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FIRST TRANSIT RAIL
ADVISORY COMMITTEE for SAFETY
(TRACS) MEETING
U.S. DEPARTMENT OF TRANSPORTATION

THURSDAY, SEPTEMBER 9, 2010
9:00 -- 5:00 p.m.

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FIRST TRANSIT RAIL
ADVISORY COMMITTEE for SAFETY
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U.S. DEPARTMENT OF TRANSPORTATION

THURSDAY, SEPTEMBER 9, 2010
THE RENAISSANCE WASHINGTON, D C
DOWNTOWN HOTEL
999 NINTH STREET N W
WASHINGTON, D C 20001

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P-R-O-C-E-E-D-I-N-G-S

MR. FLANIGON: Let's go around the table briefly with the committee, starting with Mr. Pearson to just do self-introductions. If you could just state your name and your position and the organization that you are with.

MR. PEARSON: I'm Alvin Pearson. I'm the assistant general of operations for the Memphis Area Transit Authority in Memphis, Tennessee.

MR. DOUGHERTY: Good morning, Jim Dougherty, chief safety officer, Washington Metropolitan Transit Authority, WMATA, Metro here in Washington, D.C.

MS. McCOMBE: Good morning. My name is Pamela McCombe, and I'm the director of safety for the Greater Cleveland Regional Transit Authority.

MR. CHENG: Good morning. My name is Eric Cheng from Utah Department of Transportation, (inaudible).

MR. CLARK: Good morning. I'm Richard

1 Clark, the director of Consumer Protection and
2 Safety at the California Public Utilities
3 Commission.

4 MR. KRISAK: Rich Krisak, I'm with
5 MARTA. I'm the HM of rail operations and
6 development.

7 MS. GREGORY: Georgetta Gregory. I'm
8 with MARTA also as the HM of safety and quality
9 assurance.

10 MR. HARTBERG: Henry Hartberg, senior
11 manager operations safety for Dallas Area Rapid
12 Transit.

13 MR. HARDY: Len Hardy with the
14 San Francisco Bay Area Rapid Transit District.

15 MS. BRIDGES: Bernadette Bridges,
16 director of safety for the Maryland Transit
17 Administration.

18 MR. PRENDERGAST: Tom Prendergast,
19 president of the New York Transit, sitting in for
20 Linda Kleinbaum from the Metropolitan
21 Transportation Authority.

1 MR. INCLIMA: Good morning. Rick
2 Inclima director of safety, Brotherhood of
3 Maintenance of Way Employes division of the
4 Teamsters Rail Conference.

5 MR. SOUTHWORTH: Jim Southworth, chief
6 of the railroad division, National Transportation
7 Safety Board.

8 MS. KOVALAN: Amy Kovalan, the chief
9 safety and security officer at the Chicago Transit
10 Authority.

11 MS. JETER: Jackie Jeter, president of
12 the ATU Local 689 here in Washington D.C.

13 MR. WATT: Ed Watt, director of health
14 and safety, Transport Workers Union.

15 MR. BATES: Good morning, William Bates,
16 United Transportation Union, District of Columbia,
17 legislative director.

18 MR. GENOVA: Good morning, David Genova.
19 I'm the assistant general manager of safety and
20 security for a regional transportation district in
21 Denver.

1 MS. DAVIDSON: Good morning. I'm Diane
2 Davidson, Oakridge National Laboratory. I'm the
3 director of the Center for Transportation
4 Analysis.

5 MR. GRIZARD: Good morning, everyone,
6 Bill Grizard. I'm the director of safety for
7 American Public Transportation Association.

8 MR. FLANIGON: Thanks very much. We
9 have really assembled an impressive group, and we
10 want to thank you for being here with us today.

11 Now John Porcari, Deputy Secretary of
12 Transportation would like to make a few opening
13 remarks.

14 MR. PORCARI: Thank you. First of all,
15 on behalf of Secretary LaHood, who will be here
16 momentarily, and Administrator Peter Rogoff,
17 thanks for doing this. This is really important.

18 At the Department of Transportation, we
19 say safety is our top priority. That is just not
20 a slogan. One of the first actions that Secretary
21 LaHood took after coming in as Secretary was to

1 set up an intermodal safety council that included
2 the chief safety officers and the modal
3 administrators from the entire Department, all 10
4 modes.

5 That was a way that we could work on a
6 common safety agenda to make sure our research,
7 our data gathering and our regulatory activities
8 were all geared towards some of the most important
9 safety issues that we have. And clearly across
10 the mode, whether you are in a cockpit or you are
11 an operator of a transit vehicle or driving your
12 car, things like distraction and fatigue are
13 crosscutting issues. They are very important. So
14 the safety council was set up to do exactly that.

15 The first official action that the
16 safety council took, actually, was to endorse this
17 transit safety legislation that is currently
18 pending before the Congress. I think from my
19 perspective, it is a unique historical oversight
20 that the Federal Transit Administration is
21 explicitly prohibited from having the kind of

1 active safety role that I think would serve the
2 industry and our transit properties as well.

3 We seek to correct that. You will hear
4 from Secretary LaHood that he feels very
5 passionately about this. And that going forward
6 in a partnership with TRACS right in the center of
7 this effort, we aim to take an already very safe
8 transportation mode and make it as safe as
9 possible.

10 One of the confidence building measures
11 that we can have to build ridership and to make
12 transit a true transportation term in the future
13 is to make these very visible, very specific, very
14 concrete gains in safety. We can't do that
15 without the kind of input that TRACS will give us.

16 And, so, going forward after the kick
17 off today, we ask for your active participation in
18 the group, we would -- we are looking for your
19 very specific feedback as part of it. And as you
20 are interacting with the colleagues throughout the
21 industry, we need to make sure that you are

1 bringing forward the viewpoints of the industry.
2 What I can guarantee you is that the transit
3 safety input that you provide will be go directly
4 to the Administrator, myself and the Secretary as
5 something we take very seriously, and the goal is
6 nothing less than to make our transit operations
7 in the United States the safest in the world.

8 And one of the interesting sidelights
9 that we found through this process is that there
10 is not very good data throughout the world on
11 transit safety. The data gathering part of it
12 will be an important part of our activities.

13 So, with that as an introduction and
14 with impeccable timing is Secretary LaHood and
15 Administrator Rogoff are here this morning. And
16 let me introduce first Administrator Peter Rogoff
17 to introduce the Secretary. Peter.

18 (Applause)

19 MR. ROGOFF: Good morning. I thank
20 everybody. I'm going to introduce the Secretary,
21 and the Secretary will make some remarks, and I

1 will make follow-up remarks.

2 Let me first thank you all for being
3 here, thank you all for volunteering to provide
4 your expertise and your service to this important
5 advisory committee. We are very pleased this
6 morning to have as an opportunity to kick off the
7 inaugural meeting of TRACS with Secretary Ray
8 LaHood.

9 I can tell you in the 21 years of
10 dealing with federal transportation policies, we
11 have had a great many secretaries who have said
12 that safety is their number one priority. We now
13 have one that truly lives and breaths it every day
14 in every question that comes before us in any
15 mode, and his presence here is indicative of the
16 leadership that he has brought to this issue, and
17 the importance that he personally attaches to it.
18 And that that importance and that message is fused
19 down to each of the modes and each of the
20 employees working in the modes.

21 Secretary LaHood has been nothing but

1 supportive of the overall transit industry, the
2 overall drive of the President to use public
3 transportation as an opportunity to improve the
4 liveability of Americans, to improve the air we
5 breath, to improve the environment that we leave
6 to our kids, to improve mobility and relieve
7 congestion. And I personally want to thank him
8 for the leadership that he has brought not just to
9 public transportation in general, but also to his
10 public transportation safety challenge that we
11 have taken on so vigorously under his leadership.

12 So, with that, I will just say thank you
13 once again and ask you to welcome Ray LaHood.

14 (Applause.)

15 SECRETARY LaHOOD: Thank you all for
16 coming to Washington and participating in this
17 meeting. I think all of you know that over the
18 last 18 months that we have had this job, we have
19 promoted safety. It is our number one priority.
20 It is not just words that we say. We have
21 conducted ourselves, I think, in a way that has

1 shown that safety really is our priority.

2 After the terrible crash in Buffalo,
3 New York, Randy Babbitt, our FAA Administrator,
4 took it upon himself to travel the country and
5 hold 12 safety summits. We have a very strong
6 enforcement, what we call rule pending now at OMB
7 to try and deal with some of the safety concerns
8 that were expressed by the NTSB and others as a
9 result of that crash. After the WMATA crash here
10 in Washington. It sparked our interest in
11 wondering why we had not played more of a role in
12 safety when it came to WMATA and other transit
13 organizations. And for me personally discovered
14 that the law prohibits us from doing that. You
15 know, how insane is that to think that the agency
16 that has some responsibility for transit all over
17 the country has no responsibility for the safety
18 of the people that ride the trains and buses?

19 So we think what you all are doing is
20 absolutely critical to our mission, our safety
21 mission. And I was more than stunned when I had

1 the privilege of sitting up on the dais, I guess,
2 or the platform on the day that President Obama
3 was sworn in and saw 2 million people. I had been
4 to other inaugurations, but I never been to one
5 where 2 million people showed up.

6 But most extraordinary for me is that
7 all of those people were delivered around
8 America's city by America's transit, WMATA. And
9 people who work for WMATA have to be very proud of
10 what they did to deliver all of those people, all
11 over this region, during that 2- or 3-day
12 celebration.

13 And I think about that and then I think
14 about what you all do in your own opportunities to
15 deliver people. The one thing that people want
16 from their bus system, their light rail system,
17 their streetcar system, their transit system is to
18 make sure when they get on it that they are safe.
19 You know that.

20 I mean, that is the one thing people
21 take for granted when people board an airplane,

1 when they get on a bus, when they get in a car.
2 The one thing that they want is that it will be
3 safe, that the equipment is the right equipment,
4 that it is equipment that is safe, and that people
5 are driving these machines and modes of
6 transportation are well trained.

7 And, so, everything that we have done
8 for the last 18 months, whether it is trains,
9 planes or automobiles, has revolved around safety.
10 In a few weeks we are going to have a second
11 distracted driving summit. And we are on a
12 rampage about the idea that distracted driving is
13 a real epidemic in America.

14 The reason it is an epidemic is because
15 about every American, just about 100 percent have
16 cell phones. And anybody who has had a cell phone
17 and has a driver's license, has used their cell
18 phone while driving, you cannot drive safely and
19 use a cell phone, you cannot drive safely and
20 text, you cannot drive a train safely while you
21 are texting or an airplane.

1 You saw what happened to those two
2 pilots who overshot Minneapolis because supposedly
3 they were on the computer. You have seen what
4 happened in other areas of the country where train
5 drivers think they can drive a train safely or a
6 bus safely and text and drive, you can't do it.
7 So, we are going to continue that.

8 The one thing that is very important to
9 us is that Congress passes safety legislation.
10 Peter has done a great job on this. Peter Rogoff.
11 And I think those of you who now have worked with
12 Peter know he has really done a great job as our
13 Administrator. He really has. He is very serious
14 about this job. Right after the WMATA crash, he
15 and I talked about the idea that we didn't have
16 the responsibility for safety. And so Peter and
17 his staff, along with some staff that he was
18 acquainted with on Capitol Hill, put together, we
19 think, a very good safety bill, safety transit
20 bill.

21 And because of the good relationships

1 that Peter has on the Senate side, Senator Dodd
2 voted out of his committee on a voice vote our
3 transit safety bill. So now today we are sending
4 a letter to the leadership of the Senate, Senator
5 Reid and Senator McConnell, asking to consider
6 that bill on the Senate floor. We think it is
7 important.

8 If they do that before they break for
9 the election, it will send a very clear message
10 that we are serious about this, and that Congress
11 is serious about it, and that we take seriously
12 the responsibility that people have to get around
13 safely. So, we are going -- we are going to press
14 the Senate very hard on this and see if we can see
15 if we can get this done.

16 If we get it done, we have a commitment
17 from the House leadership to get it done in the
18 House, too. I mean, frankly, we would like to see
19 this bill signed by President Obama within the
20 next few days, few weeks before Congress leaves
21 for the election. Whether that is possible or not

1 time will tell.

2 So, thank you for what you all do for
3 the American people, for people that want to ride
4 buses or trains or light rail or whatever, and we
5 are grateful to you for serving -- for the advice
6 that you will give us and for the help that you
7 will give us in our work to make public
8 transportation the safest that it can be.

9 And Peter said I should maybe see if any
10 of you have any questions or comments you want to
11 ask either of us or John, too. So anybody have
12 anything you would like to say, any questions?

13 Well, no questions about, is there more
14 money can we get more operating funds?

15 (Laughter.)

16 MR. PEARSON: Funding is a question.
17 But understanding the crises that we are in as far
18 as the country itself, one of the key factors that
19 we face every day as far as enforcing safety would
20 be getting top officials to understand that it is
21 not a federal mandate but it is a mandate of

1 operation in general.

2 And to change that, funding would be of
3 help, but also education and dedication from the
4 regional levels. In the state of Tennessee, I
5 feel that the state SSO person knows more about
6 safety than the actual FTA people in Atlanta,
7 Georgia.

8 Now, after talking with them, they are
9 going to attend the SSO meeting that is going to
10 be held in Memphis, and it is a little difficult
11 at times that you try to enforce issues and you
12 don't have support from the top.

13 SECRETARY LaHOOD: I think you make a
14 good point, and part of it is -- and I will let
15 Peter comment on this, too -- I think part of it
16 is the law says that we cannot be involved in
17 this. And, so, I think there has probably been a
18 mind-set, I suspect, at the FTA and at DOT that
19 since the law inhibits us from doing this, that we
20 have not really pressed our people to do it.

21 But I think our people know now, coming

1 from me and Peter and others, that safety is a big
2 concern and a priority. And I think if people
3 look at the legislation that we have crafted with
4 our friends on Capitol Hill, you will see that we
5 are serious about this. But I think there has
6 been sort of a mind-set over time, because the law
7 has not allowed us to do this.

8 MR. ROGOFF: Well, the thing I want to
9 add, I think importantly, I hear what you are
10 saying. And precisely because the FTA has not
11 been in the safety business, we have a very good
12 safety team but a very lean and very small safety
13 team within the FTA.

14 Obviously -- and I have had a number of
15 conversations with Bill Millar (phonetic) about
16 this, too, our challenge is to raise everybody's
17 game, and that includes the FTA's game. Right
18 now, you are right, we do not have safety
19 designated experts in our regions. That is true
20 in Region 4 in Atlanta as well as Region 5 in
21 Chicago.

1 But our goal, as we stand up in the
2 regime and as we take the guidance of this group,
3 is to build our resources within the FTA to bring
4 that expertise on, and also to build the resources
5 within the state partners and help fund those
6 state partners in a way we have not in the past,
7 so they can do a better job. And I am talking
8 specifically about the SSOs. And importantly and
9 Bill Millar has been very articulate about this,
10 and I think he's right, although it is not
11 necessarily a cornerstone of our legislation, we
12 need to commit some resources to raising the level
13 of expertise and attention of the operators
14 themselves.

15 It cannot just be about regulations and
16 enforcement. It needs to be able to, especially
17 with the retiring work force, where we -- the work
18 force that is retiring in increasing numbers that
19 we have the ability and the transit operator
20 themselves have the ability to raise their game
21 with everybody else. But in the end, they are the

1 ones transporting the passengers. They are the
2 ones charged with protecting the workers. That is
3 where the rubber meets the road, and that is where
4 we need to put our efforts.

5 MR. PEARSON: Well, one of the key
6 points that we are trying to make in our operation
7 is that it is no such thing as an unfunded mandate
8 when it comes to safety. So, we are just trying
9 to work on taking the funds from whatever
10 resources we have to make sure that we not only
11 say safety is first, but we mean that safety is
12 first.

13 SECRETARY LaHOOD: That is a very good
14 thing to say. I like that, that safety really is
15 so important that, you know, we just -- and we
16 know that you all get it. And we are trying to
17 get it, too. And we are trying to get Congress to
18 give us some pretty big responsibilities here that
19 we have not had.

20 We have had it in the rail business. We
21 certainly have had it in the airline business.

1 And we have had it in the automobile industry side
2 of things when we give certain ratings to
3 automobiles for safety and put that out there for
4 people to see. So it seems logical to us, but we,
5 the value of this meeting is to learn from all of
6 you, who do take safety as a number one priority.

7 Yes, sir.

8 MR. SUNWALT: I'm glad you mentioned
9 the automobile industry, because it brings a
10 metaphor to the point that I want to make. You
11 know, many, many years ago, the automobile
12 industry fought the air bag and seat belt lobby.
13 And today they claim it and it makes money for
14 them, because they have not only front air bags
15 but side air bags, and they will have top and
16 bottom air bags or whatever would be safer.

17 Many consensus-driven groups, like I
18 hope this one becomes, deal with minimum
19 standards. And until safety equals money, as in
20 the mentioned example, you are not going to have
21 safety. So perhaps the challenge here is how do

1 you incentivize rail transit providers to go
2 above? And since you do have the purse strings
3 and there is reauthorization pending, perhaps you
4 can ingrain that incentive.

5 SECRETARY LaHOOD: Well, look at the
6 WMATA crash occurred, and it was reported that
7 they were going to look to us to help them find
8 some money to replace aging infrastructure,
9 namely, their cars. You know, one of the things
10 that we decided very quickly was, give us the
11 safety plan first, and then we will figure out how
12 much money it takes to implement the safety plan.

13 The money should not come first. Safety
14 should come first. I take your point on this. It
15 is a good point, but we want to make sure that
16 safety is the number one priority, and then if we
17 can incentivize that some way we will, obviously
18 have a role to play why that also.

19 MR. ROGOFF: Let me make two quick
20 points on that. What I think about your remarks
21 is two things: One, safety is a very high

1 priority. It is one of the few articulated
2 priority goals of this administration as put out
3 by the Secretary's strategic plan.

4 State of good repair is another. And if
5 you look at FTA's budget for 2011 currently being
6 debated in Congress, we have observed the largest
7 formula increase that we have under a fairly new
8 budget strictly for state of good repair
9 investments. And I think you are going to
10 continue to see either budgets coming out of this
11 administration a priority on state of good repair
12 funding.

13 In fact, in the announcement that the
14 President made on Monday, as you look through the
15 fact sheet in which he describes the transit
16 element of the \$50 billion infusion that he wants
17 to jump-start authorization with, state of good
18 repair of the systems is specifically called out.

19 So, we recognize the linkage between
20 state of good repair -- our state of good repair
21 goal and our safety goal. The only thing I would

1 add, because I think it is important, you happen
2 to mention air bags. One of the little known
3 things about the evolution of air bags is, as you
4 know, Chrysler was the first vehicle, the first
5 manufacturer to put an air bag in its minivan.
6 Mr. Iacocca at the time actually was vociferously
7 fighting having air bags put in Chrysler vehicles.

8 The reason why Chrysler was the first
9 manufacturer to put an air bag in its minivan was
10 they discovered very late in the development of
11 that model that they were going to fail the
12 federal standard for frontal crash protection.
13 The only way they could provide the test dummy
14 with enough crash protection was to rapidly put
15 air bag in the vehicle, and that is how they
16 passed the federal test.

17 The reason I raised that is to point out
18 what the role of a minimum federal standard is.
19 It is important and it has ramifications well
20 beyond that, because that has, as you pointed out
21 correctly, started a whole impact where some of

1 the manufacturers were competing against each
2 other as to who could get an air bag in their
3 vehicle faster.

4 SECRETARY LaHOOD: Anybody else?

5 Yes, sir. Anybody.

6 MR. CLARK: Yes, Mr. Secretary.

7 Peter, nice to see you again.

8 I'm Rich Clark with the California
9 Public Utilities Commission. We are incredibly
10 supportive of what you-all are doing in the
11 legislative. It is such a wonderful step forward.

12 I'm very happy to hear from you, Peter,
13 about the money and that the President was talking
14 about that is going for state of good repair
15 issues. That is just absolutely critical. We
16 have some of the oldest in the nation of transit
17 systems that really need this sort of money.

18 Our only concern with the legislation at
19 this point is that the state preemption issue
20 seems to have become stronger in the legislation,
21 as it has come out such that where we are very

1 concern, we would very much like to have
2 concurrent jurisdiction with you folks over
3 safety. We feel like we are collaborators. We
4 think we have done a very good job in California.
5 And we are very concerned about the preemption
6 language that is in the bill currently. So, if we
7 would have the opportunity to talk about that
8 somewhat, I would greatly appreciate it.

9 MR. ROGOFF: What I would put out on
10 that is the Administration is building up for its
11 preemption, as you know, the Senate bill does. We
12 will continue to have a dialogue with them about
13 that, as we will with the House.

14 What we think is most important now is
15 that having had a successful markup in the banking
16 committee, that the legislation move forward
17 through its hurdle, and we are going to continue
18 to have a dialogue both with the banking and the
19 transportation infrastructure committee to
20 obviously capture the essence of the
21 Administration's original proposal. So, we are

1 happy to --

2 SECRETARY LaHOOD: The value of what we
3 are doing here this morning and the remainder of
4 the day and tomorrow morning is, you know,
5 collaborating with all of you, you know, so we get
6 it right.

7 Well, I think I am going to scoot out of
8 here and Peter is going to continue to march
9 forward with all of you. But again, thank you to
10 all of you, each one of you for participating and
11 being a part of this and being helpful to us. And
12 we really consider you full partners in what we
13 are doing at DOT, and I hope you feel the same
14 way. And if you don't, I'm sure you will tell
15 Peter that. Have a good meeting. Thank you.

16 (Applause.)

17 MR. ROGOFF: Before he runs out, I also
18 want to thank the Deputy Secretary for joining us
19 here this morning. I think it is important to
20 point out that the whole evolution of our transit
21 rail safety initiative started with the task force

1 that the Secretary charged the Deputy Secretary
2 with chairing.

3 It involved contributions from all of
4 the other modal administration with DOT. There
5 were a great many really robust and helpful
6 contributors to that. One of those is here, Jo
7 Strang, chief safety officer to the FRA. We had
8 contributions from many other entities.

9 It also was -- when we came forward with
10 a rail transit safety proposal for the FTA, it was
11 the first -- the first opportunity for the
12 Secretary's new safety council -- there was a
13 multi-modal DOT safety council some years past.
14 It has been revised and resuscitated by Secretary
15 LaHood. And reviewing and giving comments on our
16 rail transit safety bill was one of the first
17 things that the Secretary's Safety Council has
18 done. And we have taken a great many additional
19 steps since.

20 I just have a few things I want to add
21 by way of introduction on this important meeting.

1 One, is to really congratulate all of you and
2 thank you again for your willingness to serve on
3 this important group. You were selected out of
4 among 80 nominees. You were selected because of
5 the diversity and the experience -- your
6 experience that you bring to this charge. Also
7 the diversity of trying to get folks from
8 different parts of the country and different types
9 of transit operations and different steps in the
10 transit safety process.

11 But importantly, I want to point out
12 while your professional affiliation was a factor
13 in who we selected so we could achieve that
14 diversity, each of you is appointed as an
15 individual. We are asking you to bring us your
16 personal safety expertise and bring it to bear on
17 the specific safety challenges we face.

18 What we would like to avoid is having
19 people lapse into needing to be the official
20 mouthpiece of their employer on these questions.
21 If that is what we fall into, then I don't think

1 that we are going to necessarily succeed in
2 getting consensus on a great many issues.

3 Just an example of how that is, the case
4 of Georgetta. So, when we first accepted
5 Georgetta's nomination to be on the advisory
6 committee, she was working for the CPUC. By the
7 time we had our first meeting, she is working for
8 MARTA, I believe now. But she is staying on the
9 advisory committee, as is all of you, if you
10 change professional position during your term,
11 because again, we will be appointing you to bring
12 your expertise to this challenge, not just to wave
13 the flag of your employer.

14 Other things I would like to point out
15 and remind people of is sometimes when we talk
16 about the urgency of transit safety legislation,
17 we forget the fact that rail transit safety as a
18 mode is still and remains a very safe mode. We
19 transport eight times as many passengers as does
20 the commuter and freight railroads -- excuse me --
21 commuter railroads and Amtrak every day. But

1 those agencies, as you know, are under FRA's
2 rather robust safety regime. This is one of the
3 distinctions that we are trying to work through.

4 I have said repeatedly that the
5 Administration's goal is not to create the FRA
6 rule book for rail transit agencies. Not only do
7 we not think it would be value added, but
8 importantly, there are some very real distinctions
9 between rail transit agencies and the similarities
10 that you find among commuter rail and Amtrak.

11 Our challenge is to try to develop
12 minimum standards and safety systems that allow
13 each of the individual rail transit agencies to
14 both be cognizant of and then address their each
15 individual safety vulnerabilities, and those
16 vulnerabilities can differ and will different
17 agency to agency.

18 It is while transit rail safety is a
19 very safe mode, we do need to be attentive to the
20 fact that our employees, especially experienced
21 employees are retiring in increasing numbers. We

1 need to be attentive to the fact that our systems
2 are aging, and some of the more modern systems are
3 showing themselves not to be as reliable and
4 durable as originally thought when they were first
5 installed.

6 And we also need to be cognizant of the
7 fact that some of the systems are becoming more
8 complex, and we need to have a work force that is
9 fully trained and able to handle that complexity.

10 One of the things I would like to talk
11 about very briefly -- it really it's just a plea,
12 if you will, and that is to stay focused not just
13 on the passengers, but the safety of transit
14 workers. We owe a very important obligation to
15 the workers of the transit agencies that come to
16 work who are committed to delivering the
17 passengers safely every day.

18 They are also the ones that are most at
19 risk. And we have agencies that have a very
20 strong safety performance in one area and not in
21 the other, and we are determined to address both

1 simultaneously.

2 One of the things I would add, you know,
3 when the original prohibition was put into law in
4 1965 that prohibited the FTA from regulating the
5 area of transit safety, rail transit in America
6 was a very, very different thing. In 1965 there
7 were transit agencies that were paying tens of
8 million of dollars in federal taxes on their
9 annual profits. We don't have that challenge --
10 which we did, but we don't have that challenge
11 right now.

12 Rail transit was becoming a very
13 different -- different commuting patterns, very
14 different footprint, very different level of
15 complexity, very different funding regimes on how
16 they were financed. This is a completely
17 different day. And we need a rail transit safety
18 regime that addresses the current day.

19 I think importantly, the reason why we
20 have stood up as a advisory committee, why we do
21 not yet have rail transit safety authority is so

1 we can hit the ground running when we get that
2 authority; that we can be in a place where we want
3 to already have done a fair bit of our homework
4 and have a sense of where we are heading. So on
5 the day that that authority is issued, we know
6 where we are going, we have work products in
7 motion.

8 Obviously, we are not going to take any
9 measures in advance of getting that authority that
10 would get us on the wrong side of the law
11 enforcement. But fortunately, we have an Advisory
12 Committee Act that allows this group to do a lot
13 of robust work on where they think we should be
14 heading while we await the President's signature
15 on that bill.

16 So, with that, I'm going to take a step
17 back. If anyone has any other particular
18 questions of me, I'm happy to answer them now.
19 Otherwise, I would like to do away with the podium
20 and sit at the table. I think we are going to
21 take time, go around the room one by one and have

1 each of the advisory committee members give a
2 brief introduction and brief you on how they see
3 our process going forward. Thanks.

4 MR. FLANIGON: Although we did a short
5 introduction around the table on the committee
6 before our leadership got here, I think it would
7 be worthwhile to repeat that for Peter's benefit
8 before he starts having a dialogue with you all
9 about what he is going to be asking you to do.

10 And I wanted to add to the committee, we
11 have, I think the best term is ex officio members
12 present. Peter already mentioned Jo Strang with
13 the Federal Railroad Administration. Another ex
14 officio organization is the NTSB with Jim
15 Southworth.

16 So, if we could do the quick repeat of
17 those self-introductions, along with that added
18 information of where -- what you see as our tasks
19 as we move forward. And we will start again on my
20 left with Mr. Pearson.

21 And for the record, I do have my cell

1 phone turned off.

2 MR. PEARSON: Well, good morning again.
3 I'm Alvin Pearson, the assistant general manager
4 of operations at Memphis Area Transit Authority,
5 MATA. I have been in transportation for now 34
6 years. I have done everything from railroading to
7 senior citizens public transportation to being the
8 state director of public transportation rail and
9 the water.

10 And I think this is a great honor, and I
11 am very well pleased and proud of what
12 Secretary LaHood is trying to do, along with Mike
13 and Administrator Peter Rogoff.

14 I think that one of the things that --
15 one of the first thing I probably bring to the
16 table is honestly and truth. I'm not one to be
17 politically correct at all times, but I try to
18 make sure that what I say I have supporting
19 documentation to support that.

20 There are going to be issues with
21 funding. I think you are going to be able to take

1 care of those issues once we get the format laid.
2 I'm here to participate in laying that format. I
3 think the expertise that I bring to the table
4 would be my affiliations with state governments,
5 my affiliation with other transit entities to
6 express with you the day-to-day crises that we
7 have, as well as my knowledge from starting at the
8 bottom at the railroad working my way up to the
9 top.

10 And if honesty is not what you want, I
11 may not be the person. But I feel that that is
12 part of our problem now, I think that we need to
13 be honest, upfront and have a working agreement to
14 work it out no matter what.

15 So I thank you for this opportunity.

16 MR. DOUGHERTY: Good morning again, Jim
17 Dougherty, chief safety officer at WMATA. I
18 actually pretty recently started that position. I
19 have been in the transit industry, starting in
20 Cleveland, since 1981, so about 29 years. Of the
21 29 years, 26 years in the transit transportation

1 safety.

2 I also hold a position on the board of
3 directors of the National Safety Council and as
4 the vice president of the Transportation Safety
5 Institute. So, I have a lot of interworkings with
6 transit -- well, with safety professionals from
7 all around the world, not only in the transit
8 business. But one of the things we look to bring
9 forward is hopefully, not only the raising of the
10 status of safety, I guess, in the agencies that
11 we work for within the transit business, I should
12 say, but also as far as looking to what we can do
13 to establish some consistency, you know, in
14 regulations.

15 It has been mentioned the minimum
16 regulations, but I'm hoping that we, with the bill
17 passage, that it would establish consistency
18 throughout the country, and the regulations, that
19 will certainly help all of us as we are building
20 our safety programs and continue to build our
21 safety programs, or in my case, we are kind of

1 starting over with some of the safety programs
2 with WMATA and instilling, you know, safety as the
3 primary focus.

4 I would like to certainly say focus to
5 kind of keep the eye on the ball, but we really
6 need to do things safely. State of good repair, I
7 believe, plays into the safety. That helps us
8 with our infrastructure, but we still have
9 training, and I think there is a lot of training
10 we can share in the safety training and the
11 training for consistency that we actually provide
12 in the transportation business.

13 I am looking forward to working with the
14 committee. It is an exciting and honorable
15 opportunity and certainly, I believe, bring the
16 integrity. As Mr. Pearson had mentioned, I think
17 we need to be open.

18 One of the things I had not mentioned, I
19 did also serve 22 years as a sworn police officer
20 in northeast Ohio, along with my transit safety
21 job. So, I kind of have -- that was kind of, I

1 guess, an unfortunate perspective, I guess, if you
2 will, but certainly enjoy that and look forward to
3 working with everyone. Thank you.

4 MR. ROGOFF: Let me point out, Jim's
5 nomination came to -- I think it is on now,
6 thanks -- when he was still in San Francisco. So
7 while I mentioned Georgetta's instance, this is
8 another instance where we bring a professional on
9 board with us, and his challenge -- who has
10 changed jobs and he is still with us. Thanks.

