

UNITED STATES OF AMERICA
NATIONAL TRANSPORTATION SAFETY BOARD
OFFICE OF ADMINISTRATIVE LAW JUDGES

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In the matter of: *
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PUBLIC HEARING IN THE MATTER OF *
THE ISSUES ON EMERGENCY MEDICAL * Docket No.: SA-530
SERVICES HELICOPTER OPERATIONAL *
SAFETY *
*
* * * * *

NTSB Board Room and Conference Center
429 L'Enfant Plaza
Washington, D.C. 20024

Friday,
February 6, 2009

The above-entitled matter came on for hearing,
Pursuant to Notice at 8:00 a.m.

BEFORE: ROBERT L. SUMWALT, Chairman
LORENDA WARD, Hearing Officer
TOM HAUETER
VERN ELLINGSTAD
DAVID MAYER

APPEARANCES:

Technical Panel:

DR. EVAN BYRNE
DR. BOB DODD
MR. JEFFREY GUZZETTI
MR. RON PRICE
DR. LOREN GROFF
MR. AARON SAUER
MS. LEAH YEAGER
MR. TOM LATSON

KEITH HOLLOWAY, Public Affairs Specialist

Parties to the Hearing:

CRAIG YALE, Air Methods
SANDY KINKADE, Association of Air Medical Services
RAYMOND DAUPHINAIS, CareFlite
LOUIS R. BELL, CareFlite
HOOPER HARRIS, Federal Aviation Administration
MATT ZUCCARO, Helicopter Association International
GARY SIZEMORE, National EMS Pilots Association
AL DUQUETTE, Professional Helicopter Pilots
Association(PHPA)/Office of Professional
Employees International Union(OPEIU), AFL-CIO

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P R O C E E D I N G S

(8:00 a.m.)

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2
3 CHAIRMAN SUMWALT: Good morning. This hearing will
4 reconvene and come back to order.

5 Our first Panel this morning will be FAA Principal
6 Inspector Functions and issues to be discussion will be principal
7 operations inspector responsibilities or POI and then PMI, that's
8 principal maintenance inspector responsibilities.

9 Ms. Ward, will you please place under oath and qualify
10 the witnesses.

11 MS. WARD: Thank you, Mr. Chairman. Could the witnesses
12 please rise? Raise your right hand.

13 (Witnesses sworn.)

14 MS. WARD: Thank you. Okay. We'll start with Mr. John
15 Prater, if you would give your name, your title and the
16 organization.

17 MR. PRATER: Jon Prater. I'm the Operations Supervisor
18 for the Air Methods Certificate Management Team in Denver,
19 Colorado, with the FAA.

20 MS. WARD: Thank you. And, Mr. Gibbons.

21 MR. GIBBONS: Kent Gibbons. I'm the Principal
22 Operations Inspector with CareFlite out of the Alliance/Fort Worth
23 Office.

24 MS. WARD: Thank you. Mr. Chairman, these witnesses
25 have been qualified.

1 CHAIRMAN SUMWALT: Thank you, Ms. Ward. The Technical
2 Panel will be led by Tom Latson. Good morning.

3 TECHNICAL PANEL QUESTIONS

4 MR. LATSON: Good morning, sir. I'd like to introduce
5 my Panel. Starting on my right, Mr. Aaron Sauer, Mr. Jeff
6 Guzzetti, Mr. Ron Price and Dr. Bob Dodd on the far end.

7 Mr. Prater and Mr. Gibbons, I wanted to do a little
8 qualifications follow-up. Your witness bios are posted on the web
9 and probably most people have read those. But I wonder if you
10 could expand a little bit, tell me about your experience before
11 joining the FAA and previous EMS experience and previous Part 135
12 experience or Part 135 management experience. Mr. Prater.

13 MR. PRATER: Thank you, Mr. Latson. Good morning. Like
14 most of the people in the room, I have a variety of experience,
15 specifically 21 1/2 years in the United States Army, flying
16 Blackhawks and Huey helicopters. 135 experience, as far as
17 management, I was the chief pilot of a small fixed base operator
18 charter service in the Midwest. Medivac experience in the
19 military and EMS experience, civilian EMS experience was through
20 the FAA.

