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**TRANSCRIPT  
OF:**

**P.U.C.O.**

**Public Hearing  
Case No.: 09-223-TR-ORD**

**Date Taken: February 22, 2011  
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THE PUBLIC UTILITIES COMMISSION OF OHIO

PUBLIC HEARING

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IN RE: CASE NO. 09-223-TR-ORD

Tuesday, February 22, 2011

- - - - -

PUCO Local Public Hearing, a listening session for the proposed Motor Carrier Safety Rules for Ohio, taken before me, the undersigned, Katrina Dearborn, a Notary Public in and for the State of Ohio, at Middletown, Ohio, commencing at 6:00p.m. the day and date above set forth.

1 MS. LEMMIE: The listening session  
2 tonight is to talk about, with you, the  
3 proposed Motor Carrier Safety Rules. And  
4 just to give you a bit of a background,  
5 safety on Ohio's roadways is the PUCO's  
6 number one priority. For us it's really  
7 about safety.

8 We have revised our rules relative  
9 to Motor Carrier Transportation Safety. And  
10 we work closely with the Federal  
11 Government. And, on a performance base,  
12 Commercial Vehicle Safety Plan calls for the  
13 state to reduce the number of fatalities  
14 involving commercial motor carriers by five  
15 percent by 2015.

16 The new rules now require not-for-  
17 hire vehicles with a gross vehicle weight  
18 rating, a gross combination weight rating of  
19 10,001 to 26,000 pounds to meet the same  
20 PUCO safety standards that similarly sized  
21 interstate and intrastate for-hire vehicles  
22 must meet.

23 When looking at crashes of vehicles  
24 between 10,000 and 26,000 pounds, crash  
25 evidence suggests that more needs to be done

1 to improve the safety of vehicle  
2 operations.

3 An average of 17 percent of the  
4 fatal crashes, 113 deaths in five years, on  
5 average of 23 deaths per year, and 18  
6 percent of our non fatal crashes in Ohio  
7 involve a commercial motor vehicle between  
8 10,000 and 26,000 pounds. In addition,  
9 roughly 34 percent of these vehicles are  
10 operating in intrastate commerce.

11 We're in the midst of an awareness  
12 campaign -- tonight is an example -- where  
13 we are sharing with you what our proposal  
14 is. But more importantly, we are hearing  
15 from you what your thoughts are about the  
16 proposal, what suggestions you would have  
17 for the Commission before we make a final  
18 decision on how to proceed.

19 We are having these hearings across  
20 the state. And at least one Commissioner  
21 will be at each of the hearings, accompanied  
22 by the appropriate staff. And we have staff  
23 who work in our transportation division, as  
24 well our legal staff and our public affairs  
25 staff and, lastly, Commission staff.

1           We believe that safety, again, is  
2   the number one priority and that we should  
3   be able, collectively, to come to an  
4   appropriate meeting of the minds to make  
5   certain that we are responding to your needs  
6   and, at the same time, we are doing our best  
7   to ensure that the roadways in our state are  
8   safe.

9           We do look forward to the  
10   opportunity to hearing from you. We're here  
11   to talk about -- and listen more than  
12   talk -- about these new proposed rules. And  
13   we'll be available to -- if you have  
14   questions about them, and because we have a  
15   nice, small crowd, hope that you will feel  
16   very comfortable coming up and providing us  
17   your name and your mailing address and then  
18   presenting your statement. And if you have  
19   something in writing, that is fine. And if  
20   you don't, no problem. The court reporter  
21   will be able to, again, officially record  
22   your comments for inclusion in the record on  
23   this case.

24           And my last comment is, if you --  
25   have any of you taken a look at the proposed

1 changes and know where to find them?

2 Because if you don't, I would like to be  
3 able to tell you where you can do that.

4 In case you're interested, we have  
5 an order that talks about the proposal. And  
6 if you go to the PUCO website, it would be  
7 Case No. 09-223-TR-ORD. And, again, our  
8 website, PUCO -- it's [www.PUCO.gov](http://www.PUCO.gov). And you  
9 should be able to find it there.

10 Also, we have a consumer hotline  
11 number, which is also on our website, should  
12 you have further questions.

13 MS. TINCHER: Can you repeat the  
14 case number, please?

15 MS. LEMMIE: I will repeat the case  
16 number. It is Case No. 09-223-TR-ORD. And  
17 unless my colleagues from the Commission  
18 have other comments -- seeing none, I would  
19 like, at this time, for us to begin the  
20 listening session and ask, if you have  
21 comments that you would like to make --  
22 again, you'll be sworn in by our attorney.  
23 And I would like to have you give your name  
24 and your mailing address.

25 MR. FAWN: Okay. My name Dan Fawn

1 and I'll be swearing each of the people in  
2 that want to come forward with statements.

3 My intention is to call the people  
4 whose names are on this sign-up sheet in the  
5 order they appear here. And then when I get  
6 to the end of the list, I will also go  
7 around the room and see if there is anyone  
8 else that may, at that time, decide to join  
9 the list or come forward. So the first one  
10 that I see on the -- on the sign-up sheet,  
11 if I can read it correctly, is John Grenko.

12 And I'll ask each one that's going  
13 to speak to come forward to the stand and  
14 I'll swear you in before you start.

15 - - - - -  
16 JOHN GRENKO

17 After having been first duly sworn, as  
18 hereinafter certified, was examined and testified  
19 as follows:

20 MS. FAWN: Thank you very much.

21 MR. GRENKO: Can you hear me pretty  
22 well?

23 MS. LEMMIE: Yes, I can.

24 MR. GRENKO: Okay. Thank you. My  
25 name is John Grenko. I live in Germantown,

1 Ohio right near here. I have pony rides and  
2 concessions. I belong to the Ohio  
3 Showmans. I also belong to the Ohio Fair  
4 Managers Association.

5 The average truck in our business  
6 travels under 3,000 miles a year in the  
7 States of Ohio. Okay. The average over-  
8 the-road semi tractor trailer driver, which  
9 I have been in the past, I had to drive 500  
10 miles a day, six days a week, which is  
11 156,000. That's 52 times more than what we  
12 do now. Okay.

13 We are seasonally employed. We  
14 have no snow, no ice. So our roads are  
15 pretty clear compared to a lot of the other  
16 drivers that have to do a lot of these other  
17 things.

18 A retired person with a motor home  
19 as big as a Greyhound Bus can drive to  
20 Florida and back, which will take him a week  
21 to go down, spend a few days and come back,  
22 he has drove more in that week than we'll  
23 drive all season. He has no CDL. He has no  
24 health certificate. And then usually,  
25 gentlemen like -- I'm getting older myself.



1 We're not as quick and fast and we should  
2 have all that, I guess. But financially,  
3 we're a small business. We can't afford  
4 extra overhead in our business. Like I say,  
5 we're the showman in Ohio that put on your  
6 county fairs and your festivals. And, say,  
7 if we have to create a CDL driver, it will  
8 probably cost us \$3,500, by the time we put  
9 him in school and get him out.

10 Now remember, we're small business  
11 men, right. And we can't afford the  
12 overhead. Now we can't afford to pay him  
13 because he's a professional. He goes to  
14 roadway in about 30 days. Now we start the  
15 thing all over again. Thank you.

16 MS. LEMMIE: Thank you very much  
17 for your comments. I appreciate it.

18 MR. FAWN: Thank you. I'll call  
19 the next person on the list. And I can't  
20 really read the name. It looks like Bob and  
21 something that starts with "B." Bob Brown  
22 it might be.

23 MR. BRUENEMAN: Brueneman.

24 MR. FAWN: What is it?

25 MR. BRUENEMAN: I'm sorry. I

1           should have been a doctor.

2                   MR. FAWN:   What is it?

3                   MR. BRUENEMAN:   Brueneman.

4                   MR. FAWN:   Brueneman.   Okay.   Thank  
5           you.

6                               BOB BRUENEMAN

7           After having been first duly sworn, as  
8           hereinafter certified, was examined and testified  
9           as follows:

10                   MS. LEMMIE:   And Bob, in addition  
11           to saying your name, would you mind spelling  
12           it for the court reporter --

13                   MR. BRUENEMAN:   Yes.

14                   MS. LEMMIE:   -- and providing your  
15           address?

16                   MR. BRUENEMAN:   It's Brueneman,  
17           B-R-U-E-N-E-M-A-N.   I represent the American  
18           Rental Association of the United States.  
19           I'm here for a second meeting.   I went with  
20           -- back in October when you first ended up  
21           in Columbus.   There were many questions that  
22           were not answered through our trade.

23                   Again, we are seasonal business.   A  
24           lot of small rental yards, which I used to  
25           own many years ago.   And, again, it's the

1 cost of -- of this new law is definitely  
2 going to be detrimental to our business.  
3 Many, many reasons they couldn't answer --  
4 and I know this for a fact -- a lot of  
5 things with the DOT cops and the PUCO  
6 members, the last meeting we held, they --  
7 they don't coincide together. And we know  
8 that for a fact because I had a DOT cop next  
9 to me who was retired, has his own delivery  
10 service. And they're cracking down on Ds or  
11 Ps peeling off. So we got to make sure  
12 we're on the same page. That's number one.  
13 We got to be both on the same page between  
14 PUCO and the DOT cops.

15 There are a lot of people complying  
16 in our trade and they are still being pulled  
17 over. They are very angry that this is  
18 happening because one of them in Cincinnati,  
19 Ohio has been pulled over three times in the  
20 past two-and-a-half months. He followed all  
21 the restrictions. But the DOT cops pulled  
22 him over, grounded him, put him into the  
23 scales because of his breakaway was eight  
24 percent down on the battery. That's one.

25 The other one was registration. He

1       has several trailers, too. And there was  
2       another thing, which I wish I had known.  
3       But the biggest thing is the target for our  
4       trade. Most important of all, from being an  
5       owner of a rental yard for 26 years, I  
6       realize that even you guys, if you have --  
7       it's for not -- you have non commercial  
8       vehicles, but even the commercial trade  
9       vehicles, for example, an F-150 or a Chevy  
10      1500, curb weight 6,900 pounds, as I've done  
11      many research before this, so I know -- they  
12      come in, they rent from a rental yard a  
13      trencher, which trenches a yard, with a  
14      tandem axle trailer. Once he's hooked up to  
15      that, he pulls out of the lot. He is over  
16      10,001 pounds. Now the gentleman that  
17      rented from you -- or from us or from  
18      whomever in the rental yard, how are we  
19      going to stop these people? Because they  
20      weren't set up in the first place. They  
21      don't need it. But when they do come in for  
22      rental, then they need it. And then they  
23      get pulled over. That will definitely  
24      detriment our businesses out there. It will  
25      destroy us, actually.

1           We will abide by your rules for our  
2       own employees. And I know -- and the  
3       cost -- and by the way, we're realizing  
4       this, the insurance companies are getting on  
5       board with this and they're raising the  
6       rates, also, which is going to be even  
7       more. We don't even know the exact cost of  
8       what this is going to be with us. So that's  
9       one good example. And I know this is  
10      happening already. It's unfortunate. And  
11      there's a lot of small businesses. And,  
12      again, it's seasonal.

13           Again, you heard this before -- and  
14      I do, in my travels, travel interstate,  
15      intrastate. And I've seen in Ohio, a motor  
16      home that has a freight liner chassis,  
17      26,000 pounds, folks. He does not need to  
18      have a PUCO number. Behind that he has a  
19      40-foot tri-axle enclosed trailer. We don't  
20      know what's in that. Behind that he also is  
21      towing --

22           MS. LEMMIE: A car.

23           MR. BRUENEMAN: -- a little boat.  
24      Yes, everyone, safety is important. And I  
25      agree with you guys. If we make this work,

1 we have to make it work not just with our  
2 trade, the small business trades, you have  
3 to hit the other commercial trades or we  
4 need to focus on something different than  
5 what we're doing here. If it's more of a  
6 trailer idea, let's get the trailers  
7 inspected but not pass this -- I know it's  
8 already been passed.