11 MS. McCOMBE: Good morning again. My
12 name is Pamela McCombe. And I have a different
13 background. I'm a professional engineer, and I am
14 Canadian, and I have a Canadian experience to
15 bring to the table. I have been in the U.S. for
16 11 years and have worked for two different transit
17 agencies in the U.S., and I have over 25 years
18 experience in public transportation, particularly
19 transit.

20 I know that we will be looking at
21 different models today, and one of the things that

1 I would like to emphasize is that the regulation
2 has some very good components to it. I feel that
3 one of the main problems is that it is not
4 consistent -- the application of it is not
5 consistent across the country. And I think that
6 that poses problems, and that is where the FTA can
7 step in to ensure that there is consistency from
8 the state safety oversight agencies.

9 You have some agencies that have
10 inspections; some do not; some are simply just
11 pushing the paper, so to speak. That has to
12 change.

13 The other issue is knowledge. Some
14 transit agency oversight agencies have good
15 knowledge; some don't. We have to have a
16 consistent almost accreditation to state safety
17 over state agencies. But that also applies to the
18 agencies themselves.

19 The safety personnel at the agencies
20 also should receive the same type of training and
21 also should be conducting inspections as well and

1 doing detailed audits. So it not only should be
2 at the state oversight level, but it all should be
3 at the agency level.

4 So those are the two main issues. There
5 are other issues with emerging technologies and
6 funding to the agency for the safety groups so
7 that they can test emerging technologies, and
8 where there is training and knowledge required,
9 that there is funding available. Thank you.

10 MR. CHENG: Hello again. My name is
11 Eric Cheng from Utah Department of Transportation.
12 I have been working with Utah for 22 years,
13 previous experience including I was a safety study
14 research engineer for the department and also as a
15 state safety oversight program manager for 10
16 years.

17 It is a great honor to be involved in
18 this committee. And I have some exposure to Asian
19 countries' safety programs. I would like to make
20 a point to this committee that I think I also talk
21 to UTA people, so some of them and me myself

1 believe we should also look at other countries'
2 safety programs and see how they are doing it,
3 especially in Europe. You know, in Europe they
4 have some good systems; Japan, Hong Kong, Taiwan,
5 China. We need to take this opportunity to review
6 their programs and learn from them.

7 Another thing is that, I have been,
8 since my involvement with the safety analysis,
9 although now at (inaudible) transit we have data.
10 We have better safety database, but I feel we
11 don't use that data in our analysis effectively.
12 I think we should use the data to find the
13 problem, identify the problems on the highway
14 side.

15 Of course, you can see (inaudible) most
16 of the research everything is mostly on the
17 highway side. The transit side we have TCRP. But
18 compare the highway side it is very, very minimum.
19 Of course, as we know, transit is a safer system,
20 but I feel we still need that data to improve
21 safety. Thank you.

1 MR. CLARK: Good morning again, Richard
2 Clark with the California Public Utilities
3 Commission, director of consumer protection and
4 safety. I, too, bring a unique perspective. I
5 started out -- safety was ingrained in me very
6 early on as a child. I grew you on a fairly large
7 farm, where we dealt with all of manner of danger
8 and hazard. As a matter of fact, the second most
9 dangerous industry in the United States is
10 farming; first being deep-sea fishing, which is
11 kind of like farming on the ocean, really.

12 In my current position for the last 10
13 years, I have been responsible for electric safety
14 and natural gas safety, communication safety,
15 freight and railroad safety intercity and rail
16 crossing safety. And prior to that, for 26 years,
17 I did labor law enforcement as a investigator for
18 the Labor Commissioner in the state of California
19 and 13 years running my own private investigations
20 agency, where my clients were labor unions, labor
21 unit trust funds, labor management cooperation

1 committees, et cetera.

2 I think that there really are two very
3 important components to improving safety. One, of
4 course, is the fundamental rules that people must
5 comply with in order to operate systems safely.
6 But I think those rules need to be ensconced in a
7 safety culture within an organization where
8 everybody is watching out for themselves and for
9 everyone else, that they are situationally aware
10 and mindful of what their actions are, what the
11 action of others are.

12 And I was very impressed with the
13 reading and preparation of this. I was very
14 thankful for it and impressed by the approach by
15 the Federal Aviation Administration, particularly
16 when it comes to safety culture. And with that, I
17 look forward to the conversations and the learning
18 that will go on here in this TRACS committee. And
19 again, I'm honored to be a member and thank you
20 very much.

21 MR. KRISAK: Good morning again, Rich

1 Krisak with MARTA, HM of rail operations and
2 development. I have been in the rail transit area
3 for 31 years in my career. I started out as a
4 train operator running trains in New Jersey, so I
5 have a very practical knowledge of application of
6 safety and actually doing your job on a daily
7 basis.

8 I have had the opportunity to work the
9 design, planning and development and the starting
10 of the three rail systems. So I have plenty of
11 experience in that area.

12 I guess the major concerns for me and
13 issues -- and I think we heard a couple of them
14 already is number one, a standard level of
15 certification training and knowledge. To call
16 yourself a state safety oversight official what
17 does that mean? And I think the state safety
18 oversight agencies that I have worked for in the
19 states I have been in that is very inconsistent.

20 There isn't a certification process.
21 There isn't a particular body of knowledge to be

1 state safety oversight -- to head up that function
2 for a state. I think that is really a problem
3 that is a deficit. As well as even inside our
4 industry, even with the agencies there is no
5 consistent level of expertise training or
6 knowledge base that I have to have to function in
7 that position.

8 You know, we have given some examples of
9 some material to read about the FAA. And I think
10 one of the differences is you do see there is a
11 certain expectation, a level of knowledge and
12 training for an FAA official based on your level
13 in the organization. We don't really have that in
14 transit. I think that is a real deficit to us.

15 The other thing that I have heard over
16 my career from different federal agency, as a
17 matter of fact, is in terms of design, there are
18 no standards. We don't have any regulations.

19 To a degree I guess I agree with that,
20 but on the other hand, I think there are some
21 standards. Practices that we all pretty much

1 follow, NFPA 130 being one of them, I think those
2 are guidelines most of us follow. The start-ups I
3 have been, we look very closely at California PUC,
4 the general order, which is a pretty good starting
5 point. So we look very closely at that in terms
6 of grade crossing protection, single systems based
7 on speed and operating environments.

8 So, there are standards that are out
9 there. Of course, they are not uniformly applied.
10 So, I think a lot of the body of material and
11 knowledge exist. It probably just needs to be,
12 you know, codified and regulated, because I think
13 a lot of us do that already, and really wouldn't
14 have a problem applying it if we were required to.
15 And, again, I think incentivizing through funding
16 is a big part of it as well.

17 MR. ROGOFF: I want to point something
18 out very quickly, I feel like a school teacher
19 that has to separate the children. But while we
20 do happen to have two representatives from MARTA
21 because Georgetta changed jobs, you really should

1 not be allowed to sit next to one another.

2 (Laughter)

3 MR. ROGOFF: We will fix that next.

4 MS. GREGORY: Well, actually in response
5 to that, I was taking advantage of these 2 days to
6 learn from my peer here Mr. Krisak, because my
7 first 3 weeks at MARTA has been a total whirlwind.
8 We do have a lot of executive meetings. So, there
9 was a reason -- there was a purpose in me sitting
10 next to Rich.

11 Good morning. I'm Georgetta Gregory.
12 I'm the brand new AGM safety and quality assurance
13 at MARTA. Prior to that, I was with the
14 California Public Utilities Commission, where I
15 was the program manager for the rail transit and
16 crossings branch.

17 Most of my background, however, is in
18 railroading, mostly in the operations department,
19 over 30 years with Southern Pacific and Union
20 Pacific. So my background is a very practical
21 hands-on working knowledge.

1 I must say that I'm both honored and
2 humbled to be here at this esteemed table, and I
3 wish I could say that I had brought more to the
4 table, but I think that my participation is going
5 to be more my benefit than yours. My predecessors
6 here at the table have very eloquently summed up
7 the tasks that we have in hand, and not to just be
8 redundant and repeat those things, I'm really
9 looking forward to taking some of the mystique out
10 of this safety culture that we are all so versed
11 in throwing about.

12 We need to take the mystique out of
13 that, put it in black and white, share it with our
14 peers and put those tools and those philosophies
15 to work so that our patrons, our employees and the
16 entire nation is a safer place to ride around in.
17 I think we are on the cusp of a great transition
18 in this wonderful nation in the world of public
19 transportation.

20 I personally am very excited to be part
21 of this and really look forward to working with

1 this committee to help mold and develop the
2 baselines, the minimums. And I agree with Rich,
3 we need standards, not over cumbersome minimum
4 standards, but a reference, if you will. There is
5 no where to go and get a degree in public
6 transportation, so there is a profound need, and I
7 look forward to being a part of that development.
8 Thank you.

9 MR. HARTBERG: Good morning once again.
10 My name is Henry Hartberg. I'm the senior manager
11 of operations safety at Dallas Area Rapid Transit.
12 That is a position I have held for since 1983, so
13 October would be 27 years. All together, before
14 that, with other things I have about 40 years of
15 transportation of one kind or another.

16 I took over the bus safety at DART in
17 1991 before we had any rail out there. And before
18 that, my perspective would be, and I'm still proud
19 to say I started with what was then DTS and now is
20 DART as a bus operator. So I have been one of
21 those guys that works his way up through the ranks

1 over the years and been very fortunate.

2 When rail came a long, and Richard
3 Krisak will remember this, DART decided that they
4 couldn't really -- I had no rail experience
5 whatsoever. And I must say I never applied for a
6 position on rail. However, DART figured out that
7 they didn't -- they didn't feel like they could
8 afford a real safety person, so they came to me
9 and told me that they wanted me to do it. Thus I
10 became DART's blue light special.

11 (Laughter.)

12 MR. HARTBERG: But I worked hard at it
13 over the years. And with the help of Richard
14 Krisak and much of his people, they taught me what
15 was sometimes very painful lessons about system
16 safety and the role that it would play. And over
17 the years, we have developed a system safety
18 process that we are very proud of and that has
19 been pretty much incorporated into the culture at
20 DART.

21 It is not perfect, but we had a visit

1 from the Office of Inspector General, as some of
2 the other properties in this room did, and during
3 that period of time what I discovered was, first
4 of all, I had the support of executive management
5 like you wouldn't believe. I don't know, maybe
6 that is in part because they are afraid of the
7 OIG, but they were in the room.

8 And what I realized, we really had made
9 some progress when I discovered I didn't have to
10 say much. I had executive management in the room
11 explaining to the OIG how our system safety
12 process worked, forwards, backwards, up and down.

13 So my concern with what we are doing or
14 one of the things that will be a focus of mine is
15 the whole notion of safety culture that we talk
16 about, and hoping that within the realms of
17 rulemaking and things that occur once we have
18 regulatory authority, that we make sure that we
19 have training and understanding and a method that
20 will engage executive management of not just in
21 being able to say I'm all for safety, but

1 understanding exactly how that process works
2 within their own organizations. So, those are
3 things that I find very, very important.

4 The consistency of state safety
5 oversight has been kind of beaten to death. We
6 all know that under the process as it is now, I
7 don't know how you can get that uniformity without
8 some form of regulation to guide it.

9 So, those are the things, some of the
10 things I'm interested in, and I feel very honored
11 to be on this panel. And I thank you all and I
12 thank very much for allowing me to be here.

13 MR. HARDY: Good morning, everybody.
14 First of all, my name is Leonard Hardy. I work
15 for the San Francisco Bay Area Rapid Transit
16 District, commonly known as BART. I have been
17 with BART for roughly 10 years. I started as
18 manager of operations and safety, and became chief
19 safety office for the district a couple years
20 after that.

21 Now, prior to working for BART, I worked

1 for the California Public Utilities Commission. I
2 also was an engineer there, started off as an
3 engineer, and I worked mainly in the rail transit
4 safety section. And while with PUC, I was
5 involved in the first round of the FTA state
6 safety oversight Part 659.

7 And that involved government regulations
8 for the PUC in the form of a standard that came
9 out by the Commission. It also involved working
10 with the transit agencies and the first formal
11 development and submittal of their systems safety
12 program plans and security plans.

13 So, I feel like I have had the benefit,
14 if you will, of the experience of seeing the
15 effects of regulation both from the regulatory
16 point of view, also from the end user of transit
17 agency.

18 Now, with respect to TRACS, first of
19 all, I appreciate very much being selected to
20 serve on this panel. And, you know, if I think
21 about what I would like to get out of this, it

1 would be easy to slip into development of
2 regulations at a very complex, if you will, and
3 cumbersome for the industry.

4 So, I think, however, it is more
5 difficult to develop regulations that are not only
6 effective, but that are also simple, clear and
7 practical to implement. And I think I should
8 strive for that, to try to get simple, clear
9 practical and effective regulations.

10 I look forward to working with this
11 group very much. I think it is diversified with
12 different backgrounds, and I think we will learn a
13 lot from each other as we go through this process.
14 And finally, I hope at the end of this term, if
15 you will, that we will provide sound and helpful
16 advice to the FTA.

17 MS. BRIDGES: My name is Bernadette
18 Bridges. I work for Maryland Transit
19 Administration, and I have been in transit for 25
20 years. I began my career as a transit operator
21 and went on the rail side as a rail supervisor and

1 train controller, and then went to the office of
2 safety, where I have been for 10 years. I work as
3 a safety officer, and I have been executive
4 director for approximately year and-a-half.

5 I think what I bring to the table is --
6 I guess my familiarization with dealing with
7 management on safety issues, capital projects,
8 system safety for capital projects. That would be
9 something that we have done, some of the
10 challenges that we faced, the implementation of
11 system safety management plans and plans that we
12 have in place.

13 I think some of the challenges that we
14 face at MTA are things that we face around the
15 country. And I could go and repeat all the things
16 that everybody said before, but again, it is
17 consistency that we don't have in transit.

18 I also bring to the table first line
19 experience with operators and managers and some of
20 the challenges that we face training our staff or
21 the managers or the employees and nationally

1 integrating safety into the capital projects, end
2 projects. So those are some of the things that I
3 bring to the table, I'm looking forward to working
4 with everyone. Thank you.

5 MR. PRENDERGAST: I'm Tom Prendergast,
6 president of New York City Transit. I'm sitting
7 in for Linda Kleinbaum. There are a number of
8 people in the MTA family that have established
9 safety backgrounds, and Linda is going to be our
10 rep, her role is support.

11 I have been in the transit profession 35
12 years, 10 of which were in safety positions at the
13 start of the Transit Authority, the MTA
14 predecessor (inaudible) and qualification, and
15 then New York City Transit. I also was 5 years
16 president of Long Island Rail Road.

17 I agree with everything all the other
18 committee members have stated with respect to what
19 we need to focus on.

20 I'm also chairman of the Standards
21 Development & Oversight Committee or APTA. And

1 that has been a long-standing desire of mine to be
2 able to get to a point where the industry can have
3 standards. Started this process 30 years ago.
4 The smaller set of properties that we had, we are
5 always fighting with each other, saying that you
6 couldn't develop standards that would be
7 applicable across all the agencies. You know,
8 different track ages, different -- all these other
9 arguments.

10 But we were able to get to a point now
11 where we are developing effective standards, and I
12 agree with Ed's comment that we used the word
13 "minimum," but it really is better to say
14 something that is an established floor that all of
15 the properties can look -- that are practical,
16 that are simple, that are understandable, but that
17 provide a frame of reference for people to aspire
18 to and live within.

19 I also believe I agree with the
20 Administrator that you don't want to automatically
21 determine what sites is all regulatory

1 environment. But I would say there are some
2 things about some of the processes and procedures
3 that the FRA has in terms of rulemaking and in
4 terms of joint concensus development toward a
5 standard that people accept that provides a level
6 of consistency that we need to get to in this
7 industry. And I would like to see the committee,
8 and a lot of people here have already stated that
9 those are important things.

10 The last thing I would like to say is
11 that it is very important, and two or three of the
12 committee members stated it, it has to get to the
13 level where the senior executives of the agencies
14 all receive their executives can literally at the
15 same level of detail that the safety officer can
16 explain the requirements for responsibilities, and
17 that it truly gets to the point, because when all
18 the employees know the person in charge of the
19 agency makes it a priority, it will become their
20 priority.

21 This is a very esteemed group. I'm very

1 humble to be here as well, and I will support
2 Linda as she participates as a committee member.

3 MR. INCLIMA: Good morning again. My
4 name is Rick Inclima. I'm director of safety for
5 the Brotherhood of Maintenance of Way Employes
6 Division. Just as a little piece of background,
7 I, like many of you, came from the bottom up. I
8 hired on as a trackman with the Penn Central
9 Railroad way back when, and worked my way up,
10 spent 16 years out the track, mostly on the
11 northeast corridor, where we run essentially the
12 fastest trains in the country.

13 I have had about a equal number of
14 years, 16 or so, full-time staff with the BMWE
15 with primary responsibilities for safety.

16 Hopefully what I bring to the table is
17 that practical experience and hands-on background.
18 I'm also a voting member of the Rail Safety
19 Advisory Committee, which is the RSAC the FRA
20 rulemaking committee, somewhat corollary to this
21 group, and I have sat on dozens of working groups

1 and dozens of task forces, and I probably have the
2 scars to show.

3 But I would say with that, that the
4 collaborative process, the process of
5 consensus-based rulemaking which are data driven,
6 which are well flushed out, is, I think, far
7 superior to having an agency post stuff on the
8 wall and we all throw darts at the Federal
9 Register (inaudible). At the end of the day, you
10 get something that maybe nobody is comfortable
11 with and nobody likes.

12 So the beauty of the collaborative,
13 consensus-based is you get your input on the front
14 end and. We can all be honest, we will argue, we
15 will bang head, we will have agreements and
16 disagreements. But in the end, through good faith
17 and through all hands on the same goal, we get to
18 that place where we make sense of the chaos and
19 come up with a good set of guidelines, good set of
20 regulatory base of floor, if you will, to improve,
21 transit safety in the same way that we have done

1 that in the FRA or through the general rail
2 system.

3 Something was said earlier today, I
4 believe by the Secretary, that I think is
5 important, and that is that the worker safety is
6 as important a focus as operational safety,
7 passenger safety. You can't do one without the
8 other. If you kill a passenger, God forbid, very
9 bad outcomes. Workers, same thing, there is
10 something wrong when you have that type of a
11 situation.

12 So, I certainly hope to focus on both
13 aspects. And I'm sure everybody in the room will.
14 Worker safety and passenger safety as well as
15 transit safety; the way I see it is very simple
16 language.

17 Certainly I look forward to working with
18 you all and sharing expertise and experiences,
19 getting to where we all would like to be, And like
20 we said earlier, making the transit system in U.S.
21 the best in the world.

1 Just as a little editorial comment, the
2 Brotherhood of Maintenance of Way Employes
3 Division, the word "employee" has as in the name
4 is actually spelled with one "E". And the reason
5 for that is we formed back in 1887 as an
6 organization and merged with the Canadian
7 maintenance way workers in 1901.

8 And as a nod, if you will, a little
9 historical background to our roots, we have left
10 the employees spell with one "E," which is the old
11 English spelling. So, I will make a deal with
12 you-all tonight, when it says Brotherhood of
13 Maintenance of Way Employes with one "E," don't
14 take offense to that, and I won't take offense
15 when you correct it to two "E's". It is all good.

16 Thank you very much. We look forward to
17 working with you all. Thank you, Peter.

18 MR. SOUTHWORTH: I'm ex officio member
19 of the (inaudible) my name is Jim Southworth. I'm
20 the chief of the railroad division at the National
21 Transportation Safety Board. I have

1 responsibility for the overall management of rail
2 related investigations.

3 Another activity of my investigator
4 (inaudible) and outreach. Fifth generation
5 railroader, my career is pretty well split, I
6 don't want to leave anything out. I have spent
7 about 15 years at the Association of American
8 Railroads in various positions working with all
9 (inaudible) class one and so forth under FRA
10 regulations.

11 We are, of course, very supportive of
12 the establishment and the enforcement here of
13 minimum federal safety rail transit and those
14 carry -- are not already regulated by the FRA.

15 I look forward to helping out with the
16 discussions, answering any questions that may be
17 about our agency's work. I have made a couple of
18 trips this year, one to Philadelphia in April, and
19 one to Boston last month in August to talk a
20 little bit about how we conduct our investigations
21 and what they can expect from the NTSB (inaudible)

1 policy and also process (inaudible) from the
2 development of and the recommendations.

3 I'm also happy that there is an
4 opportunity this afternoon to talk about safety
5 plan modules. Our member Mr. Sunwalt, will be
6 participating in that portion of today's
7 activities.

8 I would like to point out also today
9 with us this morning is my new boss Steve
10 (inaudible), right back here. He became the
11 director of the Railroad, Pipeline and Hazardous
12 Materials Investigations office of which I work
13 for. And I am happy to work with Steve. So you
14 get a chance to see him. Many of you already know
15 him. He spent almost, I guess, three decades in
16 the industry, (inaudible) New Jersey Transits.
17 I'm glad to be here and help out in any way I can.

18 MS. KOVALAN: Thank you. Good morning.
19 Again, my name is Amy Kovalan, and I'm with the
20 Chicago Transit Authority. Perhaps what I bring
21 to the table is a fresh look into transit, which

1 is what I brought to CTA which I joined just over
2 2 years ago.

3 My background is a little bit different.
4 It is a legal compliance risk management and
5 audit. So an important component of when I joined
6 the CTA safety team is the (inaudible) it was a
7 process from how to (inaudible) about safety.
8 What I really learned is that there are some key
9 things that needed to be done in order for me to
10 be there, which is (inaudible) of why I was hired
11 and I'm sure you are, too. We need to be out
12 there in the middle of the night when something
13 goes wrong, we need to be talking to people when
14 something doesn't go wrong (inaudible) and you
15 need to be out there and seeing when things go
16 right, so you need to be out there. When you are
17 out there you need to listen and you need to
18 watch.

19 And I think that talking about safety
20 culture and talking about employees is really the
21 right place to start. There are layers to safety

1 in all of our information and our industry. And
2 when something catastrophic happens, it is not
3 because the operator on the line was the last
4 credible mistake, it is because there were many,
5 many issues leading up to that last critical
6 moment.

7 And, so, I think recognizing that in our
8 industry as other industries have, I enjoyed the
9 previous as well, as there is a lot of to be learn
10 in how the airline industry brought down their
11 catastrophic accident numbers over the last 30
12 years, 40 years, and a lot of that came through
13 training, through resource management, human
14 factors (inaudible) training for people who make
15 critical decision.

16 One of my favorite things to play for
17 people is the tape of the pilot who landed the
18 plane in the river in New York. When you listen
19 to his process and how calm he is and how he makes
20 decisions, how he evaluates his actions, and then
21 makes the last best decision based on the options

1 that he is provided, I think the industry -- our
2 industry can learn a lot from that.

3 I will feel better about our safety
4 program when I (inaudible) frontline (inaudible)
5 the level of training and simulation that the
6 employees in the airline industry get.

7 I also think that there is a critical
8 need between risk litigation, state of good repair
9 and funding. I know that the FTA is focused in on
10 that and finally telling people that you need to
11 make our systems 100 percent safe. You are going
12 to run trains. You are going to move (inaudible)
13 people a day. Things are going to happen.

14 So what we really need to do is figure
15 out what is the risk appetite, what are the pros
16 and cons. When we run a very old system it
17 doesn't mean it can't be safe. Sometimes in more
18 complex system raise different safety challenges.
19 But if you are going to run a system, it has to be
20 in a state of good repair in order to run safely.

21 And then finally I wanted to talk about

1 the notion of a minimum standard. I think that,
2 as has been said, there are many things that we
3 can do in our industry to set minimum standards.
4 And certainly coming out of a compliance
5 background, I'm a strong believer in that. But I
6 do think it is important for this group to have
7 those discussions. Just as an example of NFPA 130
8 (inaudible) in a new start makes perfect sense.
9 Why would we build a system that didn't meet that
10 standard. STCA (phonetic) if I want to bring my
11 subway system up to NFPA 130 standard, I need to
12 check for billions of dollar, because I need to
13 rebuild my subway, I need to dig ventilation
14 shafts, I need to move utilities, I would need to
15 do a number of things in order to bring it up to
16 that standard.

17 So while that is an aspirational goal,
18 we need to discuss with the NTSB (inaudible) and
19 expressed in 2006 it is not something that is
20 achievable. It is a very, very large check. And
21 as we look at that, you have to weigh that versus

1 other critical needs that also impact safety. So
2 important interaction between minimum standard and
3 creating safety operating systems is understanding
4 what the individual risk ratings are for each of
5 the things in your system. And we try to do that
6 through our legislative process.

7 And that is another component to think
8 about, how do we allocate our funding decisions
9 along those safety risk lines. These are the
10 types of things that we are working on, and I hope
11 to share it with the group. Thank you.

12 MS. JETER: Good morning. My name is
13 Jackie Jeter. I am president of the local here
14 that represents the transit workers here in
15 Washington, D.C. Many of you I have met through
16 the NTSB hearing and all of the publicity that has
17 been surrounding the June 22nd accident and the
18 accident that followed.

19 I think some of what I hope to bring to
20 this committee is the perspective of workers. I
21 was very glad to hear the Secretary talk about the

1 fact that passenger safety is not only the first
2 priority, it should also be worker protection.
3 And if there is one thing that I know that has
4 caused some of the sleepless nights that all of us
5 encounter in transit is the worker protection.

6 I think we all here in the United States
7 must change the culture in which we do business.
8 That is what the FTA is trying to do with
9 regulations. That is what we are trying to do
10 here at WMATA. And I feel safer with public
11 transportation, but it is also I need to feel that
12 comfort that I know each and every one of my
13 workers and my members will go home every night to
14 their families because we do run safe systems.
15 So, we have to get in the mind-set.

16 Oftentimes as managers of public
17 transportation systems, you think about the bottom
18 dollar, and safety is always cut first. If safety
19 is cut first, then I can't go to sleep at nights,
20 because I know that the workers that I represent
21 cannot go home. So, I think that we need to

1 change that mind-set. We need to change it
2 quickly. And I hope to do so or help to do so and
3 look forward to that opportunity.

4 MR. WATT: Thank you. My name is Ed
5 Watt. I started working for the UC Transit in
6 1980. Very close to a year after I started there,
7 one of my coworkers was killed on the job. I went
8 to my first union meeting after that. It made
9 safety very personal to me. I spent 9 years as
10 the number two officer in Local 100 which
11 95 percent members work for the MTA in New York
12 City.

13 In this capacity now as the director of
14 health and safety for the Transport Workers Union,
15 I get a lot of exposure from both air and rail.
16 They have great or at least better collaborative
17 models that I think we should look at in term of
18 process. We represent 40 or 50,000 American
19 Airlines workers, as well as the ground crew and
20 the -- excuse me -- the baggage ramp crew and the
21 flight attendants at Southwest Airlines, one of

1 the only profitable and growing airlines in the
2 country and one that is very proud to say that it
3 is (inaudible) for more than 30 years.

4 I mentioned the air and the rail because
5 I, too, like Tom have a backup team and a support
6 team of people for both rail and air who are very
7 active in the rulemaking processes. And I think
8 that although there are differences in transit
9 rail, you can't apply this or you shouldn't strive
10 to apply that, that there are many similarities
11 to. All of these industries are schedule driven
12 by legal standards, medical standards and
13 (inaudible). They all have production. So there
14 are things that we learn from them, as well as
15 from international sources.

16 Some of the consensus-driven components
17 in these processes are mutual trust, candor and
18 willingness to share information. I think that is
19 important. It cannot be overstated in the work
20 that we are about to undertake.

21 There are also four other important

1 items to mention. First of all, all the
2 stakeholders are at the table, so I'm glad to see
3 the diversity here, especially to see that there
4 are consumers at the table. Getting the rider's
5 perspective is extremely important.

6 It should be assisted by other
7 professionals such OSHA and (inaudible) people who
8 have invented this wheel and other wheels several
9 times already, so we should not seek to reinvent
10 that.

11 There should be knowledge based
12 decisions here. I know a lot of times there is
13 other than knowledge that creeps in. Fortunately
14 and unfortunately at the same time I understand in
15 the private sector if you don't make money --
16 Southwest people tell me all the time, if planes
17 done fly, we don't make money. So it can't be an
18 obstruction to production, but it has to be
19 balanced.

20 And lastly, there has to be
21 transparency. That means very frank discussions

1 on things like on time performance, production,
2 value of the work force and how the economic
3 downturn that we are experiencing now, as well as
4 unfortunate adversarial relations between work
5 forces and management impact safety. Thank you.

6 MR. BATES: Good morning. My name is
7 William Bates. I'm the District of Columbia
8 legislative rep. What I bring to the table is, as
9 in my title, Amtrak and the United Transportation
10 I am an Amtrak conductor. I'm still working as a
11 conductor. So, I'm one of the workers that you
12 are talking about. So I have a whole different
13 perspective to this committee.

14 My background, I have been a conductor
15 for 29 years. I have also been a safety engineer
16 for Amtrak, different safety committees with
17 Amtrak. I even won the award for the top safety
18 employee for Amtrak called the Charles Luna award.
19 I serve now the FRA RSAC general rail safety
20 committee task force.

21 And I just asked that if the agencies

1 here if you don't have labor at the table talking
2 to you about safety, you should, because you need
3 a different perspective. In order to have a safe
4 operation, you need to have the workers there to
5 tell you what they see, not what you think you
6 might see. And I'm very passionate about safety,
7 because when I first became a conductor, my
8 mentor, 2 years -- I had been on the railroad for
9 2 years, and my mentor got both of his legs cut
10 off. And after that I realized that safety is no
11 joke.

12 So this is what I bring to the table.
13 I'm honored and I'm willing to work with each and
14 every one of you on this committee. Thank you.

15 MR. GENOVA: Good morning. David
16 Genova, assistant general manager of safety,
17 security and facilities at Regional Transportation
18 District, Denver. And I have been at RTD about 17
19 years now, with a large (inaudible) emphasis on
20 operation maintenance emphasis. But also we have
21 had the opportunity to do a lot of expansion in

1 our system, and so a lot of the safety experience
2 I have is with new starts and expansion.

3 And there has been a couple of mentions
4 of minimum standards, minimum requirement, Richard
5 started that dialogue there, and that is an area I
6 would like to address. But overall, I think that
7 this is an incredible opportunity for this group
8 to have some input into meaningful and practical
9 regulations.

10 Many of us kind of grew up with the
11 state taking oversight rules. We know what works
12 effectively, what elements of that program work
13 well and what elements really not so well. So I
14 think, again, we just have a great opportunity
15 here for practical and meaningful regulations.

16 I was also very pleased to see in the
17 proposed legislation pieces on asset management
18 and state of good repair, because frankly, as --
19 in agencies we talked about maintaining things to
20 the state of good repair. I think what we see
21 around industry around the country is that that

1 means what we can afford in the short-term. And
2 unfortunately, I think that we are putting off
3 some very big dollar investments that are
4 difficult for us to afford as an industry.

5 And so speaking to that, that piece on
6 that asset management and state of good repair,
7 really gets to another element that I want to
8 point out from my perspective and my observation
9 is that I think we have opportunity to have a
10 greater emphasis through this process for the
11 planning, design and engineering phase of new
12 systems.

