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ENSURING THE SAFETY OF OUR NATION'S MOTORCOACH PASSENGERS

HEARING

BEFORE THE

SUBCOMMITTEE ON SURFACE TRANSPORTATION AND MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

MARCH 30, 2011

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ONE HUNDRED TWELFTH CONGRESS

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ENSURING THE SAFETY OF OUR NATION'S MOTORCOACH PASSENGERS

WEDNESDAY, MARCH 30, 2011

U.S. SENATE,
SUBCOMMITTEE ON SURFACE TRANSPORTATION AND
MERCHANT MARINE INFRASTRUCTURE, SAFETY, AND SECURITY,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:36 p.m. in room SR–253, Russell Senate Office Building, Hon. Frank R. Lautenberg, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM NEW JERSEY

Senator LAUTENBERG. The Senate Committee on Commerce, Science and Transportation and our Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety and Security will come to order.

The discussion about ensuring the safety of our nation's motorcoach passengers.

So I welcome everyone here.

We have serious concerns about the safety of our nation's buses, and the bus passengers are demanding of us that we need safer travel.

During the past 3 weeks, separate tour bus crashes in New Jersey and New York and New Hampshire killed 17 people and injured dozens more. Now, our hearts go out to the families of those who died so tragically and we wish a speedy recovery to all who were injured. And also, our heartfelt wishes go out to all of the families and the friends of the bus accident victims.

Now, many of these family members have gone to become powerful advocates for stronger bus safety measures. Several are here today, including John and Joy Betts and Yen-Chi Le, and we are pleased that they are here. We are saddened by your loss, as I say, but we are inspired by your motivation to action and by your tireless work on important issues.

We owe it all to the victims of bus accidents and their families to get to the bottom of what caused these crashes and to do everything in our power to prevent things like this from happening in the future. The deadliest of the recent bus crashes occurred on March 12 in the Bronx in New York. A tour bus flipped on its side, slid into a signpost, and sheered off most of its roof. And the photograph shows the tragic consequences, the damage here that was done on that day, and it was a gruesome. It took 15 lives. It is not

easy to look at this picture without feeling very upset by what happened and it quickly pushes us to think about what we can do to prevent it from happening again, but we need to understand the severity of the problem if we are going to be successful in solving it.

In this crash, the driver had a history of driving without a license and had used an alias to get a new license. The bus company had also been cited for previous safety violations.

Two days later, another tour bus lost control, struck a bridge on the New York Turnpike and then slammed into an embankment killing 2 people and injuring 40. The company that operated this line had a safety record worse than 99 percent of operators in the country. Imagine. We need to understand why these dangerous drivers and bus companies were not taken off the road before these disasters took place.

There is no doubt that buses play a critical role in our nation's transportation network. Each year 750 million passengers travel aboard 35,000 motorcoaches. These vehicles often connect cities and communities that lack access to trains or commercial airlines, but they are one of the most affordable modes of transportation. Many Americans rely on buses to reach destinations, vacation, visit family, and take sightseeing excursions across our country.

Buses have also been used to evacuate companies during emergencies, communities during emergencies including Hurricanes Katrina and Rita. Although buses are generally safe, more than 7,000 people are injured in bus crashes each year and on average, 16 perish. That number may not sound big when you look at the total number, but each one is a human being, a child or a parent, and one life lost is too many, especially when there are steps that we can take to prevent these types of tragedies.

Now, I am concerned that the Department of Transportation is not moving quickly enough to implement its 2009 plan to make motorcoaches safer. Even though DOT has met some of the deadlines included in the plan, it has not finished writing the rules needed to make the buses safer.

It is also unacceptable that bus companies continue to put unsafe drivers and buses on the road. And just because bus companies can discount prices does not mean that they can discount safety. If drivers are not fully trained, qualified, and alert, they should not be trusted with the lives of dozens of passengers. Now, we owe it to the public to make sure only the safest companies are allowed to operate motorcoaches and that only the safest drivers are behind the wheel.

So I look forward to hearing from today's witnesses about what we must do to make sure all travelers reach their destination safely.

And I will turn to our Ranking Member, Mr. Thune, to make his opening statement.

STATEMENT OF HON. JOHN THUNE,
U.S. SENATOR FROM SOUTH DAKOTA

Senator THUNE. Thank you, Mr. Chairman, for holding today's hearing. This is our subcommittee's first hearing of the year and I am pleased that we are able to kick off our agenda with such an

important topic. Bus safety is a very timely issue as we have experienced three high-profile and tragic bus crashes just this month.

Bus safety improvements have been delayed for too long, but I am encouraged that we can move forward to reduce preventable crashes and to protect passengers when accidents do occur.

I would like to thank Senator Hutchison for her determination to improve bus safety. She and Senator Brown have been committed to advancing bus safety legislation since 2007. I am confident that we will finally pass a bill this year thanks to her leadership and that of the Subcommittee and full Committee chairmen and others.

Bus travel is an increasingly popular choice in areas like the Northeast, but it has long been a necessity for rural America. Millions of rural Americans, including many in South Dakota, rely on buses as their sole means of intercity transportation, and they expect and deserve bus safety protections when they board a bus.

Over 2,000 communities nationwide are served by buses, which is roughly eight times the number of places served by the airlines. The annual bus passenger count is approaching that of the airlines at 723 million trips in 2009 versus about 800 million for the airlines, and these travelers deserve the same attention to safety that we give to passengers on the nation's commercial aviation fleet.

Fortunately, bus accidents remain rare events, and statistically speaking, motorcoaches are one of the safest forms of transportation. About 19 people a year are killed on buses as opposed to about 100 in aviation. However, many of these bus deaths could be prevented by making basic safety improvements like adding seat belts that have been standard on airplanes for decades.

As some in this room know all too well, a single bus crash can devastate a family and an entire community. That is why we have a responsibility as policymakers to ensure that we are doing all that we can to protect the traveling public and to make sure that we prevent as many needless deaths and injuries as possible.

I am encouraged that DOT has made some progress on the Motorcoach Safety Action Plan it announced in 2009. I understand that DOT has fallen behind in several areas, and I look forward to hearing about their plans to keep the program on track.

Likewise, the National Transportation Safety Board has devoted considerable resources to bus safety efforts. They were on the scene at the devastating accident in New York a few weeks ago that killed 15 passengers, and I know we will learn important lessons from the NTSB to prevent similar accidents.

Again, Mr. Chairman, thank you for holding this hearing and I look forward to hearing from our witnesses today.

Senator LAUTENBERG. Thanks very much.

Now Senator Hutchison. I am sorry I might have gone out of order.

STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

Senator HUTCHISON. No. Actually I asked Senator Thune to take his place as the Ranking Member of the Subcommittee because he is, and I am pleased that he is.

I am glad that we are having this hearing, and I want to thank my cosponsor, Senator Brown, for being here to testify. He has been a sponsor of this bill and a fighter for it for two years now. And we are going to pass it this year because I think everyone in this room and hopefully Congress understands the importance of doing something to prevent these tragedies. It is incomprehensible that it has taken so long.

I want to say that in addition to what we have seen just recently with these tragic accidents, my state has seen major accidents. Between 2005 and 2008, we had three terrible bus crashes that killed 41 passengers. One of those was the mother of Dr. Yen-Chi Le. I would like for you to stand and thank you for being here and for your efforts throughout this time since your mother was in that accident. You are trying to help others not have to go through what you have. Thank you very much.

We have, as you said, Senator Lautenberg, 750 million people travel by bus every year, and if we had the kind of safety record on airplanes or railroads that we are seeing in the charter bus industry especially, people would be outraged, and we would be taking action. And that is exactly what Senator Brown and I want to do is take action.

For example, more than half of all motorcoach fatalities over the past 10 years have occurred as a result of rollovers, and what we are asking for in our bill is stronger roofs and stronger windows. 70 percent of the individuals killed in these accidents over the last 10 years have been ejected from the bus. They have gone through the windows or through the roofs. They have not had seat belts, and that has resulted in critical injuries and death.

Another issue that directly affects bus safety is the reincarnated carriers where a bus company is taken out of service because it has a bad safety record or we cannot find a safety record, and then it is quickly operating under a new name and it is now a new bus company with no record of its terrible safety record or accident record and we have the same situation happening.

Senator Brown and I began working on intercity bus safety legislation in 2007, and we have now reintroduced the bill hoping that we will be able to pass it, and it is on the first markup of this committee. And I am very pleased about that.

Bus travel outpaces both air and rail transportation as the fastest growing mode of intercity transportation. Despite the announcement of a new Motorcoach Safety Action Plan, the Department of Transportation has not yet acted on many basic passenger safety protections that have been recommended for years by the National Transportation Safety Board, and I am pleased that we will hear from both DOT and the NTSB today.

I want to say that Greyhound Bus has, on its own, voluntarily agreed to put seat belts in its new buses. I think that is a major step forward. I would hope other bus companies would follow, but frankly the ones that have the worst safety record and where these accidents mostly happen are not the scheduled bus carriers but the ones that are charters. It is the school groups that charter a bus or sports teams that charter a bus or recreational groups or senior citizens that charter buses that are most at risk. I applaud Greyhound and I do hope that the efforts that we are making today will

encourage others to voluntarily move faster than the bill will even be able to go, but so far, we have not seen much effort to do that.

So thank you, Mr. Chairman. I look forward to working with you to get our bill on this markup and listening to others' concerns, come out with a fair and reasonable plan that we can pass this Congress. Thank you.

Senator LAUTENBERG. Thank you very much, Senator Hutchison.

Senator Ayotte from New Hampshire, new here as well, and we welcome you. Obviously, within a 5-minute period if you would make your opening statement please.

STATEMENT OF HON. KELLY AYOTTE,
U.S. SENATOR FROM NEW HAMPSHIRE

Senator AYOTTE. I appreciate the opportunity to be here today. I think this is a very important issue.

We also in New Hampshire in March had a bus accident in Littleton. We are still waiting to hear the investigation results of that accident. But I think we all appreciate that it is important that we have safety measures to prevent these accidents.

And I look forward to hearing the testimony of the witnesses today and I appreciate the opportunity to be here. Thank you.

Senator LAUTENBERG. Senator Blunt?

STATEMENT OF HON. ROY BLUNT,
U.S. SENATOR FROM MISSOURI

Senator BLUNT. Thank you, Chairman. I am glad to be here. I am going to have to go to another meeting before the hearing is over, and it is not because of my lack of interest in this topic.

For some time, I lived in Branson, Missouri and represented it in the House for a long time and now in the Senate. At one time, it was the number one motorcoach destination in the country and may very well still be. But clearly, this is an important part of our economy in many ways. It is sort of an unappreciated part of our tourism and travel economy. It is a critically important part of our transit economy.

And I applaud, Chairman, your efforts and those of the Ranking Member and Senator Brown and Senator Hutchison to try to do the things that need to be done to ensure that this continues to be a mode of transportation that people have increasing reason to feel good about and increasing reason to use.

I am glad to be serving with you on this subcommittee.

Senator LAUTENBERG. Thank you for being here with us.

Before we hear from today's witnesses, I want to welcome our colleague, Senator Sherrod Brown. Senator Brown has been a strong advocate for bus safety in the wake of a 2007 bus crash that killed five baseball players from Bluffton University in Ohio, and together with our full Committee Ranking Member, Senator Hutchison, Senator Brown has introduced a bill on bus safety. And I am pleased to be a cosponsor of that legislation.

Senator Brown, we invite you to give your testimony.

STATEMENT OF HON. SHERROD BROWN, U.S. SENATOR FROM OHIO

Senator BROWN. Thank you, Mr. Chairman. Thank you for your interest in this and for calling this hearing. Ranking Member Thune, Senator Hutchison, thank you, and Senator Blunt and Senator Ayotte. I appreciate the opportunity to be here today.

Special thanks to Senator Hutchison who has done yeoman's work on this issue. We have had lots of meetings on the floor, off the floor with colleagues on this, and as she said, this is the year this is going to happen.

Motorcoach accident fatalities in both our states, in Texas and Ohio, in 2007 and since have highlighted the need for common sense safety measures that protect passengers and motorists.

These tragic, yet seemingly preventable fatalities have devastated families and communities, turning parents and friends into advocates and activists for safer vehicles and safer roads. Two Ohioans are here today who can identify with the pain of losing a child in a motorcoach accident, turning their grief into action. I would like to thank John and Joy Betts who are here from Bryan, Ohio, northwest Ohio. If they would stand up for a moment. Thanks.

John testified to this committee last year. I am so appreciative of his attendance today and her attendance today. They had a 9-hour drive from Bryan, Ohio to get here.

John and Joy and Yen-Chi Le, who were introduced by Senator Hutchison, did what courageous people do. They lost loved ones and turned that grief into action to honor their son or in Ms. Lee's case, her mother, so that other families did not have to go through this, and for that, they deserve a lot of credit and honor.

The Betts lost their son, David, a member of the Bluffton University baseball team, almost exactly 4 years ago this month. Bluffton is a small college in Bluffton, Ohio near I–75 in Allen and Hancock Counties in the northwestern part of the state.

David's baseball team—David, who had just been named the starting second baseman—was on its way to Florida for spring training when their bus lost control on a poorly marked exit ramp outside Atlanta. The bus toppled from the overpass. Like the majority of fatal motorcoach accidents, when the bus rolled over, the passengers were ejected from their seats and thrown through the bus windows. Along with David, six others were killed. Many more were injured.

The tragedy, as these do, rocked a small town, but it brought national attention to the need for long overdue safety improvements to America's motorcoaches.

Since that day 4 years ago, Bluffton families have been courageous and vocal advocates, led by Joy and John, and other families have done the same in raising awareness of motorcoach safety and demanding of Senator Hutchison and me and our colleagues action.

The National Transportation Safety Board's final report from the Bluffton accident released 3 years ago echoed recommendations the NTSB has been urging for years. In the 110th, the 111th, and now the 112th Congress, Senator Hutchison and I introduced the Motorcoach Enhanced Safety Act which includes many of the NTSB's "most wanted" safety improvements.

Specifically, the Act would address many of the major shortfalls from the Bluffton accident such as better protection systems for occupants, including seat belts, stronger windows, and an improved roof crush standard; updated requirements for motorcoach drivers and motor carriers; and the need for on-board recorders with the capability to collect crash data.

Many of these recommendations, including seat belts and better motor carrier oversight and increased fire safety, have languished in legislative uncertainty for decades. These measures are not exotic. They are not complicated. They are not new. We know how to do them. They are common sense safety features that have been and are widely used across Europe and Australia. But since they are not required by law, they have not been installed in most American motorcoaches. So the public safety remains at risk.

As a father, it is disturbing to know that students are still traveling in motorcoaches without even the option, in most cases, of buckling up.

As a Senator, it is unacceptable that our laws or lack of them have made our vehicles and our roads less safe for students and families and anyone whether they are traveling to Branson, Missouri for music or whether they are traveling to a sports event or a church event, as Senator Hutchison pointed out.

This month has seen yet another rash, as the Chairman said, of fatal motorcoach accidents, as heartbroken families and communities in New York and New Jersey know all too well, including the accident that Senator Ayotte mentioned in her home state.

Opponents of stricter motorcoach safety standards will tell you this is not a motorcoach problem. They would tell you that we have a problem with rogue bus companies and bad drivers. Certainly we must ensure drivers, as the Chairman suggested, are fit to be behind the wheel and that bus carriers are playing by the rules, which our bill addresses. But we simply cannot look the other way and reject the idea that improving the safety of the motorcoach vehicles themselves is unnecessary.

John Betts from Bryan, Ohio has said, "It is necessary through our current regulations to get bad operators off the road. However, it is not sufficient as it does nothing to ensure safety once the crash has occurred."

I could not agree more. We can get bad operators off the road, but it is not enough to ensure passenger safety in the tragic event of an accident.

In the last three Congresses, Senator Hutchison and I, as I said, have introduced this legislation. We do it because it is the right thing to do, and we do it because people like the Betts have made it the easy thing to do. Out of their grief, they have asked their government to step in and protect American families so other families do not go through the incredible, unspeakable pain that they did and that the Bluffton community experienced. They have asked their government to pass a law at relatively very little cost to the manufacturers, as Joan Claybrook will testify, not much more than a nickel per ticket through the life of the bus, maybe even less. They have asked their Government to pass a law that can save lives and keep our roads much more secure.

Thank you, Mr. Chairman. And thank you especially to Senator Hutchison.

[The prepared statement of Senator Brown follows:]

PREPARED STATEMENT OF HON. SHERROD BROWN, U.S. SENATOR FROM OHIO

Thank you, Chairman Lautenberg, Ranking Member Thune, and members of the Committee. I applaud you for holding this hearing on motorcoach safety today.

Thank you also to Senator Hutchison—for nearly 4 years we have worked together to pass our Motorcoach Enhanced Safety Act into law to make motorcoaches safer for the millions of passengers who ride them every day.

Motorcoach accident fatalities in both our states highlighted the need for common-sense safety measures that protect both passengers and motorists.

These tragic, yet seemingly preventable fatalities have devastated families and communities, turning parents and friends into advocates and activists for safer vehicles and safer roads.

Two Ohioans are here today who can identify with the pain of losing a child in a motorcoach accident—and turning their grief into action.

I would like to thank and recognize John and Joy Betts from Bryan, Ohio who are in attendance today.

The Betts' lost their son David, a member of the Bluffton University baseball team, on March 2, 2007.

Bluffton University is a small college in Bluffton, Ohio, near 1–75 in Allen and Hancock counties in the Northwest part of the state.

David's baseball team was on its way to Florida for spring training when their bus lost control on a poorly marked exit ramp outside Atlanta.

The bus toppled from an overpass.

Like the majority of fatal motorcoach accidents, when the bus rolled over, the passengers were ejected from their seats and thrown through the bus windows.

Along with David, six others were killed and dozens were injured.

The tragedy rocked a small town but also brought national attention to the need for long, overdue safety improvements to America's motorcoaches.

Since that day four years ago, the Bluffton families have been courageous and vocal advocates in raising awareness of motorcoach safety and demanding Congressional action.

The National Transportation Safety Board's (NTSB) final report from the Bluffton motorcoach accident—released almost 3 years ago—echoed recommendations the NTSB has been urging for years.

In the 110th, 111th, and now the 112th Congress, Senator Hutchison and I have introduced the Motorcoach Enhanced Safety Act, which includes many of the NTSB's "Most Wanted" safety improvements.

Specifically, the Act would address many of the major safety shortfalls from the Bluffton accident, such as:

- Better protection systems for occupants including seatbelts, stronger windows, and an improved roof crush standard;
- Updated requirements for motorcoach drivers and motor carriers; and
- The need for on-board recorders with the capability to collect crash data.

Incredibly, many of these recommendations—including seatbelts, better motor-carrier oversight, and increased fire safety—have languished in legislative uncertainty for decades.

These safety measures are neither exotic nor complicated. They are not new, either. They are common-sense safety features that have been—and are—widely used across Europe and Australia.

But since they are not required by law, they have not been installed in most American motorcoaches.

Instead of saving lives, the public safety remains at risk.

As a father, it is disturbing to know that students are still traveling in motorcoaches without even the option of buckling up.

As a Senator, it is unacceptable that our laws—or lack of them—have made our vehicles and roads less safe for students, families, and anyone traveling our Nation's roads.

This month has seen yet another rash of fatal motorcoach accidents—as heartbroken families and communities in New Jersey and New York know all too well.

Opponents of stricter motorcoach safety standards will tell you that this isn't a motorcoach problem; they would tell you that we have a problem with rogue bus companies and bad drivers.

Certainly, we must ensure drivers are fit to be behind the wheel and that bus carriers are playing by the rules which our bill addresses.

But we simply cannot look the other way and reject the idea that improving the safety of our motorcoaches is unnecessary—or fiscally imprudent.

John Betts has said, *"It is necessary through our current regulations to get bad operators off the road. However it is not sufficient as it does nothing to ensure safety once the crash has occurred."*

I couldn't agree more. We can get bad operators off the road. But it's not enough to ensure passenger safety in the tragic event of an accident.

If the technology to save lives and reduce injury in motorcoach accidents exists, we must put that technology to use.

As motorcoach travel increases—and it has as gas prices have risen and airline travel has become more expensive—we need these new safety standards to ensure the safety of every rider and driver on the road.

The number of serious accidents and tragic deaths will, sadly, only increase if we do not take action.

In the last three Congress's, Senator Hutchison and I have introduced the Motorcoach Enhanced Safety Act.

We do so because it's the right thing to do. And we do so because people like the Betts' have made it the easy thing to do.

Out of their grief, they have asked their government to step in and protect Americans families from the heartbreak they and the Bluffton community experienced.

They have asked their government to pass a law that can save lives and keep our roads more secure.

I look forward to future collaboration with the Committee and our colleagues in the Senate to pass this bill into law and to finally improve motorcoach safety in our Nation.

Thank you, Mr. Chairman.

Senator LAUTENBERG. Thanks very much, Senator Brown. We thank you for your testimony.

Senator BROWN. Thank you very much.

Senator LAUTENBERG. And now I would call the next panel to the desk, which includes the Honorable Deborah Hersman, Chairman of the National Transportation Safety Board; the Honorable Anne Ferro, who is Administrator of the Federal Motor Carrier Safety Administration from the U.S. Department of Transportation; Mr. Ron Medford, Deputy Administrator of the National Highway Traffic Safety Administration; Mr. Peter Pantuso, who is President and CEO of the American Bus Association; and the Honorable Joan Claybrook, Consumer Co-Chair of Advocates for Highway and Auto Safety. She is the former NHTSA Administrator.

As our witnesses make themselves comfortable, I am handed an announcement that this afternoon the U.S. Department of Transportation will announce that they are placing a company called Super Luxury Tours out of service and they are suspending their operating authority. This is the company that was involved in the New Jersey accident. And I am pleased to see the DOT taking such a rapid response to a terrible situation.

Now I will ask Ms. Ferro—she is the Administrator, as I mentioned, of the Federal Motor Carrier Safety Administration. She is going to provide us with an overview of the current laws and safety practices that govern motorcoaches. We ask you to take 5 minutes and give us your testimony, please. Welcome.

STATEMENT OF HON. ANNE S. FERRO, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Ms. FERRO. Thank you, Chairman Lautenberg, Ranking Member Thune, members of the Subcommittee. I greatly appreciate this opportunity to discuss the Federal Motor Carrier Safety Administration's work to advance motorcoach safety.

First, I do want to join others in this room in expressing my deepest sympathies to the families that have been impacted by the tragedies of this month but also those past tragedies and terrible motorcoach crashes.

The employees of FMCSA and our state law enforcement partners across the country are committed to preventing the kind of tragedies that we saw this past month.

Two years ago, Transportation Secretary LaHood ordered a full departmental review of motorcoach safety. That work resulted in the DOT's Motorcoach Safety Action Plan, Mr. Chairman, which you mentioned. The plan incorporates recommendations from NTSB, from the Motorcoach Safety Enhancement Act that this committee has done tremendous work on, that Senator Brown and Senator Hutchison both spoke of, and it sets forth actions to address the root causes of motorcoach crashes.

For FMCSA, these actions mean stronger oversight of driver, vehicle, and company performance. We need to do this through strict enforcement of current rules, introduction of new rules and programs that close loopholes, and vigorous scrutiny through roadside enforcement and through our onsite inspection programs.

In the area of rules, I do want to say FMCSA has been very busy in the past 12 months. Among the 17 rules we have issued, I want to speak to four in particular.

We issued a proposed rule to apply and require electronic onboard recorders on nearly all commercial vehicles, including motorcoaches. This is in addition to the remedial rule that is in place today.

We issued a proposed rule to prohibit commercial motor vehicle operators from using hand-held cell phones and their employers from requiring them to do it and administering penalties accordingly.

We issued a final rule to ban texting in commercial vehicle operations.

And just this week I signed a final rule to improve the uniformity in commercial driver's license testing that will also minimize the risk of fraud and require a commercial learner's permit for anyone before becoming fully licensed.

In addition to the rulemakings, we have very strong programs that we have introduced and implemented over the past year and a half, two in particular.

The vetting program. This is a program that has been spoken to in the Motorcoach Safety Action Plan, NTSB, and this committee that requires any company applying for passenger carrier to go through close scrutiny by FMCSA to detect those companies that are trying to evade safety violations, out-of-service actions, and penalties that we have taken. In 2 years of vetting work, we have rejected 24 percent of the applicants.

Last December, in a separate program, to talk about really our centerpiece safety enforcement program, we issued and implemented the first of three components of this program, that program being CSA, Compliance, Safety, Accountability. The component I am speaking of is known as the "Safety Measurement System." It replaces SafeStat, the tool we used to prioritize who we look at as high risk and who our roadside enforcement officers select for inspection at the roadside. CSA gives our own agents, our law enforcement partners, our safety advocates, industry, and the public a sharper focus on high-risk companies and where to apply the appropriate safety interventions or removal actions.

Most importantly, I think for today is how is the agency putting these programs to work and these initiatives. We are doing it through strong and strict enforcement.

First, every state's commercial vehicle safety plan must include a Motorcoach Safety Action Plan driven by the performance measures in that state. We prioritize compliance reviews for motorcoach operators now based on our SMS data, and we implement strategically and energetically motorcoach safety strike forces across the country and throughout the year. Just in the past 2 weeks, 13 states have staged strike forces to weed out unsafe motorcoach operators, 17 are planning strike forces in the coming weeks, and more than 3,500 surprise bus inspections were conducted, again complementing some of what you saw in New York do.

And I do want to mention every high priority motorcoach operator identified under CSA is either undergoing today a compliance review or has already had one since we rolled out the SMS numbers.

FMCSA's drive to improve commercial vehicle operations is only accomplished through our collaboration with our federal partners, our state partners, safety advocates, industry, and labor.

And Mr. Chairman, I pledge my full cooperation in working with you, with this committee to advance the goals that you are discussing today and will be happy to answer any questions you may have.

[The prepared statement of Ms. Ferro follows:]

PREPARED STATEMENT OF HON. ANNE S. FERRO, ADMINISTRATOR, FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

Chairman Lautenberg, Ranking Member Thune, and members of the Subcommittee, thank you for inviting me to testify today regarding the very serious issue of motorcoach safety.

As we know all too well, March has been the worst month in recent years for motorcoach safety, with two horrific crashes within a three-day period causing 17 fatalities and numerous injuries. The first crash occurred in New York on March 12 with 15 fatalities, and the second occurred in New Jersey on March 14 with 2 fatalities.

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

Motorcoach Safety Action Plan (The Plan)

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

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

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

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

Electronic On-Board Recorders

On April 5, 2010, the Agency took a significant step toward reducing the number of fatigue related crashes by publishing a final rule mandating the use of electronic onboard recorders (EOBRs) by motor carriers that transport passengers or property and that demonstrate serious non-compliance with the hours of service (HOS) rules. This action will reduce the likelihood of falsified or incomplete records of duty status. The final rule establishes: (1) new performance-oriented standards for EOBR technology; (2) a mandate for certain motor carriers to use EOBRs to remediate regulatory noncompliance (a remedial directive); and (3) incentives to promote voluntary EOBR use by all carriers. It is expected that approximately 5,700 motor carriers each year will be required to use EOBRs.

On February 1, 2011, the Agency published a Notice of Proposed Rulemaking (NPRM) to expand the requirement for motor carriers to use EOBRs and to require nearly all motor carriers to systematically monitor their drivers' compliance with HOS requirements. Specifically, FMCSA proposed mandatory installation and use of EOBRs in interstate commercial motor vehicles currently required to complete records of duty status, including passenger carrier operations. Additionally, the preamble to the rulemaking requests data and information about the safety of short-haul passenger carriers that currently are not required to maintain records of duty status.

The proposed rule would also establish specific requirements for supporting documents that motor carriers are required to obtain and keep, as required by section 113(a) of the Hazardous Materials Transportation Authorization Act (HMTAA). Comments on the NPRM are due May 23, 2011.

Distracted Driving

Driver distraction is a serious safety problem that must be addressed to continue improving commercial motor vehicle (CMV) safety. FMCSA developed an approach that involves Federal rulemaking, outreach, and enforcement.

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

On December 21, 2010, FMCSA published an NPRM that would restrict the use of hand-held mobile telephones. The Agency proposed new driver disqualification sanctions for interstate drivers of CMVs who fail to comply with this Federal restric-

tion and for CDL holders who have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that restricts the use of hand-held mobile telephones. The comment period for the NPRM recently closed, and the Agency plans to issue a final rule later this year.

Enhanced Oversight Of Motorcoach Operations

FMCSA launched several initiatives to enhance its oversight of motorcoach companies, the drivers they employ and the vehicles they operate. These efforts include strict enforcement of the current safety regulations, more rigorous scrutiny of all passenger carrier applications for operating authority, implementation of the Safety Measurement System (SMS) to identify at-risk carriers for targeted enforcement as part of our new Compliance, Safety and Accountability program, or "CSA," and improved oversight of the medical certification process for drivers.

FMCSA Motorcoach Strike Forces and Oversight

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

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

Also last year FMCSA conducted the national passenger carrier strike force from August 23 to September 3. During that time period FMCSA, along with our State and local safety partners, conducted 5,679 passenger vehicle inspections, 324 compliance reviews, 31 new entrant safety audits, and 35 Americans with Disabilities Act (ADA) reviews. We discovered over 900 driver violations that required over 200 drivers to be placed out-of-service and more than 350 drivers were cited for hours of service violations. We also discovered over 5,600 vehicle violations and placed over 900 vehicles out-of-service. As a result of these compliance reviews, 9 percent of the passenger carriers received safety ratings of "Conditional" and 2 percent received proposed "Unsatisfactory" safety rating.

In 2009 FMCSA conducted our national passenger carrier strike force for 2 weeks in May. Again, FMCSA worked in conjunction with our State and local safety partners to conduct 8,699 passenger vehicle inspections, 548 compliance reviews, and 53 new entrant safety audits. We discovered over 1,700 driver violations that required over 275 drivers to be placed out-of-service and more than 500 drivers were cited for hours of service violations. We also discovered over 7,000 vehicle violations and placed over 900 vehicles out-of-service. As a result of these compliance reviews, 9 percent of the passenger carriers received "Conditional" safety ratings, and 3 percent received a proposed "Unsatisfactory" safety rating.

In 2009, we also conducted multiple strike force events in many National Parks including Yellowstone, Glacier, Mount Rushmore, Mesa Verde, Yosemite, and Grand Teton to name a few. During these events FMCSA and our safety partners inspected 146 motorcoaches, and placed 4 drivers and 8 vehicles out-of-service. We are planning similar events this summer.

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

The Notice of Claim issued to Mr. Garcia charged him with 34 violations of Federal requirements, including making false statements and providing false or misleading information in the new entrant registration process. This was the first time FMCSA had charged a safety consultant for the consultant's actions in aiding a carrier in violating Federal regulations and in assisting the carrier to reincarnate and apply for new authority to evade Federal regulations and avoid its safety, performance and compliance history and continue operating after being declared unfit and ordered to cease. FMCSA entered into a Settlement Agreement with Mr. Garcia which requires him to, among other things, cease aiding and abetting motor carriers evading regulation, provide FMCSA with a current list of his consulting clients on

a regular basis, and obtain training on the Federal Motor Carrier Safety Regulations.

FMCSA also sought an injunction in Federal District Court against Garcia and a passenger motor carrier operation he started by using Segura's motorcoach and driver after rejecting his application for operating authority. On November 30, 2010 the Court entered an order approving a Consent Decree permanently enjoining Garcia and this passenger carrier from operating any commercial motor vehicle in interstate or foreign commerce and Garcia is enjoined from aiding any motor carrier in evading FMCSA regulations, operating without authority or operating in violation of an FMCSA order.

FMCSA obtained another Federal District Court order last month [Feb. 16] entering a Consent Decree against RLT Tours, an passenger carrier transporting daily commuters between Tobyhanna, Pennsylvania and New York City without necessary operating authority. Following a compliance review, FMCSA had issued RLT Tours an unsatisfactory safety rating, revoked its operating authority and ordered it to cease operations effective November 5, 2010. Yet RLT continued to operate. Under last month's favorable court order, RLT Tours and a related company were dissolved and prohibited from operating in interstate commerce. The Court similarly barred the individual owners from operating in interstate commerce without proper operating authority, and it expressly enjoined them—and any persons with whom they were acting in concert—from applying for FMCSA operating authority without accurately disclosing their relationship to RLT Tours.

One of the hurdles to effective passenger carrier oversight is the informality with which motor coaches are leased from company to company and the difficulty of determining in some situations which company is responsible for safety of the vehicle and its operation. Unlike property carriers, under current regulations passenger carriers are not required to execute written leases specifying the party responsible for safety. FMCSA is committed to initiating a rulemaking on this issue.

To combat the recent rash of crashes among motorcoaches in the New York and New Jersey areas, FMCSA also joined with State and local CMV enforcement officials to conduct strike forces designed to identify and remove unsafe drivers and vehicles from service. These efforts were very effective and I would like to share with the Committee some of the results.

On March 17, FMCSA began an enforcement strategy with the New York State Department of Transportation (NYSDOT), the New York State Police, and the New York City Police Department (NYPD) to conduct a motorcoach strike force. This combined effort resulted in approximately 87 inspections. The strike force deployed at multiple locations across the state. Locations ranged from Buffalo bridge crossings with Canada to popular motor coach destinations including Turning Stone Casino in Verona near Syracuse, the southern tier of the NY State Thruway, and New York City's Chinatown. NYSDOT will continue its statewide effort over the next week with a heavy focus in New York City.

Governor Cuomo's office has asked the New York State Department of Motor Vehicles to conduct an audit of all motorcoach operators to determine if drivers are properly licensed and qualified to drive. FMCSA is supporting this effort by sharing information from our Motor Carrier Management Information System (MCMIS) data. There are more than 2,000 passenger carriers in NY State. The audits will focus upon approximately 304 passenger carriers that operate at least one bus with seating for more than 40 passengers.

These strike forces are tools that we have at our disposal to quickly assess the state of safety on our roads. We thank our State and local law enforcement officials, as well as our safety stakeholders, for their efforts to support these projects to improve safety nationwide.

I call upon all States to follow in the footsteps of Governor Cuomo. If State licensing agencies perform a top to bottom review of the CDL holders with a passenger endorsement that are based in their State, together we will begin to root out individuals that received a CDL under false pretenses or through fraudulent practices. Only by working together can we solve this important safety issue.

In addition we must not be complacent in the enforcement of safety regulations on motorcoach companies or other CMVs. FMCSA, the states and local agencies must sustain an aggressive approach to increase the number of inspections and reviews. The risk is too great not to take action.

FMCSA has 3,681 motorcoach carriers registered with active operating authority. We as an Agency increased the compliance reviews conducted on motorcoaches by 128 percent, from 457 in 2005 to 1,042 in 2010. Inspections of motorcoaches increased 98 percent during the same period, from 12,991 in 2005 to 25,703 in 2010. Motorcoach related fatalities have decreased from 57 in 2004 to 46 in 2009; a reduction of 19 percent. Passenger carrier enforcement cases rose from 36 in 2008 to 44

in 2010, a 22 percent increase. Between Fiscal Years 2007–2010, FMCSA placed 75 passenger carriers out-ofservice for being unfit to operate, after receiving an unsatisfactory rating.

As previously stated, there are 3,681 FMCSA-registered motorcoach companies. On average we conduct an on-site compliance review on a motorcoach company every 34 years. This 3–4 year average reflects a more than 100 percent increase over where we were in 2005, when the average was more than 8 years between compliance reviews.

Operating Authority Vetting Program

In August 2008, FMCSA implemented a more robust investigation of applications for passenger carrier operating authority. This was a necessary step toward preventing the reincarnation of unsafe passenger carriers that choose to evade FMCSA sanctions rather than operate in compliance with the regulations.

Through the vetting program, FMCSA conducts an investigation of the application information to determine whether the applicant is fit, willing, and able to comply with the safety and other applicable regulations, or if the applicant is attempting to evade enforcement actions for violations committed under another business name.

We believe the program is effective, and I assure you that we will maintain a high level of effort in this area. Since FMCSA started the program in 2008, the Agency has applied the vetting process to 2,666 applications for passenger carrier operating authority. We granted operating authority to 1,995 applicants, 669 carriers failed to successfully complete the application and either withdrew their applications or simply failed to respond to inquiries from the Agency, and 2 were rejected because the Agency determined the applicant was a reincarnation of another unsafe motor carrier. To date, 24 percent of applicants have had their applications for operating authority rejected.

The Vetting Program is one of our early success stories in raising the safety bar to enter the passenger carrier industry.

New Entrant Safety Audit Program

One of the concerns that came to light during the development of the Motorcoach Safety Action Plan was the perception that new motorcoach operators did not have the knowledge or ability to properly maintain their vehicles. To aid in determining the validity of this perception, FMCSA modified the new entrant safety audit to ascertain the maintenance capabilities of new motorcoach companies. Questions were added asking if the motorcoach company owns or leases a facility for the inspection, repair, and maintenance of its vehicles or if the company has an arrangement or contract for the systematic inspection, repair, and maintenance of its vehicles.

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

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

Compliance, Safety, and Accountability (CSA)

For the passenger carriers that are currently conducting operations in interstate commerce, FMCSA's CSA program enables the Agency to ensure that these companies have effective safety management controls in place in order to continue operating.

CSA is a major FMCSA initiative for the comprehensive review, analysis, and restructuring of the Agency's current safety monitoring system, as well as our compliance and enforcement programs. CSA will provide a more effective operational model so that the Agency can have a greater impact on large truck and bus safety while optimizing the resources of FMCSA and its State partners.

To this end, the Agency developed a new operational model, and implementation of that model is in process. Full deployment is to be completed by the end of 2011. The model includes four major elements: (1) measurement; (2) intervention; (3) safety fitness determination; and (4) information technology. The new measurement system pinpoints the specific safety problems involved, while the broader array of CSA interventions, including warning letters sent at the first indication of safety performance problems and various types of investigations for carriers with more severe

safety performance problems, enables FMCSA to match the most appropriate intervention to seriousness of the carrier's specific safety problems.

In December 2010, FMCSA released to the public the new CSA Safety Measurement System SMS and began using the system for prioritizing carriers for enforcement interventions. Earlier this month, the Agency began sending warning letters to motor carriers nationwide. The warning letters are used to formally notify company executives about safety problems observed in our inspection and crash database so that appropriate corrective actions can be taken. FMCSA will closely monitor the safety records of these carriers for the next 12 months to assure that corrective action has indeed occurred. Failure of the carrier to address the safety performance problems may result in tougher enforcement actions, including a Federal notice of violation, a notice of claim through which the Agency assesses civil penalties, or an off-site or on-site investigation. The investigations may also result in civil penalties for discovered violations.

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

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

Enhanced Oversight of the Medical Certification Process

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

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

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

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

In addition to the medical certification rule, FMCSA is developing a National Registry of Certified Medical Examiners. Later this year, FMCSA plans to issue a final rule requiring that all healthcare professionals who issue medical certificates for interstate truck and bus drivers complete training on the Federal physical qualifications regulations and pass a test to verify they understand the requirements. Once this program is implemented, only medical certificates issued by examiners listed on the National Registry will be accepted. Medical examiners will be required to

submit to FMCSA reports providing the name and a unique numerical identifier for each person who applies for a medical certificate. Certain other information will also be submitted to enable the Agency to monitor medical examiners' performance and to identify potential instances of "doctor shopping"—medically unqualified drivers making multiple attempts to obtain a medical certificate.

Knowledge Requirements For New Carriers

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

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

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

The FMCSA also tasked its Motor Carrier Safety Advisory Committee (MCSAC) to provide suggestions or recommendations on approaches that could be implemented to improve the existing new entrant safety assurance processes, procedures, and requirements for ensuring that new entrant motor carriers are knowledgeable about Federal motor carrier safety mandates prior to beginning operations in interstate commerce. The MCSAC provided its letter report in September 2010, which included recommendations for mandatory testing of certain company officials responsible for ensuring compliance with the safety regulations and putting into place safeguards for ensuring that the individual taking the test would actually be responsible for implementing or maintaining the carrier's safety management controls.

In addition to the rulemaking, FMCSA is conducting a study to evaluate the effectiveness of some of the recommendations. The phased research is progressing on analysis of safety performance cost effectiveness for fostering a safety culture in new entrants via training and testing their knowledgeability. The initial report is a detailed analysis of changes in safety performance that resulted from a predecessor simplistic new entrant training effort. Preliminary results of that simplistic training effort are encouraging in regard to the effectiveness.

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

Conclusion

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

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

Mr. Chairman, we at FMCSA applaud you and your colleagues on the Committee and in the Congress for your leadership in the area of motor carrier safety. During these investigations into the recent motorcoach accidents, we have been in constant communication with many of you and your staff. We appreciate your support and your holding us to that high standard that we know must be achieved to avoid future crashes. As we go forward with efforts to reauthorize our highway safety pro-

gram, we look forward to working with you to develop a plan that will help achieve great strides in the coming years.

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

Senator LAUTENBERG. Thank you very much, Ms. Ferro.

Mr. Medford is the Deputy Administrator of the National Highway Traffic Safety Administration, and we are pleased to hear from you. Please tell us how the agency sets standards for the safety of buses and other motor vehicles.

STATEMENT OF RONALD MEDFORD,
DEPUTY ADMINISTRATOR,
NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Mr. MEDFORD. Chairman Lautenberg, Ranking Member Thune, and members of the Subcommittee, thank you for the opportunity to update you on the activities of the National Highway Traffic Safety Administration on the issue of motorcoach safety.

I want to also offer my sincere and deepest sympathy to those who lost loved ones in the recent horrific crashes that occurred in New Jersey and New York. They have our commitment that we will continue to work as hard as we can to improve motorcoach safety.

NHTSA is responsible for conducting research on vehicle safety and developing and enforcing standards for all newly manufactured vehicles that use our roadways. In addition, we are responsible for ensuring that vehicles and vehicle equipment that have a safety defect are identified and recalled.

The motorcoach safety work is a priority effort that Secretary LaHood and Administrator David Strickland have been driving at the Department. Under the leadership of the Secretary and the Administrator, we have been working aggressively to improve motorcoach safety. In 2009, at the direction of Secretary LaHood, NHTSA worked with the other modal administrations in the Department of Transportation to develop a comprehensive, systems-oriented safety strategy for enhancing motorcoach safety.

The crash data indicated that the highest risk of fatalities resulted from vehicle rollover often resulting in occupant ejection. Seventy-five percent of all motorcoach fatalities from 1998 to 2008 were a result of rollover and ejections. NHTSA used this data to establish its highest priorities.

The three high-priority actions identified in the plan are seat belts, electronic stability control, and roof strength. We have initiated a rulemaking to require seat belts in all seating positions on new motorcoaches and have completed research on rollover structural integrity and electronic stability control systems and plan to propose safety standards for these issues this year.

NHTSA has also made significant progress in several other important areas related to motorcoach safety. We have also issued a proposal to upgrade the safety standard for commercial tires, including those used on motorcoaches. Research on motorcoach emergency exits, lighting and signage and egress rates is complete, and we are evaluating the results in order to make a decision on whether to initiate rulemaking on this issue later this year. Other safety areas covered by our research and rulemaking efforts include im-

proving fire safety and enhancing data collection and analysis through the use of event data recorders.

Mr. Chairman, NHTSA shares your desire to complete the actions that are identified in the DOT motorcoach plan. We are devoting a significant portion of the agency's research and rulemaking resources to this important safety issue. You have Secretary LaHood's and Administrator Strickland's commitment to completing the work on various motorcoach safety programs as quickly but as prudently as possible by ensuring that our work is grounded in sound engineering and science.

The recent tragedies in New York and New Jersey that resulted in a large number of deaths and serious injuries highlight why we must act quickly on motorcoach safety. We recognize that these vehicles carry so many of our nation's citizens that have the potential in one single crash to injure and kill a large number of people. That is why we have placed such a high priority on improving the safety of these vehicles.

Mr. Chairman, thank you for your consideration and the Subcommittee's ongoing efforts to improve highway safety. I would be glad to answer any questions that you might have.

[The prepared statement of Mr. Medford follows:]

PREPARED STATEMENT OF RONALD MEDFORD, DEPUTY ADMINISTRATOR, NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

Chairman Lautenberg, Ranking Member Thune, and members of the Subcommittee, thank you for the opportunity to update you on the activities of the National Highway Traffic Safety Administration (NHTSA) on the issue of motorcoach safety.

I will outline the breadth of our ongoing work for you, and this will illustrate a significant body of research and regulatory activity that addresses the highest risks associated with motorcoach travel and how we have made significant progress toward mitigating these risks. We believe our work in these critical safety areas complement recommendations issued by the National Transportation Safety Board and draft legislation currently being considered by the Congress to improve motorcoach safety.

NHTSA's vehicle safety program includes conducting research on and developing standards for a very wide range of vehicle safety issues, enforcing those standards, and conducting defect investigations. The motorcoach safety work is one of the important elements of the agency's extensive research and rulemaking agenda. Motorcoach safety is a priority for NHTSA, and we have been working very aggressively in this area. We know that although motorcoach crashes may be relatively rare, when they do happen, they can cause a significant number of fatalities and serious injuries in a single event. In 10 years, from 2000 to 2009, there were 338 motorcoaches involved in fatal crashes. In 48 of the 338 motorcoaches involved in a fatal crash there was a fatality to one or more occupants (driver and/or passengers) of the motorcoach. The remaining fatalities were to occupants of other vehicles or nonmotorists involved in a crash with a motorcoach. The average for this period was 16 motorcoach occupant fatalities per year, but in 2004, 2005, and 2008 a few events each resulted in a large number of fatalities. In 2011, the number of fatalities has already exceeded the annual average.

DOT Motorcoach Plan

In 2009, NHTSA worked with other modal administrations in the Department of Transportation (DOT) to develop a comprehensive systems-oriented safety strategy for enhancing motorcoach safety. The *DOT Motorcoach Safety Action Plan* is based on a two-pronged approach: First, it addresses possible driver related causes of motorcoach crashes, which are: driver fatigue, inattention, medical conditions, and the oversight of unsafe carriers. Second, it addresses the motorcoach related causes of fatalities and injuries, which are: vehicle rollover, occupant ejection, structural integrity, and fires.