21 MR. LATSON: And your total experience in the FAA now?

22 MR. PRATER: Seven years.

23 MR. LATSON: And as a FAA customer of a certificated
24 entity, pilot's school or so, how many years as a customer?

25 MR. PRATER: Well, I have 32 years of aviation

1 experience, 9,000 accident free flight hours. As far as a
2 customer, I mean I've been 32 years basically.

3 MR. LATSON: I was trying to get how many years had you
4 been dealing with FAA inspectors before you became one?

5 MR. PRATER: Prior to my --

6 MR. LATSON: Yeah.

7 MR. PRATER: -- joining the FAA, I dealt with the FAA on
8 the other side of the fence and seven years with the FAA.

9 MR. LATSON: Okay. Same questions for Mr. Gibbons.

10 MR. GIBBONS: My experience primarily began with the
11 U.S. Air Force. I was trained by the Army and the helicopter
12 training followed by the Air Force. Our missions were primarily
13 missile support and medivac operations. After departing the Air
14 Force, I then worked with Flight Safety International for a few
15 years, about two and a half years more specifically. I taught
16 people from all across the world, both public operators as well as
17 private corporations in helicopters. I was one of the few that
18 was able to actually teach in the simulators and go out to the
19 airport and actually conduct a similar -- basically the exact same
20 type of scenarios that we did in the simulator in the aircraft.
21 After that, I was able to be hired on with the FAA in July of '95
22 as a general aviation principal operations inspector for
23 approximately four years prior to going to air carrier for the
24 last nine years. Then I recently returned to general aviation
25 August 31st, and within about a month, month and a half after

1 that, I was assigned as the POI of CareFlite.

2 MR. LATSON: Okay. And total years as a customer where
3 you were regularly dealing with inspector before you joined the
4 FAA?

5 MR. GIBBONS: As a customer, I'm thinking there more of
6 the public. I think as myself as a stakeholder and as being in
7 Part 141 and beginning of Part 142 operations. That was primarily
8 it. About two and a half years, directly working closely with the
9 FAA prior to being hired on with the FAA because in the military,
10 we don't deal a lot with the FAA.

11 MR. LATSON: Okay. Now most of my questions to you this
12 morning are going to be your role as a subject matter expert in
13 being a principal operations inspector, and I'll start with you,
14 Mr. Prater, since you represent the large helicopter EMS operator.
15 If you could tell me, at a typical FAA certificate management
16 office, the certificate holding district office, how is the
17 certificate management team for a large operator typically
18 structured? And, do you have a slide to put up on the screen
19 here?

20 MR. PRATER: Yes, sir, I do, if I could call up I
21 believe it is 12-C.

22 MR. LATSON: 12-C.

23 MR. PRATER: And, Mr. Latson, to answer your question,
24 the delineage that our agency has made is 25 aircraft or more and
25 that derives you to a large HEMS operator. Obviously in this

1 particular case, we have a lot more than 25 aircraft. We happen
2 to have over 300. If you look to the right side of the screen,
3 you'll see an orange. That is the current org chart,
4 organizational chart for the Air Methods Certificate Management
5 Team. We have 25 dedicated positions. If you look to the lower
6 left-hand corner of the orange, the first column being the
7 operations side or the pilot's side, we have one vacancy. So
8 currently we are staffed at 24, with one opening that we are
9 pursuing to fill at this time.

10 MR. LATSON: And how many maintenance inspectors, how
11 many avionics or other specialties?

12 MR. PRATER: It's kind of funny, you know, I had all of
13 those numbers and now I'm just speechless but basically we have 13
14 maintenance inspectors, 4 admin and the rest are pilots.

15 MR. LATSON: And are all of those persons based at the
16 Denver office?

17 MR. PRATER: Yes, sir, they are. Well, excuse me, with
18 the exception of three remotely-sited operations inspectors. We
19 have one in Nashville, one in Boston and one in Virginia.

20 MR. LATSON: And do you have any geographic inspectors
21 that you regularly use?

22 MR. PRATER: We partnered with the rest of our aviation
23 community. Obviously we hold the certificate in the Denver
24 office. However, all the other FSDOs located throughout the
25 country that have an aircraft in their backyard that belongs to

1 our certificate, help us with geographic work.