13 I appreciate the comments about older
14 systems and really not being very practical to
15 bring them up to people who have built a new
16 systems to, but I think we have really great
17 opportunity now to set some standards and have a
18 greater emphasis on the investment that we make at
19 the outset to be the most appropriate best
20 investment we make, so that we, therefore, could
21 actually achieve a state of good repair for our

1 systems. So, I think will be a very important
2 part of this process. Thank you.

3 MS. DAVIDSON: My name is Diane
4 Davidson, and I'm the director for the Center of
5 Transportation Analysis at Oak Ridge National
6 Laboratory, which is a DOE federal research
7 organization. I have been there for about 3
8 years.

9 And I'm really struck by the culture of
10 safety that exists there. Every management level
11 meeting, whether a director of a division or a
12 center, begins with a safety message. And we, as
13 managers, have to conduct 24 hours of safety
14 observations a year and a minimum number of 24
15 hours of safety.

16 So I think the culture of safety is
17 very, very important from folks on the grounds all
18 the way up to executive management. And I have
19 witnessed this in the past. Also worked for
20 the -- was with the National MTA for a few years
21 and then served as the director of rail transit

1 and waterways for the TCOT. And I was GM for a
2 smaller (inaudible) work of assistant.

3 Until I worked with a rail safety
4 manager and the rail inspectors I didn't really
5 have an appreciation for the culture of safety.
6 They taught me a lot about the importance of
7 everyone in the organization understanding that
8 safety message.

9 One thing that I think we are already
10 doing right in this committee and that the FTA is
11 leading us towards looking at models from other
12 organizations, in particular FAA and FRA. But I
13 would also encourage us to look at FMCSA and
14 FILMSA (phonetic), some of those other
15 organizations that safety enforcement is critical
16 to accomplishing their mission also. So, we might
17 want to broaden the frameworks that we look at.

18 I think at the end of the day what we
19 need to be focused on are consistent, effective
20 and adequate regulatory framework that results in
21 enforcement. And we have to balance the

1 enforcement with the standards, and in the middle
2 of that will come data driven risk assessment -- I
3 think that has been alluded to -- certification
4 and continuous training, the world of technology
5 and taken advantage of some of the new
6 understanding of not only advanced technology in
7 accomplishing the safety mission, but a few
8 factors. So it necessitates a systems approach.

9 And listening to the background of my
10 colleagues now on this committee I think we will
11 get there. Thank you.

12 MR. GRIZARD: Good morning, everyone.
13 Bill Grizard, I'm director of safety for safety
14 programs at APTA, America Public Transportation
15 Association. I had the distinct privilege of
16 being the last one in line, so I can say I agree
17 with everybody else said --

18 (Laughter.)

19 MR. GRIZARD: -- but I'm not going to do
20 that. I think there are a couple of things that I
21 will make some observations on.

1 The first one was I was very glad to
2 hear that Mr. Rogoff and Mr. Millar actually
3 communicate on a safety level and that the message
4 they are getting across -- I guess all of the
5 notes they have been given to Bill Millar affect
6 us and I appreciate that very much. It has not
7 always been that way.

8 And I think it is very true that every
9 administration that meets would say safety is our
10 top priority and, you know, it ends up being
11 another election. And that goes to one of the
12 things I wanted to talk about, which is
13 sustainability of the effort. I think it is that
14 the tragedies that bring us all here to form this
15 effort, I don't want to see that be a wasted
16 effort. I would like to see it not be a reactive
17 effort, but something that is going to continue
18 long-term. It would be good for the industry, be
19 good for the passengers, be especially good for
20 the employees.

21 I think our charge is to try to elevate

1 safety in the industry. And in the whole every
2 area both on the regulatory side and on the
3 industry side. And to make that sustainable so
4 that whoever comes after us can pick up and
5 continue that on.

6 I also think that we need to look at
7 maybe a little wider perspective than the
8 regulatory perspective while we have an
9 opportunity here to establish framework for
10 regulation. I think that is a primary
11 consideration. But I think there is other claims
12 that we can do out of this type of format that
13 don't necessarily take the shape of a regulation
14 but take the shape of the framework for how we
15 conduct our business and we keep our eye on the
16 promise, don't let the regulation and the minimum
17 standards become a goal. That we continue to
18 address operational risk and that we continue to
19 do that constant improvement that needs to be done
20 in the industry.

21 And, so, on that regard, I think we need

1 to create safety as a value in the industry and
2 sustained safety programs and for people on a
3 training, education, all those things that
4 everybody has already mentioned as being a
5 critical factor.

6 At the risk of running on here and
7 getting between us and the rest of the agenda, I
8 will turn this over to Mr. Flanigon.

9 MR. FLANIGON: Thanks, everybody. What
10 we will do now is take a quick 10-minute break.
11 And when we come back, Peter is going to talk to
12 you as a group regarding what the initial goals
13 for the committee are. So I have 20 before 11:00,
14 so let's come back at 10 minutes to 11:00.

15 (Brief recess.)

16 MR. FLANIGON: Next up on our agenda is
17 to get to the meat of what we want to do over the
18 next day and-a-half. The way I have been
19 describing this to people is we are starting out
20 at 50,000 feet, and over the next day and-a-half,
21 we will get as close as we can to ground level.

1 So, at this point in the agenda, we
2 resume the conversation with Peter Rogoff on what
3 it is that he as the Administrator is asking the
4 committee to take on. So without further ado, I
5 will turn it over to Peter again. I didn't have
6 to pick up the whole darn thing.

7 MR. ROGOFF: I don't know. I will take
8 that risk. But I want to just again thank you all
9 and discuss one sort of administrative issue
10 before I lay out the formal tasking to the
11 advisory committee. And following my comments,
12 I'm afraid I have to leave and go back to the
13 building, and I will hand it to the able Chairman
14 Mike Flanigon and to Sean Libberton.

15 And I should say I am really pleased of
16 the 21 members on the advisory committee who are
17 in attendance of this opening all but three. And
18 I have to admit, with some embarrassment, for two
19 of those individuals their absence is explained by
20 Jewish holiday. I am particular embarrassed as
21 one of the Jewish administrators to have made that

1 mistake, and I apologized to them, and I apologize
2 to you-all for not having the benefit of their
3 participation for very acceptable, understandable
4 reasons.

5 I do appreciate Linda sending not just a
6 surrogate, but a surrogate with extraordinary
7 experience who could serve on this committee in
8 his right.

9 I do want to say as a general rule, we
10 are really going to push to have more
11 participation by the principals. We will talk
12 about this further later, but I think it is very
13 important, especially if we are going to have
14 consistency and for the committee to operate as
15 effectively as it can be, that -- you, know we had
16 some instances indeed for some of the people who
17 sought nomination to this committee, one of the
18 reasons why they might not have been selected was
19 our concern that they could, in fact, be in a
20 position to regularly attend the meetings.

21 So, we look forward to folks regularly

1 attending, and I will promise on behalf of the FTA
2 that we will do a much better job of being mindful
3 of all of the other issues like religious holidays
4 when we schedule things.

5 I now want to discuss my formal tasking
6 to the committee, and if any of you are
7 questioning what the value was of that previous
8 discussion, I have intended to break -- already
9 developed a second one. So, you have one in
10 writing, and I am going to call an audible on the
11 second one, because one of the things that we want
12 to take care of is to do this in a logical order.

13 So I'm going to discuss the first
14 tasking that I mentioned and I will read the
15 document which is now before you. It goes to the
16 heart of this issue that many of you talked about
17 this morning, and that is what can we learn from
18 best practices in other agencies and in other
19 modes on the industry side as well as the agency
20 side.

21 We have talked continually that the way

1 one addresses those distinctions between trends of
2 technologies that we are seeking to improve the
3 safety performance on and to potentially regulate
4 how we address the distinctions in technologies,
5 how we address the distinctions in management
6 structure, and how we address the distinctions in
7 financing schemes is to get at what is sometimes
8 generically referred to as safety management
9 systems.

10 Some very positive things have been said
11 about what the aviation industry has been able to
12 do. A lot of the concerns and the challenges that
13 people have talked about this morning, namely,
14 having senior management totally cognizant of
15 their safety responsibilities and take them
16 seriously, having the necessary information as an
17 agency to actually know what your greatest safety
18 vulnerability is, the critical involvement of
19 workers who are daily working on the system and in
20 forming that picture.

21 All of those are part of what should be

1 the ideal safety management systems which we are
2 going to effectively bring to bear across the
3 entire rail transit safety universe. We need to
4 know what we want to identify as best practices
5 and what we want to put together.

6 So, in that regard, the first tasking
7 for the advisory committee is to develop consensus
8 advice to FTA on the best safety (inaudible) model
9 for the rail safety industry to include safety
10 management systems as in its principles and how
11 those principles might be incorporated into
12 transit safety plans to enhance rail transit
13 safety. Also to identify the challenge that it
14 may be facing implementing this model, along with
15 potential ways the challenges may be overcome,
16 issues requiring a specific report which we would
17 write, with a target date to report to us by
18 March 15, 2011.

19 This (inaudible) high reliability
20 organization and SMS principles be integrated
21 throughout transit systems, consider the diversity

1 of rail transit operations around the country, and
2 can the recommended model be scaled to transit
3 systems based on size and complexity. That item
4 is listed as task number 10, which I presume is
5 2010, number 1. I having to call an audible to
6 articulate number 2.

7 One thing that is consistent both with
8 car practice and what is envisioned under the
9 Administration's transit safety bill and what
10 continues to be envisioned, however with a
11 slightly different funding picture in the
12 currently pending banking committee reported
13 Senate bill is the continuation of state partners
14 in doing oversight and enforcement of federal
15 regulations. In this case, obviously, I'm talking
16 about the SSOs, a couple who are represented on
17 this committee.

18 And we had a very good and I thought
19 valuable discussion going around the table, and
20 people seemed very engaged and interested in
21 getting at the issue of what defines a quality

1 state safety organization. And it seems to me at
2 this stage knowing that we are going to have state
3 partners under any of the scenarios legislatively,
4 it is not too soon to be talking about what
5 defines the ideal state safety department in terms
6 of their capabilities, in terms of their
7 expertise, in terms of their relationship with the
8 federal government, their relationship with their
9 state government, the funding scheme of the state
10 government and their relationship, obviously, with
11 the transit agencies they would oversee.

12 And I would like the committee to start
13 off trying to wrestle with that question as well,
14 because that will be important. When people
15 talked a lot about the need for consistency and
16 the need for us to get to a point of
17 certification, well, that is what is envisioned
18 under the legislation, be it the federal -- the
19 Administration's legislation or the Senate bill,
20 the Senate bill would fund the agencies to the
21 tune of 80 percent, while the Administration's

1 bill will fund to the tune of 100 percent.

2 The Senate bill would continue to
3 require each state to have such an agency. The
4 Administration's bill envisions a scenario where
5 states, in certain cases, could opt out and have
6 the FTA assume that responsibility in their state.

7 Those differences will be worked out one
8 way or the other, but in either case, we will have
9 state partners and we are determined to improve
10 them. What the goal should be, what our end state
11 should be as part of that improvement effort I
12 don't think it is too early for us to seek to
13 identify. That is the second tasking to you.

14 I think I will ask Mike, Sean, and I
15 should identify Bill Millar to the council's table
16 as well, I'm going to ask them to formalize that
17 in the same written document that you have for the
18 first tasking, so that could be shared before your
19 meeting is out.

20 With that I do need to get back to the
21 building. I do want to thank you again for all of

1 your participation, and to say hi to some of you
2 that I have not met before. I looked forward to
3 meeting many of you if not as part of this
4 meeting, but during the next meeting. I was
5 hoping to try -- I know that there is a brief
6 reception this evening, I would want to come to
7 that as well, but unfortunately, I am meeting with
8 the Secretary at the identical hour.

9 And again, thanks for your efforts,
10 thanks for the seriousness and purpose that you
11 all are clearly bringing to this effort, and I
12 think all of the transit passengers will benefit
13 from as a result. Thanks.

14 (Applause.)

15 MR. FLANIGON: I can't get this mike
16 out, so I will have to carry this whole thing
17 around.

18 Thank you, Peter. We appreciate you
19 being here.

20 This is really an exciting time to be in
21 our shoes, I think, tremendous opportunities to

1 build on an already good record of the industry.
2 And it is so cool to be where we are right now. I
3 can't -- almost can't get over it.

4 Next up is going to be Sean Libberton,
5 who is my boss and also the designated federal
6 official, ably assisted by our Deputy Assistant
7 Chief Counsel Linda Ford, to talk a little about
8 the organizational structure.

9 And maybe I will just add one quick
10 piece on that. One of the things about the
11 Federal Advisory Committee Act is that this is a
12 public meeting. It is open to anyone in the
13 public who would like to sit in. And there are a
14 number of folks, and we are glad you are here.
15 But it is not a public hearing where there is
16 direct interaction at every point in the agenda.
17 We do have a time set aside tomorrow at -- I
18 forget the exact time -- it is 9:00 -- 9:45 for
19 any members of the public who would like to
20 address the committee and share any thoughts that
21 you might have.

1 So, if there is any members of the
2 public here now who would like to do that, if you
3 would let one of our staff folks know.

4 Can I also ask -- we didn't go around
5 and introduce anybody, but we have a lot of people
6 from FTA here. Could I have the FTA folks raise
7 their hands. I know there are quite a few. And
8 we are here to help you.

9 And, Esther, I will ask you -- Esther is
10 way back there with the red -- very nice red
11 jacket. So, if there are any members of the
12 public who would like to make a statement tomorrow
13 at 9:45, please let Esther know, and we will work
14 you into that agenda.

15 The only other person I would like to
16 just point out for very -- this is special day for
17 Holly, who is with the FTA. It is her birthday
18 today.

19 (Applause.)

20 MR. FLANIGON: One of the more kind of
21 interesting things is that Holly's birthday is on

1 September 9th, which is 9/9, and our meeting today
2 started at 9:00 o'clock, on 9/9, and we are
3 meeting at a hotel that is located at 999 Ninth
4 Street. So, I had to look this up on the
5 internet, so it must be true, the number nine is a
6 particularly lucky number in Chinese culture, an
7 auspicious number, so I think it is a good omen
8 that we are here on 9/9, at 999 Ninth Street.

9 With that, I will turn it over to my
10 esteemed colleague Sean Libberton.

11 MR. LIBBERTON: It's not a coincidence,
12 by the way. It was absolutely planned that we hit
13 that lucky number nine --

14 UNIDENTIFIED SPEAKER: It's not very
15 loud.

16 MR. LIBBERTON: I have got the light.
17 Can you hear me? Thank you.

18 And I will explain a little bit what the
19 designated federal official is in a moment. I had
20 to look it up in the reg prior to the meeting.

21 I, too, want to thank everybody and

1 welcome everybody who is able to come from, in
2 many cases, miles and miles away and cut into
3 vacations to join us for today and tomorrow. I
4 also want to welcome the public.

5 A little about bit about me, it is
6 really unfair for Mike to call me his boss. It is
7 true that the safety office is under the office of
8 program management. It also runs the grants
9 program and oversight engineering program. But
10 Mike certainly has been more of a teacher and I a
11 student on the issues of safety. You will see, as
12 we get to the presentation, that we divided
13 responsibilities for the task for TRACS to really
14 take advantage of our capacities.

15 I want to talk a little bit about the
16 operations of TRACS, but I do want to put it into
17 a bit of a context, that is that this is FTA's
18 first ever standing advisory committee. We have
19 utilized FACA for negotiating rulemaking and other
20 ways to reach and operate in full disclosures to
21 the public. But this is our first advisory

1 committee, so it is a learning experience for us,
2 as it is for many of you all, although I believe a
3 few TRACS member have been on other committee.
4 So, bear with us there.

5 I'm going to be talking about how we are
6 going to operate, and these are -- should be
7 viewed as interim procedures. We are in the
8 process of documenting formal procedures, which
9 you will have shortly for full review of the
10 membership. But for now these will be the
11 operating procedures over the next several months.

12 I will say these operating procedure are
13 entirely consistent with FACA. They are
14 consistent with our charter, and I want to make
15 sure everybody has the copy of the charter, has
16 read the charter. If not we, will get you a copy.

17 I also want to tag on to Mike's
18 acknowledgement of some FTA staff, because you
19 will get to know several of us as you get to work
20 in the advisory committee. And Mike acknowledged
21 Linda. Holly and Richard Wong work with Linda and

1 support from the legal perspective and certainly
2 provide me a lot of assistance on backup of
3 clients.

4 Couple of other people that you will get
5 to know is Bruce Walker and Iyon Rosario
6 (phonetic), who will support you and the working
7 groups as you begin to work and roll up your
8 sleeves and start addressing the challenges that
9 we have before us.

10 I see (inaudible) in the back who
11 spreadsheet the team leader for the state safety
12 groups. So these are all resources to you and
13 will support you, and we will talk a little bit
14 about that support.

15 There we go. I'm going to spend just a
16 moment on a FACA 101, talk about the TRACS within
17 that context, again how FTA supports the TRACS
18 advisory committee. We will talk about the
19 process and focus on the working group, that is
20 where much of the work is done.

21 Peter touched on alternates. I will

1 provide another point or two on alternates and
2 kind of meeting management protocols, and I will
3 get to that again. But two quick protocols, if I
4 may. One, if you have not already, please silence
5 your cell phone, Mike.

6 And if you have a comment or question,
7 rather than kind of wave your hand, if you
8 could -- and this is going to be awkward at first,
9 because we are still getting to know each other,
10 but if you could somehow turn your card down or
11 flip them up. I worry --

12 MR. INCLIMA: Like that?

13 MR. LIBBERTON: I practiced that
14 earlier, and I couldn't get it to stay, so, if you
15 are more able than, let's do that. But I do
16 prefer that, because I can see your name.

17 Real quickly, the Federal Advisory
18 Committee Act, passed in 1972, was, you know, very
19 consistent with at the time of opening
20 decision-making to the public and taken out of the
21 bathroom and out of the hands of special interest

1 or perception of special interest. This is
2 generic sunshine laws, and it is certainly
3 consistent with that.

4 It is by law advisory committees are
5 established only when there are considered
6 essential for a federal agency to perform -- to
7 carry out a responsibility. So that really gets
8 to the importance of safety to federal transit and
9 improving safety oversight and for your work in
10 support of that. There are only, at any given
11 time, between 900 and 1,000 advisory committees
12 operating at any one time. So you are a very
13 elite, select group.

14 Some of the objectives of the advisory
15 committees is to provide advice that is relevant
16 and objective. And as Peter noted, you are here
17 to represent yourself and the public interest not
18 your employer or agency. There is a bit of a
19 tension, I would say, built within FACA that we
20 must deal with. But there is tension between
21 openness and public disclosure and the need to be

1 timely and to be efficient.

2 And in fact, FACA, you know, says that
3 the outcomes of our work should result in either
4 improvements to service or in-service or reduction
5 in cost. And that a committee can be terminated
6 at any time when the cost of maintaining a
7 committee exceeds the benefit that the
8 Administration believes is getting out of it.

9 So, we need to be mindful of that. We
10 certainly, as you will see, we will provide a
11 great deal of staff support to TRACS. And you
12 will see that we have a lot of work ahead of us
13 and that there will be pressure to be timely and
14 to be committed through the working groups,
15 through the tasks that Peter has provided us. And
16 obviously to the need to document and disclose to
17 the public, and that, in the large part, is my
18 responsibility.

19 FACA also ensures, as I mentioned, that
20 it is the public and not interest groups that are
21 part of the process does ensure public notice. It

1 provides for advance public notice for meetings.
2 It allows the public to attend and participate.
3 And we are obliged to make all committee materials
4 available to the public.

5 Prevent service by individuals with
6 conflicts of interest. There is no registered
7 lobbyists that are part of the advisory committee.
8 And it gives voice to the dissenters. And we will
9 talk a bit about consensus in the moment. But the
10 idea is to really seek unity on a position, not
11 unanimity, so that we can bring recommendations or
12 not that reflect the consensus of the committee.

13 So TRACS fits into that how? Well, we
14 have established TRACS to help inform FTA policy
15 making. We have selected you with your knowledge,
16 experience and really the diversity of your
17 perspectives. And I'm very pleased with the mix
18 of talents and experiences and perspectives that
19 you all bring, and we will see if we can bring
20 more of those experiences to our future work.

21 So I want to talk about how FTA --

1 before I get into TRACS operation, how FTA
2 specifically supports your work. The FTA
3 Administrator recommended the selection of each of
4 you to the Secretary for formal selection to
5 TRACS. He appointed Mike as a chair and myself as
6 the DFO.

7 I do want to acknowledge Eric Cheng Utah
8 Department of Transportation, who is your vice
9 chair, and will be carrying out an important part
10 of our initiative.

11 Peter, the FTA Administrator, will
12 assign tasks, as he just did and can withdraw
13 those tasks at his discretion. He may consider
14 TRACS' recommendations in policy and potentially,
15 depending on the legislatim pending any
16 regulatory, regulation following. The
17 designating -- and I have already gotten that
18 wrong, it's the officer, not official, which
19 sounds strange to me, I should have a badge --
20 really ensures that the committee works within the
21 spirit and law of FACA. That is why Linda is

1 going to be so valuable to me and to us, as she is
2 really the agency expert in FACA.

3 So our responsibility is to ensure
4 compliance in some ways on the conduit between the
5 group and the administrator. To ensure that we
6 maintain the records and that meetings -- that the
7 meeting minutes, the products of the group, again,
8 meet FACA requirements and those of the charter
9 and are made available to the public.

10 Now, in some advisory committees the DFO
11 and the chair are one and the same. We purposely
12 split that so that Mike Flanigon as your chair can
13 really focus on the content and facilitating the
14 meetings and developing the right agenda for our
15 work. In a lot of ways, I'm the bad cop to his
16 good cop, okay. He will facilitate our
17 discussion.

18 I may step in where I feel that the
19 discussion is lacking and is not in the best of
20 interest for the work of the committee to proceed
21 on a certain track, or to maybe stay on schedule.

1 Mike doesn't need to worry so much about schedule.
2 That will be my responsibility. So you will hear
3 from me rarely, but you may hear from me.

4 And, so, Mike is going to run the
5 meeting. It is also important that he is really
6 the liaison between the working groups and TRACS.
7 Many of you -- most of you will be on working
8 groups, but Michael will have that formal kind of
9 liaison function.

10 I do see any upturned -- oh, I do see
11 one. Yeah, please.

12 MR. INCLIMA: Just one question before
13 we move off this slide. The first bullet says the
14 chair and the vice chair assigns task. And my
15 question to you is, does this committee as a body
16 have the authority, whether it be by majority or
17 by consensus, to reject the task?

18 We do have that authority at the RSAC to
19 say we don't -- for whatever reason, we don't want
20 to tackle that. I think that is something -- I
21 mean let's face it, if you force feed us and we

1 don't want to do it, it's going to be a difficult
2 process.

3 MR. LIBBERTON: I think if that is, by
4 consensus, the will of the group, then yes.

5 MR. INCLIMA: Okay. Thank you.

6 MR. LIBBERTON: I should say, too, that
7 you may suggest tasks to the administrator. And
8 he may decide to then assign them, so to speak.
9 Thank you.

10 MR. CHENG: Please allow me to say a few
11 words.

12 When Mike called me regarding the vice
13 chair assignment, basically I -- the first feeling
14 is that I feel that it is a great, great honor to
15 be selected for that position. But I talk to my
16 management. You know, we do have some concern
17 about the time and everything. But honestly, you
18 know, I feel -- I feel everyone else but me, you
19 know, is more qualified than me to be in vice
20 chair. So, if you want to talk to Mike --

21 (Laughter)

1 MR. CHENG: -- you are welcome to change
2 this position. Thank you.

3 MR. LIBBERTON: We think of you as the
4 vice chair.

5 All right. So we want then to now spend
6 a few minutes on really how we are going to roll
7 up our sleeves and get things done. It is not at
8 these meetings that we spend a lot of time in
9 details. We certainly, as Peter has now tasked us
10 with two assignments, it is going to be very
11 important for us to understand how we work on
12 those assignments and resources -- the format and
13 resources available to do that.

14 Working groups will be set up to support
15 each task. And you should think of the working
16 groups as staff to TRACS. You will likely
17 participate in those working groups. And we have
18 talked about and we still are developing some
19 parameters. It may be that we will insist that
20 every working group have a minimum of four TRACS
21 members, maybe a maximum. We didn't think that

1 with just one or even now two tasks that that
2 would really be a problem.

3 But as the committee advances and over
4 time it is likely that there will be multiple
5 tasks at any one time and, you know, the TRACS
6 members cannot participate on all of those. But
7 we do need some support and some direct
8 participation by TRACS members in the working
9 group.

10 The working groups meet as necessary,
11 and that is really up to the working groups to
12 decide how often and how those meetings should
13 take place; if it should be in person, if it
14 should be a conference call, a video conference.

15 FTA will facilitate and participate --
16 people like Bruce and Lyon and others on my staff
17 will participate and support to the extent
18 possible. Think of them as that staff support to
19 facilitate and make those meetings happen. We
20 will talk with those in a moment.

21 The outcome of working group meetings

1 are reports. We have identified a letter report.
2 We will suggest a format for that report. And
3 again, that is part of the process that we are
4 still in development, some standardization and
5 consistency.

6 It is important to note -- that the
7 TRACS working groups reports to TRACS and not to
8 FTA. And we will talk about that distinction in a
9 moment.

10 Working groups may further reach out and
11 decide to establish task forces. Again that would
12 involve people of -- members of the group and
13 other resources, other individuals as you see fit.
14 The process for reaching out to identify the
15 working group or identifying additional working
16 group members is for TRACS members to nominate
17 others who they believe will contribute to the
18 task at hand.

19 I think that is going to be extremely
20 important, specifically for Peter's second task,
21 state partnership. I think it may be to the

1 benefit to reach out, to solicit and recommend
2 additional state safety oversight practitioners in
3 the performance of that particular task. But that
4 is really left at the discretion of TRACS
5 membership how to basically identify folks
6 nominated to the chair, to Mike, and then he will
7 make formal selection of working group members.

8 I will pause. I see Rick has a
9 question.

10 MR. INCLIMA: As we all promulgate in
11 our mind the process, I just have a quick
12 questions.

13 The first question is, I understood you
14 to say that the TRACS committee members would
15 nominate their subject matter experts or the
16 folks, including themselves, to sit on the working
17 group. Would it be accurate to say that then the
18 working group as a body decides if they need the
19 task force and who sits on it?

20 MR. LIBBERTON: That is fine.

21 MR. INCLIMA: I thank you for that.

1 One word of caution, but certainly based
2 on experience that I would put on the table for
3 the group, I think it would be very important as
4 the working groups begin their deliberations and
5 discussions is to have -- you know, whether it be
6 the chief counsel, the economist, you know, folks
7 in the agency that are actually willing to, at the
8 end of the day, write the rule, write the policy,
9 you need to be in the room and hear all of that
10 deliberation, because a lot -- you know we have
11 seen it more than once where the group reaches a
12 consensus, and then when the consensus kicks out
13 in the final rule, it doesn't look anything like
14 what we thought we all agreed to and understood it
15 to be.

16 So, it is important that the agency
17 participate, if not actively, at least you know
18 passively, in the process so that you understand
19 the dialogue and the direction and the will of the
20 working group and what they are really
21 recommending.

1 MS. FORD: I agree 100 percent, and the
2 Chief Counsel has made the commitment to have a
3 lawyer assigned to each working group for that
4 very reason. I'm actually the Assistant Chief
5 Counsel for Legislation and Regulations, so it
6 would be my office that would be responsible for
7 drafting these regulations, and that is why we
8 have Holly and Richard, and I want to acknowledge
9 Mary Lee, who is an honors attorney, who is also
10 providing support.

11 So, absolutely, we will be on the calls.
12 We will be at the meetings, and we agree with you
13 100 percent. We have to hear what the committee
14 wants.

15 And then once we start drafting it, it
16 would come to the committee. So we are hoping to
17 avoid any surprises here, so the committee would
18 draft, you know, the regulatory language as a
19 recommendation to present to the Administrator.

20 MR. LIBBERTON: It seems -- it is a fine
21 line, in that it is your work, it is the work of

1 TRACS and the working group. We can support that,
2 but I don't think that we would proactively make
3 recommendations at a staff level to the work of
4 the working group. I just want to clarify that,
5 because again, it's the working group that is
6 reporting to TRACS and not to FTA.

7 MS. FORD: Correct. But if we have a
8 task and we are tasked with drafting regulatory
9 proposal, then staff would do that for the working
10 group. And go to the working group for approval,
11 and then to come up to TRACS. So, it would follow
12 that process. So, we are hoping to avoid any
13 surprises.

14 Now, would I bring it to the chair's,
15 you know attention, hey, our working group is kind
16 of going off over here? I think I would. I am
17 FTA staff. But, yes, the process would be, we
18 would work with the working group to accomplish a
19 particular task.

20 MR. PRENDERGAST: I think Rick stated it
21 very well. There were a couple of instances in

1 RSAC process, you got to the end game, and the
2 nuances of what the intent of the working group
3 was lost, and the rule got written.

4 Another example is if you know for a
5 fact you can't go a certain place as an
6 administration, tell us up front, because if you
7 can't get there, it makes no sense wasting all
8 that time going through a consensus process --
9 there is going to be some heated discussion, maybe
10 not, but -- it is just a waste of people's time.

11 So, I do appreciate your comment. You
12 don't want to be in the room unduly influencing
13 where it will go. I don't think that is what we
14 want.

15 MR. INCLIMA: I want to be sure that you
16 are hearing what the group's intent is. You made
17 a very good point. If you can't live with it,
18 then tell us because you know we run into that in
19 other places as well.

20 MS. FORD: And if I could just say
21 regarding the tasks. You know, we would want to

1 hear from TRACS as to why a particular task is
2 being rejected. I mean, why you think it wouldn't
3 work. Or if we explained as the administration we
4 are not going go in a particular direction, I
5 think TRACS can still put together a write-up as
6 to why you think it should go in a particular
7 direction.

8 So, at no point do we want to cut out
9 the opinions or the advice from TRACS during this
10 process.

11 MR. LIBBERTON: So let's see where we
12 are on this process. We have two tasks that have
13 been assigned to us. We will use the rest of this
14 meeting to discuss those tasks and to discuss the
15 formation of the working groups. We won't have
16 all of the folks identified for those working
17 groups, but we will have some idea of the types of
18 skills and quals that we need in those groups.

19 We will then have an initial meeting and
20 subsequent meetings of the working groups. Per
21 our charter, those working group meetings will be

1 open to the public. That really goes beyond -- it
2 goes beyond FACA, which is -- that is not a
3 requirement if the working group is either
4 reporting out to federal agency or the intention
5 is that there is not going to be a discussion by
6 the full committee of a working group's efforts.

7 Our intention is that the working group
8 bring their products and their recommendations to
9 TRACS for a discussion prior to advancing it to
10 the FTA administrator. Nevertheless, we do intend
11 that that process at those meetings be open to the
12 public.

13 Once the working group has a report,
14 they then forward that report and recommendations
15 to me. I will ensure that it complies with the
16 task and within FACA requirements and meets our
17 procedure in our charter. And then we will work
18 with Mike to put that product in a discussion, a
19 presentation of this recommendation on the agenda
20 of the next TRACS meeting.

21 TRACS will then consider at a meeting

1 like this the working group recommendation. And
2 there are -- I want to read my note to get this
3 correct, there are really three kinds of outcome.
4 That if there is full consensus of the group to
5 accept the working group product as is, it is
6 forwarded to the administrator -- it is forwarded
7 to me and it is then forwarded to the
8 administrator.