Based on this approach 3 high priority action items related to new vehicle designs were identified and have now been completed. They were:

- Initiate rulemaking to require seat belts;
- Evaluate and consider roof crush performance requirements; and
- Assess the benefits of electronic stability control systems;

Other priority strategies included in the plan were:

- Improving tire performance;
- Improving evacuation and emergency egress;
- Improving fire safety (fire detection, fire hardening systems); and
- Data collection and analysis through the use of event data recorders.

In these areas as well, NHTSA has made significant progress and I will briefly touch on all of the items related to new motorcoaches.

Electronic Stability Control

Directional loss of control and rollover are causal factors in heavy vehicle crashes, including motorcoaches. By selectively applying the brakes on a vehicle, electronic stability control is a technology designed to reduce these types of crashes. NHTSA has been aggressively testing these systems and is currently working on a rulemaking proposal, which we expect to issue later this year.

Improving Tire Performance

Tire performance plays a critical role in ensuring the safety of occupants in every kind of vehicle—and motorcoaches are no exception. We issued a proposal to improve tire performance on September 29, 2010.[1] That proposal included new tests aimed at improving the performance of new tires even when they are underinflated. We are now working to finalize the rule.

Seat Belts

Between 1999 and 2008, there were 24 fatal motorcoach rollover events that resulted in 97 deaths. Seventy-six of those 97 were ejected from the motorcoach. We initiated a proposal to require seat belts in all seating positions in motorcoaches on August 18, 2010.[2] This rule is intended to prevent ejections and keep passengers in their seats, thereby mitigating fatalities and injuries in crash and rollover events. The proposed rule provides a definition of a motorcoach and explores the issue of retrofitting seat belts on existing motorcoaches.

Some manufacturers and operators have already started to equip their motorcoaches with seat belts. For example, Greyhound (First Group) is currently installing belts on new buses.

Improving Fire Safety

There are more than 2,200 bus fires annually, which add up to a $24.2 million annual cost in direct property damage. NHTSA collaborated with the National Institute of Standards and Technology to conduct research on motorcoach flammability. This research program looked at developing more stringent flammability and fire detection requirements.

The program also reviewed existing flammability standards and procedures, as well as various test procedures to assess the flammability of materials used in both the interior and the exterior of motorcoaches.

We conducted wheel-well mockup studies to examine how fires propagate into motorcoach occupant compartments, countermeasures for fires such as fire hardening, fire detection, and fire suppression systems, and the tenability of the occupant compartment during a wheel-well fire. In December 2010, we published a report on the results of the first year of this research.[3] The final report on this research will be published this summer. We will assess the results of the research and make a decision whether to initiate rulemaking next year.

Improving Rollover Structural Integrity

By improving the structural integrity of the vehicle, we can improve the chances of adequate survival space for occupants in the event of a rollover, and we can strengthen the bus structure surrounding the windows to improve their effectiveness in preventing ejections.

NHTSA completed research on roof-crush test procedures and the agency is currently developing a rulemaking proposal, which we expect to issue late this year.

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[1] 75 FR60036, Docket # NHTSA–2010–0132.
[2] 75 FR50958, Docket # NHTSA–2010–0112.
[3] Docket # NHTSA–2007–28793.

This NPRM will consider NTSB's recommendation for performance standards for motorcoach roof strength, which is on its Most Wanted List.

In addition to studying whether we can strengthen the bus structure surrounding the windows to improve their effectiveness in preventing ejections, we are looking into window glazing and window retention. Initial research and testing has been completed and we will make a decision whether to initiate rulemaking by the end of the year.

Improving Evacuation and Emergency Egress

In the area of improved emergency evacuation, NHTSA and FMCSA completed research in 2010[4] at the Volpe research center on motorcoach emergency egress requirements and the need for enhancements to effectively facilitate passenger evacuation. We will make a decision whether to initiate rulemaking this summer.

The agency's work on improving evacuation and emergency egress considers NTSB's Most Wanted List recommendation to revise the standard to require floor level exits that can easily open and remain open during emergency egress.[5] It also considers recommendations to revise standards to require emergency lighting and/or retroreflective material to identify exits, as well as a recommendation to conduct simulations to evaluate current emergency egress designs.[6]

Data Collection and Analysis

Finally, in the area of data collection and analysis and the use of Event Data Recorders (EDRs), NHTSA has monitored the Society of Automotive Engineers (SAE) Truck and Bus Event Data Recorder Subcommittee in the development of SAE Recommended Practice J2728, "Heavy Vehicle Event Data Recorders." These were developed to define specifications and requirements for heavy vehicle EDRs for the reliable and accurate recording of the crash parameters relevant to heavy vehicles. We will make a decision whether to initiate rulemaking on this issue this year.

Conclusion

Mr. Chairman, NHTSA shares your desire to complete the actions that are identified in the DOT motorcoach plan. NHTSA is devoting a significant amount of its research and rulemaking resources toward improving the safety of motorcoaches and the recent crashes in New York and New Jersey highlight why we must continue to do so. We recognize that these vehicles carrying so many of our Nation's citizens have the potential in a single crash to injure and kill a large number of people. That is why we have placed such a high priority on improving the safety of these public transportation vehicles.

Chairman Lautenberg, Ranking Member Thune, and members of the Subcommittee, thank you for your consideration and thank you for your ongoing efforts to improve highway and motorcoach safety. I would be pleased to answer any questions.

Senator LAUTENBERG. Thank you, Mr. Medford.

Ms. Hersman, Chairman of the National Transportation Safety Board, is going to update us on the agency's review of the recent bus accident in New York, as well as those in New Jersey and New Hampshire. We welcome you, Ms. Hersman, and invite you to give your testimony.

STATEMENT OF HON. DEBORAH A.P. HERSMAN, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

Ms. HERSMAN. Thank you very much, Chairman Lautenberg, Ranking Member Thune, Senator Udall, and members of the Committee. Thank you for the opportunity to address the important issue of motorcoach safety which has been placed in the spotlight recently because of tragic accidents in New York, New Jersey, and New Hampshire.

We do have a presentation on the screen to my left.

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[4] Docket # NHTSA–2007–28793–0024.
[5] NTSB Recommendation H–99–09.
[6] NTSB Recommendations H–00–01, H–00–02, and H–07–08.

We immediately launched an investigation into the March 12 fatal accident on I–95 in the Bronx, and while it is too soon to determine the cause of this accident, which killed 15 people and injured 18 more, here is what I can tell you.

Around 5:30 a.m., a motorcoach was returning to New York from a Connecticut casino, traveling at up to 78 miles per hour, when it departed the travel lanes to the right, crossed over a paved shoulder, and struck a roadside barrier. The bus then traveled nearly 500 feet while rolling over and then collided with a 9-inch diameter highway signpost. The impact drove the post through the bus' windshield, severing the roof panel of the bus for nearly the length of the bus.

We interviewed the bus driver who said that there were no mechanical difficulties identified but there was a truck involved. We also interviewed a truck driver who voluntarily turned himself in, and he said he witnessed the bus crash in front of him. An NTSB engineer examined the truck and found no evidence to indicate that it had come into contact with the bus.

We also found a video camera mounted to the front of the bus, but it did not record the accident.

With our limited resources in our Highway Office, we are very selective about which accidents we can launch a full team to in order to maximize our effectiveness. While we did launch a full investigation into the accident in the Bronx, for the New Jersey and New Hampshire accidents we are conducting focused investigations into the two companies' operations and safety performance.

The New Jersey crash occurred on March 14 when a motorcoach on a scheduled run from New York City to Philadelphia departed the roadway and struck a concrete headwall of the New Jersey Turnpike. The bus re-entered, crossed the median, and came to rest after striking an embankment. The driver and one passenger were killed and 44 people were injured.

On March 22 in Littleton, New Hampshire, the driver of a motorcoach traveling on I–93 from Quebec to Boston reportedly lost control and departed the roadway to the left. The bus went down an embankment and rolled onto its left side. All 25 occupants were injured.

The NTSB currently has about 100 open recommendations addressing motorcoach safety based on our accident investigations, and three of those issues are on our "most wanted" list of transportation improvements.

First, stronger occupant protection, including: stronger roofs, window emergency exit redesign, and standards for passengers seating compartments.

Second, better government oversight of operators to ensure that both the operational status of the vehicle is up to date and the drivers are safe.

And finally, implementation of advanced vehicle technologies to prevent accidents from occurring in the first place, including lane departure warning systems, electronic stability control, and advanced collision warning systems.

The DOT currently has rulemakings underway, and the proposed actions in those rulemakings, when completed, will improve safety. But after 10 years of recommending action on these issues and

time on our "most wanted" list, these actions are still not final and many are not moving forward. We have seen no sense of urgency on many of our recommendations, and as the Betts family and Yen-Chi Le can tell you, the names and the locations of the accidents that we investigate may change, but the solutions that we identify are the same.

We share your concern about the safety of motorcoaches and heavy vehicles operating on our nation's highways. That is why the NTSB will be conducting a forum on truck and bus safety on May 10 and 11.

Mr. Chairman, this completes my statement, and I am ready to answer questions.

[The prepared statement of Ms. Hersman follows:]

PREPARED STATEMENT OF HON. DEBORAH A.P. HERSMAN, CHAIRMAN, NATIONAL TRANSPORTATION SAFETY BOARD

Good morning, Chairman Lautenberg and members of the Subcommittee. Thank you for the opportunity to appear before you today on behalf of the National Transportation Safety Board (NTSB) regarding oversight of motorcoach safety. The NTSB is charged with investigating major transportation accidents, including highway accidents, determining their probable cause, and making recommendations to prevent similar accidents from happening again. Every day, there are thousands of accidents on our Nation's highways, resulting in tens of thousands of fatalities each year. Unfortunately, three very recent highway accidents have drawn our attention once again to the safety of motorcoaches.

Recent Accidents

At about 5:37 a.m. on March 12, a motorcoach operated by World Wide Travel of Greater New York LTD was traveling south on 1–95 toward New York City from the Mohegan Sun Casinos in Uncasville, CT. There were 33 passengers on board. The 40-year-old driver on that trip was one of the company's 40 full-time drivers, and he regularly drives this route. The company provides 14 daily roundtrips between the casino and New York.

The driver failed to maintain his lane, drifted to the right and impacted the highway guardrail. The motorcoach then slid along the guardrail close to 500 feet before coming to rest. During the collision sequence, the motorcoach rolled clockwise along its longitudinal axis about 90 degrees on its right side before it impacted the support pole for an overhead sign located about six feet from the edge of the pavement. The pole penetrated the bus through its windshield and continued almost the entire length of the bus, killing 15 passengers.

Then on March 14, at about 9 p.m., a motorcoach carrying 45 passengers was traveling southbound on the New Jersey Turnpike near East Brunswick, NJ when it departed the left edge of the roadway and struck a concrete headwall of an exit ramp. After striking the headwall, the bus re-entered and crossed the roadway, and came to final rest upright after striking an embankment. The driver was reportedly ejected and killed in the accident sequence. One passenger was killed, and almost all the other passengers received injuries ranging from minor to serious. The bus was on a scheduled run from New York City to Philadelphia, operated by Super Luxury Tours, Inc., which has about 16 motorcoaches and 16 drivers. The Federal Motor Carrier Safety Administration (FMCSA) is currently conducting a post-crash compliance review of this company.

Finally, on March 21, at about 8:15 p.m., on southbound Interstate 93 near Littleton, NH, a motorcoach departed the roadway, traveled down an embankment, and rolled onto its left side before coming to rest. This motorcoach was transporting approximately 25 Korean nationals from Quebec to Boston, MA. Weather reports included snow and intermittent fog in the area. There were no fatalities in the accident, but most of the occupants were injured to varying degrees.

The NTSB launched a team of investigators to conduct a full investigation of the accident in New York to eventually make findings and determine probable cause. We are investigating the New Jersey and New Hampshire accidents in a limited capacity, looking for information from those accidents that may shed additional light on the bus companies' safety performance. All three investigations are in the early stages, and many details have not yet been determined. In the coming months, the NTSB will analyze the information from all three accidents to possibly issue rec-

ommendations aimed at improving motorcoach safety and preventing additional tragic accidents like these.

Safety Oversight

Motorcoach operations transport 750 million passengers per year—almost as many as the 800 million passengers in commercial aviation. They are one of the safest modes of transportation, averaging less than 20 fatalities per year (vs. about 100 in aviation) or 0.006 percent of the total 34,000 annual fatalities on our Nation's highways.

Unlike when travelers get in their own automobiles, passengers boarding a motorcoach place their lives in the hands of the motorcoach operator and its driver. They expect, and they deserve, the highest reasonable level of safety. For that reason, NTSB investigations focus on identifying the underlying causes of accidents and the safety improvements necessary to prevent their reoccurrence. Although the NTSB can investigate only a fraction of highway accidents, we have investigated a number of motorcoach accidents over the years and have made recommendations to improve the safety of motorcoach transportation. We currently have a total of 166 open safety recommendations issued to the U.S. Department of Transportation (DOT), National Highway Traffic Safety Administration (NHTSA), FMCSA, Federal Highway Administration (FHWA), and Pipeline and Hazardous Material Safety Administration (PHMSA) combined, 100 of which relate to motorcoach safety.

The two most important factors related to safe motorcoach operations are the condition of the vehicles and the performance of the drivers. The NTSB believes that the FMCSA should emphasize both of these critical elements in its compliance reviews, and that an unsatisfactory rating in *either* vehicle or driver areas should disqualify the operator. Currently, operators must be found to be unsatisfactory in at least two of the six rating factors to be disqualified. In other words, they can be unsatisfactory in either the vehicle or driver areas and still be allowed to operate.

The NTSB's original recommendation regarding this issue was made in 1999 in response to a motorcoach rollover accident in Indianapolis, IN that killed two passengers and injured 13. The accident motorcoach had only 50-percent braking efficiency, and a postaccident compliance review of the operator by the FMCSA resulted in 10 out of 10 of the carrier's vehicles being placed out of service. The company had been inspected nine times between 1987 and 1995, so it should have been obvious that it had issues with its vehicle maintenance prior to the accident. In 1994, even though 63 percent of the vehicles met the out-of-service criteria, the operator received a "conditional" rating for the vehicle factors and, because all the other factors were rated "satisfactory," it was given an overall rating of "satisfactory." Thus, the operator was able to continue to operate with unsafe vehicles.

The NTSB recommended that the FMCSA change the safety fitness rating methodology so that an adverse rating on either the vehicle or the driver alone would be sufficient to result in an overall "unsatisfactory" rating for a carrier.[1] Because of inaction on the part of the FMCSA, the NTSB added this recommendation to our Most Wanted List in 2000. We later investigated additional motorcoach accidents that involved this same issue, including a five-fatal motorcoach accident in Victor, NY in 2002; a 23-fatal motorcoach fire near Wilmer, TX in 2005; a 17-fatal motorcoach accident in Atlanta, GA in 2007; and a motorcoach rollover accident in Victoria, TX in 2008. To date, the FMCSA has not acted on this recommendation.

The NTSB has also taken issue with the FMCSA's oversight of vehicle inspections, including inspections of commercial motorcoaches. Following the eight-fatal Tallulah, LA[2] motorcoach accident and the 17-fatal Sherman, TX[3] motorcoach accident, we made recommendations that the FMCSA provide adequate oversight of private inspection garages.

In accidents involving a school bus in Moutainburg, AR and a dump truck in Glen Rock, PA, the NTSB found that the FMCSA lacked adequate oversight of pre-trip brake inspections, the qualifications of brake inspectors, training in brake maintenance, and training of drivers about the dangers of adjusting automatic slack ad-

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[1] *H–99–6* To FMCSA: "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."

[2] *H–05–04* To FMCSA: Conduct a study on the safety effectiveness of the self- inspection and certification process used by motor carriers to comply with annual vehicle inspection requirements and take corrective action, as necessary.

[3] *H–09–20* To FMCSA: Require those states that allow private garages to conduct Federal Motor Carrier Safety Administration inspections of commercial motor vehicles, to have a quality assurance and oversight program that evaluates the effectiveness and thoroughness of those inspections.

justers. The same safety oversight issues that we have found in motor carrier and truck accidents also apply to motorcoaches.

The NTSB has also found problems with commercial vehicle tires. For example, some tires have a speed restriction because they are not meant for highway speeds. If a speed-restricted tire is used in service at speeds above 55 mph for extended periods, a catastrophic failure can result. Although it did not cause the motorcoach accident in Tallulah, LA, the inspection process never identified the speed-restricted tires on this vehicle, even though it was being operated on major highways. The NTSB made recommendations to correct this deficiency.[4]

The science of passenger vehicle dynamics has evolved to where we now recognize that the better tires should go on the rear axle where they provide better stability if the vehicle loses traction with the roadway. However, for motorcoaches, current regulations call for deeper tread depths on the front axle tires than on the rear. Therefore, in 2005, following a five-fatal accident in Hewitt, TX where the motorcoach lost control on a rain-soaked highway, the NTSB asked NHTSA to study this issue and the FMCSA to implement the results.[5] These recommendations have not been implemented by either agency.

Following the motorcoach accident in Sherman, TX that was caused by low air pressure on one of the front tires, the NTSB found that even small reductions in air pressure can cause commercial tires to be overloaded, overheat, and fail. This potential overloading problem is especially true for the front tires of motorcoaches where, even with proper air pressure, the tires are close to their maximum load rating. Therefore, the NTSB made recommendations to NHTSA and the FMCSA to require tire pressure monitoring systems[6] and to require commercial drivers to check their tire pressure with a gauge.[7]

Finally, the NTSB discovered another oversight issue as a result of the motorcoach accident in Victoria, TX. This motorcoach was imported from Mexico and repeatedly crossed the border into Texas, although it should never have been allowed in the United States. It was not built to meet NHTSA's Federal Motor Vehicle Safety Standards (FMVSS) that are required of all vehicles. Therefore, the NTSB made several recommendations to the FMCSA and NHTSA to develop a database of FMVSS-compliant buses[8] and verify that operators are using FMVSScompliant vehicles[9]. The NTSB also recommended that the FMCSA train law enforcement to de-

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[4] *H–05–03* To FMCSA: Revise the Federal Motor Carrier Safety Regulations Appendix G to Subchapter B, Minimum Periodic Inspection Standards, Part 10: Tires, Sections A(5) and B(7), to include inspection criteria and specific language to address a tire's speed rating to ensure that it is appropriate for a vehicles intended use.

[5] *H–05–18* To NHTSA: Conduct testing on the effects of differing tread depths for the steer and drive axle tires.

H–05–17 To FMCSA: Once the testing in Safety Recommendation H–05–17 is complete, modify the tread depth requirements for each axle to reflect the results of the research.

[6] *H–09–22* To NHTSA: Require all new motor vehicles weighing over 10,000 pounds to be equipped with direct tire pressure monitoring systems to inform drivers of the actual tire pressures on their vehicles.

[7] *H–09–19* To FMCSA: Require that tire pressure be checked with a tire pressure gauge during pretrip inspections, vehicle inspections, and roadside inspections of motor vehicles.

[8] *H–09–37 & H–09–30* To FMCSA and NHTSA: Assist the National Highway Traffic Safety Administration in developing a Web-based database of FMVSS-compliant passenger-carrying commercial motor vehicles that can be utilized by Federal, state, and local enforcement inspection personnel to identify non-FMVSScompliant passenger-carrying commercial motor vehicles so that these vehicles (other than exempted vehicles) are placed out of service and cease operating in the United States. Implement a process to periodically update this database.

H–09–38 To FMCSA: Require that federal and state inspectors utilize the database requested in Safety Recommendation H–09–37 during both roadside and compliance review inspections of passenger-carrying commercial motor vehicles to identify and place out of service non-FMVSS-compliant vehicles.

H–09–31 To NHTSA: When the database requested in Safety Recommendation H–09–30 is completed, make the database known and accessible to state vehicle registration agencies and to Federal, state, and local enforcement inspection personnel for their use during roadside inspections and compliance reviews to identify non-FMVSS-compliant passenger-carrying commercial motor vehicles. (H–09–31)

[9] *H–09–40* To FMCSA: Require that passenger motor carriers certify on their OP–1(P) forms—(Application for Motor Passenger Carrier Authority) and initial MCS–150 form (Motor Carrier Identification Report [Application for USDOT Number]) and subsequent required biennial submissions that all vehicles operated, owned, or leased per trip or per term met the FMVSSs in effect at the time of manufacture.

tect non-FMVSS-compliant vehicles[10], and to obtain the authority to put operators out of service if they use such illegal vehicles.[11]

The NTSB has made recommendations to improve the FMCSA' s new entrant program to prevent reincarnated motor carrier motorcoach operators from entering the industry. In 2002, the NTSB investigated an accident involving a tractor-semitrailer collision with a Greyhound bus in Loraine, TX which resulted in three deaths. At the time, the FMCSA had essentially no review or follow-up of new entrant motor carriers. To become a motor carrier, the owner of a truck or bus company merely had to fill out an online form and pay a small fee to receive operating authority from the FMCSA. In this case, our investigation revealed that when the trucking company owner submitted his application, he lied about his knowledge of the regulations, about having systems in place to comply with the regulations, and about a drug conviction for possession of large amounts of marijuana the year prior to his application. He also failed to maintain any records on his drivers or vehicles, he did not have a drug and alcohol program, and he did not conduct background checks of his drivers. Further, he knowingly dispatched the accident driver, who did not have a commercial driver's license or medical certificate.

As a result, the NTSB recommended that the FMCSA require new motor carriers to demonstrate their safety fitness prior to obtaining new entrant operating authority.[12] In response to this recommendation, the FMCSA developed the New Applicant Screening Program under which a new motor carrier operating in interstate commerce is subject to an 18-month safety monitoring period and receives a safety audit sometime after its first 3 months of operation but before it completes 18 months of operation.

In 2008, the FMCSA began its New Entrant Safety Assurance Program, under which the agency identified 16 regulations that are essential elements of basic safety management controls necessary to operate in interstate commerce and made a carrier's failure to comply with any of the 16 regulations an automatic failure of the safety audit. Additionally, if certain violations are discovered during a roadside inspection, the new entrant is subject to expedited actions to correct these deficiencies.

Unfortunately, unscrupulous motor carriers still use the new entrant program to evade an enforcement action or an out-of-service order by going out of business and then reincarnating themselves, as if they are a brand new motor carrier. The NTSB found that this had occurred with the motorcoach operator involved in the Sherman, TX accident. After losing its authority to operate because of an unsatisfactory compliance review rating, the operator successfully applied for operating authority under a new name as a new entrant. The NTSB concluded that the FMCSA processes were inadequate to identify the operator as a company that was simply evading enforcement action. The NTSB issued a recommendation to the FMCSA to evaluate the effectiveness of its New Applicant Screening Program.[13]

The NTSB found additional deficiencies with the FMCSA's new entrant program during its investigation of a 2008 accident in which the driver fell asleep and the motorcoach overturned in Victoria, Texas, killing one person. The FMCSA failed to notice that the operator reincarnated into a new operator shortly after the accident. As a result, the NTSB issued recommendations to the FMCSA that ask the agency to develop methods to identify reincarnated carriers and seek authority to deny or revoke their operating authority.[14] In September, 2009, the FMCSA's Motor Carrier

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[10] *H–09–039* To FMCSA: Institute a requirement for Federal and state enforcement officials to obtain training on a procedure to physically inspect passenger-carrying commercial motor vehicles for an FMVSS compliance label, and work with the Commercial Vehicle Safety Alliance to develop and provide this training.

[11] *H–09–41* To FMCSA: Seek statutory authority to suspend, revoke, or withdraw a motor carrier's operating authority upon discovering the carrier is operating any non-FMVSS-compliant-passenger-carrying commercial motor vehicles, a violation of the FMVSS-compliant certification requested in Safety Recommendation H–09–40.

[12] *H–03–2* To FMCSA: Require all new motor carriers seeking operating authority to demonstrate their safety fitness prior to obtaining new entrant operating authority by, at a minimum: (1) passing an examination demonstrating their knowledge of the Federal Motor Carrier Safety Regulations; (2) submitting a comprehensive plan documenting that the motor carrier has management systems in place to ensure compliance with the Federal Motor Carrier Safety Regulations; and (3) passing a Federal Motor Carrier Safety Administration safety audit, including vehicle inspections.

[13] *H–09–21* To FMCSA: To Develop an evaluation component to determine the effectiveness of its New Applicant Screening Program.

[14] *H–09–34* To FMCSA: Seek statutory authority to deny or revoke operating authority for commercial interstate motor carriers found to have applications for operating authority in which the applicant failed to disclose any prior operating relationship with another motor carrier, operating as another motor carrier, or being previously assigned a U.S. Department of Transportation number.

Safety Advisory Committee echoed the NTSB's position that new entrants should be evaluated before being allowed to operate.

Motorcoach Passenger Protection

In the 12 years since the NTSB issued the recommendations addressing occupant protection for motorcoach passengers, we have investigated more than 30 motorcoach accidents that have caused 140 fatalities, 1,070 injuries, and 259 ejections. The structural integrity of a motorcoach is critical to maintaining a survivable occupant space for passengers, because intrusion into the occupant area and inadequate window glazing can have dire consequences. Following our 1999 study of motorcoach passenger protection, we issued recommendations to NHTSA regarding roof strength and window glazing standards.[15] [16] We reiterated these recommendations following the investigation of the motorcoach accident in New Orleans, LA, and after the nine-fatal 2008 motorcoach accident in Mexican Hat, UT. In the 2010 Dolan Springs, AZ mid-size bus rollover accident, the NTSB expanded its recommendations about roof crush, occupant protection, and window glazing to apply to all buses greater than 10,000 pounds.[17] We also made a recommendation to NHTSA to ensure that overhead luggage racks on all buses remain anchored during an accident sequence.[18]

Since 1999, the NTSB also has made recommendations to improve passenger egress in the event of a crash or other emergency. One recommendation asks NHTSA to require that window exits and other emergency exits be designed so that they are easy to open and stay open during an emergency evacuation, whether the motorcoach is upright or at an unusual attitude.[19] We also asked NHTSA to require that motorcoaches be equipped with an independent power source for emergency lighting, as well as interior luminescent or exterior retroreflective material or both to mark all emergency exits.[20] Finally, we asked NHTSA to require motorcoach operators to provide passengers with pre-trip safety information.[21] The FMCSA has developed safety materials for the motorcoach operators to use, but is allowing each motorcoach company to develop an appropriate passenger safety awareness program for their own operations, rather than developing a Federal requirement.

Following the 2005 motorcoach fire near Wilmer, TX, the NTSB asked NHTSA to evaluate current emergency evacuation designs of motorcoaches and buses,[22] to de-

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H–09–35 To FMCSA: Apply the evasion detection algorithm process against all interstate passenger carriers that obtained Federal Motor Carrier Safety Administration operating authority, after the New Entrant Safety Assurance Program began in 2003 but before the program began vetting those carriers, to verify that those new entrant carriers do not have a concealed history of poor safety management controls because they were able to reenter interstate commerce undetected as reincarnated carriers.

H–09–36 To FMCSA: Establish a requirement to review all passenger carrier lease agreements during new entrant safety audits and compliance reviews to identify and take action against carriers that have lease agreements that result in a loss of operational control by the certificate holder.

[15] *H–99–50* To NHTSA: Develop performance standards for motorcoach roof strength that provide maximum survival space for all seating positions and that take into account current typical motorcoach window dimensions.

H–99–51 To NHTSA: Once performance standards have been developed for motorcoach roof strength, require newly manufactured motorcoaches to meet those standards.

[16] *H–99–49* To NHTSA: Expand your research on current advanced glazing to include its applicability to motorcoach occupant ejection prevention, and revise window glazing requirements for newly manufactured motorcoaches based on the results of this research.

[17] *H–10–3* To NHTSA: In your rulemaking to improve motorcoach roof strength, occupant protection, and window glazing standards, include all buses with a gross vehicle weight rating above 10,000 pounds, other than school buses.

[18] *H–10–4* To NHTSA: Develop performance standards for all newly manufactured buses with a gross vehicle weight rating above 10,000 pounds to require that overhead luggage racks are constructed and installed to prevent head and neck injuries and remain anchored during an accident sequence.

[19] *H–99–9* To NHTSA: Require that other than floor-level emergency exits (*i.e.,* windows) can be easily opened and remain open during an emergency evacuation when a motorcoach is upright or at unusual attitudes.

[20] *H–00–01* To NHTSA: revise the Federal motor vehicle safety standards to require that all motorcoaches be equipped with emergency lighting fixtures that are outfitted with a self-contained independent power source.

[21] *H–99–8* To U.S. DOT: require motorcoach operators to provide passengers with pre-trip safety information.

[22] *H–07–8* To NHTSA: 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.

velop early warning detection systems to monitor the temperature of wheel well compartments in motorcoaches and buses,[23] and to evaluate the need for a Federal vehicle standard to require fire detection and suppression systems on motorcoaches.[24] NHTSA has been conducting research and testing to address these issues, but no formal rulemaking has yet been published.

On April 30, 2009, following the NTSB board meeting on the Mexican Hat, UT motorcoach rollover accident, Secretary LaHood ordered a full departmental review of motorcoach safety by NHTSA, the FMCSA, the FHWA, and PHMSA. The review's findings and consideration of outstanding NTSB recommendations to the DOT agencies became the basis for the DOT Motorcoach Safety Action Plan, publicly released on November 16, 2009. The action plan outlines the additional steps needed to improve motorcoach safety for the millions of Americans who rely on these vehicles for safe transportation. The plan provides timelines for rulemaking activities addressing the installation of seat belts on motorcoaches and enhanced emergency egress requirements focused on children, aging persons, and people with disabilities. NHTSA had planned to make a decision on regulatory action regarding roof strength requirements late in 2009, however, no updates have yet been released.

In 2010, NHTSA issued an NPRM proposing that lap/shoulder belts be required for each passenger seating position in new motorcoaches, which would partially meet the NTSB's recommendations on occupant protection. Unfortunately, this proposed rule would not apply to smaller or medium-size specialty buses such as the 29-passenger vehicle involved in the accident at Dolan Springs, AZ, or the 32-passenger vehicle involved in the accident in Lake Placid, FL. The proposed rule would not apply to either of these vehicles because they are below the 26,000-pound definition upon which this NPRM is focused. However, the rule would apply to the very similar 29-passenger medium-size bus involved in the Bethesda, MD accident last September because it meets the 26,000-pound definition. It is not reasonable to expect that the average motorcoach passenger understands the difference between a 29-passenger bus that weighs 26,000 pounds and a 29-passenger bus that is lighter. The average passenger expects the same level of safety no matter the size or the weight of the bus. That is why we have urged NHTSA to expand the rule to all buses and thereby lead to meaningful improvements in the safety of all motorcoach passengers.

Crash Avoidance Technologies

Since 1995, the NTSB has advocated collision warning systems and adaptive cruise control to prevent bus and truck accidents. In 2001, as part of a study on *Technology for the Prevention of Rear-End Collisions,* the NTSB investigated nine commercial vehicle rear-end collisions in which 20 people died and 181 were injured. Common to all nine accidents was the degraded perception of traffic conditions ahead by the driver. The NTSB recommended that NHTSA issue performance standards for adaptive cruise control and collision warning systems for new commercial vehicles.[25]

In 2003, the NTSB investigated a multivehicle accident near Hampshire, IL, in which a tractor-trailer failed to slow for the stopped or slow-moving traffic on the approach to the Interstate 90 toll plaza. The tractor-trailer driver failed to detect the slowing traffic ahead of his vehicle and the tractor-trailer struck the rear of a specialty bus, killing eight passengers and injuring 12. As a result, the NTSB reiterated the above recommendations. In 2007, these important safety recommendations were added to our Most Wanted List. They were reiterated in 2008, in the NTSB's report on a five-fatality motorcoach and tractor-trailer accident in Osseo, WI, and a 15-fatality motorcoach rollover accident in Turrell, AR. We also reiterated these recommendations following the 10-fatality Miami, OK accident where a tractor-trailer ran into the rear of six passenger vehicles that were slowing or stopped on the highway. All of these accidents demonstrate how crash avoidance technologies such

[23] *H–07–6* To 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.

[24] *H–07–07* To NHTSA: Evaluate the need for a Federal Motor Vehicle Safety Standard that would require installation of fire detection and suppression systems on motorcoaches.

[25] *H–01–6* To DOT: Complete rulemaking on adaptive cruise control and collision warning system performance standards for new commercial vehicles. at a minimum, these standards should address obstacle detection distance, timing of alerts, and human factors guidelines, such as the mode and type of warning.

H–01–7 To DOT: After promulgating performance standards for collision warning systems for commercial vehicles, require that all new commercial vehicles be equipped with a collision warning system.

as collision warning systems and adaptive cruise control can help prevent rear end collisions.

Finally, electronic stability control is standard equipment on many automobiles today and lane departure warning systems are becoming increasingly common. Both systems help drivers, who may be distracted or encounter challenging driving conditions, to maintain control of their vehicles and remain on the roadway. Therefore, in 2008, as a result of the Osseo, WI accident investigation, the NTSB recommended that NHTSA determine whether equipping commercial vehicles with electronic stability control systems would reduce commercial vehicle accidents, and if so, require their use on commercial vehicles.[26] Just last year, following our investigation into the Dolan Springs, AZ bus rollover accident, the NTSB issued two new recommendations for stability control systems on all newly manufactured buses greater than 10,000 pounds.[27] This report also included a recommendation for lane departure warning systems on new commercial vehicles greater than 10,000 pounds.[28] These technologies help counteract basic human frailties of inattention and distraction that are major undocumented causes of highway accidents.

Other Safety Issues

Fatigue

In the 1990s, the NTSB conducted two safety studies of commercial accidents[29] and found that fatigue was the most frequently cited probable cause or factor in the fatal-to-the-driver crashes that were investigated. Based on these studies, the NTSB recommended that the FMCSA use science-based principles to revise the hours-of-service regulations for commercial drivers, ensure that the rule would enable drivers to obtain at least 8 hours of continuous sleep, and eliminate sleeper berth provisions that allow for the splitting of sleep periods.

In December, 2010, the FMCSA issued an NPRM proposing to change the hours-ofservice rule. The NTSB supports those provisions that are scientifically based and would reduce continuous duty or driving time, encourage break-taking, promote nighttime sleep, and foster scheduling patterns that are predictable and consistent with the normal human diurnal circadian rhythm. However, we strongly oppose providing exemptions for buses and motorcoaches, and other groups because of the potential increased risk to the passengers and the driving public.

Of course, no hours-of-service rule is adequate unless it is enforceable. Since 1977, the NTSB has advocated the use of tamperproof electronic on-board recorders (EOBRs) to allow better monitoring of hours of service and driver fatigue. The NTSB believed that the FMCSA's April 2010 final rule on EOBRs did not adequately address this safety issue, so we are encouraged that the FMCSA's new NPRM issued in January 2011 corrects many of the inadequacies and expands the scope of the new rule to cover most carriers, as originally recommended by the NTSB.

Hours-of-service regulations are important, and EOBRs will help enforce those rules, but fatigue management is the third leg of this critical safety stool. In 2008, following three fatigue-related bus accidents that occurred in Osseo, WI, Lake Butler, FL, and Turrell, AR, the NTSB asked the FMCSA to develop a plan to deploy technologies in commercial vehicles to reduce fatigue-related accidents,[30] and to develop a methodology to assess the effectiveness of the fatigue management plans implemented by operators. Then last year, a 10-fatal accident in Miami, OK involving a fatigued truck driver prompted the NTSB to reiterate these recommendations and

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[26] *H–08–15* To NHTSA: Determine whether equipping commercial vehicles with collision warning systems with active braking and electronic stability control systems will reduce commercial vehicle accidents. If these technologies are determined to be effective in reducing accidents, require their use on commercial vehicles.

[27] *H–10–5* To NHTSA: Develop stability control system performance standards applicable to newly manufactured buses with a gross vehicle weight rating above 10,000 pounds.

H–10–6 To NHTSA: Once the performance standards from Safety Recommendation H–10–5 have been developed, require the installation of stability control systems in all newly manufactured buses in which this technology could have a safety benefit.

[28] *H–10–1* To NHTSA: Require new commercial motor vehicles with a gross vehicle weight rating above 10,000 pounds to be equipped with lane departure warning systems.

[29] (a) *Fatigue, Alcohol, Drugs, and Medical Factors in Fatal-to-the-Driver Heavy Truck Crashes,* Safety Study NTSB/SS–90101 (Washington, D.C.: NTSB, 1990); (b) *Factors that Affect Fatigue in Heavy Truck Accidents,* Safety Study NTSB/SS–95–01 (Washington, D.C.: NTSB, 1995).

[30] *H–08–13* To FMCSA: to develop and implement a plan to deploy technologies in commercial vehicles to reduce the occurrence of fatigue-related accidents.

make an additional recommendation to require all motor carriers, including motorcoach operators, to adopt a fatigue management program.[31]

Citing many of the accidents the NTSB has investigated on the highway and in other modes of transportation, in which drivers, mariners, and train engineers had undiagnosed obstructive sleep apnea, the NTSB issued recommendations to the FMCSA in October 2009 addressing this safety problem. In particular, the NTSB recommended that the FMCSA: (1) require drivers with a high risk for obstructive sleep apnea to obtain medical certification that they have been appropriately evaluated and, if necessary, effectively treated for that disorder,[32] and (2) provide guidance for commercial drivers, employers, and physicians about identifying and treating individuals at high risk of obstructive sleep apnea.[33]

Medically Unqualified Commercial Drivers

The NTSB has investigated many accidents involving commercial drivers with serious preexisting medical conditions that had not been detected or adequately evaluated. The most tragic example of this issue was the 1999 Mother's Day motorcoach accident in New Orleans, LA, in which a motorcoach driver lost consciousness while driving on an interstate highway and crashed into an embankment, killing 22 passengers and injuring 21. The driver had multiple previously known serious medical conditions, including kidney failure and congestive heart failure, and was receiving intravenous therapy for three to 4 hours a day, 6 days a week. The issue of medically unqualified commercial drivers has been on the NTSB's Most Wanted List since 2003.

Although the FMCSA continues to work to address medical issues, the actions are piecemeal, including a final rule on merging the commercial driver's license with the medical certificate and an NPRM on a national registry of certified medical examiners. Yet, much remains to be done. For example, the FMCSA needs to ensure that medical certification regulations are updated periodically[34] and that examiners are qualified and know what to look for.[35] In addition, the national registry of certified medical examiners should include a tracking mechanism for driver medical examinations.[36] This step would reduce the current practice of drivers "doctor shopping" to find one who will sign their medical forms. Likewise, a second level of review is necessary to identify and correct the inappropriate issuance of medical certification.[37] The FMCSA should establish a system for reporting medical conditions that develop between examinations.[38] Finally, the FMCSA needs to develop a system that records all positive drug and alcohol test results and refusal determinations, and require prospective employers and certifying authorities to query the system before making hiring decisions.[39]

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[31] *H–10–9* To FMCSA: Require all motor carriers to adopt a fatigue management program based on the North American Fatigue Management Program guidelines for the management of fatigue in a motor carrier operating environment.

[32] *H–09–15* To FMCSA: Implement a program to identify commercial drivers at high risk for obstructive sleep apnea and require that those drivers provide evidence through the medical certification process of having been appropriately evaluated and, if treatment is needed, effectively treated for that disorder before being granted unrestricted medical certification

[33] *H–09–16* To FMCSA: Develop and disseminate guidance for commercial drivers, employers, and physicians regarding the identification and treatment of individuals at high risk of obstructive sleep apnea (OSA), emphasizing that drivers who have OSA that is effectively treated are routinely approved for continued medical certification.

[34] *H–01–19* To FMCSA: Ensure that medical certification regulations are updated periodically to permit trained examiners to clearly determine whether drivers with common medical conditions should be issued a medical certificate.

[35] *H–01–17* To FMCSA: Ensure that individuals performing medical examinations for drivers are qualified to do so and are educated about occupational issues for drivers.

H–01–20 To FMCSA: Ensure that individuals performing examinations have specific guidance and a readily identifiable source of information for questions on such examinations.

[36] *H–01–18* To FMCSA: Develop a tracking mechanism be established that ensures that every prior application by an individual for medical certification is recorded and reviewed.

[37] *H–01–21* To FMCSA: Develop a review process prevents, or identifies and corrects, the inappropriate issuance of medical certification.

[38] *H–01–24* To FMCSA: Develop mechanisms for reporting medical conditions to the medical certification and reviewing authority and for evaluating these conditions between medical certification exams; individuals, health care providers, and employers are aware of these mechanisms.

[39] *H–01–26* To FMCSA: Develop a system that records all positive drug and alcohol test results and refusal determinations that are conducted under the U.S. Department of Transportation testing requirements, require prospective employers to query the system before making a hiring decision, and require certifying authorities to query the system before making a certification decision.

Cell Phone Use

Driver distraction is a much-discussed issue these days, but the NTSB issued its first recommendation about cell phones in 2004 following an accident in Alexandria, Virginia, in which an experienced motorcoach driver, who was having a heated conversation on his hands-free cell phone, failed to move to the center lane and struck the underside of an arched stone bridge on the George Washington Parkway. Our investigation found that the driver had numerous cues to change lanes at the appropriate time to have enough clearance for the height of the bus. In fact, not only was the driver familiar with the road, he also was following another bus that had appropriately moved to the center lane. Yet, this driver did not notice the well-marked signage or any of the other cues as he approached the arched stone bridge. The accident was clearly caused by this driver's cognitive distraction, due to the conversation on his hands-free cell phone. The NTSB recommended that the FMCSA[40] and the 50 states[41] enact laws to prohibit cell phone use by commercial drivers while driving passenger-carrying commercial vehicles or school buses. We also recommended that motorcoach associations, school bus organizations, and unions develop formal policies to prohibit cell phone use by commercial drivers, except in emergencies.[42] A current FMCSA NPRM, issued in December 2010, proposes to limit cell phone restrictions to just hand-held devices, but the NTSB recommendation also includes hands-free devices.

Event Data Recorders

Event data recorders are a proven technology that the NTSB has recommended since 1999.[43] We reiterated these recommendations in 2008, following the motorcoach accident involving Bluffton University students in Atlanta, Georgia and reiterated them again in our Pedal Misapplication Special Investigation Report in 2009.[44] In 2009, following the Dolan Springs, AZ investigation, we closed these recommendations "Unacceptable" and replaced them with a similar recommendation that applied to all buses above 10,000 pounds.[45]

Closing

Many of the issues discussed today have been known for a number of years, yet they continue to cause or contribute to accidents involving motorcoaches, The NTSB remains hopeful that these issues will be addressed to bring about the necessary changes that will keep motorcoach operations one of the safest modes of transportation for the American people.

Mr. Chairman, this completes my statement, and I will be happy to respond to any questions you may have.

Senator LAUTENBERG. Thank you, Ms. Hersman.

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[40] *H–06–27* To FMCSA: 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.

[41] *H–06–28* The National Transportation Safety Board makes the following recommendation to the 50 States and the District of Columbia: Enact legislation to prohibit 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.

[42] *H–06–29.* The National Transportation Safety Board makes the following recommendation to motorcoach industry, public bus, and school bus associations and unions: 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.

[43] Safety Recommendations H–99–53 and –54 to NHTSA Closed Unacceptable Action.

[44] *http://www3.ntsb.gov/publictn/2009/SIR0902.pdf.*

[45] *H–10–07* To NHTSA: Require that all buses above 10,000 pounds gross vehicle weight rating be equipped with on-board recording systems that: (1) record vehicle parameters, including, at minimum, lateral acceleration, longitudinal acceleration, vertical acceleration, heading, vehicle speed, engine speed, driver's seat belt status, braking input, steering input, gear selection, turn signal status (left/right), brake light status (on/off), head/tail light status (on/off), passenger door status (open/closed), emergency door status (open/closed), hazard light status (on/off), brake system status (normal/warning), and flashing red light status (on/off; school buses only); (2) record status of additional seat belts, airbag deployment criteria, airbag deployment time, and airbag deployment energy; (3) record data at a sampling rate sufficient to define vehicle dynamics and be capable of preserving data in the event of a vehicle crash or an electrical power loss; and (4) are mounted to the bus body, not the chassis, to ensure recording of the necessary data to define bus body motion. (H–10–07) (This recommendation supersedes Safety Recommendation.)

I want all of you to know that your full statement, though consolidated for presentation here, will be included in the record as it is written.

Mr. Pantuso, President and CEO of the American Bus Association. It is my understanding you are going to share the industry's plans for improving our federal motorcoach safety programs, and we look forward to hearing from you, please.

STATEMENT OF PETER J. PANTUSO, PRESIDENT AND CEO, AMERICAN BUS ASSOCIATION

Mr. PANTUSO. Thank you, Mr. Chairman.

ABA is the trade association for the private, over-the-road bus industry and for the tour and travel industry, all of whom have a deep concern about safety. Our motorcoach members operate nearly 60 percent of all coaches on the road and provide a variety of services to more than 760 million passengers annually.

ABA shares this committee's concerns and frustrations over unsafe motorcoach operators and drivers. Recent accidents in New York and in New Jersey are unacceptable and we believe they could have been prevented with better information and clearer information for operators, for the public, and certainly stronger enforcement.

Making bus travel safer has always been at the top of our agenda, and we have testified on this before Congress many times. The bus industry continues to be one of the safest modes of transportation, but we know that even one fatality is too many. We have numerous suggestions to enhance safety, but given the limited time, let me summarize just a few of those.

Our proposals for increased bus safety are longstanding, and again, we ask for more effective safety regulations and enforcement as we did in 2006 when I testified at a House hearing and detailed deficiencies of certain bus operations. ABA was an early and enthusiastic supporter of Secretary LaHood's Motorcoach Safety Action Plan, and we believe in strengthening state bus inspection programs, enforcing the medical qualifications for drivers, and using technology to enhance safety whenever possible.