9 Cheryl Grossman and I both asked,  
10 how did this get passed in the first place.  
11 We didn't even have a say in this. We need  
12 to have. And that's why I'm here,  
13 representation for that. And there's many  
14 more things which I have spoke about. I  
15 don't want to -- I'll get other people up  
16 here. But I see this in my travels, and  
17 it's disappointing. And things need to be  
18 changed. Because if it isn't, it's going to  
19 ruin our economy. And it's -- we're already  
20 in a rough spot right now. And I know that  
21 because I'm in it.

22 So we need your support to  
23 understand this when you enforce this. But  
24 anyway -- and the other thing is, I did look  
25 in to, the Federal Express smaller trucks

1 and the UPS trucks do not have their numbers  
2 on there. How can they be exempt when their  
3 curb weight starts out at 9,900 pounds. And  
4 you know for sure when they start loading up  
5 at their zones where they -- ship zones,  
6 they're going to be way over, at least, 15  
7 to 18,000 pounds.

8 I'm probably neglecting -- I didn't  
9 have everything prepared. But anyways, you  
10 can see what's happening here. It's been  
11 enforced more and it's hurting -- it will  
12 definitely hurt our business. So we  
13 appreciate if you can look into this more.  
14 Thank you.

15 MS. LEMMIE: Would you mind if I  
16 ask a question, since part of this thing is  
17 making sure that we understand what you're  
18 saying?

19 MR. BRUENEMAN: Oh, sure. Sure.

20 MS. LEMMIE: What I thought I heard  
21 you say is, one of the areas that you are  
22 especially concerned about is a truck that  
23 comes in, a pickup truck that may come in  
24 and is under the limit but they rent a  
25 trencher or some other apparatus from you

1       and that total weight, then, has them fall  
2       into the category of meeting PUCO  
3       compliance?

4               MR. BRUENEMAN: Correct.

5               MS. LEMMIE: Are you suggesting  
6       that there might be some waiver of the rules  
7       or that the rules don't apply in situations  
8       when there is some temporary usage --

9               MR. BRUENEMAN: Sure.

10              MS. LEMMIE: -- that's geographic  
11       based? Or how would you frame, if you were  
12       advising?

13              MR. BRUENEMAN: Well, there's --  
14       when you say interstate and intrastate,  
15       there's rental yards in Cleveland, there's  
16       rental yards in Toledo, Michigan, Indiana,  
17       Cincinnati, Kentucky. So when you are  
18       crossing the borders -- and they will --  
19       you pass the scales and that, the most  
20       important thing is, when the customer  
21       does -- and they are a commercial company  
22       and they do comply by everything but, as you  
23       know, like I was telling you, they do come  
24       in and they don't know about this. And we  
25       do tell them, Hey, we can't rent to you



1       because now you're going to leave and you're  
2       going to go on the interstate. That's going  
3       to ruin our business, folks.

4               I mean, how can I tell a customer,  
5       saying, I can't rent to you. You're in  
6       here. Now I have to deliver for you but  
7       that's going to be another so much money.  
8       They're not going to want to do that,  
9       folks. The way the economy has been right  
10      now, it's tough enough for even the small  
11      contractor. And that's not just -- that's  
12      who we deal with; landscapers, small  
13      contractors. It keeps on going. It could  
14      be just a van. It could be, also, a van.  
15      And, you know, if they do get pulled over --  
16      and it's happened to me, many years ago when  
17      they did the -- back in '95, '96 when they  
18      had surge brakes and electric brakes, they  
19      didn't know which way to go. And our DOT  
20      cops were pulling my customers over. Same  
21      thing is going to happen: They're going to  
22      impound the trailer, which they said they  
23      won't. It's going to happen. They're going  
24      to take our trailer away with our equipment  
25      and fine our contractor. And that's going

1 to definitely hurt us. And it's -- not just  
2 for that, but I started realizing it's not  
3 -- you know, our trucks that we use at our  
4 company, we can only put, like, 11 hours on  
5 it. Well, I work a ten-hour day. I go back  
6 home, you know, I use the same truck that I  
7 use to take my family out on, you know,  
8 little excursions, to soccer practice and  
9 that. And once I have that number on there  
10 and I get pulled over and I don't have that  
11 logbook, and I know they're going to  
12 eventually computerize it, I can't afford to  
13 buy another vehicle for my personal use. So  
14 I think you need to target, more, the people  
15 that have the money right now instead of the  
16 small businesses that don't have the money.  
17 And I know a lot of them that went in the  
18 trade already went out of it as quick as  
19 they went in. Unfortunately, I don't have  
20 the names, but they were landscapers. And  
21 they were at the last meeting. But as you  
22 can understand, you can rent a U-Haul truck  
23 and you know you guys are re-renting that.  
24 And that truck, as it stands, you know,  
25 different sizes, a 26-foot truck is -- the

1        curb weight -- I had to look that up and I  
2        can't remember, but I think it was way over  
3        18,000. And then you put your own weight on  
4        there, you know, and they're exempt, you  
5        know. What's going on with this, you know?  
6        And, you know, that's okay. But, you know,  
7        it isn't.

8                And, again, you're putting somebody  
9        in a vehicle, like a recreational vehicle  
10       they don't drive all the time. We are more  
11       concerned about our own trailers and our own  
12       equipment and our own customers when I put  
13       that on. And if it doesn't look right, even  
14       though we have much experience in trailer  
15       and repairs, I will not put a trailer out to  
16       a customer that comes in with a little  
17       pickup truck with a hitch falling off.

18               Now, you do recreational, you see  
19       these guys that haul these big race cars and  
20       that, you know. You know for sure they  
21       don't do it -- it's seasonal. Ours is  
22       seasonal, but it's still kind of all year  
23       round. But our important fact -- it's our  
24       heart and sole of our business -- and that  
25       is safety. And that is number one with me.

1 I don't want to put a trailer out that's  
2 dilapidated.

3 I'd like to find out more about,  
4 you know, where these accidents are  
5 happening. I feel it's with everyone, not  
6 just in our own trade, so --

7 MS. LEMMIE: Thank you.

8 MR. FAWN: Thank you. Can I ask  
9 you to provide us with an address either for  
10 yourself or for the American Rental  
11 Association, if you know.

12 MR. BRUENEMAN: Yeah. I'll give  
13 you 7393 Colerain Avenue.

14 MR. FAWN: Where?

15 MR. BRUENEMAN: Cincinnati.  
16 Previous location of the business.

17 MR. FAWN: Thank you. And I'm  
18 going to ask all the other witnesses I call,  
19 when they give their name, to spell their  
20 name and also provide an address.

21 The next person on the list is  
22 Eddie Miracle.

23 - - - - -

24 EDDIE MIRACLE

25 After having been first duly sworn, as

1 hereinafter certified, was examined and testified  
2 as follows:

3 MR. FAWN: And, again, if you will  
4 begin by repeating your name and giving us  
5 an address.

6 MR. MIRACLE: Eddie Miracle, Post  
7 Office Box 31, Maineville, Ohio.

8 MR. FAWN: Thank you.

9 MR. MIRACLE: I been in business --  
10 this will be my 19th year. I'm a small  
11 business man. I love what I'm doing. I  
12 don't want to quit doing it. Last year was  
13 the worst year I've had in ten years. The  
14 economy is hurting all of us bad. And this  
15 is going to make it a lot worse. The things  
16 we have to follow, the expense, it's going  
17 to take off of our bottom line just to make  
18 the new -- I mean, I'm all for safety. My  
19 trucks and trailers, they go out every  
20 week. I'm small. I don't -- I don't take a  
21 trailer out unless it has been inspected and  
22 everything is working, everything is good.  
23 I have sheets my drivers go by every day  
24 before they move the truck. And these --  
25 these new rules, the addition to what we'll

1       have to do, the paperwork -- we're going to  
2       have to hire a secretary to do the  
3       paperwork. I can't afford to do that. I  
4       don't know -- like the other guy says, the  
5       rental companies, why are they exempt and  
6       we're not? They're the one making the big  
7       money. We're just trying to make a living.  
8       I don't know what else to say.

9               MR. FAWN: You didn't really, to  
10       me -- I didn't hear you identify, really,  
11       the nature of your business.

12              MR. MIRACLE: I'm a carnival -- I'm  
13       in the carnival business. I'm a member of  
14       the Ohio Fair Members Association, Ohio  
15       Showman's Association. I travel. I do  
16       carnivals. We're seasonal. We start in  
17       May. We go through the middle of October  
18       and then it's done until next May. And  
19       that's when we do the maintenance and  
20       everything. It's just, you know --

21              MS. LEMMIE: Mr. Miracle, do you  
22       have any suggestions as to what the rules  
23       ought to look like?

24              MR. MIRACLE: Well, I'm all for  
25       safety. I -- you know, because the business

1 I'm in, safety is the number one thing. We  
2 take care of millions of kids every year.  
3 And we baby sit them. And if we're not  
4 safe, you know, we have to -- it has to be.  
5 But we're regulated through the agricultural  
6 department. The safety we go through, the  
7 paperwork we go through; every day it's just  
8 paperwork, paper -- I'm okay with it because  
9 it's safety. But this is going to be a big,  
10 extra burden that, you know, some of it is  
11 not necessary.

12 MS. LEMMIE: And Mr. Miracle, you  
13 don't just take care of kids. I happen to  
14 ride on the rides with my four-year-old  
15 grandson.

16 MR. MIRACLE: Okay. Take care of  
17 you, too.

18 MS. LEMMIE: Thank you very much.  
19 Appreciate your coming out tonight.

20 MR. FAWN: Thank you. Next is John  
21 Brown.

22 MR. BROWN: My name is John Brown.

23 MR. FAWN: Would you like me to  
24 swear you in first?

25 MR. BROWN: I guess.

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JOHN BROWN

After having been first duly sworn, as  
hereinafter certified, was examined and testified  
as follows:

MR. FAWN: Thank you.

MR. BROWN: Okay. John Brown, A.  
Brown and Sons Nursery. Run a landscape  
business.

MS. LEMMIE: And your address?

MR. BROWN: 11506 Dayton Greenville  
Pike, Brookfield, Ohio, 45309.

We run a landscape business. We  
probably have 70 or 80 employees, 40-some  
trucks. We take them every year and get  
them inspected twice a year. We have two  
full-time mechanics that can work on our  
trucks any time.

We're -- what I -- this paper here  
you give me, it says, an average of 23  
crisis per year include vehicles 10,001  
pounds to 26,000 pounds.

I think you're spending a heck of a  
lot of money and a lot of time on 23 fatal  
crashes. And then there is, how many fatal



1 crashes would there be with all --  
2 everything equipped? Because there are  
3 things that happen every day that cause  
4 accidents besides the equipment and  
5 drivers.

6 So I think we're spending a ton of  
7 money, a ton of enforcement and putting a  
8 burden on working people that doesn't need  
9 to be done. Thank you.

10 MR. FAWN: Thank you.

11 MS. LEMMIE: Thank you.

12 MR. FAWN: The next person is Mike  
13 Schenck.

14 MS. LEMMIE: And while Mike is  
15 coming down, I would like to ask that our  
16 colleagues -- Allen -- have arrived. There  
17 he is in the back. We have two experts with  
18 us here tonight, so we do have the staff  
19 that are out in the field and coordinating  
20 the program, if you happen to have  
21 questions.

22 - - - - -  
23 MIKE SCHENCK

24 After having been first duly sworn, as  
25 hereinafter certified, was examined and testified

1 as follows:

2 MR. FAWN: Okay. And, again, if  
3 you would start by spelling your name for  
4 the record and giving us an address, also.

5 MR. SCHENCK: Mike Schenck. Last  
6 name is S-C-H-E-N-C-K. 3001 Middletown  
7 Eaton Road, Middletown, Ohio.

8 I got a letter a week or so ago  
9 from the Land Improvement Contractors. And  
10 we're -- they was real concerned about this  
11 law passing and thought it was important  
12 that we show up to listen to hear what it's  
13 about. And they stated to me that it's  
14 going to cost the Land Improvement  
15 Contractors quite a bit of a financial  
16 burden if this law passes. And I don't have  
17 a lot to say, other than I was coming for  
18 Land Improvement Contractor's point of view  
19 on it.