2 MR. LATSON: And do you have any, in this particular
3 certificate that you oversee, do you have any required flight
4 attendants or required dispatchers?

5 MR. PRATER: We do not.

6 MR. LATSON: So as a result, you do not have access to
7 dispatch inspectors or cabin safety inspectors?

8 MR. PRATER: No, they're not required under 135.

9 MR. LATSON: And for Mr. Gibbons, the same question for
10 a typical small helicopter EMS operator, how would that be
11 structured?

12 MR. GIBBONS: Okay. You're asking how CareFlite would
13 be --

14 MR. LATSON: Sure.

15 MR. GIBBONS: -- organized or our office?

16 MR. LATSON: No, the certificate management team for a
17 small helicopter EMS operator.

18 MR. GIBBONS: Okay. Basically we reduce the number of
19 administrative layers. Over a basic office, you'll have the
20 manager. You'll have two or three supervisors, one a principal
21 maintenance who are oftentimes the supervisor of the avionics
22 also, and then operations supervisor. Underneath each one of
23 those supervisors, there's generally about 8, 10 or 12, or
24 something like that, inspectors to accomplish the functions.

25 MR. LATSON: But assigned to a single small helicopter

1 EMS operator --

2 MR. GIBBONS: No, those people are assigned --
3 everything that comes into that office, if it's, you know,
4 basically in general, if it has anything to deal with
5 certification or examination, oversight or accident, incident
6 complaint resolution, we deal with it. Sometimes it'll be the
7 airworthiness side. Sometimes it'll be the operations side,
8 depending upon what type of complaint, so forth, so on that it
9 involves.

10 MR. LATSON: Okay. For CareFlite, for the certificate
11 management team, do you have any -- I assume there's a single
12 principal operations inspector and a single principal maintenance
13 inspector and a single principal avionics inspector. Is that
14 correct?

15 MR. GIBBONS: That's accurately describes it.

16 MR. LATSON: And do any of the three of you have
17 assistant inspectors?

18 MR. GIBBONS: No, we don't. No assistants. We are what
19 you get. We are the only ones that deal with the operator.

20 MR. LATSON: And for a typical small helicopter EMS
21 operator, would you typically be assigned other certificate
22 management duties for other entities?

23 MR. GIBBONS: Absolutely.

24 MR. LATSON: How would you -- on the average, all the
25 way across through flight standards, probably how many principal

1 inspectors, how many certificates would they oversee average?

2 MR. GIBBONS: It's not uncommon for each principal
3 inspector to be holding in the neighborhood of 8, sometimes I've
4 heard up to 13, for Part 135 operations, and then we have other
5 organizations such as flight schools, agriculture, external load
6 operators, that we're also assigned to take care of, and I've
7 heard of one person having up to about 23 or 24 certificates.

8 MR. LATSON: And I believe CareFlite only has -- how
9 many locations do they have?

10 MR. GIBBONS: They have five I believe.

11 MR. LATSON: Are all of those locations inside your FSDO
12 district boundaries?

13 MR. GIBBONS: No, there's one of them located in the
14 Dallas/Fort Worth office.

15 MR. LATSON: And that's relatively close to your office.
16 Do you typically do that and surveillance at those locations
17 yourselves or do you use someone else to assist?

18 MR. GIBBONS: I have not done them myself since they are
19 in another FSDO's boundaries. They're also assigned to do
20 activities, inspections, according to the work program to inspect
21 it. My function is to make sure that they do have somebody
22 assigned to conduct those required inspections.

23 MR. LATSON: Okay. Mr. Prater, you're a supervisor now
24 but I'm asking this question of you when you were a principal
25 operations inspector. On an annual basis, how do you plan

1 surveillance for your assigned 135 certificate holder? What do
2 you use?

3 MR. PRATER: Well, for the surveillance of a large HEMS
4 operator, we have several tools. We still uses the bases, as my
5 colleague, Mr. Gibbons does, with the National Program Guidelines.
6 Basically it's a Washington, D.C. derived program. It takes a lot
7 of data into consideration. It spits out some numbers that we're
8 minimally required to inspect. For example, typically you would
9 get in your work program for the next coming year some required
10 items. We call them R items that would require -- they required
11 us last year to look at least one helicopter, every make and model
12 that the operator has on their op specs.