The lack of federal and state funding leads to inconsistent enforcement, making it too easy for carriers that have been closed to reopen, too easy for financially marginal companies to obtain operating authority, and still too easy for individuals to obtain a commercial driver's license. The lack of consistent and adequate enforcement of current regulations must be addressed.

When Secretary LaHood issued the action plan, he declared that a robust compliance and enforcement program was absolutely critical to operate safely. We do applaud FMCSA for its enforcement actions and its review of new motorcoach entrants. We welcome the NYPD's recent efforts to inspect, ticket, and tow buses in the wake of accidents, but federal, state, local one-time actions are too rare. They are much too spotty. Consistent, effective enforcement is the most vital factor in motorcoach safety.

A review of the data shows that 54 percent of all fatalities that have taken place from 1999 to 2009 were on unsafe or illegal carriers. FMCSA needs additional staffing and funding to inspect bus companies, and funding for the CMV inspections is largely via the

Federal Government's MCSAP program where monies are then distributed to the States. We believe that a certain percentage of those monies should be dedicated specifically for bus inspections.

In lieu of additional staffing, we recommend that FMCSA hire third party inspectors, as does the Department of Defense for their rigorous bus inspection program. And in addition, we feel strongly that if specific states are unwilling or incapable of managing a bus inspection program, then those funds should be withheld and used for third party inspectors.

As it stands now, perhaps eight states have effective bus inspection programs, and this inequity must end. The programs must be uniform from state to state so as not to create a safe haven for illegal operators.

We need to raise the safety bar for passenger carriers to obtain operating authority, and while FMCSA has made gains in visiting new carriers sooner, we would like to see an inquiry into the fitness of an operator before the first passenger ever boards the bus.

The ABA believes that Congress should require a background check for drivers before they can be granted a CDL, especially with a passenger endorsement. This background check would verify the applicant's identity, any drug and alcohol violations, work permit, driving history, suspensions or disqualifying conditions. When FMCSA has determined that a carrier presents an imminent safety hazard and issues an out-of-service order, the current process of sending letters, seizing plates, impounding vehicles can take months and months, and that is just too long. FMCSA needs Congressional authority to close those operations immediately.

ABA recommends that FMCSA undertake a consumer awareness campaign with easy-to-understand information for the consumers.

And finally, regarding seat belts in motorcoaches, ABA and its members do not oppose seat belts. We do support seat belts in new buses, and following the type of testing that was done to determine what type of belt, seat design, and anchorage would be required to save lives.

Regarding other enhancements, they must be viewed as a system and engineered to the bus when it is being manufactured.

Mr. Chairman, I thank you and members of the Committee for giving us the opportunity, and we will look forward to working with you.

[The prepared statement of Mr. Pantuso follows:]

PREPARED STATEMENT OF PETER J. PANTUSO, PRESIDENT AND CEO, AMERICAN BUS ASSOCIATION

Mr. Chairman and members of the Subcommittee, my name is Peter J. Pantuso and I am the President and CEO of the American Bus Association. The ABA is the trade association for the private motorcoach industry. The ABA is home to over 800 bus operating companies, and 60 percent of all private motorcoaches on the road, who provide all manner of transportation services to the public. In addition to scheduled service operations provided by companies such as: Greyhound Lines, Peter Pan Bus Lines headquartered in Massachusetts, Bolt Bus, Megabus, Academy Bus Lines in New Jersey and Jefferson Lines in Minnesota, ABA members such as Capitol Bus Lines in Columbia, South Carolina; Abbot Trailways in Roanoke, Virginia and Cav's Coach Company in Charleston, West Virginia provide charter and tour services, airport shuttle services and commuter services throughout the United States and Canada. In total the private bus industry has provided 760 million passenger trips in 2008. In addition, ABA members also include an additional 3,000 member companies which provide motorcoach passengers with services. These mem-

bers include tour operators, tourist attractions, destinations, hotels, restaurants, bus manufacturers and those companies that serve bus manufacturers and bus companies.

On behalf of the ABA's membership I would like to thank you, Mr. Chairman, for having this hearing. The fight to make bus travel safer is one that the ABA has been in the forefront of for many years. Over the last 6 years I and other ABA staff have testified several times before Congress on this issue and what is required to make bus travel safer. Early in 2006 ABA staff toured lower Manhattan with the New York City Police Department for a first-hand look at intercity bus service to and from the City.

I have to note that the bus industry is one of the safest modes of transportation. The National Safety Council in its report "Injury Facts 2011" notes that the intercity bus transportation accident death rates for the years 2006–2008 (the latest year statistics were available) was 0.03 per 100 million passenger miles, which is twenty times safer than travel by passenger car. Of course, as you rightly point out, even one fatality is too many and we all must do everything we can to improve bus travel. ABA is ever mindful that it is not only our customers who ride our buses, but our neighbors, family, employees and friends.

Mr. Chairman, as indicated above, ABA's proposals for increased bus safety are long standing. Almost exactly 6 years ago in a published letter to the Editor of the newspaper "Roll Call" (April 4, 2005) I noted that "not all bus companies are alike" and that customers had to beware of ". . . unsafe operators . . . who do not follow Federal and state requirements, have improper registration, insurance and shoddy maintenance and do not provide (lawfully mandated) service to disabled passengers . . .". (A copy of my letter is appended to this testimony). Of course barely a month later, a *Washington Post* columnist extolled the virtues of what was obviously an unsafe operator whose driver cheerfully broke several Federal and state laws while transporting the columnist to New York City. I mention this to ensure the Committee that the Committee's frustration on the issue of unsafe passenger carriers mirrors ABA's frustration.

ABA continued, and continues today, to beat the drum for more, and more effective bus safety regulation and particularly enforcement. In the spring of 2006 I testified at a House Transportation and Infrastructure Committee hearing on bus safety and ADA regulatory compliance. At that hearing I detailed the deficiencies of certain bus operators in addition to failure to abide by the ADA. Among the issues raised at that time were the lack of a procedure to test the validity of drivers' commercial driver's licenses (CDL); the lack of some drivers' ability to understand or speak English and even understand the traffic laws.

In addition, ABA was an early and enthusiastic supporter of the September 2009 United States Department of Transportation's Motorcoach Safety Action Plan. ABA believes in strengthening State bus inspection programs, enforcing the medical qualifications of drivers as well as contributing to their well-being. ABA agrees with the necessity of continuing research in fatigue issues relating to motorcoach drivers and in using technology to enhance motorcoach safety whenever possible.

Since 2005, I and ABA staff have testified on bus safety before the House of Representatives, this Committee (September 18, 2008) as well as other state and local political authorities, including the New York City City Council (October 12, 2006) on bus safety. In all our testimony our conclusions have been consistent. There is an unfortunate lack of money and other resources, as well as inconsistent enforcement of the existing safety regulations. It has been, in the pass, too easy for carriers that have been closed down for safety violations to reopen down the street with a new name but with the same management and same lax safety attitude, although, the current FMCSA Administration has worked diligently to close this loophole. Many of the issues ABA raised in 2005 have recently begun to be addressed but overall it is still too easy for financially marginal individuals to obtain authority to operate; and it is too easy for individuals to obtain and keep a commercial driver's license. Since 2005 the ABA has advanced specific proposals that if implemented will lead to a safer industry.

First, the lack of consistent and adequate enforcement of current federal regulations concerning bus operators must be addressed. We agree with Secretary LaHood and the Motorcoach Safety Action Plan when it declares that: "A robust compliance and enforcement program is critical to ensuring the motorcoach carriers operate safely." (U.S. DOT Motorcoach Action Plan, pg. 26). ABA does applaud the FMCSA for some of its enforcement actions, for example a 2005 "sweep" of 400 bus companies by a combined federal, state and local task force here in Washington, D.C. led to the agency placing 56 buses and 13 drivers out of service. ABA also welcomed the New York City Police Department's effort to inspect, ticket and, if need be tow buses away, in the wake of the recent tragic accident in the Bronx and in New Jer-

sey. But such enforcement actions while appropriate are too rare. Enforcement is the most vital factor because a review of the data shows that 54 percent of all motorcoach fatalities in the last decade (1999–2009) were accidents of either unsafe or illegal carriers. In other words, over half of fatalities in the last 10 years have been the result of bus operators that should have never been allowed to operate under current Federal regulations or bus drivers who never should have been allowed to operate a vehicle. These fatalities could have been avoided through stronger enforcement.

In light of this, FMCSA needs additional staffing and money to inspect bus operators, and in some instances the money for commercial motor vehicle (CMV) inspections should be reallocated. Funding for CMV inspections are largely funded via the Federal Government's Motor Carrier Safety Assistance Program (MCSAP). This program was established by section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31142) to provide funds for States to inspect commercial motor vehicles (CMVs). While the program prescribes Federal standards for annual inspections of CMVs the States are largely required to complete the inspection or use a State inspection program that is comparable to, or as effective as, the Federal inspection requirements. However, most states use the bulk of MCSAP funds to inspect trucks. Indeed, an ABA analysis of CMV inspections demonstrates that between FY 2005 and FY 2009 there have been fewer than 200,000 combined bus vehicle and driver inspections for out-of-service violations annually, compared with over five million combined truck vehicle and driver inspections each year. That is that one out of every twenty-four inspections involved a motorcoach. Last year ABA submitted a proposal to Congress that a certain percentage of MCSAP funds be specifically allocated for bus inspections and that States certify this use to the U.S. Department of Transportation. We renew that recommendation here (a copy of that ABA recommendation and our analysis of the FMCSA/MSCAP inspection data is appended to my testimony).

In lieu of additional staffing for more bus inspections ABA recommends FMCSA hire third party inspectors for the task. ABA has also long recommended this step. The Department of Defense (DOD) has a rigorous bus inspection program which is accomplished by third party inspectors. The DOD program is considered by the motorcoach industry to be the most comprehensive. In addition, FMCSA should adopt the results of a DOD inspection as satisfying the FMCSA inspection regime. As it is many ABA members are inspected by, and approved by, both agencies. It appears to ABA that one clearance should be satisfactory, thus freeing resources for other inspections. We have requested this for over a decade as a way to reduce the burden on FMCSA's current resources.

Second, and related to the first recommendation, ABA recommends that a portion of MCSAP funds be withheld from states if those states are unable or unwilling to implement a bus inspection program that meets Federal program standards. As it stands now, perhaps eight states have active and, in ABA's view, effective bus inspection programs and less than half of the states have any bus inspection program at all. This inequity must end. If you agree that inspection is a key component to enforcement then you have to agree that more inspections are warranted here. And bus inspection programs must be uniform. We have to ensure that unscrupulous bus operators cannot move from a "high" enforcement state to a state with a less effective bus inspection program for the purpose of defying safety.

Third, we must raise the safety bar on who can become a passenger carrier operator. As it stands now all one needs to get passenger carrier operating authority is an application fee of $300.00, proof that you have an agent for service of process, proof that you are willing and able to comply with applicable ADA requirements and evidence that your company has the requisite minimum five million dollar liability insurance policy. The applicant submits this information to the FMCSA and the agency issues your operating authority. Thereafter, the agency (within 18 months) will visit your facility and determine your fitness to continue operations. Here the agency has made gains by reducing the time for a bus safety audit to 4 months. But here again ABA believes more can be done. Our members would like to see some kind of inquiry into the fitness of an operator before that individual is granted authority to operate. We fully support the application of a written test and interview of perspective new entrants into the bus industry. ABA has also called for a safety audit to begin within 45 days of authority being granted so that once equipment is purchased and drivers are hired Federal inspectors can review operations before they have begun in earnest.

Fourth, with respect to the CDL process for passenger carrying drivers, ABA believes that the Congress should explore requiring an applicant background check before a state can grant a CDL. Specifically, this background check would verify the information required under the "Background and Character" section of 49 CFR Part

391.21. That section requires verification of the applicant's identity and any drug and alcohol violations, verification of the applicant's work permit (if any) and history and a review of the applicant's driving history for suspensions or disqualifying conditions.

Fifth, after the Secretary has issued an out-of-service order against a motor carrier of passengers and has determined that the carrier presents an imminent safety hazard, the Secretary will notify the state MCSAP lead agency of the out-of-service order. After which the MCSAP lead agency will ensure that the carrier has ceased operations and if the agency finds a violation of that out-of-service order the lead agency will seize the license plates of the vehicle. Alternatively, FMCSA should have the authority to shut a company down, pull the plates off of and impound the vehicles.

Finally, ABA recommends that FMCSA undertake with ABA the development of a brochure that will explain the bus industry to consumers and lay out how to contract for motorcoach service. Part of our safety problem is the lack of information available to explain what a consumer should look for in a motorcoach company.

I would like to address Senator Hutchison's point about the necessity for seat belts in motorcoaches. ABA and its members do not oppose seat belts on new buses just as we do not oppose standards for advanced window glazing, roof strength standards, requiring electronic on board recorders (EOBRs) or deciding whether additional emergency egress options are necessary. ABA believes in testing and through appropriate engineering integrating implementation. Our comments submitted to the National Highway Traffic Safety Administration (NHTSA) on the proposed seatbelt regulation could not be any clearer on the point that we support seat belts in new buses. However, crash testing was first needed to determine what kind of belt, seat design and anchorage was required to actually save lives. Testing that we requested NHTSA undertake over a decade ago. A loaded 45 foot coach weighing almost 52,000 pounds creates a far different crash environment than that of an automobile. On integration of other vehicle enhancements like roof strength and window glazing, our industry engineers believe that the motorcoach must be viewed as a system in which one enhancement does not interfere or degrade the effectiveness of another. Testing and engineering and safety analyses must be completed on all structural changes to the vehicle to ensure that we do not cause greater problems in different accident scenarios by the changes we make to one part of the vehicle. NHTSA's discretion to adopt new standards should not be compromised in our view.

Last Congress, ABA, the Amalgamated Transit Union (ATU), Greyhound Lines and other industry groups and companies, supported a bill (H.R. 1135) that would have required NHTSA to research safety issues concerning roof strength, emergency egress, fire prevention and suppression, window glazing and seat belts and if required issue regulations concerning those safety items. This Committee reported out a similar bill, S. 544.

I must say that S. 544 differed from the ABA supported bill largely in the time given the agency to promulgate the needed regulations and the number of issues NHTSA would have been required to complete in an accelerated timeframe. I will only say that safety, in the form of seat belts or new windows or adding an exit to a bus cannot just be "added" to any vehicle. As it did with seat belts NHTSA must have the time to research the problem before advancing solutions to it. What is crucial is that any new systems or mandates be engineered into the bus as it is being manufactured for proper use and effectiveness. That said ABA hopes to work with Senator Hutchison and the other members of the Committee to ensure that safe buses are the end product.

Thank you Mr. Chairman, I will answer any questions you or any of the members of the Subcommittee may have for me.

Roll Call—Monday, April 4, 2005

BUS COMPANIES ARE NOT ALL ALIKE

Thank you for highlighting the benefits of bus travel in your March 28 Travel & Adventure article "Competition Gives Travelers Lots of Options." You're right, motorcoaches are an economical way to travel. In face, the motorcoach industry is the Nation's most economical and, more importantly, safest form of commercial public transportation. And, while policymakers continue to debate the merits (and expense) of supporting a national rail passenger system at a time when the Federal Government coffers are dwindling, the workhorse of public transportation, the mo-

torcoach industry, moves more than 774 million passengers annually with little or no government subsidy.

But not all bus companies are alike. When some companies offer rates that are too good to be true, often they are.

Consumers who choose bargain-basement operators may be inadvertently tipping the scales toward unsafe operators that could undercut safety and quality of service as well as giving our industry a black eye. If the consumer knew that there are some operators who do not follow Federal and state requirements, have improper registration, insurance, and shoddy maintenance, and do not provide (lawfully mandated) service to disabled passengers, they might think twice about riding their buses.

Travelers can and should find safe, quality operators in their area to make sure they are getting the best value—which, in our view, means safety, comfort and affordability. If they don't know who those operators are, they can visit *www.buses.org* for listings and consumer safety tips. The site, operated by the American Bus Association, keeps a list of members who operated under our Code of Ethics. Or they can log onto *www.safersys.org,* a website maintained by the Federal Motor Carrier Administration.

Finally, I want to acknowledge your point about the distance between Washington, D.C.'s main bus terminal and Union Station—the city's public transportation hub built with bus parking, loading and unloading in mind. We understand the frustration and inconvenience for travelers nationwide and in our Nation's capital when they choose public transportation yet can't connect conveniently with other modes. We have asked Congress to authorize funds for intermodal facilities, so travelers can have seamless transitions in our Nation's transportation network. That would make a big difference in your ride.

Thank you for your time.

PETER J. PANTUSO,
President & CEO,
American Bus Association.

FUNDS FOR BUS INSPECTIONS URGENTLY NEEDED

In the last several years there has been an increase in the number of accidents involving illegal or unsafe motorcoaches operating in interstate commerce. According to an analysis by the American Bus Association, the trade association for the private over- the-road bus industry, illegal and unsafe passenger motorcarrier operators flaunt the law by operating without authority to do so, using equipment that may not comply with United States motor carrier safety regulations and by continuing to operate after their authority has been revoked by the Federal Government. Indeed, over the last decade, almost 60 percent of the fatalities in bus crashes were caused by an illegal or unsafe bus operator.

The Motor Carrier Safety Assistance Program (MCSAP) established by Section 210 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 31142) was set up to provide funds for States to use to inspect commercial motor vehicles (CMVs) including motorcoaches. While the program prescribed Federal standards for annual inspection of CMVs (49 CFR Part 396), the States are largely required to complete the inspection or use a State inspection program that is comparable to, or as effective as, the Federal inspection requirements.

The rash of motorcoach accidents in the recent past is a problem caused in part by the lack of inspections of buses in many states. In 1998 the U.S. Department of Transportation could find that only half the States had any CMV inspection program comparable to, or as effective as, the Federal inspection requirements (63 Fed. Reg. 8516–8517, February 19, 1998). That number of states has not changed. Moreover, between FY 2005 and FY 2008 there have been less than 150,000 roadside bus inspections annually and over three million truck inspections. That is, only one out of every twenty-four inspections involved a bus, the carrier of fifty-five passengers. Even worse, according to the American Bus Association, only half a dozen states have effective bus inspection programs. Most states have largely put their money on inspecting other CMVs, largely trucks.

While we do not quarrel with the need for truck inspections, we do believe that more funds should be allocated to motorcoach inspections. Indeed, we know of no metric that measures how much money goes to bus inspections in any state. For these reasons we conclude that the states must be required to use 10 percent (10 percent) of the MCSAP money to inspect motorcoaches and certify its use to the Department of Transportation. This is the most effective way to ensure that motorcoaches remain safe.

FMCSA/MCSAP Enforcement Summary FY 2005–FY 2008

Year	FY 2005	Δ % '05–'06	FY 2006	Δ % '06–'07	FY 2007	Δ % '07–'08	FY 2008	Total
• Total Compliance Reviews	12,575	21%	15,185	6%	16,115	–3%	15,622	59,497
• Total Compliance Reviews, Buses	457	41%	646	91%	1,233	6%	1,306	3,642
• Federal Compliance Reviews	7,978	22%	9,722	5%	10,256	–6%	9,642	37,598
• Federal Compliance Reviews, Buses	340	48%	504	107%	1,041	0%	1,039	2,924
• State Compliance Reviews	4,597	19%	5,463	7%	5,859	2%	5,980	21,899
• State Compliance Reviews, Buses	117	21%	142	35%	192	39%	267	718
• Total Number of Enforcement Cases Closed	4,102	7%	4,403	20%	5,281	–3%	5,138	18,924
• Number of Enforcement Cases Closed, Passenger Carriers	73	70%	124	130%	285	–39%	175	657
• Unsatisfactory/Unfit out-of-service orders	518	–5%	494	57%	774	31%	1,015	2,801
• Total Number of Truck OOS Inspections, Driver	2,928,612	6%	3,093,996	3%	3,179,923	4%	3,287,738	12,483,269
• Truck OOS Rate, Driver	6.60%		7.00%		6.90%		6.60%	
• Total Number of Truck OOS Inspections, Vehicle	2,156,648	5%	2,273,467	0%	2,263,702	0%	2,270,174	8,963,991
• Truck OOS Rate, Vehicle	23.60%		23.70%		23.20%		23.20%	
• Total Number of Bus OOS Inspections, Driver	35,574	49%	52,959	4%	54,854	–6%	51,339	194,726
• Bus OOS Rate, Driver	4.60%		4.00%		3.70%		4.80%	
• Total Number of Bus OOS Inspections, Vehicle	43,287	143%	105,257	20%	125,926	4%	130,942	405,412
• Bus OOS Rate, Vehicle	9.40%		9.00%		7.70%		7.70%	
• Roadside Inspections, Trucks	2,966,860	6%	3,153,079	2%	3,228,268	3%	3,336,776	12,684,983
• Roadside Inspections, Buses	56,084	126%	126,626	17%	147,867	1%	149,669	480,246
• Total New Entrant Safety Audits	34,414	15%	39,488	–3%	38,326	–2%	37,395	149,623
• Federal New Entrant Safety Audits	11,734	–13%	10,187	–44%	5,706	–30%	3,997	31,624
• State New Entrant Safety Audits	22,680	29%	29,301	11%	32,620	2%	33,398	117,999
• Total MCSAP Funding	$169,391,273	8%	$182,652,162	3%	$188,761,276	7%	$201,155,148	$741,959,859

Senator LAUTENBERG. Thank you for your excellent recommendations. We will look to see that they are followed up on. Thank you.

Ms. Claybrook, Consumer Co-Chair, Advocates for Highway and Auto Safety, a group that advocates very strenuously, actively for improved bus safety, I want to thank you for being here and ask you to give your testimony.

STATEMENT OF JOAN CLAYBROOK, PRESIDENT EMERITUS, PUBLIC CITIZEN AND CO-CHAIR, ADVOCATES FOR HIGHWAY AND AUTO SAFETY (ADVOCATES)

Ms. CLAYBROOK. Thank you, Mr. Chairman. You should know that we are tough advocates because we advocate to you all the time. Thank you very much.

We want to commend you and members of the Subcommittee for holding the hearing, Mr. Chairman, on the safety of motorcoaches and motorcoach operations, and we want to thank Senators Brown and Hutchison for leading the effort to enact S. 453, legislation that is vitally needed for improvements in motorcoach safety.

This month, as has already been mentioned, three tragic crashes occurred and it marks the anniversary of the Georgia and—excuse me—Bluffton, Ohio baseball team crash—that happened in Georgia. This is an anniversary that we did not want to have, when seven students were killed and 21 injured in that crash.

And then further, of course, I want to take a moment just to recognize that yesterday, March 29, marked the fifth anniversary of the Beaumont, Texas bus crash in which two members of the Westbrook High School girls soccer team were killed and at least dozens of others were injured.

Five years later, Congress still has not enacted this legislation to require enhanced occupant protection and operational standards to prevent families from experiencing and having these crashes and having the same suffering throughout their whole families and friends.

I would like to just comment that Mr. Pantuso said that the key is enforcement. I believe the key is not enforcement alone. Enforcement, of course, is very important, but we have to have new safety standards. We have to have improved bus design. The provisions in this legislation are very, very important for achieving that.

Those who travel by motorcoach rather than air do not expect to be treated as second-class citizens when it comes to safety and they do not expect the motorcoach to be a death trap in the event of a crash.

The failures of the Federal Motor Carrier Safety Administration to regulate this industry and the failure of the National Highway Traffic Safety Administration to issue safety standards to ensure crash avoidance and crash-worthiness of these vehicles has contributed to needless deaths and injuries.

The National Transportation Safety Board—we thank you so much—has been issuing safety recommendations for the motorcoach industry and DOT for decades, and they have been summarily ignored. For example, the NTSB first recommended that seat belts be required on motorcoaches 40 years ago, and only recently has NHTSA proposed a rule to do that.

Similarly, the Federal Motor Carrier Safety Administration has rebuffed many of the NTSB recommendations over the years, and while FMCSA has recently issued a proposal to require electronic on-board recorders on commercial vehicles, including motorcoaches, a longstanding NTSB recommendation, many other NTSB recommendations to keep unsafe operators and unsafe drivers off the road have never been considered.

Despite the development of a DOT action plan in 2009, which we are very grateful for, only three regulatory actions from the plan have been proposed in the intervening 16 months, that is, seat belts, EOBR's, and the non-use of cell phones. The delays and excuses by the bus industry and the DOT can no longer be tolerated. Congress must step in and ensure the safety improvements that NTSB has recommended, and there is a vehicle for doing this and that vehicle is this legislation, S. 453. There is no doubt that when Congress sets a safety agenda, the federal agencies respond quickly by developing action plans, conducting tests, issuing rules that improve transportation safety, and this is the model that should be followed for motorcoach safety.

The bipartisan Motorcoach Enhanced Safety Act is supported by the parents and relatives of the victims and survivors, and you have already met today John Betts and his wife from Ohio who lost their son, David, and Yen-Chi Le from Texas, whose mother died in Sherman, Texas. And I want to submit for the record letters from the families of the victims of motorcoach crashes who are unable to be with us today.

[The information referred to follows:]

3/28/2011

Hon. FRANK LAUTENBERG, Chair,
Hon. JOHN THUNE, Ranking Member,
Surface Transportation Subcommittee,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

RE: MESA bill, S. 453

Dear Sir:

As a father of two athletic daughters I have had many occasion to watch them board a bus which was bound for one event or another. After March 29, 2006, I will not make that mistake again (at least not until measures are put in place to ensure that motorcoach safety has been enhanced). Like many others who put their children at risk—without real knowledge of what they were actually doing—I put my daughter Courtney at risk by letting her board a charter with her Beaumont West Brook Soccer Team. After her bus overturned – I have learned just how very unsafe motorcoach travel really is. I urge you to pass this Senate Bill and make a difference for future children and passengers in general.

I drive for a living and I see just how distracted drivers are creating havoc—all over the roads of America. It only takes one poor, distracted driver, or one poorly maintained motorcoach to cause multiple fatalities and severe injuries. To be honest, every time I am on the road and see a shiny new motorcoach it makes me sick to my stomach. For it to have this much effect on me—imagine what it must have on my daughter who slid down and off a highway when her motorcoach's windows disintegrated into shards. Imagine what she must see when she sees multiple motorcoaches, with no safety glass or seatbelts, and reflects on not only her own pain but those who perished around her. It is past time for change!

In short, I ask you to take action and see this bill through. I find it amazing that the motorcoach industry would not have forced safety measures on its own, but I have witnessed and lived its nightmare—so I know it has not. Surely your com-

mittee will show the foresight to get something passed which forces safety measures which are so very far overdue!

Sincerely

EDWARD GARROD,
Beaumont, Texas.

March 25, 2011

Hon. FRANK LAUTENBERG, Chair,
Hon. JOHN THUNE, Ranking Member,
Surface Transportation Subcommittee,
Committee on Commerce, Science, and Transportation,
U.S. Senate
Washington, DC.

RE: Motorcoach Safety

Our family has had a personal tragedy, along with feeling connected to others who have had this experience, in regard to inadequate safety standards with motorcoach safety. We are hoping the following is truly read and understood so that there will be no more delays in passing this necessary long overdue bill.

(1) March 2, 2007 Atlanta, GA Bluffton Univ. Baseball Bus Crash

(2) Scott Graham Harmon, age 19 our son and brother

(3) Scott, seated in seat #4, doorside. Scott died as a result of the first impact on top of the ramp. Blunt for trauma from hitting the seat in front & across the aisle from him, his seat stayed Intact. In other words, he was NOT ejected but thrown around the inside of the bus. Fulton County Medical Examiner (GA) stated he would have survived if he would have had a seatbelt as there was no head trauma, no broken bones except 2 ribs.

(4) We have been told that more scientific evidence is needed to pass the bill, my question . . . how much evidence had to be taken for the recent updates of child restraint seats in automobiles, which already are mandated since 1966 to be equipped with seatbelts. How many children wonder why they get to sit "freely" in a school bus/motorcoach when they don't in a private vehicle. I drove a school bus for 12 years, you might be surprised what the answer would be. Airplanes have mandatory seatbelts for take off, landing or in air turbulence-why? To keep you in the seat compartment area, just ask those on the jet who landed in the Hudson River.

(5) Motorcoach drivers-there are many good drivers, unfortunately, there are many that are not.

a. Go to your DMV, take a written CDL exam—no training necessary

b. Drive a bus around the parking lot of the employer, feel comfortable? There is a trip next week, do you want to take it? Inexcusable!

c. Pre-trip meetings—to go over the trip, *i.e.,* dangerous intersections, road construction, food consumption, sleep requirements . . . I've been told by companies it isn't necessary because their insurance company doesn't require it, if there is a problem, the driver can call on a radio/cell phone or if tired, take a nap when they get to their destination . . . they have to get there first!

d. Background checks-school bus drivers are fingerprinted and FBI background checks, motorcoach drivers?—not required

e. Down time—Supposed to be 12 hour down time between driving a company vehicle. Our Driver drove a company van to GA on March 1, ordered a pizza which was delivered at 9:30 p.m., he then was up at 3:30 a.m. on March 2nd, boarded the bus at 4:30 a.m. and the crash was at 5:43 a.m.—you do the math.

f. Retired aged drivers—luring retirement age drivers/couples as a "free vacation". There is a big difference between driving your own vehicle than a bus with the number of mirrors (can be distorting) vehicle weight and length, etc.—reflexes *must* stay sharp.

(6) Companies—There are reputable companies that operate with a conscience, unfortunately, there are those who don't. They get into some trouble, they shut down and reopen under a different name. Until a tragedy occurs, this information does not come to light. Inexcusable!

As I previously stated, this is a short version of what needs to be done. We are not trying to put reputable responsible companies out of business, only make them travel as safely as possible. I realize money is needed to make these changes, however, I'd rather be able to afford only 2 coaches that I know are as safe as possible vs. a fleet that are playing Russian roulette.

One last point. . .

An accident is something that happens when you do everything possible to prevent it; a tragedy happens when one or more are negligent.

Sincerely,

JULIE M. HARMON,
Lima, OH.

March 29, 2011

Hon. FRANK LAUTENBERG, Chair,
Hon. JOHN THUNE, Ranking Member,
Surface Transportation Committee,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

My name is Elise Huch, a member of the West Brook Bus Crash Families from Beaumont, Texas. On March 29, 2006 my high school soccer team was involved in an accident on the way to a state play-off game. I was injured , along with many of my teammates, some very seriously. Tragically, two of my teammates, Ashley Brown and Alicia Bonura, were killed. Ashley and Alicia were truly inspirational girls, as teammates, Christians and friends. They are both greatly missed.

Since the accident, the W.B.B.C.F. have worked very hard to get the laws passed here in Texas and in Washington D.C. It has been a long hard battle but we have been successful in passing the Ashley and Alicia Law in Texas, which required safety belts on all new school buses purchased beginning Sept. 2010. With that being said, please accept this letter as my strong support for the MESA bill S. 453. I hope that I can look forward to seeing this bill become a law. In light of the recent accidents in NY, NJ and NH, it is time that something is done in this country to require safer buses for all those who travel on motorcoaches.

In the past 5 years, not a day goes by that I don't think of that terrible day in March. I wonder if Ashley and Alicia would still be alive had the bus been equipped with proper safety devices. Obviously, I will never know the answer to that question, but I can do something to honor their memory and to help prevent future Americans from experiencing a similar tragedy, which is why I strongly support this bill and I pray that with your help, it will soon become a law.

Thank you very much for reading my letter and allowing my voice to be heard. I hope to someday meet you both and thank you personally for making motor coach traveling safer in this country.

Sincerely,

ELISE M. HUCH,
West Brook Bus Crash Families.

March 29, 2011

Hon. FRANK LAUTENBERG, Chair,
Hon. JOHN THUNE, Ranking Member,
Surface Transportation Committee,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

Honorable Frank Lautenberg and Honorable John Thune,

My name is Martha Huch, Vice-President of the West Brook Bus Crash Families. Today marks the five year anniversary of the West Brook soccer team's fatal bus crash in Beaumont, Texas. Therefore, it is with deep sadness that I write you this letter on a day when we remember Ashley Brown and Alicia Bonura, the two beautiful girls that were killed in the bus crash. My daughter, Elise Huch, was one of several girls that were injured that day. The bus crash has changed our lives forever. It has left a deep wound in our hearts and great sadness for the Brown and Bonura families.

It is however, with great hope that the MESA bill S. 453 will soon become a law that is long overdue. Since the West Brook crash, I have been brought to my knees too many times when I hear of yet another bus crash that has claimed yet more lives. I think of the families of the victim and the survivors as well and feel their suffering and know the never ending pain of living with the aftermath of such a tragedy.

The past five years we have work tirelessly to pass laws in Texas to required safety belts on school buses. In September 2010, our dreams of required school districts to purchase school buses equipped with 3 point shoulder harnesses was realized. However, our work is not over yet. We will not rest until the MESA bill S. 453 is passed and becomes a law.

I pray that God will lay his hands on all lawmakers to act responsibly in representing the people of our country and make motor coach travel safer for it passengers. I call upon those whom we elect into office to become heroes in saving the lives of those they serve. They will certainly be heroes in my eyes.

It breaks my heart to think of what my daughter went through day fateful day. At the time, my daughter was 16 years old. The things she witnessed were horrifying and are deeply imbedded in to her memory. Some of the injuries she saw were similar to what grown men have witnessed in Iraq. How is it, that in our country, young girls have to board a bus not equipped with safety belts and end up scarred for life? The time is now to pass the MESA bill S. 453 so that no one else has to go through what my daughter and her teammates had to go through.

I thank you in advance for reading my letter, but more importantly, I thank you for your efforts in making a difference in getting this law passed. I hope that someday in the near future I will be able to shake your hand and personally thank you for your wisdom and perseverance in hearing our pleas for safer buses and making our dreams a reality. May God guide you in your service to His people.

Thank you,

MARTHA HUCH,
West Brook Bus Crash Families.

March 28, 2011

Hon. FRANK LAUTENBERG, Chair,
Surface Transportation Subcommittee,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

Hon. JOHN THUNE, Ranking Member,
Surface Transportation Subcommittee
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

RE: Letter of Support for S. 453, Motorcoach Enhanced Safety Act (MESA)

Dear Chairman Lautenberg, Ranking Member Thune, and distinguished Subcommittee Members:

On behalf of the Sherman Bus Crash families, I am writing to express my unequivocal support for the Motorcoach Enhanced Safety Act (MESA) bill sponsored by Senators Kay Bailey Hutchison and Sherrod Brown.

My mother, Catherine Tuong So Lam, was killed in the Sherman Bus Crash on August 8, 2008. To briefly recap, the Sherman bus crash occurred at 12:45 a.m. on August 8, 2008. The retreaded, front tire of the bus had blown out and the bus hit the guardrail of the overpass and fell eight feet to the dry creek bed below. My mother was among the 17 people who died. The driver and the other 38 passengers sustained moderate to serious injuries.

In my community, husbands have lost wives, parents have lost children, children have been orphaned, and families have been fractured by the burden of caring for crash victims who are stuck in between living and death. For example, Paul was a MBA business executive with two small children whose brain injury was so severe that he know has the cognitive functioning of a second grader. It is not easy for me to share such personal details about my mom and our community, but I want you to be aware of *the personal costs of allowing the motorcoach industry to treat safety as an option and not a requirement*.

The National Highway and Traffic Safety Administration (NHTSA) estimate the cost of installing personal occupant protection systems on motorcoaches at $7,000 per coach. *The direct medical costs of those injured or killed in the Sherman Bus Crash exceed $3.75 million.* This does not include loss of life, loss of future earnings, or continuing and future medical costs. Given the average 25–30 year lifespan of motorcoaches, requiring the motorcoach industry to spend $7,000 in order to save lives is a negligible cost to the industry. But the industry will not make motorcoach safety a requirement until Federal regulations are in place for to ensure the safety of motorcoach passengers.

In closing, I implore you to support S. 453, the Motorcoach Enhanced Safety Act. If this bill had been law, my mom would be alive today.

Sincerely,

YEN-CHI LE, Ph.D.,
Houston, Texas,
Daughter of Sherman Bus Crash victim,
Catherine Tuong So Lam.

MARCH 29, 2011

Hon. FRANK LAUTENBERG, Chair,
Hon. JOHN THUNE, Ranking Member,
Surface Transportation Subcommittee,
Committee on Commerce, Science, and Transportation,
U.S. Senate,
Washington, DC.

Dear Senator Lautenberg:

I am writing in support of the MESA bill, S. 453, which mandates "three-point" lap-shoulder seatbelts on motor coaches. Five years ago today, the Beaumont West Brook Girl's Soccer Team was heading to a play-off game. *The chartered motorcoach they rode in did not even meet current safety requirements to protect them.* I now

know, from first hand experience, the price paid in not using seat belts on buses. I am the mother of Ashley Brown, one of the players killed in the accident. I believe that Ashley's life would have been saved and many injuries prevented if the motor coach had been equipped with seatbelts.

I believe that each new motor coach purchased, from now on, should have lap-shoulder restraints. It makes no sense to teach our children to "buckle up for safety" in our personal automobiles and then send them off on buses with no seat belts. We all know that seatbelts save lives, especially in the case of a rollover accident.

Not just the parents and students of Beaumont ISD were affected by the tragedy that occurred just outside of Devers, TX on Highway 90 that rainy day in March. Our entire state of Texas was devastated when we lost two beautiful girls, Alicia Bonura and my daughter, Ashley. We all have to live daily with the injuries, both physical and emotional.

Now, there is no excuse. We now have the knowledge and the technology to argue with weak Federal oversight of the motor coach industry. There is no common sense argument ***against*** *the use of three-point seat belts on buses. So that other parents never have to experience the same tragedy that I have endured, please help us in our mission to enact legislation that will protect passengers of the motorcoach industry. I thank you in advance for your favorable support in the consideration of the MESA bill, S. 453.*

Sincerely,

MELANIE BROWN PSENCIK.

Ms. CLAYBROOK. The cost of building in safety features in this MESA bill, S. 453, is minimal compared to the cost in terms of life lost in just a single motorcoach crash. For example, the recent crash on March 12, 2011 in New York resulted in 15 fatalities, and based on DOT's value of a statistical life of $6 million, that bus alone generated $90 million in costs for just the fatalities. This figure does not include the enormous costs associated with numerous injuries and surviving passengers or the huge emotional toll on the families whose loved ones have been lost.

A number of safety technologies included in this bill have already been developed and are being voluntarily installed in motorcoaches, as Senator Hutchison mentioned. For example, Bolt Bus Lines already has seat belts installed in many of its vehicles, and Greyhound has announced in 2009 the purchase of 140 buses equipped with safety belts and advanced seating which provide occupant compartmentalization.

In addition, other motorcoach manufacturers already offer these safety technologies. Volvo, MCI, Prevost, and Van Hool offer electronic stability control, advanced glazing, occupant compartmentalization, and greater roof protection, tire pressure monitoring systems, and some form of fire protection and suppression system. A list of these technologies is attached to my testimony.

The motorcoach gold-plated cost figures for safety improvements are wildly inflated, unreliable, and undocumented. This industry claims that the improvements in this bill would cost between $80,000 and $89,000 per motorcoach. These absurd and exaggerated figures are a tactic to confuse the issues and obscure the truth. But in fact, a trade association never has the details about costs because this information is a company trade secret, and it would be an antitrust violation for an association to involve itself in calculating this information from its member companies. So instead what we get is a bunch of hogwash. Of course, various industries use this tactic all the time to scare Congress, and it happened when I was Administrator of NHTSA and there were the air bags——

Senator LAUTENBERG. We are going to take your full statement in the record.

Ms. CLAYBROOK. OK.

Senator LAUTENBERG. We will have to move along.

Ms. CLAYBROOK. Well, I would just thank you very much, Mr. Chairman, and I would like to have the Committee look carefully at these cost issues because they are not anywhere near reality. Thank you so much.

[The prepared statement of Ms. Claybrook follows:]

PREPARED STATEMENT OF JOAN CLAYBROOK, PRESIDENT EMERITUS, PUBLIC CITIZEN AND CO-CHAIR, ADVOCATES FOR HIGHWAY AND AUTO SAFETY (ADVOCATES)

Good afternoon. My name is Joan Claybrook and I am President Emeritus of Public Citizen and the Co-Chair of Advocates for Highway and Auto Safety (Advocates), a coalition of consumer, health, safety, medical organizations 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 motorcoaches and motorcoach operations.

This hearing today is another in a long series of oversight hearings held by the Surface Transportation and Merchant Marine Infrastructure, Safety, and Security Subcommittee because of its concern over the quality of motorcoach and motor carrier safety. The Subcommittee held a hearing just last year, on September 10, 2010, on motorcoach safety and prior to that held a hearing on May 1, 2007, to receive testimony on the value of Electronic On-Board Recorders (EOBRs) and their important contribution to reducing commercial driver fatigue., an issue relevant to both motorcoach and motor carrier safety enforcement. That hearing was extraordinarily important because it showed how members of the motor carrier community have found that EOBRs are not only valuable for keeping commercial drivers within the limits of Federal hours of service regulations, but also help to expedite freight delivery and conserve fuel, keep big trucks from using illegal routes, and track motorcoaches in real-time to help ensure passenger safety.

This month we observe the anniversaries of two tragic motorcoach crashes. The Bluffton Ohio college baseball team bus crashed in Atlanta, Georgia, 3 years ago on March 2, 2007. Seven (7) students were killed and 21 injured in that crash. That tragedy is just one in a long list of crashes that have motivated Advocates and other organizations to support the Motorcoach Enhanced Safety Act (MESA). I would also like to take a moment to recognize that yesterday, March 29, marked the fifth anniversary of the Beaumont, Texas bus crash, in which two (2) members of the West Brook High School girls' soccer team were killed and at least a dozen others were injured when the motorcoach carrying the team swerved on Highway 90 and rolled over. Five years later, Congress has still not enacted legislation to require enhanced occupant protection and operational standards to prevent other families from experiencing the same suffering as the West Brook bus crash families.

Yet, despite this history of crashes and sad anniversaries, not much has changed. Three recent crashes of motorcoaches, in New York, New Jersey and New Hampshire this month have joined the infamous list, with the loss of 17 lives and 82 injuries. These crashes further underscore the fact that compromises and half measures taken by the motorcoach industry and safety regulators endanger the safety of the traveling public.

Older travelers who take motorcoaches to casinos plan on gambling but they do not expect to play Russian roulette with their safety en route. Those who travel by motorcoach rather than by air due to cost know the trip will take longer but they do not expect to be treated as second-class citizens when it comes to safety. Young people who take motorcoaches for convenience, price and the Wi-Fi do not expect the motorcoach to be a deathtrap in the event of a crash.

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 choosing a safe motorcoach, consumers have been forced to select motorcoach carriers blindly, without adequate information on their safety or the safety of the vehicles and drivers. Many of us in this hearing room have put our excited children on charter buses for out-of-town school field trips and team sporting events, boarded motorcoaches to take part in church and community outings, or waved goodbye to retired parents who traveled by tour coach to vacation destinations. Some have even

taken advantage of low cost fares to travel between Washington, D.C., New York or Boston on "curbside" buses that leave from downtown locations rather than bus terminals.

Motorcoaches make 750 million passenger trips a year, and transport hundreds of thousands of passengers each day, often carrying more passengers—55 to 59 people when fully loaded—than most commuter airline flights. Yet, motorcoach safety is not being held to the same high safety standards as passenger aviation even though motorcoaches operate in a much more dangerous and congested highway environment. Motorcoach drivers are not required to meet the rigorous medical and safety requirements of airline pilots; most of the vehicle safety design and performance standards for passenger vehicles, especially for occupant protection, are not required for motorcoaches; and motorcoach companies are governed by the same weak, ineffectual safety oversight and enforcement regime that is used for trucking freight.

Despite the widespread use of motorcoach transportation in our everyday lives, the public is almost completely in the dark about the safety of motorcoach transportation 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 the same basic safety improvements required for light passenger vehicles to ensure the crash avoidance and crash worthiness of motorcoaches. These failures have contributed to numerous tragic motorcoach crashes in recent years.

My testimony today will address the safety problems and the documented need to improve motorcoach safety; the means available to provide improved occupant protection in motorcoach crashes and other emergencies, such as fires; enhanced crash avoidance capabilities, and the importance of strengthening Federal oversight of motorcoach operations to ensure that unsafe motorcoach companies and drivers are detected and kept off the road before they can do harm.

Motorcoach Crashes Are Frequent and Deadly

Over the past four decades, the National Transportation Safety Board (NTSB) has investigated nearly 70 motorcoach crashes and fires that resulted in several hundred passenger deaths and many hundreds of severe injuries. NTSB's motorcoach crash investigations over the decade from 1998–2007, involved the deaths of 255 passengers and more than one thousand injuries.[1] In some of these incidents more than 20 people on board were killed in a single crash or vehicle fire. Not all motorcoach crashes resulting in death and injury are investigated by NTSB or any other agency at the Federal level. I have attached to my testimony a list of the motorcoach crashes that Advocates has compiled from the NTSB investigation reports and reliable newspaper and wire service reports found on the Internet. But even this list, containing over 150 motorcoach crashes and fires in the past 20 years, is far from complete.

According to NHTSA data, there were 400 fatal motorcoach crashes from 1994 through 2005 in which 571 people died.[2] Of that total of fatal crashes and associated deaths, 2005 was an especially tragic year—70 motorcoach occupants died in crashes, the highest total ever recorded. Data covering a much longer period of time, 1975 through 2005, shows 1,107 fatal crashes involving 1,117 motorcoaches and resulting in 1,486 deaths to passengers in motorcoaches, people in other vehicles and pedestrians.[3] While the industry touts the historic safety record of motorcoaches, the three recent crashes that occurred within days of each other emphasize that we cannot rely on statistical averages to ensure public safety. The number of deaths in the first 3 months of this year, 21 that we know of, already exceeds the historic annual fatality average with 9 months remaining in the year. Rather than ignore these recurrent and all too predictable crashes, we need to protect the public by building safety into motorcoaches instead of hoping that the inevitable crashes will not occur.