9 It can accept and advance a working
10 group recommendation with some dissenting views,
11 or it can reject the product, the recommendations
12 and send the working group back to work to flush
13 out her direction in the consensus of the group.

14 In the absence of any consensus on how
15 to proceed to accept or to reject, then the chair
16 will make a decision on how to advance the working
17 group reports.

18 The full TRACS committee is not the
19 place to rewrite reports. We write
20 recommendations. That is really our work, but it
21 is the purpose of this group to provide the

1 guidance to the working group to develop, enhance
2 and deliver a product that complies with the task.

3 MR. GRIZARD: I'm listening to the term
4 "consensus," and I want to get into that just a
5 little bit here in terms of -- the TRACS committee
6 as a group now stands at, what, 22 -- 21. And
7 Mr. Rogoff made the connection that, you know, not
8 everybody is necessarily -- you know, we are going
9 to try to get everybody to attend, but it is on
10 their own dime type of thing and, of course,
11 scheduling and priorities and things like board of
12 director meetings, stuff like that get in the way,
13 as well as religious holidays.

14 So, in terms of voting, do you have to
15 be present in order to vote? Is there a quorum
16 that you have to be present to maintain? And then
17 is the consensus based on the people available
18 voting at the time or is it for the entire group?
19 And what would the consensus levels be? Would
20 they have to be complete 100 percent consensus
21 here or is 75 good, and 66 better and 50 percent

1 okay? How are you going to break it down?

2 MR. LIBBERTON: Let me break down the
3 questions.

4 You must be at a meeting and you must be
5 a member and not an alternate. We will get into
6 alternates the next slide. But it is only the
7 members who can provide consensus.

8 We can -- I believe it is the DFO's call
9 to -- if there is a meeting where there is not
10 sufficient TRACS membership to really reflect the
11 true consensus; in other words, if there are
12 several alternates, we could delay the poling of
13 consensus for -- at a later time. And you would
14 have to work out how that occurs.

15 You know, consensus, what we are trying
16 to achieve with consensus is a position that meets
17 most and the spirit of will of the group. There
18 can be recommendations. So perhaps there are
19 recommendations that don't achieve the unanimous
20 approval or acceptance by the group, and consensus
21 being working and at least trying to see if there

1 is a way of recommendation to be revised so that
2 it does meet the expectations or the consensus of
3 the group.

4 You can dissent -- I'm sorry. You can
5 abstain. That does not equal a dissention. So
6 typically, we would expect that dissent would only
7 be exercised if a member feels very, very strongly
8 about a position.

9 We can move forward without full
10 consensus. And it is notable that, you know, part
11 of the process is that dissention is recognized
12 and noted and decided upon if we move forward with
13 the recommendation.

14 Linda, I don't know if you have anything
15 to add (inaudible) about dissention.

16 I will take a question.

17 MR. INCLIMA: Thank you, Sean. Again, I
18 apologize to the members for having question after
19 question, but, you know, I have some experience a
20 lot of experience in the RSAC, and that is my
21 frame of reference.

1 For clarity -- to clarify for the group
2 I would suggest several things. First off, you
3 have basically three levels of, you know,
4 committee work. You have the full TRACS, you have
5 the working group, and you have the task force.
6 And you may decide consensus in those three
7 separate arenas may be something different.

8 In the RSAC process, full consensus of
9 the people who sit at the table and negotiation is
10 required to move, you know, that issue up to the
11 next level. So, at the task level, it is full
12 consensus, they bring it to the working group
13 level, they chew on it, they reach full consensus,
14 they bring their entire full package to the RSAC,
15 or in this case, the TRACS.

16 The RSAC works in a process of full
17 consensus task force working group level, but at
18 the high level, which would be TRACS here, it is
19 majority consensus as opposed to full consensus.
20 And that may be something you want to think of.

21 There is also an opportunity, and I have

1 seen it many, many times, and it is not a bad
2 thing, it actually works. If a member feels so
3 strongly at the working group or the task group
4 level that he or she must withhold consensus, for
5 whatever reason, that doesn't mean that entire
6 task, at least in my mind, falls down. That has
7 not been the experience with RSAC.

8 Basically, you know, that are 20 items
9 on the table, and you agree to 19, and you can
10 move the 19 forward by consensus, you move it up.
11 The one outlier that you can't reach consensus on,
12 the agency just takes that -- you know, takes that
13 on their own and says, well, I have got the
14 benefit of the argument, the dialogue of the
15 groups, and we have heard all of the pros and
16 cons, and, you know, we have to address that issue
17 number 20 and we will do that essentially as an
18 agency, rather than through some consensus
19 recommendation. So, you know, that may be
20 certainly suitable here.

21 And I think it would help in the big

1 picture of things, Sean, if we had for the group
2 to memorialize the, you know, the processes so
3 that, you know, if you put it in your book and you
4 realize as new people come in or whatever, okay,
5 this is what consensus means, this is what we do
6 with nonconsensus, this is how I handle consenting
7 opinion to the agency. So, hopefully, you have
8 all of that in your mind.

9 MR. LIBBERTON: Thank you. We don't
10 want to hold up the work of the group for that.
11 That is something that we are working on that will
12 help guide your deliberations. These are -- again
13 interim guidance to you with quite a bit of -- not
14 intentional -- vagueness as we flush this out.

15 So I appreciate -- that is a good
16 example to think about, just because you cannot
17 reach consensus on several recommendations, it
18 does not mean the ideas and concepts that have
19 consensus can't move forward. So, thank you.

20 Just a moment on alternates. And Peter
21 noted that, and I believe I seconded it, the

1 notion of an alternate not necessarily being -- it
2 can be a colleague from an employer, but just
3 remember that that alternate is there representing
4 you and not the agency or institute that you are
5 employed by. Again, you are there for the public
6 interest.

7 And again, the expectation this is going
8 to be hard and this is a challenge, but it is a
9 challenge I believe that you are aware of when
10 nominated to the group, and we certainly took it
11 into account in our selections, that you are going
12 to make every effort to participate in meetings.
13 That is our expectation. And we understand that
14 this tremendous commitments and challenge that may
15 be just on you on (inaudible).

16 So, alternates certainly are a resource
17 to you, if you cannot make meetings, but we really
18 expect you to make the meetings. And we will
19 certainly be sensitive to scheduling meetings
20 where we can accommodate the most people as
21 possible.

1 Alternates cannot provide or block
2 consensus. They are really there to help in the
3 discussion, to report back to their member the
4 sense of the meeting and the issues. And as I
5 mentioned, if there is a meeting where there is
6 not enough membership where we feel that a
7 consensus can be reached, we will delay reaching
8 formal consensus until another time.

9 MR. PRENDERGAST: There are a lot of
10 people here, and all these people have tremendous
11 responsibilities. And in past committees I've
12 been involved, if for those when you are taking a
13 significant decision, you can provide a means for
14 people to attend the meeting remotely for taking
15 the votes --

16 MR. LIBBERTON: That's right.

17 MR. PRENDERGAST: -- that does -- okay.
18 As long as you can clarify that, because that
19 gives people the ability to not find themselves
20 between a rock and a hard place. They want to
21 attend, they don't want to either not be there to

1 attend to vote, so that would be great if you
2 could do that.

3 MR. LIBBERTON: Okay. Rick.

4 MR. INCLIMA: Again, going back to the
5 last slide and the discussion about the
6 alternates' responsibilities for authority. You
7 know, I think you may want to at least reconsider
8 that the alternate -- you know, the third bullet,
9 alternates may not provide or block consensus.

10 In the RSAC processes, we use alternates
11 all the time at the working group level or even at
12 the full RSAC. And if the member of either, you
13 know, any one of those three levels of the
14 committee designates an alternate to participate
15 in his stead, then that alternate should have the
16 authority to agree with the group or disagree with
17 the group, because otherwise, I mean, you know, as
18 the work really gets going, if you are going to
19 hold off everything going on at the table because
20 there is an alternate here, I really think you are
21 slowing it down.

1 And it would make sense to allow members
2 to designate their alternates, and you know, that
3 person then acts in the same capacity as the
4 member in his absence or her absence. And
5 personally, I think that is a more fluid process
6 then saying, well, the alternate can participate,
7 but they really don't have a voice and a vote
8 here, you are just kind of a peg sitting in the
9 chair.

10 And we have to go back -- I mean, when
11 you got a committee this big and getting bigger,
12 it may be detrimental to have that kind of
13 limitations on the authority of an alternate. I
14 just think that you ought to think about that as
15 you develop the written protocols of what the pros
16 and cons of the third bullet are.

17 MS. FORD: Yes, I hear you, but the
18 limitation here is that -- at the RSAC you
19 represent an organization. Here you represent
20 yourself. And, so, the Administrator made a
21 conscious decision to have that particular

1 approach as such. You know, we would have to go
2 through bio's and review of your alternates, and
3 that is not something that he wanted to do. So,
4 that is why your alternates reports back to the
5 member.

6 We are fully aware of the way the RSAC
7 runs. We are fully aware of the voting process
8 within RSAC. But the Administrator made a
9 different decision for this particular group. You
10 are here as an individual, and no one can
11 substitute for you. They can be here, listen,
12 take notes and report back.

13 So that is just our limitation, and
14 because we have made this commitment to
15 individuals here, it would be extremely difficult
16 to then reverse and go to an organizational
17 structure as the way the RSAC runs.

18 MR. INCLIMA: Just as a follow-up, is
19 that concept or a policy of the agency, does that
20 flow to all three levels of the TRACS, or is that
21 just for the full TRACS committee?

1 MS. FORD: Full TRACS committee.

2 MR. INCLIMA: Okay.

3 MS. FORD: At the worker level, you can
4 have any --

5 MR. INCLIMA: You can have alternates,
6 and they can -- really, that is where -- that is
7 where the rubber meets the road and the work gets
8 done. Okay. Thank you.

9 MR. LIBBERTON: Okay. So just really
10 quickly some ground rules, and we will be all
11 right everybody but me has gotten good at this.
12 Do you have -- I'm sorry, sir, did you have a
13 question?

14 UNIDENTIFIED SPEAKER: Thank you. Just
15 to follow up quickly on what Rick said. I heard
16 you say take notes, report back and listen. Did
17 they have a voice?

18 MR. LIBBERTON: Yes, they are part of
19 the discussion. All of the remarks be directed to
20 the chair, or in his absence, the vice chair.

21 I don't think we need to really talk

1 about respect. I mean, this is a professional
2 group. I understand that ideas elicit passions,
3 and I would just remind folks that this is a civil
4 discussion open to the public. I might remind
5 you. So, please just use good judgment in the
6 dialogue. It is important that you negotiate in
7 good faith and we will do a lot of that.

8 Again, pagers, does anybody still have a
9 pager?

10 MR. INCLIMA: That went out with the
11 beta tape.

12 MR. LIBBERTON: And just remember always
13 the importance of this committee and the work that
14 you do. And the work and the members of those
15 working group, you don't have to just be on TRACS
16 to make a very meaningful contribution to FTA in
17 how we can improve and enhance the transit safety.

18 Are there any other questions before I
19 think we break for lunch.

20 MR. PRENDERGAST: Are you going to make
21 copies of these slides available to us?

1 MR. LIBBERTON: Yes.

2 MS. DAVIDSON: Can you predict or
3 anticipate the regularity of the TRACS meeting?
4 If we had some advance notification of a schedule,
5 I think it would help with attendance.

6 MR. LIBBERTON: We know that we will do
7 at least a minimum of two meetings per year, but
8 that could be more. We can certainly I -- guess
9 that is something that we will actually try --
10 will we actually try to set the next two meetings.

11 MS. FORD: Yes.

12 MR. LIBBERTON: And again, that meeting
13 schedule it is identified by the task and the
14 interest and certainly the availability of the
15 TRACS members.

16 MR. INCLIMA: Before we break for lunch,
17 just as a housekeeping question, will the room be
18 secure -- I mean, a number of folks have laptop
19 and things, or should we take our laptops and all
20 with us?

21 MR. LIBBERTON: We will be here.

1 MR. INCLIMA: Somebody will be here.

2 Okay. Thank you.

3 MR. LIBBERTON: And actually, thank you
4 for asking that, simply so I can recognize Bob
5 Adduci and several of his colleagues from the
6 Volpe Center, who are providing us with support
7 and providing you -- so we will get to know Bob as
8 well.

9 Okay, Mr. Chair.

10 MR. FLANIGON: All right. Well, thank
11 you, Sean. Thank you, Linda. Thanks, everybody,
12 for your good questions and comments. And now
13 here it is -- we can't go yet, it is not noon we
14 have 2 minutes. It is just about 12:00. Our
15 schedule calls for us to start up again at 1:30
16 sharp, so we are on our own for lunch. I don't
17 know the neighborhood that well. I know there are
18 an awful lot of restaurants pretty close by. So
19 we will see you at 1:30.

20 (The luncheon recess occurred from
21 11:58 a.m., to 1:30 p.m.)

1 developing aviation safety reporting systems. He
2 has co-authored a number of books and over 85
3 articles in aviation safety.

4 And one of the things that ties him into
5 the transit world is he has served as the chairman
6 of the board of inquiry into the recent WMATA
7 accident. And one of the things he mentioned to
8 me as we were talking earlier is that as the
9 chairman of that board of inquiry, he really
10 pushed for getting the top leadership of the
11 various organizations to be at the hearing and
12 testify at the hearing. And there was a theme
13 that I think you are going to hear throughout
14 these presentations about safety starting at the
15 top, and we have already talked about it today.
16 So, I think this is the choir that you will be
17 preaching to on this.

18 And he also organized, as the last day
19 of that hearing for those of you who might have
20 tuned in, an educational session on how you
21 (inaudible) reliability organization, which is how

1 I came to know Mr. Earl Carnes, who will talk to
2 you later.

3 So, without further ado, I want to turn
4 this over to Robert Sunwalt. Thank you.

5 MR. SUNWALT: Mike, thank you very much.

6 I wondered where you got all that
7 information about me. It occurred to me that I'm
8 the one who wrote it.

9 (Laughter.)

10 MR. SUNWALT: Thank you so much for the
11 opportunity to be here. I think that this will be
12 an exciting panel. This is something that I'm
13 very passionate about, is safety culture, because
14 I think safety culture, when we have a culture
15 that is oriented and directed toward safety, that
16 drives the things that we do and ensures that we
17 do it with safety.

18 And, so, I have titled this presentation
19 "A Road Map to Safety Culture." And originally it
20 was titled -- at 7:30 last night, it was titled
21 "Establishing and Maintaining a Safety Culture."

1 And by 8:30 last night, I had changed the title of
2 it to "A Road Map to Safety Culture."

3 And the reason I have changed it is
4 because I don't think that you are ever there. It
5 is a continuous process of striving to achieve a
6 safety culture. So therefore, I think that we --
7 this is a road map, a number of stepping stones
8 that you can follow to get you well on your way
9 towards a safety culture.

10 On a number of occasions, the NTSB has
11 recognized the lack of organizational culture of
12 safety as a contributing factor of the accident.
13 I pulled a couple of accident reports and scanned
14 them in, and they are in all modes of
15 transportation. This happen to be a highway
16 accident. This is an aviation accident. And this
17 is a transit rail accident, one that you are all
18 familiar with, the WMATA accident at Fort Totten.

19 In the Fort Totten accident, the NTSB in
20 part of the problem we will call a statement, said
21 contributing to the accident was WMATA's lack of a

1 safety culture, and also there were five
2 contributing factors. These are two of the five
3 that we are looking at, and number four was
4 ineffective safety oversight by the WMATA board of
5 directors.

6 So, we cited the lack of a safety
7 culture and the fact that board of directors, in
8 our opinion, was not tracking the right kinds of
9 things.

10 So, what is a safety culture? I mean, I
11 think there are probably hundreds of definitions,
12 and I don't think that there is a right one or a
13 wrong one. This is one that I was still working
14 on, somewhere between changing the title of the
15 presentation at 7:30 and finishing at 8:30 last
16 night, I sort of changed it around a little bit.

17 I will show you two versions of a
18 definition and you can create your own definition.
19 But just to sort of put us all on the same page or
20 two, if you will, instead of having safety culture
21 as being some elusive thing, this is the way that

1 I look at it.

2 Safety culture is a set of established
3 attitudes, values, briefs, norms and practices
4 where safety is revered, safety is revered,
5 promoted and treated as an overriding priority.
6 And it begins at the top of an organization, at
7 the very top and it permeates throughout that
8 organization. It has to start at the top.

9 And a month ago I went to a meeting
10 hosted by the Nuclear Regulatory Commission, and
11 it was on safety culture. And one of the
12 definition that they had come up with in NRC --
13 and I modified this slightly, but basically the
14 gist of what they say is, safety culture is the
15 core values and behaviors resulting from a
16 collective commitment by leaders and by
17 individuals to emphasize safety over competing
18 goals to ensure the protection of the people in
19 the environment.

20 Of course, in the nuclear business, they
21 are very concerned about, obviously, the

1 environment. So, that is why that is in there.
2 But the point is that safety is emphasized over
3 competing values. What might competing values be
4 in the transit rail business?

5 UNIDENTIFIED SPEAKER: Production and on
6 time performance.

7 MR. SUNWALT: Yes, on time performance,
8 production, financial concerns. Are we balancing
9 safety in the same group or is safety just
10 something else?

11 So I have come up with a list of
12 characteristics of effective safety culture, and
13 four of these items are actually in the report
14 that the NTSB did for the WMATA accident, and
15 those would be the last four: Informed culture,
16 reporting, learning and just culture. Those are
17 actually spelled out in our report of the WMATA
18 accident. And those four are taken from
19 Dr. Reason's book, specifically in his book,
20 "Managing the Risks of Organizational Accidents."

21 But the first bullet point I added in

1 there last evening, because I think that we cannot
2 overlook the importance of the senior management
3 commitment. And I think if Jim Reason were here,
4 he would be saying right now, yes, senior
5 management commitment is key to establishing a
6 safety culture.

7 So, let's take a look at each of these,
8 beginning with senior management commitment.
9 Safety culture is triggered at the top. And it is
10 measured at the bottom. If you have got people up
11 here saying that you want safety, but your people
12 at this level here don't really get it, then you
13 don't have a safety culture. And you can have
14 people up here all day long saying they want
15 safety, but if it doesn't work all the way
16 through, you don't have it. Safety culture starts
17 at the top of an organization and it permeates
18 throughout.

19 This is right out of the NTSB's report
20 of WMATA. And it says: Senior management
21 demonstrates the commitment to safety and a

1 concern for hazards that are shared by employees
2 at all levels within the organization. We have
3 got to have that senior management commitment.

4 Let's talk about what informed culture
5 means. Jim Reason says that in an informed
6 culture, the organization collects and analyzes
7 the right kind of data to keep it informed of the
8 safety health of the organization. The right kind
9 of data.

10 As Earl is going to say in just a little
11 while, the right kind of data is correct. We did
12 find in the WMATA accident they were collecting
13 data, but the information that was making it to
14 the board of directors and the safety committee,
15 operations -- customer service, operations and
16 safety committee, the information that was making
17 it to the board of directors was dealing with
18 elevator outages, crimes in metro parking lots and
19 stations, improper door operations, and it also
20 looked at things like -- it did look at fires and
21 derailments.

1 But for the most part, the NTSB felt
2 that the metrics that the board of directors were
3 looking at was not the right metrics. They were
4 looking at basically production safety and not
5 process safety.

6 Did I say that backwards?

7 UNIDENTIFIED SPEAKER: You said it very
8 well.

9 MR. SUNWALT: Okay. Thank you.

10 So you have to look at the right thing,
11 don't measure the wrong thing, precisely. So an
12 informed culture the organization creates a safety
13 information system that collects, analyzes and
14 disseminates information on instance as well as
15 near misses, as well as proactive safety checks.

16 What are some examples of those kinds of
17 things that you can use to keep your finger on the
18 pulse of your organization? Well, for one thing
19 safety audits, internal audits, external audits,
20 confidential reporting, employee feedback.

21 And in the airline business we use a

1 program call flight operation or flight
2 operational quality assurance, whereby the
3 airlines download on a routine basis basically the
4 information that would be on those crash
5 recorders. In addition to having the black box
6 crash reporters that the NTSB uses in solving an
7 accident, the airlines have another data
8 acquisition unit that can record at 250, 300
9 parameters.

10 And on a routine basis, airlines look at
11 that data. But they are not looking at the
12 individual's performance. They are looking at the
13 performance of the system. If they find an
14 anomaly, they are not interested in finding out
15 that Robert Sunwalt had an unstabilized approach
16 flying into Charlotte. What they want to do is an
17 aggregate to say, my goodness, we have had seven
18 unstabilized approaches going into Charlotte this
19 month, what can we do about the system to correct
20 the system?

21 It is not a punitive system. It is a

1 system whereby we can find out where the problems
2 are before there's an accident occurring. And the
3 Safety Board has recommended that approach coming
4 out of the Chatsworth, California accident that
5 happened in LA. There are a number of ways you
6 can keep your finger on the pulse.

7 A reporting culture is one way that you
8 can stay informed. In a reporting culture,
9 employees are open, they are even encouraged to
10 report safety problems, and they will do that.
11 They will report to you information that you need
12 to know what is going on in your organization if,
13 if you provide them assurance that the information
14 will be acted upon.

15 I was a line pilot for an airline for 24
16 years. There is nothing more frustrating than
17 filling out a report to tell the problem -- to
18 tell the company of a problem and then feel like
19 nobody even read my report. But if the employees
20 know that, you know what, we have a system, we
21 want your information, we will listen to you, we

1 will evaluate what you are telling us, and if we
2 feel that change needs to be made, we will. But
3 on the other hand, if we for whatever reason can't
4 make that change, we will still write you back and
5 tell you why we are not going to change it.

6 But you close that feedback loop.
7 Employees need confidentiality. They need
8 assurance that the confidentiality will be
9 maintained or the data be identified. No one
10 wants to fill out a report if they are going to
11 have some notice on the bulletin board that says
12 Robert Sunwalt screwed this up, and nobody wants
13 to do that. He is going to report knowing that
14 that information will be confidential.

15 And people need assurance that they will
16 not be punished or ridiculed for reporting. In
17 the airline business, many of the airlines have
18 what is called a non-reprisal policy. When I want
19 to run a Fortune 500 flight department between the
20 airline and NSTB, I basically took the airlines
21 non-reprisal policy. It is about a three or

1 four-paragraph statement. It is posted. It is
2 signed by the chief executive officer, might be
3 signed by somebody else, but it's signed by the
4 CEO.

5 And the long and the short of it is that
6 the company says, we will not use this reporting
7 system to initiate disciplinary proceedings
8 against an employee who discloses in good faith a
9 hazard or an occurrence involving safety, which is
10 the result of conduct that is inadvertent,
11 unintentional or not deliberate. You tell us
12 information, we are not going to then use it
13 against you.

14 How do you keep your finger on the pulse
15 of what is going on in your operation? Are you
16 taking corrective measures? Do you have multiple
17 data sources, not just one of those ones that I
18 put up there earlier where I talked about audits
19 and confidential reporting systems and quality
20 assurance programs; not just one of those, but
21 multiple sources of information.

1 You know, I flew airplanes for a long
2 time. My family really felt that those engines on
3 the airplane that I flew were very important. My
4 family wanted those engines to operate properly.
5 So in the cockpit of that airline, we didn't just
6 have one instrument that say engines, good, or
7 bad.

8 We had multiple sensors. We had
9 engines -- N1, N2, EGT and fuel flow, fuel
10 temperature, fuel quantity, oil temperature, oil
11 property, oil pressure. We had multiple engine
12 instruments to signal to us the safety health of
13 those engines. And why? Because the engines were
14 darn important to us.

15 So wouldn't you love to have sensors
16 located strategically throughout your organization
17 to signal to you the safety health of your
18 organization? And, in fact, you do. Those
19 sensors look like this.

20 What do you have, 1,000, 2,000, 5,000,
21 7,000 employees that are out there working in the

1 systems day-to-day. They know what works, they
2 know what doesn't work. Who better can signal to
3 you the safety health of your organization, if you
4 simply open the door and provide them with a
5 reporting culture?

6 Jackie, you wouldn't believe how hard it
7 was to get a picture of a subway worker. And at
8 6:00 o'clock last night, all I was getting
9 pictures of people that in the Subway Sandwich
10 shop.

11 Another component that you need is a
12 learning culture. And basically that means that
13 the organization has to be able to learn and
14 change from prior mistakes. If you are not
15 learning from prior mistakes, you certainly are
16 not on your way towards having a safety culture.

17 And finally you need a just culture.
18 This is a term that is tossed around a lot.
19 Basically a just culture means that employees
20 realize they will be treated fairly. That not all
21 errors or unsafe acts will be punished if the

1 error was unintentional.

2 Somebody goes out and makes what I will
3 call -- use the term loosely, but if somebody goes
4 out and make an honest mistake, they are trying to
5 do the right thing but they create an honest
6 mistake, are you going to punish that employee if
7 they come to you and say this is what happened,
8 this is why it happened, I think if this was done
9 differently, we wouldn't have gotten into this
10 situation? Do you want to punish that person?

11 If you punish that person, you will shut
12 down a flow of information just like that. I
13 remember going in to see a chief pilot one day. I
14 wanted to tell him that we kept loading the wrong
15 checklist into our airplane. There had been an
16 error on this directive that came, and we had to
17 change our checklist. And every time a mechanic
18 would come out there, they would pull that one out
19 and load the old one.

20 So, I told this chief pilot that. He
21 said, you know what your problem is, I'm thinking,

1 I said I didn't know I had a problem. He said
2 your problem is you are thinking too much. I can
3 guarantee you I never have gone back to that chief
4 pilot to tell him anything. And I was a pretty
5 conscientious employee. But can you shut down the
6 flow of information just like that.

7 Now, that is not to say that if somebody
8 recklessly goes out -- someone is reckless or
9 deliberately doesn't follow a procedure, that is
10 not to say if somebody does that, you are not
11 going to take some sort of -- consider some sort
12 of disciplinary action. You can't tolerate people
13 that recklessly don't follow procedures. But for
14 those who are making the honest mistakes, you
15 understand that we need justice. That is the --
16 "just" is the root word of the word justice.

17 Jim Reason has written -- and I will
18 show you the source for this in just a moment.
19 Just Reason says that a just culture is an
20 atmosphere of trust in which people are
21 encouraged, even rewarded for providing safety

1 related information, but in which they are also a
2 clear line between acceptable and unacceptable.

3 A good document for learning more about
4 a just culture and probably will tell you more
5 about it than you want, but it is from the Flight
6 Safety Digest in March of 2005, they published
7 this article, "A Road Map to a Just Culture.

8 And in there, Jim Reason says -- he
9 emphasizes that a just culture is not a no blame
10 culture. A just culture is not where you give me
11 information and you "get out of jail free". Just
12 culture is where we are going to determine which
13 side of that line you happen to be on. The line
14 of the honest mistake and we are going to learn
15 from that, or the line of somebody that is
16 recklessly going out and disregarding procedures.

17 So, we have some characteristics of an
18 effective safety culture. You have to have the
19 safety management committee. You need an informed
20 culture, a reporting culture, learning culture and
21 just culture. So sort of to wrap it up, Jim

1 Reason would like to say, do you have a safety
2 culture?

3 And he goes on to sort of slap us in the
4 face and wake us up. He says it is worth pointing
5 out that if you are convinced that your
6 organization has a good safety culture, you are
7 almost certainly mistaken. For it is the -- a
8 safety culture is something that is striving for
9 but rarely obtained, and it is the process that is
10 more important than the product. It is the fact
11 that we were going out constantly striving to do
12 better, it is that chronic unease that wakes up at
13 3:00 o'clock in the morning and says, oh, my gosh,
14 is this procedure that we just implemented, is it
15 going to hurt somebody? It is that that keeps us
16 on our toes.

17 So one way I look at it is you know you
18 are on the right road towards that safety culture
19 when the organization manages and values safety
20 just as they manage and value other vital business
21 functions.

1 You know, thinking about finances. All
2 of these Fortune 500 companies they are interested
3 in finance. And to show that they appoint a chief
4 financial officer, and they have generally
5 accepted accounting processes or GAAP that they
6 followed. They have procedures, financial
7 procedures, audits and controls. They have
8 accountability they have a Sarbanes-Oxley
9 statement that on a quarterly basis the CFO or the
10 CEO have to sign to say that we swear that under
11 the penalty of law that what we are reporting to
12 you is correct and we have these processes and
13 procedures in place that measures our finances.
14 But we are saying that finances are very
15 important.

16 Do we do the same things for safety? Is
17 safety revered? Is it something that you put as
18 much emphasis on as you do your finance, your on
19 time performance, your reliability, or is safety
20 just the guy that is down the hall down there I
21 think it is the third door on the left? If that

1 is the way that your organization manages safety,
2 I would suggest you are not on the right path to
3 having a safety culture.

4 So, I really want to thank for your
5 time. I think this is a fascinating discussion.
6 Thank you very much.

7 (Applause.)

8 MR. FLANIGON: Thank you so much,
9 Mr. Sunwalt.

10 What we are going to do is have each of
11 the individuals make their presentation, and then
12 we will have a roundtable discussion, where you
13 can engage them and they can engage you. And I
14 would hope that everyone on our committee is
15 taking some notes, thinking about how this
16 information might be helpful in meeting our tasks,
17 because I think there is a lot -- there is going
18 to be a lot to chew on here for us.

19 One of the things I was struck by that
20 you mentioned, I think quoting Mr. Reason, that if
21 you think you are there, you most likely not

1 there. And I recall that coming up at the public
2 hearing. I don't know if it was Earl or one of
3 the other folks at that public hearing saying, if
4 you believe your own press, you are probably in
5 trouble. And somebody else said, well, another
6 way to say that is, if you are breathing your own
7 exhaust --

8 (Laughter)

9 MR. FLANIGON: So, the whole idea is
10 that there is -- you know, you are never quite
11 there. And I think that is a lesson for us, we
12 are having a very successful meeting, I think, but
13 this is really a baby step and we have a lot more
14 steps to go through before we get to the point
15 where we can say we still have a long way to go
16 but we are making progress.

17 So, with that, let me introduce next
18 Mr. Tony Fazio, which is my DOT sibling at the
19 Federal Aviation Administration. He has been
20 there for 28 years, and he has a number of
21 positions with the FAA. He is currently director

1 of accident investigation since 2009.

2 Over this past year has managed the
3 merger of accident investigation with the office
4 of data analysis to form a new office of accident
5 investigation and prevention -- I'm sorry -- it is
6 accident investigation and prevention. And the
7 whole idea is to position the FAA to better meet
8 its safety management responsibility.

9 His previous jobs included director of
10 FAA's Europe, African and Middle East office in
11 Brussels, Belgium. That sounds like quite a job.
12 He holds a master's degree in public policy from
13 the University of Maryland.

14 So, please join me in welcoming Tony
15 Fazio.

16 (Applause)

17 MR. FAZIO: I always find it somewhat
18 daunting when I have to follow a pilot. Even
19 though I have 28 years in the FAA, I am not a
20 pilot or an engineer. So I will tread lightly
21 here.

1 When Mike first asked me to do this
2 presentation, he asked me to talk about SMS. I
3 asked my folks, give me your SMS presentation? So
4 they put together a presentation and then I saw
5 your resumes.

6 MR. FLANIGON: Put that up a little
7 higher.

8 MR. FAZIO: Is that better? That is why
9 you never want to ride with a pilot. Have you
10 ever driven with a pilot, they always get lost?