13 In addition to that, with the HEMS focus and with us
14 being, I have sympathy for Mr. Gibbons, I sit before you today, we
15 have one certificate. So he has all those training manuals to
16 look at. We only have one. So we are getting more focused and
17 aligned with the large HEMS operators.

18 We also use the SEP program, the Surveillance Evaluation
19 Program, and basically what that does is it's a derivative of the
20 ATOS program, that the 121 carriers have used quite extensively.
21 It's a focused inspection that takes the risk -- it tries to
22 identify the highest risks. We give those back to the operator.
23 We work in cooperation with the operator, and we get the operator
24 to -- we empower them to fix it themselves basically. We oversee
25 it.

1 The SEP program has a lot of facets to it. So in
2 conjunction with the work program, which Mr. Gibbons is used to,
3 and now the SEP program, which helps us target our resources to
4 better oversight a large HEMS operator, those are basically the
5 two tools. We have some other tools as I mentioned earlier. We
6 partner with all our other FSDOs that have -- I say the operator's
7 helicopter in their backyard, and they go out and do the
8 inspections for us as well. That's a cooperation. We usually get
9 all that information through a central database. So we can still
10 draw it and pull it and understand what's going on with our
11 certificate, and that's yet another tool that we use for the
12 surveillance of a large HEMS.

13 MR. LATSON: And for Mr. Gibbons, does that change for
14 you very much with a small operator?

15 MR. GIBBONS: It's pretty close to the same thing.
16 Again, we have certain required items that we're supposed to
17 accomplish to meet the minimum requirements by statute.

18 In addition to that, then we have to customize the
19 program to the specific operator. We look at the past history,
20 accidents, incidents, other enforcement actions, things like that,
21 and then we come up with our own comparable version of the risk
22 factor using the SEAT tool particularly if you have more than one
23 operator, and then that allows us to prioritize our particular
24 inspections and go out from there.

25 MR. LATSON: That segued and almost answered my next

1 question. How do you decide to plan that surveillance? Do you
2 use that tool?

3 MR. GIBBONS: Typically the inspector will use that
4 since he has more than the two operators. It's referred to as a
5 SEAT program, the Surveillance Evaluation Assessment Tool. It
6 comes out with the national type of rating of what items are
7 highest risk. Then we go in there and we could massage the figure
8 somewhat according to the specific company's background and then
9 it's able to run the program and evaluate the priority of the
10 risk.

11 Now that doesn't mean that that's exactly how we need to
12 run the inspection, the sequence of how we conduct those
13 inspections, but it's a tool that we're able to use to help
14 prioritize our work function to specifically address the high risk
15 items.

16 MR. LATSON: And when you're planning that work, if you
17 all of a sudden get assigned another operator, what adjustments do
18 you make in that surveillance when you acquire another operator?

19 MR. GIBBONS: Well, the surveillance actually takes the
20 highest priority because that is required by statute. If we're
21 assigned an operator for certification, then we're going to have
22 to somehow work them in, time permitting, but our first priority
23 is to manage and oversight our current stakeholders that we have.

24 MR. LATSON: Okay. And for Mr. Prater, when you're
25 planning that surveillance, if a very large operator, such as the

1 one that you oversee, if they acquire another operator to
2 incorporate all of those assets into that certificateholder's
3 assets, how do you re-plan that surveillance?

4 MR. LATSON: We do it in several facets. We also use
5 the SEAT program. Now obviously we have one operator and as
6 Mr. Gibbons said, it's designed to compare numerous operators.
7 We're fortunate enough that the specific HEMS operator that we
8 oversee had acquired other companies and we were able to obtain
9 those SEATs and compare them but we have tailored the seat and
10 it's still very viable even with a single operator. We drive a
11 lot of information and a lot of direction and data from that SEAT
12 even though it's not specifically designed for a single operator.

13 We work in conjunction with the operator as Mr. Bassett
14 said on a Panel yesterday about A051 I believe it is with the
15 transition plan. We've done that several times with Air Methods,
16 and each time I think we've learned from it. We take that
17 transition plan and we, as Mr. Bassett said, went back and forth
18 with the last one quite a bit. We've got a very detailed,
19 structured, specific plan and frankly we followed it. We mirrored
20 the inspections with the new bases that came over, a migration
21 type system, and as those bases came over, we sent inspectors out
22 to the field to insure that all the requirements of joining the
23 Air Methods certificate were completed and it was very successful.