That is why it is crucially important to have a comprehensive, multi-faceted approach to motorcoach safety that emphasizes major safety countermeasures for motorcoach occupant protection, as well as dramatic improvements in motorcoach crash avoidance capabilities that will ensure that these big, heavy vehicles provide crash protection to the motorcoach occupants while also reducing both the number and the severity of collisions with other highway users.

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[1] *Motorcoach Override of Elevated Exit Ramp Interstate 75, Atlanta, Georgia, March 2, 2007,* Appendix C, National Transportation Safety Board Accident Report HTSB/HAR–08/01, July 8, 2008 (Bluffton University Motorcoach Crash Report).

[2] Data supplied by the NHTSA.

[3] *Id.*

Motorcoach Crashes in Recent Years Illustrate Severe Safety Risks

While detailed investigation of the cashes that have taken place this month are not yet available, press reports indicate that all three motorcoaches lacked seat belts and that at least in one case there are questions about driver fatigue and whether the driver had previous hours of service violations. Advocates is certain that many of the same safety deficiencies previously found by the NTSB in earlier crashes will be found, yet again, in these new incidents. Among the major motorcoach crashes and fires that have taken place in the past few years the following examples are emblematic of the safety perils in motorcoach travel:

- *The Bronx, New York:* On March 12, 2011, a motorcoach operated by World Wide Travel transporting passengers from a Connecticut casino in the early morning rolled on its side on I–95, skidded along a guardrail, and rammed into a support pole, slicing through the upper half of the bus. Fifteen people were killed and 18 were injured in the crash. Initial media reports indicate that the bus swerved repeatedly before the crash and the driver may have been fatigued. World Wide Tours has previously been flagged by the Federal Motor Carrier Safety Administration (FMCSA) for fatigued drivers.[4]
- *Sacaton, Arizona:* On March 5, 2010, a motorcoach owned by Tierra Santa Inc., a California company, en route from Mexico to Los Angeles, rear-ended a pickup truck, swerved, and rolled over on I–10. Nine passengers were ejected from the bus, killing six. An additional 16 were injured. A report by the Arizona Department of Public Safety indicated that the bus company was operating illegally, that driver hours of service were not maintained, and that the vehicle had defective brakes. Reports also suggested that the company's owner had previously owned other motorcoach companies that had been shut down for safety violations.[5]
- *Sherman, Texas:* On August 8, 2008, an Angel Tours, Inc. motorcoach with 54 passengers, restarted its motorcoach business under a different name, Iguala Busmex, only 3 days after it had been judged an "imminent hazard" by FMCSA and prohibited from providing transportation services. In a catastrophic crash, the Iguala Busmex motorcoach broke through a guardrail in rural Grayson County, Texas and plummeted from an overpass into a dry creek bed in a rollover crash that resulted in 17 people dead and 38 injured. Angel Tours, Inc., had been ordered to stop operating by the FMCSA on June 23, 2008, only 6 weeks earlier. The reconstituted business, Iguala Busmex, according to preliminary information in media reports, had no insurance and had no Federal interstate operating authority.[6]

  The new company even used the same business address to restart operations. FMCSA was unaware that Angel Tours had transformed into the rogue motorcoach company, Iguala Busmex. In fact, the company had no legal authority to provide motorcoach transportation services for compensation even within the state of Texas. In far too many cases, motor carriers both of passengers and of freight are ordered to stop operations for safety reasons, but then restart their businesses under different company names, leaving law enforcement officials with the task of identifying and proving which companies are conducting illegal operations. Sometimes, as in this case, Federal authorities find this out only after a tragic crash, when deaths and severe injuries have already occurred. While FMCSA has improved efforts to screen for reincarnated passenger motor carriers, the agency still lacks authority to revoke registration and impose criminal penalties on persons who commit this type of violation.

  The motorcoach in the Sherman, Texas, crash was operated by a driver who had no valid medical certificate. FMCSA had also determined prior to its "cease operations" order that Angel Tours was using a driver without the company having received a pre-employment report, a Federal requirement. Angel Tours also failed to require drivers to prepare vehicle inspection reports. In addition, the motorcoach was fitted with retreaded tires on the front steer axle, another

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[4] *Bus Swerved Repeatedly Before Crash, Riders Say,* NY Times, March 13, 2011, available at *http://www.nytimes.com/2011/03/14/nyregion/14bus.html* and, *Carnage on I–95 After Crash Rips Bus Apart*, NY Times, Mar 12, 2011, available at *http://www.nytimes.com/2011/03/13/nyregion/13crash.html?pagewanted=1&__r=1&ref=nyregion.*

[5] *Bus Carrier in I–10 Crash Skirts Ban*, Arizona Republic, Mar 26, 2011, available at *http://www.azcentral.com/arizonarepublic/news/articles/2011/03/26/20110326carriers-tierra-los-angeles.html.*

[6] *Motorcoach Run-Off-the-Bridge and Rollover, Sherman, Texas, August 8, 2008,* National Transportation Safety Board. 2009, Highway Accident Report NTSB/HAR–09/02, available at *http://www3.ntsb.gov/publictn/2009/HAR0902.pdf.*

Federal regulatory violation. It appears that this illegal tire suddenly failed and destabilized the motorcoach, making it difficult to control and facilitating its crash into the overpass guardrail.

- *Tunica, Mississippi:* On August 10, 2008, a casino motorcoach operated by Harrah's Entertainment packed with 43 tourists rolled over in a highway intersection in northwestern Mississippi. The roof of the motorcoach collapsed and its windows were shattered. Three passengers died and 27 were injured, one in critical condition.[7]
- *Primm, Nevada:* Another casino motorcoach crash occurred the same day on I–15 near Primm, Nevada. Luckily, no one died in this crash, but 29 people of the 30 people on board were injured, three of them critically. This was the second motorcoach crash involving casino workers that occurred between Las Vegas and Primm. Previously, a crash injured at least 25 people before the motorcoach burst into flames and was destroyed on January 17, 2008. Once again, it appears that there may have been a problem of tire tread separation that could have triggered the rollover crash.[8]

These cases, even without the benefit of a thorough crash investigation, point out two serious safety problems. First, in the Sherman, Texas crash, the illegal operation of the company is an extremely serious issue, especially in light of the company history of safety problems. Unfortunately, FMCSA currently has authority only to impose fines for such conduct. Criminal penalties are not available for such illegal operation but are clearly appropriate where the company owners and officers neglect safety and take such intentional actions in defiance of legal orders.

Second, although there are many safety issues and factors in these crashes that will be investigated, it appears that tire tread separation may have been a major contributing factor to both the Angel Tours and Primm, Nevada, crashes. Although retreaded tires are allowed by FMCSA on the other, non-steering axles of motorcoaches, and on tractor-trailer rigs and straight (single-unit) trucks operated in interstate commerce, there are no Federal standards administered by NHTSA specifying the quality and safety performance of retreaded tires on commercial motor vehicles. At the present time, there are only voluntary industry standards. Advocates asked the agency more than a decade ago to adopt such standards to ensure that retreated, recapped, and regrooved commercial motor vehicle tires met the same safety performance requirements as new tires. However, NHTSA has failed to put forward any proposal to adopt a performance standard for retreaded tires on motorcoaches and other commercial vehicles.

- *Bluffton University Motorcoach Crash:* On March 2, 2007, a motorcoach hired to transport the Bluffton University baseball team from Ohio to Georgia vaulted a bridge parapet after taking a left exit ramp that led to a perpendicular entrance to an overpass above I–75 in Atlanta, Georgia. 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, seven were killed and several others, including the coach of the school's baseball team, were transported to the hospital with severe injuries. Twelve of the motorcoach's occupants were ejected, four through the windshield or left front side windows even before the motorcoach left the roadway, and six passengers were ejected through the left side windows when the vehicle slammed into I–75, the impact that stopped its fall.

None of the occupants on-board had three-point safety belts available to restrain them. Of the 59 seats on board, only the driver's seat, the "jump seat," and the first row of two passenger seats immediately behind the driver had two-point lap belts. The driver and his wife, both of whom had fastened their lap belts, died.

The company that operated the over-the-road bus, Executive Coach, received a Satisfactory safety rating from FMCSA on April 4, 2007, only a month *following* the crash. However, NTSB's findings and recommendations produced by its in-

[7] *Three Killed, Several Injured in Mississippi Bus Crash*, Associated Press, Aug 10, 2008, available at *http://www.nydailynews.com/news/national/2008/08/10/2008-08-10_three_killed_several_injured_in_mississi-1.html.*

[8] *Third Bus Crash in Three Days Injures 20,* CNN, Aug 11, 2008, available at *http://articles.cnn.com/2008–08-11/us/nevada.bus_1_bus-nevada-highway-patrol-church-trip?_s=PM:US.*

vestigation listed several major deficiencies in motorcoach operating safety.[9] The vehicle issues identified by NTSB included the lack of interior occupant impact protection; the ease with which unrestrained passengers were ejected through large side windows; and FMCSA's inadequate motor carrier driver oversight. The driver issues included the fact that the motorcoach driver's medical certification had expired, the driver's logbook clearly had been falsified, and that the driver had medical conditions and had taken medications that may have impaired his ability to drive. Also, the company that operated the motorcoach had no formal driver training program, no written policies on driver procedures such as an emergency response protocol for evacuation and other passenger safety needs, and the company's alcohol and drug testing program did not comply with Federal requirements.[10]

It should be pointed out that motorcoaches in foreign countries equip their vehicles with safety protection features not provided for passengers in the United States. For example, the motorcoach that was involved in the Atlanta, Georgia, crash only had a few lap belts in the front seating positions and was not equipped with three-point lap/shoulder belts. The same motorcoach built in Australia comes equipped with three-point lap/shoulder seat belts at every seating position and with seats and their floor anchors tested for maximum crash resistance.

- *Hurricane Rita Nursing Home Motorcoach Crash:* On September 23, 2005, a motorcoach operated by Global Limo, Inc., carrying assisted living and 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 home for seniors. Most of the residents of the senior living facility had moderate to severe disabilities and were not able to evacuate the motorcoach during the fire without assistance. Evacuation involved concerted efforts by the nursing staff, rescue personnel, and bystanders who were able to help the residents exit the motorcoach.

NTSB found that the motorcoach was operated in an unsafe manner and that FMCSA oversight of motorcoach safety was lax. The major safety issues identified through the NTSB investigation included poor fire reporting information and inconsistent data in Federal crash data bases; FMCSA's ineffective compliance review program; lack of adequate emergency exits from motorcoaches; lack of fire resistant motorcoach materials and designs; inadequate manufacturer maintenance information on wheel bearing components; transportation of highly flammable, pressurized aluminum cylinders; and poor safety procedures for the emergency transportation of persons with special needs.[11]

While the driver of the Global Tours motorcoach possessed a Mexican commercial driver's license, the Licencia Federal de Conductor (LFC), he had not obtained a Texas-issued commercial driver's license (CDL), even though the driver had been in the U.S. since at least February 2005. Drivers are required to apply for a Texas-issued CDL within 30 days after taking up residence in Texas. This means that the driver had no legal CDL or federally-required commercial driver medical certificate, nor had he complied with requirements to prove his identity, provide a social security number, supply documentation of vehicle registration and liability insurance, and surrender his LFC. These are legal requirements for drivers that the company should have ensured were being met. Also, the driver was unable to communicate in English, relying on an interpreter for his post-crash interviews, another violation of FMCSA regulations.[12] According to NTSB, the driver may have been fatigued at the time of the motorcoach fire. The driver had violated multiple requirements of the FMCSA hours of service regulations (HOS), including having failed to take a minimum of 8 consecutive hours off-duty before working or driving, and driving for over 15 consecutive hours starting at 3 PM on September 22, 2005, until the fire began at about 6 AM on September 23, 2005.

FMCSA conducted a compliance review (CR), the agency's method of assessing the safety of a motor carrier,[13] of the company on February 6, 2004, and found seven violations of the Federal Motor Carrier Safety Regulations (FMCSR). Nevertheless, FMCSA issued a Satisfactory safety rating to the motor carrier just 6 days later,

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[9] Bluffton University Motorcoach Crash Report.

[10] Title 49 CFR § 382.305.

[11] *Motorcoach Fire on Interstate 45 During Hurricane Rita Evacuation Near Wilmer, Texas, September 23, 2005*, National Transportation Safety Board, 2007, Highway Accident Report NTSB/HAR–07/01, available at *http://www3.ntsb.gov/publictn/2007/HAR0701.pdf.*

[12] Title 49 CFR § 391.11(b)(2).

[13] See, 49 CFR Pt. 385 for a description of FMCSA's safety rating process.

even though the company had multiple Out of Service (OOS) violations prior to the CR and more driver OOS violations prior to the September 23, 2005, motorcoach fire. An Unsatisfactory safety rating cannot be triggered unless violations have occurred in both driver and vehicle categories.

According to NTSB in its report, the motorcoach itself was evidently inadequately maintained. Inadequate lubrication of an axle on the vehicle led to "frozen" bearings that generated extreme heat that, in turn, triggered the fire. Fires in motorcoaches are started from various sources, such as engine compartments, electrical wiring and batteries, auxiliary heaters, and underinflated or failed tires. Motorcoach fires consume many of the materials from which the vehicles are manufactured, and are evidently a chronic problem, as admitted by the former Administrator of FMCSA before the House Committee on Transportation and Infrastructure, Subcommittee on Highways, Transit, and Pipelines on March 2, 2006.[14] In fact, motorcoach floors are usually made of sheets of plywood.

Comprehensive Motorcoach Safety Improvements Are Stalled at DOT Despite Urgency

From this brief review of just a few motorcoach crashes and fires, it should be evident that motorcoach safety has not been a primary focus of Federal agencies or the bus industry and is in dire need of regulatory action to improve safety. The NTSB has been issuing safety recommendations to the motorcoach industry and the U.S. Department of Transportation (DOT) and its agencies for decades, but those recommendations essentially have been ignored. Unfortunately, very few NTSB recommendations have been implemented by NHTSA and FMCSA, and certainly not in the complete and effective manner that NTSB recommended.

In the Bluffton University Motorcoach Crash Report, NTSB reviewed the 40-year history of its frustrated attempts at achieving agency action in accordance with multiple recommendations for motorcoach drivers, passengers, vehicles, and operations. NTSB asserted that "motorcoaches transport a substantial number of people traveling in a single vehicle with a high exposure to crash risk," with other special safety requirements, and that "[t]hese factors demand that motorcoaches meet the highest level of safety."[15] NTSB also stated in its findings and recommendations that NHTSA had unacceptably delayed defining and acting on regulations for motorcoach occupant protection safety performance standards, emphasizing that the traveling public in motorcoach trips were inadequately protected during collisions, especially in rollovers.[16]

For example, NTSB has repeatedly asked NHTSA to require stronger seats and to mandate seat belt assemblies at every designated seating position in motorcoaches. But NTSB finally had to close out these recommendations with notations of "Unsatisfactory Action" because NHTSA continually deflected NTSB's recommendations on requiring stronger seats and mandating seat belts.[17]

But NTSB did not give up, despite NHTSA's endless inaction. Over and over it beat the drum in support of occupant restraints with successive reports on horrific motorcoach crashes where restraints would have saved many lives. For decades NHTSA deflected every one of those recommendations. There are many other examples of critical motorcoach safety recommendations sent to NHTSA since 1968 that were ignored—and the result was more deaths and injuries that could have been prevented.

Similarly, the Federal Highway Administration (FHWA), and its successor agency, FMCSA, have also rebuffed many NTSB recommendations over the years, despite evidence showing the need for major safety countermeasures for existing passenger motor carriers and for improvements in FMCSA enforcement. NTSB was frustrated with FMCSA's enforcement scheme for motor carrier safety violations because the agency would provide Satisfactory ratings to motor carriers even if they had several serious driver or vehicle violations. FMCSA's policy is that there must be violations in *both* areas to trigger an Unsatisfactory rating that could result in a company ordered to stop operations. But NTSB recommended that serious violations in *either* area should be enough to trigger imposition of an Unsatisfactory rating.[18] In this

[14] *http://testimony.ost.dot.gov/test/Sandberg1.htm,* May 2, 2006.

[15] Bluffton University Motorcoach Crash Report at 52.

[16] *Id.* at 54.

[17] For example, see NTSB's recommendation H–71–35 that was closed out on October 29, 1975.

[18] NTSB Safety Recommendation H–99–6, "Change the safety fitness rating methodology so that adverse vehicle and driver performance-based data alone are sufficient to result in an overall unsatisfactory rating for the carrier", issued February 26, 1999, added to NTSB Most Wanted

Continued

regard it must be pointed out that Angel Tours before the Sherman, Texas crash had a Satisfactory rating because although FMCSA had recorded several driver violations, there were no vehicle violations for the company. Accordingly, under that rating system, FMCSA had no basis for threatening the company with an Unsatisfactory safety rating. FMCSA has repeatedly avoided acting on this NTSB recommendation, despite several reports from the U.S. DOT Office of the Inspector General and Government Accountability Office demonstrating multiple weaknesses in FMCSA enforcement regimes and actions.[19]

Federal Legislation Is Needed to Direct DOT to Implement Comprehensive Motorcoach Safety Reforms and Comply with NTSB Recommendations

The delays and excuses by the bus industry and DOT can no longer be tolerated as innocent people die and are badly injured. The Congress must to step in and ensure that the safety improvements NTSB has recommended for decades are adopted by the DOT agencies with the authority to issue motor vehicle and motor carrier regulations. Experience has shown that when Congress requires safety action, the agencies find the ways and means to meet the challenge. Several years ago, the Senate Commerce Committee took a leadership role in addressing deadly rollover crashes and other major motor vehicle safety issues. In the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005—A Legacy for Users (SAFETEA–LU),[20] Congress required NHTSA to issue regulations on safety problems that had languished for years without agency action. NHTSA has taken action to comply with each of those vehicle safety rulemaking requirements. More recently, the Cameron Gulbransen Kids Transportation Safety Act of 2007[21] required NHTSA to issue rules on safety problems to protect children from dangers in vehicles that the agency had previously refused to address. The agency is in the process of meeting its statutory obligations under that law.

There is absolutely no doubt that when Congress sets the safety agenda, the Federal agencies respond quickly by developing action plans, conducting tests, and issuing rules that improve transportation safety. This is the model that Congress should follow for motorcoach safety.

The right vehicle to accomplish this approach has already been introduced in Congress—The Motorcoach Enhanced Safety Act of 2011. This pending legislation, S. 453, introduced on March 2, 2011, by Senators Sherrod Brown (D–OH) and Kay Bailey Hutchinson (R–TX), and its companion bill in the House, H.R. 873, introduced by Representative John Lewis (D–GA), sets a reasonable and achievable regulatory safety agenda for reforming motorcoach safety. The Motorcoach Enhanced Safety Act deals with each of the major aspects of motorcoach safety: vehicle design and performance, operating safety and inspection, and driver safety, including training and medical certification.

The Motorcoach Enhanced Safety Act addresses almost all NTSB safety issues in a comprehensive manner, including crash protection of occupants, such as seat belts and windows that prevent occupant ejection in crashes; protection against roof crush, especially catastrophic single-vehicle events involving rollovers; improved fire protection and the need to use materials and technology to assist in fire resistance and suppression; better methods to facilitate passenger evacuation in emergency conditions; crash avoidance technology, such as adaptive cruise control and electronic stability control to prevent crashes; vehicle maintenance and inspection needs; and operator qualifications, including driver skills and medical certification. Finally, the Motorcoach Enhanced Safety Act sets very reasonable timelines for DOT, NHTSA and FMCSA to review the safety problems, complete testing, conduct rulemaking and issue safety rules to implement those recommendations so that lives can be saved and injuries prevented as soon as possible.

List: 2000, "Selective Motorcoach Issues," NTSB/SIR99/01, p. 37. Available at *http://www3.ntsb.gov/publictn/1999/SIR9901.pdf*.

[19] *See, e.g., Commercial Motor Vehicles: Effectiveness of Actions Being Taken to Improve Motor Carrier Safety Is Unknown.* Report to the Chairman, Subcommittee on Transportation and Relative Agencies, Committee on Appropriations, House of Representatives, GAO/RCED–001–89 (July 2000); *Significant Improvements in Motor Carrier Safety Program since 1999 Act but Loopholes for Repeat Violators Need Closing*, OIG Report Number $MH_2$006–046, April 21, 2006; *Improvements Needed in Motor Carrier Safety Status Measurement System*, OIG Report Number MH–2004–034, (Feb. 2004); *A Statistical Approach Will Better Identify Commercial Carriers That Pose High Crash Risks Than Does the Current Federal Approach,* GAO–07–585 (June 2007); *Motor Carrier Safety: Federal Safety Agency Identifies Many High-Risk Carriers but Does Not Assess Maximum Fines as Often as Required by Law*, GOA–07–584 (Aug. 2007).

[20] Safe, Accountable, Flexible, Efficient Transportation Equity for the Twenty-First Century: A Legacy for Users, Pub. L. 109–59 (Aug. 10, 2005).

[21] Cameron Gulbransen Kids Transportation Safety Act of 2007, Pub. L. 110–189 (Feb. 28, 2008).

The Motorcoach Enhanced Safety Act, is supported by parents and relatives of victims and survivors of motorcoach crashes. Many family members who lost relatives in motorcoach crashes have traveled to Capitol Hill numerous times since the bill was first introduced in 2007. The bill is also strongly supported by Advocates and safety groups, including Public Citizen, Center for Auto Safety, Citizens for Reliable and Safe Highways (CRASH), Consumers for Auto Reliability and Safety, the Trauma Foundation, the Consumer Federation of America and the Enhanced Protective Glass Automotive Association.

The DOT agencies with responsibility for motorcoach safety, NHTSA and FMCSA, have failed to fulfill their safety missions. Although NHTSA has proposed a rule for 3-point seat belts on motorcoaches, the agency has failed to move quickly to adopt other NTSB recommendations for crash protection and crash avoidance, even though some of those safety improvements were included in a motorcoach safety research and testing program and the DOT motorcoach safety plan. It is evident that, without a Congressional directive to issue safety standards based on the NTSB recommendations, there is no assurance that the agency will address all the safety issues identified by the NTSB over the years, much less establish stringent safety standards that adopt those recommendations in a timely manner.

FMCSA has been entirely delinquent in its role as the federal administrator of safe motorcoach operations. As with its duties to improve general motor carrier safety, FMCSA has failed to issue or properly enforce even the most basic safety requirements and has shown no inclination to be proactive regarding the adoption of safety standards and regulations to improve public safety on motorcoaches. FMCSA rarely acts proactively and needs to be compelled by explicit Congressional legislation to take action and, even then, the agency frequently fails to comply with either the clear letter of the law or to meet legislated deadlines. The safety community has had to repeatedly sue FMCSA to compel the agency to comply with Congressional mandates and issue effective regulations to improve key areas of motor carrier safety.

While our testimony cannot survey all the safety provisions addressed in these comprehensive bills, the remainder of this testimony highlights the major gaps in motorcoach safety and how key provisions of S. 453 and H.R. 873 will save lives, prevent injuries, and reduce other motorcoach crash losses.

Motorcoach Occupant Protection is Inadequate and Contributes to Deaths and Injuries

There are serious deficiencies with the crashworthiness features of motorcoaches for protecting occupants against severe and fatal injuries. In the 2007 Bluffton University motorcoach crash in Atlanta, GA, and in many others investigated in the last several years by NTSB, occupants were ejected through side windows and the windshield. Serious injuries and deaths in motorcoach rollover crashes are highly predictable when these vehicles do not have three-point seat belts and fail to have the kind of windows that could withstand a crash and prevent ejection. These severe occupant safety defects have been documented time and again in NTSB investigations and reports.

While NHTSA has established 22 separate standards for vehicle crashworthiness as part of the Federal Motor Vehicle Safety Standards (FMVSS) administered by the agency, nearly all of these are for light motor vehicles (mainly light passenger vehicles that weigh less than 10,000 pounds). Most of these standards exempt motorcoaches with gross vehicle weight ratings of over 10,000 pounds. For example, no NHTSA safety regulation requires that motorcoaches in the U.S. have any occupant protection systems of any kind, including seat belts, seat mounting retention, seatback strength, whiplash protection, or upper and lower vehicle interior occupant impact protection. Although motorcoaches are required to comply with requirements specifying motorcoach window retention and release for evacuation (FMVSS No. 217), and governing the flammability of interior materials (FMVSS No. 302), motorcoaches do not have to comply with many safety standards required for other types of buses, including school buses, and for passenger vehicles. As a result, motorcoach passengers are not afforded the same basic safety features and types of protection required for passengers in other vehicles.

Among the important safety shortcomings that need to be improved in motorcoaches, the Motorcoach Enhancement Safety Act would require:

- *Seat belts:* Three-point lap/shoulder belt systems have been required for passenger vehicles since 1968 and are required on smaller buses and on big passenger vans, yet are not required in motorcoaches. Lap/shoulder belt restraint systems, not just lap belts, are essential for keeping motorcoach occupants in their seats to avoid injuries sustained within the compartment in all crash modes.

- *Rollover:* Motorcoaches are very top heavy, with high centers of gravity especially when fully laden with passengers, so their rollover propensity is much higher than for smaller passenger vehicles. Crash avoidance technology such as electronic stability control, now required on light passenger vehicles, and adaptive cruise control can help keep motorcoaches out of crashes in the first place. But since rollovers of motorcoaches are inevitable, a strong roof crush resistance safety standard is needed to ensure the structural integrity of the roof that preserves occupant survival space and prevents infliction of severe occupant trauma.
- *Ejection:* A major safety issue in motorcoaches is preventing occupants from being ejected during a crash, especially in a rollover. According to NHTSA, more than half of the deaths in motorcoach crashes are the result of occupant ejections. More than one-third of all deaths of motorcoach occupants in motorcoach crashes occur in rollovers, and occupant ejection is the reason for 70 percent of occupant deaths in motorcoach rollovers.[22] Three-point lap shoulder belts are the first line of defense against ejection. But in addition, for those who are not wearing seat belts at the time of a crash, advanced window glazing that can survive crash impacts will prevent occupant ejection and save more lives.

The major topics 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[23] and Australia.[24] Three-point belts restraining motorcoach occupants became mandatory in Australia 14 years ago, the European Union has just mandated that passengers must wear safety belts in motorcoaches beginning in May 2008, and anyone traveling by motorcoach in Japan must use their safety belts beginning June 2008. It is obvious that keeping motorcoach occupants safely in their seats is desperately needed so that passengers do not impact each other, strike unforgiving interior surfaces and equipment in motorcoaches, and are prevented from being thrown from the vehicle. Three-point lap/shoulder belt restraints initially are the best way to accomplish keeping each passenger in their seat. The rest of the world is moving on to higher levels of crash protection for motorcoach occupants while U.S. safety regulators fail to take action.

The Motorcoach Enhanced Safety Act bill contains the provisions necessary to direct NHTSA to dramatically improve motorcoach crashworthiness in all crash modes, including rollovers, as well as in side and frontal impacts. Without congressional directives requiring the issuance of new and improved safety standards by specific dates, NHTSA will intermittently study the safety issues over many years without addressing the major motorcoach crashworthiness and crash avoidance safety issues that NTSB long ago recommended should be adopted. NHTSA has proven over and over that it will delay major safety standards that can save lives and prevent injuries, not only for years, but also for decades, unless Congress gives it a mandate in no uncertain terms and with firm deadlines for action.

The Cost of the Lifesaving Technologies in the MESA Bill are Minimal

The MESA bill proposes to provide motorcoach passengers the same type of lifesaving technologies that are already available and standard equipment in passenger vehicles. These technologies are already being offered and advertised as options by a number of motorcoach manufacturers. The technologies include seatbelts, enhanced protective interiors, collision avoidance devices, electronic stability control systems, tire pressure monitoring systems, crashworthiness protections, and event data recorders. However, the public has no assurance of the performance quality or effectiveness of these systems because they are not required to meet any minimum government safety standards.

The cost of building-in these safety features for new vehicles is minimal compared to the cost in terms of lives lost in just a single major motorcoach crash. For example, the recent March 12, 2011 bus crash in New York resulted in 15 fatalities. That one crash alone generated $90 million in costs related just to the fatalities suffered in the crash based on the current Department of Transportation (DOT) value of a statistical life which is set at $6.0 million.[25] That figure does not include the costs

[22] NHTSA's Approach to Motorcoach Safety, Aug. 6, 2007.

[23] E. Mayrhofer, H. Steffan, H. Hoschopf, *Enhanced Coach and Bus Occupant Safety,* Paper 05–0351, Graz University of Technology Vehicle Safety Institute, Austria, 2005.

[24] 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.

[25] U.S. DOT Memorandum from Joel Szabat, Deputy Assistant Secretary for Transportation Policy to Secretarial Officers and Modal Administrators, dated March 18, 2009, updating the

associated with the numerous injuries to the surviving passengers or the huge emotional toll on the families of those killed and injured. This cost is astronomical even when compared with even the motorcoach industry's grossly inflated per vehicle estimated cost of between $80,000 and $89,000 for adoption of the safety advances required in the MESA bill, and including some additional requirements cited by the industry that are not included in the bill. In other words, the costs associated with the loss of life in the recent New York bus crash could pay for all of the safety advances proposed for a fleet of over 1,000 new motorcoaches.

A number of the safety technologies included in the MESA bill have already been developed in other vehicles and are being voluntarily installed in motorcoaches. For example, the Bolt Bus (a collaboration between Greyhound and Peter Pan Bus Lines) already has seat belts installed in its vehicles and Greyhound announced in 2009 the purchase of a new 140 bus fleet equipped with seat belts and advanced seating which provide occupant compartmentalization. In addition, some new buses include electronic stability control (MCI, Prevost, Volvo, Van Hool), advanced glazing (Prevost, MCI), occupant compartmentalization (Prevost), greater roof protection (Volvo, Prevost, Van Hool, Girardin), tire pressure monitoring systems (Prevost, MCI, Van Hool), and some form of fire protection and suppression systems (MCI, Volvo, Prevost, Van Hool).

The Motorcoach Industry Cost Estimates are Exaggerated

The motorcoach industry cost figures, however, are highly inflated and unreliable. The motorcoach industry has recently circulated their opinion on the costs that will be associated with the adoption of the safety measures included in the MESA bill. The correct term is "opinion" because for many of the safety features the industry provides limited or no support for the inflated cost figures and cites no references for the sources of their estimates. The anonymous and undated document disseminated by the motorcoach industry, called the "per-bus estimated cost," estimates that the improvements required in the MESA bill will cost between $80,000 and $89,000 per motorcoach. This ludicrous estimate, nearly 20 percent of the current cost of a new motorcoach, is yet another example of a tactic used by an industry that opposes safety and occupant protection—inflating the real cost of safety technology. Furthermore, while the bus trade association is purposefully throwing around these absurd and exaggerated cost figures, it has presented no direct data on vehicle safety costs because this is proprietary information known to the suppliers and manufacturers and is not shared with the trade association that lobbies on behalf of the companies as a whole. It is also not evident whether the numbers represent cost or price information—a big difference. In the past, this very same approach has been used by automobile manufacturers to oppose airbags and electronic stability control systems.

The most poignant example is the regulation of airbags in passenger vehicles. At the time when rulemaking on airbags was being initiated, industry representatives stated that the cost per airbag would be between $1,200 and $1,500. Later, information obtained by a Member of Congress who demanded that General Motors supply its true cost figures revealed that the actual cost of manufacturing frontal airbags was between $150 and $175. The industry was quoting prices 10 times their actual cost. Today, as a result of mass production and further technological improvements, the per-unit manufacturing cost of far more sophisticated airbag units is only about $30. Furthermore, despite the adamant opposition of industry to the airbag mandate, which they fought for over twenty years, today it is tough to find even a single contemporary motor vehicle advertisement or sales pitch that does not tout the safety performance of the vehicle's airbag systems.

Another example of this industry tactic of inflating costs occurred in the regulation of electronic stability control systems or ESC. ESC was among the safety technology improvements required as part of the SAFETEA-LU legislation that was crafted by the Senate Commerce, Science, and Transportation Committee and this subcommittee in 2005. Before that legislation was enacted, manufacturers asserted that the cost of including ESC systems was very high. An earlier Australian government study found that auto manufacturers were charging as much as $2,254 for ESC as a vehicle option. The Australian government study identified the "approximate reasonable cost" of ESC as $649. In opposing the SAFETEA–LU provision, manufacturers claimed much higher costs for ESC but NHTSA found, in a 2005 teardown analysis, that the estimated incremental per-vehicle cost of ESC was actually only $58.

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previous figure of $5.8 million in the *Departmental Guidance Memorandum, Published February 5, 2008*.

Available safety technologies have already been developed and tested that will improve motorcoach occupant protection at reasonable, not exorbitant, cost. While the motorcoach industry, the motor carriers and fleets that purchase motorcoaches object to adding safety on the buses they buy, motorcoach manufacturers and suppliers are already providing these technologies either as options or as standard equipment on new motorcoaches at costs far below those in the industry cost document.

Effective Motorcoach Operation Safety Oversight and Enforcement is Lacking

According to figures from FMCSA,[26] there are about 3,700 U.S. passenger-carrying companies conducting interstate operations employing 100,000 drivers to operate about 34,000 to perhaps 40,000 motorcoaches.[27] Many of the Federal motor carrier safety regulations, FMCSRs, that govern commercial motor carriers, vehicles, and drivers generally, also apply to motor carriers of passengers. Despite the relatively small numbers of motorcoaches and motorcoach companies, FMCSA is failing in its stewardship responsibilities for motorcoaches as badly as it is for large trucks.

Almost all of NTSB's 40 years of investigated motorcoach crashes have resulted in findings that encompass vehicle performance, maintenance, inspection, driver qualifications, and motor carrier company safety management. The examples of recent motorcoach crashes provided earlier in this testimony confirm that multiple safety problems afflict all aspects of interstate motorcoach operations. Although severe motorcoach crashes often appear at first glance to be the result of an isolated problem, digging deeper almost always reveals multiple problems involving vehicle maintenance, driver qualifications and performance capabilities, and company safety management. NTSB has confirmed this multifactorial nature of motorcoach crashes to be true in numerous crash investigations.

FMCSA has not only failed to adopt NTSB's safety recommendations, the agency has also failed to issue other safety regulations needed to improve motor carrier and motorcoach safety. As a result, major areas of driver training and certification, motorcoach safety inspection, data quality and systems for identifying potentially dangerous motorcoach companies, and agency oversight and enforcement of the FMCSRs are undeniably inadequate as had been documented repeatedly by the U.S. DOT's OIG and by GAO. Key rulemaking actions to address these and other issues languish year after year without action. The Motorcoach Enhanced Safety Act directs FMCSA to address major deficiencies in its regulations governing driver qualifications, vehicle safety condition, and motor carrier safety management.

Motor carrier safety issues that directly impact motorcoach operating safety include:

- *Weak Federal and State Requirements for Motorcoach Driver Training* Among the many areas in the Motorcoach Enhanced Safety Act aimed at improving motorcoach operational safety are provisions intended to substantially strengthen motorcoach driver CDL testing and training requirements. Motorcoach drivers are required to have CDLs with a passenger endorsement added on the basis of a separate knowledge and skills test. However, there are no substantive training requirements in Federal law and regulation for entry-level commercial motor vehicle drivers, and there are none for the additional endorsements for operating hazardous materials vehicles, school buses, or motorcoaches. In short, there is no specific Federal training requirement for an interstate commercial driver transporting passengers.

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[26] *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 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.

[27] *See,* 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. Also, *see, http://ai.fmcsa.dot.gov/International/border.asp?dvar+3&cvar=pass&redirect=HistoricalOverview.asp&p=1.* However, there are substantial discrepancies throughout FMCSA's website on the number of passenger carriers. For example, one page providing figures states that there were 5,211 passenger carriers registered with the agency as of 2006. *http://www.fmcsa.dot.gov/facts-research/facts-figures/analysis-statistics/cmvfacts.htm*. There is no explanation of what kinds of passenger carriers this includes.

Federal safety agencies spent over 20 years studying commercial driver training issues, producing a Model Curriculum for training both drivers and instructors and conducting rulemaking pursuant to Section 4007(a) of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).[28] Despite this long background of deep involvement in the needs of commercial driver training, 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.[29] 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. Not only did FMCSA not require driver training as a prerequisite for a candidate seeking an entry-level CDL, the agency rule excused almost all novice drivers from even being considered entry-level commercial drivers. This rulemaking outcome was a complete reversal from earlier agency statements that the majority of new commercial drivers were not receiving adequate training.

Since the FMCSA action reversed its own previous findings that basic knowledge and skills entry-level driver training was inadequate and should be required, Advocates and Public Citizen filed suit against the agency. In a unanimous decision, the U.S. Court of Appeals for the District of Columbia found that the final rule was arbitrary, capricious, an abuse of agency discretion, and remanded the rule to FMCSA. *Advocates for Highway and Auto Safety* v. *FMCSA*[30] (Entry-Level Driver Training Decision). 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."[31]

Incredibly, when FMCSA reopened rulemaking on commercial driver training requirements in response to the adverse court decision on its final rule, the agency did not propose a training curriculum specifically designed for motorcoach operators.[32] The curricula content of the proposed rule is entirely oriented toward the operation of trucks of different weights and configurations. The proposed rule has no specific requirements anywhere just for motorcoach operators.

Further, in the December 2007 FMCSA proposed rule, the *minimum* number of hours of training time for entry-level student drivers of motorcoaches plummets to 120 hours for students wanting to operate motorcoaches and other large commercial motor vehicles with "Class B" CDLs.[33] There is no explanation anywhere in the preamble of the proposed rule or in the appendix of why this specific number of instructional hours was selected, nor why the amount of training was severely abbreviated from the 320 or more hours recommended in the 1985 Model Curriculum. No final rule on entry-level driver training has yet been issued.

Advocates regards FMCSA's entry-level driver training requirements for motorcoach drivers to be unspecific to the special tasks that motorcoach operation imposes, as perfunctory in its requirements and its safety impact, and as falling well short of what is needed. The proposed rule does not fulfill either the Court of Appeals' expectations or the agency's legislated responsibilities. Substantively, the proposed curriculum fails to ensure that motorcoach operators will be properly trained in the multiple, significant safety responsibilities the job demands. To add insult to injury, the proposed rule also would impose a 3-year moratorium on requiring compliance with training requirements for new CDL applicants.[34] This action would exclude tens of thousands of new CDL applicants from badly needed knowledge and skills training requirements.

Thus, twenty years after Congress required the Secretary of Transportation to issue minimum entry-level driver training requirements, and 6 years after the Court of Appeals upheld Advocates legal challenge to the agency's ineffectual 10-hour classroom rule, because it lacked any actual behind-the-wheel driver training, there are still no requirements for entry-level motorcoach or truck driver training.

- *Compliance Reviews Do Not Stop Dangerous Motorcoach Companies From Operating*—A central problem undermining agency effectiveness in overseeing motor carrier safety and reducing FMCSR violations is the low annual numbers and percentage of both roadside inspections and compliance review (CRs). Based on

[28] Pub. L. 102–240, 105 Stat. 1914 (Dec. 18, 1991).
[29] 69 FR 29384 *et seq.*, May 21, 2004.
[30] 429 F.3d 1136 (D.C. Cir. 2005).
[31] *Id.* at 3–4.
[32] 72 FR 73226 (Dec. 26, 2007).
[33] 72 FR 73227–73228.
[34] *Id.* at 73231–73232.

the results of a CR, a motor carrier is assigned a safety rating of Satisfactory, Conditional or Unsatisfactory. For example, the Bluffton University motorcoach crash that took seven lives and inflicted severe injuries involved a motorcoach company that had a Satisfactory safety rating assigned 6 years earlier, in January 2001. Similarly, the company that operated the motorcoach that crashed in Sherman, Texas in August, 2008, killing 17 people, was awarded a Satisfactory safety rating despite the fact that the company had received repeated driver out of service orders. The truth is that a dated Satisfactory safety rating is no assurance of contemporary operating safety fitness, yet companies—both rogue and more responsible—use the "Satisfactory" designation to promote their reputations.

The implementing regulations for conducting CRs specify criteria for assigning one of three safety rating categories to a motor carrier: Satisfactory, Conditional, Unsatisfactory.[35] FMCSA is required by law to issue a safety rating to all motor carriers.[36] However, the agency basically decided long ago that it would no longer attempt to fulfill the statutory requirement.[37] Even without attempting to assign safety ratings to all motor carriers, FMCSA conducts CRs on only a tiny percentage of carriers. Barely 2 percent of motor carriers receive a CR each year, and only a tiny part of 1 percent of all registered motor carriers are given Unsatisfactory ratings. In 2010, only 2.5 percent of the nearly 15,000 motor carriers that were rated received an Unsatisfactory rating. On its face, it is improbable that assigning Unsatisfactory safety ratings to so few registered interstate motor carriers has any deterrent effect.

Other organizations and agencies have for many years called for improvements to the safety rating process. For example, NTSB's current list of the Most Wanted Transportation Safety Improvements—Federal Issues[38] argues that the 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. Motor carriers with only vehicle or driver violations, but not both, are allowed to continue to operate. In fact, in the past, some motorcoach companies have been awarded Satisfactory safety ratings with *no* safety scores in any of the four rating categories under the previous rating system. In addition, high percentages of unrated motorcoaches are still listed for many states on FMCSA motorcoach website.[39]

We have yet to determine whether the new Compliance, Safety, Accountability (CSA) program, with the Motor Carrier Safety Measurement System, which has only just been applied nationwide, will make a significant difference in the way FMCSA manages and enforces commercial vehicle safety on our highways.

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[35] The most recent statement of the governing regulations for determining safety fitness is the FMCSA final rule of August 22, 2000 (65 FR 50919), 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 (Pub. L. 98–554). This final rule amended the regulations for safety fitness determinations in 49 CFR Pts. 385 and 386. Pt. 385 contains the controlling criteria for making safety fitness determinations and Pt. 386 contains the rules 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, has 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.

[36] 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.

[37] *Motor Carrier Safety Program*, DOT Office of Inspector General, 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.

[38] *See, http://www.ntsb.gov/Recs/mostwanted/truck safety.htm*. As previously mentioned, NTSB recommends that if a carrier receives an Unsatisfactory rating for either the vehicle factor or the driver factor, that alone should trigger a pending Unsatisfactory rating. According to NTSB, this recommendation ha been reissued annually since 199, but FMCSA does not plan full implementation of any changes to its safety rating system and other oversight processes until 2010 at the earliest.

[39] *http://ai.fmcsa.dot.gov/Passenger/find__carrier.asp*.

Although the FMCSA has apparently made progress in rating new entrant passenger motor carriers in 9 months or less, the outstanding backlog of unrated carriers or carriers that were last rated more than 3 years ago still dominates the field.

- *Consumers Denied Essential, Lifesaving Information on Motorcoach Safety*—FMCSA's passenger motor carrier website claims that it provides information on motorcoach companies so that consumers can be confident that they are choosing safe motorcoach companies. How does that claim hold up under close examination?

A review of the current status of safety ratings of motorcoaches registered in Texas is not very encouraging. There are 182 motorcoach companies with FMCSA interstate operating numbers. Of those, 152, or 84 percent, have Satisfactory ratings. All the rest of the companies have either Conditional ratings (12), or are Unrated (18). One company's Satisfactory rating was awarded back in 1989—22 years ago. Furthermore, of the 152 Satisfactory companies, 50, or 32.6 percent, are in an ALERT status for at least one of the BASIC categories on which carriers are rated for safety under the new CSA system, and 30 companies have insufficient information on which FMCSA could generate an evaluation for all the BASIC Categories. And it should be stressed that a Satisfactory rating for FMCSA only means that a motorcoach company minimally complies with the Federal safety standards for motor carriers—it is not a mark of superior safety.

Similarly, consumers in New Jersey have little to choose from in selecting a motorcoach company with the best safety credentials for long-distance trips. There are 149 companies headquartered in New Jersey that are registered with FMCSA for interstate transportation of passengers. However, 32 of these businesses—21 percent or nearly a quarter—have no safety ratings at all. Three (3) companies are operating with Conditional safety ratings. No companies have Unsatisfactory ratings.

One hundred and fourteen (114) New Jersey motorcoach companies carry Satisfactory safety ratings. One company received its Satisfactory rating back in 1982, and there are eight others with Satisfactory ratings assigned during the 1990s. It is important to recognize that a safety rating, even a Satisfactory rating, is just a snapshot of a company. A company's safety practices can quickly deteriorate so that a Satisfactory rating can become meaningless in a short amount of time. Many companies can come into compliance to achieve a Satisfactory safety rating only to lapse in its compliance with major motorcoach safety regulatory areas such as driver qualifications and certification, vehicle safety maintenance, and company safety management quality.

Of the 114 New Jersey motorcoach companies with Satisfactory ratings, 15, or 13.2 percent, are in an ALERT status for at least one BASIC under the current CSA system and 37 companies have insufficient information on which FMCSA could generate an evaluation for all BASIC Categories. Therefore, if a consumer in New Jersey wants to apply a high standard for choosing a company, it would be best to use a motorcoach company that has a Satisfactory rating in all five BASIC categories. Only 2 companies of the remaining 65 companies with a Satisfactory rating had ratings in all 5 BASIC categories; the other 62 companies had at least one BASIC, if not more, in which there was insufficient data on which to calculate a rating. Based on Advocates' sampling of state information on FMCSA's website, this is the case with most states—the listing of active motorcoach companies provided by FMCSA for each state, if rigorously evaluated by a consumer, is dramatically reduced oftentimes to only a handful of companies to choose from.

When motorcoaches are stopped and inspected, the results are still discouraging. For 2010, 6.7 percent of the vehicle inspections resulted in an out of service (OOS) order. While this figure is an improvement over past years, it still represents a total of nearly 5,500 motorcoaches that failed inspections and had to be placed OOS. Similarly, driver safety is a serious concern—driver inspections in 2010 placed 4.8 percent of U.S. drivers of interstate motor carriers of passengers OOS for various violations, a total of 2,200 driver OOS orders. These aggregate figures are frightening, especially for patrons of interstate motorcoach companies, and they show slow progress in substantially improving motorcoach safety on a nationwide basis.