20 MS. LEMMIE: Thank you very much.

21 MR. FAWN: Thank you.

22 Next is William Roe.

23 - - - - -

24 WILLIAM ROE

25 After having been first duly sworn, as

1 hereinafter certified, was examined and testified  
2 as follows:

3 MR. FAWN: Again, if you would  
4 spell your name for the record and give an  
5 address, also.

6 MR. ROE: William Roe, R-O-E, 2151  
7 Harris Road, Hamilton, Ohio.

8 MR. FAWN: Thank you. Go ahead.

9 MR. ROE: My occupation, I'm in  
10 farming. I tried to clean up a little bit  
11 tonight for you. It's pretty muddy out on  
12 the farm.

13 We own four farms. They're located  
14 in different parts of the state. The  
15 furthest is south of Toledo; Sandusky  
16 County. The Freemont area. Happens to be  
17 191 miles away, which puts us out of that  
18 150-mile agricultural radius. And that  
19 provides a real problem for us because  
20 that's where we make the majority of the hay  
21 for our cattle farms. We do the very large  
22 square bales. We have facilities to put  
23 about 5,000 of those under roof.

24 So, you know, now we're going to  
25 fall into a category, all of the sudden,

1 folks on our farm, everybody is going to  
2 have to have a CDL, sounds likes. And you  
3 know, we hire 20-, 23-year old college folks  
4 during the summer and we take our pickup  
5 truck with a flatbed trailer and it's during  
6 the day, run up to Freemont and pick up a  
7 load of hay and bring it back.

8 Now we're going to have to, sounds  
9 like, have a every morning, okay, has  
10 everybody done their logs. Let's go through  
11 our training facilities. You know, that is  
12 just a huge burden on us. I mean, we got a  
13 lot of things to do on the farm. You know,  
14 in 20-some years, we've never had one  
15 accident. I hope we never do. But I think  
16 that would attest to, you know, the kind of  
17 operation we have. But also, I think, you  
18 know, if you look at most of the smaller  
19 business people, number one, they can't  
20 afford to have an accident. You know, you  
21 take their trailer they're using for  
22 whatever, their livestock trailer or cattle  
23 operation equipment, you put them almost out  
24 of business.

25 I think the -- you know, when it

1 comes to agriculture, in general, you know,  
2 we need to have more exceptions for the  
3 folks in agriculture. You know, they are  
4 really, you know, the backbone of our small  
5 business in Ohio. I mean, agriculture is  
6 the largest business we have in Ohio.

7 So, you know, why are we trying to  
8 do one more thing, you know, just to -- what  
9 -- what profits they tend to squeak out, why  
10 are we trying to get rid of those?

11 If you drive down the road -- and I  
12 did this years ago. I used to -- I'd see  
13 farms and I'd think, "Why don't those guys  
14 clean those barns up? Why don't they look  
15 nice? Those board fences, why don't they  
16 look nice?"

17 You know, businesses that make a  
18 lot of money, they do that. You know, look  
19 at those insurance company buildings or bank  
20 buildings. And now I can include government  
21 buildings, in most cases. Those -- those  
22 three areas have the nicest properties there  
23 are. They're landscaped. They look  
24 beautiful.

25 The average farm doesn't. There is

1 a reason. They're operating on a  
2 shoestring. And this is just one more of  
3 those things that, when the family farm goes  
4 away, everybody is going to say, isn't that  
5 terrible.

6 MS. LEMMIE: We pass legislation to  
7 try to keep your family farm; the farmland  
8 preservation.

9 MR. ROE: Yeah. And I think these  
10 are the kinds of things that we need to  
11 stand up and take a real hard look at when  
12 it comes to agriculture. And I know you  
13 know. And I appreciate that.

14 MS. LEMMIE: I saw our staff stand  
15 up, so I am going to take the liberty to ask  
16 them to step forward so that they can be  
17 seen and ask if you will respond to the  
18 comment about Mr. Roe's farmland being just  
19 40 miles or so over the radius and what  
20 flexibility there might be; how 150 was  
21 determined. Just give us a little  
22 background on that, if you wouldn't mind.

23 MR. ORBOVICH: It's kind of  
24 difficult to hear.

25 MS. LEMMIE: Please introduce

1       yourself.

2               MR. ORBOVICH:  If you're hauling  
3       strictly within the State of Ohio -- pardon  
4       me?

5               MS. LEMMIE:  Let everybody know who  
6       you are.

7               MR. ORBOVICH:  My name is Milan  
8       Orbovich.  I work for the Public Utilities  
9       Commission of Ohio.  That's probably a name  
10      you're going to remember when you leave  
11      here.

12              Anyway, when you haul strictly  
13      within the State of Ohio and you're hauling  
14      farm products to the market and farm  
15      supplies to the farm, you're totally exempt  
16      from these regulations.  I don't know if  
17      you're aware of that or not.

18              MR. ROE:  From what I read, it was  
19      to be determined.

20              MR. ORBOVICH:  No.  No.  This  
21      exemption is in the Ohio Revised Code.  And  
22      that's exactly how it reads.  If you haul  
23      farm products to the market or if you're a  
24      food fabricating plant or if you're hauling  
25      supplies to the farm, you're exempt from

1       these regulations.

2               MR. ROE:  If I deliver one of our  
3       -- we specialize in produce.  If I go six  
4       miles away to the Indiana border and deliver  
5       it, what does that do?

6               MR. ORBOVICH:  Okay.  Well, now  
7       you're talking interstate commerce which  
8       changes everything.  But this rule change  
9       right here, it doesn't have anything to do  
10      with interstate commerce.  And if you would  
11      like, I can give you a business card.  And  
12      if you want to know what you have to do as  
13      long as you're engaged in interstate  
14      commerce, I'll be more than glad to take the  
15      time to go over that with you.

16              MR. ROE:  If you're telling me that  
17      at this point, none of these regulations  
18      pertain to us?

19              MR. ORBOVICH:  Not if you're within  
20      the State of Ohio.

21              MR. ROE:  Why do they have a  
22      150-mile limitation?  Why is that?

23              MR. ORBOVICH:  You know what, when  
24      it comes to the CDL, there is 150-mile  
25      radius from the farm.  If you haul within



1 150-mile radius of your farm you do not need  
2 a CDL.

3 These are the exemptions that I can  
4 possibly think of. That is, if you are  
5 regulated. So you can have that over the  
6 CDL. Then there is one with a medical  
7 certificate. If you're within a 150 miles  
8 of the farm, you won't need a medical  
9 certificate. But this is when you are  
10 engaged in interstate commerce.

11 MS. LEMMIE: So it sounds like,  
12 just to reiterate, because I see lots of  
13 hands and people are very interested in  
14 this -- what you're saying, Milan, is that,  
15 if you are a farmer and you're operating  
16 your farm in state, the rules that we're  
17 here to talk about tonight do not apply to  
18 you? So if you're in-state farming work,  
19 there is no mileage determination, there is  
20 no geographic boundary which you have to be  
21 under a threshold for; that you can do your  
22 trade anywhere in the state?

23 Now if you're going interstate,  
24 then there are some regulations and Milan  
25 offered to give you a card to talk about

1        what that means. But as long as you are  
2        performing in state, there is no CDL  
3        requirement. Is that correct? And there is  
4        no health statement requirement?

5                MR. ORBOVICH: The CDL requirement,  
6        again, if you're beyond 150 miles beyond  
7        your farm.

8                MS. LEMMIE: Well, he said he was  
9        191 miles.

10               MR. ORBOVICH: Okay. Then I would  
11        have to ask what type of vehicle you're  
12        driving with the weights of the trailer and  
13        the truck. Then we would have to see if you  
14        would --

15               MR. ROE: 20,000 goose neck flatbed  
16        trailer, that's what he's talking about.

17               MR. ORBOVICH: So you have a 20,000  
18        pound trailer. What's the vehicle weight  
19        rating of the truck?

20               MR. ROE: Three-quarter ton truck  
21        so --

22               MR. ORBOVICH: Then you would  
23        probably need a CDL if you're going beyond  
24        150 miles. That's not part of -- but that's  
25        always been the state law with the CDLs.

1 That's always been. This rule change  
2 doesn't affect the CDL rules.

3 MR. ROE: So the trailer you still  
4 need a CDL?

5 MR. ORBOVICH: You have to go by  
6 what the gross vehicle weight rating of the  
7 trailer is and the gross vehicle weight  
8 rating on the truck. Okay. And then you --

9 MS. LEMMIE: I hate to interrupt,  
10 Milan, but I'm going to need you to come  
11 down here with us because you can't be heard  
12 clearly in the audience. And folks are very  
13 interested in this. So if you wouldn't mind  
14 coming down.

15 And I think the question is,  
16 Mr. Roe, for purposes of this conversation,  
17 were you talking about that 191-mile  
18 difference between -- locational difference  
19 of the farms? Is that --

20 MR. ROE: Yes.

21 MS. LEMMIE: -- is that intrastate  
22 work only?

23 MR. ROE: Yes.

24 MS. LEMMIE: So Milan, if you could  
25 respond. He's 191 miles -- the farthest

1 farm is 191 miles away. But it's intrastate  
2 farming activity.

3 MR. ORBOVICH: Yes. The only rule  
4 that would apply to you is the CDL rule.  
5 But this rule change didn't affect the CDL.  
6 This has always been the case since 1991.  
7 You have to have a CDL if you're going 150  
8 miles of your farm and if the combined  
9 weight is 26,001 pounds.

10 Does everybody understand that?  
11 That's only for farmers though.

12 MR. ROE: So all of our employees  
13 need CDLs?

14 MR. ORBOVICH: If they're driving  
15 beyond 150 miles of the farm they would need  
16 a CDL.

17 MS. LEMMIE: Excuse me.  
18 Unfortunately, Milan, if you could repeat  
19 the comments made because we can't hear  
20 them, nor can the court reporter.

21 MR. ORBOVICH: What they're  
22 discussing now is the weight of the  
23 vehicle.

24 What you have to go by is what the  
25 manufacturer rates the vehicle. You'll see

1 on the manufacturer's pad, "GBWR." That's  
2 what you go by. You don't go by the gross  
3 weight. So you get the gross vehicle weight  
4 rating of the truck and then you get the  
5 gross vehicle weight rating of the trailer.

6 If the trailer is 10,001 pounds or  
7 more, you add the two GBWRs together. If it  
8 comes up to 26,000 pounds or more, then you  
9 would be required to have a CDL, if you go  
10 beyond 150 miles from your farm.

11 MS. LEMMIE: And that's been the  
12 case since 1991?

13 MR. ORBOVICH: Yes. Ever since the  
14 CDL rules went into effect.

15 MR. MIRACLE: Can I ask you a  
16 question?

17 MR. ORBOVICH: Yes.

18 MR. MIRACLE: Are you saying that  
19 if it's under 26,000 and you're still under  
20 150 miles away you don't need a CDL?

21 MR. ORBOVICH: For a farmer. For a  
22 farmer.

23 MR. MIRACLE: Okay.

24 MS. LEMMIE: I did see a question  
25 here. If you could state your name and talk

1       loudly.

2               MR. BAILEY: James Bailey. I'm  
3       from Norwood, Ohio. Earlier in the  
4       conversation -- I drove truck. I lived on a  
5       farm all my life. I'm transported our crops  
6       to the granaries, brought grain home for  
7       feed for the animals.

8               You stated within 150-mile radius  
9       it was not required to haul in the State of  
10      Ohio you to have to CDL license, but then  
11      you contradicted yourself, saying, if we  
12      went 150 mile -- 151 miles and it was over  
13      26,001 pound we had to have a CDL license.

14              MR. ORBOVICH: No. What I said  
15      was, if you are -- if your combined  
16      weight -- the gross combination weight  
17      rating, if it's 26,001 pounds or more, okay,  
18      you don't need a CDL if you are strictly  
19      within 150 miles of your farm. That's what  
20      I said.

21              MR. BAILEY: Land miles or bird  
22      miles?

23              MR. ORBOVICH: As the law reads,  
24      it's road miles, not air miles. Okay.

25              MR. BAILEY: But I was going by

1        what you said over there, if you haul in the  
2        State of Ohio, it was not required to have a  
3        CDL license.

4                MR. ORBOVICH: I didn't say that.  
5        If I did, I --

6                MR. BAILEY: Well, the first  
7        conversation over there was, you did not  
8        have to ascertain one. But then you changed  
9        and said, if you went over 150 miles you  
10       have to have a CDL license.

