub lubrication leaks.

- To protect the traveling public until FMCSA completes and implements its Comprehensive Safety Analysis 2010 Initiative, the Board asked FMCSA to issue an Interim Rule to include all Federal Motor Carrier Safety Regulations in the current compliance review process so that all violations of regulations are reflected in the calculation of a carrier's final rating.

- The Board asked that motorcoach maintenance manuals be revised to emphasize the importance of wheel bearing lubrication. These manuals need specific warnings that daily inspection of hub oil levels and wheel seals is vital to preventing wheel bearing failure and that bypassing this requirement is a dangerous practice that can lead to a wheel fire or other serious consequences.

- Finally, the Board reiterated its long-standing recommendation to FMCSA to change the safety fitness rating methodology so that adverse vehicle or driver performance-based data alone are sufficient to result in an overall unsatisfactory rating for a carrier.

Cell Phone Use by Bus Drivers

Finally, I would like to discuss the issue of cell phone use by bus drivers.

On November 14, 2004, during daylight hours, a 44-year-old bus driver was operating a motorcoach in the southbound right lane of the George Washington Memorial Parkway in Alexandria, Virginia, taking 27 high school students and a chaperone to Mount Vernon. This vehicle was the second one of a two-bus team. The motor carrier, Eyre Bus Service, Inc., operates this route frequently, and the accident bus driver had driven this route on one previous occasion 9 days earlier.

The motorcoach was traveling approximately 46 miles per hour as it approached the stone arched Alexandria Avenue overpass bridge, which passes over the GW Parkway. The bus driver passed warning signs indicating that the right lane had only a 10-foot, 2-inch clearance, while the center lane had a 13-foot 4-inch clearance. The bus was 12 feet tall. The lead bus moved into the center lane, but the accident bus driver remained in the right lane and drove the bus into the underside of the bridge. Witnesses and the bus driver reported he was talking on a hands-free cellular telephone at the time of the accident.

Of the 27 student passengers, 10 received minor injuries and 1 sustained serious injuries. The bus driver and chaperone were uninjured. The bus's roof was destroyed.

The Safety Board determined that the probable cause of this accident was the bus driver's failure to notice and respond to posted low-clearance warning signs and to the bridge itself due to cognitive distraction resulting from conversing on a hands-free cellular telephone while driving. Contributing to the accident was the low vertical clearance of the bridge, which does not meet current National Park Service road standards or American Association of State Highway and Transportation Officials guidelines.

As a result of this accident, the Safety Board made the following recommendations:

- The Board asked FMCSA to publish regulations prohibiting cellular telephone use by commercial driver's license holders with a passenger-carrying or school bus endorsement, while driving under the authority of that endorsement, except in emergencies.

- The Board also asked the 50 States and the District of Columbia to enact legislation to accomplish the same result at the State level.

- Additionally, the Board asked the motorcoach associations, school bus organizations, and unions to develop formal policies prohibiting cellular telephone use by commercial driver's license holders with a passenger-carrying or school bus endorsement, while driving under the authority of that endorsement, except in emergencies.

Finally, the Safety Board also reiterated a previously issued Safety Recommendation to 20 States to modify their traffic accident investigation forms to include driver distraction codes, including codes for interactive wireless communication device use.

Mr. Chairman, I know you share my desire to improve motorcoach safety and I hope this information will assist you in accomplishing that goal. This completes my statement, and I will be happy to respond to any questions you may have.

STATEMENT OF BRIAN L. SCOTT, PRESIDENT/CEO

ESCOT BUS LINES, LLC OF LARGO, FLORIDA

SUBCOMMITTEE ON THE HIGHWAYS AND TRANSITS

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTIRE

UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 20, 2007

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UNITED STATES HOUSE OF REPRESENTATIVES
MARCH 20, 2007

Introduction
Chairman DeFazio, Mr. Duncan, Members of the Committee, I appreciate you calling this hearing today and the opportunity to represent the bus and motorcoach industry in my testimony. This Committee has a long and distinguished record of promoting safety on our roadways and lies at the center of our nation's public discourse on the best practices to achieve safe and efficient travel.

On behalf of the United Motorcoach Association, it is my goal to provide the Committee our perspective on the factors that have contributed to our industry's notable safety record and our goal of improving on that record.

We are all here with heavy hearts, Mr. Chairman, as this hearing comes on the heels of the tragic accident in Atlanta that killed seven and injured many more. On behalf of the UMA, our thoughts and prayers are with the families of those affected.