- *Unknown Status and Effectiveness of State Annual Bus Safety Inspection Programs*—The Secretary of Transportation is required to prescribe standards for annual, or more frequent, inspection of commercial motor vehicles, including motorcoaches, or approve equally effective state inspection programs.[40] In 1998

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

the Federal Highway Administration (FHWA) issued a notice on the status of state bus inspection programs[41] and subsequently listed 25 of 50 states with approved, equivalent periodic inspection programs.[42]

It should be stressed here that the minimum period for the required vehicle inspection is only once a year.[43] 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-ayear 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. Moreover, Advocates could find no information from FMCSA's website 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.

Several provisions in the Motorcoach Enhanced Safety Act directly address the issue of timely, accurate motorcoach and bus safety inspections, including both FMCSA and state actions that are necessary, and how FMCSA must administer the state inspection programs in connection with the Motor Carrier Safety Assistance Program (MCSAP).

- *Electronic On-Board Recorders Are Long Overdue on Motorcoaches and All Motor Carriers*—Electronic On-Board Recorders (EOBRs) have been increasingly used on large trucks and motorcoaches for a variety of purposes, including monitoring the drivers' hours of service (HOS) driving, working, and off-duty time of commercial drivers, and ensuring compliance with current HOS regulations. Many countries around the world now require the use of EOBRs to ensure that truck drivers comply with the limits of each nation's HOS. Currently, all European Union countries, along with Turkey, Israel, Japan, South Korea, Brazil, Venezuela, and Singapore, require automated recording devices to monitor driver hours of service compliance.

EOBRs can automatically record the hours that commercial operators drive trucks and motorcoaches in interstate commerce. EOBRs can also link with engines, transmissions, and global positioning system (GPS) devices to record the distance and speed a commercial motor vehicle has traveled and whether it has used an illegal route or traversed a weight-posted bridge. Motor carriers that have voluntarily installed EOBRs are still only a small percentage of commercial motor vehicles, but motor carriers that use EOBRs praise the advantages they provide in terms of safety and efficiency since they eliminate the need for paper logbooks. This was stressed by a motor carrier industry witness in last year's hearing on EOBRs conducted by this Subcommittee.[44]

Commercial driver fatigue is a major safety problem for both motorcoach operators and truck drivers. EOBRs are especially crucial to raising the level of motorcoach safety by ensuring that well-rested, alert drivers are in charge of the safety and lives of up to 58 occupants on-board. EOBRs can ensure that drivers do not exceed maximum shift driving time and that they take the required off-duty rest time to restore their performance at the wheel. Moreover, EOBRs on interstate motorcoaches permit real-time monitoring of the routing and location of a motorcoach so that, in the event of a serious event such as a crash or fire, expeditious response by emergency medical personnel and enforcement authorities can make a substantial difference in the number of deaths and severe, disabling injuries that result from these serious incidents.

FMCSA should be congratulated for finally, after years of delay, issuing a proposed rule to require EOBRS on some commercial vehicles, namely those driven by truck and bus drivers who are subject to the HOS and records of duty status (RODS) requirements. The proposed rule was only recently issued and the public comment period will not close until late May. Advocates is supportive of the proposed rule because its implementation will improve safety and bring motor carrier enforcement into the modern era. However, we remain concerned that opposition to the proposal could deter the agency from issuing a final rule. For that reason we still believe that there is need to have congressional action to ensure this basic, rea-

[41] 63 FR 8516 *et seq*. (February 19, 1998).
[42] 66 FR 32863 (June 18, 2001).
[43] Section 210, Motor Carrier Safety Act of 1984, *op. cit.*, codified at 49 U.S.C. § 31142.
[44] "Electronic On-Board Recorders (EOBRs) and Truck Driver Fatigue Reduction," Committee on Transportation and Infrastructure, Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, U.S. Senate, May 1, 2007.

sonable and overdue safety improvement is completed without additional delay. At least with regard to motorcoaches, the Motorcoach Enhanced Safety Act includes a provision to ensure this result.

Conclusion and Recommendations

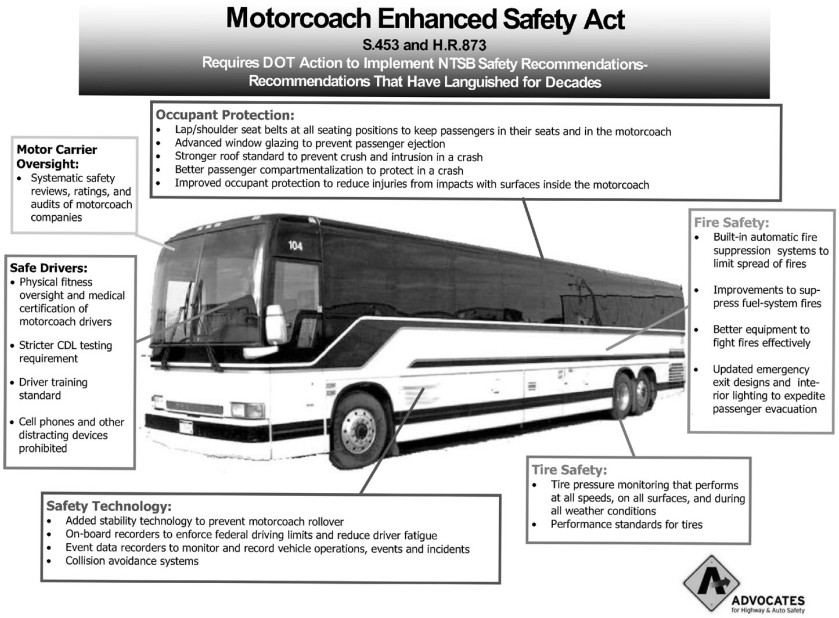
Passenger transportation safety by over-the-road motorcoaches is not held to the high safety standards of commercial passenger aviation. Motorcoach crashes can take many lives in a single event and inflict severe injuries on numerous passengers. NTSB's studies and crash reports document the deadly outcome of a catastrophic motorcoach crash, and its safety recommendations provide solutions that will dramatically improve motorcoach safety. Because DOT and the safety agencies have not implemented recommended safety countermeasures, despite having had ample opportunity to do so and reams of supporting evidence, Congress must take action to increase the level of motorcoach safety and improve the quality of Federal and state oversight.

Advocates recommends that the Subcommittee embrace the Motorcoach Enhanced Safety Act of 2007, S. 453. It had broad support in the last Congress and should be a top priority for this Committee and for Senate floor action. This legislation will ensure that motorcoach safety is put on an equal footing with passenger car and airline occupant safety by requiring basic safety improvements on reasonable timelines for U.S. DOT rulemaking action. The outcome in just several years would be fewer motorcoach crashes with fewer injuries and deaths.

We further recommend, however, that additional provisions be added to S. 453 to address the need for the imposition of criminal penalties for persons who illegally continue to operate as a motor carrier after having been ordered to cease operations, to establish a performance standard for retreaded tires used on commercial motor vehicles, and to require event data recorders (EDRs) on motorcoaches to assist crash investigators in reconstructing how and why each motorcoach crash occurs. NTSB has repeatedly called for EDRs as critically important to passenger transportation safety.[45]

Thank you for the opportunity to provide this information to the Subcommittee on a major safety problem. Advocates looks forward to working with the Subcommittee and the full Committee on these issues, and I am prepared to respond to any questions you may have.

[45] *See,* NTSB Recommendation H–99–53, reissued as one of the NTSB recommendations in the recently published report on the motorcoach crash of the Bluffton University baseball team, "Motorcoach Override of Elevated Exit Ramp Interstate 75, Atlanta, Georgia, March 2, 2007," *op. cit*.



Motorcoach Crashes & Fires Since 1990

150 Motorcoach Crashes & Fires—At Least 323 Deaths, 2,470 Injuries

Date	Location	Crash Description
3-21-11	Littleton, NH	Motorcoach traveling from Quebec to Boston on I-93 rolls onto its side and into the median after the driver loses control in icy conditions—23 injured.
3-14-11	East Brunswick, NJ	Motorcoach traveling on the New Jersey turnpike drives into the median, strikes an overpass, and slams into an embankment on the side of the road—2 killed, 41 injured.
3-12-11	Bronx, NY	Motorcoach swerves, rolls onto its side, and skids along a guardrail before ramming into a support pole—15 killed, 18 injured.
2-28-11	Hagerstown, MD	Pickup truck crosses the median on I–70 and slams into a motorcoach on the shoulder of the interstate—1 killed, 6 injured.
2-27-11	Homosassa, FL	Motorcoach and passenger vehicle collide—1 killed.
2-21-11	San Bernardino, CA	Motorcoach carrying Korean church youth group drifts into opposing lane on California 189 highway, plummets down an embankment, and slams into a tree—1 killed, 23 injured.
1-12-11	Palo Alto, CA	Motorcoach carrying 35 Japanese tourists catches on fire, causing heavy heat damage to the engine area and extensive smoke damage in the passenger area.
1-11-11	Bucyrus, OH	Motorcoach carrying the University of Mount Union wrestling team collides with a snow plow when the motorcoach tries to pass the vehicle on U.S. Highway 30—1 killed, 4 injured.
9-29-10	Bethesda, MD	Motorcoach carrying tourists, including children, near I–270 crashes through guardrail on a skyramp and falls down a 45-foot embankment, rolling over once—1 killed, 12 injured.
9-29-10	Tucson, AZ	Motorcoach carrying prison inmates rear-ends a construction vehicle on I–10—2 injured.
9-28-10	Charlestown, WV	Car crosses centerline and collides head-on with motorcoach, causing the bus to go over an embankment and roll onto its side—21 injured.
9-26-10	East Ridge, TN	Motorcoach transporting college students is struck by car on I–75—16 injured.
9-18-10	Sanger, TX	Motorcoach en route from Dallas to Oklahoma City crashes into a highway barrier, ejecting some passengers through windows that broke from the impact—18 injured.

Motorcoach Crashes & Fires Since 1990—Continued

150 Motorcoach Crashes & Fires—At Least 323 Deaths, 2,470 Injuries

Date	Location	Crash Description
9-12-10	Tillamook, OR	Tour bus catches fire on Highway 101—8 injured.
9-11-10	Syracuse, NY	Motorcoach traveling from Philadelphia to Toronto crashes when the driver, using his own GPS device, attempts to drive under low clearance railway bridge—4 killed, 20 injured.
8-14-10	Englewood, NJ	A New York-bound motorcoach heading to the Port Authority Bus Terminal and a police cruiser collide—3 injured.
8-10-10	Pleasantville, PA	A motorcoach heading back to Johnstown from casinos in Harrisburg and a car collide on Route 56—1 killed.
8-08-10	Cedar City, UT	Motorcoach carrying Japanese tourists rolls over on I–15—3 killed, 11 injured.
8-08-10	Polk County, TN	Motorcoach and a car collide on Highway 64—1 killed.
8-04-10	Eau Claire, WI	Motorcoach and moped collide.
7-22-10	Fresno, CA	Motorcoach carrying 36 people from Los Angeles to Sacramento strikes an overturned SUV, slams into concrete center divider, clips another vehicle, travels off the right shoulder of the highway and down a 15-foot embankment before hitting a tree—6 killed/20 injured.
6-24-10	Atlantic City, NJ	A motorcoach carrying 50 gamblers from New York City's Chinatown to the seaside casino resort crashes into two other vehicles— 24 injured.
6-21-10	Rosemead, CA	Motorcoach is involved in a head-on collision after two passenger cars collide into each other and the impact pushes them into incoming traffic—23 injured.
6-10-10	Florence, KY	Motorcoach fire breaks out on a bus headed from Detroit to Tennessee—1 injured.
6-03-10	Middletown, NJ	Motorcoach flips over near I–114 after the driver fell asleep at the wheel.
6-02-10	Lynchburg, VA	Two motorcoaches catch fire due to an engine component problem, causing more than $135,000 in damage, on the Liberty University campus.
5-24-10	Dearborn, MI	Motorcoach fire along eastbound I–94 closes two lanes, backs up traffic for a quarter mile.
5-20-10	High Point, NC	Motorcoach collides with van on N.C. Highway 62—2 killed.
4-26-10	Brunswick, GA	Motorcoach carrying high school band students crashes on I–95—10 injured.
4-24-10	Rogers, AK	Motorcoach carrying church members returning from a retreat in Little Rock, AK rolls over on I–40—2 killed/17 injured.
3-24-10	Orlando, FL	Motorcoach is rear-ended by a Walt Disney World tour bus near the entrance of Epcot theme park—8 injured
3-16-10	Campbellton, TX	A Mexican motorcoach traveling from San Antonio to Matamoros, Mexico and carrying 40 people overturns along a southern Texas highway—2 killed/30 injured.
3-05-10	Sacaton, AZ	Motorcoach en route from the central Mexican state of Zacatecas to Los Angeles rolls over on I–10 South—6 killed/16 injured.
2-19-10	Buford, GA	Several motorcoaches carrying 6th grade students from Greenville, SC to Atlanta, GA are involved in a chain reaction bus crash—3 injured.
2-13-10	Caddo Parish, LA	A pickup truck drifts into oncoming traffic and crashes head-on into a motorcoach carrying country music star Trace Adkins—2 killed/at least 5 injured.
1-26-10	Carbondale, IL	Motorcoach crashes into the wall of the University Place Shopping Center—4 injured.
12-20-09	LeRoy, NY	Motorcoach en route from New York City to Toronto slides off Interstate 90 after the driver nodded off.
12-19-09	Gore Hill, MT	Motorcoach en route from Helena to Great Falls collides with the rear of a pickup truck on Interstate 15—3 injured.
12-06-09	Glen, NY	Motorcoach carrying the rock band Weezer slides on ice, hits the median and some reflective posts, crosses over the median, goes over a guardrail and lands in a ditch—2 injured.
12-05-09	Casper, WY	Motorcoach crashes into an overturned tractor-trailer blocking Interstate 25 in central Wyoming—1 killed/at least 40 injured.
12-04-09	Greenville, SC	Motorcoach carrying South Carolina students home from a field trip runs off the road and into trees—15 injured.
11-24-09	Oakland, CA	Motorcoach catches fire closing several westbound lanes along the eastern span of the Bay Bridge.
11-20-09	Richmond, VA	Motorcoach carrying Miley Cyrus' crew drifts off the road and overturns—1 killed/9 injured.
11-18-09	Austin, MN	Motorcoach carrying mostly senior citizens swerves off the freeway and rolls into a ditch after the driver suffered an aneurysm—2 killed/21 injured.

Motorcoach Crashes & Fires Since 1990—Continued

150 Motorcoach Crashes & Fires—At Least 323 Deaths, 2,470 Injuries

Date	Location	Crash Description
11-13-09	Warrensburg, NY	Motorcoach carrying more than 30 students from a Montreal College crashes through a guard rail and lands on the median on I–87 after the driver fell asleep at the wheel—8 injured.
11-11-09	Chatham County, GA	Motorcoach fire begins in rear tire axle, engulfing the motorcoach in flames.
10-31-09	Henry County, GA	2 the I–675 merge, flips twice and comes to a rest on its side, injuring over a dozen students.
10-10-09	McCammon, ID	Motorcoach carrying 54 high school band students crashes. Band instructor grabbed the wheel when she saw the driver slumped forward and the motorcoach veering off the road. The band instructor is fatally injured in the crash and dozens are injured.
9-27-09	Tampa, FL	Motorcoach carrying church group from Sarasota to Gatlinburg, Tennessee involved in chain reaction crash—14 taken to hospital.
9-21-09	Columbus, OH	Motorcoach carrying incoming college students crashes into a dump truck, severing the driver's right leg.
9-21-09	Cranbury, NJ	Motorcoach crashes into tractor-trailer along the New Jersey turnpike—6 injured.
9-18-09	Plymouth Twp, MI	Motorcoach catches fire while traveling from Toronto to Chicago along westbound M-14.
9-13-09	Pleasantville, NJ	Motorcoach catches fire while driving along the westbound lanes of the Atlantic City Expressway, near exit 5.
9-06-09	Newburyport, MA	Motorcoach catches fire while traveling northbound from New England to Main along 1-95. The fire is believed to have been caused by a rear tire blowout.
9-02-09	Houston, TX	Motorcoach driver crashes into a concrete barrier on the N. Freeway HOV lane—6 injured.
8-17-09	Houston, TX	Motorcoach traveling from Laredo to Houston catches fire. Driver is ticketed for expired license.
8-04-09	Dodge County, WI	Motorcoach carrying Special Olympics athletes crashes into a guardrail and turns over—8 injured.
7-30-09	Moberly, MO	Motorcoach carrying high school students catches fire after a tires blows out along Highway 63—2 injured.
7-16-09	Toledo, OH	Motorcoach pulls over on I–75 south after catching fire. The driver noticed smoke coming from the rear wheel well.
7-13-09	Riley County, KS	Motorcoach carrying job corps students is hit by a semi truck—at least 20 injured.
7-09-09	Lauderdale County, MS	Motorcoach carrying church youth blows tire, flips 3 times and lands on its side—2 killed/27 injured.
7-05-09	Lake George, NY	Motorcoach rolls on its side and crashes into sledge rock on the left side of the highway—1 killed/8 injured.
7-03-09	Madison, WI	Motorcoach carrying 80 passengers crashes along Highway 151—17 injured.
6-26-09	Toledo, OH	Motorcoach carrying high school youth orchestra strikes the back of a semi and crashes along I–80—at least 1 injured.
6-21-09	Indianapolis, IN	Motorcoach carrying Canadian semi-pro football team crashes into SUV—1 killed/11 injured.
6-06-09	South Strabane Twp, PA	Motorcoach rear-ends a tractor-trailer—6 injured.
5-19-09	Fairfax, VA	3 motorcoaches carrying staff and students from Harrisonburg, VA elementary school involved in chain reaction crash—37 injured.
5-14-09	Carbon County, PA	Motorcoach is heavily damaged after fire that began in the engine of the vehicle.
5-03-09	Winona County, MN	2 motorcoaches carrying Winona County DARE students from a Minnesota Twins game involved in chain reaction crash—2 hospitalized and dozens injured.
5-03-09	Montgomery, AL	Motorcoach carrying 29 passengers, mostly children, catches fire after brake defect.
5-02-09	Perris, CA	Motorcoach carrying 28 people aboard crashes returning from Cinco de Mayo activity sponsored by city of Colton—all 28 injured.
4-27-09	Lincoln, AL	Motorcoach crashes after tire blows out—21 injured.
4-07-09	Near Franksville, WI	Motorcoach catches fire and causes major back-up along I–94.
4-03-09	Round Rock, TX	Motorcoach carrying 42 high school band students crashes—2 injured.
3-30-09	Millard County, UT	Motorcoach carrying 52 high school choir students crashes—4 injured.
3-27-09	Franklin County, GA	Motorcoach carrying 40 University of New Hampshire college students catches fire after tire blows out.
3-05-09	Maysville, NC	3 Motorcoaches carrying 59 U.S. Marines in chain-reaction crash—14 injured.
2-19-09	Beckett, MA	Motorcoach carrying minor league hockey team crashes—5 injured.
2-15-09	West Haven, CT	Motorcoach rear-ends another motorcoach—128 injuries.

Motorcoach Crashes & Fires Since 1990—Continued

150 Motorcoach Crashes & Fires—At Least 323 Deaths, 2,470 Injuries

Date	Location	Crash Description
2-07-09	Honolulu, HI	Motorcoach strikes and kills pedestrian standing at a marked crosswalk.
2-04-09	Belleplain, NJ	Motorcoach rear-ends box truck.
1-30-09	Dolan Springs, AZ	Motorcoach carrying Chinese tourists crashes near Hoover Dam—7 killed/10 injured.
1-23-09	Near Donegal, PA	Motorcoach carrying tourists catches fire after tire blows out along PA turnpike.
12-26-08	Corona, NM	Motorcoach crashes in inclement weather—2 killed/others injured.
12-19-08	Seattle, WA	Motorcoach carrying 80 young adults crashes through guardrail—minor injuries.
10-05-08	Williams, CA	Motorcoach traveling to casino resort crashes—9 killed/35 injured.
8-10-08	Primm, NV	Motorcoach crashes after tire failure—29 injured.
8-10-08	Tunica, MS	Motorcoach crashes and roof collapses during rollover—3 killed.
8-08-08	Sherman, TX	Motorcoach carrying 55 Vietnamese-American pilgrims crashes after blowing a tire, skidding off of highway, and hitting guardrail—17 killed/40 injured.
5-11-08	Mount Vernon, MO	Motorcoach tour bus carrying gospel singer crashes—1 killed/7 injured.
4-05-08	Albertville, MN	Motorcoach carrying students and chaperones home from a band trip to Chicago crashes, killing a 16 year-old student and injuring dozens.
1-17-08	Primm, NV	Motorcoach crashes and catches fire—25 injured.
1-06-08	Mexican Hat, UT	Motorcoach carrying 51 passengers ran off curvy road, rolled several times, roof was split open, and tires were stripped off. Passengers were thrown from the bus. A contributing factor was the driver's negotiation of the turn—9 killed.
1-02-08	Victoria, TX	Motorcoach crashes probably due to driver fatigue—1 killed.
1-02-08	Henderson, NC	Motorcoach crashes into tractor-trailer—50 injured.
11-25-07	Forrest City, AR	Motorcoach crashes—3 killed/15 injured.
6-25-07	Bowling Green, KY	Motorcoach crashes probably do to driver fatigue—2 killed/66 injured.
3-02-07	Atlanta, GA	Motorcoach carrying Bluffton University baseball team crashes through an overpass bridge wall and fell onto Interstate 75 landing on its side—7 killed/21 injured.
5-20-07	Clearfield, PA	Motorcoach crashes—2 killed/25 injured.
9-06-06	Auburn, MA	Motorcoach rollover crash—34 injured.
8-28-06	Westport, NY	Motorcoach rollover crash—4 killed/48 injured.
3-30-06	Houston, TX	Motorcoach carrying girls' soccer team crashes and overturns—2 killed/more injured.
10-25-05	San Antonio, TX	Motorcoach crashes into two 18-wheelers after tire failure—1 killed/3 injured.
10-16-05	Osseo, WI	Motorcoach crashes—4 killed/35 injured.
9-23-05	Wilmer, TX	Motorcoach carrying 44 assisted living facility residents and nursing staff as part of the evacuation in anticipation of Hurricane Rita caught fire. 23 killed/of 21 injured.
7-25-05	Baltimore, MD	Motorcoach crashes—33 killed.
1-29-05	Geneseo, NY	Motorcoach crashes—3 killed/20 injured.
11-14-04	Alexandria, VA	Motorcoach carrying 27 high school students crashes—11 injured.
10-09-04	Turrell, AR	Motorcoach crashes—14 killed/15 injured.
8-06-04	Jackson, TN	Motorcoach crashes—2 killed/18 injured.
6-24-04	Phoenix, AZ	Motorcoach crashes—1 killed/38 injured.
5-24-04	Anahuac, TX	Motorcoach crashes—1 killed.
2-22-04	North Hudson, NY	Motorcoach crashes—47 injured.
11-12-03	Apache Co., AZ	Motorcoach crashes—44 injured.
10-13-03	Tallulah, LA	Motorcoach crashes into tractor-trailer—8 killed/7 injured.
2-14-03	Hewitt, TX	Motorcoach crashes—5 killed/others injured.
10-01-02	Nephi, UT	Motorcoach crashes—6 killed/20 injured.
6-23-02	Victor, NY	Motorcoach crashes—5 killed/41 injured.
6-09-02	Loraine, TX	Motorcoach crashes into tractor-trailer—3 killed/29 injured.
4-24-02	Kinder, LA	Motorcoach crashes—4 killed and driver medically incapacitated.
10-03-01	Manchester, TN	Motorcoach crashes—6 passengers killed/unknown injuries.
8-19-01	Pleasant View, TN	Motorcoach crashes—1 killed/38 injured.
5-28-01	Bay St. Louis, MS	Motorcoach crashes—16 injured.
1-20-01	Allamuchy, NJ	Motorcoach crashes—39 injured.
1-02-01	San Miguel, CA	Motorcoach crashes—2 killed/3 injured
6-30-01	Fairplay, CO	Motorcoach crashes—45 injured.
8-27-00	Eureka, MO	Motorcoach crashes—25 injured.
12-21-99	Canon City, CO	Motorcoach crashes—3 killed/57 injured.
5-09-99	New Orleans, LA	Motorcoach crashes—22 killed/21 injured.
4-30-99	Braidwood, IL	Motorcoach crashes—1 killed/23 injured.
3-02-99	Santa Fe, NM	Motorcoach carrying 34 middle school children crashes—2 killed/35 injured.

Motorcoach Crashes & Fires Since 1990—Continued

150 Motorcoach Crashes & Fires—At Least 323 Deaths, 2,470 Injuries

Date	Location	Crash Description
12-24-98	Old Bridge, NJ	Motorcoach crashes—8 killed/14 injured.
6-20-98	Burnt Cabins, PA	Motorcoach crashes—7 killed/16 injured.
9-12-97	Jonesboro, AR	Motorcoach crashes—1 killed/6 injured.
7-29-97	Stony Creek, VA	Motorcoach crashes—1 killed/32 injured.
6-06-97	Albuquerque, NM	Motorcoach crashes—1 killed/35 injured.
8-02-96	Roanoke Rapids, NC	Motorcoach crashes due, driver was fatigued—19 injured.
10-14-95	Indianapolis, IN	Motorcoach crashes—2 killed/38 injured.
7-23-95	Bolton Landing, NY	Motorcoach crashes—1 killed/30 injured.
4-24-94	Chestertown, NY	Motorcoach crashes and rolls over—1 killed/20 injured.
1-29-94	Pueblo, CO	Motorcoach crashes and rolls over—1 killed/8 injured.
9-17-93	Winslow Twp, NJ	Motorcoach crashes because truck drifted into lane—6 killed/8 injured.
9-10-93	Phoenix, AZ	Motorcoach crashes and rolls over because of driver fatigue—33 injured.
6-26-93	Springfield, MO	Motorcoach crashes—1 killed/46 injured.
7-26-92	Vernon, NJ	Motorcoach crashes—12 passengers ejected/ 6 killed.
1-24-92	South Bend, IN	Motorcoach crashes—2 killed/34 injured.
6-26-91	Donegal, PA	Motorcoach crashes—1 killed/14 injured.
8-03-91	Caroline, NY	Motorcoach crashes—33 injured.
2-02-91	Joliett, PA	Motorcoach crashes—2 killed/44 injured.
5-18-90	Big Pine, CA	Motorcoach crashes—2 killed/43 injured

What Does the Motorcoach Enhanced Safety Act (MESA) Do?

It Turns Decades of Critical NTSB Recommendations into Action

Provision of MESA (S. 453/H.R. 873)	Explanation
Overview of Bill	*Issuance of Safety Standards:* Requires issuance of standards based on comprehensive safety recommendations of National Transportation Safety Board (NTSB) for improvements in occupant protection systems, roof crush protection, design standards, crash avoidance, passenger evacuation, fire mitigation, on board recorders (EOBRs), event data recorders (EDRs), tire pressure monitoring, and retreaded tires.
	Content of Safety Standards: A number of specific aspects of safety standards, and NTSB recommendations must be adopted in regulation.
	Research and Testing: Requires application of existing data, current research and completed testing on available technology to address safety problems; allows agency's expertise to conduct additional research and development where necessary.
	Retrofit of Motorcoaches Built Before Standards Issued: Senate version contains a discretionary retrofit provision while the House version contains a compulsory retrofit provision.
Analysis of Specific Safety Provisions	
Safety Belts	DOT to issue a regulation within 1 year of enactment to require new motorcoaches be equipped with seat belts at designated seating positions. *Based on NTSB Recommendations H–99–47 & H–99–48, and on the NTSB Most Wanted List.*"
Firefighting Equipment	DOT to issue a regulation within 1 year of enactment to require the installation of improved firefighting equipment to suppress fires in new motorcoaches.
Roof Strength Standard	DOT to issue a regulation within 1 year (Senate) or 18 months (House) of enactment to require that roofs of motorcoach provide substantial improvement in protection against deformation and intrusion to prevent serious occupant injury. *Based on NTSB Recommendation H–99–50, and on the NTSB Most Wanted List.*"

What Does the Motorcoach Enhanced Safety Act (MESA) Do?—Continued

It Turns Decades of Critical NTSB Recommendations into Action

Provision of MESA (S. 453/H.R. 873)	Explanation
Anti-Ejection Window Glazing	DOT to issue a regulation within 1 year (Senate) or 18 months (House) of enactment to require advanced window glazing that resists breaking and prevents occupant ejection at all passenger window locations in new motorcoaches. *Based on NTSB Recommendation H–99–49, and on the NTSB Most Wanted List.**
Reduced Rollover Crashes	DOT to issue a regulation within 1 year (Senate) or 2 years (House) of enactment that requires new motorcoaches be equipped with stability enhancing technologies, such as electronic stability control or torque vectoring, to provide crash avoidance protection and reduce the incidence of rollover crashes. *Based on NTSB Recommendations H–99–47, H–08–15, H–10–05 & H–10–06.*
Tire Pressure Monitoring System (TPMS)	DOT to issue a regulation, within 2 years of enactment, to require motorcoachesto have direct tire pressure monitoring systems that perform at all times, at allspeeds, on all road surfaces, and during all weather conditions, after repairs, andon spare tires. *Based on NTSB Recommendation H–03–17.*
Safety Standards for New Tires	Requires upgrade of 1973 standard for safety performance of tires used onmotorcoaches, including enhanced endurance and high-speed performance tests.
Retrofit of Motorcoaches	Senate: Secretary has 2 years to assess the feasibility, costs and benefits of retrofitting motorcoaches built prior to the issuance of the safety standards required in the Act. Retrofit of previously built motorcoaches is entirely in the discretion of the Secretary. House: Motorcoaches are required to be retrofitted with safety belts and firefighting equipment 2 years after the regulation is issued, or up to 5 years in the case that the Secretary determines hardship exists.
Fire Safety and Emergency Evacuation	DOT to evaluate, within 18 months, flammability standard for exterior components, smoke suppression, resistance to wheel well fires, passenger evacuation and automatic fire suppression on motorcoaches; DOT to issue new performance requirements for fire safety and passenger evacuation within 3 years of enactment. *Based on NTSB Recommendations H–99–09, H–07–01, H–07–04, H–07–05, H–07–06, H–07–07, H–07–08 & H–07–11, and on the NTSB Most Wanted List.**
Seating Safety	DOT to complete research within 2 years of enactment on enhanced seat compartmentalization to reduce the risk of passengers being thrown from their seats and injured within the motorcoach; DOT to issue a regulation 4 years after enactment to improve seating area compartmentalization. *Based on NTSB Recommendations H–99–47, H–99–48 & H–99–50, and on the NTSB Most WantedList.**
Interior Impact Protection	DOT to complete research within 2 years of enactment and issue a regulation not later than 4 years after enactment to establish requirements for enhanced occupant impact protection for the interiors of new motorcoaches. *Based on NTSB Recommendations H–99–48, H–99–50, H–09–23 & H–09–24.*
Crash Avoidance	Complete research within 2 years of enactment and issue a regulation not later than 4 years after enactment to improve motorcoach crash avoidance. *Based on NTSB Recommendations H–08–15, H–10–05 & H–10–06, and on the NTSB Most Wanted List.**
New Entrants Requirements	Amends current law to prohibit registration of new entrant motorcoach services providers until DOT: (a) conducts a pre-authorization safety audit within 90 days of receiving an application for operating authority; (b) performs a safetymanagement review; and (c) new entrants pass a written proficiency exam and disclose common relationships with other carriers in past 3 years. *Based on NTSB Recommendation H–03–02.*
Reincarnated Carriers	Amends current law to require new entrant motor carriers to disclose prior ownership relationships with previous motor carriers within past 3 years; and authorizes Secretary to suspend or revoke grant of registration where motor carrier failed to disclose a material fact in registration application.

What Does the Motorcoach Enhanced Safety Act (MESA) Do?—Continued

It Turns Decades of Critical NTSB Recommendations into Action

Provision of MESA (S. 453/H.R. 873)	Explanation
Oversight of Motorcoach Operators (Motor Carriers)	Amends current law to require DOT to determine the safety fitness of providers of motorcoach services and assign a safety fitness rating to carriers within 3 years; DOT is also required to establish a process for monitoring the safety performance of such providers and to conduct periodic safety reviews to reassess assigned safety ratings every 3 years. *Based on NTSB recommendations H–81–15, H–87–38 & H–99–06.*
Driver Training	DOT to issue a final rule in the pending minimum training curriculum requirements, Docket No. FMCSA 2007-27748, within 18 months (Senate) and 6 months (House); and, report to Congress within 2 years on feasibility of establishing training program certification system. *Based on NTSB Recommendation H–75–009.*
CDL Testing	DOT to issue a final rule in the pending rulemaking on CDL Testing Standards, Docket No. FMCSA 2007—27659, to require a more stringent test of driver knowledge and driving skills within 6 months.
CDL Report	Senate: DOT to issue a regulation requiring drivers of 9-15 passenger vans to be subject to requirements for CDL and random drug and alcohol testing. House: DOT is required to report to Congress within 18 months with a plan regarding which classes of drivers of 9-15 passenger vans should be subject to current requirements for CDL and random drug and alcohol testing.
CDL Medical Certificate and Physical Fitness Oversight	Requires DOT to develop prerequisites for listing medical examiners on national registry, including courses/materials, passing grade on written exam, certification, ability to comply; Requires DOT to issue rule within 18 months of enactment requiring examiners to submit the medical exam form to the proper state licensing agency; Amends federal law to require that state licensing agencies compare the medical exam forms received from the medical examiner with the information received from the driver in order to reduce fraud; Requires DOT to review the licensing agencies of 10 states to assess the accuracy, validity and timeliness of submission of physical and medical reports. DOT to establish National Registry of Medical Examiners within 6 months of enactment. *Based on NTSB Recommendations H–99–06, H–01–21, H–01–22 & H–01–24, among others, and on the NTSB Most Wanted List.**
Electronic On-Board Recorders (EOBRs)	DOT to issue rule, within 1 year, to require EOBRs on all motorcoaches to enforce hours of service and reduce driver fatigue. *Based on NTSB Recommendations H–90–28 & H–98–23, and on the NTSB Most Wanted List.**
Event Data Recorders (EDRs)	Provides that 1 year after enactment DOT shall prescribe performance requirements for EDRs on motorcoaches, including vehicle operations, events and incidents, and system information to be recorded by EDRs, and issue a rule to implement the performance requirements within 2 years (Senate) or 3 years (House) of enactment. *Based on NTSB Recommendations H–99–53 & H–99–54.*
MCSAP Safety Inspection Programs	DOT to issue a regulation, within 3 years of enactment, that considers requiring states to conduct annual inspections of commercial motor vehicles designed or used to transport passengers. *Based on NTSB Recommendations H–81–15, H–87–38, H–05–07, H–05–08 & Hwy–99–FH102.*
Prohibition of Distracted Driving	Provides that within 1 year of enactment, DOT must issue regulations on the use of electronic or wireless devices by an individual employed as the operator of a motorcoach based on accident analysis, research and other information. *Basedon NTSB Recommendation H–06–27, and on the NTSB Most Wanted List.**
Rental and Leasing Companies	Amends current law to include companies that rent and/or lease motorcoaches within the definition of the term "employer" as defined in 49 U.S.C. δ 31132.
Registration of Brokers	House Only: Amends current law to include transportation of passengers within the requirement for registration by brokers.

*The National Transportation Safety Board (NTSB)'s Most Wanted Transportation Safety Improvements 2009-2010 identifies critical changes needed to reduce transportation accidents and save lives. Available at*http://www3.ntsb.gov/recs/brochures/MostWanted_2010.pdf.*

Safety Features Required by the Motorcoach Enhanced Safety Act Are Already Available and Voluntarily Installed in Some Motorcoaches

Many of the safety measures required under the Motorcoach Enhanced Safety Act (MESA), S. 453 and H.R. 873,are already found on some newly manufactured motorcoaches. A survey of motorcoach manufacturer websites revealsthat brochures and marketing materials tout many of the MESA safety measures as features or options on somemotorcoach models. Regulatory uniformity is needed to ensure that lifesaving safety systems such as seat belts,stronger roof strength, anti-ejection glazing and tire pressure monitoring systems among others are not merelyoptional equipment, but are standard features provided for the protection of every passenger on every motorcoach.

Just as there is federal safety oversight of passenger airlines, there needs to be federal safety oversight of motorcoachsafety. Each year, over 750 million passenger trips are taken on motorcoaches that carry up to 55 passengers. Theresults of a crash can be catastrophic. While motorcoach manufacturers currently offer on a voluntary basis certainsafety features on specific models, those safety features are not subject to federal standards that establish minimumperformance requirements. Passage of MESA would ensure that safety features on motorcoaches would performeffectively in the event of a crash.

MESA Safety Feature	Safety Features Offered on Some Motorcoach Models*
Occupant Protection	
Lap/shoulder seat belts at all seating positions	• Volvo and Van Hool buses are equipped with 3-point belts. • Prevost buses are equipped with seat belt anchorages.
Anti-ejection advanced window glazing	• Prevost has patented frameless thermopane side windows. • MCI provides laminated glass windows to protect against ejection.
Improved roof crush safety standards	• Prevost has fiber composite and stainless steel outer shells. • Volvo models feature enhanced roof crush strength to minimize roof collapsing. • Van Hool models are rollover certified in accordance with European requirements. • Girardin models have reinforced structural beams combined with steel roof bows.
Interior impact protection	• Volvo designs interiors that are soft and free from protruding parts or sharp edges.
Safety Technology	
Rollover crash avoidance technology	• Prevost, Volvo, and MCI equip their motorcoaches with electronic stability control systems (ESC) and Anti-lock Braking Systems (ABS). • Van Hool buses are equipped with ABS and have the option for ESC. • Setra Coaches are equipped with ABS but not ESC.
Collision avoidance technologies	• Volvo offers Front Impact Protection (FIP). • Van Hool offers an optional lane departure warning system.
Fire Safety	
Fire prevention and smoke suppression	• Prevost is equipped with automatic fire suppression. • MCI is equipped with a fire-suppression system and a fully multiplexed solid-state electrical system. • Van Hool offers an optional fire suppression system.
Fire extinguishers and other available fire-fighting equipment	• Glaval Bus is equipped with a safety package, including fire extinguisher, First Aid kit, triangles, and backup alarm.
Emergency evacuation features including updated emergency exit designs and interior lighting	• Prevost models have escape hatches. • Glaval Bus models have escape hatches and emergency duel pane egress windows.
Tire Safety	
Direct tire pressure monitoring systems	• Prevost is equipped with tire pressure monitoring systems. • MCI and Van Hool buses are equipped with integrated tire pressure monitoring systems with always-on sensors.

*Reference to a safety feature included on this chart does not indicate that all motorcoach models of a specificmanufacturer are equipped with the same safety feature or technology, but only reflects that the safety feature ortechnology is available on at least one of the motorcoach models built by that manufacturer either as an option or asstandard equipment.

SUPPLEMENT TO TESTIMONY OF JOHN CLAYBROOK, PRESIDENT EMERITUS, PUBLIC CITIZEN AND CO-CHAIR, ADVOCATES FOR HIGHWAY AND AUTO SAFETY (ADVOCATES)

Cost of Lifesaving Technologies in the Motorcoach Enhanced Safety Act are Minimal

The MESA bill proposes to provide motorcoach passengers the same type of lifesaving technologies that are already available and standard equipment in passenger vehicles. These technologies are already being offered and advertised as options by a number of motorcoach manufacturers. The technologies include seatbelts, enhanced protective interiors, collision avoidance devices, electronic stability control systems, tire pressure monitoring systems, crash worthiness protections, and event data recorders. However, the public has no assurance of the performance quality or effectiveness of these systems because they are not required to meet any minimum government safety standards.

The cost of building-in these safety features for new vehicles is minimal compared to the cost in terms of lives lost in just a single major motorcoach crash. For example, the recent March 12, 2011 bus crash in New York resulted in 15 fatalities. Based on the current Department of Transportation (DOT) value of a statistical life, set at $5.8 million, that bus crash alone generated $87 million in costs just for the fatalities suffered. This figure does not include the costs associated with the numerous injuries to the surviving passengers or the huge emotional toll on the families of those lost and injured. This cost is astronomical even when compared with the motorcoach industry's grossly inflated per vehicle estimated cost of $80,000 to $89,000 for adoption of all of the safety advances required in the MESA bill and some additional improvements not included in the bill. In other terms, the costs associated with the loss of life alone in the New York bus crash could pay for all of the safety advances proposed for a fleet of over 1,000 new motorcoaches; even using the Bus Associations wild cost estimates. Our research has indicated that the actual costs are well below those quoted by the industry.

A number of the safety technologies included in the MESA bill have already been developed in other vehicles and are being voluntarily installed in motorcoaches by a number of companies. For example, the Bolt Bus (a collaboration between Greyhound and Peter Pan Bus Lines) already has seatbelts installed in many of its vehicles and Greyhound announced in 2009 the purchase of a new 140 bus fleet equipped with seatbelts and advanced seating which provides occupant compartmentalization. In addition, some new buses include electronic stability control (MCI, Prevost, Volvo, Van Hool), advanced glazing (Prevost, MCI), occupant compartmentalization (Prevost), greater roof protection (Volvo, Prevost, Van Hool, Girardin), tire pressure monitoring systems (Prevost, MCI, Van Hool), and some form of fire protection and suppression systems (MCI, Volvo, Prevost, Van Hool). Recent information from suppliers and manufacturers indicate costs of less than $1,400 for electronic stability control, $1,115 or less for advanced window glazing, $600 for electronic on-board recorders, under $3,000 for fire suppression systems and as little as $500 for fire protection. An independent review and analysis of vehicle supplier costs and advertised claims by motorocoach manufacturers finds that this subset of safety technologies could be attained at a cost of about $6,500 per motorcoach, or just over 1 percent (1 percent) of the cost of a new motorcoach and far less than the overblown $30,000 cost figure for these same items claimed by the motorcoach industry. While we cannot obtain accurate data for other cost items, it is certain that the actual costs will be found to be far less than those asserted by the motorcoach industry. Furthermore, with widespread implementation of these safety technologies, after the first year or two, suppliers and manufacturers will see the significant cost reductions associated with mass production and production experience.

Just to put the Bus Association's cost claims in perspective, even assuming hypothetically that the industry cost estimate of $89,000 is valid, the cost of improving the safety of motorcoaches is just pennies per passenger, per trip. A new motorcoach makes over 400,000 passenger trips [1] during its useful life,[2] that means that the additional cost for all the MESA bill safety improvements, at the inflated industry cost estimates, is only 22 cents per passenger trip. Is there any passenger who would not gladly pay an extra 22 cents for major safety improvements? And because the

[1] Bourquin, P., *"Motorcoach Census Update 2010,"* Nathan Associates, sponsored by the American Bus Association (Dec. 8, 2010).

[2] Motorcoach Definition, Notice of Proposed Rulemaking, 75 FR 50958, (Aug 18, 2010) ("The service life of a motorcoach can be 20 years or longer").

actual costs are far less than the industry claims, the real cost for the MESA bill safety improvements will be just pennies per trip.

The Motorcoach Industry Cost Estimates are Exaggerated, Lack Credibility and Include Phantom Mandates

The motorcoach industry cost figures clearly are highly inflated and unreliable. The motorcoach industry has recently circulated their opinion on the costs that will be associated with the adoption of the safety measures included in the MESA bill. The correct term is "opinion" because for many of the safety features the industry provides limited or no support for the inflated cost figures and cites no references for the sources of their estimates. The anonymous and undated document disseminated by the motorcoach industry, called the "per-bus estimated cost", estimates that the improvements required in the MESA bill will cost between $80,000 and $89,000 per motorcoach. This ludicrous estimate, nearly 20 percent of the current cost of a new motorcoach, is yet another example of a tactic used by an industry that opposes safety and occupant protection—inflating the real cost of safety technology. Furthermore, the bus trade association which is purposefully throwing around these absurd and exaggerated cost figures, has presented no direct data on vehicle safety costs because this is proprietary information known to the suppliers and manufacturers and is information not shared with the trade association that lobbies on behalf of the companies as a whole. It is also not evident whether the numbers represent cost or price information—a big difference. In the past, this very same approach has been used by automobile manufacturers to oppose airbags and electronic stability control systems.

The most poignant example is the regulation of airbags in passenger vehicles. At the time when rulemaking on airbags was being initiated, industry representatives stated that the cost per airbag would be between $1,200 and $1,500. Later, information obtained by a Member of Congress who demanded that General Motors supply its true cost figures revealed that the actual cost of manufacturing frontal airbags initially was between $150 and $175. The industry was quoting prices 10 times their actual cost. Today, as a result of mass production and further technological improvements, the per-unit manufacturing cost of far more sophisticated airbag units is only about $30. Furthermore, despite the adamant opposition of industry to the airbag mandate, which they fought for over twenty years, today it is tough to find even a single contemporary motor vehicle advertisement or sales pitch that does not tout the safety performance of the vehicle's airbag systems.

Another example of this industry tactic of inflating costs occurred in the regulation of electronic stability control systems or ESC. These were required as part of the 2005 Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU),[3] whose safety advancements were crafted by the Senate Commerce, Science, and Transportation Committee and this subcommittee. Before that legislation was enacted, manufacturers asserted that the cost of including ESC systems was very high. An earlier Australian government study found that auto manufacturers were charging as much as $2,254 for ESC as a vehicle option. The Australian government study identified the "approximate reasonable cost" of ESC as $649. In opposing the SAFETEA–LU provision, manufacturers claimed much higher costs for ESC but NHTSA found, in a 2005 teardown analysis, that the estimated incremental per-vehicle cost of ESC was actually only $58.