24 MR. LATSON: Okay. And for both of you, when you do --
25 I'm really asking this question for the average principal

1 operations inspector. When you have to do surveillance at a very
2 remote location that requires overnight travel or perhaps several
3 nights of overnight travel, is that generally a problem for
4 funding for the overnight travel?

5 MR. PRATER: With 254 bases and a team of 25, our budget
6 is astronomical, but I can emphatically say, absolutely say that
7 funding to this point has not been a problem. Time is more of a
8 scarce commodity than funding at this point.

9 MR. LATSON: And, for Mr. Gibbons, for the small HEMS
10 operator.

11 MR. GIBBONS: For the most part it is not a problem. Of
12 course, it's gone through phases depending on what time of the
13 year. Budgets may be tighter than other times such as the end of
14 fiscal year when basically you're about out of money but for the
15 most part, if it's something that actually has to be done, the
16 funds are there.

17 MR. LATSON: When you're doing surveillance, for both of
18 you, and you know that -- both of your certificates I believe have
19 dispatchers or flight locators and training programs for that, and
20 they have records for them, and they also have training for their
21 medical crew members, do you do planned or required surveillance
22 for either of those activities? Mr. Prater.

23 MR. PRATER: We obviously look at the entire operation.
24 Officially do we have set required items or planned items for
25 those other entities you talked about, not to my knowledge, but we

1 do incorporate that. Obviously we look at the safety culture at
2 each base. We make sure that there's some integrated crew
3 resource management with the people that are on board the
4 helicopter to augment the pilot and help him make viable
5 decisions. We look at the dispatch centers. Obviously the main
6 one is in Denver, but we look at all the spoke dispatch centers
7 and operational, not operational, but the communication centers,
8 and we do that as a routine function of our base inspections.

9 MR. LATSON: All right. And for Mr. Gibbons, since you
10 don't have FAA approved training programs for dispatchers, flight
11 locators or for medical crew members, you don't have required
12 items for that inspection item?

13 MR. GIBBONS: No, we don't have any required items. It
14 doesn't mean that we can't at least take a cursory look over to
15 see if they are complying with their training program because
16 that's part of the overall safety of the operator. Do they have a
17 program in place and are they following it? There's been times
18 which I've been able to make recommendations and operators have
19 been more than glad to incorporate those changes, and those
20 changes aren't actually regulatory, but we're able to work out a
21 safer system, just because of our rapport and we have looked
22 through their other programs.

23 MR. LATSON: Okay. For Mr. Prater, and for Mr. Gibbons,
24 as a principal operations inspection, I'm sure you're familiar
25 with FAA notices. Can you give me a very brief summary of what

1 FAA notices are for and who they're addressed to and who has to do
2 the action?

3 MR. PRATER: FAA notices are obviously as implied.
4 They're a notice, and they come down through our chain from
5 Washington and in the HEMS community, we have had a plethora of
6 them. I have a long laundry list of notices, and basically they
7 indicate to the principal operations inspector or inspectors,
8 depending on their specialty, as to what the focus or the overall
9 intent of the notice is and what those items that are required to
10 be completed and basically they're a way to effect and enhance the
11 safe operation of an operator. So they're very detailed. They're
12 very specific.

13 With respect to HEMS, hopefully everybody in this room
14 is familiar with all of them that we've had recently, and usually
15 it's the principal operations inspector that is targeted to take
16 those actions and make the appropriate entries into our database
17 systems.

18 MR. LATSON: Could you give me a really brief example of
19 how you complied with one recently and how much effort and how
20 much time it took?

21 MR. PRATER: Well, they're very much labor intensive
22 especially, and I have to be careful not to hammer on my higher
23 table there, but sometimes the drop notice is very, very quickly
24 as A021. That thing came out I think on the 22nd of November,
25 somewhere in there, and it's due by the 23rd for full

1 implementation of this month. That's a very quick turn when
2 you've got your inspectors doing other things and taking leave at
3 the end of the year. But A021 is a huge change. It was worked in
4 cooperation with industry, and I'm very pleased and excited about
5 the way that they have evolved and we're excited to get it out in
6 the field and get some changes.