11 (Laughter)

12 MR. FAZIO: I had to get those jokes.

13 So, anyway, I asked my folks to put
14 together an SMS presentation. But I saw the
15 composition of this panel or this advisory
16 committee, I go, well, wait a minute, these guys
17 can probably teach that course. So I'm not here
18 to teach you about SMS. I think you are all
19 safety professionals, you probably know the
20 elements more so than I. I have only had 1 year
21 in this job.

1 So what I am going to focus my
2 presentation on is what we are doing in aviation
3 to apply SMS principles on a day-to-day level.
4 And I think we have some very good examples.
5 Robert alluded to several of them, I'm going to
6 kind of tie it all together, if I will.

7 So, when I heard that Robert was going
8 to be on the panel and speaking about safety
9 culture, I said, wow, that is a perfect segue to
10 what I want to talk about, because everything I am
11 going to talk about cannot happen unless you have
12 that safety culture. I think you will hear it
13 from all three of us, and I am sure those of you
14 work in the field you cannot get your job done
15 without that culture.

16 We can talk a good tune. We can put in
17 place the policies and the procedures and the
18 tools. But at the end of the day, they will just
19 flap in the wind if there is nothing behind it.
20 And vice versa, if you have a culture but you
21 don't have the tools and mechanisms, you can't

1 achieve what we are trying to achieve.

2 Let me see if I can get this going here.

3 So why are we applying SMS now in
4 aviation? Well, those of you who know SMS know
5 that many of the principles have been around for
6 years. There is nothing new about safety risk
7 management, there is nothing new about policies
8 and promotions, that sort of thing or safety
9 assurance. We all do some form of safety
10 assurance.

11 We put in place -- and SMS we are
12 looking at a systematic approach, an integrated
13 approach, and that's the difference. We decided
14 we had to apply it to aviation because our
15 industry has changed. Over the last 20 or 30
16 years our industry has changed. You may not see
17 it inside the airplane, composites now rather than
18 aluminum. Avionics have changed. We are going
19 from a ground-based system to the satellite-based
20 system.

21 So, the technologies are becoming more

1 and more difficult. We in aviation have obtained
2 safety levels effectively while (inaudible). We
3 have an accident there are (inaudible) random
4 abates. Over the last couple of years now we are
5 starting to see a plateau here. Effectively we
6 have reached a point in our history to where it is
7 hard to get better, so we have to apply new
8 techniques.

9 Our business model is changing. I'm
10 sure everyone in this room has flown Southwest or
11 a regional carrier as part of coach. So, we have
12 got to keep up with that. As a regulatory agency,
13 that's very, very difficult. Maybe you are
14 working in regulatory agencies. You know how
15 difficult it is to change with the technologies.

16 And lastly we are seeing the demand in
17 traffic post 9/11. It actually went down, but now
18 we are starting to obtain those levels again. We
19 are getting to the level -- we expect it to grow
20 in the future. So, if we are going to maintain a
21 safe system, we have got to put in place the

1 mechanisms to ensure we can do that.

2 So, I want to do this. These are the
3 accident numbers we are looking at. If you can't
4 see it, we basically have set benchmarks for
5 ourselves that we will have no more than in this
6 fiscal year 8.1 fatalities for 100 million
7 passengers flown. When you translate that, this
8 year we just had our first commercial accident
9 last week, in fact, a UPS 747 in Dubai, two
10 fatalities.

11 But those are the kinds of numbers we
12 are looking at in aviation. Last year we had 52
13 of (inaudible) accidents. So we are in double
14 digits now, single digits (inaudible). I want you
15 to focus in 1996, because much of what I will talk
16 about emanates from that period. That was
17 probably one of the worse periods in U.S. civil
18 aviation history. We had a number of very high
19 profile accidents; TWA 800, ValuJet, you probably
20 all heard of those. So that is what we are
21 looking at in our sector.

1 So the industry itself decided we have
2 to adopt SMS. So two things have happened very --
3 well, not recently but in the last few years. The
4 UN organization for aviation is called the
5 International Civil Aviation Organization. They
6 have decreed that all service providers i.e.,
7 airlines, air navigation service providers,
8 maintenance facilities manufacturers of airplanes,
9 ultimately will have SMS programs in place.

10 So, that is kind of a mandate that we in
11 the United States will be following and have begun
12 following. And just 32, 34 days ago -- this is
13 very important -- Congress passed a safety bill
14 which requires us, the FAA, to implement or
15 publish within 90 days a notice of proposed rule
16 making that will require SMS for all 121 operators
17 in the United States -- 121 are all commercial,
18 nine seats and above.

19 So, we are in the process of frantically
20 writing a regulation that will implement that in
21 the United States. So you will see that coming.

1 So, I throw that out there as this is just not us
2 talking to you as safety professionals but the
3 Congress, the international community has
4 recognized that SMS is the way we have to go.

5 So, again, I don't want to preach to the
6 choir so much, but basically, as I tell everyone,
7 there is really, really nothing new here. When I
8 first took this job, people said, well, you know
9 we are going to SMS. I couldn't understand it.
10 What do you mean?

11 And the more I looked at it, well, we
12 do -- we have policies for safety. We do have
13 risk management. Safety assurance. We have a
14 boatload of inspectors they are out there looking
15 at aircraft every day. And safety promotion, I
16 can show you literature left and right, we all
17 have it. It is all hanging on the walls.

18 The difference of course, is what you do
19 with it. And you Robert summed it up right. You
20 have to have the culture, you have to go the next
21 step.

1 So, what we would like to look at is a
2 systematic approach. It is tying all of those
3 elements together. So you don't have a department
4 that does your PR work, another department that
5 does oversight capacity, another department that
6 is over here writing the speeches for the chairman
7 or whoever it may be. It is all tied together.

8 It is not easy, I can tell you that. We
9 are trying to do that in our agency. But one
10 thing I have left out is there are no SMS
11 requirements internationally for the regulator.
12 There are what we call state safety programs. But
13 we at the FAA have decided that we will adopt SMS
14 in our oversight safety, so we are going to be an
15 SMS organization.

16 The FAA is one if not the only
17 regulatory agency in the United States or in the
18 world that is an ISO 9000 organization. We
19 achieved that about 4 or 5 years ago. So, we are
20 now taking that to the next step, which is an SMS
21 organization.

1 So again not knocking what Robert said,
2 we have to go out there, track the hazards find
3 the hazards, assess the risks and then take
4 actions to address those. Okay. We all do bits
5 and pieces of that, but we have to tie it
6 together. That is the key here.

7 So, like I said, I don't want to dwell
8 too much. I just wanted to kind lay the baseline
9 for you, because there are some folks here are not
10 familiar with SMS principles.

11 This little arrow, that is the key to
12 the systematic approach. So, again tie it up in a
13 nice bigger model here, you see the elements. And
14 if I were to draw this on my own, I would have
15 drawn another circle on the perimeter, that would
16 be the culture. This is all enveloped, that white
17 space would be your culture, because you can't do
18 any of this stuff without that culture.

19 And I can't stress that enough, because
20 as we are trying to adopt this into a regulatory
21 agency, everybody has their own concept of what

1 SMS is, safety oversight is, we talked to you
2 about that earlier. And, so, we really need to
3 make that message loud and clear and crystal
4 clear, because everybody will take what they want
5 out of it, and that is really the culture piece
6 and you have to model that.

7 I use an example. Mike and I are on a
8 safety council. I don't think you were at the
9 last session. One of the things we at the DOT are
10 trying to work is on is the safety culture. And
11 the example I use, some of you may know, those of
12 us who are from the DOT know, the Secretary of
13 Transportation issued a policy that as a DOT
14 employee we cannot use cell phones in our car.

15 I made a point at the last safety
16 council that should not have been necessary. We
17 are all safety professionals. We should know
18 that. But, yet, we don't act that way, do we, on
19 our own? I notice you gave the exit announcement
20 today. We are starting to do that, but we are
21 safety professionals, we have to model that.

1 So to have our Secretary in this case
2 tell us leads me to believe we still are not there
3 yet, we have a ways to go. But that is the kind
4 of message.

5 I will also share with you another story
6 that I find fascinating. A former Associate
7 Administrator for Safety at the FAA was visiting
8 Dupont because Dupont is well known for their
9 safety culture and their SMS. And they got out of
10 the car, they parked in the parking lot and were
11 crossing the street. They were literally accosted
12 by a guard. The guard came up to them and said,
13 sir, we are a safety organization here, we
14 practice safety principles. You must cross at the
15 crosswalk.

16 That is the message, that is the culture
17 that takes it from the top all the way to the
18 bottom. And that is what you got to do. That is
19 what we all have to do as safety professionals, we
20 have got to send that message.

21 As part of defining what SMS is, you

1 have to define what it is not. For those of you
2 who have regulatory capabilities, this is very
3 important because we are starting to see this.
4 Canada is probably the foremost, governmental
5 authority that has adopted SMS and suffered some
6 of these consequences. It is not a new buzz word.
7 As I said, it is safety, we are doing it. It
8 really it is just a matter approach.

9 But the second one is one that I think
10 we as regulators -- and you regulate here -- have
11 to be reminded of. It is not a revocation or an
12 advocation of your responsibilities. It is just
13 the way you are going to fulfill that
14 responsibility in the future.

15 We had inspectors, and Canada suffered
16 this, where they delegated a little too much to
17 the industry, and the industry was
18 self-certifying. And they got a lot of criticisms
19 for that. And so, that is something that we tell
20 our folks, you are not -- change the way you are
21 doing your business, but you still need to provide

1 oversight, you are the safety regulator. It is
2 not outsourcing. You will hear some of that, too,
3 while we are delegating more and more, that is not
4 going to be the case.

5 And lastly, you need a separate safety
6 department. You need your safety department to do
7 that integrated approach.

8 So, again, that is all I really wanted
9 to talk about on SMS, the concept, the principles.

10 What I now want to talk about is what we
11 are doing and have been doing in aviation for a
12 number of years, by the way. Again, that is
13 problem following the first speaker, Robert has
14 talked about it, but I will go into a little more
15 depth.

16 Again, this is my pitch for the culture.
17 Again, we do a good job of looking at the past. I
18 have some colleagues here from the NTSB, forensic
19 approach, and looking at the accidents to try to
20 learn from them. We have always done that. But
21 we are now at the point in aviation we have got to

1 start looking forward. What are the issues that
2 are going to get us before they turn into an
3 incident and hopefully never a accident?

4 So the 3 areas that I'm going to talk
5 about are commercial aviation safety team, we use
6 acronyms, so I will refer to this as CAST;
7 voluntary submitted information program, Robert
8 talked about it, I will talk about it a little bit
9 more; and lastly, something we are very, very
10 excited about, which is our ASIAS program, which
11 is the ability to now tie some of the things I'm
12 going to talk about into a whole and predictable
13 tool.

14 So if you recall, that chart that I
15 showed you there was that big spike up in '96,
16 where we had several accidents. Well, immediately
17 after that, Vice President Gore formed an aviation
18 commission. And that commission recommended that
19 government industry get together and to begin
20 looking at the causes of accident.

21 And what they recommended, which was

1 unprecedented at time, was a government industry
2 partnership again. Again, we as regulators, we
3 know how to regulate, but can we keep up with
4 technologies, can we keep up with the way the
5 operation are occurring? We hire folks from the
6 industry, but they lose that capability very
7 quickly, if you will.

8 So, the idea is to bring the best minds
9 together, and that is what occurred here. The
10 idea was all voluntary. What you find adopt
11 voluntarily. You will see that the industry on
12 their own have adopted many of these suggested
13 remedies, all data driven.

14 Initially in '96 this was not known as
15 SMS. It was safety oversight or the safety
16 promotion, that sort of thing, but it wasn't known
17 as SMS. But I draw this out, because this is
18 effectively what SMS is.

19 The goals. Eighty percent reduction in
20 the fatal accident rate. When we heard that, we
21 were like, oh, my goodness, it is not possible.

1 But, yet, as I will show you, we came pretty darn
2 close. And then we continued that well beyond
3 2007, which was the end date for that 80 percent
4 reduction.

5 So, this is a makeup of all of the
6 participants in CAST. And, so when I was
7 preparing this, I was thinking, I imagine you have
8 similar associations, unions obviously, you have
9 NTSB (phonetic) but on the industry side, these
10 are all of our participants: The manufacturers,
11 trade associations, airports, engine
12 manufacturers, flight safety foundation. We have
13 a number of observers on the government side, DOD,
14 FAA, NASA.

15 We do have a number of observers in
16 Europe. Europe now has adopted ECAST, which is
17 the European version of this. So, we are sharing
18 the information that we are learning. So, again,
19 this is a government-industry partnership.

20 The way it works is basically the teams
21 get together or they did get together back them.

1 They looked at all accidents. They literally
2 would scour through all the accident reports and
3 find those causes of accidents, and then assign
4 them to data analysis team.

5 The data analysis team would review
6 that, rank the order of each of the casual factors
7 and then assign an enhancement to these other two
8 teams, who would then come up with safety
9 enhancements. And those enhancements then would
10 be looked at and then offered up to the industry
11 as solutions to these problems.

12 So this graphically shows you what
13 happens. Use the data, set your priority and then
14 implement. And the beauty of this is now it has
15 caught on internationally, so, you are seeing a
16 worldwide reduction in the fatal accident rates
17 data partly because of this, partly because of
18 technologies. But at the end of the day, we are
19 using the data to get to solutions.

20 So I mentioned the 80 percent reduction.
21 We didn't get it. We got to 72 percent through

1 the CAST initiatives, we are getting an extra
2 4 percent from other initiatives outside of CAST
3 regulatory capabilities. If we have no accidents
4 for the next year, we will reach 80 percent in
5 July of next year. So, that's an enormous,
6 enormous achievement, if you will.

7 But if you look at -- there are various
8 contributing factors to accidents. CFIT was
9 controlled flight into terrain. We virtually
10 eliminated that. That is basically advertently an
11 aircraft will fly into terrain of some sort. We
12 have virtually eliminated that by using collision
13 avoidance equipment in the aircraft. It's radar
14 equipment. As you see, we virtually got the risk
15 out of the system.

16 Again, this is all through using data,
17 going back looking at the significant factors of
18 that and then collectively as a body with
19 government and industry working together to
20 implement those solutions.

21 At the time this information is dated

1 they said there were 72 safety enhancements that
2 were developed. And once these safety
3 enhancements are written, they are out there for
4 the community. So, now, what we are doing, we
5 have actually worked over the last few years with
6 China. China has one of safest -- they had until
7 last month, the safest accident record for the
8 last 5 years. They had no accidents for the last
9 5 years. They are adopting many of these safety
10 enhancements.

11 And the beauty is, in our industry,
12 anyway, aircraft are aircraft and for the most
13 part, operated fairly similarly, if they are not,
14 some of the enhancements address that. You can
15 apply these across the board without significant
16 changes. You don't have to re-create the wheel,
17 if you will, these guys figured it out, and put it
18 out there, and that is what we are finding is
19 happening in our community.

20 The second area I would like to talk
21 about -- and again, I'm doing this kind of

1 sequentially because I will tie it all up at the
2 end here -- voluntarily safety programs. Robert
3 alluded to FOQA (phonetic) which flight data
4 recorder or quick access recorder, perimeters of
5 the aircraft could measure up to 200, 300
6 kilometers (phonetic) of aircraft. What is the
7 aircraft doing at every moment, it is significant
8 information.

9 Airlines -- most airlines are now using
10 these programs for their own use. ASAP, Aviation
11 Safety Action Program. Robert mentioned that he
12 as a pilot would write up a report and submit it.
13 These are now very standardized programs used in
14 aviation. In fact, the first two are protected,
15 so you as a pilot, you as a mechanic, you as a
16 flight attendant, write up a safety action
17 program. You can submit that, you are effectively
18 indemnified by the FAA. It is accepted by a
19 review board that it is not malicious,
20 intentional. It was error. Is it used as a
21 learning opportunity.

1 You'll sit in front of the board. The
2 board decides indeed this was a mistake, not
3 intended. You are indemnified, because the point
4 is we want that information. And I will show you
5 some numbers at the end here of how many of these
6 we are getting.

7 Voluntary disclosure reporting program.
8 Very similar to the ASAP, except that applies to
9 the company. A company may find, oh, my god, we
10 were going something totally wrong, FAA never
11 caught us. But we think we are in noncompliance
12 with regulation. We are going to self-disclose.

13 The FAA will say, okay, fine, we will
14 not issue a civil penalty on this, but you have to
15 have a corrective action, and you have to do it
16 within a certain time. If not, we can come after
17 you.

18 So, again, these are all incentives to
19 get that information flow that Robert talked
20 about.

21 Just this last year, beginning

1 January 1, the FAA itself, our air traffic
2 controllers now have adopted a similar program to
3 ASAP called the ISAP. So controllers now can
4 submit these reports and tell us, the FAA, I made
5 a mistake here, I don't know why but this is what
6 happened. So, now we can get that information,
7 and what I will talk about towards the end here,
8 we are tying all of this information together.

9 This last item is not, quote, an FAA
10 program. And all of this these first four are
11 information that are shared with us the, FAA, via
12 third party, I will tell you why I say third
13 party.

14 The last one is a program that has been
15 in place for a number of years, LOSA, where the
16 airlines themselves do check rides of their pilots
17 and check their pilots with their own employees.
18 Again, information that they can use to improve
19 their operation, their safety operations. This
20 information is not shared with us at the FAA.

21 It is ultimately shared within the

1 community, because one thing that is now occurring
2 is all of these individuals that are involved in
3 these programs get together on a fairly regular
4 basis and share information. It is called an info
5 share information.

6 So, you will get the community coming
7 together and saying, you know, I experienced
8 unstablized approaches in (inaudible). It might
9 be an example of people fixing it, similar things,
10 because seeing things you guys have seen this in
11 from another airline. I saw that, too.

12 That could lead to an ASAP report to
13 VDRP or amongst the community itself, it will
14 decide, we have to look at it, let's give it to
15 the CAST.

16 So I mentioned the first two. Now what
17 we are doing, we are bringing all of the
18 procedures of the CAST mechanism with the data
19 from the voluntarily submitted information all
20 together. And we are calling this the aviation
21 safety information analysis sharing tool. We are

1 able to do this simply because computer power
2 today is enormous, terabytes, terabytes you can
3 collect. We all have data. We just don't know
4 what to do with it.

5 Now we have the capability of bringing
6 that data together. So we are writing programs
7 that create common taxonomies. I think I was told
8 there is probably 20 different ways to say 747,
9 for example. There are different ways that you
10 record it. Again, you have tools that can bring
11 all this together, and when you see a 7-4, you
12 know it is a 7-4.

13 It is our ability -- and normally when
14 we show this, we will show (inaudible) but this is
15 our attempt to try to begin predicting the future.
16 Reading all of these data sources together so that
17 we can see a problem before it occurs.

18 We had examples of where we used it -- I
19 won't go into it today, because I don't want to
20 stress -- this is a tool that your industry could
21 probably use or the capabilities, because whether

1 you are Metro here in Washington, one of the Metro
2 passengers; I hope you will think about this, or
3 BART, I would assume that you are collecting
4 similar types of data. Well, why not start
5 sharing that if you don't.

6 So the ASIAs is all of the members who
7 either -- I shouldn't say all members -- 32
8 airlines as of August 1, we are probably a little
9 over that today, who are either providing the FOQA
10 data or the flight information data or the ASAP
11 data. So these are various airlines around the
12 country that are participating. We are getting
13 this information now into the massive database and
14 able to -- so when Robert had an unstabilized
15 approach, and he reported it to his management,
16 that may have been one particular incident.

17 But if we get three or four other
18 reports from other airlines or other pilots from
19 his company, then you start seeing the bigger
20 picture. You have got more data sources, more
21 data points in which to make the same decisions.

1 ASIAS gives us that capability.

2 Now, I caveat this by saying, we, the
3 FAA, do not get the information directly. You can
4 imagine this is information that is very
5 sensitive. Right? We are going to get as a
6 separate report -- pilots don't want to be called
7 upon, airlines are concerned about some operation
8 data providing -- so all of this information goes
9 to a third party, the MITRE Corporation. And they
10 process this information both on behalf of the
11 airlines and as part of this ASIAS consortium.

12 So I talked about the data sources. So
13 we can focus -- I think there was -- I talked
14 about these. These are the volunteers with
15 proprietary information.

16 Now what we can do with this massive
17 communication capability is we can start tying in
18 information that we get that the agency has, we
19 have radar data, for example, as the (inaudible)
20 which is surface at various airports now can give
21 you more accurate information than some of the

1 FOQA data on position of the airport grounds. We
2 can tie that in with publicly available
3 information in TSP databases, for example, and
4 then other government agencies who participate.

5 So, now we are able to collect all of
6 this information, and you can literally fuse this
7 data to paint a picture. And, so, our hope is and
8 I know we are going to get here, is we are going
9 to start looking at the vulnerabilities before
10 they happen. So, for example, we talked about
11 unstabilized approach, this is a common problem,
12 it is coming down over the years, but it is still
13 out there. This is when a pilot comes in, he's
14 not at the right speeds, high attitude, that sort
15 of thing.

16 So, can we predict something on that?
17 Well, we are not sure, but we know what we think
18 is stabilized approach so we can draw boundaries.
19 And then we can say, okay, here are the bands. If
20 an aircraft is out of band, that might be a
21 vulnerability. It may not be unsafe. It is just

1 different. We need to look at it. And, so, that
2 is the kind of thing.

3 We are really at the infancy stages, so
4 I will not show you too many examples of that.
5 But that is the start of the things we are
6 starting to look at, what is normal and what is
7 outside of the norm. Do we have to study it as
8 collectively as an industry?

9 So here are some of the data sources.
10 Seven point two million operations of the flight
11 data. This is as of August 1, I believe. This is
12 the type of data we now have available to us as a
13 consortium. These ASAP reports, these pilot
14 reports is 75,000, the ATSAP report for air
15 traffic was 14,000. I think that is much, much
16 higher now. In the last couple of months we
17 really generated a lot (inaudible) data.

18 And, so, the idea, this is the kind of
19 information that is out there, and I suspect for
20 your industry, this information exists also. You
21 just got to bring it together.

1 So what do we do with it? We do a
2 number of things. We do directed studies, as I
3 mentioned the info share, if somebody highlights a
4 problem, and I say we really should look at this
5 issue. They will bring it back to the ASIAS
6 executive board, which is cochaired by the FAA and
7 the industry representative from Continental right
8 now, and they will decide collectively should we
9 look at this, and they will do a study.

10 They will look at known risks. The one
11 element of SMS that is absolutely critical is
12 we've done risk management and we put in place
13 safety enhancements, but then you recheck to see
14 if they have been effective. We have not had the
15 capability of doing this. So, if we think we have
16 corrected that unstabilized approach at a
17 particular airport, we can go back now and see did
18 that safety enhancement actually solve the
19 problem? So it is that continuous loop, if you
20 will, that is necessary with SMS.

21 Benchmarking is one that is particular

1 valuable to the airlines themselves. They can
2 assess themselves. They know what their data
3 says. We don't know because all of this
4 information that comes in should be qualified it
5 is all to be identified. So, we don't know from
6 what airline, that particular operation is coming
7 from. So it is all identified. But the airline
8 itself knows what its information is. And they
9 are now willing to share or I should say the other
10 way around -- MITRE Corporation develop a
11 benchmark saying this is what normal looks like.

12 The airline can say, well, I'm below
13 that, I think I'm doing well, or I'm above this, I
14 need to see why. So, it is an ability to do
15 self-assessment, self-correction. I believe I am
16 down to one.

17 So, SMS for us is going from looking at
18 what happened to trying to predict what is going
19 to happen. So we are going from a forensic to a
20 prognostic. We believe safety risk management is
21 the way to do that. We in the agency prefer you

1 to do that when we are making decisions. Our
2 engineers are very used to that sort of thing, but
3 our pilots, our mechanics and our flight
4 operations organization are not. So we are going
5 to try to come up with standardized ways of doing
6 that.

7 These information tools that I spoke of
8 like ASIAs we risk mitigation. So, hopefully, I
9 was able to present some best practice that we are
10 using in aviation that you are able to apply. So
11 thank you.

12 (Applause.)

13 MR. FLANIGON: Thank you, Tony.

14 You know, looking at information about
15 what we call near misses or errors whatever, I was
16 doing some reading the other night, I think it was
17 some of the SMS material, and something struck me
18 as I was reading it that in being reactive, you
19 know, looking at accident investigations and
20 learning from them that's certainly necessary
21 thing to do.

1 But it is a very expensive lesson. And
2 that if you can get at incident before the
3 accident and learn from them, it is really a free
4 education as opposed to a very expensive
5 education. And I think that is where we really
6 want to go.

7 Next up before we have our group
8 discussion is Mr. Earl Carnes. He is the senior
9 adviser for high reliability at the U.S.
10 Department of Energy, and he advises senior
11 management and contractors on efforts to improve
12 safety and performance in all areas of DOE
13 operations.

14 He serves as liaison with the Institute
15 of Nuclear Power Operations, facilitates exchanges
16 of operating experience, effective management
17 practices, and so forth. He appeared as an expert
18 on high reliability organizations at the NSTB
19 hearing that we talked about.

20 His prior DOE roles have included
21 technical assistant to the director of nuclear

1 safety, principal nuclear safety evaluator for
2 emergency management, and policy specialist,
3 looking at safety management systems. He's
4 written the DOE human performance handbook and a
5 number of other publications. And he also worked
6 in the nuclear power industry before that.

7 Earl informs me also that he is no
8 relation to the hurricane that tried to blow
9 through the East Coast a week or so ago. Actually
10 I think we have to thank for all of the good
11 weather. Maybe you do want to claim kinship
12 please welcome Mr. Carnes.

13 (Applause.)

14 MR. CARNES: Thank you all. I noticed
15 some of you turned your heads one way, so I will
16 shift over here so the others, your neck can rest
17 a little bit. Personally I need it, since I have
18 been flying a lot, like most of us, thanks to my
19 friends. So, it is a pleasure to be here with
20 you. How is the volume? Is it satisfactory?
21 Okay. Thank you.

1 It is like going to church, isn't it,
2 Robert?

3 I have had the pleasure of knowing this
4 gentleman for a number of years and because a
5 number of us in the federal government have
6 regulatory responsibilities, investigative
7 responsibilities and et cetera, I would like for
8 things to work this way. We have found out that a
9 lot of us actively read, research and study to try
10 the improve to execution of our governmental
11 responsibilities.

12 We have started calling one another, I
13 guess, 3 or 4 years ago, I think, something like
14 that we came together informally and formed what
15 we called the federal high reliability roundtable.
16 We hope to expand and gain a tremendous amount of
17 value getting together periodically. We spend a
18 day discussing the scientific literature that we
19 have been reading? How does it inform our
20 thinking? What are the experiences that we have
21 been having? What are the challenges that we

1 have?

2 This has been going on for about 3 or 4
3 years and I think that it is a very healthy thing
4 now one brain or one organization no one agency
5 really is smart enough to know it all anymore. I
6 think you gave an excellent example of the
7 collaborative nature of regulation, voluntary
8 action, the activity influence, and all of that in
9 a way that frames what I want to present to you,
10 very briefly here that I have entitled "Highly
11 Reliable Performance."

12 I want to emphasize what Robert touched
13 upon, that the core word is "performance." If we
14 all have a mission to perform, whether it's
15 aviation, rail transit, in my other life, the
16 generation of electricity for nuclear power,
17 science and technology in DOE, whatever, if we
18 don't perform that mission, we are not going to
19 stay in the business. If we don't do it safely,
20 we are not going to stay in business and we will
21 either harm someone or harm the environment.

1 So, it is the idea of performance.

2 Number one, I want to emphasize to you.

3 Number two, I want to emphasize an
4 argument that I continually make, and that is,
5 frankly, I would rather run our organizations
6 based on research then simply our opinion on how
7 we did business before individually.

8 Let me put it to you like this. Before
9 I came to DOE, I was a management consultant
10 working with troubled nuclear power plant and
11 start-up plants. One of the last jobs I had
12 before I joined the government was working in a
13 plant in Texas. The executive assistant to the
14 vice president was a lifelong resident of the
15 state of Texas and she had a big sign over her
16 desk, as you approached you could see it. It
17 said, "Just don't tell us how you did it in
18 New York, " apologies to any you who might be from
19 the wonderful state of New York.

20 There are many ways of looking at this
21 but I want to give you one frame of reference.

1 And that is the third point. When we speak in
2 terms of high reliability I look at my colleagues
3 in the Department of Energy and other places. And
4 I try to make it a point that this is a framework,
5 a way of thinking informed by years of research.

6 And you may recall, some of you who
7 studied this, the Peter Drucker made a living
8 primarily from going into major organizations and
9 asking what is your model of management. Frankly,
10 most of the people who are in charge of our
11 organizations, executive management levels, are
12 there because they are very good scientists, good
13 engineers, good attorneys but they have never been
14 trained in these things.

15 We need a way up as our friend Carl
16 (inaudible) the University of Michigan used to say
17 of making sense of what is going on in our
18 organizations. Both of these gentlemen talked
19 about the many ways that we use to make sense.

20 I want to argue that we need a framework
21 through which we can interpret what the data

1 means. That is the context of these two slides,
2 if they will work.

3 A brief history. I lived part of my
4 life in the academic world, part of it in the
5 practical world, but I think that understanding
6 history and the evolution of thought is important.
7 So I take you back, many of you know these things,
8 to the industrial revolution, and where we started
9 looking at safety as Robert would say. How did we
10 start looking at safety? Primarily from safety of
11 the people who worked in the facilities. And
12 before we started getting more knowledgeable, more
13 informed, you know that this is the way we looked
14 at things.

15 If somebody got hurt it was probably
16 because it was their fault. Okay? Well, we know
17 that is not true. We do know that as human beings
18 there are certain things that we are very good at
19 certain things we are not. For example, as
20 someone talked about, talking on the telephone and
21 driving on the beltway is not something we are

1 particularly good at doing, our attention is
2 divided. There are psychologically reasons that
3 are valid.

4 We need to be aware of those. We need
5 to use those in our analysis and use them in our
6 thinking is not always just our thought, okay, as
7 if we intentionally did those kind of things. So,
8 that is the old way of thinking. Okay. We have
9 already talked about all of these things.

10 Today we are in a very complex world.
11 As Tony was saying, the technology is changing,
12 the organizations are changing. Old organizations
13 are buying one another up, people are moving in
14 and out. Technology is wonderful, but it also
15 makes thing more complex because we have more
16 data. Systems are more highly interrelated. So
17 that the failure in one component can affect
18 something over here that we never really thought
19 of. Today we live in a context of increasing
20 complexity. Both of the gentlemen and Mike have
21 talked about the importance of understanding the

1 systems. Okay?

2 Now, also let me say that it is even
3 more complicated, because I have a lot of good
4 friends who are great systems engineers. They do
5 good work but they just want you to go away and
6 let them do their analysis. We have this messy
7 thing involved, it's called people. People just
8 don't behave according to the engineering
9 equations.

10 So, it is not just complex systems, it
11 is complex sociotechnical systems. The
12 interaction of individuals, groups, social
13 organizations, stakeholders, customers and
14 regulators gets more and more complex. We have to
15 have more or richer ways of thinking about how we
16 manage our organizations.

17 Most of you are familiar with this but I
18 want to emphasize it as Robert mentioned, two
19 different models -- not the only models -- but two
20 primary models that start the confusion, as Robert
21 mentioned, the personal accident model and the

1 organizational accident model.