My name is Brian Scott and I am President of Escot Bus Lines, Inc. of Largo Florida. I also currently serve as the Chairman of the United Motorcoach Association, the leading national association for bus and motorcoach operators.

Our company was founded in 1983 by my parents, Lewis and Diane Scott. We are proud Escot Bus Lines remains a local, family owned and operated company; serving the Tampa Bay and Central Florida communities for nearly a quarter of a century. Our experience and objectives are simple – the safe and convenient transportation of the public. Our services range from long distance, cross-country type tours, to local charter and shuttle service to contract services for employee shuttle, and transit type services. In any every trip, the Escot family of employees takes pride to insure the safety and comfort of every customer served.

As a family-owned and operated company, all the principals of the company are "hands on" managers working with the various facets of the company to insure safe and efficient operations. Interaction with supervisors, operators and maintenance staff is a 24/7 effort to insure that customer expectations of safety, reliability, comfort and convenience are met.

Our beginnings were typically small. From 1983 to 1990, Escot operated daily scheduled service for the general public to local, popular destinations. As Escot grew throughout the 1990's, long distance and local charters from a regional clientele became an increasing part of our business model, including many professional sports organizations, international touring companies which involved extensive interstate and international operations and the military. As Escot's reputation for quality and modern coaches grew, new business opportunities presented themselves such as the discerning corporate customer where large volumes of passengers had to be moved during short periods. Operations in 1997 began to include employee shuttle solutions for many local Tampa Bay based businesses and local municipalities. Expanding our experiences and

expertise even further, cruise ship passenger operations became a regular business activity as well as the employee shuttle operations at Tampa International Airport moving on average 140,000 passengers per month including Department of Homeland Security Employees since 2002. In 2003, Escot further expanded with a satellite office in Orlando, Florida. Today in 2007, Escot serves all major infrastructures in Florida including, all seaports, airports, military bases, and many more across the country including many historic landmarks.

Throughout our nearly quarter of century history in business, our family's commitment to safety is responsible for our growth from a two-bus company in 1983, to a medium size business by our industry's standards. We enjoy the highest safety ratings available from the United Sates Department of Transportation and the United States Department of Defense.
The Escot story is not the exception in the bus industry but rather the norm. Of the nearly 3,600 bus companies in the United States representing nearly 40,000 buses, 90% of those companies meet the Small Business Administration definition of a "small business."

Today, we operate 45 buses and motorcoaches, conduct over one-half million charter passenger trips and 1.7 million employee-shuttle passenger trips annually. Along with my sister, Pamela Scott-Calixto, which serves as Vice President and Secretary, our Mother and Father remain active as advisors and Board members.

Our Industry
Much like Escot Bus Lines, the bus and motorcoach industry represents a true, small business success story. As with many small businesses, these companies are largely family owned and multi-generational. There are nearly 3,600 bus and motorcoach companies in our Nation operating nearly 39,000 motorcoaches providing 631 million passenger trips annually, ten times the number of airline passenger trips. The average company employs 46 individuals. Each bus and motorcoach represents an industry average 4.23 employees. Seventy-five (75%) of the industry consists of fleets of fewer that 100 units. Indeed, nearly one-half of the industry is consists of fleets 24 units or fewer.

Our industry operates under the oversight of the U. S. Department of Transportation and authority granted by the Federal Motor Carrier Safety Administration (FMCSA). The FMCSA conducts periodic Compliance Reviews of our safety management program, random safety inspections of our vehicles and maintains information regarding our fiduciary responsibilities, such as insurance.

Our Regulatory Environment
A Compliance Review is an on-site examination of a motor carrier's records and operations to determine whether the carrier meets the FMCSA safety fitness standard, i.e., are adequate safety management controls in place to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with:

- Alcohol and controlled substance testing violations
- Commercial driver's license standard violations
- Inadequate levels of financial responsibility
- The use of unqualified drivers

- Improper use and driving of motor vehicles
- Unsafe vehicles operating on the highways
- Failure to maintain crash registers and copies of crash reports
- The use of fatigued drivers
- Inadequate inspection, repair, and maintenance of vehicles
- Violation of hazardous materials regulations
- Motor vehicle crashes and incidents

Additionally, our buses and motorcoaches are routinely inspected primarily at popular destinations such as amusement parks, casinos, special events, etc. An example of a Level 1 inspection of a motorcoach would include:

- A review of a driver's documents including driver's license, medical examiner's certificate and waiver if applicable, record of duty status, driver's daily vehicle inspection report, documentation of periodic inspection and trip information such as tour itinerary, trip envelope and charter order.
- A brief interview of the driver about his/her trip. For example, where the trip started, the destination, how long they have been traveling, last stop, etc.
- Proper identification of the carrier performing the transportation is established and requires careful examination of the documents and questioning the driver.
- The inspector will check the driver's Commercial Driver's License including expiration date, birth date, proper class and/or endorsements and status, through usual channels.
- All drivers' for-hire motor carriers of passengers must possess a medical examiner's certificate. Certificate and waiver are valid for 24 months, unless otherwise specified.
- An inspection also includes a review of the drivers' record of duty status. Typically, a driver may not exceed ten hours of driving or fifteen hours on-duty. An inspector often compares fuel or toll receipts to determine if the logbook is accurate.
- Drivers daily vehicle inspection report are checked.
- The inspector will verify that the vehicle passed inspection within the last 12 months and possesses the required documentation.
- An inspection of the passenger area includes windows and each push-out window must be marked as an emergency exit and must be capable of being operated as such. There must be no obstructions blocking aisles or access to emergency exits.
- The driver's must be equipped with a seat belt.
- Proper air-pressure is established
- Proper Steering is established.
- Head Lamps, Turn Signals, Emergency Flashers are inspected for proper color and operation.
- Windshield Wipers are inspected for adequate number and operation.
- Suspension and Brakes are inspected for proper tolerances.
- Exhaust System is inspected
- Wheels and Rims are inspected for cracks, unseated locking rings, broken or missing lugs, studs or clamps, bent rims, "bleeding" rust stains, loose or damaged lug nuts and elongated stud holes.
  The condition of tires are inspected for road worthiness. Motorcoaches cannot be operated with regrooved, recapped or retreaded tires on the steering axle. C

- Fuel Caps are checked for presence and tightness.
- The undercarriage including Steering System, Front Suspension, air bags. Front Brakes & Rear Brakes, Tag Axle

Our Safety Record

The bus and motorcoach industry has a remarkable safety record, as evidenced by our industry's low number of fatalities and injuries annually. During the past thirty years, our industry has experienced an average of fewer than ten fatalities annually, despite the fact our Nation saw over 41,000 fatalities on these same highways and roads.

This remarkable record of safety is a result of a combination of Federal regulatory oversight and an industry focused on safety as their lifeblood to an economic future. A bus and motorcoach operator realizes that years -- perhaps decades -- of goodwill can simply be wiped out should a tragic accident occur. Moreover, should a tragic accident occur, an operator must demonstrate to regulators and the traveling public that everything in their power was done to mitigate such an event.

To meet customer expectations of safety and comfort, the bus and motorcoach industry has been quick to adopt safety advancements. Commercial Anti-lock Brake Systems, Jacob Braking, and high-back seats have become standard due to the industry's rapid adoption. These safety advancements continued to be adopted while the purchase price of a motorcoach has increased rapidly. Where a motorcoach cost approximately $175,000 twenty years ago, today's modern coach routinely tops $425,000. With many construction similarities to airliners (semi-monocock construction), modern motorcoaches may anticipate a lifespan of twenty years or more.

Today, Global Positioning Satellite technology monitors driver behavior in ways unimaginable a decade ago, cameras monitor and record driver and passenger activity as well as the immediate environment. In route, electronic tire monitoring systems reduce the likelihood of tire failures and fires. Fire suppression systems are increasingly being utilized. Despite tremendous expense, some operators have begun to acquire simulators with obvious driver training benefits.

The United Motorcoach Association, our nations leading representative of private bus and motorcoach companies, offers the public a detailed online "Consumer Guide to Purchasing Motorcoach Services" and a "Student's Guide" in an effort to aid the Nation's consumer in selecting a safe, reliable bus and motorcoach operator. The United Motorcoach Association, along with offering routine safety related assistance and seminars at our annual conventions, hosts an annual Safety Management Seminar held at the National Transportation Safety Board Academy in Ashburn, VA. The annual event has exceeded its capacity every year. Earlier this year, the United Motorcoach Association's Board of Directors announced the launch of the Bus and Motorcoach Academy. Disseminated in conjunction with the College of Southern Maryland, this online Academy will serve as the source of basic operational knowledge for owners and management along with courses that will enhance the knowledge and consequently skills of our industry's most valuable asset – our drivers. Our association works with the Bus Industry Safety Council and the Commercial Vehicle Safety Alliance in continuing efforts to develop and propagate safe operating practices.