11               MR. ORBOVICH: If he was within 150  
12       miles of his farm he does not need one. If  
13       he goes beyond that, if the gross vehicle  
14       combined weight is 26,001 or more, then you  
15       will need one beyond 150 miles.

16               What I did say earlier was the  
17       safety rules. It's everything but the  
18       CDLs. None of them apply, if you are in the  
19       state and you are hauling products to the  
20       market or supplies to the farm. Because you  
21       got the CDL rules and you have the safety  
22       rules. They're two totally two different  
23       rules. The safety rules are like the  
24       logbooks, the medical certificates, things  
25       of that nature.

1 MR. ROE: So those will be required  
2 either way?

3 MR. ORBOVICH: Not if you're within  
4 the State of Ohio. They will not apply to  
5 you.

6 MR. DAVIS: Sir, you meant the CDLs  
7 will apply either way or the safety rules  
8 will apply?

9 MR. ROE: The safety rules will not  
10 apply to the safety operations?

11 MR. ORBOVICH: Right.

12 MR. ROE: Or logbooks?

13 MR. ORBOVICH: Right.

14 MR. ROE: At this time? Or is that  
15 still in consideration?

16 MR. ORBOVICH: Well, that's what  
17 the Ohio Revised Code reads. And what we're  
18 discussing today, while you're here, is a  
19 rule change, which is something a little  
20 different than the Revised Code.

21 MS. LEMMIE: I guess, to be clear,  
22 we recognize that it's hard for everyone to  
23 hear when they're not at the mic. Milan, if  
24 you could clarify what we're here tonight  
25 about and the Ohio Revised Code and try to



1 integrate them in a way that folks can  
2 understand today what would apply to them,  
3 and based on our proposed rules, what might  
4 apply to them in the future. And then Jade  
5 will help out.

6 MR. ORBOVICH: Jade, go ahead.

7 MR. DAVIS: Everyone, thanks  
8 again. We really appreciate you guys coming  
9 out. This just helps us just understand,  
10 again, what our average everyday Ohioan is  
11 dealing with. We really do appreciate  
12 that.

13 My name is Jade Davis. I'm a  
14 representative liaison for the Public  
15 Utilities Commission, so I often talk with  
16 many of your local legislators who have been  
17 calling us the last few months, sometimes  
18 non stop, if I may say, about these rules.  
19 So you are being represented at that angle.  
20 So I'm going to just discuss the  
21 difference.

22 In Ohio we have Ohio Revised Code  
23 and then we have Ohio Administrative Code.  
24 The Ohio Revised Code is oftentimes the laws  
25 that you hear about that pass the state

1 house that the legislator and that the  
2 governor signs and vetoes at the state  
3 house.

4 What Milan was talking about, the  
5 CDL, is an Ohio Revised Code. Now state  
6 agencies have rules in place. But those  
7 rules are officially called Ohio  
8 Administrative Code. And those rules,  
9 essentially, just put meat on the bones. So  
10 the bones are the legislation. And the  
11 Revised Code and the rules actually talk  
12 about how the legislation will be  
13 implemented. And it also makes sure that  
14 agencies and organizations that are -- that  
15 operate within those laws are all operating  
16 on the same page.

17 What the Public Utilities  
18 Commission did is, we had a rule change so  
19 the Administrative Code was affected. And  
20 that's when we started bringing up this  
21 intrastate commerce issue.

22 For many people who may or may not  
23 know -- this is one thing we may have been  
24 finding out -- is that some of the operators  
25 have operated interstate and didn't know

1       they ever fell under these rules. And  
2       that's something that if you operated  
3       interstate, you are always subject to these  
4       rules. And good thing we're finding out now  
5       rather than on some highway in some other  
6       state or pulled over on the side of the  
7       road.

8               Now, the intrastate, you realize  
9       that's a new one. That's why we're here.  
10      So that's also different. We need to make  
11      sure we understand also. What we're talking  
12      about is Ohio Administrative Code rule  
13      change, which the Public Utilities  
14      Commission promulgated. And we're here  
15      discussing, now, ways in which we could  
16      possibly make that rule better in order to  
17      maintain safety and also make it work for  
18      you guys. And also, at the same, it's the  
19      difference of interstate commerce and  
20      intrastate commerce.

21             What we're really focusing on here  
22      is intrastate. But we'll be happy to answer  
23      your interstate commerce questions also.

24             MS. LEMMIE: Milan, if I could just  
25      ask you to step up one more time, because I

1 would like the answer to the question as  
2 well, as I understand from Mr. Roe. He  
3 wants -- before you go on, Jade.

4 MR. DAVIS: Okay.

5 MS. LEMMIE: -- he wants to know if  
6 today, or in any proposed administrative  
7 rules there would be a requirement that his  
8 farmers, as they drive 191 miles, would have  
9 to meet safety standards and CDL standards.

10 MR. ORBOVICH: Okay. If you're in  
11 Ohio, you do not have to comply with the  
12 safety rules; the logbooks, the medicals.  
13 But the CDLs, if your vehicle is within 150  
14 miles of your farm, you do not need a CDL.  
15 If you go beyond that 150 miles and the  
16 gross combination weight rating is 26,001  
17 pounds or more, then you will need to have a  
18 CDL. But if you stay within 150 miles, you  
19 will not need one.

20 MS. LEMMIE: So there are two  
21 requirements --

22 MR. ROE: So if I'm less than 26, I  
23 will not need one?

24 MR. ORBOVICH: Right. If you're  
25 less than 26, you will not need one.

1 MS. LEMMIE: And the CDL  
2 requirement has been in place since 1991.  
3 And that's not new. It's the safety  
4 standards and the logs books, et cetera,  
5 health certificates that are the new piece  
6 that we're talking about.

7 Mr. Roe, did we answer your  
8 questions for you?

9 MR. ROE: Yes. Thank you.

10 MS. LEMMIE: Did we answer your  
11 questions for you?

12 MR. BAILEY: Yes.

13 MS. LEMMIE: The rest of you, did  
14 you get it, too? I think we finally are at  
15 a place --

16 MS. TINCHER: I have just one  
17 question.

18 MS. LEMMIE: If you could step up  
19 to the microphone, please. And if you would  
20 introduce yourself, please.

21 MS. TINCHER: I'm Jessica Tinchler.  
22 I'm a consultant. I represent several  
23 farmers. And I've had the question with the  
24 Ohio Revised Code and with the safety  
25 exemptions for farmers on -- if there is any

1       grey area. The codes say "to the farm" and  
2       "from the farm to the market." So is there  
3       just per the plates being a farm  
4       registration they're they exempt? Or is  
5       there a grey area there, if they're outside  
6       from the farm to the market?

7               MS. LEMMIE: Allen or Milan, I  
8       don't know if either of you heard that  
9       question.

10              Milan is coming down to answer the  
11       question. And that was whether or not there  
12       is a grey area or based on the plates, there  
13       is a strict from the farm to the market. Or  
14       can they stop along the way if they want to  
15       go have lunch at a restaurant? Is  
16       that going to be a problem? Or can you  
17       explain how it works?

18              MS. TINCHER: Is there a grey  
19       area? The Code says, "from the farm to the  
20       market. From the market to the farm." And  
21       are there areas for the exemption?

22              So if you have a farm vehicle going  
23       to a location other than the farm or the  
24       market, are they exempt from all these  
25       rules? Or is there a grey area where it's

1       only between the farm and the market and the  
2       market and the farm?

3               MR. ORBOVICH:   The Ohio Revised  
4       Code, the way it reads is, if you're hauling  
5       farm products to the market or a food  
6       fabricating plant or farm supplies to the  
7       farm, that's when the exemption takes  
8       place.

9               MS. TINCHER:   So anything outside  
10       of that is in violation?

11              MR. ORBOVICH:   Anything outside of  
12       that, yeah, if you use it for another  
13       purpose.

14              MS. LEMMIE:   Milan, would you mind  
15       if we gave your telephone number to the  
16       group so that if they had questions later  
17       on, they can call your office?

18              MR. ORBOVICH:   No.   You could write  
19       it down.

20              Well, the last time we did this, I  
21       gave my card out to about 50 people and I  
22       did not receive one telephone call.   I  
23       thought the next day was going to be pretty  
24       busy.   But anyway, it's 614-466-0369.   Ask  
25       for me.   My first name is spelled

1 M-I-L-A-N. I'm the only one there with that  
2 first name. My last name, O-R-B-O-V-I-C-H.

3 MS. LEMMIE: We do not have anyone  
4 else signed up to speak. If there is  
5 someone who would like to present testimony,  
6 I ask you to step forward at this time. And  
7 seeing none -- here's one.

8 MR. FAWN: While he's coming  
9 forward, Jessica, I didn't catch your last  
10 name. Could you spell it for the record?

11 MS. TINCHER: Tinchler,  
12 T-I-N-C-H-E-R.

13 MR. DEVORE: John DeVore.

14 MR. FAWN: You want to be sworn in?

15 MR. DEVORE: I do.

16 JOHN DEVORE

17 After having been first duly sworn, as  
18 hereinafter certified, was examined and testified  
19 as follows:

20 MR. DEVORE: John DeVore. What all  
21 you want? Address?

22 1410 Hoag Road, Hamilton, Ohio.

23 Good enough?

24 MR. FAWN: D-E-V-O-R-E?

25 MR. DEVORE: Correct.



1           Landscape contractor. Been in  
2 business 32 years. And like many landscape  
3 contractors, I was one of those guys who  
4 started off with a pickup truck. Now I  
5 have, like, three with trailers and some  
6 equipment. And we are squeaky clean the way  
7 we do business. When I got my first larger  
8 trailer and a little mini backhoe, I was  
9 going on 275, for those from this area. It  
10 goes mostly in Ohio, crosses through this  
11 little bitty section of Indiana. And they  
12 make a boatload of money in Indiana off that  
13 little section. And then it goes on around  
14 Kentucky, back to Ohio. I didn't know -- I  
15 wasn't thinking interstate. Well, I got  
16 pulled over. I was there for three hours.  
17 Didn't get fined. Now we're all squeaky  
18 clean with the laws for interstate. And as  
19 I see represented here and all the  
20 hullabaloo with all this rule change, there  
21 is a lot of confusion.

22           Being a small business person, I'm  
23 looking at my -- my costs, just to be in  
24 business to be in compliance with the  
25 federal government and the state government

1       and local government costs me about \$75,000  
2       a year because we have to obey the rules.  
3       And part of that is out of fear. Because if  
4       there is -- this nice little cop lady in  
5       Indiana, she stopped a lot of people. I  
6       talked to other guys that were stopped by  
7       her. She just sits out there and waits for  
8       us. My main concern with this new rule is  
9       that you have lots of guys like me who had  
10      to start their own businesses. And they  
11      started off with a pickup truck. And they  
12      will come under such a level of oppression  
13      from all of the regulations that they have  
14      to meet.

15               Now, I'm not saying that they  
16      shouldn't operate safely, all that sort of  
17      thing. But it becomes oppressive. And it  
18      really quenches an entrepreneurial  
19      enterprise. And most contractors start off  
20      just like that. They start off at the  
21      beginning. And they -- a few of us stick  
22      around long enough and, you know, do what it  
23      takes.

24               So there are two factors. One is  
25      very much a time cost and that -- when I

1 throw out that number, it's because either I  
2 have to spend more time or hire somebody  
3 else or make my -- or pay my employees  
4 overtime, et cetera.

5 So you understand there is time  
6 involved in recordkeeping. And then there  
7 is the compliance with -- with whom I'm not  
8 exactly sure, as I read that. Okay. So who  
9 do we comply with? Who are we accountable  
10 with on an -- an annual/semiannual basis?  
11 How many departments? It becomes -- it's so  
12 very, very confusing. And we talked to our  
13 accountants -- our accountant. I mean,  
14 we're just small. Okay. But it's  
15 confusing. We have to pay them. That's  
16 part of the cost of being in business, is  
17 who can understand the laws. There are too  
18 many of them out there.