2 Many of you remember a few years ago I
3 think it was Robert, it was the worse refinery
4 accident that we had in the United States, I
5 believe 14 fatalities and 40-some odd injuries.
6 Our colleagues at the U.S. Chemical Safety Board
7 investigated it and one of the recommendations
8 were to have a review done by former Secretary
9 Baker and his team. One of the key findings that
10 they wanted to remind of us is that the presence
11 of an effective personal safety management system
12 does not ensure the presence of an effective
13 process safety management system.

14 Worker safety is essential and most of
15 the organizations in the world, when they speak
16 about safety, speak about the safety of workers.
17 That it is good that they do so, and it is
18 essential. It is necessary but it is not
19 sufficient.

20 Unfortunately, some big organizations,
21 and we are seeing that play out today in the Gulf,

1 for example, that they do not fully recognize the
2 difference in the systems model and a personal
3 model, and that is where they start to go awry,
4 first of all.

5 So, the emerging paradigm. Robert spoke
6 about the whole idea of error, and the easiest
7 thing to do when something goes wrong is to point
8 to the people who were there at the scene and
9 blame it on human error again, Jim brought to the
10 attention to understand that error is not a cause;
11 error is a symptom.

12 Let's look at this paradigm. In the
13 traditional perspective of where we are going is
14 that, of course, things go right because my good
15 friends the engineers, of course, are so brilliant
16 that they designed these systems that will work
17 perfectly well, except for those nasty people
18 called humans.

19 So, everything will go right because the
20 systems are so well designed and maintained,
21 designers can foresee everything, procedures are

1 always correct, right? We know -- any of you use
2 procedures by the way? Okay. If you do, you know
3 those fallacies. I personally have been a user of
4 procedures, you have been a user of procedures,
5 and people behavior as they are taught and
6 expected to.

7 This idea of work as imagined versus
8 work as it is done is one of the most important
9 phrases, and I would recommend to your attention
10 as you reflect upon your responsibilities because
11 the two are not the same. Senior management has a
12 view of the world, okay, that is based on paper.
13 The people that have actually do the jobs have a
14 view of the world that is based upon confronting
15 equipment and confronting uncertain and less
16 desirable situations than the paper condition.

17 The new perspective, the emerging
18 perspective is that things go right because people
19 learn to overcome design flaws and glitches, learn
20 to adjust their performance to meet the demands.
21 They interpret and apply procedures to match the

1 conditions. They detect and correct error, which
2 is key to where Robert was going in one of his
3 slides. Okay.

4 And so the difference is that the old or
5 traditional perspective is that people are a
6 threat, and performance variability must be
7 eliminated. Now, personally I like to say that is
8 a formula for insanity. Okay. You tried the
9 drive out all error and all variability and you go
10 either bankrupt or insane or possibly both.

11 The emerging perspective is that people
12 are the key to make model technological systems
13 function. And Erik Hollnagel is the lead on this
14 work. It is very important to understand those
15 distinctions and ask, as (inaudible) would say,
16 what is your organizational model? What is your
17 model that management will follow? What are the
18 assumptions that underlie those models. Okay.

19 So this works during (inaudible) the
20 Three Mile Island, what is now referred as high
21 reliability organizations or shorthand high

1 reliability. It began after the accident at Three
2 Mile Island. A lot of research is going on and
3 our friend Karlene Roberts, who is also a witness
4 for Robert, she is a professor at the Haas school
5 UC Berkeley and others at Berkeley who are joined
6 by Karl Weick and Kathy Sutherland from Michigan
7 and others. I'm sure I have a witness here.

8 But starting off looking at the FAA air
9 traffic control system is a very highly reliable
10 organization. Yet looking at the USS Carl Vinson,
11 the aircraft carrier, looking at the Diablo Canyon
12 Nuclear Power Plant -- that is not the Diablo
13 Canyon there, that is Three Mile Island, for those
14 of you who are geeks like I am -- and, of course,
15 looking at submarines, and now recently,
16 particularly since the 1990s, starting to look at
17 medical.

18 So, here is the point. We started off
19 looking at those kinds of things, nuclear power,
20 submarines and esoteric things and complicated
21 things like air traffic control, but how does this

1 apply to other things? This is where the
2 research -- this is an example of where the
3 research has been -- again, I want to point to
4 health care.

5 I have the honor of being able to work
6 with the joint commission for healthcare
7 accreditation and healthcare (inaudible) system
8 throughout the United States. They have adopted
9 the HR model, again, as a frame of reference, a
10 way of thinking conceptualizing this system, the
11 sociologic -- it is important to say socio
12 technical systems model, thinking about how to do
13 healthcare. Personally I think that is very
14 important, as I am not as young as I used to be.

15 Manufacturing, the military, offshore
16 platforms, police forces, civil aviation
17 enforcement, nuclear power plant warfares,
18 submarines, railroad operations, wildland
19 firefighting. We have colleagues that work in our
20 HR roundtable from the forestry department,
21 wildland firefighting. Electrical transmission,

1 distribution, (inaudible) data study in
2 California, school reform, particularly in the UK.

3 So, the point is the principles and the
4 concepts we find to have researched have very
5 broad applications. The specific representation,
6 specific applications depend upon the work done
7 there, but it has been found to have a very broad
8 application.

9 So with that -- so where do we get to
10 performance? Here I give you the reason I use
11 nuclear power in addition to the fact it is where
12 I have lived for many years. We have 30 years of
13 data on how to use these approaches that we call
14 the rubric of HR or high reliability.

15 Let me direct your attention here. This
16 blue line, called the reactor trips and scram,
17 this is when the reactor shuts down. When the
18 reactor shuts down, you do not want it to shut
19 down, that is not a good thing, because that tells
20 you something isn't going quite awry in your
21 systems. That is not a good thing.

1 Also, by the way, if you shut down for a
2 day, it will cost you about \$2 million. So, that
3 is not a good thing. In addition it stresses your
4 system. You don't like that when your system is
5 like this.

6 This thing right here, the green line is
7 called a significant event. Now, you want over
8 time is 85. You see what happens, trips and
9 scram, it is going down to about .5 per year
10 industrywide, okay. Right down here you could
11 see what is defined as a significant event in the
12 regulatory reporting criteria by NRC, you see it
13 is almost to zero.

14 Now, the good stuff, first of all the
15 capacity factor. If a plant runs the maximum it
16 can run, 24 hours a day, 7 days a week, 365 days a
17 year, that is 100, 100 percent capacity. Usually
18 when this kind of work that we are talking about a
19 high level of (inaudible) sun, you know, it is
20 really getting started around about 1985. We were
21 running right around here, which is, what, a

1 little less than 60 percent. Right.

2 You will see today that the average
3 capacity factor is wide in the last figure I think
4 we were probably right around 93 percent. You get
5 a lot more production out of your equipment when
6 you are running like that. About 30 percent
7 (inaudible). The cost for kilowatt hours is
8 consistently increasing.

9 The point is the performance of your
10 operation has improved and the safety of your
11 operation has improved by doing the same things.
12 That is where these concepts tie together to say
13 if you really want an excellent organization, a
14 high performing organization, these concepts are
15 what you use to get safety and improvement which
16 is what we want.

17 The principles of high reliability are
18 organizing as articulated by Karl Weick. Kathy
19 Sutherland and other people have articulated it
20 differently. (Inaudible). These gentlemen have
21 both talked about these two things.

1 One of the basic concepts, is
2 anticipating becoming aware of the unexpected
3 because clearly engineers can engineer and
4 designers can design for the things that we can
5 expect. That is not what gets us into trouble it
6 is the things we can't expect. So one of the
7 hallmarks of a highly reliable organization or
8 what seems to be highly reliable is what we
9 preoccupation with failure. Always say what can
10 fail, how could it fail? How could we be wrong?
11 What might we be assuming would be incorrect?
12 What could get us into trouble today?

13 The attitude and the way of thinking
14 permeates the organization from the chief
15 executive office, the board of directors, to the
16 person who is working directly on the floor. We
17 have ways of facilitating that kind of culture
18 with those kind of techniques.

19 Reluctance to simplify? We have already
20 addressed that because we know that our operations
21 are no longer simple. We have to help people

1 develop complex cognitive models. This is one of
2 the reasons I emphasize models so much is to
3 understand what is happening in the whole system
4 not just in your area but what might your actions
5 do to trigger something undesirable over here.
6 How is work in another area perhaps affecting the
7 work you are doing today? That is a big thing,
8 and sensitivity to operations at all levels, okay.

9 Robert mentioned CFOs and for example,
10 in the commercial legal power industry, everyone
11 in the whole organization is trained.
12 Professionally developed on these concepts from,
13 the board of directors there is an institute, a
14 center for board of director education through my
15 old organization who powers operations through
16 Georgia Tech. For CFOs, HR directors and
17 nontechnical directors, there is a similar center
18 that is gone through MIT, okay. Then for line
19 management everyone from first line leaders, the
20 first line supervisors to CEO, there incidentally
21 are professional development, all giving them

1 these same concepts. Developing a similar model,
2 okay, is what this is all about.

3 Then for the utilities themselves, there
4 is training for every individual in the
5 organization. Okay. For example, one of the
6 things you do in aviation is the course of
7 communication, the feedback and using a sort of
8 communication protocols. So, you know, I can call
9 one of these organizations the person who picks up
10 the phone before you exchange the information back
11 and forth, is going to use the alphanumeric
12 communication protocol.

13 The three-part communication, I say
14 something to Robert, Robert will say something
15 back to me, I acknowledge my understanding, those
16 things are simple but powerful, okay everyone does
17 that.

18 Then something goes wrong, contain it.
19 Emergency management and emergency preparedness is
20 probably parallel but the commitment to
21 resilience, being able to respond to the

1 unexpected and being drilled and drilled to be
2 able to prepare ourselves, and finally have the
3 efforts of expertise. What does that mean?

4 Let's go back to the main example. That
5 means on the carrier when the ship is operational,
6 the planes are coming in and going out, the
7 admiral is not in charge. You know what I mean,
8 the admiral is always in charge, but the admiral
9 does not get in the way of the people doing the
10 jobs. It is those young 19- to 21-year-old people
11 who are on the deck, supervised by the chiefs, who
12 are running the show. That is their job. They
13 are the experts. Okay.

14 So understanding where your areas of
15 expertise lie, who should be doing what job when,
16 that is really the exercise, the orchestration
17 that the chief executives need to understand,
18 first the locust of expertise. Okay.

19 So now we have talked about in terms of
20 the safety management system. Let me emphasize
21 that this whole idea of high reliability cannot

1 succeed unless you have a robust safety management
2 system. Again, we are going into this whole
3 integration of safety plus performance, unifying
4 them together.

5 So, this is from a couple of other
6 comments Wrethall and Woods. This is one of his
7 classical models, but also built into this is this
8 thing of understanding, as Drucker would say, part
9 of your assumptions that go into your model. You
10 know, asking the question, well, do I have a basic
11 model for my safety management system, is that
12 person centered model, do I have complex model, do
13 I have resilience model? One of the assumptions
14 that feed into the various components of the
15 model. The whole thing on measurement here, okay,
16 and how you get into that.

17 So, again, I just -- I give you that,
18 again, to emphasize that it is having the robust
19 model because of understanding the assumptions
20 that underline the model and articulating those,
21 so you can know why it is you think the way that

1 you do. That is the goal.

2 Then finally, these are what I would
3 suggest for your reflection are basic
4 considerations basic ingredients for high
5 reliability. That is, of course, first adopt and
6 adaptive systems perspective, that work is never
7 the same as you imagine on paper. We have to
8 define the acceptable bounds of difference. Okay.
9 We have to understand what acceptable variability
10 is. We have to empower the people in different
11 conditions.

12 For example, you want people to act
13 differently in an emergency than they do in
14 routine operations. I will give you a good
15 example. You know, when it comes to someone who
16 is seriously injured or there is a very volatile
17 event like fire, what is more important, keeping
18 the secured door closed which is there to protect
19 vital documents, or getting people out of that
20 area? Okay. That is always an issue.

21 We want the prevailing wisdom to be

1 that, first of all, we protect human life. That
2 takes priority over security of documents. We can
3 handle that issue when the draw is opened. But
4 those are decisions we have to make all of the
5 time.

6 Using risk analysis to inform business
7 decisions. Risk-informed decision-making, again,
8 is a set of skills that we have to help people
9 learn, and in learning and then embed into the
10 processes of the organization, so that the safety
11 priorities are always considered in any
12 decision-making, particularly when it comes to
13 financial decisions, okay.

14 Strategically invest in ongoing
15 training. So many people think, well, we trained
16 the person to do the job, they should do it
17 correctly. Steel deteriorates, technology
18 changes, things that Tony talked about. That had
19 to always be reinforced, refreshed because of the
20 changes that we talked about; making sure that we
21 invest in our people because people actually solve

1 the problems. The technology is simply an enabler
2 to the different approach.

3 Emphasizing an important analysis and
4 change in management. Performance improvement
5 analysis reporting has to become a core
6 competency. It has to become part of everyone's
7 job. Everyone needs to understand that they are a
8 change agent, a reporting agent, an analyst and
9 participate in that overall system -- these
10 gentlemen have already said that -- seek to better
11 understand work as done versus work that is as
12 imagined. And the only way you can do that is by
13 getting in there and watching work being done.

14 If management is not living out in the
15 organization and walking down the space as we used
16 to say it, you know, and getting there and
17 understanding, then management is not doing its
18 job. Management observation, employee
19 observation, all of these multiple level
20 observations are part of the daily intelligence
21 system.

1 Balance expert and standard-based work.
2 Everything cannot be reduced to a linear paper
3 base procedure, but there are many different types
4 of cognitive enhancements that point to this. We
5 need to think of greater variety of that, how do
6 we support people's cognitive processes and also
7 understand that you can never, ever substitute for
8 the true expert, but also being able to
9 discriminate who is an expert, who is not an
10 expert. That is a complicated equation, but it is
11 essential.

12 Finally, to engage everyone. As Robert
13 said, you have thousands of eyes out there. Let
14 me give you an example to close with. In a good
15 performing nuclear power plant today -- well,
16 along time ago, it was fewer reports, better. You
17 know, that was like 20 years ago.

18 Now we understand that a good performing
19 nuclear power plant in the United States, the
20 employee themselves are generating anywhere from 9
21 to 11,000 items per year in the formal

1 corporate-wide, plant-wide system. All of those
2 are analyzed and treated throughout the system.

3 If you are falling below that is an
4 indicator that you have a concern. Okay. So it
5 is that kind of collective engagement.

6 That is what I wanted to share with you.
7 Thank you very much for the opportunity.

8 (Applause.)

9 MR. FLANIGON: Thank you very much.

10 When I spoke with Earl about doing this
11 presentation, I remember one slide that shows the
12 safety performance, the operational performance,
13 the capacity, the problem cycles. I said, well, I
14 would sure like you to include that, because I
15 think it fits with that concept that I mentioned
16 at some point earlier that good safety management
17 is good management. There is really a link.

18 And from my reading, I'm coming to
19 realize that is all part of the fourth pillar of
20 safety management system and safety promotion.
21 That if we can -- show how there is a payoff, that

1 it can lead to that increased volume and higher
2 level from the organization.

3 So now we have got -- these expert folks
4 who have presented this information, and they are
5 available to us as the committee to ask some
6 questions and have some conversations and help
7 inform us and guide us on our task at hand.

8 Ms. McCombe.

9 MS. McCOMBE: I have a question for
10 Anthony.

11 You talked about the safety management
12 system at FAA and now you are moving to the
13 industry, to the airlines, so that they
14 incorporate safety management systems. So, are
15 you thinking that the agency -- not the agencies,
16 but the airlines will have the exact same
17 processes as you? How are you complementing that?

18 MR. FAZIO: I have to be careful about
19 being in -- but effectively the way we are going
20 to approach it.

21 MR. FLANIGON: Move a little closer --

1 hold it a little closer to your mouth.

2 MR. FAZIO: Can you hear me now?

3 So where we are going to approach it is
4 performance based. So it is basically a lot of
5 guidance out there. You see guidance everywhere.
6 The aviation sector, like we spoke of, (inaudible)
7 a civil has put together a number of documents.
8 We had some orders internally. They all say the
9 same thing, so the approach in rule making is
10 going to be a must have safety promotion, you must
11 have safety.

12 Safety assurance. You have to show us
13 that you are doing some type of safety assurance.

14 Risk management. You are going to have
15 to have -- track your hazards and then
16 appropriately assess them.

17 So, the way we are going to approach it,
18 it will be a rule that basically performance base
19 for SMS, and then for each sector, the different
20 parts -- newer parts -- will have regulations for
21 each sector of the industry. Then we will adopt

1 that sector to meet that umbrella part of the -- I
2 hope I answered your question.

3 MS. McCOMBE: Yes, you did.

4 So the FAA drove it initially, drove the
5 SMS and created a great system. You have taken it
6 down to the airline level, slightly different but
7 it will be performance based?

8 MR. FAZIO: Basically. Again as I said,
9 this has been going on for a number of years in a
10 community of experts. They know what they want,
11 so what we did not want to do -- and this is
12 something you have to consider in adopting -- is
13 many companies are (inaudible) ISO, they have
14 quality management systems. They have safety
15 assurance programs. They have all of this in
16 place.

17 So, some of the pushback we are getting,
18 in fact, is companies saying we don't want to
19 reinvent the wheel, so that is why we are going
20 with performance base. So long as you can show
21 that you meet these elements, four pillars and the

1 sub-elements of each of those pillars, I believe
2 you have met compliance with the proposed rule.

3 Now, the question we have to grapple
4 with is how to enforce that. These are issues
5 that we are debating now. For example, the FAA is
6 going to have to assure that you are doing that,
7 because we are the regulator. Why couldn't you
8 have a third party, use a standard, for example?
9 Unlike quality management or an ISO, if you meet
10 the standards, you are assumed as qualified.
11 Those are some of the issues that we are grappling
12 with now. We have to have a debate. It will be a
13 pretty big response.

14 MS. McCOMBE: On the inspection side,
15 how many inspections do you do a year per airline?

16 MR. FAZIO: Oh, my gosh. I don't have
17 numbers exactly, but we have 4,800, I believe,
18 inspectors.

19 MS. McCOMBE: 4,800 inspectors?

20 MR. FAZIO: Across the country. They do
21 everything with the airlines themselves, the

1 operations capabilities to prepare assignments.
2 They have inspectors that (inaudible)
3 manufacturers and the world, that sort of thing
4 parts for manufacturers. It sounds like a lot,
5 but it really isn't.

6 A lot of what they are doing now they
7 are going to a risk base experience also. One of
8 the things we adopted years ago (inaudible). Air
9 transportation oversight system, which is was more
10 risk based, so put your resources where the
11 problems are.

12 I don't want to use names, but if
13 airline XYZ you have a great safety record, maybe
14 you don't need as much oversight as Z over here,
15 who has shown some excess in incidents. So, that
16 is kind of what SMS will take you over time. It
17 will focus your resources on the risks. It is not
18 easy to do.

19 MR. FLANIGON: Len.

20 MR. HARDY: I have a question for Tony.
21 Kind of following up on the discussion you were

1 just having, and that is you talked about
2 performance-based evaluations, right? And you
3 talked about benchmarking. When you talked about
4 benchmarking, you talk about going through a third
5 party And basically drawing in from the whole
6 aviation industry.

7 Now when you talk about assessing
8 individual carriers, when you talk about
9 performance base, do you anticipate that you will
10 come up with benchmarks that you will hold the
11 industry accountable to? How would you measure
12 performance base if you don't come you with some
13 sort of a benchmark?

14 And is that in the works for you? Do
15 you think that you will -- as work through this,
16 that you will come up with benchmarking and that
17 eventually you will look at carriers and base --
18 assess their safety record, if you will, on the
19 benchmarks and whether they meet certain
20 benchmarks or not, and identify those that are not
21 meeting the benchmarks and basically, you know,

1 that's where, perhaps some enforcement when you
2 come in?

3 MR. FAZIO: So, first and foremost, we
4 are regulatory agency. We have regulations in
5 place to enforce those regulations. So, that is
6 the bottom line, if you will. So, the systems are
7 going to be put in place to make sure that the
8 regulations are being applied.

9 The idea of benchmarks that I referred
10 to earlier are more for the industry to do a
11 self-assessment of itself. I think I know where
12 you are going. Part of what we are grappling with
13 in the aviation section is part of that amass is
14 an acceptable level of safety. And one of things
15 that the international community we are all very
16 (inaudible) aware of these, we in the United
17 States have one level of safety, it may not be the
18 same as, say, China or parts of Africa, so we
19 don't want an acceptable level of safety that is
20 applied equally across the world. So, in that
21 regard, that has created a lot of concern in that

1 community.

2 As far as benchmarking, I think as we
3 evolve our systems, our oversight systems, there
4 will probably be some type of benchmarking. I
5 cannot tell you exactly what they are going to
6 look like. I think we have to do that. I mean, a
7 certain number of reports, for example, might be
8 acceptable versus some that not might be.

9 MR. FLANIGON: Tom.

10 MR. PRENDERGAST: Tony, in your third
11 party system where you try to guarantee anonymity
12 so that you are providing for a free flow of
13 information, do you have any protections against
14 or limitations on other third parties who may, for
15 litigation purposes, want to access that data for
16 individuals and lawsuits and things of that
17 nature?

18 MR. FAZIO: Excellent question. In
19 fact, that is the dilemma we find ourselves in
20 today. So when I spoke of protections, if you are
21 providing confidential submitted information under

1 Part 193, which is a regulation that protects ASAP
2 reports and the FOQA reports, you are protected
3 from FAA enforcement. Unfortunately, you may not
4 be protected from civil law. So, that is
5 something, actually, the community is very
6 concerned about.

7 We -- in our reorganization bill that is
8 pending for 3 years now, the community has come
9 together and asked Congress to provide some type
10 of protection for litigants or against litigants,
11 and I have seen draft language that would attempt
12 to do that. Unfortunately, our reorganization has
13 not passed, and is not likely to pass this year,
14 so we don't know where that is going to go. But
15 that continues to be a concern, if you talk to
16 flight safety foundation, do you want to say some
17 of this, too, that is a perpetual concern for the
18 industry.

19 MR. PRENDERGAST: The reason I raise it,
20 I mean, a number of people here would share it, is
21 that I don't have a feel for the frequency of what

1 kind of litigation magnitude you see in the
2 aviation industry, but on a local transit level it
3 is significant. I mean, it is -- there are
4 ambulance chasers that put up their signs
5 everywhere.

6 And it is something that, you know, you
7 never want to have to be in the way of getting the
8 data, so eventually we will have to cope with it,
9 but it is just -- with what is the best way to
10 cope with it, because we don't want to say we
11 don't want to participate in the system just
12 because of that exposure.

13 MR. SUNWALT: I'm not attorney, so this
14 is not legal advice, but the attorneys that I hear
15 speaking about this very issue, point out that if
16 these programs are considered best practices and
17 then you don't have them, then you are probably
18 opening yourself up for more damages because you
19 didn't employment them to prevent the accident in
20 the first place.

21 So that is sort of the thinking that I'm

1 hearing in the aviation community. And if you
2 don't have any of the problems then you are not --
3 then you are not held to that standard.

4 MR. PRENDERGAST: I totally agree. I
5 mean, the day of the general counsel telling me
6 they don't want information because they don't
7 have to defend against it, you generally fire
8 those general counsel.

9 MR. FLANIGON: Just from the standpoint
10 of the task at hand, in looking at these elements
11 of safety planning systems and what might work in
12 the rail transit industry, I think we are being
13 tasked with looking also at what might
14 challenge -- what challenges there might be and
15 what methods might we look at to overcome those
16 challenges. So, those are certainly thoughts to
17 kind of work into the equations as we do our work.

18 Other questions? Rick.

19 MR. KRISAK: I reading the reference
20 material you gave us on the FAA SMS system, there
21 was some reference in there to the involvement of

1 the states, individual states. What would
2 involvement did those individual states have in
3 the FAA SMS?

4 MR. FAZIO: So, the document you
5 received was, I believe, a document put out by the
6 airports organization. So that wasn't on like --
7 transit systems are involved in overseeing by
8 states or by authorities. So, I don't work in
9 that area, I'm on the safety side of the house.
10 So I suspect if, you know, the state or the local
11 municipality owns that airport, there is going to
12 have to be a linkage back to -- they have
13 responsibilities, they are operating that airport,
14 they are going to -- in fact, I didn't mention it
15 when I spoke of the rule making for the airlines,
16 the airports organization also is going to be
17 putting out SMS.

18 So my suspicion is it ties back to the,
19 as the state is the operator -- I think we are in
20 Maryland, BWI, the State of Maryland they have
21 responsibilities, but they will have to be the

1 SMS.

2 MR. KRISAK: The reason I bring that up
3 is because, you know, we seem to be moving towards
4 the model where we want state safety oversight to
5 remain in place as an entity, a part of this
6 increased regulation, but with an enhanced FTA
7 role.

8 And my question, I guess, would be, if
9 you guys had that structure, if you had to work
10 within that structure where the major, you know,
11 leadership role and oversight role were the states
12 and not through a centralized FAA, how would you
13 envision being able to roll out a program like you
14 have?

15 MR. FAZIO: Well, you know, I would
16 see -- they have to see us to their advantage.
17 While we are talking safety, they are enormous
18 (inaudible) to adopting the system. It is
19 important (inaudible) to be focused on the safety
20 side, you save money by being a safe organization.
21 So, again, the airport side of the house, we can

1 mandate them because have federal redemption.

2 So, I would just sell the point that we
3 are all care about safety. We care about doing it
4 economically to save resources, because again, you
5 also will hear a lot about in terms (inaudible).
6 Safety is just one element. You have
7 environmental management systems, you have
8 occupational health safety system or systems, so
9 there -- it is all good business practice, if you
10 will. So I would sell it in that regard.

11 MR. KRISAK: And I guess I bring that up
12 more as a concern to the group than to the FAA,
13 but, you know, our model that we are talking about
14 is a significantly different structural
15 organization from what the FAA is doing. And I
16 think we need to figure out how we are going to
17 grapple with that, because we are empowering the
18 states to a much higher degree than, say, the FAA
19 does. We are more than an airport owner. We the
20 operator. We are like the airline in your model.

21 MR. FLANIGON: Dave.

1 MR. GENOVA: I think it's interesting to
2 observe that this is performance-based
3 requirements, and I would just make an assumption,
4 I don't know much about the aviation regulations,
5 but I assume you have a whole bunch of
6 prescriptive requirements about aircraft
7 standards, systems standards, maintenance
8 requirements, inspections.

9 And, so, is this the first time FAA is
10 looking at putting in performance-based
11 requirements in addition to all of the very
12 prescriptive requirements that you have?

13 MR. FAZIO: No, it is not the first.
14 But you are right, we have a lot of prescriptive
15 regulations. But honestly, (inaudible) we are
16 (inaudible) 7 years, and we are going more and
17 more towards performance-based regulation. It is
18 probably the best way to go as far as assuring
19 what you want to accomplish that you are going to
20 accomplish.

21 The dilemma, of course, comes in in

1 enforcement and interpretation. And, so, because
2 of that, what you have to do as a regulator is
3 write very good guidance material both for
4 regulative part and for new inspectors, because,
5 you know, it is all interpretation. But you can
6 write the standard in such a way that, you know --
7 again, SMS, I don't think will be that difficult.

8 There are concerns and I have expressed
9 them to our inspectors. They have to adhere to
10 the guidance because we are often, as a government
11 entity, accused of heavy hands. We will get
12 individuals. So we talked about best practices.

13 We also had bad practices. We had
14 inspectors that want to go out and enforce all the
15 time, write the ticket anyway. And that is not
16 conducive to this just culture. So it takes
17 cultural change not only regulating the community
18 but also the regulator.

19 MR. GENOVA: Just a follow-up comment --
20 actually this is on the HRO. And I made an
21 observation when you had -- under some of those

1 principles earlier, you had about containing the
2 unexpected when it occurs. And I think that in
3 system safety, we can almost use a risk indices to
4 say, well, the probability of this occurring are
5 so remote that we can do this.

6 And it seems to me that HRO principles
7 are in conflict with that, where we should be
8 actually working on those things that are going to
9 be unexpected and how are we going to manage it
10 when they do happen. So, I just thought that was
11 an interesting distinction between HRO and system
12 safety.

13 MR. CARNES: I am not sure if I exactly
14 how you -- sidebar I look at it this way. Is that
15 I'm a big fan of risk assessment, you know, I go
16 to the biannual, you know, PSAM, Probabilistic
17 Safety Analysis Management conferences, and I
18 think it is made a tremendous amount of difference
19 of risk informing not only our inspection, our
20 regulatory processes, but management you know --
21 that said, whatever we can expect, whatever we can

1 analyze, we can plan for.

2 But it is not the things that we
3 understand that bite us. And there are things at
4 all levels, regardless of whether I'm a mechanic
5 or whether I am the CFO that I may think I
6 understand that I don't. The key distinction that
7 I hope to draw is that it is that feeling of
8 uneasiness, that humility in what we know that we
9 try to engender through the kind of culture that
10 Robert was talking about.

11 When I talked about assumptions, I will
12 leave it with this, is whenever we are making
13 important decisions and doing critical work, you
14 know, always trying to understand what do we know
15 versus what we do not know and why is it that we
16 trust the defenses that we put in it place is a
17 difficult conversation we have to have and to have
18 it continually. Thank you very much.

19 MR. FLANIGON: I think down there.
20 Jackie.

21 MS. JETER: Thank you. I first wanted

1 to tell Mr. Sunwalt, I will make sure you get a
2 picture of an operator to put in your slide.

3 (Laughter.)

4 MS. JETER: The second is going back to
5 what you know and how you know. How do you know
6 when you have a system that is practicing the
7 safety culture and, you know, the high reliability
8 and all of those things, because there is no
9 reporting mechanisms for anyone? And, so, I know
10 common sense tells me it is a system that is not
11 having any accidents, but from this accident, I
12 know that is not true.

13 Sometimes it is the accident that is
14 waiting to happen that just haven't happened yet.
15 So how do we know as an industry who is doing the
16 right thing and who is doing the wrong thing.

17 MR. SUNWALT: Jackie, that is a great
18 question. And I don't think I have a real good
19 answer for that. But I do want to bring up that I
20 think a metric for safety -- that the wrong metric
21 for safety is a lack of accidents. And I think

1 that is what WMATA fell into. Our last fatal
2 accident was January the 13th, 1982, and that has
3 become a long time ago. And so, therefore, we are
4 safe.

5 You know, we heard -- when we met with
6 the board of director 4 weeks ago, we did hear
7 some of the board members say that. We thought we
8 were safe, since we had not had an accident in a
9 long, long time.

10 So, I wouldn't suggest that lack of
11 accidents be a metric. I think it is quite
12 contrary, and it is what Earl said a little while
13 ago. Years ago people used to think that if we
14 are not getting a lot of reports, that is good
15 news; but in reality, that is bad news. You want
16 lots of reports.

17 And really you never know what you don't
18 know. And that is the scary thing. So,
19 therefore, you want to get as much information as
20 you can possibly analyze to look for those trends.

21 But it is a great and that is why I

1 think this preoccupation with failure, which is a
2 characteristic of HRO is good, because you never
3 are completely satisfied. I think when you start
4 feeling like you are safe, that is when something
5 is going to bite you.

6 I hope that gives you some answer to the
7 question. I don't really have a good answer for
8 it, other than we keep looking for information.

9 MS. JETER: Thank you.

10 MR. FLANIGON: Ed.

11 MR. WATT: Yes, for Robert, and anyone
12 else can jump in if they have any thoughts. Is
13 there any literature on the effect of psychosocial
14 factors and other occupational attributes that
15 contribute to a subculture? I mean, being a
16 pilot, you know, there is a subculture there,
17 there is a subculture with train operators and
18 track workers, but they are all different. And
19 they are influenced, obviously, somewhat by who is
20 drawn to the job, you know, the nature, but they
21 are also affected by the nurture, what happens to

1 people when they are on the job, what is expected
2 of them, how they review justice, procedural
3 justice.