The examples of airbags and ESC technology costs point out that not only does industry inflate costs of safety technology, but industry cost estimates are also unreliable because they omit any consideration of the fact that with regulation and mass production come reductions in per-unit production costs due to production efficiencies and per-unit savings. Moreover, to be credible, cost estimates from industry need to include details indicating if the costs quoted are retail or production costs, a distinguishing fact not found in many of the motorcoach industry's cost claims. Prices for voluntarily installed systems vary with the number of units manufactured and the level of quality and safety specified by the manufacturer. Manufacturers are not required to guarantee a specified level of safety performance for unregulated, optional equipment, and can reduce costs by lowering the level of safety they provide. The establishment of Federal standards for these devices ensure a minimum performance capability for the safety of passengers and a level playing field for motorcoach companies.

Other examples of the gross overestimation and overstatement of technology and component costs include the following that have been researched with suppliers and manufacturers:

[3] Pub. L. 109–59 (Aug. 10, 2005).

- *Electronic Stability Control:* The motorcoach industry claims that it will cost as much as $3,000 for electronic stability control (ESC) systems even though suppliers of motorcoach ESC systems indicated a retail price to manufacturers of $1,350;
- *Advanced Glazing:* The motorcoach industry cost document cites a cost of $7,000 for laminated glass in all motorcoach windows to protect occupants from ejection and cuts, even though equipping an exemplar motorcoach, the MCI J4500, with advanced glazing was found, at retail, to cost no more than $1,115 more than current standard glass, less than one sixth the cost claimed by industry;
- *Electronic On-Board Recorders:* The motorcoach industry claims a cost of $2,500 for EOBRs, but the FMCSA identified the actual cost for EOBRs to be between $500 and $600;
- *Fire Suppression:* The motorcoach industry cost document includes the cost for an automatic fire suppression system at $6,000, but retailers of these systems indicate that current state-of-the-art factory installed fire suppression systems cost less than $3,000;
- *Fire Protection:* The motorcoach industry claims that it will cost $11,000 to provide enhanced interior fire protection but textile manufacturers state that the addition of a "flame block" to new interiors would add only $2 per yard of material, resulting in a total cost of less than $500 to enhance interior fire protection, thus making the industry cost claim 22 times the actual cost.

What is even more shocking is that the industry supports including better fire suppression and fire protection in motorcoaches while at the same time opposing these requirements in the MESA bill. In November of 2010, a motorcoach industry spokesman stated that there was "absolute agreement by all parties [attendees of the Fire in Vehicles Conference] on the need for the early detection of high heat conditions that can ignite a fire."[4] Among other things the motorcoach industry called for using fire resistant materials in bus construction and installation of fire suppression systems, requirements that are covered in the MESA bill. Given the motorcoach industry's past opposition to the MESA bill, the industry's endorsement of quick legislative and regulatory action on these issues was even more surprising. Yet, the industry cost document designed for its lobbying campaign against the legislation includes grossly inflated costs of up to $17,000 associated with fire protection as evidence in opposition to the bill even though the industry has stated its "absolute agreement" regarding the necessity for these safety measures.

In addition to grossly inflating the costs of a number of items that are required in the MESA bill, and ignoring efficiencies that reduce production costs, the motorcoach industry cost document includes the costs of technologies and items that are either not required by the MESA bill or which are subject to future research and agency decision so that any cost estimate is entirely speculative since the ultimate requirement is unknown. For example, the motorcoach industry originally claimed a cost of $4,500 for the inclusion of improved fuel systems, enhanced conspicuity and adaptive cruise control. However, none of these improvements are required in the proposed bill.

The industry also included cost claims for items that would be subject to further agency study, at the behest of the motorcoach industry, so no decision as to specific performance requirements would be made by the agencies until 2 or 3 years later. Nevertheless, without knowing what will eventually be required, if anything, the motorcoach industry has estimated that the per-bus cost for improved exits for evacuation, an automatic fire suppression system, emergency interior lighting, improved compartmentalization, enhanced interior impact protection and collision avoidance systems will cost a minimum total of $19,000 per vehicle. These items are all subject to a further 2–3 years of research and examination before any rulemaking would begin. This makes any assertion of cost by the industry without knowing the specific requirements highly speculative.

In the latest update of their cost claims, the industry continues to claim costs for items which are already the subject of regulatory action that is, they are very likely to be required in final rules regardless of enactment of the MESA bill. These items include $15,000 for seatbelts, $2,500 for electronic on-board recorders (EOBR), and $600 for upgraded tires. All of these items are currently the subject of notices of proposed rulemaking issued either by NHTSA or FMCSA within the last year, illustrating that DOT has identified these items as important safety features. Even for these essential, long overdue safety improvements, the industry has inflated the

[4] "Preventing bus fires: What must be done?", *BusRide.* Nov. 22, 2010, available at *http://busride.com/2010/11/preventing-bus-fires-what-must-be-done/*.

cost, for example while the industry claimed a cost of $2,500 for EOBRs, FMCSA identified the actual cost for EOBRs to be between $500 and $600.

Finally, the industry indicated at several points in their cost claims that retrofit costs for several of the safety enhancements would be triple the already inflated and speculative costs for those same items in new motorcoaches. This claim is made despite the fact that the motorcoach industry has been successful in making retrofitting entirely discretionary instead of mandatory in the bill. That means that none of the technological safety improvements required by the MESA bill for new motorcoaches would be applicable to existing motorcoaches, that is, motorcoaches built prior to the issuance of the final rule, unless the Secretary of Transportation separately determines that such safety improvements are warranted for older motorcoaches. The only safety improvement that the Secretary and NHTSA have indicated might potentially be considered is for the retrofit of seatbelts and, even in that case, it would only apply to the most recently built motorcoaches, *i.e.,* only to motorcoaches built after the date the final rule is issued and before the date on which full compliance is required. This means that only a very limited number of motorcoaches would be subject to any retrofit and some of those would probably be already equipped with seatbelts anyway.

The industry cost claims related to motorcoach safety are highly inflated, entirely speculative, undocumented, and most are just incorrect. The recent New York bus crash and many others like it over the years illustrate that even based on the industry's suspect cost estimates, providing superior safety for motorcoach occupants can be justified in terms of benefit/cost analysis by avoiding or preventing just one serious crash. Research has shown that motorcoach safety technologies are available and affordable. History illustrates how widespread industry adoption of technology greatly increases the safety of passenger vehicles and the affordability of these technologies.

Senator LAUTENBERG. We will do that. Thank you very much.

Mr. Medford and Ms. Ferro, the Federal Motor Carrier Safety Administration has made substantial progress on only three of the seven priority items outlined in DOT's 2009 Motorcoach Safety Action Plan. But in light of recent accidents, how do we expedite completing the remaining elements of the action plan, Ms. Ferro? Again, I caution you to make the answers as short as you can, please.

Ms. FERRO. Yes, sir. As you said, Mr. Medford and I will share this answer.

Of the seven, four were FMCSA-specific. The one that is outstanding is relating to the operating knowledge of applicants, in effect, pre-application testing. That is an element that we continue to work on. We did issue an NPR, and we had our Motorcoach Safety Advisory Committee also recommend components of what a pre-application knowledgeability test would be for applicants for motorcoach passenger carrier authority. That is still an element that is under review. You are correct. It is not complete.

The other elements, electronic on-board recorders, cell phones, and the vetting process to ensure a tighter screening, in other words, raising the bar to come into the industry, are well underway and we have every intent of completing them.

Senator LAUTENBERG. Mr. Medford, is there anything you want to add to that?

Mr. MEDFORD. I will just add, Senator, that the 2009 plan that the Secretary directed be put together in terms of research and regulation of the motorcoach is a complete rehaul and makeover for bus safety. We have research in almost every aspect of safety with respect to the bus and regulatory activities started on those. I will just give you a quick list.

We are doing seat belts on buses.

We are doing electronic stability control research on buses and ready to propose a regulation.

We have completed the research on both the side structural integrity and the roof integrity on roof crush, and we are ready to propose this year a regulation for that.

We have already proposed a regulation for all heavy-duty trucks, or tires, which will account for both under-inflation, high-speed performance, and load endurance that did not exist before.

We have completed research on emergency egress with respect to what it takes to make sure we get occupants during a crash out quickly.

Senator LAUTENBERG. Are you satisfied with the pace of things, Mr. Pantuso? Sorry. Mr. Medford?

Mr. MEDFORD. I think we are dedicated to getting this done as fast as we can. We have missed some of the milestones. And I think what we have found is we have taken on a large effort in order to get this done, and we are committed to moving as quickly as we can, but we do want to do it based on good science and good engineering.

Senator LAUTENBERG. We would appreciate an even faster response, but we want it thorough. So we appreciate that.

Ms. Ferro—or Mr. Pantuso, the current system relies on drivers to notify their employers if their driving privileges are suspended, but because of this loophole, the bus driver in the New York accident was able to hide his suspended license from his employers and at least 11 other New York drivers, including a school bus driver, were able to do the same thing. What can we do here to make sure that we have a system in place that alerts companies when one of their drivers has a suspended license?

Ms. FERRO. Would you like me to start, Mr. Chairman?

Senator LAUTENBERG. Well, let me start with Mr. Pantuso, please.

Mr. PANTUSO. Thank you, Mr. Chairman. The issue of not having adequate driver information is nothing new. When we look back at the 1998 Mothers Day crash in New Orleans, there was a lack of information about the driver, about his medical condition. This accident that happened in New York is the same information, just lack of information that is available many times to the operator, to the owner of the company. We think there has got to be much more vigorous information available. It has got to be managed at the state level, but it has got to be shared among states so that we do not see drivers moving from state to state, bad drivers moving, to be employed by operators who really do not know much about them other than the fact that they have walked through the door with a current CDL with a passenger endorsement.

We also think that passenger endorsement should be something very special, should be much more rigorous than a standard commercial driver's license, and should be looked at differently by the agency and by the states.

Senator LAUTENBERG. Thank you.

While I have a moment left here, I would ask Ms. Hersman a question. The bus operator that crashed in New Jersey has a driver safety record worse than 99.6 percent of all bus companies. But the FMCSA gave the company a satisfactory rating. Now, I think we

have taken care of that with the suspension that has been offered. So I do not know whether there is anything else you would like to add to what has taken place except to say that their license has been suspended.

Ms. HERSMAN. This is an issue that is consistent in accident investigations. If you have an indication of problem drivers or vehicles, the time to address it is when those issues arise, not after a fatal accident occurs when you conduct a full compliance review and then place an operator out of service. The reason why this information is being collected at the roadside is to give early indications of a problem, and the reason why this driver was rated in the worst 99th percentile was because of those roadside inspections where they had violations of hours of service or problems with the driver records.

Senator LAUTENBERG. So it was late and should never have occurred. We cannot go back in time, but we can learn for the future.

Now Senator Thune.

Senator THUNE. Thank you, Mr. Chairman.

Ms. Hersman, many of the safety benefits in the Brown-Hutchison legislation will be derived by rulemakings. These rulemakings would require updates to bus safety technologies. And I know you referred to some of these things in your remarks. But is there a particular technology that you believe would bring the greatest safety benefit if it was installed in motorcoaches?

Ms. HERSMAN. There are a number of different technologies, and the important thing is to do good research to quantify those as far as the benefits. That is not the NTSB's mandate, but it is the mandate of those agencies that actually promulgate the rules.

We know that the technology exists. My minivan has adaptive cruise control in it. It is 5 years old. We have mandates for electronic stability control in passenger vehicles, but those technologies are so important for heavy vehicles, for buses and for trucks. If you are involved in a collision and you are hit from the rear by a heavy truck or a heavy bus, the outcome will be much more significant than if you are hit by a passenger car.

We know that we have fatigue issues, and so identifying lane departure warning systems, electronic stability control to keep vehicles from rolling over, adaptive cruise control, and advance collision warning systems—these technologies can prevent the accidents from occurring in the first place. These technologies do exist, and it is important that they be applied to the vehicles that are most in need of them. That is why we have this issue on our "most wanted" list.

Senator THUNE. If you stay outside the realm of technology improvements, what would be your top priority for DOT? In other words, what more is there that the government could or should do to keep bad drivers and dishonest carriers off the road?

Ms. HERSMAN. The NTSB has made recommendations that are on our "most wanted" list about better oversight. These recommendations are from 1999. For years before that, we looked at this issue. Drivers and vehicles are very good indicators of whether or not a company is going to have problems. Senator Lautenberg just referred to the bad driving record of this company in New Jersey. Unfortunately, we have seen time and time again in our acci-

dent investigations that some of these indicators are there. We know what the national average is for out-of-service vehicles or out-of-service drivers, and when you see companies that have two times the national average, and three times the national average, that is a red flag that needs to be addressed. We want to make sure that if companies have drivers or vehicles that are at poor quality, that are giving bad data at roadside inspections, that those companies be placed out of service, and that they be issued unsatisfactory ratings and those problems be addressed.

FMCSA has been working on CSA for many, many years, and they have told us that CSA will likely address these issues, but we have not seen that initiative yet.

Senator THUNE. Let me ask Ms. Ferro. The FMCSA is working to prevent carriers who have been previously placed out of service from being granted operating authority under a different name, and they are referred to as "chameleon" or "reincarnated" operators. At least that is the terminology that is used in the industry. Do you believe that the new applicant screening system is effective at catching these operators when they try to re-enter the market? Is there anything else that your agency ought to be working on in this area?

Ms. FERRO. Senator Thune, yes. The vetting system that we referred to that you referred with regard to reincarnated entities or companies that are trying to evade enforcement action currently applies only to household goods carriers and passenger carrier authority applicants. We have found that program to be very effective. What we are finding now is they are being rejected time and again and looking for other ways to get around—that small number of entities that is going to try and continue to push the limits. Consequently, we have taken action by identifying the carriers we have rejected and researched whether there is ongoing activity either through our violation database or their own advertising and gone after them as unauthorized carriers.

The next step in a vetting program, as proposed in our Fiscal Year 2012 budget, is in fact a vetting program that applies to any applicant for authority, whether that is a freight carrier, a passenger carrier or household goods. That is the next step in this evolution in order to catch the entire population. Again, it is a few perpetrators, but they, as we have already seen, do serious damage and we have got to stop them. So those are the best strategies right there.

Senator THUNE. Let me ask Mr. Pantuso that question too because, obviously, this has got to be a major issue among your members. These entities give good actors a bad name, and I am wondering how does your organization assess FMCSA's efforts to keep these "chameleon" or "reincarnated" carriers off the road?

Mr. PANTUSO. Thank you very much, Senator. I think you are right. They very much give us a bad name. When you look at the history of the industry, we have a very safe history. It is a very few carriers that give the industry the black eye.

When we look at the CSA system or the safety management system, we think it is a far step above what has gone on before, but we think there could be some changes. For example, we think

trucks and buses should be separated in that system. There ought to be a different way to look at buses from trucks.

We think that the database should be searchable so that the customer, whether it is an individual or whether it is somebody who is chartering a bus, has the ability to go in and search in a different way than currently exists those buses in their area, which ones are the safest, which ones are the least safe. We think that will go a long way to help the market drive the bad folks out.

And we also think that when alerts appear, that somebody should go and immediately visit that company.

Senator THUNE. Thank you. I see my time has expired, Mr. Chairman. Thank you all very much.

Senator LAUTENBERG. Thank you very much.

Senator Udall?

STATEMENT OF HON. TOM UDALL,
U.S. SENATOR FROM NEW MEXICO

Senator UDALL. Thank you, Mr. Chairman, and thanks for holding this hearing.

Mr. Medford, I wanted to focus a little bit on the issue of seat belts, and I am pleased to hear you have initiated a rulemaking to require seat belts in all motorcoach seating positions. Do you have any data on seat belt use in motorcoaches and should we be going further to ensure that not only are seat belts available but are they used, and if so, what additionally should be done?

Mr. MEDFORD. Thank you, Senator Udall. It is a great question.

We do not have, of course, any good data in the United States since hardly any buses are equipped with seat belts. But the best information that we have comes from Australia who has had seat belts for many years. The latest information from Australia is that about 20 percent of bus riders use the belts. So we believe, based on what we know about passenger car vehicles in the United States, that there is a lot of effort that is needed by the state authorities which are really the people that govern the use of belts in vehicles. It is both an enforcement effort and an education effort that has to be sustained for a long period of time. So I think we agree that just putting the belts on the buses will not be a sufficient safety strategy for us in the United States and that we will need to work with States and authorities to find ways to educate consumers and to get States to monitor and perhaps pass laws that affect seat belt use.

Senator UDALL. What did the Australian data show, exactly?

Mr. MEDFORD. The only thing I recall from the Australian data—and we can follow back if we have better information—is that they just surveyed the use in Australia and found that it was low. I do not know what strategies they have used to increase that, but we would provide that for the record for you. I am just not familiar with it.

Senator UDALL. That would be great if you would do that.

Ms. Claybrook, do you have any thought on the seat belt issue?

Ms. CLAYBROOK. Well, you know, you cannot take off in an airplane without having your belt fastened. So, if the bus driver is not going to drive the bus until everyone has their belt on, then you are going to have 100 percent usage. And these are in interstate

commerce. So I see no reason why there cannot be a federal requirement, just as there is for an aircraft, that you have to have your belt buckled. And it works. You know, it works. I think that to say that this has to be a state authority issue—how is the state going to enforce this? I think it has to be enforced through a federal rule. That would be my reaction to your question. I think it is a great question and I would certainly hope that this would occur.

Senator UDALL. Do any of the other panelists have any thought on this issue on her comment or any other part of this? Yes, Mr. Pantuso?

Mr. PANTUSO. Thank you, Senator. Yes, absolutely, a couple of thoughts. First of all, in Australia it has also been our understanding—and we will certainly double check—that it is certainly mandated that the passenger buckle the seat belt, but the onus is on the passenger. And I think on a going-forward basis, as we look to increase the number of seat belt equipped coaches, which obviously is coming very, very rapidly, that has to happen here. The driver cannot be the driver, the hostess, the flight attendant, and all things to all people. So the onus really has to be on the passenger to make sure, just as you are in your car, you are responsible for buckling your seat belt.

Ms. CLAYBROOK. But Mr. Pantuso said that the key to this was enforcement. So I do not know why he would not be in favor of this.

Senator UDALL. Ms. Hersman?

Ms. HERSMAN. One thing that we do have experience with are restraint systems used in different modes of transportation, and I will tell you that we have seen a shift in our culture with respect to restraint use. I suspect all of you have had the same experience that I have. When I was a child, we did not wear our seat belts in the car. We traveled in a station wagon and we sat or laid down wherever we could. Now, I have my own children, and they have been buckled up in appropriate restraints since the time that they left the hospital. They will not allow me to pull out of the garage without telling me that I need to buckle up. Having vehicle-appropriate seat belts in the buses will allow passengers who choose to use them to wear them. And I do think that we have gone in a generation's time, we have gone from very low seat belt usage in this country to over 80 percent usage nationwide, and in some states the compliance is significantly higher. You have to have the belts available in order for people to take advantage of them.

Senator UDALL. Thank you very much. I think this panel, Mr. Chairman, has given excellent testimony. Thank you.

Senator LAUTENBERG. Thank you.

Senator Pryor?

STATEMENT OF HON. MARK PRYOR, U.S. SENATOR FROM ARKANSAS

Senator PRYOR. Thank you, Mr. Chairman, and thank you for having this.

First, I want to add my agreement to what Senator Thune was talking about a few moments ago with the rogue motorcoach carriers. That is a concern of mine.

But, Mr. Medford, let me start with you, if I may. In the Motorcoach Enhanced Safety legislation, S. 453, Senator Brown and Senator Hutchison—one provision in the bill says basically that NHTSA has to have regulations within a year for safety belts, improved roof crush standards, advanced window glazing, and electronic stability control technologies. Of course, I have a question about the cost of all that.

But I also want to ask you is that an adequate amount of time for you to try to do all of that in one year.

Mr. MEDFORD. It is really a very big challenge. To the extent that we were far along on some of those things, as you know, we have already proposed a seat belt requirement, and so we probably could finish the seat belt rule in that kind of a period of time. But most of those time periods really are not sufficient to do the research and the adequate requirements that are required for Federal rulemaking. I think that we would need some more time. We would like to discuss that with the members.

Senator PRYOR. If you did all those things, does NHTSA have an estimate of how many lives that might save a year?

Mr. MEDFORD. I am not sure that we have one—we do not have estimates for all of those technologies. We have done them for those packages that we put together for regulations so far, but we do not have them for all.

Senator PRYOR. I do have a question about the cost. Ms. Claybrook, why do I not start with you? I know it will add to the costs of the vehicles. Do you have an estimate about how much cost that will add?

Ms. CLAYBROOK. We do not have a cost for the entire bill, but we do know that the claims of the bus industry are grossly exaggerated. And for some of the major systems, it would be about $7,000, about one percent of the cost for a motorcoach. But given the number of trips that any motorcoach takes, we estimate it is about a nickel to ten cents per occupant, per passenger for all the safety provisions in the bill. It is a gross estimate because we do not always have the exact data from the industry. But we have talked to a lot of suppliers, and we believe that it is a minuscule amount.

And certainly if you ask any occupant of one of those buses would they pay an extra 5, 10, or even 20 cents for safety provisions such as roof crush and safety belts and occupant compartmentalization and tire safety and tire inflation measurement and all these other provisions that are in the bill, no one is going to say no.

And so it is spread out among so many trips for that one particular bus, 400,000 trips. I mean, it is huge. So we think that it is a very de minimis cost.

Senator PRYOR. Mr. Pantuso, it sounds like you may disagree with that.

Mr. PANTUSO. I very much disagree with that. Thank you, Senator, for asking.

Absolutely we have looked at the cost. We have talked to the manufacturers. On the issue of seat belts alone—and again, we are not opposing seat belts in new buses—but manufacturers will tell you that it is somewhere in the neighborhood of $13,000 to $15,000 for a new coach to put seat belts in. In the case of retrofitting an

existing coach, they are estimating retrofits at somewhere in the neighborhood of $40,00 to $45,000. All the additional changes that could take place on the coach if all of the changes are made, are going to amount to $75,000. If you look at the cost of a motorcoach less than a decade ago, it was about $350,000 per vehicle. Now it is about $500,000 per vehicle. The fleet is aging. It is about 60 percent older than it used to be because people cannot afford to buy new equipment. We used to have a number of domestic manufacturers of equipment. We no longer have domestic coach manufacturers. So the cost is really having an impact on the industry itself and on their ability to comply with the regulations.

Ms. CLAYBROOK. Could I just say, Senator, that over time these costs go down. So the first year that you put something in, of course, it is much more expensive. The first year for air bags was $175. Now it is $30. So these prices go dramatically down and particularly where there is mass production and there is a mandate for them to be in all vehicles. So if it is optional equipment, it is much more expensive. If it is mandated equipment, it is much less expensive.

Senator PRYOR. All right. Let me ask Ms. Ferro a question—I just have a few seconds left—and that is, on electronic on-board recorders. Of course, fatigue and highway safety is a big concern. Tell me your feelings what you believe we should do in terms of requiring electronic on-board recorders for buses but also for 18-wheelers and other carriers that are on the road.

Ms. FERRO. Senator Pryor, the FMCSA is on record as advancing an electronic on-board recorder proposed rule for virtually all motorcoach and freight-carrying commercial vehicles. The only ones that are excepted are those that maintain time cards as opposed to logs or records of duty status. So 95 percent of the industry would be covered under the proposed rule that we have put forward. As we explained in our rule proposal, we find it a much better tool, as has been documented time and again, for employers to monitor compliance with hours of service, for us to monitor and enforce, and our state law enforcement partners.

Senator PRYOR. Mr. Chairman, I know that I am out of time, but I was wondering if I could ask each one of the panelists to comment on electronic on-board recorders. Mr. Medford?

Senator LAUTENBERG. Please do.

Mr. MEDFORD. I do not have expertise here, but I think it makes great sense to me.

Ms. HERSMAN. I am not often in the position of complimenting the Department, but I do want to recognize Administrator Ferro and her team for their efforts on EOBR's. The original rule that was proposed several years ago was a very de minimis rule and was almost a punitive measure. We believe that EOBR's should be required for all operators so that it does level the playing field; we have many operators who are using EOBR's on their fleets systemwide. We think that everyone should be using them and that it will help with hours of service compliance.

Mr. PANTUSO. Senator, regarding on-board recorders, we certainly do not oppose that, but I go back to my original statement. Enforcement is key and enforcement is number one. I would guess that a couple of the recent accidents that we have seen—the driv-

ers were probably not over the hours and probably were compliant. Without the enforcement, it does not matter what electronic technology or technologies you have. You have got to enforce the rules, especially for carriers that you know are in violation.

Ms. CLAYBROOK. Of course, EOBR's are designed for enforcement, and so I should think you would favor them, Mr. Pantuso. But we certainly do. That is incredibly important for important hours-of-service enforcement too.

Senator PRYOR. Thank you.

Thank you, Mr. Chairman.

Senator LAUTENBERG. Yes. Ms. Ferro, I do not know whether you remember our discussion as you were taking this post about on-board computers.

Ms. FERRO. And I would say, above all, I want to commend you and compliment you for your leadership on on-board recorders. Your message was very clear and has been very consistent in that regard, and we are very pleased to be on that track.

Senator LAUTENBERG. Thank you.

I want to ask Mr. Pantuso a question here. The New York bus crash was, I guess, one of the worst bus accidents that we have seen. And the accident raised several safety concerns including the fact that the driver was able to hide a prior suspended license. Now, is there a shortage of driver availability?

Mr. PANTUSO. I would say, Senator, for commercial vehicle drivers, whether it is buses or trucks, there continues to be a shortage of drivers. Absolutely.

Senator LAUTENBERG. Well, might that accidentally or unintentionally cause a company to get desperate and search for personnel to kind of ignore a poor driving record?

Mr. PANTUSO. I do not think, Mr. Chairman, regardless of the shortage of drivers, regardless of cost, regardless of any method of doing business, that safety should ever be compromised. So regardless of whether there is a shortage or not, it should never be a compromise for safety.

Senator LAUTENBERG. I do not know whether it could happen.

With that, I thank you all for your testimony. I think this was a very good hearing, and we know that we have got to stay on the job, that responses have to be quick and thorough, and that we continue to be able to tell the American people you will be safe when you get in that bus. Thank you all very much.

Ms. CLAYBROOK. Mr. Chairman, I want to be sure that my supplemental statement is included in the record. Mr. Chairman, I just want to be sure my supplemental statement on costs is included in the record.

Senator LAUTENBERG. Absolutely.

Ms. CLAYBROOK. Thank you.

Senator LAUTENBERG. Thank you.

[Whereupon, at 3:55 p.m., the hearing was adjourned.]

A P P E N D I X

April 13, 2011

Hon. JOHN D. ROCKEFELLER IV,
Chairman,
Committee on Commerce, Science, and Transportation,
Washington, DC.

Hon. FRANK R. LAUTENBERG,
Chairman,
Surface Transportation and Merchant Marine Infrastructure, Safety, and Security Subcommittee,
Washington, DC.

Dear Chairmen Rockefeller and Lautenberg:

I would like to thank you for holding this important hearing on Ensuring the Safety of Our Nation's Motorcoach Passengers. Chairman Lautenberg and I share a unique and unfortunate connection to this issue, having both experienced devastating motorcoach accidents in our home states in recent weeks.

As you are aware, a bus operated by World Wide Tours was involved in a horrific crash in New York during the early morning hours of March 1th that left 15 individuals dead and countless others injured. In the days and weeks following this crash, details have emerged which raise significant questions about oversight of the low-cost intercity motorcoach industry. I am especially concerned about this because, in the last decade, intercity bus service has seen a significant increase in ridership across the Northeast Corridor, and in New York City in particular. This rising popularity of intercity bus travel is largely due to low-cost "curbside" carriers which do not operate out of terminals like traditional bus services, but instead use city streets and sidewalks to drop off and pick up passengers. According to a recent New York City Department of City Planning study, curbside bus travel in the Chinatown area of Manhattan has increased significantly since 1997 when the first buses began shuttling passengers between Manhattan and other states' Chinatowns, producing more than 2000 arrival and departures weekly.

The March 12 crash has triggered an investigation by the National Transportation Safety Board (NTSB) who are now looking into the causes of this accident. I have called on the NTSB to expand its investigation of the incident to review the possible safety risks that curbside bus carriers pose, the efficacy of current regulations for these carriers, and whether or not new regulations or better enforcement are needed. NTSB has agreed to my request and will conduct an additional study on the safety aspects of the low-cost intercity motorcoach industry. I look forward to the results of this study and the crash investigation and am committed to working with you and the Department of Transportation (DOT) to increase safety protections within this industry.

DOT regulations require bus operators to ensure passenger safety, adequately maintain buses and place strict requirements on driver qualifications. Unfortunately, the events of March 12 demonstrate a clear failure of the system which puts the public in harm's way. For this reason, I am also a cosponsor of the Motorcoach Enhanced Safety Act, sponsored by my colleagues Senators Brown and Hutchinson. This bill would implement NTSB safety recommendations to protect passengers and keep unsafe buses and drivers off the road. Most importantly, it will save lives. I am pleased that your Committee has reviewed this bill and I fully support its passage.

Thank you for holding this timely hearing to review the safety of our Nation's motorcoach industry. I look forward to continuing to work with you to promote safety on our roads.

Sincerely,

CHARLES E. SCHUMER.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO HON. ANNE S. FERRO

Question 1. Administrator Ferro, the Motorcoach Safety Action Plan includes a priority action item for FMCSA to establish new rules to prohibit texting and limit the use of cellular telephones and other devices by motorcoach drivers. This is also addressed in my distracted driving bill. When will FMCSA complete this rulemaking?

Answer. Driver distraction is a serious safety problem that must be addressed to continue improving commercial motor vehicle (CMV) safety. FMCSA developed an approach that involves Federal rulemaking, outreach, and enforcement.

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

On December 21, 2010, FMCSA published a Notice of Proposed Rulemaking (NPRM) that would restrict the use of hand-held mobile telephones. The Agency proposed new driver disqualification sanctions for interstate drivers of CMVs who fail to comply with this Federal restriction and for CDL holders who have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that restricts the use of hand-held mobile telephones. The comment period for the NPRM recently closed, and the Agency plans to issue a Final Rule by the end of 2011.

Question 2. Administrator Ferro, FMCSA has not fully implemented its new safety enforcement model despite it being originally scheduled to be operational at the end of 2010. Part of the reason is because FMCSA has not yet implemented the safety fitness rating criteria. When will FMCSA complete the safety fitness determination rulemaking?

Answer. Later this year FMCSA plans to issue a Notice of Proposed Rulemaking that will propose changes to our current Safety Fitness Rating Methodology for commercial bus and truck companies. Through this proposed rule, FMCSA would determine a carrier's safety fitness based on data consisting of crashes, road inspection results and violation history rather than exclusively data from the standard compliance review. This proposed rule would enable FMCSA to assess the safety performance of a greater segment of the commercial motor carrier industry with the goal of further reducing large truck and bus crashes and fatalities. The FMCSA anticipates completion of the rulemaking in 2012.

Question 3. Administrator Ferro, I remain deeply concerned about the Administration's proposal to restart the Mexican cross border truck program, and I want to make sure that any program will make public safety and economic security priority number one. Furthermore, I am concerned that the Mexican government has refused to allow U.S. companies to own Mexican bus companies that provide domestic service in Mexico, despite our country allowing Mexican companies to own U.S. companies providing domestic bus service in the Unites States. Do you agree that the Mexican government's actions against the U.S. bus industry are restricting these American companies from competing?

Answer. Chairman Rockefeller, I would first like to address your concerns about the Administration's proposal to begin a new U.S.-Mexico cross-border long-haul trucking pilot program. Safety is our number one priority. In developing the concepts for the new pilot program, we were guided by the safety concerns that Congress and other stakeholders raised about the previous pilot program. Secretary LaHood personally reached out to approximately 30 Members of Congress, and DOT/FMCSA met with the representatives from various organizations including the Owner-Operator Independent Drivers Association, the International Brotherhood of Teamsters, the Advocates for Highway and Auto Safety, and the Truck Safety Coalition.

In addition, as a result of input we received from, and recommendations issued by, FMCSA's Motor Carrier Safety Advisory Committee, we included program elements that the Department believes will further enhance the safety requirements above those set in the previous program. For example, we propose to use electronic on-board recorders to track participating Mexican vehicles as they operate in the United States and to verify each driver's compliance with hours-of-service requirements. We intend to continue to inspect vehicles at a heightened level of monitoring, while at the same time recognizing the safety performance of those Mexico-domi-

ciled motor carriers that prove they can operate safely in the United States. We believe that these and the other safety features outlined in our April 13, 2011, *Federal Register* notice will ensure safety for the general public and help the United States meet its international obligations.

As we continue to work out necessary program requirements for a new cross border pilot program for the transportation of cargo by Mexico-domiciled commercial motor vehicles—with reciprocal access rights accorded by the Government of Mexico to United States-domiciled motor carriers—we recognize a significant amount of work needs to be done regarding cross-border transportation of passengers by motorcoach. Under NAFTA, the Government of Mexico must allow for reciprocal investment and access opportunities for United States-domiciled motorcoach companies that wish to perform domestic operations in Mexico. We are committed to working with the Office of the United States Trade Representative and Department of Commerce on this issue.

Question 4. What steps is the Administration taking to resolve this issue?

Answer. The prohibition of U.S. ownership in Mexican motorcoach companies that provide domestic transportation services is primarily a NAFTA investment and trade issue. We have made the Office of the United States Trade Representative and Department of Commerce aware of the issue. Additionally, Secretary LaHood has identified this as an issue with Mexico's Secretary of Communication and Transportation. We believe that successfully addressing the cross-border truck access issue will also enhance our ability to successfully resolve this issue.

Question 5. Administrator Ferro and Deputy Administrator Medford, the President's FY 2012 budget proposes to expand the Highway Trust Fund into a new Transportation Trust Fund that would fund all of the Federal surface transportation programs. I am concerned that the funding level for DOT's safety programs could be put at risk because the Highway Trust Fund does not currently generate sufficient revenues to support the programs it is supposed to fund. Administrator Ferro and Deputy Administrator Medford, how does the Administration propose to make sure Federal transportation safety programs receive full funding and are not undercut by commitments to other surface transportation programs?

Answer. Under the DOT Fiscal Year 2012 Budget, existing Highway Trust Fund revenues will continue to be dedicated to highway and motor carrier safety. In addition, the Budget includes new (or increased) revenues sufficient to ensure solvency of the Transportation Trust Fund through 2021. As a matter of policy, the Administration believes the proceeds from existing Highway Trust Fund excise taxes should continue to be dedicated solely to the Highway and Mass Transit accounts, and no existing revenue would be diverted to the new accounts for rail and the National Infrastructure Bank. The additional revenues would be sufficient to maintain the solvency of the Transportation Trust Fund, but are not associated with any specific policy proposal. Rather, the Administration intends to work with Congress to authorize sufficient revenue for the Transportation Trust Fund.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. CLAIRE MCCASKILL TO HON. ANNE S. FERRO

Question 1. USA Today published an article on March 23, 2011 stating that two tour bus companies involved in fatal crashes in March have not received full government safety audits in more than 2 years, even though roadside inspections found problems that were serious enough to place them on "alert" status. Why have these audits not occurred? How rampant is the lack of audits?

Answer: In December 2010, FMCSA began using the Compliance Safety Accountability (CSA) Safety Measurement System (SMS) for prioritizing carriers for enforcement. The new SMS uses a motor carrier's data from roadside inspections, including all safety-based violations, State-reported crashes, and the Federal motor carrier census to quantify performance in seven Behavior Analysis and Safety Improvement Categories (BASICs). If the motor carrier's score in any of the seven BASICs exceeds the intervention threshold, FMCSA may prioritize the motor carrier for intervention. In addition, if the motor carrier's score exceeds the intervention threshold, the public SMS website will display a ⚠ symbol to indicate that FMCSA may prioritize the motor carrier for further monitoring. The ⚠ symbol does not represent a conclusion about a carrier's overall safety condition, but instead is simply an indicator based on the data in the system. The threshold for potential intervention, and for displaying a ⚠ symbol, is lower for passenger carriers than for trucking companies.

FMCSA implemented additional components to the passenger carrier program to monitor the compliance and safety of motorcoach companies separately from trucking companies. For example, unauthorized for-hire motorcoach companies that have operational activity, such as inspections, are made a top priority for an on-site investigation. In addition, motorcoach companies with below industry median performance in a CSA criteria, or operating more than 2 years without an on-site investigation, or operating more than 5 years since the previous on-site investigation are a priority.

The SMS did identify for intervention the motorcoach company involved in the New Jersey crash, and FMCSA had assigned an investigator to conduct an on-site compliance review. FMCSA was in the process of scheduling the review when the crash occurred.

FMCSA is responsible for the oversight of more than 500,000 truck and bus companies. This includes approximately 4,000 motorcoach companies. In the last 6 years we have significantly increased our focus and resources on motorcoach companies. On average we conduct an on-site compliance review on each motorcoach company every 3–4 years. The Agency has cut this time-frame by more than half since 2005 when the average time between on-site compliance reviews was more than 8 years.

Question 2. The article also states that 433 of the 3100 motor coach operators are listed as on "alert" by FMCSA. I understand that alerts are based on spot inspections of buses and drivers. How many of the operators are actually inspected? Do you have any reason to believe that the number of operators who are on alert may actually be higher than the 433 than were cited? How many of the companies are bus tour companies that operate in MO and/or transport passengers into MO from other states?

Answer. The FMCSA and our State partners increased the on-site compliance reviews conducted on motorcoach companies by 128 percent, from 457 in 2005 to 1,042 in 2010. Inspections of motorcoaches increased 98 percent during the same period, from 12,991 in 2005 to 25,703 in 2010.

The number of motorcoach companies registered with FMCSA changes as new companies enter the business and others withdraw. Currently, we have approximately 4,000 motorcoach companies registered. In addition, the SMS is updated monthly to incorporate the new data generated by the inspections and compliance reviews. The number of "alerts" will change with each update.

In Fiscal Year 2010, the FMCSA Missouri Division and our State partners conducted compliance reviews on 32 of the approximately 40 motorcoach companies domiciled in Missouri. In addition, we conducted 1,295 inspections in Missouri on passenger carrying vehicles and drivers. Approximately 35 percent of the inspections conducted in Missouri were on passenger carrying vehicles and drivers operated by companies domiciled in other States.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. TOM UDALL TO HON. ANNE S. FERRO

Question 1. Although you testified that an on-site compliance review is conducted for each carrier every three to 4 years, Ms. Claybrook testified that some safety ratings have been in place for over 20 years. That hardly seems recent enough to be confident in the carrier's compliance. What is the FMCSA doing to ensure that every company has a rating that is current?

Answer. FMCSA is responsible for the oversight of more than 500,000 truck and bus companies. This includes approximately 4,000 registered motorcoach companies. Currently, FMCSA conducts on-site compliance reviews to assign safety ratings. In the last 6 years, we have significantly increased our focus and resources on motorcoach companies. Specifically, FMCSA and our State partners increased the compliance reviews conducted on motorcoach companies by 128 percent, from 457 in 2005 to 1,042 in 2010. In 2008, we implemented a policy that any passenger carrier with no safety rating or a safety rating more than 5 years old received a higher compliance review priority.

The combination of these actions increased the frequency of conducting a compliance review on a motorcoach company and reduced the average time between reviews from 8 years to 3–4 years. We are well on our way to ensuring that all passenger carriers receive a new safety rating every 5 years or less under our current Safety Fitness Rating Methodology. From the testimony, it is not clear whether Ms. Claybrook's characterization of the age of some safety ratings was referring to the age of safety ratings issued to passenger carriers or—more likely—ratings issued to some of the more than 500,000 trucking companies we also regulate. In any case,

we are taking action, described in the next paragraph, to improve our ability to make safety fitness determinations more frequently and on more motor carriers.

Later this year, FMCSA plans to issue a Notice of Proposed Rulemaking that will propose changes to our current Safety Fitness Rating Methodology for commercial bus and truck companies. Through this proposed rule, FMCSA would determine a carrier's safety fitness based on data consisting of crashes, road inspection results and violation history rather than exclusively data from the standard compliance review. This proposed rule would enable FMCSA to assess the safety performance of a greater segment of the commercial motor carrier industry, with the goal of further reducing large truck and bus crashes and fatalities. The FMCSA anticipates completion of the rulemaking in 2012.

In the interim, FMCSA implemented additional components to the passenger carrier program to monitor the compliance and safety of motorcoach companies separately from trucking companies. For example, unauthorized for-hire motorcoach companies that have operational activity, such as inspections, are made a top priority for an on-site investigation. In addition, motorcoach companies with below industry median performance in the CSA criteria, or operating more than 2 years without an on-site investigation, or operating more than 5 years since the previous on-site investigation are a priority.

Question 2. I am shocked to learn, that, as Ms. Claybrook testified, despite studies and a rulemaking required by ISTEA in 1991, today there are essentially no Federal requirements for a commercial driver's license. I understand that the FMCSA is moving toward issuing a final rule to address this concern. Can you tell me what the FMCSA is proposing and the timeline for implementation?

Answer. There are extensive Federal requirements for a commercial driver's license (CDL). Federal regulations for CDLs were first required by the Commercial Motor Vehicle Safety Act of 1986. The Federal Highway Administration (FHWA) published the first Final Rule implementing the requirements on June 1, 1987. Additional regulations have been issued in response to program needs and Congressional actions. All commercial motor vehicle drivers subject to the regulations were required to obtain a CDL that met the Federal standards by April 1, 1992.

When FMCSA was created in 2000, the Federal oversight responsibility for CDL was transferred from FHWA. The current Federal regulations detailing the CDL requirements for drivers and their employers are contained in Title 49 CFR Part 383—Commercial Drivers License Standards; Requirements and Penalties. The Federal regulations for States issuing CDLs are contained in Title 49 CFR Part 384—State Compliance with Commercial Driver's License Program.

In December 2007, FMCSA initiated a rulemaking to require behind-the-wheel and classroom training for persons who must hold a commercial driver's license to operate commercial motor vehicles in interstate commerce. This action was in response to the U.S. Court of Appeals for the District of Columbia Circuit's December 2005 decision remanding the Agency's May 21, 2004, Final Rule, "Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators" to the Agency for further consideration.

The notice of proposed rulemaking (NPRM) would require 120 hours of training for entry-level drivers of heavy trucks seeking a Class A CDL and 90 hours of training for those seeking either a Class B or Class C CDL. Drivers of motorcoaches and school buses employed by private entities (typically contractors to local educational agencies) are Class B CDL holders, and would be required to obtain 90 hours of training under the proposal. The proposed training program is split between classroom and behind-the-wheel training, with the on-road component requiring at least 44 hours for Class A and 32 hours for Classes B and C. FMCSA is currently drafting a final rule to follow-up on the 2007 NPRM. The Agency anticipates publication of the final rule by the end of 2011.

On December 1, 2008, FMCSA also published a final rule merging the medical certification and CDL issuance and renewal processes. The rule improves the Agency's and the States' ability to monitor the medical certification status of interstate CDL holders. The final rule requires CDL holders to provide a copy of their medical certificate to the State driver licensing agency in order to be granted a CDL or to maintain their existing interstate driving privileges. If a driver fails to renew the medical certificate, or if the driver fails the physical examination, the CDL will be downgraded automatically to prohibit the operation of CMVs in interstate commerce. The final rule became effective on January 30, 2009. States must implement the information technology system changes necessary to comply with the rule by January 30, 2012. All CDL holders must comply with the requirements to submit the medical certification information to the States by January 30, 2014.

The final rule also required States to make the CDL driver's medical certification status available electronically to motor carrier safety enforcement personnel.

FMCSA and State enforcement personnel would then be able to determine during a roadside inspection whether a driver is medically qualified by reviewing the electronic record maintained by the State licensing agency. Federal, state, and local government enforcement officials would query the Commercial Driver's License Information System (CDLIS) or the National Law Enforcement Telecommunication System to determine whether the driver had the required medical certification—something they cannot accomplish today.

On September 27, 2010, FMCSA published a Final Rule providing for CDL holders' disqualification when they have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that prohibits texting. On December 21, 2010, FMCSA published a Notice of Proposed Rulemaking (NPRM) that would also restrict the use of hand-held mobile telephones. The Agency proposed new driver disqualification sanctions for interstate drivers of CMVs who fail to comply with this Federal restriction and for CDL holders who have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that restricts the use of hand-held mobile telephones.

Question 3. Ms. Ferro, in your testimony you state that informal leasing creates difficulty in determining who is responsible for motorcoach vehicle safety and that the FMCSA is committed to initiating a rulemaking to address this concern. What is your timeline for this rulemaking?

Answer. The proposed timeline will be determined when the rulemaking is initiated.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO HON. ANNE S. FERRO

Question 1. What is the status of the Motorcoach Safety Action Plan items under FMCSA's jurisdiction? What are the top action item priorities for your agency?

Answer. The majority of the FMCSA-related Motorcoach Safety Action Plan (Plan) items are either completed or on track for completion. The Plan listed 7 priority items, 3 assigned to the National Highway Traffic Safety Administration and 4 assigned to FMCSA. Listed below are FMCSA's priority items from the Plan and the actions taken by FMCSA in regard to the items.