19 So all that being said, it's -- I'm  
20 for the little guy because I'm one of them.  
21 And we need to have it real clear. And I --  
22 the main thing that scares me about this is  
23 that all the guys and gals who are out there  
24 trying to make a go of it -- and I  
25 understand watching out, driving around 275

1 and crossing into the interstate. But if I  
2 have to be concerned with every little town  
3 because their tax revenues are down and they  
4 need to get more money, and so they say,  
5 okay, just go after the guys with the pickup  
6 trucks because we know we can nail them, I  
7 just -- there just needs to be some balance  
8 in here. Because I've tried over the  
9 years. Twice I quit my business in 32  
10 years, and it was because I was fed up with  
11 all the rules I didn't know. And I keep on  
12 coming back because I love what I do. But  
13 it's -- for those who don't do their own  
14 business, you may not understand what we all  
15 have to go through.

16 So I appreciate you --

17 MS. LEMMIE: No. We all have  
18 family members who have done destitute that  
19 started with a pickup truck and now have  
20 expanded. And I absolutely appreciate what  
21 you're saying.

22 The number of rules and regulations  
23 across the board that you have to comply  
24 with, what we have found in our listening  
25 sessions is that many people were not aware

1 of the '91 CDL requirements. So that was  
2 something new all these years later. And  
3 then the safety requirements that are being  
4 proposed now was just with added concern and  
5 grief to people who didn't realize that they  
6 were out of compliance with the law.

7 But I am assured by staff nodding  
8 of the heads that, in fact, local  
9 jurisdictions will not have the authority to  
10 pull you over and issue citations under this  
11 proposal.

12 And for confirmation of that,  
13 Milan, I don't know if you or Allen want to  
14 come forward and speak to that.

15 MR. DEVORE: Thank you.

16 MS. LEMMIE: Thank you. And I'm  
17 going to ask, do you just take 75 now and  
18 not the bypass?

19 MR. DEVORE: I'm legal. It's  
20 okay.

21 MS. LEMMIE: How about you, Jade?

22 MR. DAVIS: I don't know the exact  
23 code section. Ohio, what happened is, this  
24 program is essentially an extension of the  
25 Federal Motors Carrier Safety Program and

1       that has operated through the PUCO. So in  
2       Ohio -- I can't talk about Kentucky or  
3       Indiana, but in Ohio, only PUCO Enforcement  
4       Officers -- we only have about ten -- 30 --  
5       30 PUCO enforcement officers that are in  
6       PUCO trucks and State Highway Patrol who has  
7       been trained and authorized by the PUCO to  
8       conduct those investigations -- to conduct  
9       those inspections can do that.

10               Local law enforcement, local  
11       sheriff can't line a bunch of deputies up  
12       and just start pulling over trucks and do  
13       those motor carrier safety inspections.

14               MR. MIRACLE: Can we tell them  
15       that?

16               MS. LEMMIE: No, but I will --

17               MR. DAVIS: They already know.

18               MS. LEMMIE: I will tell you this:  
19       we are unaware that that is happening, if it  
20       is. And I would ask you, again -- Milan has  
21       given you his number. My number -- I'm  
22       Valerie Lemmie, and my telephone number is  
23       614-466-3101.

24               If you find that that is happening,  
25       call us and let us know and we will convene

1 the appropriate people and follow up on your  
2 behalf and the other residents' behalf.  
3 Because that is not an area of  
4 responsibility that belongs to local  
5 jurisdictions under the law.

6 Sheriffs are direct elected and we  
7 certainly are in no way trying to usurp  
8 their authority. But the Constitution does  
9 define the level of governmental  
10 responsibility of various regulatory  
11 affairs. And this is a state regulation.  
12 So it should be a state; the PUCO or the  
13 Highway Patrol that would be pulling you  
14 over, should that happen to you.

15 Yes.

16 MS. TINCHER: Is this also going to  
17 be the same as it is under FMCSR, that the  
18 State Highway Patrol, each person has to go  
19 through training to receive their  
20 qualification every year? So how do you  
21 know if that person has received that  
22 training? And if they don't seem competent,  
23 who do you address in that situation?

24 MR. ORBOVICH: Did everybody hear  
25 her question?

1                   She wants to know if you have to go  
2                   through annual training. Correct?

3                   MS. TINCHER: Yes.

4                   MR. ORBOVICH: And if there is a  
5                   problem, who you should contact.

6                   You know, every person that's hired  
7                   to do this job, inspect trucks that are on  
8                   the road, has to go through a two-week  
9                   training program. Once they do that, they  
10                  have to work with an individual, a veteran  
11                  employee, and they have to conduct the first  
12                  30 inspections with an already certified  
13                  inspector. Then every year they have to do  
14                  so many inspections to maintain that  
15                  certification. Now, if there is ever any  
16                  question that you have -- you know, every  
17                  time you get stopped for an inspection, you  
18                  will be given an inspection report. And it  
19                  does have a telephone number on it. And  
20                  there is nothing wrong with you calling and  
21                  asking questions about that inspection  
22                  report. The reason why I'm going to refer  
23                  you to the telephone number on there is  
24                  because the majority of these inspections  
25                  are done by the State Highway Patrol. And



1 the State Highway Patrol, they have their --  
2 the State of Ohio divided into ten  
3 districts. And each district will have that  
4 telephone number on it. But all you have to  
5 do is call and ask for either a CEC sergeant  
6 or a motor carrier enforcement supervisor.  
7 Or if it's the PUCO, you can call and ask  
8 for me. I would be more than glad to answer  
9 any questions you have about the inspection  
10 report. I understand the safety rules are a  
11 bit confusing.

12 MS. LEMMIE: We really do want to  
13 work with you. And calling us if there are  
14 questions or issues really does help.

15 And I see two questions over here.  
16 And if you could stand up and come to the  
17 microphone, that way everybody in the room  
18 is able to hear your question.

19 MR. SIBE: I just have one  
20 question.

21 MS. LEMMIE: And your name?

22 MR. SIBE: My name is Phil Sibe.

23 Will the PUCO's new safety rules  
24 affect the CSA-2010's basic scores?

25 MS. LEMMIE: Allen.

1 MR. MARTIN: If you're involved in  
2 CSA-2010, if you're getting a rating there,  
3 then you're an interstate carrier. So --  
4 those ratings are based on as an interstate  
5 carrier. So it's -- you're outside of --  
6 you're already required to follow these  
7 rules already.

8 MR. SIBE: Well, true. But will it  
9 -- does it show up on -- if we get a verbal  
10 or a written from an inspector, there is no  
11 way that it will show up on safety -- what's  
12 does it pull up when a DOT inspector pulls  
13 up and pulls our DOT number?

14 MR. MARTIN: For everyone in here,  
15 CSA-2010 is a program for interstate  
16 carriers right now. Ohio doesn't  
17 participate in what's called the Safe Stat  
18 System for Intrastate Carriers. We have  
19 never adopted that intrastate. So CSA-2010  
20 is for interstate carriers. And it's --  
21 what FMCSA is doing is changing how they  
22 rate carriers in terms of their overall  
23 safety rating.

24 With regard to what you said, every  
25 inspection under CSA-2010 contributes to

1 your safety score. So what that means is a  
2 good inspection helps you positively and a  
3 bad inspection with violations is negative.  
4 So under CSA-2010, everything counts. In  
5 the old system, Safe Stats, only bad  
6 inspections counted, good inspections  
7 didn't. So if you get an inspection report,  
8 it's going to be count positive to positive  
9 and negative to negative, if that answers  
10 your question.

11 MR. SIBE: Yes.

12 MS. LEMMIE: Did I see another hand  
13 over here? Please step forward.

14 MR. BRUENEMAN: Bob Brueneman. I  
15 was at the October meeting and I don't know  
16 if you gentlemen know, I had a -- what do  
17 you call it -- a retired cop sitting right  
18 next to me. And he got pulled over, if you  
19 remember. He hauled a hazardous material  
20 from Pennsylvania to Ohio. And he got  
21 pulled over with his "D" sticker peeling  
22 off. And his own people who he trained, his  
23 own, you know, police force that he trained,  
24 gave him a ticket with his "D" sticker  
25 peeled off. And it's documented, if you

1       guys can remember that. He was sitting  
2       right next to me. He was a retired DOT  
3       police and he was an instructor. So he knew  
4       all about the rules and restrictions. And I  
5       asked him specifically, and he said the same  
6       thing: We need to make sure if we do this,  
7       we work all together, you guys with the DOT  
8       police, even though you have your PUCO  
9       people out there on the highways, they're  
10      pulling people over. And I know this for a  
11      fact now. And if you get pulled over,  
12      you're going to get a ticket no matter what,  
13      even if you think you had everything  
14      correct. They're going to definitely give  
15      you a ticket. And I know this. I have  
16      many, many people who already had this  
17      between Cincinnati and Columbus, already got  
18      pulled over, that had their PUCO numbers and  
19      DOTs, what they follow through your  
20      regulations.

21               The most important thing is, are  
22      you guys on the same -- since you say you're  
23      training your people, are they going to be  
24      trained correctly even with the highway  
25      patrol? You know what I'm saying? Because

1 I -- I'm getting people e-mailing me now  
2 saying, Hey, Bob I got pulled over because  
3 my tread was a little bit lower on the  
4 trailer or my breakaway battery was eight  
5 percent low. And this just happened two  
6 months ago.

7 And I said, well, guys -- and they  
8 told me, no matter what they're going to  
9 pull you over and give you a ticket. And  
10 like I told you before, they had to go  
11 through the scale. They had to wait for the  
12 replacement battery, even though it was  
13 eight percent down. I can't mention the  
14 guy's name. He doesn't want me to tell his  
15 name here.

16 MR. ORBOVICH: That's fine. But  
17 who was it that stopped the people for the  
18 inspection? Was it a State Highway Patrol  
19 person or PUCO person?

20 MR. BRUENEMAN: Good question.

21 MR. ORBOVICH: That's what I think  
22 I need --

23 MR. BRUENEMAN: That's what I'm  
24 worried about. What about these state  
25 patrol guys? Are they going to come in

1 and -- you know, I understand you guys, you  
2 train your PUCO cops out there. But what  
3 about the State Highway Patrol guys; what's  
4 going to happen with them?

5 MR. MARTIN: With the training,  
6 every single person that does an inspection  
7 is trained the exact same way. They all go  
8 through what's called the North American  
9 Standard Inspection Training. There is Part  
10 A and Part B. There's the HazMat training.  
11 There's Cargo training. All of the people  
12 nationwide, in fact, Canada, Mexico and the  
13 United States go through the same training  
14 and have the same requirements.

15 Now, that being said, people make  
16 mistakes. Some people, sometimes, let's  
17 just say, might get overzealous. When that  
18 happens, if you suspect that something is  
19 off, as Milan said, call that number, talk  
20 to a supervisor. Give them the inspection  
21 report number. Call us, let us know.

22 Now, if it's an interstate trip,  
23 there's also what's called -- and the  
24 federal government recognizes this, too --  
25 there's something called \*\*\*beta cues that

1 allows you to challenge it. If it's --  
2 comes to the PUCO and you're told that you  
3 owe a forfeiture or a fine because you  
4 violated a rule, we have an entire  
5 adjudicatory process that you can challenge  
6 it. It starts at the staff level and it  
7 goes all the way through to our  
8 commissioners who have the ultimate say at  
9 the Commission as to whether or not they  
10 believe that, you know, something was done  
11 inappropriately.

12 So we work very hard, as does the  
13 State Patrol, as do the Federal Motor  
14 Carrier Safety Administration inspectors  
15 that do audits of companies, to try to be  
16 consistent. The goal is to be consistent,  
17 to be fair and to ensure that the  
18 regulations are enforced the same way  
19 throughout the U.S., Canada and Mexico. So  
20 that's the goal of the program, is to be  
21 uniform. Not that one person does it one  
22 way, another does it another.

23 And I'll just tell you, Milan is a  
24 master instructor. He's one of the highest  
25 level instructors out there. And he helps

1 to train the people at the PUCO, as well as  
2 the State Patrol. And he even goes and  
3 trains other people in the other states.