7 MR. LATSON: Okay. And, Mr. Gibbons, most people don't
8 realize how many other duties FAA inspectors have other than
9 surveillance. In the typical FSDO, what other duties do most
10 operations inspectors usually have that are not related to your
11 certificate management duties with the HEMS operator?

12 MR. GIBBONS: As basically I indicated earlier,
13 basically other than major air carriers and foreign air carriers,
14 we handle pretty much anything that is involved with the
15 certification or examination, oversight, accidents, incidents,
16 pilot deviations and so forth and so on for individuals as well as
17 the companies. Some of the particular FARs that we address
18 include, but they're not limited to, 61 operators as well as
19 activities and 91 operators. We have 101, 103, 105. We have the
20 119 which is combined with 135 operators. We have the 133, 135,
21 136, 137, 141, 142 and 183, as well as other operations including
22 like special medical tests and airport or heliport surveys, so
23 forth and so on.

24 MR. LATSON: What about -- the only item I had that you
25 didn't touch on was how about your currency flying as an

1 inspector?

2 MR. GIBBONS: Yes, we have currency flying right now.
3 Right now, if I were to check out in everything that I'm supposed
4 to have oversight, it would be five different aircraft that would
5 have to be checked out, single engine aircraft, multiengine
6 aircraft, turbine powered aircraft, helicopters and also hockers.
7 So that's five basic different type of aircraft if I were
8 qualified to check everybody that I'm responsible for.

9 MR. LATSON: Mr. Prater, you've been a supervisor for a
10 while now. What would you guess is the percentage of your annual
11 inspector resource time, what percentage would you think most
12 general aviation inspectors spend on these other duties other than
13 certificate management?

14 MR. PRATER: With a large HEMS operation.

15 MR. LATSON: Just a general operations inspector?

16 MR. PRATER: I would guess a conservative number, 50
17 percent of on demand work, and that's how we categorize that.

18 MR. LATSON: Okay. Good. For both of you, Mr. Prater
19 first, do you personally feel that most HEMS operators, helicopter
20 EMS operators, receive enough oversight and surveillance from the
21 FAA just generally speaking?

22 MR. PRATER: Yes.

23 MR. LATSON: Mr. Gibbons?

24 MR. GIBBONS: In general, yes.

25 MR. LATSON: This is a personal question now. Drawing

1 on your own experience as a FAA inspector, what changes would you
2 like to see if you had a magic wand in the way you oversee
3 helicopter EMS?

4 MR. PRATER: More inspectors.

5 MR. LATSON: Mr. Gibbons.

6 MR. GIBBONS: I'd agree with that, particularly coming
7 from air carrier back to general aviation, we are extremely busy.
8 Our time is extremely valuable in that we don't have much extra
9 time. So more inspectors would definitely help, as well the
10 continuing of making sure that the inspectors are full qualified
11 and trained in what they're responsible for.

12 MR. LATSON: Okay. One moment. I have one other
13 question. Part 135 air carriers and large aircraft frequently
14 have surveillance from FAA inspectors who ride along in the
15 cockpit on an operational flight with passengers on board and they
16 conduct a cockpit en route inspection. As a general rule, I'll
17 start with Mr. Prater, do operations inspectors very often ride
18 along on an operational helicopter EMS flight with medical crew
19 and passengers on board?

20 MR. PRATER: As my over two year tenure with the large
21 HEMS operator, I was very fortunate, and I have experienced that.
22 I don't know if it's typical. I will tell you that I think it's
23 very valuable. I learned of experience and I've actually been
24 fortunate to go on maintenance flights without the medical crew,
25 and I've had several opportunities to fly on, if the helicopter

1 supports it obviously, if you have that extra seat, on actual EMS
2 missions with a patient, and it's invaluable information to see it
3 firsthand. So I'm very fortunate in that respect I feel.

4 MR. LATSON: Mr. Gibbons.

5 MR. GIBBONS: I'd have to agree with John here that it
6 doesn't happen very often. I know recently I almost had the
7 opportunity, however, due to various constraints available and
8 also the flight was cancelled, I was unable to go on a trip with
9 CareFlite because I happened to be conducting a no notice
10 inspection at the place whenever they received a call but things
11 didn't work out, but typically there's not very many of the en
12 route inspections, but it would be extremely valuable.