4 So do you have any research or thinking
5 how that -- how those connect the subculture to a
6 culture of -- to the entire organization of
7 organizational culture?

8 MR. SUNWALT: I really don't -- I will
9 turn it over to Tony and Earl. I think Earl may
10 know something on that. I really don't have any
11 specific literature.

12 MR. WATT: Well, let me give you a
13 little help, which I didn't want, because it is a
14 bad example. And as the lawyers say, bad cases
15 make bad -- is our friend the flight attendant who
16 pulls the cord.

17 Well, you know, obviously, things just
18 happened to him. And it is a bad example, because
19 he is probably wrong on a couple of levels. But
20 still, unfortunately, there is -- and I don't -- I
21 don't find myself often in sync with popular

1 culture, but he became idolized to some. He was
2 elevated to a hero.

3 And there has got to be something in
4 there that people said, yeah, that is parts of my
5 job that I don't like and they have done that.
6 That is kind of the things I'm trying to get at,
7 and would it be valuable to measure that, I guess?

8 MR. SUNWALT: One attribute of a safety
9 culture which is -- you know, I had to boil this
10 down in a couple of (inaudible) points but I think
11 in other research that I have seen, work done by
12 Dupont, one thing that is very important is
13 procedural compliance. And I think that you can
14 measure procedural compliance for a number of
15 things through audits and focus groups and things
16 like that.

17 So there is a linkage between complying
18 with established procedures and safety, I believe.
19 And Dupont has done work on that.

20 I am going to turn it over to these
21 folks and see if they reference to something else.

1 MR. FAZIO: I am far from an expert on
2 this, but I know there are behavior psychologists
3 that work with culture science. It is behavior.
4 And I read a report on -- in fact, a submission in
5 aviation -- attributes you can look for to see if
6 you have a safety culture. That is more of a
7 macro, I think. You are looking more at the
8 micro. I don't know how to address that one.

9 MR. CARNES: I will be happy to share
10 literature with you, but let me start off with
11 Dr. Edgar Schein, MIT, the macro level of
12 organizational culture. He is probably one of
13 the -- he is known for collecting (inaudible). Ed
14 Schein, Dr. Ed Schein, I can give you the
15 information. He is (inaudible) gentleman. He
16 gets into subcultures discussion.

17 So, that approach is one level. Friends
18 of mine in Finland, (inaudible) have some
19 excellent -- primarily solution and procedure
20 operation where they discuss different techniques
21 that you can use to go -- and I'm big, as you

1 probably can tell, going into the workplaces and
2 interacting and trying to understand what the
3 subcultures are.

4 So, they have had some interesting ones,
5 particularly on maintenance culture, how to
6 understand maintenance culture, and again, that
7 work that is imagined versus work that is done,
8 and also understanding, as you were saying, the
9 assumptions that you may have subculture in
10 maintenance organization.

11 So, there is that kind of literature and
12 it is on psychodynamics, that kind of stuff out
13 there, we can -- my kind of business, you know, I
14 don't think you would go that extreme, but you
15 know we have psychologically profiles based on
16 people that we allow to do certain kind of work
17 and all of my prior life, you know, what goes into
18 the standard, you know, in the VA and all of those
19 kinds of thing to make sure that, you know, the
20 appropriate things -- of course, in our -- so,
21 yes, there is a body of literature. I can help

1 you access some of as to a few observations.

2 MR. FLANIGON: I think Diane is up next.

3 MS. DAVIDSON: I'm interested in how you
4 operationalize the safety culture, and in
5 particular for FAA. I believe you have nine
6 regions. What role do the regions play in safety,
7 in carrying out the various directives, because
8 you have a very large population? I think you
9 have four regulatory disciplines or four
10 disciplines that are then regulated. So, what
11 role do the regions play?

12 MR. FAZIO: Trying to think back. It
13 has probably been about 15, 18 years ago we
14 centralized all policy and procedures into
15 Washington. So the regions themselves basically
16 perform that policy or enact that policy. So,
17 what you see, unfortunately, and one of the
18 biggest criticisms you will see in aviation is
19 that one facility or one office will apply
20 regulations differently than another.

21 And, so, one of the reasons why we

1 decided to go to an ISO quality management system
2 was try to pose a standardize process. So, this
3 is the process for certifying airplanes. This is
4 the process for certifying aircraft or parts, this
5 and that. Everybody follows it, and we test
6 ourselves against it by evaluation.

7 So we attempted to do that and have we
8 been successful. I think we made progress. We
9 have a lot further to go, obviously. We still
10 hear stories that (inaudible). I think a lot of
11 it comes down to leadership. We as a safety
12 order -- I'm not speaking of the whole FAA, I'm
13 now speaking of the a safety organization, we are
14 7,000 strong. So we have a lot of
15 responsibilities for the airplanes and the
16 manufacturers.

17 We do a lot. We try to get out and
18 (inaudible). As a member of the executive team,
19 we go -- we have been asked by my boss, who is the
20 director of safety, to go out and meet with ever
21 facility out in the country. There is over 100.

1 So, we are taking time out to go out and preach
2 the same gospel, if you will.

3 So, personally, I think a lot of it
4 comes from -- if you have all policies and
5 procedures, it is great, but at the end of the
6 day, it has to be leadership. So, you have to get
7 your middle managers to (inaudible). In 2 weeks
8 we are bringing all the middle managers from
9 around the country into Washington to begin this
10 dialogue. It is a very, very difficult job.

11 MS. DAVIDSON: Kind of a follow-up for
12 that. In terms of compliance and after
13 enforcement is conducted, I believe you have
14 something called airworthiness directives. Do you
15 still use those?

16 MR. FAZIO: Yes.

17 MS. DAVIDSON: And if I understand that,
18 it is not a fine-based system, but it is
19 corrective action system. Are fines involved in
20 that, and if so, what looks to be most effective
21 fines or certain conditions of not being allowed

1 to fly or other associated actions until
2 compliance is reached?

3 MR. FAZIO: Well, an airworthiness
4 directive basically is a regulation, so an
5 aircraft certificated is supposed to meet a
6 certain level of regulations, of standards. We
7 should have airworthiness directives to say, well,
8 we missed it. We didn't get it right. The
9 intervals are not correct. We have to do less or
10 more, whatever it might be that brings it to the
11 level of safety to where it is certified.

12 So, that is a little different than --
13 fine for that. We, the regulator or the industry
14 manufacturer did not see that occur, so we have to
15 fix the problem immediately to do that for rule
16 making (inaudible).

17 I think where you are going is more of
18 the enforcement, civil penalty route. You know,
19 that goes up and down. There is a period there
20 where we enforced a lot, we imposed possible
21 penalties, and we adopted the just culture. We

1 are trying to find that happy medium. I don't
2 know where it is.

3 I mean, we just issued announcement last
4 week, I believe, \$24 million to American Airlines.
5 It is the largest on record. And, so we found it
6 pretty egregious. It will have to work its way
7 through the system, but -- if they were not
8 compliant with an airworthiness directive. So it
9 goes up and down.

10 My personal view is I think you can do a
11 lot with just culture. Why? I don't think anyone
12 wants to break a rule. I mean there are bad
13 actors, there is no question about it. I would
14 say 90 to 95 percent are trying to do the right
15 thing. So, you know, you have got to have a
16 measure --

17 MS. DAVIDSON: Thanks.

18 MR. FLANIGON: Bill is up next.

19 MR. GRIZARD: Mr. Fazio, I apologize, I
20 was thinking maybe my question I want to direct
21 you, but I feel like you are drawing all of the

1 questions here, I don't want to make it seem that
2 way. I did have a question. I believe you stated
3 you hand 121 different carriers that you were
4 going to apply this to.

5 MR. FAZIO: No, I'm sorry the part of
6 the regulation it is called Part 121.

7 MR. GRIZARD: Oh, Part 121.

8 MR. FAZIO: It is any airline operation
9 nine seats and above.

10 MR. GRIZARD: Okay. But I'm guessing
11 that there is going to be -- quite a bit of
12 difference between airlines if you are going to be
13 applying this to or you got the smaller regionals
14 and, of course, the larger internationals and a
15 variety of different kinds of equipment and
16 operating procedures. And I am just wondering if
17 you have given any thought to how you plan to
18 apply some kind of scale and flexibility of the
19 SMS to that universe that you are responsible,
20 what kind of approach are you going to adopt?

21 MR. FAZIO: Yes, that is -- what I

1 failed to mentioned is that one of the reasons why
2 we think we can meet the 90-day deadline is that
3 we had our own advisory committee already in place
4 made up of airlines, manufacturers, the whole
5 aviation community and fair statement.

6 And one of the first recommendations
7 they made to us is whatever you impose on us has
8 to be scalable. So clearly, we do believe we are
9 going to get there simply because it is going to
10 be a performance-based regulation, so obviously,
11 if you at Boeing, you are not going to have the
12 same SMS as a mom-and-pop manufacturer of a bolt,
13 for example, which happens in our industry. And,
14 so, we recognize that.

15 Again, while the rule will be
16 performance based, it is all in interpretation.
17 So, I know I just recently heard from the
18 helicopter industry, they have already put out
19 guidance for their members. And they have a road
20 map, if you will, for applying SMS for their
21 community. And I love to share this story. They

1 are so adamant about this, they had a one-person,
2 one-aircraft operation. He has an SMS.

3 As pilots, you have a checklist. That
4 is an SMS in a way isn't it. If you are talking
5 to folks who came from the military, the test
6 pilot, they give you one page. You have to fill
7 it out, if you get a certain score, you are not
8 flying that day, because they ask a question about
9 fatigue or you last flight, whatever it might be.
10 That is a form of SMS. And that is scalable. So,
11 I think that is what we have to do and we are very
12 mindful of that.

13 MR. FLANIGON: That was good. I
14 appreciate that Bill is thinking about the task at
15 hand, because we have got -- just at the table
16 here, we have the largest transit operation in the
17 country, and in terms of rail transit a very small
18 historic operation of streetcars, so whatever we
19 come up with has to fit that broad spectrum.

20 I think I have one over here, Mr.
21 Dougherty.

1 MR. DOUGHERTY: Thank you. Again,
2 Mr. Fazio, I guess --

3 MR. FAZIO: We are all regulators.

4 MR. DOUGHERTY: Well, I guess that is
5 it. I believe you said your primary function of
6 the FAA is regulatory function; correct?

7 MR. FAZIO: I'm currently accident
8 investigation.

9 MR. DOUGHERTY: And you have, what,
10 4,800 inspectors or something?

11 MR. FAZIO: The safety organization has
12 roughly 7,800 inspectors.

13 MR. DOUGHERTY: And the regulated
14 community, are they all private carriers versus
15 tax based or tax supported?

16 MR. FAZIO: They are all private
17 entities, yes. We do not regulate public
18 (inaudible).

19 MR. DOUGHERTY: So I guess looking at
20 that, that's some of the differences. And are all
21 of the inspections conducted by FAA inspectors

1 versus others?

2 MR. FAZIO: Well, that is a good
3 question. No. We have primary (inaudible), but
4 we do a lot of delegations. So, for example, if
5 you are a pilot and you need a medical exam. You
6 don't go to FAA doctor. You can go to a doctor
7 who is certified by the FAA -- designated by the
8 FAA to perform that.

9 If you are a pilot and you need a check,
10 you can get checked by someone who is working on
11 behalf of FAA. You can do in the manufacturing
12 center. There are designated engineering
13 representatives who, when they are getting
14 approvals for certain production or engineering
15 approvals are doing that on behalf of the FAA.

16 So, we do a lot of that. Remember I
17 talked about the changing aviation industry. We
18 are going to more of that, because we are not
19 growing. If you follow what is happening in
20 Washington, the government is not going to grow.
21 The industry grows, we have got to adapt to meet

1 that. So part of that is designation.

2 MR. DOUGHERTY: Thank you.

3 MR. FLANIGON: And I think Mr. Clark is
4 next.

5 MR. CLARK: Thanks, Mike. I guess this
6 kind of a question and an observation for the
7 panel itself. Kind of picking up on something
8 that Jim mentioned which occurred to me also is
9 that in this industry we are in a very different
10 position. As a regulator in California, I
11 regulate public entities, tax-based entities
12 not -- well, on the rail side of the operation I
13 do.

14 And so that is very different, because
15 it is very different to try to assess a penalty to
16 take an enforcement action against another
17 governmental agency than it is a private company.
18 But it occurs to me from listening to what you-all
19 have said, I have been an enforcement guy for
20 forever, and I have always struggled with the
21 enforcement, the collaboration, the

1 performance-based rule making, the enforcement,
2 and the whole 9 yards and how it is that you do
3 the enforcement.

4 But it occurs to me after listening to
5 you folks and some reading that I have been doing
6 that if you have collaborative rules development,
7 you have performance-based rate making standards,
8 and then as one of you said, I think I was you
9 Mr. Fazio said, clearly written interpretive
10 bulletins and materials, and then you have
11 corrective action plans, that you find yourself in
12 an excellent place to take an enforcement action
13 if you need to take one. And the possibility that
14 you would need to take an enforcement action I
15 think is diminished considerably by having these
16 other elements of a system in place.

17 I just wondered if you might comment on
18 that?

19 MR. FAZIO: I think you have done an
20 excellent summary of what we have been trying to
21 do. As I said, my belief is 90 to 95 percent of

1 our community wants to do the right thing. And,
2 so, getting there, you know, if it is a lack of
3 information or a mistake of sorts, you have in
4 place mechanisms to do that. So, we do a lot.

5 When I was in rule making, for example,
6 we do a lot of rule making by advisory, bring in
7 the agents. They can tell us. You know, people
8 wonder, well, isn't that a conflict of interest,
9 industry is coming in? No. We are using your
10 expertise. We ultimately have the say.

11 So, yes, I agree with you. But I don't
12 know why as a public entity you couldn't have the
13 authority to point to situation and say, no, you
14 are not doing. The state is different, obviously,
15 but --

16 MR. CLARK: I'm not saying we don't,
17 because we do actually stop operations from time
18 to time. But assessing a monetary penalty is a
19 whole different thing. But shutting them down
20 until they fix something, I mean, I have certainly
21 done that.

1 MR. FLANIGON: Jackie I think is next.

2 MS. JETER: My question is when we
3 started the FTA DOT drug testing policy, with that
4 we also put -- and I say "we," but you -- put in a
5 caveat that after a period of time there will be
6 an audit, an audit of the agencies that are
7 participating to find out whether or not they are
8 following the guidelines that have been put in
9 place and how they are following those guidelines.

10 So my question becomes, do you support
11 or what is your thinking on that type of audit
12 being put into place with regulations for transit
13 agencies around the country to find out whether or
14 not they are complying with federal mandated
15 guidelines or regulations?

16 MR. FAZIO: Is that for us.

17 MS. JETER: What do you think about it?

18 MR. FAZIO: Well, unless FTA were to
19 give regulatory authority, which I doubt
20 (inaudible) there are other opportunities out
21 there for you. You have trade associations.

1 There are a number of ways that you can do it
2 where you can have third parties come in and audit
3 you.

4 I think maybe as a community you may
5 want to help establish standards. I'm sure FTA
6 has regulatory standards with guidance materials.
7 I have seen some (inaudible) trade association.
8 Have a third party come in.

9 We -- I'm involved in an advisory
10 committee on the future of aviation, and we had a
11 interested presentation from the Flight Safety
12 Foundation 2 weeks ago, where he was making that
13 very point, that we are getting to the point in
14 aviation where it becomes so safe -- my friends in
15 NSTB might not want to hear this, but is getting
16 harder and harder for us to issue regulations,
17 because if you are not aware, we always have to
18 deal with cost ratio with any regulation we
19 impose. We cannot get the benefits because we are
20 so safe now, unless there is an accident, an
21 immediate accident that we are addressing, it is

1 very hard for us to justify that.

2 So his point was, well, why don't you
3 have the industry police itself. It is a very
4 interesting concept. I'm not sure we will go for
5 it, but -- and the idea falls around best
6 practices. Why should -- I spoke of those
7 programs. Why should an airline that is doing all
8 those right things then compete head to head with
9 a company that doesn't do that? Those programs
10 cost a lot of money. But they are not regulatory.
11 We are not mandating these.

12 And, so, the industry itself could say,
13 you know, this airline or this train authority
14 follows the Good Housekeeping seal, if you will,
15 and then the public can decide. You have an
16 informed public there.

17 We do it -- the International Air
18 Transport Association does that for their members.
19 You cannot join the IATA -- you may have seen that
20 on your ticket -- unless you passed one of their
21 audits. And they bring these safety audits,

1 business audits, that sort of thing. And, so, you
2 cannot be a member of their association. So there
3 is another premise. I don't know if it is your
4 model or not okay.

5 MR. FLANIGON: I think what we are going
6 to do is take one, two, three, four, five more
7 questions before taking a break. And we will
8 start with the duty medic.

9 MR. BATES: This question is for -- it
10 can be for all three on the panel. And, Mr.
11 Sunwalt, watching your presentation, I was very
12 fascinated by it. In your study, who is the chief
13 safety officer in the company, is it middle
14 management or is it CEO.

15 MR. SUNWALT: In my opinion it needs to
16 be the very top. Now, that is debatable. Where
17 is the top? Is it the general manager, is it the
18 board of directors? Where is it? And I literally
19 mean it has to start at the top of the
20 organization. In my opinion that is the board of
21 directors getting the right information and

1 providing some level of oversight into those
2 issues. It has to be the CEO.

3 Safety is not just -- as we said in our
4 board meetings, the chief safety officer is there
5 not to be the head of safety, but to be one who
6 supports the head of the organization to make sure
7 that they are looking at those right kinds of
8 things. Safety is not a middle management
9 function.

10 A chief safety officer is there to
11 collect the data, and then make sure that those
12 higher up in the organization are fully informed
13 as to what they need to be informed to.

14 MR. WATT: That is the problem I kind of
15 have my reservations with, because the board of
16 directors, are they a day-to-day operation type --
17 are they a day-to-day operation type function or
18 is the general manager or the CEO day to day to
19 keep his eye on the process on a daily basis?

20 MR. SUNWALT: Well, I think the general
21 manager is certainly there to look at the

1 day-to-day operations but if you look at any books
2 on -- I was out looking at some colleges with my
3 daughter, and she wanted to go to Harvard, and I
4 hope she can get in there, so we were in Harvard
5 bookstore, and I picked up a book on governance by
6 boards of directors.

7 And one of the functions, governance
8 functions of the board of directors is to provide
9 oversight. And it's sort of odd, we usually have
10 a board -- a committee to look over finances, a
11 committee to look over property and real estate,
12 but is there a distinction committee to look
13 specifically at safety?

14 And in my opinion that is part of your
15 fiduciary responsibility as a board of directors,
16 is to manage safety just as you manage the other
17 vital business functions in that organization.
18 And if you are not, then I can assure you, you are
19 not going to have a good safety culture in that
20 organization.

21 MR. BATES: I have one more point also.

1 I keep hearing about the third party, and someone
2 coming out and looking at -- what is the
3 employee's role in the safety plan, because you
4 already have experts already on the property that
5 can tell you what is wrong or what needs to be
6 fixed or their concerns?

7 Do we have a system or a process in
8 place that it could -- it could come from employee
9 up back up to board of directors or to the general
10 manager, because we have a bunch of experts that
11 work there every day, they complete those tasks
12 every day, and 99.9 percent of them does its
13 safely every day. But also there are times when
14 something is unsafe. How do they report that to
15 someone to change the culture or change the
16 situation itself? What do you find about that?

17 MR. SUNWALT: Well, I do believe, and
18 I'm going to go back to something that I have said
19 earlier today, and that is safety does have to
20 start at the top and it does have to permeate
21 throughout the entire organization.

1 With that, I will go back and look at
2 the couple of the definitions that I proposed to
3 safety culture, and that is that it really does
4 have to be an overriding priority with everybody
5 that works in the organization, and it has to be a
6 set of core values and behaviors resulting from a
7 commitment, collective commitment of our leaders
8 and individuals to emphasize safety over competing
9 goals.

10 And I realize safety is not just the
11 chief safety officer and it is not just the chief
12 executive officer and board of directors. It has
13 to be every person touching that organization,
14 including contractors. It has to be an override
15 priority. I know that sounds very esoteric and
16 academic, but that is what we are striving for.

17 I hope that gives you some clarity, from
18 my opinion at least.

19 MR. BATES: Okay. Thank you.

20 MR. FLANIGON: Let's work our way around
21 the table Jackie. Rick.

1 MR. INCLIMA: First of all, I wanted to
2 thank all three panel members for excellent
3 presentations and preparation. I really
4 appreciate it. It was very helpful. And I think
5 you have kind of captured the challenge that we
6 face.

7 You know, James Reason has been around
8 for a long time, the whole concept of safety
9 culture, particularly changing the safety culture
10 from where we are to where we are going has been
11 an illusive goal, both on the transit and the
12 railroad side; you know, the whole items of
13 non-punitive reporting and analysis, cause
14 analysis, and improvement, et cetera.

15 But the reality I think and the
16 challenge we face is discipline is easier to
17 manage than safety culture and change, you know.
18 And I don't know if anyone has any advice for the
19 group about how do we transition from the
20 discipline way, you know, blame it on the pin
21 puller guy, if I can blame you, then as -- you

1 know, whenever I sit, I am good.

2 I mean, how do we address that? How do
3 we transition from where we are to where we would
4 like to go? I mean, what incentives, you know,
5 whether they are negative or positive incentives,
6 can we introduce into the mix to move where we all
7 like to go?

8 I don't know if anybody can answer that.

9 MR. CARNES: I will just go over this
10 for observations. Things that I have seen in the
11 work is find someone, an appropriate senior level
12 in the organization who is a thinking person who
13 sees the need to change. Equip them with
14 education, training and tools to enable them to
15 perform what I call controlled organizational
16 experience to demonstrate that these practices do
17 have positive benefits of safety and performance.

18 Shine the light on that individual
19 leader or (inaudible) and make him the hero or
20 her. Get the internal competitiveness going. And
21 I have extended that to the organization.

1 Now, the way that I work with the
2 Department of Energy is all of my work is for the
3 people who volunteer. Let's face it, it is big
4 dollars, okay. If you are going to be a
5 contractor for the Department of Energy, DOD,
6 whatever, it is big dollars. You want to
7 demonstrate that you are doing the job well and
8 you are doing the job safely because you want it
9 to work.

10 There are people who out there who
11 understand the bottom line. Okay. I just you
12 know I look at the bell curve idea, there are
13 certain early adopters who are working these and
14 when you see them doing this, see them shining the
15 light (inaudible), meanwhile we go for what my
16 colleagues do here, and when you have an event,
17 which unfortunately happens, you use these
18 principles in doing your invested interest to show
19 how the very things that are failing are the
20 things that the successful people are using to
21 succeed.

1 So there is no simple answer but mine is
2 run by early adoptive people who want to make
3 things happen, do it that way, plus you always
4 have the regulation and the inspection to work the
5 other way.

6 MR. FLANIGON: I think the penultimate
7 question comes from Tom.

8 MR. PRENDERGAST: It is really
9 expounding on the dialogue Tony and Jackie had,
10 and you asked the question about self-policing. I
11 have had the benefit of working both in a the
12 regulatory and non-regulatory environment, first
13 in -- actually most of my time has been in rail
14 transit, but I did have 5 years in FRA
15 environment.

16 And in 1994 we had two real bad
17 accidents that forced the whole actually outgrowth
18 of RSAC. And there was a recognition on the part
19 of the senior executives and the safety officials
20 that in order to get to the next level of safety
21 and get to the point where we make sure that we

1 were putting in processes, procedures and
2 regulations that were worthwhile. It had to come
3 from the side, recognizing that the FRA had a role
4 to play.

5 And at the very basic level, there was a
6 terminology used that the pain we give ourselves
7 may be followed by some of the pain that others
8 will give us, because we know more about it. Much
9 like, I think you raised, Earl, the point of some
10 of the best experts we have in the system are the
11 people who live with it every day. I know an
12 awful lot about track maintenance, but I have
13 never been a track maintenance employee.

14 So those people really have a very good
15 handle on what needs to be done. We need to give
16 them the resources, the policies and the support.

17 I also worked at the FTA years ago under
18 UMPTA (phonetic) and it was no different then than
19 it is now, in the sense that there was a
20 reluctance to get into the regulatory environment.

21 In the standards development on the rail

1 transit side, we have consciously tried to adopt
2 that philosophy, which is self-policing, because
3 if we have a standard that everybody asks for
4 waiver or some level of exception to, we don't
5 have anything.

6 So I think this committee -- I mean,
7 that is one charge I think we ought to take to
8 ourselves, that we will be only as good as our
9 ability to enforce on ourselves that which we
10 prescribe for ourselves in terms of a standard.
11 It is the old adage, you have the walk the talk.

12 MR. FLANIGON: And the ultimate
13 question, Mr. Cheng.

14 MR. CHENG: Well, we talk about safety
15 management system, we talk about risk management.
16 Of course, you know as to risk management
17 basically we use the data accident/incident
18 information.

19 I would like to know practicing the FAA
20 and the Energy Department? How do you have this
21 -- how do you use that and how do you collect

1 information?

2 Also, when we talk about -- when
3 Mr. Sunwalt talk about reporting culture, I would
4 like to know if your department has that kind of
5 system to allow employees in the industry to make
6 reports, because as I see, it is kind of -- on the
7 highway side, it is good.

8 It's a good system because, you know,
9 they have NHTSA, National Highway Transportation
10 Safety Administration. They have a system, you
11 know -- and public can enter -- if they have
12 problem with the vehicle or anything, they can
13 enter that and then looks like they have
14 discipline personnel to analyze that on a daily
15 basis, so that is how -- you know, the Toyota gas
16 peddles and a few years ago Firestone tires, that
17 is a result.

18 So, I would like to know the
19 department's practice in terms of that?

20 MR. FAZIO: Well, we use data all the
21 time. I mentioned a number of examples up there

1 where obviously it is confidential submitted
2 information. I would argue probably we have too
3 much data, in that as a government agency, you
4 know, you will have a requirement that was imposed
5 20, 30 years ago that never goes away.

6 We have -- you know every time something
7 happens, you are correct, we have a requirement.
8 So, one of the things I want to do in my current
9 capacity is start looking at all of the required
10 data sources to see if they are still valid,
11 because I think as a government agency, we
12 (inaudible) administrative a lot. You are not
13 aviation people, but there are some (inaudible)
14 where they say, wait a minute, no more reporting.

15 Having said that, we are still
16 required -- we are going to require reports. The
17 only question is what kind.

18 And so, to get to your point, yeah, we
19 look at it all of the time. I mean, Robert spoke
20 about the engines. I mean, we have engine
21 reliability information, our engineers they deal

1 with that all the time. That is how they deal
2 with risk analysis. So, we have got the
3 information. I would argue we might have a little
4 too much. And part of what we are trying to do
5 with the (inaudible) program, the idea is taking
6 all of this information and fusing it together, is
7 it giving us what we need? Because if we can
8 tweak some of the data sources, we might be able
9 to get better information. So I don't know if
10 that is -- but we have a lot of data sources.

11 MR. CARNES: Just quickly. In the
12 Department of Energy and others we have what I
13 call -- we advocate a nested series of reporting
14 systems and subsystems; in other words, we have
15 certain things there are both regulatory and
16 required reporting. All right. We all have those
17 threshold.

18 Some of those are in terms of
19 engineering systems, (inaudible), environment,
20 those kinds of things, but we also have certain
21 management systems that we want people to

1 cooperate and report on. And within that we have
2 a management discretion area, that we actually get
3 people to report to us on things that they have
4 identified as being concerns to them that are not
5 defined in the regulatory threshold, which we
6 really want to encourage, because they, say, huh,
7 we have concern about this, and so we are telling
8 you we have a concern about it. And we consider
9 that to be a very positive behavior.

10 Then going down, so we look at this at
11 each department in an organization, do we have
12 maintenance, engineering, et cetera, right. We
13 expect them to have reporting systems and metrics
14 that are relevant to their particular discipline,
15 like maintenance, so we have predicted
16 maintenance, we have observance maintenance,
17 surveillances, on time surveillances, all that
18 kind of stuff so that the maintenance department
19 may have a few hundred metrics, and it is just
20 maintenance kind of stuff.

21 Then, I should say we encourage, support

1 innovation as to developing those very small
2 reporting evidence. So, at one very, very large
3 facility they have been a lot of the work in the
4 past couple of years of building upon work of Jim
5 Reason and in looking at what we call error being
6 something happened or did not -- something
7 happened that we didn't expect to happen or
8 something did not happen that we expected to
9 happen, we will call that an error. Okay. It
10 didn't cause a consequence, but it was, again,
11 that unexpected and reported at that level. As
12 Jim Reason did and John Wreathall -- they did work
13 on, I think the (inaudible) Singapore error,
14 British error on a system called Mesh several
15 years ago.

16 And I thought it was real deep because
17 it gets into, you go and take a select group of
18 people, and they come out -- and anyway, they tell
19 you, well, gee, today I didn't really have
20 training that I needed on this kind of system or I
21 didn't have the tools or the supplies available.

1 So, it is that what was unexpected. That is the
2 level of reporting we are trying to get to, so
3 that helps. It is a necessary level we are trying
4 to go down as fine as we can in discrimination of
5 what was going on.

6 MR. FLANIGON: All right. Well, I want
7 to thank our esteemed team panel for the time that
8 they put in today. And we will take a 15-minute
9 break, which would put us back here at 4:15. And
10 before the panel may leave the building, I want
11 them to know that they are invited to our
12 reception at 5:00 o'clock in Room Number 5, one
13 floor up, 5:00 o'clock Room Number 5. I wonder if
14 that is a lucky number.

15 (Laughter.)

16 MR. FLANIGON: I know Earl has to leave
17 town, but the other two if you want to stick
18 around, you are more than welcome. If you want to
19 circle back at 5:00 o'clock in Room Number 5, one
20 floor up.

21 That is also 5:00 o'clock for any

1 members of public interest observers, you are all
2 invited to meet and mingle with the TRACS
3 committee.

4 So, we will reconvene here in 15
5 minutes. About one round of applause for the
6 speakers.

7 (Applause.)

8 (The proceedings recessed at 4:02 p.m.,
9 until 4:21p.m.)

10 MR. FLANIGON: I want you to know that I
11 have -- according to the agenda, I have a discuss
12 current 659 system approach and can SMS principles
13 enhance it. And I put together this great
14 300-slide PowerPoint that I think you would really
15 like.

16 (Laughter)

17 MR. FLANIGON: How many people want to
18 see more PowerPoints this afternoon? Only one.
19 Okay. No consensus. So we are going to make a
20 shift in the agenda.

21 And actually, what I had put together

1 would probably be useful at the point where we
2 form up a work group to look at the first task,
3 the model. So all is not lost. We will make use
4 of that information.

5 But what I thought would be a productive
6 use of the next 40 minutes or so was to engage
7 you, the committee, on helping us articulate the
8 kind of pick up task two that we got this morning.
9 We had spent a lot of time thinking about how we
10 might format and articulate the first goal. But
11 the second goal we are kind of picking up on the
12 fly, and so I thought we could have a conversation
13 about how to articulate that to help guide the
14 work that will be get done.