4 So the goal is uniformity and  
5 consistency. So if you suspect something is  
6 off, we need to know who, what, when, where  
7 and why so that we can do something about  
8 it. We work real hard at the Commission in  
9 helping identify issues with inspections  
10 when it comes to the hearing level and our  
11 commissioners say that something is  
12 inconsistent, we notify of patrol of  
13 inconsistencies on their reports so that  
14 they can use it to train their people to  
15 ensure it's done consistently and fairly.  
16 Because we don't -- the biggest problem we  
17 can run into is if it's not being done  
18 consistently and fairly. So that's a goal  
19 of ours, to always work with all the  
20 enforcement personnel, to do it consistently  
21 in the same way.

22 MR. BRUENEMAN: Another question to  
23 ask you, each time they get pulled over --  
24 this gentleman got pulled over three times.  
25 It's two points against his license, is that



1 correct, when you get pulled over?

2 MR. ORBOVICH: Not from our  
3 inspection reports. You don't get any  
4 points on your driver's license from our  
5 inspections.

6 MR. BRUENEMAN: Okay.

7 MR. ORBOVICH: There -- there --

8 MR. BRUENEMAN: Moving violation?

9 MR. ORBOVICH: Yeah. If there was  
10 a moving violation associated. Like, there  
11 are some state troopers, okay -- most people  
12 that do these inspections are civilians,  
13 like me. But the State Highway Patrol,  
14 they're involved in this. And they have,  
15 probably -- I don't know -- maybe 30  
16 troopers throughout the state that are  
17 certified and trained to do all this stuff.  
18 Only these guys, these 30 men and women that  
19 are trained in this, if they see someone  
20 going down the highway and, say, they're  
21 speeding, all right, they can pull you over  
22 for speeding, write you a citation for  
23 that. They will also inspect your vehicle.  
24 And that inspection -- that speeding  
25 violation will be documented on the

1 inspection report. But that would be the  
2 only way that I could see that points were  
3 received on a driver's license from an  
4 inspection report. It was actually from the  
5 speeding ticket, not from our inspection.

6 MR. MARTIN: Moving violation.

7 MR. ORBOVICH: Does that make  
8 sense?

9 MR. BRUENEMAN: Yeah, that makes  
10 sense. You understand what I'm trying to  
11 say here? It's small businesses again. And  
12 I'm afraid, when this gets enforced that  
13 they're going to get ticket happy and each  
14 time they get pulled over, you know, two  
15 points, they're going to try to go figure  
16 out a way to, you know, get points against  
17 your license. And I could see it happening  
18 where you get 12 points and, you know, 12  
19 points you can't drive anymore. They're  
20 going to completely dissolve your license.  
21 And you can't travel anymore.

22 MS. LEMMIE: I think a good way of  
23 understanding that is, if it's a moving  
24 violation, speeding ticket, lane problems --

25 MR. BRUENEMAN: But they can easily

1 give you one, though, couldn't they?

2 MS. LEMMIE: But that has nothing  
3 to do this.

4 MR. BRUENEMAN: With you guys.

5 MS. LEMMIE: That has nothing to do  
6 with this. And again, if you find these  
7 problems, bring it to someone's attention.

8 MR. BRUENEMAN: I hope you guys  
9 coincide together and do it right, for once.

10 MS. LEMMIE: We really have worked  
11 very hard to do it right. And again, we  
12 have our staff who reviews all of this.

13 MR. BRUENEMAN: And you heard me  
14 before about the American Rental  
15 Association; they are very involved now with  
16 me to, at least, show my face at the  
17 meetings to let them know concern, because  
18 it is a big concern.

19 We're here to support you. We need  
20 your support, too.

21 MS. LEMMIE: Absolutely.

22 MR. ORBOVICH: Do you mind if I ask  
23 something?

24 MS. LEMMIE: Of course not.

25 MR. ORBOVICH: You know, since -- I

1 think it's been since October -- there's  
2 been a lot of trade association, a lot of  
3 trucking companies, small businesses,  
4 they've been contacting our office and  
5 they're confused about the regulations. And  
6 they asked for someone to come out and help  
7 them out. You know, we've -- I can't  
8 remember how many of these we've done so  
9 far, what, 50 of them, and there has been  
10 over a thousand people that we've met with.  
11 If you would like -- like, for association,  
12 if you would like one of us to come out,  
13 conduct a presentation, show you what the  
14 regs are, have them briefly explained to  
15 them and what your responsibility is with  
16 them, how to comply with them, we're more  
17 than glad to do that for you. Let us know.  
18 And I think that's real important, after you  
19 leave here, that you know that. Give our  
20 office a call and we'll set something up.  
21 And I can even make arrangements, if you  
22 would like, to have a trooper come with me.  
23 And he can also explain what his job duties  
24 and his responsibilities are and how he goes  
25 about conducting his job. So that's

1 something to keep in mind.

2 I just wanted to mention that.

3 MS. LEMMIE: Thank you. Yes.

4 Another comment. Please come down so  
5 everyone can hear.

6 Other comments or question, please,  
7 if you would just cue up, then that way  
8 everyone will be able to hear what you have  
9 to say. Thank you.

10 Introduce yourself again.

11 MR. DEVORE: Yeah. John Devore  
12 again. I like what you said about  
13 uniformity. And I think that addresses a  
14 whole lot of things I was talking about.

15 The question is, is there a single  
16 form that everybody gets that will be  
17 exactly the same?

18 MR. ORBOVICH: Yes.

19 MS. LEMMIE: Yes.

20 MR. DEVORE: There is?

21 MR. MARTIN: Yeah, there is.

22 MR. DEVORE: For safety and for --  
23 what are the two categories?

24 MR. ORBOVICH: Oh, you mean the  
25 CDLs and the safety regulations?

1 MR. DEVORE: Yeah.

2 MR. ORBOVICH: Is that it?

3 MR. MARTIN: It's one inspection  
4 form.

5 MR. DEVORE: One inspection form.  
6 So that every business owner can have these  
7 things and mine looks just like the  
8 farmer's --

9 MS. LEMMIE: Yes.

10 MR. DEVORE: -- is that correct?

11 MS. LEMMIE: Yes.

12 MR. ORBOVICH: One inspection  
13 report.

14 MR. DEVORE: Right.

15 MR. ORBOVICH: There is a  
16 standardized inspection report.

17 MR. DEVORE: All people have the  
18 same forms, that's what I was asking.

19 MR. ORBOVICH: Right.

20 MS. LEMMIE: Yes.

21 MR. ORBOVICH: Yes.

22 MR. DEVORE: Thank you.

23 MS. LEMMIE: Thank you.

24 Please.

25 MR. HUBER: Good evening.

1 MS. LEMMIE: And if you could  
2 introduce yourself.

3 MR. HUBER: Brian Huber. 231  
4 Loreda Avenue, New Lebanon, Ohio.

5 - - - - -

6 BRIAN HUBER

7 After having been first duly sworn, as  
8 hereinafter certified, was examined and testified  
9 as follows:

10 MR. HUBER: Thank you for having  
11 us. We appreciate that very much.

12 One question and then a couple  
13 comments. My understanding, that some of  
14 this was brought around -- that regulations  
15 were brought around to avoid lack of federal  
16 funding, highway funding; is that correct?  
17 Is there any truth to that?

18 MR. MARTIN: Yes. It gets a little  
19 bit complicated, but yes. The basic answer  
20 to that is yes. It's a little bit complex  
21 in how to explain it. But yes, that's --

22 MR. HUBER: I'm sure it is.

23 MR. MARTIN: The short answer is  
24 yes.

25 You want the long answer?

1           We were required through several  
2       audits that have been done on the state --  
3       we have to be consistent with federal  
4       regulations in order to receive a grant from  
5       the Federal Motor Carrier Safety  
6       Administration for funding for our -- what's  
7       called the Motor Carrier Safety Assistance  
8       Program. It's about a six-and-a-half  
9       million dollar grant that we receive every  
10      year. We had to adopt consistent  
11      regulations for intrastate HazMat. And in  
12      going in to adopt those, it became obvious  
13      that the secondary requirement was that you  
14      can't have different regulations for  
15      intrastate for hire and intrastate private  
16      carriers. So we had existing regulations  
17      for for-hire carriers, but we exempted  
18      private carriers.

19           As a consequence, we needed to  
20      decide how to deal with that inconsistency.  
21      And basically, the decision was to adopt it  
22      for the private carriers. Now, that's the  
23      issue that's before us today. And why we're  
24      asking people for comments is how to deal  
25      with that situation that we have on the



1 books now.

2 Does everyone understand that? It  
3 gets a little confusing because it's round  
4 in a circle.

5 MR. HUBER: I just want some  
6 clarification as to why it came up now and  
7 not next year or two years ago.

8 I work for a lawn care company and  
9 we have 30 trucks that are going to fall  
10 under this. And like most people that took  
11 the time to be here, we're concerned about  
12 safety also. So the people that are hear  
13 are probably already doing a lot of the  
14 safety issues. What's kind of onerous on us  
15 is the amount of paperwork that falls under  
16 this, especially if you have, you know, 30  
17 trucks, 20 trucks, 50 trucks or whatever.  
18 That's where we really see an issue with  
19 it: Paperwork, maintaining the paperwork,  
20 you know, length of employment plus three  
21 years, 90 days, 60 days, whatever. You  
22 know, there is a lot of paperwork here for  
23 people that are trying to be safe anyway.  
24 If there was a way to reduce the paperwork,  
25 make it easier, I think it would be a lot

1 easier for everybody to accept and handle.  
2 It would be a lot cheaper. We wouldn't have  
3 to hire an extra person or take the extra  
4 time out that they have to do all this  
5 stuff; everyday inspections, once a week  
6 inspections or whatever it is.

7 But I think that's something that  
8 would really help, if you have one truck or  
9 you have several trucks. Thank you.

10 MS. LEMMIE: Thank you.

11 MR. FAWN: Thank you.

12 MS. LEMMIE: And I would really  
13 urge you, to the extent that you have  
14 recommendations, particularly those of you  
15 who are with associations, what the  
16 regulations should say or what specific  
17 language should be exempt, please just send  
18 us a note to the -- to the case file so that  
19 we are able to consider that as part of our  
20 deliberations. I -- my colleagues are going  
21 to hearings in other parts of the state. I  
22 live in Dayton. And I will tell you that  
23 the people who have come out have been very  
24 concerned, as you have expressed tonight,  
25 about the cost of compliance, about the

1 differential rules and regulations that are  
2 out there. What does a CDL mean? What's  
3 interstate? What's the intrastate  
4 difference? Just really, I think, for the  
5 first time, understanding there is a level  
6 of compliance for these size trucks. And I  
7 certainly am hearing your comments and would  
8 love to see what suggestions you have, even  
9 if it's continued the way it has been  
10 historically. That's fine too. But your  
11 suggestions are also very helpful to us, as  
12 we seek to find a balance between meeting  
13 the federal requirements for highway safety  
14 on the one hand and serving, now, the  
15 citizens, and the residents, and the  
16 business owners of Ohio, which is the most  
17 important thing for us, on the other hand.

18 JESSICA TINCHER

19 After having been first duly sworn, as  
20 hereinafter certified, was examined and testified  
21 as follows:

22 MS. TINCHER: Thank you. As I  
23 mentioned before, I am a consultant and I  
24 represent several different industries. I  
25 was wondering if there would be an extension

1       that would fall into one of my client's  
2       situations. He is the owner of his company,  
3       the only person who drives the truck, and  
4       there is only one truck. And does he have  
5       to meet all of the driver requirements with  
6       having those qualification files on the  
7       application?

8               I know he would be exempt from  
9       having the pre trip and post trip under  
10      federal regulations, since it's only one  
11      truck and one driver.

12             Is there something we can do for  
13      him with being a one person, one truck to  
14      eliminate a lot of this --

15             MS. LEMMIE: Is this intrastate  
16      travel?

17             MS. TINCHER: Yes. Only  
18      intrastate.

19             MS. LEMMIE: Is he a farmer?  
20      Landscaper? What's going on?

21             MS. TINCHER: Manufacturing. He  
22      pretty much just goes -- he lives in the  
23      Wanesville area. He may go to, like,  
24      Centerville, Middletown and Wilmington,  
25      which is 20 miles or so, picks up something

1 from his client, brings it back.  
2 Refabricates it and takes it back. And he  
3 is the only person that he allows to drive  
4 his vehicle. But it's ago 14,000-pound  
5 truck. So for him, it's a lot of burden for  
6 him to get everything taken care of when  
7 it's only him, plus he's trying to run the  
8 business. He's the supervisor. And leaving  
9 during hours to go and get medicals done and  
10 all that kind of stuff is really becoming a  
11 problem for us to be able to fit that in.