The bus and motorcoach industry has a long record of working with the National Highway Transportation Safety Administration and manufacturers to vet the best and

most reliable safety practices. Years of research and significant resources have been poured into this endeavor—all in the name of passenger safety.

In the case of seatbelts, the National Highway Transportation Safety Administration has repeatedly taken the position:

"Through exhaustive research the National Highway Transportation Safety Administration (NHTSA) determined — and has repeatedly stated — that seat belts ***would not constitute a safety benefit*** *any greater than the present compartmentalized seating configuration in all motorcoaches."*

After years of research and significant resources devoted to the study of seatbelts in motorcoaches, NHTSA has never acknowledged evidence to change their position. This is a question of science, not a hope that one form of safety will work better than another.

The Federal government does not mandate seatbelts in any other surface transportation modes. And as with motorcoaches, NHTSA has refrained from mandating seatbelts on school buses for the same reasons – "seat belts would not constitute a safety benefit any greater than the present compartmentalized seating configuration. Additionally, transit buses, passenger rail, including Amtrak, and subways utilize methods similar to motorcoaches for passenger safety and do not contain seatbelts

The bus and motorcoach industry can stand proudly by their safety record, not because of low fatalities and injuries as compared to other venues of transportation, but rather these were achievements pursued by a diligent industry continuously pursuing best safety practices. Our very survival hinges on those pursuits.

Conclusion
The over-the-road intercity bus industry remains a vital component to our Nation's economy. The essential service our industry affords provides access to jobs, education, and healthcare. Our industry is a critical component to our Nation's travel and tourism industry.

The bus and motorcoach industry, as represented by the United Motorcoach Association, stands ready to assist Congress and the National Highway Transportation Safety Administration in the further development and implementation of safe practices and equipment -- grounded in sound science and testing – that improves the safety for our Nation's 690 million annual over-the-road intercity bus passengers

Thank you Mr. Chairman, Mr. Duncan and Members of the Committee for your indulgence. Again, I am honored to testify before this Committee and am confident this hearing will add significantly and positively to the discourse on motorcoach safety.

Respectfully submitted,

Brian Scott
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March 20, 2007

The Honorable Grace Napolitano
House of Representatives
Washington DC, 20515

Dear Mrs. Napolitano,

I am writing with regard to the Hearings currently before the House Committee on Transportation and Infrastructure dealing with the proposed Department of Transportation Pilot Program on reciprocal truck freight access between Mexico and the U.S.

It is my understanding that both Mexico and the U.S. will require Public Liability and Public Damage coverage to be provided under policies specific to each country. What about the Cargo insurance?

The Red Chamber group of companies has several entities that do cross border business between Mexico and the U.S. Over the past 10 years we have had multiple truck hijackings in Mexico, with 3 trucks being lost in 2006, and 2 trucks being lost, so far, in 2007. In our experience, the security of shipments in Mexico, the cooperation of the Mexican officials, and the effectiveness of insurance coverage written with Mexican carriers all leave a great deal to be desired in comparison to the U.S.

In recognition of the situation, U.S. insurance companies charge quite high rates for coverage inside Mexico, and in many instances decline to extend coverage. Mexican insurance companies are difficult to deal with in claims situations. If the trucks originate in Mexico, will the U.S. insurance companies be willing to assume liability once the truck is in the U.S.? If so, will they adjust the rates once the truck crosses the border, or will the higher rate be applied on the U.S. side since the driver and equipment are the same? If the original insurance carrier is a Mexican company, will a U.S. insurance carrier be willing to assume the risk and provide coverage on the U.S. side of the border? If not, will the insured be forced to extend the Mexican coverage, and then face filing claims with a Mexican insurance carrier for losses that occur within the U.S.? In the event of a loss discovered at the final destination, and with a split of liability and coverage between the two insurance carriers, who will satisfy the claim?

U.S. truckers are familiar with the various state and federal laws with which they must comply. U.S. drivers fully understand the liability and responsibilities they shoulder when contracting a delivery. If a Mexican transportation company is found to be overweight, will they fully protect the cargo? If they do not, does the company contracting their service pursue them in a Mexican court, or a U.S. court?

We believe that the concept of reciprocal cross border trucking between the U.S. and Mexico makes sense on the surface. However, we do not feel the liability, insurance, legal and security issues are currently compatible.

Thank you for your attention and the opportunity to comment on this topic.

Sincerely,

Rick Martin
Executive Director
Red Chamber Company

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