15 And before doing that, let me just ask
16 one more time Ms. Esther White, on my right-hand
17 side in the back of the room is available to take
18 anybody's name, members of the public who would
19 like to make a public statement to the committee
20 for the committee to hear tomorrow morning at
21 9:00, whatever the time is, 9:45, I think. So if

1 you would please see her if you would like to make
2 a statement.

3 And otherwise we will kind of move in.
4 So, this is more of a discussion -- this is
5 audience or committee participation, not Mike
6 talking at the committee. But let me -- let me
7 start with what I think I heard. And then we can
8 kind of work our way around and see how we might
9 flush that out.

10 So what I heard was a valuable task for
11 this TRACS group would be to examine, in the kind
12 of same format we are talking about, the safety
13 planning model, examine the best state oversight
14 agency, organization, financial funding source,
15 technical capacity, some of those kind of -- what
16 are the characteristics or sort of best practices,
17 I guess, will be as a state oversight agency?
18 What should a state oversight agency look like to
19 do the best possible job? That's kind of what I
20 heard as a goal.

21 But we have got 20-some odd other sets

1 of ears that may have heard it a little different
2 or picked up a nuance that I didn't pick up. Let
3 me just throw that out to the committee. Any
4 comments or thoughts? And we have a couple of
5 state oversight agencies, starting with my home
6 state, being a California native, Rich Clark.

7 MR. CLARK: What I heard Peter say was
8 what defines a good state partner in terms of
9 capabilities, expertise, relationships with the
10 federal government and the transit agencies.
11 Those were the notes that I wrote down. I just
12 offer them.

13 MR. FLANIGON: And we have our folks
14 taking careful notes of this discussion. And what
15 we are going to do is try to translate that into
16 this same format that we passed out to you as
17 tasking number two.

18 MR. PRENDERGAST: Similar to what
19 Richard said, but I thought he used the word
20 "ideal," and so when I heard him use that word, I
21 thought rather than look at trying to characterize

1 who would be the best, look at the best practices
2 of all the state agencies and cherry pick those
3 that would help to identify what would be the
4 ideal state safety partner.

5 MR. FLANIGON: Mr. Dougherty.

6 MR. DOUGHERTY: I guess, you know, just
7 exactly what I wrote down from what Mr. Rogoff
8 said was continuation of state partners and safety
9 oversight, i.e., SSO, what defines a quality
10 safety organization, what identifies a good state
11 safety organization/partner, need for -- and the
12 need for consistency. I think that is pretty
13 close.

14 MR. FLANIGON: Are there any other?
15 Rich? Pam.

16 MS. McCOMBE: This is a slightly
17 different question, but are we limited to just
18 evaluating the state safety oversight, or can we
19 also evaluate at the agency level what they need?
20 In other words, perhaps they need to implement an
21 SMS and dedicate funding for them as well.

1 MR. FLANIGON: I think that fits, in my
2 mind, more into my first task, and I think
3 exactly, it involves the agency, because with the
4 agency is where the rubber hits the road, that is
5 where it has got to happen. No amount of
6 regulatory oversight is going to make the transit
7 agency safe through -- it has to be the internal
8 processes and how they. That would be my take on
9 it.

10 Amy.

11 MS. KOVALAN: Thanks. Along the same
12 lines, when I heard the administrator talk about
13 defining the ideal state safety partner, I know
14 that in markup some of this changed, but as the
15 legislation moves forward, some of the flexibility
16 of having different laboratory models -- so, you
17 may have a large state with a lot of agencies, one
18 model SSO, but it would be nice in the idea of
19 talking about those partnerships with the state
20 not to rule out a model similar to what we just
21 heard about at the FAA, if states opted to do

1 that.

2 States where maybe there is only one
3 agency in the whole state being regulated, for
4 example, and it might make more sense to deal
5 directly with the region of FTA or something like
6 that.

7 So, I think looking at that question and
8 what the options are and keeping that open, it may
9 not be one size fits all.

10 MR. FLANIGON: That is a really good
11 thought. And it parallels, I think, one of the
12 points we were trying to lay out on the first
13 task, which was the planning model that would be
14 in place at the agency. And, you know, the point
15 I made earlier that we have the largest transit
16 agency in the United States and one of the smaller
17 operations at the same table, and somehow whatever
18 we do is scalable and appropriate.

19 The same is true of state oversight,
20 because we have the state that oversees one of the
21 smaller transit operators, and then we have the

1 state that oversees one of the largest the largest
2 in the country if not in the world. Is
3 New York -- where is it on the world map?

4 MR. PRENDERGAST: It depends on what you
5 measure.

6 MR. FRANKLIN: But somewhere up there,
7 if not the top, near the top. So I think the
8 ideal state oversight agency concept has to be
9 scalable based on what are they overseeing. And
10 that is something I have given a lot of thought to
11 as we have, you know, worked on legislative models
12 that would, on the one hand give states the
13 opportunity to opt out, and another model which is
14 (inaudible) no states opt out, therefore, it has
15 to be a state oversight agency in the state that
16 may have little in the way of rail transit and
17 operations.

18 So, what is the right mix of resources?
19 You know, we don't expect -- we wouldn't expect
20 the State of Wisconsin to stand up a 10-person
21 oversight agency for a 2-mile streetcar line. So

1 how to put the right mix of federal involvement, I
2 guess, or support and what is the right mold for
3 contract support.

4 Several people have asked me that today,
5 where should contracting fall into this whole
6 thing. Currently there is a lot of contracting of
7 audits at both the federal and at the state level.
8 So, what is the right mix.

9 I'm sorry Mr. Pearson.

10 MR. PEARSON: I have one comment to make
11 on state oversight. First of all, the sat
12 oversight agency itself has to have their plan
13 together. That is one of the main fallacies that
14 we found now. The state oversight in Tennessee,
15 it basically only deals with only two small
16 agencies. You know, they deal with MATA and they
17 deal with CARTA, which is the incline railroad.

18 One of the things that we found most
19 helpful is that they have a clear understanding
20 through the training that they have gone through.
21 They don't have the day-to-day expertise, but they

1 have ventured out to take as many training classes
2 as possible offered by FTA so they can get
3 familiar with what they are monitoring. You have
4 the numerous individuals that monitor systems, but
5 they have no clue of the day-to-day actions.

6 The success of our SSO has been that
7 when they did not understand, they at least came
8 by and allowed you to carry them out and actually
9 let them work with you, where they could get some
10 clarity and understanding of what they were to
11 monitor.

12 Therefore, that brought about the
13 cohesive work relationship where when we did not
14 have dollars in the agency for additional
15 training, they would take dollars out of the
16 training pool at the state agency and supply the
17 two agencies with necessary training to bring our
18 employees up to a standard that would we would
19 consider acceptable.

20 So, if that is not -- if you don't know,
21 you can't regulate. And if you don't have a good

1 work relationship with the agencies that you are
2 dealing with -- and that comes through trust and
3 honesty.

4 Now, there is no comradery -- I mean,
5 there is no collusion there -- let me use the
6 right term there. If we do wrong, we are written
7 up. But we work together so well until we don't
8 want to do wrong, because our ultimate goal is to
9 have a safe operation and follow the rules and
10 regulations in our SSPP and SEPP. And they just
11 make sure that they hold us to that.

12 But if they see that there are some
13 fallacies, they are willing to work along with us.
14 I think that we need to bring that out. Now,
15 New York and some of the bigger agencies it may
16 not be user friendly, but I think the premise is,
17 and we involve every entity, the labor, even
18 public relation, HR, everybody is involved in our
19 safety committee to the point because without
20 those people playing a valid role, we still get
21 junk in, junk out. And we found that we had to

1 team up to get total consistency across the board
2 and believing.

3 Now, the safety person is responsibility
4 as well as myself and the general manager, but --
5 and they brought up something -- I'm going to take
6 the time to say this now. Our SSO comes to our
7 board once a quarter and reports to the full board
8 of directors of our agency.

9 Because I don't know about anybody else
10 here -- I have talked to one or two people -- I
11 don't know any board that deals in day-to-day
12 operations. Most boards are political appointees
13 and the only time they are going to talk to you
14 about operations when you have disaster or
15 something going on. And that normally means you
16 are going to fire the general manager and get
17 somebody else in.

18 But we tried to be proactive to the
19 point that at least once a quarter, safety is put
20 on that agenda and the SSO themselves come down
21 and talk to the board about our safety functions

1 and what we are doing, what we did wrong, what we
2 did to improve what was wrong, and what they did
3 to assist us in doing so. And I think that is
4 very valued.

5 MR. FLANIGON: Thank you. Let's move
6 along the table here. Jim.

7 MR. DOUGHERTY: Thank you. I think if
8 you ask the right mix, the right role, and -- I
9 guess the concern that I think probably the
10 regulating agencies would have is where the FAA
11 has their own inspectors. If the states are going
12 to do that, that is fine. There is a concern,
13 though, when a state is using contractors that are
14 for profit that are doing an audit, and follow up
15 on the audit, and I think that is something that,
16 you know, that is discussed in the transit area.

17 So, I think if that is to be the case,
18 that whoever the contractor is that may be
19 involved in the audit, that they wouldn't have the
20 role of following up on the audit, because, you
21 know, whether or not it is perceived or real, is

1 the more you find, the more work you have.

2 And, you know, if they can't be state
3 employees such as the case in the CPUC, you know,
4 where they are all state employees and contractors
5 have to be used, I think we need to kind of put in
6 some kind of a -- or look at the option of a
7 safeguard, I guess, if you will, to insure that it
8 is not, you know, the more I find, the more work I
9 have for a longer period of time or for perpetual
10 work.

11 That would be certainly a concern that I
12 have heard, that I share as we look at the
13 regulation. There is a difference where the FTA
14 is, you know, a lot involved in grants and
15 development versus the FTA -- I'm sorry -- the
16 FTA, yeah -- grants and development, FAA's
17 regulatory if there can't be a regulatory arm of
18 the FTA, which may be a good way to go and hire, I
19 don't know, 100 inspectors or whatever like in the
20 surface transaction inspectors on the DHS side
21 also. But something along that line is, I think,

1 something that this committee would need to look
2 at.

3 And then how do you penalize or how do
4 you compel if there is not a accomplishment? Does
5 it make sense to fine one governmental body to
6 fine another governmental body, when everybody is
7 struggling for public tax dollars already anyway.

8 MR. FLANIGON: Thank keep going down the
9 table. Georgetta.

10 MS. GREGORY: First of all, I think it
11 would be important for this committee to have some
12 discussion as to what the group collectively
13 thinks the state oversight agency should look
14 like. And to that end, would we be looking to
15 have, as currently exists, an agency that would
16 oversee the system safety program plan or a
17 regulatory agency or a mix of both?

18 I would propose that, again, the
19 geographics, the number of systems, the track
20 miles, the number of employees and all of that has
21 to play a role into that.

1 If you are going to have inspectors,
2 those have to have a specific skill set that you
3 don't just hire off the street. Generally you are
4 going to have to either draw from the transit
5 agencies or from one of the railroads to get that
6 specific skill set.

7 Then you need the engineering aspect,
8 the professional engineering aspect. And you need
9 a nice blend analysts to go along with that as
10 well.

11 But I think before we can make a
12 recommendation on that, we need to have some
13 discussions on what we think you should have.
14 Should you just be a paper chaser in the form of
15 record audits and system safety, or do we want to
16 recommend actual on the ground inspectors? The
17 training is huge.

18 I have to echo Jim's comments about the
19 use of consultants for these activities, being
20 brand new to this side of the dark side have been
21 accused, I have had my first experiences with the

1 consultants. And I have to parrot exactly what
2 Jim said. The audit of MARTA is coming up later
3 this month, and I have some trepidation that the
4 findings will be long-term work for the
5 consultants and not necessarily safety critical.

6 That is what I'm looking for from a good
7 state safety oversight. I want the safety
8 critical items. I don't want a laundry list of
9 little nitpicking. You didn't indent your thing
10 here or you didn't define state or some silliness.
11 I want safety critical information that I can put
12 to use immediately to improve the system.

13 So anyway, I basically have the same
14 notes from the administrator's comments. You
15 know, he wants a definition and a model of what a
16 good state safety oversight agency would look
17 like, so I think we really need to have some
18 discussion on what we think it should look like.

19 MR. FLANIGON: Henry.

20 MR. HARTBERG: Wow, you just made me mad
21 all over again, Georgetta, because we had a group

1 come in and do the type of audit you are talking
2 about, and I guess it was safety critical in some
3 places, in our SSPP, our technical services group
4 was called a group and in a few other places the
5 was called a division.

6 (Laughter.)

7 MR. HARTBERG: I sort of wondered -- you
8 know, I tried to imagine the accident where the
9 NTSB would say the cause of this accident and so
10 forth.

11 What I wanted to talk about a little bit
12 is the scalability issue. If the FTA is going --
13 if the opt out portion of this bill makes it
14 through, it is out -- it is gone? Never mind.

15 (Laughter.)

16 MR. HARTBERG: I was going to stay if
17 the FTA is going to have to do some of that
18 oversight anyway, they should -- you know, there
19 is expertise that you would need so. If at that
20 point -- one way or the other with the smaller
21 groups and really for, you know, even the states

1 that are large but don't have a lot of properties,
2 there is no way to make the states willing to --
3 as is willing to devote 10 people so they have an
4 inspector and they have an engineer, and so forth
5 and so on the staff for, say, two properties like
6 we have presently in Texas.

7 So one of the things that would be good,
8 I think, is that if the FTA somehow made available
9 certain types of expertise so that the states who
10 can't justify a California PUC type of
11 arrangement, still have access to quality
12 information and quality assistance when they need
13 it. That way you are sharing a few people with
14 the states that don't have so many properties to
15 deal with.

16 MR. FLANIGON: That is a good thought,
17 and that could very well be something that the
18 work group would -- I would hope take a look at
19 and make some suggestions in that area. Tom.

20 MR. PRENDERGAST: -- with Georgetta, I
21 think one of the ways maybe to do it is we could

1 not do an exhaustive series of presentations, but
2 you have the gamut to deal with the scalability
3 issue, and not only the history issue.

4 I don't know for sure, but the PUC has
5 been around a long time, probably 30 or 40 years,
6 I guess, since the creation of BART. In your
7 evolutionary history I'm sure you would change
8 your approach and you will learn an awful lot.
9 But to be able to hear from you and when you get
10 the New York State Public Transportation Safety
11 Board, both the person at the state level as well
12 as those at the agency level themselves about how
13 that evolutionary history worked and what did work
14 and what didn't work, and what is the proper
15 balance for providing the necessary oversight.
16 And the FTA has to be part of that discussion.

17 A number of people have touched on it,
18 but the thing we have to be careful of is that
19 there this is a finite number of people that can
20 spell system safety, let alone talk about it;
21 there is a finite number of people that can talk

1 about safety management systems, and what we don't
2 need to do is -- we need create a higher level of
3 intelligence across a broader scale. And we are
4 all trying the do that.

5 But if we don't think about how we can
6 balance those resources at a federal level, a
7 state level and a local level, that unbalance and
8 the quality of the resources is going to cause us
9 problems.

10 What I would propose is that we identify
11 a representative sample of state oversight
12 agencies, that you come and give presentations in
13 concert with the agencies that they have oversight
14 responsibility for, what works, what doesn't work,
15 whatever, to help provide that level of experience
16 and knowledge that they can help us define what we
17 want to do.

18 MR. FLANIGON: Thanks, Tom.

19 The interesting side of the California
20 PUC used to be the California Railroad Commission.
21 That dates back to Johnson --

1 MR. CLARK: 1911. We are in our 100th
2 year.

3 MR. FLANIGON: To counteract the evil
4 Southern Pacific Railroad that was the octopus of
5 (inaudible) that had its tentacles into politics
6 in the -- by constitutional amendment, the PUC
7 headquarters has to be in San Francisco; it cannot
8 be in Sacramento, so it is not contaminated by the
9 politicians in the state capital.

10 Rick.

11 MR. INCLIMA: Thank you, Mike. You
12 know, I am probably at a bit of a disadvantage not
13 having a lot of experience in the transit side,
14 but I -- you know kind of echoing some of the
15 comments, I think it would be helpful if we could
16 get, you know, an outline, if you will, of
17 existing state oversight organizations, you know,
18 what they do, you know what is their scope and
19 level of responsibility, and you know, maybe
20 how -- you know, to what extent they interact with
21 FTA, et cetera, because I think it was Tom who

1 said it earlier that it sounds like the task is
2 let's look at what is out there and let's cherry
3 pick the best of what is out there and say this is
4 what -- to the extent we say, this is what we
5 should all be aspiring to.

6 And I don't know how we do that, unless
7 we start with the baseline of what is there now,
8 you know, so we can start saying -- picking and
9 choosing, well, you know, they have a very good
10 program in this section and they have a very good
11 program in that section, and let's build a model
12 and hold it up there as an example of what the
13 agency and the committee would like to see.

14 I don't know how difficult that would
15 be. But it certainly, I think, would be helpful
16 for the group, because you know, as a starting
17 point. Because the guy in California probably,
18 I'm sure, has a great program, but he doesn't know
19 what is going on the Connecticut, and vice versa.

20 MR. FLANIGON: Good point. We actually
21 have some comparative tables of different staffing

1 levels and experience levels and authority levels,
2 and so forth that could be useful to the committee
3 when the time comes to sit down and look at that.

4 MR. LIBBERTON: We have also done best
5 practice as well as publish those kind of
6 inventory and some of the things they do. That
7 would be an input. And I wonder if perhaps by
8 tomorrow could we, if not have physically could we
9 kind of summarize inventory in terms of resources
10 is that would be helpful to work on this.

11 MR. FLANIGON: Probably, maybe.

12 MR. LIBBERTON: Maybe not. Maybe we
13 will get back to you.

14 MR. FLANIGON: At the point where the
15 work group forms up we will have everything that
16 we can put together, we will. And I think we very
17 well might have a pre-summary of some things we
18 can do to make that homework assignment for
19 somebody.

20 Jackie.

21 MS. JETER: That is what I was going to

1 say, because I don't -- I think that the reason
2 that this committee or this group was created was
3 because it is not -- there is not a prevalent
4 practice out there of having oversight committees
5 or, you know, some type of regulatory body in each
6 state that is going to do this.

7 So, we may be able to cherry pick from
8 those who have it, you know, but I don't think
9 that we are going to get some of the best -- you
10 know, I going to refer to my colleague here from
11 California. They happen to be on one of the
12 better regulatory or oversight committees or
13 whatever you want to call them, and they are
14 there. And I think that is why they bring their
15 expertise.

16 I think that we should cherry pick, but
17 I don't think that spending a great deal of time
18 trying to find that ideal agency, I don't think we
19 are going do get it. I think we are going to have
20 to create what we think they should do.

21 MR. FLANIGON: So, it's more of a

1 functional and what function should this ideal
2 capital agency daily perform.

3 MS. JETER: Yes.

4 MR. FLANIGON: I think Dave is next.

5 MR. GENOVA: Just a couple of things.
6 One is I think one of the things on tomorrow's
7 agenda is the inputs, like the information that we
8 are going to review. And I think one of the
9 things that would be helpful in that process that
10 I didn't see listed there were the best practices
11 that have come out of the audit process of the
12 SSOs by the FTA. And then also, perhaps, those
13 audit reports.

14 And that way we would see which SSOs did
15 really well in the audits; which ones not so good.
16 But not so much to -- who is doing well and who is
17 not doing well, but to identify what the good --
18 what is working well and what is not working well.
19 I think that would be really helpful input into
20 the process.

21 Also I noticed in the presentations

1 there was a lot of discussion about collaboration.
2 And I don't know if anybody said that yet around
3 the table, but for those SSO models that I think
4 are working well, that we know about industry,
5 there is a great deal of collaboration between the
6 SSO and the transit agency.

7 And that was one of the questions on
8 this relationship issue is, how should the SSO be
9 in relationship to the FTA and then also in
10 relationship to the transit agency. And I think
11 the more collaboration we have built into that
12 model, the more successful it will be, too.

13 MR. FLANIGON: Okay. Rich.

14 MR. KRISAK: I was going to just suggest
15 that based on a previous comment we heard earlier
16 from your cochair, that we should extend that best
17 practices beyond just state oversight in the U.S.,
18 but look at Asia and Europe. Look at those models
19 and try to pick the best out of those as well.
20 So, just expand the scope a little further.

21 And then the other comment I have,

1 having worked with a couple of different state
2 safety oversight issues, our agencies is kind of
3 what Georgetta was getting to. They comment on
4 things like punctuation and such, because that is
5 essentially where their level of knowledge is.
6 And unless they bring a strong consultant in to
7 help them out, most of them don't really
8 understand what they are looking at. So, they
9 approach it very much as a programmatic exercise
10 to satisfy the MTA, but in terms of in-depth
11 knowledge and expertise, they don't have it.

12 MR. FLANIGON: Rick.

13 MR. INCLIMA: Thank you, Mike. Just to
14 follow up on my last comment, because, you know,
15 it is a big undertaking in itself for us to come
16 up with this, because no one -- no one sees
17 everything -- perhaps, as I think about it,
18 perhaps the FTA is the only one that sees them
19 all.

20 And with that, would it make any sense
21 to the group, with all of the other data and

1 things we are going to look at, that perhaps FTA,
2 you know, develop a, you know, strawman or a
3 bullet list of what you think are important
4 from -- you know, from where you sit and from what
5 you see. That might be -- you know, that might
6 help us cut to the chase. And then we could, you
7 know, build upon that as a means to an end. Just
8 a suggestion.

9 MR. FLANIGON: Thanks. That is a good
10 thought. Eric.

11 MR. CHENG: I have two comments.

12 MR. FLANIGON: Mr. Vice Chairman.

13 MR. CHENG: I have two comments. First
14 of all, I want to echo Harry's comments. I
15 feel -- you know, each state is different, but
16 maybe it would be a good idea for FTA to provide
17 some expertise, experts, inspectors to help state.
18 That means help. That is the first thing I want
19 to say.

20 Secondly, is that I still, you know, the
21 model we need to help to keep the flexibility. In

1 Utah we have discussed this kind of positions, you
2 know, what kind of setup we want to use. We feel
3 that we should have options to, you know, use the
4 major (inaudible) of state of technical experts,
5 but we should be able to allow to use consultant
6 to help with things like that, because that is a
7 long-term. We just use a dedicated person that
8 affect the department, of course, internally. But
9 that is how we feel.

10 MR. FLANIGON: Thanks. Other thoughts
11 or comments?

12 MS. JETER: How long did you intend the
13 question and answer to go on? I want to say
14 something but I don't want to -- if you are trying
15 the wrap up -- I'm trying to be gracious.

16 (Laughter.)

17 MR. FLANIGON: As the chairman of this
18 robust committee, I am authorizing unlimited,
19 unpaid over time.

20 (Laughter.)

21 MR. FLANIGON: So please.

1 MS. JETER: Eric actually mentioned
2 consultant, and that is one of the things that was
3 mentioned earlier. I don't know if getting into
4 that direction is good, because if you get into
5 the directions of hiring consultants, then don't
6 you take away from the agency themselves policing
7 their own safety and their own practices?

8 And, you know, I can only speak from my
9 own experience at WMATA, and we brought Dupont in,
10 one of the better ones. We brought them in 2
11 years before the accident, we still had the
12 accident.

13 So, you get away from policing
14 yourselves when you do that. And I think that as
15 a group, I think we ought to steer clear of that.
16 What we are trying to do is to get the agencies to
17 do the work. And if we start talking about
18 getting them ways out, I don't think they are
19 going to do that.

20 MR. FLANIGON: That is a good thought.
21 I think it speaks to building the internal

1 capacity, whether its is in the regulatory agency
2 or the oversight agency, or the transit agency.
3 And having that basic skill set in-house and able
4 to work, I guess there is a balance, given the
5 idea of scalability and, you know, the 2-mile
6 streetcar line that can't afford to have the full
7 range of technical expertise that the larger
8 systems would.

9 So it I think it is a fruitful area for
10 the work group that eventually gets stood up here,
11 that we will be talking more about tomorrow to
12 explore those kinds of options, those balances,
13 and so forth. Tom.

14 MR. PRENDERGAST: Honestly, I think you
15 kind of got to the point I was going to make, but
16 I don't think I is either/or. I definitely agree
17 that if we have people in the oversight capacity
18 that don't have that the technical expertise to be
19 able to understand whether or not the agency is
20 doing what is required or not, that is going to be
21 a loss, and that is going to hurt the ability of

1 the state oversight agency to effectively perform
2 its oversight function.

3 On the other hand -- so, let's not throw
4 the baby out with the bath water. I think you can
5 bring in consultants with specific expertise that
6 you need, but don't turn over the management and
7 direction of those consultants. Have that
8 management and direction still at a state level
9 and the state makes the decision, because I think
10 that is the best -- that can be a best of both
11 worlds.

12 I have a metallurgist, because we buy so
13 many cars and we do so much work on the design of
14 a car truck, that I can afford actually two
15 metallurgists. But if you are a smaller property,
16 you are going to contract out for that resource.
17 It is the same logic. So, I think is what we
18 ought to look at in terms of how to find the best
19 balance between those two.

20 MR. FLANIGON: Okay. I think Ed and
21 then Bill.

1 MR. WATT: I think it might be more
2 important to look in to see where these particular
3 consultants have come from and if they have
4 evolved, let's say. We just sat through several
5 hours of presentation, as they talked about the
6 industry has moved -- the safety industry has
7 moved past looking at sharp end and the actual
8 accident point. So I think we should, you know,
9 keep that in mind and have the same types of best
10 practices or instructions for the consultants that
11 we would have for our internal auditing agency and
12 right down the line. Otherwise, you contract out
13 responsibility as well as contracting out the
14 task, as I think Tom was talking about.

15 MR. FLANIGON: Thank you. Bill.

16 MR. GRIZARD: Thanks, Mike. The whole
17 issue on, you know, what is fit for purpose I
18 think needs -- you know, it needs some kind of
19 performance base to it. But specifically on
20 consultants, I think we are -- we are -- we need
21 to look at a third party expertise. And it may

1 not be a consultant.

2 As Henry pointed out, and I think he is
3 right, having a stable of technical experts on a
4 national basis more as a quality control rather
5 than anything else would be an important feature,
6 and then to be able to loan them out to the states
7 where they need that expertise would be an
8 additional factor.

9 But there is also plenty of people in
10 the industry that do have the expertise. And I
11 know in California they draw upon their own folks
12 from different levels. In rail, I think, you
13 know, they have a track guy that is -- a couple of
14 track specialists they can draw on and bring them
15 into rail transit area and get comments from them.

16 The same thing is true from some of the
17 other agencies. And APTA has been successful over
18 the years with what they call peer reviews.

19 And so, you know, I wouldn't say that
20 contracting is the only -- only answer here. And
21 I would go back and take a look and say, okay,

1 what fits the purpose of what we are trying to
2 achieve, and then identify suitable options and
3 perhaps at some point there may be even a
4 certification course or something that the folks
5 that provide that type of service could be --
6 could at least show that they can achieve that
7 qualification level.

8 MR. FLANIGON: I think our discussion is
9 going in a very positive place, but I think it is
10 the place that the work group itself will start
11 flushing this sort of stuff out. And so I think
12 we have kind of already started some of the
13 people, and I would hope who have, based on those
14 comments, would want to be part of that work
15 group. Let's -- is that Georgetta? I have
16 trouble reading sideways.

17 MS. GREGORY: I like Bill's suggestion
18 about a collective pool of consultants maybe at
19 the federal level that the states could draw from.
20 I think that would -- we should make note of that.
21 That is a very good idea.

1 I would like to pose the thought that
2 state safety oversight transit agency, whoever,
3 when we become too reliant upon consultants, is
4 that is not counterintuitive to the very safety
5 culture we are proposing here?

6 There are some very good consultants out
7 there, and they do have their place in the
8 industry. But you know what, at the end of the
9 day, they take their money and they are gone. And
10 it is the people who are left working at the
11 agency and for the states and for the feds that
12 have to live with the product.

13 And I think that it is time that we do
14 develop that curriculum to get the people trained
15 and certified at the state level, because we are
16 talking about the states here, rather than the
17 total reliance upon the consultants to do that
18 task.

19 I think the real issue, and hopefully
20 this will come out in some of the data that you
21 provide for the group, Mike is that there is such

1 a variance in the structure of the state oversight
2 agencies. Most of them lie within the state
3 Department of Transportations, there is a huge
4 conflict of interest there, because the primary
5 function of the DOT is to administer grants and it
6 is sideline work for the state oversight manager.
7 It is not their primary task.

8 So, they are not dedicated nor do they
9 have the time to do that, and the certainly don't
10 have the time to go to the properties and learn
11 the business.

12 And, for instance, the consultant that I
13 referred to earlier, the Georgia DOT has
14 completely turned over the state safety oversight
15 function to a consultant, and that is
16 counterintuitive to our goal.

17 MR. FLANIGON: Okay. Thanks. Diane.

18 MS. DAVIDSON: Well, I had the advantage
19 of having both the transit and the rail oversight
20 authority. And you are correct, the transit side
21 we had no expertise, nor did we have a structure

1 organized by disciplines; but on the rail side we
2 did. And we drew on that.

3 Those folks had continuous training
4 provided by FRA. And they could also draw on
5 regional a pool of expertise at each regional
6 agency.

7 I would submit that having that
8 expertise reside at a regional level works very
9 well. Maybe for -- if we could develop a sense of
10 what disciplines most associate with passenger
11 rail and then for the disciplines that require
12 greater physical expertise and more difficulty to
13 maintain and really keep someone busy at states
14 where, say, the incline, historic incline at CARTA
15 can't support something of that level, that then
16 the states in that region could draw on that pool
17 from the region.

18 And that would make it much more cost
19 effective to provide that kind of service and not
20 have to rely on consultants that -- I mean, they
21 have a great role to play but, there is a lot of

1 turnover and movement within the consultant
2 community that is sometimes disruptive.

3 MR. FLANIGON: Okay. Thanks. With
4 that, I will make three announcements and we will
5 conclude our work for the day.

6 First announcement is that you can leave
7 your notebooks and so forth. The room is going to
8 be locked up.

9 Second announcement, just a reminder
10 that our -- we now have a reception starting in
11 Room Number 5. Up one level and keep going that
12 way.

13 And third announcement tomorrow being
14 Friday and I'm California by birth and in the
15 grand tradition of California, it is dress down
16 Friday. So we can be business casual tomorrow for
17 anybody who doesn't want to wear a tie female
18 equivalent of a tie.

19 With that, thank you everybody and we
20 will reconvene tomorrow morning at 8:00 o'clock,
21 but 7:00 o'clock for coffee and conversation. We

1 got to get you up a little earlier tomorrow -- I'm
2 sorry, 7:30 for coffee and so forth. 7:30 a.m.,
3 8:00 o'clock start. Thank you.

4 (Whereupon, the meeting adjourned at
5 5:00 p.m.)

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REPORTER'S CERTIFICATE

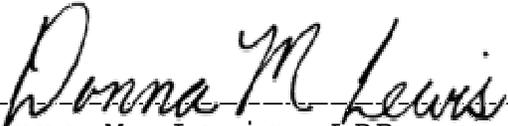
I, DONNA M. LEWIS, RPR, Certified
Shorthand Reporter, certify;

That the foregoing proceedings were
taken before me at the time and place therein set
forth;

That the statements made at the time of
the meeting were recorded stenographically by me
and were thereafter transcribed;

That the statements are an reflection of
the edits furnished by one or more of the
participants after a transcription of my shorthand
notes so taken to the best of my ability.

Dated this 21st day of September, 2010.


Donna M. Lewis, RPR