13 MR. LATSON: Okay.

14 MR. PRATER: If I could expound on that one last time,
15 Mr. Latson. Also I've been fortunate to have some familiarization
16 with one aircraft EMS operation, and I've been the assigned POI to
17 a one-aircraft operation EMS. I've become very familiar with
18 that. Middle of the road, 14 aircraft and a different type and
19 all of one type, and then also now up until recently, I was
20 assigned as a POI to basically the largest EMS operator. So I
21 have that knowledge as well. It was an awesome experience.

22 MR. LATSON: Okay. Mr. Chairman, Mr. Guzzetti, I'd like
23 to pass the mike to him for a minute.

24 MR. GUZZETTI: Thank you. Gentlemen, thanks for
25 testifying and just so you know and the rest of the parties and

1 the Board of Inquiry, you're the first of three Panels. You kind
2 of represent the ground pounders, the folks on the ground in the
3 trenches conducting the inspections. The next Panel is the FAA
4 Headquarters -- the folks that put out the guidance to you and the
5 folks from Region, and then the last Panel, of course, is from Mr.
6 Allen for AFS1.

7 But for you, can you give me a sense of how you interact
8 with the Region? I would imagine that FAA inspectors in the
9 trenches don't go directly to Headquarters. You answer to a
10 Regional Office. Is that correct, Mr. Prater?

11 MR. PRATER: Yes, Mr. Guzzetti. Basically it's a chain
12 of command. Our team answers to our FSDO manager, Flight
13 Standards District Office manager, who then answers to Region. I
14 can tell you with the large HEMS operator and a designated
15 specific team for that operator, we have a lot of contact with
16 Region. I don't know typically if it would be more than Mr.
17 Gibbons is going to say but I know it's a very routine thing to
18 talk to Region on a lot of issues. Because we are deemed a high
19 consequence, critical success certificate, just as the 121 arena
20 is, we're starting to align ourselves and mirror ourselves as a
21 121, echo a 121 format if you will. So communication matrixes
22 that are established and work with the 121 world, we've adopted
23 them to our team in the large HEMS operator oversight, not only
24 with the operator, but with our chain of command within the Agency
25 and it works very well.

1 MR. GUZZETTI: Okay.

2 MR. PRATER: It's a critical part.

3 MR. GUZZETTI: Mr. Gibbons, how about from your
4 experience as a non-certificate management office inspector?

5 MR. GIBBONS: We don't have a lot of contact with
6 Region. Occasionally we may have it but again we go through the
7 chain of command, making sure that there's -- we're not stepping
8 on any toes so to speak, using proper protocol and making sure
9 that we go through the chain of command.

10 MR. GUZZETTI: Okay. So when a HEMS notice or HBAT or
11 whatever comes down, does it come down to your FSDO from your
12 Region more than likely with an instruction from the Region or
13 does it just come straight from Headquarters in Washington, D.C.?

14 MR. GIBBONS: Well, we're able to look it up on the
15 FSIMS which at anytime we could inquire and look up any notices.
16 Also our supervisors are very good at making sure that did you get
17 this notice? Have you complied with it? It's due by this date,
18 and that. So we're able to find out the information a couple of
19 ways on our own as well as management providing oversight of their
20 inspectors.

21 MR. GUZZETTI: Okay. Thank you. Also one other area
22 that I'd like to probe and that's enforcement actions, and I don't
23 want to get into any specific one, but does -- Mr. Gibbons, does a
24 FAA inspector have the authority to initiate an enforcement action
25 if an operator is not complying with their op specs or if an

1 operator violates a federal regulation? And if so, how does that
2 whole process begin at the inspector level?

3 MR. GIBBONS: Well, if we notice a violation of
4 regulations, then we're mandated to take the proper steps. First
5 thing that we need to do is make sure that the activity stops. We
6 notify the proper personnel of the company so they can take
7 basically corrective action or we'll say a comprehensive fix to
8 make sure that that type of action does not continue even in the
9 future. From that point, there's a couple of different ways how
10 we could handle it. The more formal method is we send them out a
11 letter of investigation, allow them time to respond if there is
12 some other extenuating circumstances. Maybe what we saw wasn't
13 quite what we thought it was, get their input. Once we receive
14 that input, generally we give them typically 10 days to respond
15 from the time that they receive the notice.