- Initiate rulemaking to require electronic on-board recording devices on all motorcoaches to better monitor drivers' duty hours and manage fatigue.
  - On April 5, 2010, the Agency took a significant step toward improving compliance with hours-of-service regulations by publishing a final rule mandating the use of electronic on-board recorders (EOBRs) by motor carriers that transport passengers or property and that demonstrate serious non-compliance with the hours of service (HOS) rules. This action will reduce the likelihood of falsified or incomplete records of duty status. The final rule establishes: (1) new performance-oriented standards for EOBR technology; (2) a mandate for certain motor carriers to use EOBRs to remediate regulatory noncompliance (a remedial directive); and (3) incentives to promote voluntary EOBR use by all carriers. It is expected that approximately 5,700 motor carriers each year will be required to use EOBRs.
  - On February 1, 2011, the Agency published a Notice of Proposed Rulemaking (NPRM) to expand the requirement for motor carriers, including passenger carriers, to use EOBRs and to require nearly all motor carriers to systematically monitor their drivers' compliance with HOS requirements. Specifically, FMCSA proposed mandatory installation and use of EOBRs in interstate commercial motor vehicles (CMVs) currently required to complete records of duty status, including passenger carrier operations. Additionally, the preamble to the rulemaking requests data and information about the safety of short-haul passenger carriers currently not required to maintain records of duty status.
- Initiate rulemaking to propose prohibiting texting and limiting the use of cellular telephones and other devices by motorcoach drivers.
  - On September 27, 2010, FMCSA published a Final Rule prohibiting texting by all CMV drivers while operating in interstate commerce and imposing civil penalties on drivers and motor carriers that violate the prohibition. The final rule also provides for commercial driver's license (CDL) holders' disqualification when they have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that prohibits texting. We are working closely with the National Highway Traffic Safety Administration and with

our State and local safety partners in developing enforcement strategies for those who violate this rule.

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

- Enhance oversight of carriers attempting to evade sanctions.
  - FMCSA launched several initiatives to enhance its oversight of motorcoach companies, the drivers they employ and the vehicles they operate. These efforts include strict enforcement of the current safety regulations, more rigorous scrutiny of all passenger carrier applications for operating authority, implementation of the Safety Measurement System (SMS) to identify at-risk carriers for targeted enforcement as part of our new Compliance, Safety, Accountability program, or "CSA," and improved oversight of the medical certification process for drivers.
  - FMCSA routinely conducts strike force activities at national, regional and local levels to enhance our overall motorcoach enforcement program. The venues range from traditional areas such as the northeast corridor to activities conducted at sporting events, amusement parks and national parks. The number of inspections conducted per event may range from 50 or less for a local, 1 day activity to more than 8,500 for a 2-week national activity. In addition to inspections some strike force events include compliance reviews and new entrant safety audits. Again the amount of activity will depend on the size and location of the strike force.
  - FMCSA increased the compliance reviews conducted on motorcoach companies by 128 percent, from 457 in 2005 to 1,042 in 2010. Inspections of motorcoaches increased 98 percent during the same period, from 12,991 in 2005 to 25,703 in 2010. Passenger carrier enforcement cases rose from 36 in 2008 to 44 in 2010, a 22 percent increase. Between Fiscal Years 2007–2010, FMCSA placed 75 passenger carriers out-of-service for being unfit to operate, after receiving an unsatisfactory rating.
  - In August 2008, FMCSA implemented a more robust investigation of applications for passenger carrier operating authority. This was a necessary step toward preventing the reincarnation of unsafe passenger carriers that choose to evade FMCSA enforcements and penalties rather than operate in compliance with the regulations. Through the vetting program, FMCSA conducts an investigation to determine whether the applicant is fit, willing, and able to comply with the safety and other applicable regulations, or if the applicant is attempting to evade enforcement actions for violations committed under another business name. As of March 28, FMCSA had applied the vetting process to 2,666 applications for passenger carrier operating authority. The Agency granted operating authority to 1,995 applicants, 669 carriers failed to successfully complete the application and either withdrew their applications or the application was rejected because the carrier failed to respond to inquiries from the Agency, and 2 applications were rejected because the Agency determined the applicant was a reincarnation of another unsafe motor carrier. To date, 24 percent of applicants have had their applications for operating authority rejected. During this process the Agency continuously identifies and implements more effective and efficient procedures.

- Establish minimum knowledge requirements for applicants seeking FMCSA authority to transport passengers.
  - On August 29, 2010, FMCSA published an Advance Notice of Proposed Rulemaking (APRM) requesting public comment on the methods the Agency should consider implementing to provide further assurance that a new applicant carrier is knowledgeable about the applicable safety regulations before being granted new entrant authority. This rulemaking includes all applicants in addition to passenger carriers. The Agency announced that it was considering whether to implement a proficiency examination as part of our revised New Entrant Safety Assurance Process and sought information concerning issues that should be considered in the development and use of such an examination. In addition, the Agency requested comments on other alternatives to

a proficiency examination to complement the processes already in place to demonstrate that new entrant carriers are knowledgeable about applicable safety requirements.

- The FMCSA also tasked its Motor Carrier Safety Advisory Committee (MCSAC) to provide suggestions or recommendations on approaches that could be implemented to improve the existing new entrant safety assurance processes, procedures, and requirements for ensuring that new entrant motor carriers are knowledgeable about Federal motor carrier safety mandates prior to beginning operations in interstate commerce. The MCSAC provided its letter report in September 2009 (available at *http://mcsac.fmcsa.dot.gov/documents/Final%20Report%2009-03.pdf*), which included recommendations for mandatory testing of certain company officials responsible for ensuring compliance with the safety regulations and putting into place safeguards for ensuring that the individual taking the test would actually be responsible for implementing or maintaining the carrier's safety management controls.
- In addition to the rulemaking, FMCSA is conducting a study to evaluate the effectiveness of some of the recommendations. The phased research is progressing on analysis of safety performance cost effectiveness for fostering a safety culture in new entrants via training and testing their knowledgeability. The initial report is a detailed analysis of changes in safety performance that resulted from a experimental new entrant training effort. Preliminary results from that research are encouraging.
- The Agency is currently reviewing the comments to the ANPRM and the MCSAC report in preparation for developing an NPRM to request public comment on a regulatory approach for ensuring new entrant carriers have the knowledge needed to comply with the Federal safety regulations.

Question 2. Can you please describe FMCSA's efforts to keep unsafe or unqualified bus drivers off of the road? How many actions have you taken in the past 2 years that led to the suspension or removal of these drivers?

Answer. In Fiscal Year 2009, there were a little more than 99,000 bus inspections conducted by FMCSA and State/local law enforcement agencies. The bus driver out-of-service rate was 4.2 percent. In Fiscal Year 2010, we conducted more than 95,000 bus inspections resulting in a 4.9 percent out-of-service rate for bus drivers.

FMCSA continues to actively engage State and local law enforcement agencies to increase routine traffic enforcement of all CMV operators, including bus drivers. FMCSA also works with State and local courts and State Driver Licensing Agencies to ensure the timely, complete, and accurate posting of convictions and disqualifications so that bus drivers convicted of certain offenses lose their privileges to operate these vehicles. As data quality improves, more unsafe drivers are removed from the highways. Beyond conducting inspections and placing drivers out-of-service for violations such as driving while suspended, failure to be medically qualified, or drug and alcohol use, FMCSA has no authority to engage in routine traffic enforcement of CMV operators. However, violations cited during FMCSA inspections can lead to the driver's disqualification, which prohibits operation in interstate commerce. Further, violations cited during State/local law enforcement inspections that lead to conviction can result in disqualification from operating a CMV.

Question 3. SAFETEA–LU, the last highway reauthorization bill that became law in August 2005, required FMCSA to establish a national registry of medical examiners by August 2006. Yet this registry has not yet been established. The bus safety legislation introduced by Senator Brown and myself would mandate that this requirement be completed within 6 months of the bill's enactment. Why is there a delay in establishing this registry, which is now over 5 years behind?

Answer. The rulemaking schedule for the National Registry of Certified Medical Examiners was revised because of substantial effort required on other significant rulemakings such as the Hours of Service Notice of Proposed Rulemaking (NPRM), Electronic On-Board Recorders NPRM, Prohibition Against Texting Final Rule, Restriction on Handheld Cell Phones NPRM, and CDL Learner's Permits Final Rule. The Agency has greatly increased the number of safety rulemakings being issued each year and we fully intend to issue the National Registry Final Rule in 2011.

Question 4. Unsafe reincarnated or "chameleon" carriers are one of the major issues in motorcoach safety. Our legislation would permit FMCSA to revoke existing operating authority if the Agency finds that a carrier has failed to disclose its prior operating history. What more can FMCSA do to address this serious safety problem of reincarnated carriers?

Answer. Under current statutes, we do not have the authority to deny a motorcoach company's application for a USDOT number. The authority to consider requir-

ing the disclosure of recent affiliation with other carriers as a condition of USDOT number issuance will help prevent reincarnated carriers. Congress could grant this authority to FMCSA within a broader authority to consider requiring safety audits prior to USDOT number issuance if the benefits justify the costs.

Though not related to reincarnated carriers, Congress could also grant authority to FMCSA to consider requiring safety management interviews and written examinations when justified by the benefits. These requirements could replace the need for post-registration safety-audits. The motorcoach company will still be required to undergo the 18 month monitoring period established by section 31144(g) of Title 49 U.S.C.

Question 5. I understand FMCSA is undertaking a rulemaking to review the minimum knowledge requirements for bus drivers, but that you have fallen behind schedule in that effort. Comments to the proposed rule were due in October 2009, but we have not seen a final rule. When does FMCSA plan to release a final rule addressing this issue?

Answer. FMCSA issued the ANPRM addressing the Motor Carrier Safety Improvement Act of 1999, (P.L. 106–159, December 9, 1999), Section 210(b) new entrant motor carrier knowledgeability requirement on August 25, 2009. Section 210(b) of MCSIA says:

> . . . the Secretary shall consider the establishment of a proficiency examination for applicant motor carriers as well as other requirements to ensure such applicants understand applicable safety regulations *before* [emphasis added] being granted operating authority.

FMCSA does not have background information about the cost-effectiveness or safety performance of new entrant motor carriers that would result from requiring a test or other requirements to ensure new entrants are knowledgeable about the Federal Motor Carrier Safety Regulations (FMCSRs). Thus, the August 25, 2009, ANPRM included a number of questions intended to elicit information on options to assist in carrying out this consideration of whether to proceed with a rulemaking. Responses to the ANPRM's questions did not provide any clear direction for how FMCSA should proceed with this consideration.

At the same time as the ANPRM, FMCSA also requested the Motor Carrier Safety Advisory Committee (MCSAC) provide recommendations on how to ensure new entrants know the FMCSRs before being issued a USDOT number. Their recommendations can be found at *http://mcsac.fmcsa.dot.gov/documents/Final%20 Report%2009-03.pdf.*

Since the mandate is to consider whether to establish some requirement or requirements, FMCSA needs well supported cost-effectiveness data if we are to undertake a rulemaking. Thus, the Agency's Research Division undertook a demonstration project to acquire cost-effectiveness data that could support a rulemaking.

Because we cannot require any action by a motor carrier relating to Section 210(b) prior to issuing a final rule, the research project—in keeping with ideas of the MSCAC to promote development of a safety culture in new entrants—is testing proactive training of new entrants as soon after they receive their USDOT number, and before they receive the required Safety Audit. The current demonstration project is using a classroom style of delivery.

Preliminary results comparing improvement in safety performance of those new entrants who receive the training, with a representative control group, are very compelling that such training, accompanied by performance testing, is very effective. A detailed analysis of effectiveness of this approach is nearing completion for submission to FMCSA. We will be adding an analysis of cost for this approach shortly.

The next step is to develop and test a hybrid training curriculum incorporating computer assisted methodologies delivered with a facilitator in a classroom setting—such as in community colleges with computer work stations. Theory shows such an approach could lower the cost, more effectively influence the new entrants that are resistant to the ideas, and make it easier to find personnel capable of facilitating such training nationwide.

Additionally, FMCSA is developing Web based training it plans to post on the Agency's website available to any interested new entrants that are located in parts of the country served by broadband access to the Internet. This web-based media would form a logical augmentation resource to whatever might be required as part of a knowledgeability requirement before being issued a USDOT number.

Once the cost-effectiveness data is available for the hybrid approach, the next step will be the publication of an NPRM based on the research results for these alternatives. Comments received to the docket on the alternative approaches will then support the next step toward issuing a final rule.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN THUNE TO HON. ANNE S. FERRO

Question. Beyond new technologies, what is the most important thing the government can do to reduce the number of bus accidents? In other words, how do we prevent bad drivers and dishonest companies from entering this business?

Answer. There are two actions that will aid in preventing bad drivers from acquiring a commercial driver's license.

First, we believe full implementation of the 2005 Test Model System in all 50 States and the District of Columbia will prevent potentially bad drivers from passing the new CDL test. The upgraded skills test is more difficult to pass and the new scoring sheets for the skills test allow examiners to identify poor driving behavior multiple times throughout the test. Currently some States are still using a CDL test developed in the late 1990s.

One obstacle to achieving full implementation is that some States are reluctant to adopt standardized or preferred testing because of the perceived high costs associated with building new facilities that will cover all the testing scenarios. This is a misperception. Although the testing does cover all of the basic maneuvering required by a CDL driver, it allows for adaptations by including a list of testing scenarios which enables the States to pick the specific task to test at a given facility. There is no need to build new pads or docks.

The 2005 Test Model provides flexibility for each State while still assuring competency by the driver being tested. Almost all the States have accepted this Model but there is some push-back by others. Using the new test does "raise the bar" for proficiency testing.

Second, FMCSA does not have the statutory authority to prevent an applicant from being issued a CDL based on his or her previous driving record. The current legal standard is possession of a valid base license on the day the CDL is issued. If the applicant has passed the appropriate tests, the State cannot deny him or her a CDL, even if the person's driving history shows a pattern of violations or poor performance. We believe this is a safety gap in the overall program.

As to how to keep dishonest companies from entering the business, implementing the changes discussed in our response to Senator Hutchison's question about reincarnated carriers would move the FMCSA goal of raising the bar to entry forward.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. JOHN D. ROCKEFELLER IV TO RONALD MEDFORD

Question 1. Deputy Administrator Medford, ten action items of the Motorcoach Safety Action Plan fall under NHTSA's jurisdiction. Unfortunately, NHTSA has slipped on various milestones listed in the Plan. What are the reasons for these delays?

Answer. While there have been minor delays on some of the milestones, NHTSA has made good progress on its motorcoach safety initiatives. NHTSA completed its three priority action items listed in the Motorcoach Safety Action Plan and established the next milestones to complete the regulatory process. Some of the milestones in the Plan were delayed due to the need for additional coordination, completion of scientific testing, or additional study (*i.e.,* new issues identified from testing that required further evaluation).

Question 2. Has NHTSA set new milestones to complete these action items, and what is NHTSA doing to ensure that these milestones are met?

Answer. For those action items that were delayed, the agency set new milestones and prioritized its work to ensure that the milestones will be met. Specific details can be found in NHTSA's Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan 2011–2013. (The plan follows.)

Question 3. Administrator Ferro and Deputy Administrator Medford, the President's FY 2012 budget proposes to expand the Highway Trust Fund into a new Transportation Trust Fund that would fund all of the federal surface transportation programs. I am concerned that the funding level DOT's safety programs could be put at risk because the Highway Trust Fund does not currently generate sufficient revenues to support the programs it is supposed to fund. How does the Administration propose to make sure federal transportation safety programs receive full funding and are not undercut by commitments to other surface transportation programs?

Answer. Under the DOT Fiscal Year 2012 Budget existing Highway Trust Fund revenues will continue to be dedicated to highway and motor carrier safety. In addition, the Budget includes new (or increased) revenues sufficient to ensure solvency of the Transportation Trust Fund through 2021. As a matter of policy, the Adminis-

tration believes that the proceeds from existing Highway Trust Fund excise taxes should continue to be dedicated solely to the Highway and Mass Transit accounts, and no existing revenue should be diverted to the new accounts for rail and the National Infrastructure Bank. The additional revenue would be sufficient to maintain the solvency of the Transportation Trust Fund, but are not associated with any specific policy proposal. Rather, the Administration intends to work with Congress to authorize sufficient revenue for the Transportation Trust Fund.

NHTSA Vehicle Safety and Fuel Economy Rulemaking and Research Priority Plan—2011–2013

I. Introduction

The National Highway Traffic Safety Administration's primary mission is to "save lives, prevent injuries, and reduce economic costs due to road traffic crashes." One of the most important ways in which the agency carries out its safety mandate is to issue Federal Motor Vehicle Safety Standards (FMVSS). Through these rules, NHTSA strives to reduce the number of crashes and to minimize the consequences of those crashes that do occur. NHTSA's mission also includes issuing Corporate Average Fuel Economy (CAFE) standards under the Energy Independence and Security Act of 2007. Increasing fuel economy not only contributes to energy security, but also addresses climate change by reducing tailpipe emissions of carbon dioxide (CO_2).

This NHTSA Vehicle Safety and Fuel Economy Priority Plan describes the projects the agency plans to work on in the rulemaking and research areas for calendar years 2011 to 2013. This is not an exhaustive list. Only programs and projects that are priorities or will take significant agency resources are listed. Furthermore, NHTSA's enforcement, data collection, and analysis programs—vital elements in achieving NHTSA's goals—have their own set of priorities that are not listed here. Each of these programs supports NHTSA's rulemaking and research priorities by providing necessary safety data, economic analysis, expertise on test procedures, and technical issues gleaned from enforcement experience.

This plan is an internal management tool as well as a means to communicate to the public NHTSA's highest priorities to meet the Nation's motor vehicle safety, energy and environmental challenges. Among them are programs and projects involving rollover crashes, children (both inside as well as just near vehicles), motorcoaches and fuel economy that must satisfy Congressional mandates or Secretarial commitments. Since these are expected to consume a significant portion of the agency's rulemaking resources, they affect the schedules of the agency's other priorities listed in this plan. This plan lists the programs and projects on which the agency anticipates working even though there may not be a rulemaking notice planned to be issued by 2013, and in several cases, the agency does not anticipate that the research will be completed by the end of 2013. Thus, in some cases, the next step would be an agency decision in 2013 or 2014. NHTSA is also currently in the process of developing a longer-term motor vehicle safety strategic plan that would encompass the period 2014 to 2020.

II. Background

Motor vehicle crashes killed more than 33,000 people and injured over 2.2 million others in 2009. In addition to the terrible personal toll, these crashes make a huge economic impact on our society with an estimated annual cost of $230 billion,[1] an average of $750 for every person in the United States.

Motor vehicle crashes can be viewed through several different perspectives:

- Vehicle type;
- Crashworthiness;
- Crash avoidance;
- Crash partners;
- Body region injured; and
- Societal costs.

Figure 1 and Table 1 look at fatalities by vehicle type. Passenger vehicles still account for the majority of fatalities (68 percent or 25,351 fatalities), but also account for about 90 percent of the vehicle miles traveled (VMT).

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[1] These estimates are in year 2000 dollars

Figure 1: Fatalities by Vehicle Type, 2009

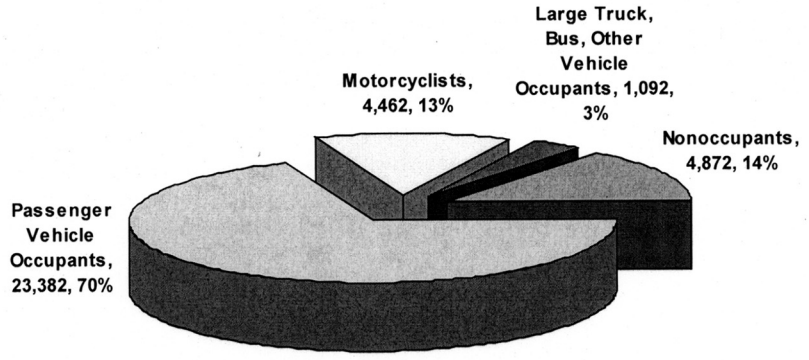


Table 1.—2009 U.S. Fatalities by Person Type

	Fatalities
Total Fatalities	*33,808*
Passenger Vehicle Occupants	23,382
Motorcyclists	4,462
Large Truck, Bus, Other Vehicle Occupants	1,092
Nonoccupants	4,872
Pedestrian	*4,092*
Pedalcyclists	*630*

From the crashworthiness perspective, NHTSA looks at occupant fatalities or crash types by what part of the vehicle was struck first. Typically for passenger vehicles the initial impact point in fatal crashes would be frontal in 55 percent of fatalities, side impacts in 26 percent, non-collisions (which include rollovers) in 7 percent, rear impacts in 5 percent, and other or unknown locations in 6 percent. However, rollovers can be examined as the initial impact, or as any event in the crash. If rollovers are examined as any event in the crash, almost 9,000 rollovers occur per year in fatal crashes, or about 20 percent of the vehicle total.

From the crash avoidance perspective, NHTSA looks at types of crashes that might be mitigated by new technologies. Based on the General Estimates System (GES) and the Fatality Analysis Reporting System (FARS), four types of crashes total 85 percent of all crashes. These include Run-Off-Road (23 percent), Rear-End (28 percent), Lane Change (9 percent), and Crossing Path (25 percent). Those same four types of crashes also equal 75 percent of all road fatalities. These include Run-Off-Road (41 percent), Rear-End (5 percent), Lane Change (4 percent), and Crossing Path (14 percent).

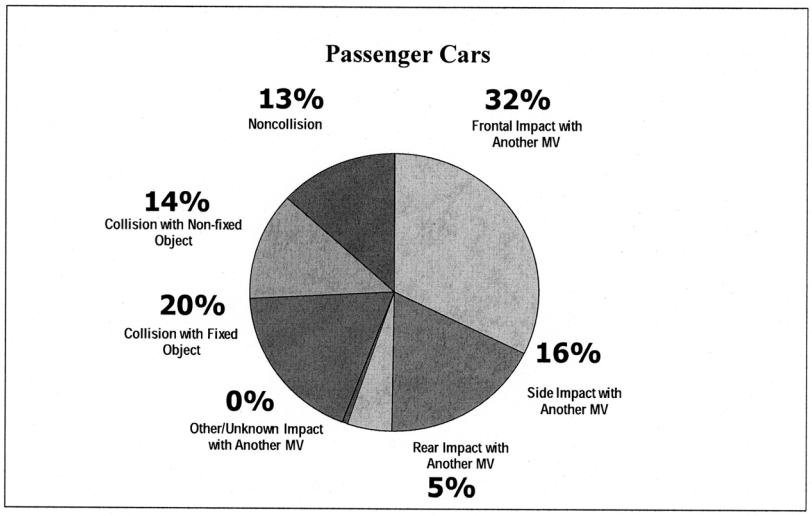
The fourth perspective of looking at fatal motor vehicle crashes is crash type with respect to what the vehicle impacted, if anything, as the most harmful event (see Figure 2). For both passenger cars and light trucks in 2009, frontal crashes with other motor vehicles account for the highest percentage of vehicles involved in fatal crashes, 32 percent and 36 percent respectively. For passenger cars in fatal crashes, side impacts with other motor vehicles account for 16 percent, and collision with fixed objects accounts for 20 percent of vehicles in fatal crashes. In fatal crashes involving light trucks, non-collisions (which include rollovers) remain an issue, accounting for 23 percent of vehicles involved.

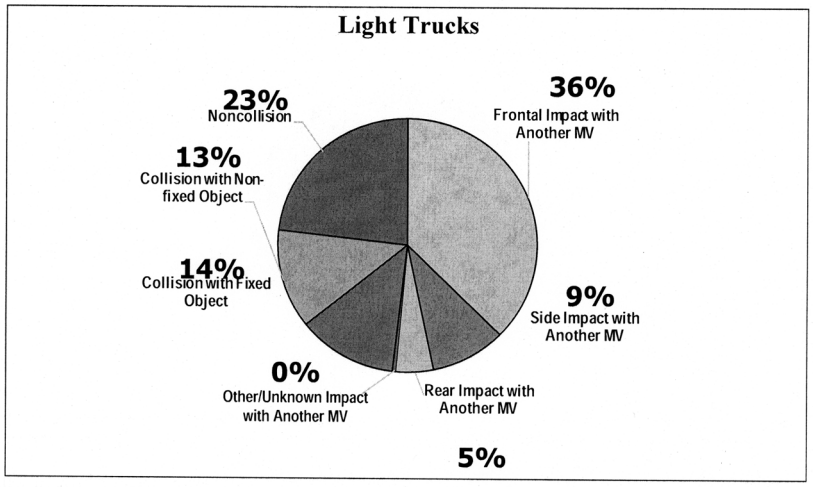
Electronic Stability Control (ESC) is changing the fatal crash picture as more and more new vehicles come equipped with ESC and the on-road fleet of ESC increases. ESC is dramatically reducing the number of run-off-road crashes and rollovers. NHTSA is performing a follow up evaluation of ESC and is already assuming reductions in relevant target populations when new safety standards are being analyzed.

A fifth and a sixth perspective are those of body region injured and societal costs. Brain injuries and ankle and knee injuries that have long-term disability associated with them have very high societal costs.

NHTSA looks at crashes from all these different perspectives in determining the priorities for the agency. Countermeasures affect different types of crashes in different ways and have to be examined individually and compared to the applicable target population.

Figure 2: Vehicles Involved in Fatal Crashes by Most Harmful Event, 2009





Priority Programs and Projects

Programs and projects that warrant priority consideration fall into the following four categories: (1) large safety benefits; (2) vulnerable populations; (3) high-occupancy vehicles; and, (4) other considerations.

Programs and projects that are in Category 1, large benefits, have the potential for large safety benefits based upon factors such as:

- The size of the target population;

- The effectiveness of countermeasures and their potential to save lives and prevent injuries;
- The availability and practicability of these countermeasures; and
- The potential that countermeasures could be developed in the future that could be reasonably effective against a large target population.

It should be noted that some projects require additional research before specific countermeasures can be identified and their benefits can be quantified and therefore the priority designation is based on the agency's judgment of potential safety impacts.

Programs and projects in Category 2, vulnerable populations, affect children, older people, the vision-impaired, or other populations that are considered vulnerable.

Category 3, high-occupancy vehicles, involves buses or motorcoaches and other high-occupancy vehicles.

Category 4, other considerations, includes priority projects that may not be captured in the other categories, but either reduce the impact of motor vehicles on energy security and climate change or address other specific items.

Other Significant Programs and Projects

This plan also includes a comprehensive list of other significant programs and projects on which the agency expects to work in the 2011–2013 timeframe. This area is fluid, because the agency receives petitions that require action, Congress may request that the agency address other areas, the Administration may set additional and/or different priorities, or some event may influence NHTSA's priority agenda. For example, the agency could add projects based on its evaluation of current standards as required by Executive Order 12866 of September 30, 1993 and the new Executive Order 13563 of January 18, 2011, Improving Regulation and Regulatory Review.

Some programs and projects described in the plan require additional research before any rulemaking action can be taken. These programs may not be priorities now because NHTSA is not confident that an effective countermeasure can be found. However, with research on-going, there is the possibility that countermeasures may be discovered that have significant death and injury reduction benefits.

Dates Provided

Programs and projects that are in the research stage are noted with milestones indicating when NHTSA plans to decide whether and how to proceed. In general, this is an agency decision about whether the program or project is ready and worthy to move from the research stage into the rulemaking stage, whether the program or project requires further research, or whether the potential benefit does not warrant further allocation of resources. This "agency decision" is based on many factors, including estimates of the target population, readiness of technology, potential effectiveness of countermeasures, development of a test protocol, and what information remains unknown. (Dates are given in calendar years, not fiscal years.)

For projects that NHTSA believes will be in the rulemaking stage, the agency has indicated dates when it anticipates issuing a Notice of Proposed Rulemaking (NPRM) or a Final Rule. Those dates are subject to change for a variety of reasons, such as complications encountered in the research phase, or new priority activities interrupt a project's progress, etc.

Program Areas

The projects have been divided into the following program areas: light-vehicle crash avoidance and mitigation advanced technologies, motorcycles, rollovers, front-impact occupant protection, side-impact occupant protection, rear-seat occupant protection, children, older people, global technical regulations (international harmonization), heavy vehicles, CAFE, and others (a catchall category for projects that don't fit in the listed program areas).

Crash avoidance projects and programs are listed first because their focus is on the first opportunity to save lives and reduce injuries by preventing crashes from occurring in the first place. In addition, they serve to reduce property damage and traffic congestion that are the inevitable result of most crashes.

III. Priority Projects by Program Area

Light-Vehicle Crash Avoidance and Mitigation—Advanced Technologies

Forward Collision Avoidance and Mitigation

Description: Develop performance criteria and objective tests to support the identification of effective advanced safety technologies that provide a warning of an impending forward collision and/or automatically brake/slow the vehicle. NHTSA has

developed a forward crash warning test for New Car Assessment Program (NCAP) purposes that will appear in NCAP data on a warning system in model year 2011 vehicles The agency will decide whether to initiate rulemaking to require forward collision warning and/or automatic crash-imminent braking.

Priority Category: Large Benefit

Next Milestone: Agency decision in 2011

Vehicle Communications

Description: Advanced technologies that utilize vehicle-based sensors have been demonstrated to be effective at helping drivers avoid crashes. Vehicle-to-vehicle (V2V) communications can improve the effectiveness and availability of these safety systems. Communications can also enable numerous other safety applications, such as speed management and intersection collision avoidance. Human factors research to examine the interaction between driver, vehicle, and the environment is underway. Vehicle-to- infrastructure (V2I) work is also being considered. The agency will assess the research data, technologies and potential countermeasures and decide on next steps.

Priority Category: Large Benefit

Next Milestone: Agency decision in 2013

Distraction

Description: Driver distraction presents a significant and complex problem in highway safety. The agency published a comprehensive distraction plan in April 2010. This plan frames the issue, discusses safety consequences, presents agency goals, and lays out upcoming research initiatives that include both technological and behavioral approaches. The Strategic Highway Research Plan II (SHRP2) initiative will provide data on distraction.

Priority Category: Large Benefit

Next Milestone: Publish guidelines for visual manual distraction in 2011

Vehicle Based Alcohol Detection (Basic Research)

Description: NHTSA entered into a 5-year cooperative agreement with the Automotive Coalition for Traffic Safety (ACTS) in early 2008 aimed at conducting basic research on alcohol detection technologies to reduce drunk driving that could have widespread deployment and are non-invasive, reliable, accurate, and precise. To achieve this goal the project aims to: (1) assess the current state of alcohol detection devices, and (2) support the development and testing of prototypes and subsequent hardware that may be installed in vehicles. The prototypes would then undergo extensive laboratory and field testing. The agency will assess the research data and technologies and decide on next research steps.

Priority Category: Large Benefit

Next Milestone: Agency decision in 2013

Children

Child Restraints in Side Impacts

Description: Propose test procedures in FMVSS No. 213 to assess child restraint performance in near-side impacts. Amend Part 572 to add the Q3s dummy, the 3-year-old side impact version of the Q-series of child dummies.

Priority Category: Vulnerable Population

Next Milestone: NPRM in 2012

New Car Assessment Program Vehicle-Child Restraint System (CRS) Fit Program

Description: A consumer service program that provides vehicle-CRS "fit" recommendations on *www.safercar.gov* by encouraging vehicle manufacturers to voluntarily recommend child restraint models that "fit" in each vehicle.

Priority Category: Vulnerable Population

Next Milestone:

Request for comments: February 25, 2011
Final Notice: 2012

Rear Visibility of Vehicles

Description: A backover crash involving a light vehicle at low speed is tragic, with a small child or elderly person most often being the victim. The agency has conducted research on a variety of rear-visibility technologies to mitigate these types of crashes. NHTSA published a Notice of Proposed Rulemaking (NPRM) on rear visibility on 12/7/10.

Congressional Requirements: The Cameron Gulbransen Kids Transportation Safety Act of 2007

Priority Category: Vulnerable Populations

Next Milestone:
Public Hearing March 23, 2011
Final Rule: December 2011

Power Windows

Description: A rulemaking to consider requiring power windows on motor vehicles to automatically reverse direction when closing when such power windows detect an obstruction to prevent children and others from being trapped, injured, or killed. An NPRM was published September 1, 2009. After further review, the agency has withdrawn this rulemaking action.

Congressional Requirements: The Cameron Gulbransen Kids Transportation Safety Act of 2007

Priority Category: Vulnerable Population

Last Milestone: Withdrawal March 2, 2011

Heavy Vehicles[2]

Truck Tractor and Motorcoach Stability Control

Description: Develop test procedures for a standard on stability control systems for truck tractors and motorcoaches. The stability control system is aimed at addressing rollover and loss of control crashes.

Priority Category: Large Benefit

Next Milestone: NPRM: 2011

Medium Truck and Bus Stability Control

Description: Develop test procedures for a standard on stability control for medium trucks, buses, and all other vehicles over 10,000 pounds GVWR not covered in the truck tractors and motorcoaches activity. The agency will decide whether to initiate rulemaking to require such systems on these vehicles.

Priority Category: Large Benefit

Next Milestone: Agency decision in 2014

Heavy-Vehicle Forward Collision Avoidance and Mitigation

Description: Develop performance criteria and objective tests to support the identification of effective advanced safety technologies that provide warning of an impending forward collision and/or automatically brake/slow the vehicle. The agency will assess the research data, technologies and potential countermeasures and decide on next steps.

Priority Category: Large Benefit

Next Milestone: Agency decision in 2013

Motorcoach Lap/Shoulder Belts

Description: The NPRM, published August 18, 2010, proposed requiring lap/shoulder belts for motorcoaches. This action supports the DOT Motorcoach Safety Action Plan (HS 811 177) and related NTSB recommendations.

Priority Category: High-Occupancy Vehicle

Next Milestone: Final Rule: 2012

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[2] "Heavy vehicles" include most vehicles over 10,000 pounds GVWR, including truck tractors, single-unit trucks, buses, motorcoaches, etc.

Motorcoach Fire Safety

Description: Consider upgrading the fire standards that apply to motorcoaches. This action supports the DOT Motorcoach Safety Action Plan (HS 811 177) and related NTSB recommendations. The agency will decide whether to initiate rulemaking to upgrade the fire standards that apply to motorcoaches.

Priority Category: High-Occupancy Vehicle

Next Milestone: Agency decision in 2012

Motorcoach Emergency Evacuation

Description: Consider upgrading the motorcoach evacuation standards. This action supports the DOT Motorcoach Safety Action Plan (HS 811 177) and related NTSB recommendations. The agency will decide whether to initiate rulemaking to upgrade the motorcoach evacuation standards.

Priority Category: High-Occupancy Vehicle

Next Milestone: Agency decision in 2011

Motorcoach Rollover Structural Integrity

Description: Propose new rollover structural integrity requirements for motorcoaches. This action supports the DOT Motorcoach Safety Action Plan (HS 811 177) and related NTSB recommendations.

Priority Category: High-Occupancy Vehicle

Next Milestone: NPRM: 2011

Fuel Economy

Passenger Car and Light-Truck Fuel Economy Standards (Corporate Average Fuel Economy (CAFE) standards) for Model Years 2017–2025

Description: Fuel economy regulation of light-duty vehicles. The Energy Independence and Security Act (EISA) requires that CAFE standards be prescribed separately for passenger automobiles and non-passenger automobiles for each model year and that combined fleet fuel economy achieves at least 35 mpg by model year 2020. For model years 2021 and beyond, EISA requires that the standards be set at the maximum feasible for each model year. On March 31, 2010, DOT and EPA issued a joint final rule for MY 2012–2016 passenger cars and light trucks. On May 21, 2010, President Obama issued a memorandum directing NHTSA and EPA to conduct a joint rulemaking (NHTSA regulating fuel economy and EPA regulating greenhouse gas emissions) for 2017–2025 model year vehicles, and to issue a Notice of Intent to Issue a Proposed Rule (NOI) by September 30, 2010.

Congressional Requirements: Energy Independence and Security Act (EISA)

Priority Category: Energy Security and Climate Change Benefits

Next Milestone:	NPRM:	2011
	Final Rule:	2012

Medium/Heavy-Duty Vehicles and Work Truck Fuel Efficiency Rules

Description: Fuel efficiency regulation of medium- and heavy-duty vehicles and work trucks. As required by EISA, the National Academy provided Congress with a report on March 18, 2010. The NHTSA study was issued October 25, 2010. EISA also requires NHTSA to complete a final rule establishing a fuel efficiency program for these vehicles 24 months after the completion of the NHTSA study and to provide at least 4 full model years of regulatory leadtime and 3 full model years of regulatory stability (*i.e.,* the standards must remain in effect for 3 years before they may be amended). On May 21, 2010, President Obama issued a memorandum directing NHTSA and EPA to conduct a joint rulemaking (NHTSA regulating fuel efficiency and EPA regulating greenhouse gas emissions), and to issue a final rule by July 30, 2011. Under consideration are rules for trucks produced in 2014–2018. An NPRM was published 11/30/10.

Congressional Requirements: Energy Independence and Security Act

Priority Category: Energy Security and Climate Change Benefits

Next Milestone: Final Rule: 2011

Fuel Economy/Greenhouse Gas Labeling Rule

Description: EISA mandates NHTSA to develop a labeling system for new automobiles with information on fuel economy, greenhouse gas (GHG) emissions, and other emissions. EPA and NHTSA are combining efforts to create a rating system. An NPRM was published 9/23/10.

Congressional Requirements: Energy Independence and Security Act

Priority Category: Energy Security and Climate Change Benefits

Next Milestone: Final Rule: 2011 (per statute 6/19/11)

Consumer Education Campaign and Alternative Fuel Labeling

Description: EISA mandates NHTSA to develop a fuel economy education program. This entails: (1) Labeling vehicles with a permanent and prominent display of automobiles capable of operating on alternative fuels. (2) Requiring owner's manual for vehicles capable of operating on alternative fuels to include information describing capability and benefits of using alternative fuels (*e.g.,* renewable nature and environmental benefits). (3) Improving consumer understanding of automobile performance with regard to fuel economy and greenhouse gas and other emissions. (4) Informing consumers of the benefits of using alternative fuel in automobiles. (5) Identifying locations of stations with alternative fuel capacity. (6) Establishing a consumer education campaign on fuel savings that would be recognized from the purchase of vehicles equipped with thermal management technologies, including energy efficient air conditioning systems and glass. (7) Requiring a label to be attached to the fuel compartment of vehicles capable of operating on alternative fuels, with the form of alternative fuel stated on the label.

Congressional Requirements: Energy Independence and Security Act

Priority Category: Energy Security and Climate Change Benefits

Next Milestone: NPRM: 2011

Tire Fuel Efficiency Consumer Information Program

Description: EISA mandated that NHTSA develop a national tire fuel efficiency consumer information program "to educate consumers about the effect of tires on automobile fuel efficiency, safety, and durability," and "to assist consumers in making more educated tire purchasing decisions." On March 30, 2010, NHTSA published a final rule to establish the test methods to be used by tire manufacturers for this new program, however it did not specify how the information will be explained and provided to consumers. This information will be provided to consumers at the point of sale and online and will encourage the purchase of better performing replacement tires. NHTSA is conducting additional consumer testing and trying to resolve important issues raised by public comments on the agency's proposal regarding the program. NHTSA will proceed with the testing and then develop and publish a new proposal for these aspects of the new program.

Congressional Requirements: Energy Independence and Security Act

Priority Category: Energy Security and Environmental Benefits

Next Milestone: NPRM: 2012

Other

Alternative Fuel Systems

CNG

Description: Research is required to assess the causes of high pressured cylinder ruptures on aging CNG vehicles which have occurred during refueling and in vehicle-related fires. NHTSA is working with the Department of Energy and the Clean Vehicle Education Foundation to obtain used cylinders of the types that have failed for evaluation. The goal is to improve safety codes and standards to prevent these failure modes in future cylinder designs. The agency will assess the research data and decide on next steps.

Priority Category: Environmental Benefits/Safety Concerns

Next Milestone: Agency decision in 2013

Batteries

Description: NHTSA is researching the potential safety risks posed by battery storage devices through basic research and cooperative agreements with vehicle OEM's and/or battery manufacturers. The agency has initiated a basic study on the potential failure modes for lithium ion battery storage systems, and is developing

an RFP for vehicle and battery OEMs to analyze risks and develop technical requirements, appropriate test procedures, and acceptance criteria, considering a broad range of potential lithium ion storage strategies. The agency will also develop a research approach to examine methods to ensure the safety of the complex electronic control systems that are inherent to these battery technologies. With the results of these programs, the agency will assess the research data and decide on next steps.

Priority Category: Environmental Benefits/Safety Concerns

Next Milestone: Agency decision in 2014

IV. Other Significant Projects by Program Area

Light-Vehicle Crash Avoidance and Mitigation—Advanced Technologies

Lane Departure Prevention

Description: NHTSA has developed a test for NCAP purposes that will appear in NCAP MY 2011 data on a lane departure warning system. Lane departure prevention or automatic lanekeeping is the next step in development. NHTSA would work toward developing performance criteria and objective tests to support identification of effective advanced safety technologies that keep drivers in their lanes. The agency will assess the research data, technologies and potential countermeasures and decide on next steps.

Next Milestone: Agency decision in 2011

Blind Spot Detection

Description: Examine the potential of sensors and mirrors to detect vehicles in blind spots to assist in lane changing. The agency will assess the research data, technologies and potential countermeasures and decide on next steps.

Next Milestone: Agency decision in 2013

Sound for Hybrid and Electric Vehicles

Description: Develop performance requirements for a sound that allows blind and other pedestrians to detect a nearby electric or hybrid vehicle operating below speeds at which tire noise, wind resistance and other factors provide audible cues.

Congressional Requirements: Pedestrian Safety Enhancement Act of 2010

Next milestones: NPRM: 2012

Pedestrian Detection

Description: Determine ability of sensor systems to detect a pedestrian and then reduce vehicle speed. The agency will assess the research data, technologies and potential countermeasures and decide on next steps.

Next Milestone: Agency decision in 2013

Motorcycles

Motorcycle Helmet Labeling

Description: Amend labeling of motorcycle helmets to reduce sale and use of novelty helmets. The agency published an NPRM in October 2008.

Next Milestone: Final Rule: 2011

Rollovers

Dynamic Rollover Test Research

Description: The agency is currently undertaking a multi-year project to study the feasibility of a dynamic rollover test to identify occupant injury risk. Issues such as the field-relevance, repeatability and reproducibility and adaptability to incorporate vehicle based countermeasures for such a test are being explored. Additional research is underway to determine an appropriate crash dummy that can predict rollover injury mechanisms as well as evaluate occupant restraint performance in rollover crashes such as pretensioners, integrated seat belts, 4-point belts, and air belts. The agency will assess the research data and decide on next steps.

Next Milestone: Agency decision in 2014

Front Impact Occupant Protection

Seat Belt Reminder Systems

Description: Seat Belt Reminder Systems tell drivers and front-right passengers they have not buckled up. Many different systems are currently being provided in new cars, but NHTSA does not have a standard requiring them. This project will consider whether to develop performance requirements for seat belt reminder systems to improve seat belt usage. The agency will decide whether to initiate rulemaking to improve seat belt usage.

Next Milestone: Agency decision in 2011

Small Overlap/Oblique Frontal Crashes

Description: Analysis of frontal-crash fatalities for those belted with air bags shows offset and oblique crashes as the second largest group of fatalities after those of extreme severity. NHTSA will develop test procedures for these crashes and examine the potential for reducing fatalities and injuries. The agency will decide whether to initiate rulemaking to address these types of crashes.

Next Milestone: Agency decision in 2011

Next Generation NCAP

Description: In the final decision notice published on July 19, 2008, the agency discussed possible future enhancement efforts (beyond the newly enhanced program) in frontal impact, side impact, rear impact and rollover programs. The agency will consider updating injury criteria in frontal and side impact programs, adjusting the baseline injury risk in all three programs to ensure that vehicles are measured against a meaningful benchmark, revising testing protocols, and providing improved consumer information. The agency also plans to conduct real-world crash data analyses to identify crash modes and additional beneficial advanced technologies for the NCAP program beyond ESC, LDW, and FCW systems. Where appropriate, the agency will develop relevant advanced technology test procedures.

Next milestone: Multiple decisions from 2012 through 2013

Rear-Seat Occupant Protection

Low Delta V Restraint Protection

Description: Evaluation of air belt or other technologies suitable for improving thoracic protection to older persons in low-speed crashes. The agency will assess the research data, technologies and potential countermeasures and decide on next steps.

Next Milestone: Agency decision in 2014

Side-Impact Occupant Protection

Side Impact Dummies—Adults

Description: The agency is participating in an international research effort to determine biofidelity, repeatability and reproducibility and associated injury criteria for the 5th percentile female and 50th percentile male family of WorldSID side-impact dummies. The efforts of this collaboration will help to prepare the dummies for Federalization. The agency will decide whether to initiate rulemaking to Federalize each or either of the dummies.

Next Milestone: Agency decisions in 2014

Children

Improve Frontal Protection for Children—Booster Seats

Description: Add into FMVSS No. 213 "Child Restraint Systems" requirements for booster seats for older children, and add a 10-year-old crash test dummy to Part 572. A SNPRM was published 11/24/10.

Next Milestone: Final Rule: 2011

Improve Frontal Protection for Children—Lower Anchors and Tethers for Children (LATCH)

Description: Address issues related to using LATCH in the center rear seat, tether anchorage locations, weight limit differences between child safety seats and tether anchorages, and labeling of anchorage locations. The agency will decide whether to initiate rulemaking to address LATCH-related issues.

Next Milestone: Agency decision in 2011

Improve Frontal Protection for Children—Test Requirements

Description: Examine how well the test parameters of the FMVSS No. 213 sled test replicate the real world, including crash pulse, test velocity, excursion limits, the test seat, adding a lap/shoulder belt, etc. The agency will assess the research data, existing requirements and potential countermeasures and decide on next steps.

Next Milestone: Agency decision in 2013

Older Persons

Description: The agency is developing a plan to coordinate intra-agency older driver safety activities in data collection and analysis, vehicle, human factors and behavioral research and program activities to meet agency and departmental goals for older occupants. The results from this work may help to direct regulatory programs aimed at enhanced older occupant protection.

Next Milestone: Develop an agency plan in 2012

Global Technical Regulations

Pedestrian

Description: Based on GTR 9, Pedestrian Impact Protection, NHTSA will propose regulations affecting the hood and bumper areas of light vehicles to reduce injuries and fatalities to struck pedestrians. The pedestrian dummy leg, if proposed, would be added to Part 572.

Next Milestone: NPRM: 2011

Head Restraints—Phase 1

Description: Amend FMVSS 202 based on the requirements in GTR 7.