12 MR. FAWN: Thank you. I  
13 understand.

14 MS. TINCHER: Yes. Then I have one  
15 more question as well. Inside a letter that  
16 was dated December 7th that was on your  
17 website, at the bottom it mentioned that if  
18 you were applying for either a USDOT number  
19 or a PUCO number, that you would be going  
20 through an audit process by you guys.

21 MR. ORBOVICH: Yes.

22 MS. TINCHER: Can you explain that  
23 in detail? And then, also, if you're only  
24 intrastate, do you want them to have a USDOT  
25 number or a PUCO number and where does the

1 category go from who needs what?

2 MR. ORBOVICH: Thank you. The PUCO  
3 number is for if you are a for-hire  
4 carrier. So you being a private carrier,  
5 you do not need a PUCO number. The USDOT  
6 number is required when you cross state  
7 lines. So if you haul strictly within the  
8 State of Ohio as a private carrier, you do  
9 not need to have a USDOT number or a PUCO  
10 number.

11 Now, if you happen to cross state  
12 lines and you do not have a USDOT number,  
13 you have to sign up for one.

14 Now, once you sign up for a USDOT  
15 number, the federal government started this  
16 new inter mode carrier program. So if  
17 someone just got in the business and they  
18 got a USDOT number, they pass the name on to  
19 us. You normally get a letter from us  
20 saying you have to contact us within so many  
21 days to schedule a safety audit. And what  
22 this audit is, it's an opportunity for you  
23 to sit down with one of our field staff.  
24 And they go through the safety regulations  
25 and kind of give you some technical

1 assistance on how to comply with that. They  
2 also ask you questions, like, are you doing  
3 this? Are you doing that? And they're all,  
4 of course, regulatory related. But that's  
5 the only time you would get -- have to worry  
6 about a safety audit, is if you sign up for  
7 a USDOT number and you need to cross --  
8 crossing state lines would require you to do  
9 that. Then you'd be subject to be  
10 certified.

11 MS. TINCHER: So in his situation,  
12 for example, since he's not hauling for  
13 anybody else, he doesn't need anything,  
14 since he's only intrastate?

15 MR. ORBOVICH: Yeah. He doesn't  
16 need a PUCO number and he does not need a  
17 USDOT number. Because he's a private  
18 carrier, correct?

19 MS. TINCHER: Yes.

20 MR. GRECKO: Sir, if you already  
21 have --

22 MS. LEMMIE: Please come down.

23 MR. GRECKO: Sir, if you already  
24 have a DOT number on, say, the trucks you  
25 have now -- I have a semi now but I don't

1 have them on my small trucks -- do I have  
2 apply for another DOT number?

3 MR. ORBOVICH: No.

4 Did everybody hear his questions?

5 You have a tractor now, right?

6 MR. GRENKO: Yes.

7 MR. ORBOVICH: Okay. And he has to  
8 have a USDOT number. And he was wondering,  
9 since he has these small trucks, does he  
10 have to apply for another USDOT number. And  
11 the answer to that is no. You just need to  
12 have one for a company.

13 MR. MIRACLE: Do you have to have  
14 it on all the trucks?

15 MR. ORBOVICH: You have to have it  
16 on all the power units, which is the trucks.  
17 You don't have to have it on the trailer.

18 MR. MIRACLE: Even if they don't go  
19 out of state?

20 MR. ORBOVICH: Well, if you don't  
21 go out of state, you're not really going to  
22 need one. So you don't really have to put  
23 one on your truck.

24 MR. MIRACLE: Can I ask a  
25 question?



1 MS. LEMMIE: Yes, please,  
2 Mr. Miracle.

3 MR. MIRACLE: I just purchased a  
4 semi. I got a DOT number. Okay. They told  
5 me I had to apply for an audit. I called  
6 the people. Well, do you go out of state?

7 Yes, I do.

8 Well, don't call us back until  
9 after you go out the state is what they told  
10 me.

11 MR. ORBOVICH: Well --

12 MR. MIRACLE: That's what they told  
13 me. That is what --

14 MR. ORBOVICH: Yeah. This new  
15 inter mode carrier program that I just  
16 explained to you, this is what he's  
17 referring to. Now, this is a federal  
18 program. All right. They have their  
19 requirements. But we in the State of Ohio,  
20 we decided to be do these safety audits for  
21 them.

22 Now, the federal government  
23 requires at least one interstate trip -- you  
24 have to have at least one interstate trip  
25 before you meet with us to do the safety

1       audit. And if you think about it, the  
2       questions that they're going to ask you are  
3       the logbook requirements, everything of that  
4       nature. And you're not going -- none of  
5       those rules are going to apply to you unless  
6       you go out of the State of Ohio. So that's  
7       why that happens.

8               MR. MARTIN: We also get people  
9       that never go.

10              MR. MIRACLE: So I have to go out  
11       of state first?

12              MR. ORBOVICH: Yes. You have to  
13       make an interstate trip before we can do one  
14       of these safety audits. That's just a  
15       federal rule.

16              MR. MARTIN: But there is a good  
17       reason for it, too. Very often there are  
18       carriers that sign up for a DOT number. The  
19       18 months go by and they've never gone out  
20       of state and they're never going to go out  
21       of state. And because of that -- part of  
22       the reason, I think, the federal government  
23       put this in was to ensure that everyone that  
24       really wanted to be an interstate carrier  
25       understood that it means you are going

1 interstate and that you've actually gone  
2 interstate and belong in the program.

3 So it's also a help to carriers to  
4 help clarify to them, here's what you have  
5 to do to be in this program. And do you  
6 really want to get into this? Do you really  
7 want to do this? That's why they put that  
8 requirement, that you have to have already  
9 gone interstate before we're going to send  
10 an auditor out there and have them sit down  
11 with you and tell you all the requirements  
12 only to find out, after spending a four-hour  
13 or three-hour or two-hour trip with you  
14 that, no, I don't want to do this. That's  
15 why it's -- I think it's limited to people  
16 that really, truly are going interstate and  
17 not someone who just signed up for it.

18 MR. ORBOVICH: There are people  
19 that sign up for a USDOT number that do not  
20 need one and do not go out of state. I  
21 don't know why they do that. And that's  
22 another reason why they have that rule in  
23 place.

24 MR. MIRACLE: I got one more  
25 comment.

1 MR. ORBOVICH: Sure.

2 MR. MIRACLE: Kind of a question.

3 MS. LEMMIE: Yes, Mr. Miracle.

4 MR. MIRACLE: This was brought  
5 about because of HazMat originally? Am I  
6 right on that?

7 MS. LEMMIE: That's what was said  
8 during that comment.

9 MR. MIRACLE: And they said that  
10 you can't -- they can't do one without doing  
11 the other one?

12 MS. LEMMIE: There was a question  
13 about disparity of treatment, not treating  
14 all trucks the same.

15 MR. MIRACLE: Okay. Don't we have  
16 lawmakers in Ohio that make laws that we  
17 have to follow?

18 MS. LEMMIE: Yes.

19 MR. MIRACLE: Why can't they do  
20 that?

21 MS. LEMMIE: Can't they do?

22 MR. MIRACLE: Make laws that will  
23 apply to us and not to them or apply to them  
24 and not to us? Ain't that why we got people  
25 up there doing that?

1 MR. MARTIN: Let me clarify. This  
2 is not Ohio law. This is a federal motor  
3 carrier safety regulation?

4 MR. MIRACLE: Same thing.

5 MR. MARTIN: Well, not exactly.  
6 The Code of Federal Regulations is adopted  
7 by the agencies, not by Congress. And it  
8 follows, also, with the US Code that sets  
9 the whole program up in place. So this is  
10 -- this is dealing with a requirement that  
11 we have as a state, to participate in the  
12 program. And that's the consistency issue,  
13 is us trying to stay consistent with what  
14 they call a tolerance guideline and what we  
15 have to do to remain tolerant.

16 MR. MIRACLE: So they're telling  
17 you, in order to get your money you have to  
18 do this?

19 MR. MARTIN: If we choose to  
20 regulate, which we had already chosen to  
21 regulate for-hires -- if we choose to  
22 regulate for-hires the way that the Code of  
23 Federal Regulations is written, it says you  
24 can't separate for-hire and private. It's  
25 either all or nothing.

1           You either choose to do it or you  
2           don't choose to do it. If it helps, I can  
3           show you in the book.

4           MR. MIRACLE: No. That's okay.

5           MS. LEMMIE: And if we choose not  
6           to do it --

7           MR. MARTIN: If we choose not to do  
8           it, then we basically cannot regulate any  
9           for-hire carrier or any private carrier.  
10          You can't pick or choose and say all  
11          for-hire, all private, according to what's  
12          in Part 350.341. And I can't name it any  
13          further down than that. But that's what it  
14          says; it's either you -- you either choose  
15          to do this or don't choose. Nothing says  
16          you have to do it. But we've always  
17          regulated for-hire carriers since 1923, I  
18          think it is. So the question is --

19          MR. MIRACLE: Is there any  
20          variations in there?

21          MR. MARTIN: That's what we're here  
22          discussing today, is what are the  
23          suggestions of how to vary it. Can you vary  
24          it?

25          There are industry exemptions that

1       you can do. There is a host of things in  
2       the Code of Federal Regulations that states  
3       have options in how they adopt. And that's  
4       why we're holding these listening sessions,  
5       to hear from you as to how would you prefer  
6       to see this implemented. What are your  
7       suggestions? What do you think? That's why  
8       we're encouraging everyone to give us your  
9       opinion on it.

10           MR. MIRACLE: Leave it like it is.

11           MS. LEMMIE: Well, one of the  
12       things we noticed about leaving it like it  
13       is, is most people didn't know what "is"  
14       was. For example, most people didn't  
15       realize when the CDL requirement came into  
16       play for their company, even though that law  
17       has been on the books since 1991.

18           So we thought coming in and making  
19       sure we understand what's important to  
20       you -- and I heard everybody who spoke  
21       tonight talk about safety being of primary  
22       importance. But you also talked about the  
23       onerous nature of the proposed requirements  
24       for recordkeeping; the concern about having  
25       to hire people. And the particular

1 exemptions or different companies for farms,  
2 et cetera.

3 And it's those kinds of things that  
4 we want to hear in getting out and having  
5 you talk to us allows us the opportunity to,  
6 hopefully, come up with something that we  
7 all feel good about and we think best serves  
8 Ohio's residents, businesses and certainly  
9 our consumers.

10 So we really think we are getting  
11 close to finding something that will meet  
12 everyone's concern. There is legislation  
13 that's going to be introduced in the State  
14 House that would require us not to comply  
15 with the safety standards. But of course,  
16 that doesn't deal with the CDL issue that  
17 many of you express concern about. Doesn't  
18 deal with the interstate issues that many of  
19 you express concerns about. And if the  
20 federal government is regulating something,  
21 I have to somehow believe that because we  
22 live here with you, that we're going to  
23 listen to you more. That we're easier to  
24 access and that we really do care about your  
25 concerns. And it might be better to have us



1 do it than another outside federal agency.  
2 Food for your thought. But we really want  
3 to work with you again and see what we can  
4 come up with that meets all of our needs.

5 And with that I will ask, are there  
6 any additional questions or comments,  
7 please?

8 MR. GILBERT: Quick question.

9 MS. LEMMIE: Just give us your  
10 name.

11 MR. GILBERT: Randy Gilbert. I  
12 think you answered one of my questions. But  
13 do these rules apply to governmental  
14 agencies?

15 And the second one was, did I hear  
16 you correct that the DOT number for  
17 intrastate -- or interstate, excuse me --  
18 applies to the driven vehicle, not the  
19 trailer?

20 MR. ORBOVICH: Okay. The first  
21 question was, again?

22 MR. GILBERT: Do these rules apply  
23 to governmental agencies?

24 MR. ORBOVICH: No, they don't apply  
25 to government.

1                   Secondly, the USDOT number is only  
2                   supposed to be displayed on the truck, not  
3                   the trailer.