Next Milestone: NPRM: 2011

Head Restraints—Phase 2

Description: Working with the international community under WP.29, the agency will assess several rear-impact dummies, including the BIORID II, determine the most biofidelic one, and assess next steps. The agency will also work with the international group on the development of a dynamic test to assess the potential for whiplash injuries based on the biofidelic responses of the rear-impact dummy. The agency will assess the research data, dummy performance and potential countermeasures and decide on next steps.

Next Milestone: Agency decision in 2013

Global Technical Regulation for Hydrogen-powered Vehicles—Phase 1:

Description: Develop and establish a Global Technical Regulation (GTR) for Hydrogen-powered Vehicles, including fuel-cell vehicles that: (1) attains or exceeds the equivalent levels of safety as those for conventional gasoline fueled vehicles; and, (2) is performance-based and does not restrict future technologies. The GTR will include performance requirements for the whole vehicle as well as specific components and subsystems with focus on the following areas:

- Performance requirements for fuel containers, pressure relief devices, and fuel lines.
- Electrical safety and protection against electric shock for in-use and post-crash situations.
- Performance requirements for sub-systems integration in the vehicle.
- Maximum allowable hydrogen leakage for in-use and post-crash situations.

Additionally, this work will encompass foundational research that will be necessary to determine future requirements, such as research on performance of high-pressure cylinders in fires, localized flame impingement on cylinders, electrical integrity of high- voltage fuel cell propulsion systems, and developing criteria for post-crash hydrogen leakage.

Next Milestone: Agency Decision in 2012

The agency will assess the research data and decide on next steps.

Heavy Vehicles

Heavy-Vehicle Event Data Recorders

Description: Develop performance requirements for heavy-vehicle event data recorders (EDRs). The agency will decide whether to initiate rulemaking to require EDRs in newly manufactured heavy vehicles.

Next Milestone: Agency decision in 2011

Heavy-Vehicle Truck Tires

Description: Upgrade the endurance test in FMVSS 119 "New Pneumatic Tires for Vehicles Other Than Passenger Cars" and add a new high-speed test for heavy-vehicle tires. The NPRM was published 9/29/10. The agency will assess the docket comments and research data and decide on next steps

Next Milestone: Agency decision: 2012

Heavy-Vehicle Speed Limiters

Description: NHTSA was petitioned by the American Trucking Association and Roadsafe America to require the installation of speed limiting devices on heavy trucks. In response, NHTSA has requested public comment on the subject and received thousands of comments supporting the petitioner's request. Based on the available safety data and the ancillary benefit of reduced fuel consumption, NHTSA published a grant notice on 1/3/11 were we announced our intention to propose a new Federal Motor Vehicle Safety Standard that would require the installation of speed limiting devices on heavy trucks.

Next Milestone: NPRM: 2012

Truck Underride Guards

Description: Analysis of frontal fatalities for those with air bags and wearing seat belts showed truck underride as the third largest group of fatalities behind extreme severity crashes and corner/oblique impacts. Evaluation shows more severe intrusion in offset crashes. The agency will assess research data and decide on the next steps.

Next Milestone: Agency decision in 2012

Other

Biomechanics Program

Description: The biomechanics program develops injury assessment methods including advanced anthropometric test device (ATD) research and associated injury criteria. A comprehensive research plan has been developed that will generate injury mechanism data, advanced dummy performance characteristics and assessment of potential countermeasures to reduce injury. Priority programs and timelines are:

Next milestone: Publish biomechanics plan in 2011

Rotational brain injury criteria—Agency decision 2011

Multi-point chest injury criteria—Agency decision 2012

THOR 50th percentile dummy—Agency decision 2013

THOR 5th percentile dummy—Agency decision 2014

Advanced 3-, 6-, 10-year-old child dummies—Agency decision 2014/2015

Advanced Automatic Collision Notification (AACN)

Description: AACN provides emergency personnel with pre-arrival information (crash severity, GPS coordinates, other occupant and vehicle data) when a severe crash occurs. The agency is working with the Centers for Disease Control (CDC) and EMS providers to examine required data elements and potential benefits and triage capabilities of AACN to transport those seriously injured to a Level 1 trauma hospital. The agency will review research results and decide on next steps.

Next Milestone: Agency decision in 2013

Lighting Standard

Description: Develop a performance-based standard for FMVSS No. 108 "Lamps, Reflective Devices, and Associated Equipment." The agency will decide whether to initiate rulemaking to upgrade FMVSS No. 108 to a performance-based standard.

Next Milestone: Agency decision in 2012

Tire Aging

Description: Require an oven-aging test for tires prior to running them through an endurance test. This could help reduce tread separations that occur in hot weather States. The agency will test tires that meet FMVSS 139 and then decide whether to initiate rulemaking to require an oven-aging test.

Next Milestone: Agency decision in 2012

Light Vehicle EDR Requirement

Description: Expand the availability and future utility of EDR data captured in light vehicles. The agency is developing a rulemaking proposal to require EDRs on light vehicles to which Part 563 applies and an advance proposal for future enhancements to their capabilities and applicability.

Next Milestone:	NPRM:	2011
	ANPRM:	2011

Update Accelerator Control Standard (FMVSS 124)

Description: The agency is considering several revisions to FMVSS No. 124. First, we are considering revisions to the test procedures for vehicles with electronically controlled throttles as well as electric vehicles and hybrid vehicles. These test procedures are the product of several workshops and public meetings. Second, we are considering adding a new requirement for a brake-throttle override system on light vehicles. Under certain conditions, this would require that the braking system overrides the throttle control in the event of a conflict.

Next Milestone: NPRM: 2011

Update FMVSS No. 114 for Keyless Ignitions

Description: The agency is considering several revisions to address emerging safety concerns regarding keyless ignition controls. The concerns are drivers who are unable to shut down the propulsion system of their vehicle in the event of any on-road emergency; drivers who shut off the propulsion system without putting their vehicle in "park" and walk away from the vehicle, leaving it prone to roll away; and drivers who do put their vehicle in park, but inadvertently leave the propulsion system active increasing the risk of carbon monoxide poisoning in a closed environment.

Next Milestone: NPRM: 2011

Pedal Placement

Description: Examine pedal placement and spacing and examine minimum clearances for foot pedals with respect to other pedals, the vehicle, floor, and any other potential obstructions. The agency will assess the research data and potential countermeasures and decide on next steps.

Next Milestone: Agency decision in 2013

V. Crosswalk between 2009–2011 Rulemaking and Research Priority Plan of October 2009 and this Plan

This section provides a comparison to the October 2009 plan, a project by project progress review, and a short description of what priority actions have occurred in the last year.

Comparison to the October 2009 Plan

The following bullets provide a summary comparison of the October 2009 published 2009–2011 plan and this 2011–2013 plan. The plan is a dynamic document that changes as new issues or circumstances arise. These tables were updated in early March 2011. Tables 2 and 3 at the end of this section provide a project by project short description of what has occurred over the past 2 years, the NPRMs and Final Rules issued, the decisions made, and the differences in the plans.

- There were 56 projects in the 2009–2011 plan and there are 53 projects in the 2011–2013 plan. Combining the two plans, there are 67 separate actions.
- Of the 56 projects in the 2009–2011 plan, 25 were priority projects and 31 were other significant projects. Of the 53 projects in the 2011–2013 plan, there are 23 priority projects and 30 other significant projects.
- Of the 25 priority projects in the 2009–2011 plan, the schedule for 1 was moved forward, 3 were completed with final rules, 1 had a final rule issued but more

work is continuing, 7 project deadlines were met (typically issuing an NPRM or making an agency decision), progress has been made on an additional 4 projects and they are still on schedule, 1 was combined with the hydrogen GTR project in the other significant projects, and 8 projects are behind the original schedule.

- There were 3 new priority projects added for the 2011–2013 plan.
- Of the 31 "other significant projects" in the 2009–2011 plan, 1 was moved forward, 1 was completed with a final rule, 5 project deadlines were met by making an agency decision, progress has been made on 7 projects and they are still on schedule, 12 are behind schedule, 4 have been delayed beyond 2013, and I was dropped from the plan because we decided it did not reach a priority level of being an "other significant project."
- 8 new "other significant projects" were added for the 2011–2013 plan.

In summary, in the last 2 years (2009–2010) the agency completed more projects and made more progress on its priority list (17 of 25 priority projects were completed or are on schedule), than on the "other significant projects" list (progress made on 14 of 31 projects).

Several abbreviations are used for Tables 2 and 3, to manage the width of the tables.

These are:

AD—Next agency decision
FR—Final Rule
Guide—Guidelines for visual manual distraction
HV—Heavy Vehicle
NI—Not included in the plan
Notice—A non-rulemaking notice, concerning issues like NCAP, consumer education, or a notice of intent.
NPRM—Notice of Proposed Rulemaking
RFC—Request for Comment
TBD—To be determined
Under the "Progress?" column, the abbreviations are:

+ Completed the action or completed the first milestone on time
+/– Completed an action but are behind the original schedule for the next action
– Behind original schedule
AS Ahead of Schedule
Delay Likely not to have staff available to work on this until after 2013
Drop Taken off the priority list
OS On Schedule, progress has been made and we remain on schedule

Table 2—Priority Projects

Comparison between the 2009–2011 Plan (October 2009) and this Plan for 2011–2013

Priority Projects	2009–2011 Plan	2011–2013 Plan	Progress?	Discussion of Changes
Forward Collision Warning	AD 2011	AD 2011	OS	
Lane Departure Prevention	AD 2011	AD 2011	OS	Moved out of Priority Projects to Other Significant Projects
Vehicle Communications	AD 2013	AD 2013	OS	
Distraction	Plan 2010	Guide 2011	+	Plan published April 2010
Alcohol Initiative	AD 2012	AD 2013	–	Need time to analyze results of research
Ejection Mitigation	NPRM 2009 FR 2011	NI	+FR	Final Rule published 1/19/2011
Child Restraints in Side Impact	AD 2010	NPRM 2012	+	Agency decision was made in 2010 to move forward with an NPRM
NCAP Fit Program	Notice 2010	RFC 2011 Notice 2012	–	Decided to send out a Request for Comments
Rear Visibility	NPRM 2009	Withdrawl 2011	+/–	NPRM published 12/7/2010
Power Windows	NPRM 2009 FR 2010	Withdrawal 2011	+/–	NPRM published 9/1/2009; Final Decision date changed via Letter to Congress; Decision to Withdraw NPRM
Brake Transmission Shift Interlock	NPRM 2009 FR 2010	NI	+FR	Completed, NPRM published 8/25/2009 FR published 3/31/2010
HV Truck Tractor Stability Control	NPRM 2010	NPRM 2011	–	Additional Coordination Required

Table 2—Priority Projects—Continued

Comparison between the 2009–2011 Plan (October 2009) and this Plan for 2011–2013

Priority Projects	2009–2011 Plan	2011–2013 Plan	Progress?	Discussion of Changes
Medium Truck and Bus Stability Control	NI	AD 2014	Add	Added to Plan
HV Forward Collision Avoidance	AD 2011	AD 2013	–	Resources reallocated to medium truck and bus stability control
Motorcoach Lap/Shoulder Belts	NPRM 2009 FR 2010	FR 2012	+/–	NPRM published 8/18/10, required additional coordination
Motorcoach Fire Safety	AD 2011	AD 2012	–	Staffing constraints forces delay
Motorcoach Evacuation	AD 2010	AD 2011	–	Staffing constraints forces delay
Motorcoach Rollover Structural Integrity	AD 2009	NPRM 2011	+	Previously named Motorcoach Roof Strength; Decision to proceed with rulemaking
Fuel Economy MY 2012–16 light vehicle CAFE	FR 2010	NI	+FR	Completed, FR issued 3/31/2010
Fuel Economy MY 2017–25 light vehicle CAFE	NI	NPRM 2011 FR 2012	Add OS	Added to Plan; NOI published 10/13/10, SNOI published 12/8/10
Fuel Economy Medium/Heavy Truck	AD 2011	FR 2011	AS	NPRM published 11/30/10
CAFE/Greenhouse Gas Labeling Rule	NPRM 2010	FR 2011	+	NPRM published 9/23/10
Fuel Economy Consumer Education	NPRM 2010	NPRM 2011	–	Additional coordination required
Fuel Tank Labeling Program	NPRM 2010		OS	Combined with consumer education
Consumer Tire Rating Program	NPRM 2009	NPRM 2012	+FR/–	NPRM published 6/22/2009 FR published 3/30/2010, but more work to do on label
CNG	NI	AD 2013	Add	Added to Plan
Batteries	AD 2011	AD 2014	–	Research Ongoing

Table 3—Other Significant Projects

Comparison between the 2009–2001 Plan (October 2009) and this Plan for 2011–2013

Other Significant Projects	2009–2001 Plan	2011–2013 Plan	Progress?	Discussion of Changes
Blind Spot Detection	AD 2013	AD 2013	OS	
Sound for Electric Vehicles	AD 2010	NPRM 2012	+	New Act, have made significant progress
Pedestrian Detection	NI	AD 2013	Add	Added to plan
Motorcycle Helmet Labeling	FR 2010	FR 2011	–	More complicated than originally thought
Motorcycle Braking—ABS	AD 2010	NI	+	Decision to evaluate with more data later
Restraint Effectiveness in Rollovers	AD 2010	NI	+	Decision made to add into Dynamic Rollover project
Dynamic Rollover	NI	AD 2014	Add	Added to Plan
Seat Belt Reminder System	AD 2011	AD 2011	OS	
Oblique/Low Offset Frontal	AD 2011	AD 2011	OS	Agency decided in 2010 to continue research
Compatibility	AD 2010	NI	+	Decision to remove from plan
Pre-Collision Air Bag/Safety System Activation	AD 2010	NI	Delayed	Staffing constraints forces delay
Next Generation NCAP	AD 2010–12	AD 2012–13	–	Staffing constraints forces delay
Monroney Label NCAP	NPRM 2009	NI	Drop	Taken off plan, not a priority FR planned for 2011
Rear Seat Low Delta V	AD 2012	AD 2014	–	Staffing constraints forces delay
Side Impact Dummies—Adults	AD 2011	AD 2014	–	International Research effort
Children—Booster Seats	SNPRM 2009	FR 2011	–	SNPRM published 11/24/10. Staffing constraints forces delay
Children—LATCH	AD 2011	AD 2011	OS	
Children—213 Frontal Test Requirements	AD 2010	AD 2013	–	Staffing constraints forces delay
Older Occupant Protection	AD 2010	Plan 2012	+	Agency decision to develop a plan
Pedestrian GTR	NPRM 2010	NPRM 2011	–	Staffing constraints forces delay
Motorcycle Brakes—GTR	FR 2010	NI	Delayed	Staffing constraints forces delay

Table 3—Other Significant Projects—Continued

Comparison between the 2009–2001 Plan (October 2009) and this Plan for 2011–2013

Other Significant Projects	2009–2001 Plan	2011–2013 Plan	Progress?	Discussion of Changes
Glazing—GTR	NPRM 2009	NI	Delayed	Staffing constraints forces delay
Head Restraints—Phase 1 GTR	NPRM 2010	NPRM 2011	–	Staffing constraints forces delay
Head Restraints—Phase 2	AD 2013	AD 2013	OS	
Hydrogen GTR	NI	AD 2012	Add	Added to plan
HV Stopping Distance	FR 2009	NI	+ FR	Completed—FR published 7/27/09
HV Event Data Recorder	AD 2010	AD 2011	–	Staffing constraints forces delay
HV Truck Tires	NPRM 2009	AD 2012	–	NPRM published 9/29/10, staffing constraints forces delay
HV Speed Limiters	NI	NPRM 2012	Add	Granted petition 1/3/11 and added to plan
HV Truck Underride Guards	NI	AD 2012	Add	Added to Plan, Evaluation shows problem in offset crashes
Biomechanics Program	AD 2011–15	Plan 2011	OS	Publish biomechanics plan first
Advanced Automatic Collision Notification	AD 2010	AD 2013	–	Requires further study
Lighting Standard	AD 2012	AD 2012	OS	
Rear Turn Signals	AD 2009	NI	Delayed	Staffing constraints forces delay
Tire Aging	AD 2010	AD 2012	–	Assess tires that meet new FMVSS 139
Light Vehicle EDR	AD 2012	NPRM 2011 and ANPRM 2011	AS	Moved up and considering in two parts, issuing an NPRM for one and ANPRM for other
Brake Override and update FMVSS 124	NI	NPRM 2011	Add	Added to Plan
Keyless Ignition Systems	NI	NPRM 2011	Add	Added to plan
Pedal Placement	NI	AD 2013	ADD	Added to plan

Response to Written Question Submitted by Hon. Tom Udall to Ronald Medford

Question. Last year I introduced legislation to require event data recorders in all vehicles. If it had been adopted it would have included motorcoaches and buses. The NTSB has recommended EDRs in vehicles since 1997 and last year the Society of Automotive Engineers established minimum standards for heavy vehicle EDRs. What is NHTSA doing to move toward addressing the recommendation?

Answer. For the past several years, NHTSA has been working with the Society of Automotive Engineers (SAE) Truck and Bus Committee in the development of SAE Recommended Practice J2728, "Heavy Vehicle Event Data Recorder (HVEDR)—Base Standard." This recommended practice was published in June 2010. The agency is currently in the process of identifying appropriate performance requirements to be considered for HVEDRs. SAE J2728 will assist the agency in formulating potential performance requirements. However, the agency must also identify any implementation issues and economic impacts, as well as other data collection needs. NHTSA is will be making an agency decision on whether it will regulate HVEDRs in 2011.

Response to Written Questions Submitted by Hon. Kay Bailey Hutchison to Ronald Medford

Question 1. What is the status of the Motorcoach Safety Action Plan items under NHTSA's jurisdiction? What are the top action item priorities for your agency?

Answer. The Motorcoach Safety Action Plan (the Plan) identified 10 items under NHTSA's jurisdiction. The top three priority action items, Plan milestones and status for NHTSA are:

Action Item	Milestone Date	Status
Initiation of rulemaking for the installation of seat belts	Q1, 2010	The notice of proposed rulemaking (NPRM) was published in August 2010. The agency is analyzing comments and expects to issue a final rule requiring seat belts on motorcoaches in 2012.

Action Item	Milestone Date	Status
Evaluation and development roof crush performance requirements	Q4, 2009	Evaluation of test procedures was completed in July 2009, and an agency regulatory decision was made in January 2010. The agency is considering an NPRM for end of 2011.
Development of performance requirements and assessment of the safety benefits of stability control systems on motorcoaches	Q4, 2009	An agency regulatory decision was made in December 2009. The agency is considering an NPRM for end of 2011.

The Plan identified seven additional items under NHTSA's jurisdiction:

Action Item	Milestone Date	Status
Expand research on crash-avoidance warning systems	2010	In 2010 NHTSA expanded crash avoidance research on motorcoach vehicles from a stability control focus (possible NPRM in end of 2011) to include research of crash avoidance warning systems. The research parallels similar agency efforts focused on truck tractors.
Initiate rulemaking to improve tire performance	Q2, 2010	NPRM was published in September 2010. We are assessing comments and research data, and an agency decision is expected in 2012.
Evaluate the feasibility of more stringent motorcoach flammability requirements	2008–2011	NIST study was completed in December 2010. Now, the agency is conducting additional research necessary to develop test procedures. See also status for fire detection and protection systems.
Evaluate the need for and performance of fire detection and protection systems	2008–2011	Agency decision has been delayed until 2012. Additional research is needed to identify test procedures and performance requirements and to evaluate existing fire detection and suppression systems. We expect to complete this research in 2012.
Accelerate research on improved glazing and window retention techniques	2009–2010	Testing was completed in Q2, 2011. Further testing to evaluate different window designs and candidate performance requirements is currently underway. Agency decision is expected in 2011.
Develop enhanced emergency egress requirements, with special attention to children, older people, and people with disabilities	2010	The assessment of egress requirements was completed in Q3, 2010. The agency is currently estimating the cost of various egress options.
Make agency decision on installation and performance characteristics of heavy vehicle event data recorders (HVEDRs) on motorcoaches	Q2, 2010	Agency decision has been delayed to 2011. We are currently identifying implementation issues related to appropriate performance requirements, economic impacts and data collection needs so that the agency can make a decision on whether to regulate HVEDRs this year.

Question 2. In the 2009 "Motorcoach Safety Action Plan," DOT identified 32 action items, including seven priority areas to improve the safety of buses, three of which are under NHTSA's jurisdiction. NHTSA acknowledges they are behind schedule on two of these three priority items, including a rulemaking for seatbelt installation, and the development of roof crush and vehicle integrity standards. What are the reasons for these delays?

Answer. While there have been delays on some of the milestones, NHTSA has made good progress on its motorcoach safety initiatives. NHTSA completed its three priority action items listed in the Motorcoach Safety Action Plan and established the next milestones to complete the regulatory process.

The NPRM requiring seat belts on motorcoaches was delayed from Q1, 2010 to Q3, 2010 because additional testing and evaluation were necessary as new technical issues were identified during initial tests; complications developed with the compliance test methods; obtaining reliable cost estimates took longer than anticipated; and additional coordination was necessary with multiple agencies on several difficult issues that arose during the rulemaking process. The agency expects to develop the final rule in 2011 with anticipated publication in 2012. An agency decision for motorcoach rollover structural integrity was slightly delayed because estimating the cost of the various proposals under consideration took longer than anticipated.

The testing of motorcoach roof crush procedures and performance requirements was completed according to schedule.

Question 3. What is the status of the seatbelt rulemaking? When is it to be completed, and when can we expect that seatbelts will be required on buses?

Answer. On August 18, 2010, NHTSA issued a NPRM that would require all new motorcoaches sold in the U.S. to be equipped with lap/shoulder belts to enhance motorcoach occupant protection in crash and rollover events, primarily by preventing occupant ejections. The agency is currently analyzing NPRM comments and expects to publish a final rule in 2012. If the proposed lead time requirements are adopted in the final rule, seat belts would be required on motorcoaches 3 years after final rule publication.

Question 4. I understand NHTSA is also undertaking a review of window glazing and window retention to research performance requirements, but that this action is also delayed. What is the status of this rulemaking? When will it be completed?

Answer. The effectiveness of window glazing for passenger safety, especially occupant ejection, is closely related to the structural integrity of the motorcoach. Specifically, glazing is most effective when the structural integrity of the motorcoach is sound. For this reason, the agency prioritized its efforts to focus on improving structural integrity as well as requiring seat belt installation to reduce occupant ejection before completing its research on window glazing. Accordingly, the agency determined that this staggered approach would be the most effective and expedient method of ensuring an effective glazing requirement.

The findings from this preliminary research indicate that further testing and development is warranted. Additional testing to establish performance requirements is currently underway, and an agency decision is expected in 2011.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN THUNE TO RONALD MEDFORD

Question. NHTSA is primarily responsible for the rulemaking on seatbelt installation, among other items in the Motorcoach Safety Action Plan. I understand the seatbelt rulemaking has fallen behind schedule, and that a final rule is not expected until later in 2012. Some operators are already purchasing new motorcoaches with seatbelts installed. Have you consulted with these companies to ensure that their seatbelts will likely meet NHTSA requirements when the rule is finally released?

Answer. During the rulemaking process, the agency met with motorcoach manufacturers, seat manufacturers, motorcoach operators and their associations at the request of these organizations. The agency considered and documented the input of these organizations in development of the NPRM, and will continue to do so in the development of the final rule. The agency also conducted its own testing on motorcoach seats currently equipped with seat belts. Based on these test results, the agency has determined that these seats equipped with seat belts would meet the requirements of the NPRM. These test results are available on *www.regulations.gov* (Docket No. NHTSA–2010–0112).

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO HON. DEBORAH A.P. HERSMAN

Question 1. There are currently 100 open safety recommendations for motorcoach safety. In your view, what are the most important recommendations that, if acted on, would add the most safety benefit?

Answer. Several of NTSB's open motorcoach safety recommendations are included on the Most Wanted List (MWL) of Transportation Safety Improvements. Among these motorcoach items on the MWL is occupant protection improvement, with recommendations directed to the National Highway Traffic Safety Administration (NHTSA). In 1999, the NTSB issued recommendations asking NHTSA to develop performance standards for motorcoach occupant protection systems that account for all types of crashes (H–99–47) and to develop performance standards for motorcoach roof strength that provide maximum survival space for all seating positions (H–99–50). The NTSB has cited inadequate occupant protection as a contributing cause in its last five motorcoach accident reports. Both Safety Recommendations H–99–47 and –50 are currently classified "Open—Unacceptable Action."

The NTSB would also like to see carriers operating with unsafe vehicles or unsafe drivers taken out of service. In 1999, the NTSB issued Safety Recommendation H–99–6 as a result of its special investigative report on select motorcoach issues. The two most important factors in safe motor carrier operations are the operational sta-

tus of the vehicles and the performance of the individuals who drive them. If there are significant problems with vehicles or with the qualifications or fitness for duty of drivers, the Federal Motor Carrier Safety Administration (FMCSA) should rate the carrier as unsatisfactory, forcing correction of the problems within a specified time. Increased FMCSA oversight is critical because problems in either of these areas could result in severe consequences for safety, and if such problems persist, a motor carrier's authority to operate should be revoked. The NTSB has called on FMCSA to so revise its safety fitness rating methodology, but safety Recommendation H–99–6 is currently classified "Open—Unacceptable Action."

Finally, the NTSB has recommended that the FMCSA do more to prevent medically unfit drivers from operating commercial vehicles. The Board has determined that serious flaws exist in the medical certification process for commercial vehicle drivers—flaws that can lead to increased highway fatalities and injuries for commercial vehicle drivers, their passengers, and the motoring public. The NTSB has issued a series of recommendations to strengthen the medical certification process to prevent medically unfit drivers from unsafely transporting passengers. These recommendations include ensuring that medical examiners are properly qualified and trained (H–01–17); developing a tracking mechanism for previous medical certifications (H–01–18); providing clear, updated medical regulations to guide examiners (H–01–19); developing clear, accessible guidelines for medical examiners (H–01–20); developing a review process that prevents the inappropriate issuance of medical certifications (H–01–21); and developing a mechanism for reporting medical conditions that arise between certifications (H–01–22). Half of these recommendations are currently classified "Open—Unacceptable Action."

Question 2. How can we keep unsafe or unqualified drivers off the road?

Answer. The NTSB's Most Wanted List of Transportation Safety Improvements also includes the issue of removing unsafe drivers from our Nation's highways, for which there are three key elements:

- Preventing medically unfit drivers from operating commercial vehicles. The NTSB has issued a series of safety recommendations, listed above, to strengthen the medical certification process and make it more difficult for medically unfit drivers to operate a commercial vehicle.
- Identifying those companies that use unsafe operators (H–99–6). Once identified, these carriers should be rated "unsatisfactory," thereby forcing them to rectify the issue within a specified time. If driver problems persist, the carrier should have its authority to operate revoked.
- Ensuring that drivers do not violate hours of service (H–07–41). Fatigued drivers are unsafe drivers. The NTSB has recommended that the FMCSA require all carriers to use electronic on-board recorders (EOBR) to ensure that drivers do not exceed their hours of service.

Finally, though not on the Most Wanted List, the NTSB has recently recommended that the FMCSA require carriers to install cameras on their vehicles that record the driver and the roadway environment in the event of a crash or sudden deceleration (H–10–10). The NTSB has recommended that the FMCSA require that carriers review the camera data in conjunction with other performance data to verify that driver actions are in accord with company and regulatory rules and procedures essential to safety (H–10–11).

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO PETER J. PANTUSO

Question 1. Do you only support "Research and testing" of the vehicle safety improvements to establish standards, or do you support requiring this equipment on newly manufactured buses once the standard is developed?

Answer. ABA supports integrated research and testing of all safety enhancements for motorcoaches. We believe that the motorcoach is comprised of a series of safety systems that work in concert to protect the passenger. Our goal is to ensure that research and testing lead to either a single rulemaking or several interrelated rulemakings that are based on the research and applied to the manufacture of new motorcoaches. Our goal is to ensure that rules are promulgated in a fashion that uses an integrated systems approach and enhances safety while not degrading the effectiveness on one system by enhancing another.

Question 2. At our September 2008 bus safety hearing, you testified that the reason industry has not installed seat belts is the lack of Federal standards, implying

that it was a failure of government, not industry, that has prevented seat belts on buses. Do you still believe this is the case?

Answer. Yes. The lack of a Federal standard for seat belts has been the primary reason that the industry has not implemented seatbelts on all new coaches. Seatbelts are not universal in their design, points of restraint, strength tolerances (G force) and anchorages. Our goal in pushing for research and testing was to ensure that the correct standard was developed given the crash environment of a motorcoach. Just as seatbelts in cars are different today than 30 years ago and seatbelts in airplanes are different than those in cars, we understand that a 45 foot motorcoach weighing 52,000 lbs. will require a specific belts, seat anchorage and floor strength. A very relevant example of the need for testing and research is the fact that NHTSA did not determine whether a two or three point seatbelt standard was appropriate for bus operations until after it had analyzed the testing data. If a motorcoach owner had installed two point belts before NHTSA had finished its research and testing on seat belts that owner could now be faced with the costs of installation, the liability in an accident for having a different standard and finally the requirement to remove the belts from the coach. In addition, smaller carriers may lose their insurance coverage if they install safety equipment that does not conform to federal standards.

The requirement of a Federal standard goes beyond the choice of a two point or a three point belt. Depending on the G force requirement the belt must withstand, a bus manufacturer may have to redesign or replace seats, strengthen the floor or otherwise reconfigure or rebuild the motorcoach to install belts safely. Of course, cost is an issue but there are other factors. First, if there is a retrofit requirement, there is the question of whether such a standard can apply uniformly across the industry based on differing models, vehicle age and specifications. A second question is what company, operator or individual can properly install the seat belts either as a part of the original equipment or as a retrofit item and in what time frame. There is only one domestic motorcoach manufacturer and a total of four large manufacturers worldwide and the total number of motorcoaches entering the U.S. market from all sources is approximately 1,200 a year. The ability of any bus operator to have seat belts installed quickly is limited by this lack of readily accessible facilities. Additionally, without a Federal standard for new coaches there is the possibility that individual states will enact their own inconsistent standards ensuring only that an operator cannot legally operate in one or more states. A Federal standard is crucial to seat belt installation in the industry.

Question 3. Based on your 2008 testimony, I concluded that the bus operators are relying on Federal standards to guide the industry in its safety improvements. What Federal safety requirements do you believe need regulatory clarity? Is the industry making any safety improvements on its own in areas addressed in our legislation, and if not, why not?

Answer. Generally, whenever the Federal Government has an idea for improving safety, we in the bus industry applaud it. What is important is that when there is such an idea, that the issue be fully researched and studied. S. 453requires that NHTSA begin implementing regulations on several safety measures. ABA agrees that those measures should be researched to see if the standards should be updated. Specifically, I refer to window glazing, fire suppression and prevention, emergency egress and roof strength. Those topics must be researched to determine if regulatory clarity is needed. Furthermore, ABA believes that the standards for obtaining authority to operate should also be increased as well as the standards by which individual states issue commercial driver's licenses (CDLs) with passenger endorsements.

As for the industry's safety improvements, ABA operators are placing Global Positioning Systems (GPS) in their motorcoaches for real time information about their buses locations. For this the industry has relied on the Intercity Bus Security Grant Program, a competitive grant program administered by the Department of Homeland Security. Greyhound Lines, one of ABA's largest members has used some IBSGP funds as well as its own money for other security upgrades. ABA members are also installing Electronic On- Board Recorders (EOBRs) in their equipment. A step made possible by the establishment of definitive EOBR performance standards. As to why other steps have not be taken, I can only restate ABA's main point, *viz.* that federal standards are the fundamental necessity for most safety equipment required for interstate motorcoach operators.

Question 4. What, if anything, is the bus industry doing to prevent reincarnated or chameleon carriers from operating, which are a blemish to the industry?

Answer. We wholly agree with Senator Hutchison. These reincarnated carriers are a blemish on the industry. ABA has for several years advocated higher standards

for those who wish to enter the motorcoach industry. Several years ago I testified before the House T & I Committee on the need to investigate the wave of new curbside bus operators who were driving in interstate commerce without insurance, discernable maintenance facilities, which denied boarding to disabled citizens and even failed to employ drivers who spoke English. The so called reincarnated carriers are a subset of those illegal or unsafe operators and ABA supports vigorous efforts to get them off the roads. Thus, ABA advocates that the Federal Motor Carrier Safety Administration (FMCSA) pay more attention to the financial background and resources of motor carrier operators before they are given authority to operate in order to prevent "bad actors" from entering the industry. And we would support any legislation that allowed FMCSA to take the license plates off of the buses of any illegal motorcoach operators as well as operators who are place out of service by the agency. However, I must reiterate our support for more bus inspections and a requirement that every state have a bus inspection program that meets the minimum Federal standard. Moreover, ABA believes that a portion of the funds provided the states for inspections by the Motor Carrier Safety Assistance Program (MCSAP) should be set aside for bus inspections. Finally, if states are unwilling or unable to meet a bus inspection standard then a percentage of their MCSAP funds should be withheld and private inspectors hired to perform the task. Without a uniform bus inspection program, bad operators will gravitate to states with less stringent requirements. Such "safe harbor" states for illegal carriers must be closed or reducing fatalities will be more difficult no matter the vehicle enhancements mandated for motorcoaches.

Question 5. If the lack of federal standards is an impediment to seatbelt installation as you previously testified, how is it that one of your largest member companies (Greyhound) moved forward with seatbelt installation on all newly manufactured buses? Do you expect other member companies to take action on their own?

Answer. In my opinion Greyhound's very laudable action is not the answer for the largely small business motorcoach industry. Greyhound is essentially betting that the standard it is using to equip its buses with seat belts will ultimately be the one approved by NHTSA. If NHTSA does not approve that standard, liability concerns and insurance requirements may force Greyhound to remove and exchange the belts it has installed. What seems to be in Greyhound's favor is that given its size in the industry, resources available to it, and its motorcoach replacement schedule it may be able to meet the ultimate NHTSA standard on an accelerated time schedule and with the expenditure of fewer resources. For the bulk of the motorcoach industry, such a large scale move is not financially or logistically possible. Over 80 percent of our industry operates fewer than 10 motorcoaches and does not have the financial or technical capabilities of a Greyhound Lines. While there are more and more motorcoaches with seat belts coming into the Nation's fleet, I do not expect a large scale move to seat belts until a Federal standard is adopted.

RESPONSE TO WRITTEN QUESTION SUBMITTED BY HON. JOHN THUNE TO PETER J. PANTUSO

Question. Many rural communities rely on bus service as their only means of intercity transportation, and there are more than 8 times as many communities served by bus than air in the United States. What is the bus industry doing to ensure that rural Americans continue to have access to bus service?

Answer. ABA strongly supports the so-called 5311(f) program (49 U.S.C. 5311(f)) which provides money to States to improve rural transportation service. In some states private bus operators are granted money by the states to extend their services to more rural areas in the states. Jefferson Lines, an ABA member company, has a long and good history of working with South Dakota to bring more service to the state. ABA has called for an increased percentage allocation in 5311(f) funding in the coming transportation reauthorization bill. ABA also supports making permanent the Federal Transit Administration's (FTA) private match pilot program. This program allows states to expand section 5311(f) projects to include local match provided by the cost of the unsubsidized intercity bus service that connects with the subsidized service. This increases the percentage of the net cost of the subsidized service that section 5311(f) funds can subsidize from 50 percent to 100 percent of the operational loss and requires collaboration and connection for services using the private match process. This program is also a great example of flexible spending in that if states certify through a consultation process that they have no unmet rural transportation needs the 5311(f) funds may be used for other projects.

Finally, In order to reconnect rural communities that have been isolated from the broader transportation network with the contraction of EAS, ABA supports the be-

ginning of an Essential Bus Service pilot program within U.S. Department of Transportation as a supplement to the very expensive Essential Air Service. In an EBS private operators would be empowered to create connections between non-urbanized areas and hub airports. It would also allow operators to make stops at intermediate points to expand the accessibility of the traveling public to the transportation network.

Thank you for this opportunity. ABA looks forward to continuing to work with you to enhance the safety of motorcoach passengers, employees and increase the transportation options available to the traveling public.

RESPONSE TO WRITTEN QUESTIONS SUBMITTED BY HON. KAY BAILEY HUTCHISON TO JOAN CLAYBROOK

Question 1. Is there one single safety improvement that you would recommend above all others to improve the safety of bus occupants?

Answer. There is no single safety improvement that will ensure passenger safety on motorcoaches in a crash. While seat belts are obviously necessary, seat belts alone will not be enough to protect passengers in a crash. There is no silver bullet that will prevent crashes and protect bus occupants. That is why I support the comprehensive approach to improve safety taken by the Motorcoach Enhanced Safety Act. In order to prevent crashes, safety improvements are needed to make sure that drivers are highly qualified and able to operate motorcoaches safely, that states have competent maintenance and inspection programs to catch safety problems, and that new motorcoaches are built with safety technologies that can help avoid a crash. When a crash does occur, motorcoaches need to be designed to protect the passenger compartment and roof from collapse in a rollover crash or collision with highway bridge abutments, roadside appurtenances and obstacles, as well as impacts with other vehicles. Improved structural integrity can provide a margin of safety from interior injuries for both belted and unbelted occupants, and motorcoaches can be equipped with modern systems that suppress fires, protect against smoke inhalation and allow for quick passenger evacuation.

Question 2. With respect to DOT's implementation of the Motorcoach Safety Action Plan, I've noted that they are behind in several key areas, including stability control systems, roof crush standards, and minimum knowledge requirements for operators. How will DOT keep on track with implementing the Motorcoach Safety Action Plan?

Answer. Unfortunately, the DOT has already fallen behind in executing some of the key items in the Motorcoach Safety Action Plan. This is regrettable, but such delays will only become longer and more pronounced as the issues covered by the Action Plan become more technical. As important, many safety items in the DOT Action Plan have no specific deadlines. Public safety on motorcoaches should not be left to the mercy of bureaucratic procedures or subject to delays due to other priorities. That is why a clear mandate from Congress with specific deadlines are necessary to keep DOT on track and to ensure that motorcoach safety does not take a back seat within DOT.

Question 3. The bus industry has expressed concerns over their estimated costs of the safety improvements that could be required under this legislation, depending on what is actually required after the Secretary completes the directed studies on each safety provision (industry estimates costs at $89,000 per bus). Do you have any specific information that leads you to believe the industry estimated costs are inflated? Which safety improvements did you analyze? To what degree has the industry inflated the costs? How did the Advocates derive their lower figures?

Answer. Information that debunks the exaggerated cost claims of the bus industry are included in the Supplemental Statement I submitted to the committee at the hearing. Advocates' staff directly contacted motorcoach manufacturers and suppliers to obtain cost information and estimates on specific safety features and equipment. Other information was gathered from public sources including advertising and DOT agency reports. Advocates for Highway and Auto Safety looked at the industry cost claims for a range of safety features including electronic stability control (ESC), advanced glazing, electronic on-board recorders, fire protection equipment and fire suppression systems. Industry claims for these safety features were at least double and in some cases 4 to 5 times the cost quoted by the people who build motorcoaches. In one case, the industry cost figure cited is 22 times the actual cost we were quoted by a motorcoach supplier for comparable protection.

Our figures show that the cost for upgrading safety on new motorcoaches is only a fraction of the $89,000 cost claimed by industry and amounts to about 10 cents a ride for the average motorcoach.

The industry cost figures are highly inflated for four reasons. First, this is a tactic used to scare Congress away from taking action that would improve public safety. The industry has an interest in getting people to believe that the cost burden is tremendous in order to stave off action. Second, the industry is prohibited by antitrust law from sharing actual cost information among its members that participate in a trade association. Since they are not allowed to share and discuss pricing and cost data, they cannot obtain cost information from bus manufacturers and suppliers and thus are relying on inaccurate information from less dependable sources. Third, since regulations requiring specific performance requirements or equipment have not yet been issued, there is no way the industry can accurately predict what the regulations will require and what the actual cost will be. Finally, the industry does not take into account cost reductions and savings that come with mass production and improvements in design. The cost of any item is reduced, sometimes by an order of magnitude, when efficiencies of scale are introduced during mass production. Industry has not taken this factor into account in its cost figures.

Hon. FRANK R. LAUTENBERG,
Chairman,
Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security,
U.S. Senate Committee on Commerce, Science, and Transportation,
Washington, DC.

Re: Hearing on "Ensuring the Safety of our Nation's Motorcoach Passengers"

Dear Mr. Chairman:

Thank you for allowing the American Bus Association to submit for the record of the hearing held on Wednesday, March 30, 2011 this explanation of the costs associated with implementing the mandates contained in S. 453, the "Motorcoach Enhanced Safety Act of 2011" introduced by Senators Brown and Hutchison.

S. 453 contains some eighteen safety mandates which the bill requires be implemented between one and three years after enactment. The implementation of these mandates will cost hundreds of millions of dollars while the bill does not allow any time for testing or integrated implementation for many of these mandates. Thus, the cost of increasing the roof strength of motorcoaches could be increased many times if after requiring increased roof strength, the NHTSA required motorcoaches to undertake advanced window glazing which could require bus companies to rip off the roofs of buses in order to implement a window glazing mandate. Given the number of mandates S. 453 requires, this circumstance could be repeated many times.

The number of mandates to be implemented alone will cost many hundreds of millions of dollars to retrofit the 32,000 motorcoaches in the motorcoach fleet. Industry sources estimate that for a large carrier implementation of all 18 mandates would cost upwards of $60,000 per motorcoach. ABA members insist that for smaller carriers the prices for implementation would be higher as smaller carriers would not be able to command a volume discount for implementation that the largest carriers could demand. Moreover, the costs of implementation would be built into the cost of new motorcoaches, thus any suggestion that bus operators could pay for these mandates over time is ludicrous.

Equally wrong is the notion that as these mandates are implemented the prices for these mandates will decrease. Only 1,200 motorcoaches are built for the United States market each year from all sources and there is only one domestic motorcoach manufacturer. This limited volume in total sales will diminish the economies of scale that advocates tend to point to as a primary driver to reduce costs. One cannot simply draw parallels in implementation to the auto industry as the overall vehicle production in the motorcoach industry is de minimis. Additionally, the timelines in S. 453 require immediate implementation which will disproportionally hurt the majority of small businesses that make up the motorcoach industry. With 80 percent of the industry owning 10 or fewer vehicles the vast majority of new vehicle production will flow to the small number of larger companies that have the capital to invest in new coaches. The strain placed on the supply chain and the lack of a down market for used buses will force many companies out of business.

Finally, may I point out that NHTSA, the agency that will oversee the development and implementation of these mandates, notes that retrofitting motorcoaches with seat belts alone, only one of the 18 mandates in S. 453, would cost up to $40,000 per motorcoach (see 75 Fed. Reg. 50958, 50979).

Thank you for this opportunity to supplement the record. ABA looks forward to continuing to work with you to ensure safety for the Nation's 32,000 motorcoaches and the bus industry's 750 million passengers.

Sincerely,

PETER J. PANTUSO,
President and CEO,
American Bus Association.

April 2011

LETTER "CLARIFICATION REGARDING SEAT BELTS USE RATES ON MOTORCOACHES" FROM ADVOCATES FOR HIGHWAY AND AUTO SAFETY

During the question and answer period of the hearing on motorcoach safety before the Subcommittee, Senator Tom Udall (D–NM) asked a question regarding seatbelt use in motorcoaches. In his response, the Deputy Administrator of the National Highway Traffic Safety Administration (NHTSA), Ronald Medford, stated that "about 20 percent of bus riders use the belts." Mr. Medford followed up his response by stating that the 20 percent figure was from Australia where "they just surveyed the use in Australia and found that it was low." Advocates for Highway and Auto Safety (Advocates) would like to clarify the record on this point and submit information that indicates that Mr. Medford's response was inaccurate and omitted important, pertinent facts.

The Australian Study Was Not Really a "Study"

To begin, the work from which Mr. Medford draws his figures was not a scientific study but rather a review of existing information on the Australian experience with "three point seat belts on coaches."[1] Not only did the author of the review not conduct any research, but he clearly stated that "no objective scientific observational studies have been conducted of seat belt wearing rates on coaches in Australia."[2]

There Is Currently No Verified Belt Use Rate On Motorcoaches in Australia

The review article makes clear that there has not been any objective study of motorcoach belt use rates in Australia. In fact, the only documented report cited in the article indicates that the use rate in one investigated fatal bus crash yielded a belt use rate of 90 percent.[3] The lower estimate of 20 percent belt use in motorcoaches cited by Mr. Medford comes from "(unpublished) Police anecdotal records."[4] Thus, Mr. Medford was citing unverified information that is not accepted as credible and valid. While this unverified figure of 20 percent is mentioned in the Australian review article, the authors of the review specifically state that of the 52 occupants of one bus crash, only 5 were injured (2 fatally injured); all 5 injured occupants were unrestrained.[5] That also means that all the restrained occupants were uninjured. Mr. Medford neglected to mention this in his testimony. The authors also stated that, in Australia, "[s]ince 1994 there have been several serious bus crashes but no seat belt wearing occupant has been reported as receiving fatal or disabling injuries in any of these crashes."[6] Again, this important fact was not addressed by Mr. Medford in his response to Senator Udall's question.

Proposed Rule Shows Even with Low Use Rates Seat Belts are Effective

Finally, NHTSA itself, in the Preliminary Regulatory Impact Analysis (PRIA) conducted as part of the rulemaking process for NHTSA's proposed rule to require seatbelts in motorcoaches, indicated that a belt use rate of only 24 percent in motorcoaches would make the rule cost effective.[7] Yet another fact that Mr. Medford failed to mention in his response.

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[1] Griffiths, M., Paine, M., Moore, R., *Three Point Seat Belts On Coaches—The First Decade In Australia*, 2005.
[2] *Id* at 5.
[3] *Id.*
[4] *Id.*
[5] *Id.* at 3.
[6] *Id.*
[7] Preliminary Regulatory Impact Analysis: FMVSS No. 208 Motorcoach Seatbelts, NHTSA, August 2010, NHTSA–2010–0112–0006.1, page 78.