4                   MR. GILBERT: Okay.

5                   MS. LEMMIE: And there is one  
6                   number per company?

7                   MR. GILBERT: And if it's a rental  
8                   vehicle for the tractor, that's fine. It  
9                   has a DOT number on it.

10                  MR. ORBOVICH: The rules says if  
11                  you lease it or rent it for less than 30  
12                  days, yes, that's fine, if you have a copy  
13                  of the lease on the vehicle.

14                  MR. GILBERT: Okay.

15                  MS. LEMMIE: Any other questions?

16                  MR. GRENKO: John Grenko. Now,  
17                  make it real clear. Over 10,000, CDL or  
18                  not?

19                  MR. ORBOVICH: No.

20                  MR. GRENKO: Yes or no?

21                  MR. ORBOVICH: No. 26,001 --

22                  MR. GRENKO: 26,001.

23                  MR. ORBOVICH: -- for the CDL.

24                  MR. GRENKO: Don't need logbooks or  
25                  anything, in state?

1 MS. LEMMIE: Well, there are some  
2 safety requirements, so --

3 MR. GRENKO: Okay. I want that  
4 real clear.

5 MR. ORBOVICH: Okay. If you are --  
6 if you are 10,001 pounds or more, that's  
7 when the safety rules kick in; all the  
8 safety rules.

9 MR. GRENKO: The health  
10 certificate.

11 MR. ORBOVICH: The medical  
12 certificate, the logbook, the condition of  
13 your vehicle. Keep in mind, there was the  
14 safety rules and then there is the CDL  
15 rules.

16 MR. GRENKO: Okay.

17 MR. ORBOVICH: Safety rules, 10,001  
18 pounds.

19 MR. GRENKO: Yes.

20 MR. ORBOVICH: CDL, 26,001 pounds.

21 MR. GRENKO: Okay.

22 MR. ORBOVICH: All right?

23 MR. GRENKO: Yes. So we have to  
24 have logbooks, health certificate --  
25 logbooks, health certificate and the

1 inspections; that's safety?

2 MR. ORBOVICH: Right.

3 MR. GRENKO: Everybody has got to  
4 have that?

5 MR. ORBOVICH: If you're 10,001  
6 pounds or more.

7 MR. MIRACLE: Is there minimum  
8 mileage for logbooks?

9 MR. ORBOVICH: There are exemptions  
10 for a logbook. It's 150 air mile exemption  
11 for a logbook. Your drivers would be  
12 required to carry a logbook if they're  
13 operating within 150 air miles of your  
14 company. But you know, there are certain --  
15 there is certain, like, driving hours. They  
16 got to be released from duty, like, within  
17 12 hours. They can't drive more than 11  
18 hours. And you have to keep time records --  
19 some type of time records to prove that  
20 they're not -- that they're still operating  
21 within the hours of service. Okay?

22 MR. GRENKO: In my part of the  
23 business, I think we should be exempt in  
24 that. Anyplace in Ohio -- we travel -- we  
25 might jump 50 miles, 100 miles. No place in

Ohio would be over the limit for that.

MR. ORBOVICH: The time records that you keep often is like a time clock.

MR. GRENKO: We wouldn't even need the --

MR. ORBOVICH: Or when they come in and when they're released from duty.

MR. GRENKO: We wouldn't need the logbook, would we?

MR. ORBOVICH: Not if you're within 150 miles.

MR. GRENKO: Well, okay, we move once a week.

MR. ORBOVICH: Uh-huh.

MR. GRENKO: That's generally what we do. About that time, we're there for a week. We get up, we move 50 miles. Now, we get up the next time, we might move 100 miles. But it can never be over the distance of Ohio, which is what, 200-some miles. It will never be over that. I don't even see why we should even have to have one.

The Bates Brothers Amusement Company, at one time, had a deal with the

1       folks that -- they have 80 rides, the  
2       company does. They have four units. 20  
3       rides per unit. And they didn't want to  
4       hold up the scales. And they were exempt to  
5       pull into them scales. And that's what  
6       happened here.

7               So I mean, I was thinking, our end  
8       of the business, we don't drive over that.  
9       So I feel that we should be exempt.

10              MR. ORBOVICH: Well, there is an  
11       exemption if you're within 150 miles.

12              MR. GRENKO: Well, how about just  
13       like Ohio? I would like to see a thing that  
14       would say, if we're in the Ohio borders.

15              MR. ORBOVICH: Like, there is the  
16       150-mile exemption for non CDL drivers.

17              MR. GRENKO: Yeah. But what I'm  
18       saying is --

19              MR. ORBOVICH: I understand. I  
20       understand.

21              MR. GRENKO: But where's the 150  
22       start at?

23              MR. ORBOVICH: From your company.  
24       Your company headquarters.

25              MR. GRENKO: Now, my company will

1 be at, say, Greenville Fair. We're there  
2 for a week. Then we move it to Zenia.

3 AUDIENCE MEMBER: Where is your  
4 home base?

5 MR. GRENKO: Dayton, Ohio.

6 AUDIENCE MEMBER: There's your home  
7 base. There's your 150-mile radius.

8 MR. GRENKO: That don't seem right,  
9 though, does it?

10 MR. MIRACLE: We carry our home  
11 base with us.

12 MR. GRENKO: Some people do.  
13 Thank you.

14 MS. LEMMIE: Are you our last  
15 question of the day?

16 Please share your name.

17 MR. HATFIELD: John Hatfield. I  
18 got a farm and I market most of my livestock  
19 in Lexington.

20 MS. LEMMIE: Kentucky?

21 MR. HATFIELD: Yeah. What rules do  
22 I --

23 MR. ORBOVICH: Okay. I'm going to  
24 give you my business card. And you give me  
25 a call, because we'll be here all night

1       going over this. I'll be more than glad to  
2       help you out tomorrow afternoon if you give  
3       me a call. Or you know, your earliest  
4       convenience. All right?

5               MR. HATFIELD: Another question.  
6       That one guy brought up about the different  
7       officers out there. I've had a dump truck  
8       for, like, 18 years. I have a driver. And  
9       we have paid fines and tickets when one  
10      officer says one thing and the other officer  
11      says another thing.

12             I even got a ticket because I had a  
13      whiner binder on the back of the truck and  
14      it's for safety. And this highway patrolman  
15      pulled me over in Lanchester, told me that  
16      that whiner binder was too wide on the  
17      truck. It sticks out that far  
18      (indicating). It keeps the tailgate from  
19      flying open. But the mirror sticks out this  
20      far (indicating), and that's for safety, and  
21      that was okay. And --

22             MS. LEMMIE: Well, that's why we  
23      have encouraged you, if you think that the  
24      ticket is inappropriate, to either call or  
25      to, as you would a traffic ticket, go



1 through the adjudication process. And our  
2 folks will talk to you about that again in  
3 just a little bit.

4 MR. HATFIELD: I ran into that.  
5 And then one thing I've heard tonight, I  
6 found out about this meeting 100 percent by  
7 accident. I've told a half dozen people  
8 about it. Nobody even knows what I'm  
9 talking about. And then I've heard tonight  
10 that you had a meeting in December. I got  
11 no idea what it was about, how big the  
12 trucks was, whatever these meetings were.

13 How do you get the word out to the  
14 public?

15 MS. LEMMIE: Well, we have  
16 certainly worked very hard and encourage  
17 people to go to our PUCO website. If they  
18 have questions about what's going on or what  
19 this legislation or this rule is proposing,  
20 that's a good way. We have volunteered to  
21 go out and talk to any association or any  
22 group that you might have that wants more  
23 information, about what's happening. But  
24 it's when people realize that these rules  
25 were going into affect that they said, woe,

1 we didn't know about it. We want to talk  
2 about it. We want to understand this. And  
3 we pulled them back and said, let's have  
4 some discussions. Let's find out what  
5 people are concerned about. Let's go out  
6 and talk to those people that would be  
7 affected by this proposal. So that's what  
8 we're doing.

9 MR. HATFIELD: I understand that.  
10 The only thing I'm trying to make a point  
11 is, I haven't talked to anybody yet that  
12 even knew about any of these rules whenever  
13 they was going to take effect, whenever you  
14 was doing it. If it hadn't have been for an  
15 8-by-11 sheet of paper that a guy picked up  
16 at the restaurant, I wouldn't even be here  
17 tonight.

18 MS. LEMMIE: Well, I'm glad you  
19 are. I'm glad the guy went to the  
20 restaurant. And, again, encourage people to  
21 look at our website. And tell your friends  
22 and associates.

23 Like most of us, it is often  
24 through word of mouth, if you don't read  
25 about it in a newspaper. And we have other

1       hearings that will be taking place in the  
2       state.

3               Tomorrow there's a hearing. You  
4       may not want to go. But tomorrow it's in  
5       Akron, Ohio. So check the web page and it  
6       will give you information on where the other  
7       hearings are.

8               You don't have to come in person.  
9       You can call us, if you've got questions or  
10      comments. If you want to write something  
11      for the record, you can send an e-mail, you  
12      can send a letter and it will be placed in  
13      the record.

14              MR. HATFIELD: Okay. Thank you.

15              MS. LEMMIE: Allen, please.

16              MR. MARTIN: One thing to clarify,  
17      we -- if you've got a question, it needs to  
18      be about an inspection and not about a  
19      ticket. If you're getting a traffic ticket,  
20      we have zero control over police and traffic  
21      tickets.

22              MS. LEMMIE: And those are the  
23      moving violations?

24              MR. MARTIN: Right. So I just want  
25      to make sure that --

1 MS. LEMMIE: Call the highway  
2 patrol if it's a moving violation, if you  
3 don't think they've been fair, and discuss  
4 is just as you would if it was a local  
5 police officer and you were going to court  
6 for traffic citation. Do the same thing.

7 Okay. Are there any other  
8 comments? And our folks are here if you  
9 have something that you would like to share,  
10 did not have an opportunity or chose not to  
11 speak during the recorded portion of the  
12 meeting. We'll be here if you would like.

13 Again, my name is Valerie Lemmie.  
14 I'm a commissioner with the Public Utilities  
15 Commission of Ohio. And on behalf of my  
16 colleagues, I thank you for coming out  
17 tonight. We appreciate your candor and we  
18 appreciate all your time. Have a good  
19 evening and be safe everyone. Thank you.

20

21

22 (Hearing concluded at 7:00 p.m.)

23

24

25

1 The State of Ohio, )

2 ) SS: CERTIFICATE

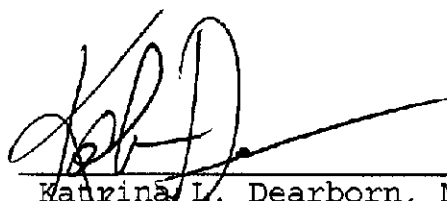
3 County of Cuyahoga. )

4 I, Katrina L. Dearborn, Notary Public within  
5 and for the State of Ohio, duly commissioned and  
6 qualified, do hereby certify that the within-  
7 named witnesses were first duly sworn to testify  
8 the truth, the whole truth, and nothing but the  
9 truth in the cause aforesaid; that the testimony  
10 then given by him/her was by me reduced to  
stenotypy in the presence of said witnesses,  
afterwards transcribed on a computer, and that  
the foregoing is a true and correct transcript of  
the testimony so given by him/her as aforesaid.

11 I do further certify that this hearing was  
12 taken at the time and place in the foregoing  
caption specified and was completed.

13 I do further certify that I am not a  
14 relative, employee of, or attorney for any of the  
15 parties in the above-captioned action; I am not a  
16 relative or employee of an attorney for any of  
17 the parties in the above-captioned action; I am  
18 not financially interested in the action; I am  
not, nor is the court reporting firm with which I  
am affiliated, under a contract as defined in  
Civil Rule 28(D); nor am I otherwise interested  
in the event of this action.

19 IN WITNESS WHEREOF I have hereunto set my  
20 hand and affixed my seal of office at Cleveland,  
Ohio on this 17th day of March, 2011.

21 

22  
23 Katrina L. Dearborn, Notary Public  
24 In and for the State of Ohio.  
My commission expires 11-02-15.

1

2

A				
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