16 From there, we evaluate everything that we can get a
17 hold of. If we determine it actually is a violation, then we'll
18 proceed and complete the enforcement package. We have enforcement
19 decision tools that we use to help determine the level, whether
20 it's a letter of correction, letter of warning, civil penalty,
21 suspension, so forth, so on. We could make a recommendation but
22 it's basically Regional counsel that determines exactly what the
23 final penalty will be if it's a civil penalty or something like
24 that.

25 MR. GUZZETTI: Okay. Thank you. So the inspector will

1 put together the enforcement package and then recommend the level
2 of sanction and then --

3 MR. GIBBONS: Well, when you say sanction, we may say
4 like a monetary type thing but we don't say how much.

5 MR. GUZZETTI: I understand.

6 MR. GIBBONS: Yeah, but whether we recommend a letter of
7 correction or warning, that's what we recommend and we have
8 authority on that level after going through the enforcement
9 decision tool, if it warrants that, to issue the letter of
10 correction or warning.

11 MR. GUZZETTI: I see. Anything above that though, the
12 Regional counsel, the Regional Office then gets involved with
13 determining whether there's going to be civil penalties and the
14 cost of the penalty.

15 MR. PRATER: We work in conjunction with counsel and
16 they do advise us --

17 MR. GUZZETTI: Okay.

18 MR. PRATER: -- Mr. Guzzetti. The only thing I would
19 add to what my colleague said was with the large HEMS operator,
20 obviously the principal, the three principal inspectors on our
21 team are the backbone of our team. They're basically the
22 responsible three parties for the certificate management, to
23 oversee that large HEMS. So a typical -- very similar, we follow
24 guidance. Obviously we have very structured, very defined
25 guidance as to how to we approach an enforcement case, but as you

1 asked, it starts at the field level, could be a base in Texas, and
2 one of our inspectors would be typically on our team but it could
3 be an inspector from another office. If it's inspector on our
4 team, they gather the information, take detailed notes and
5 reports, get that back to Denver. If, in fact, the principal
6 operation inspector for that specialty is there, or wherever he or
7 she is, to get it back to them, and then the principal in
8 conjunction with the inspector that noted or discovered it, they
9 caucus, they determine and obviously check all the regulations.
10 If there is a violation, at that point we notify the operator if
11 we haven't done so already, and then we go through the normal
12 formal process as Mr. Gibbons outlined, a letter of investigation,
13 and then we go through all the steps. We at that point have
14 involved the management structure of both of our team and of our
15 office, and depending on the severity of the situation, Regional,
16 and then we get Regional counsel involved.

17 MR. GUZZETTI: Okay. Thank you very much. I --

18 MR. GIBBONS: I stand corrected. It goes to the General
19 Counsel rather than Regional counsel. It goes to Regional. It
20 goes to Regional counsel also.

21 MR. GUZZETTI: Okay. Thank you. The next Panel, I'll
22 go into a little more detail in terms of the range of potential
23 penalties and things like that that could be levied, including
24 suspending but I just wanted to get your perspective from the
25 ground and I have no --

1 MR. PRATER: Mr. Guzzetti, obviously the intent of all
2 of our -- if we do take enforcement action, it's compliance.

3 MR. GUZZETTI: I understand.

4 MR. PRATER: So we match the level of enforcement to the
5 level we need to have compliance.

6 MR. GUZZETTI: But the bottom line is, is you do have
7 the stick, if you will, the operators know that the FSDO
8 inspectors can have the authority to recommend or investigate and
9 levy some sort of action if they're not going to comply with their
10 approved op specs.

11 MR. PRATER: In your analogy, we have a very big stick.
12 We just try not to use it unless we have to.

13 MR. GUZZETTI: I understand. Thank you.

14 MR. LATSON: Mr. Chairman, the Tech Panel is finished
15 now.

16 CHAIRMAN SUMWALT: Thank you, Mr. Latson. We'll now
17 turn to the parties and I believe we ended up in our rotation
18 yesterday with CareFlite which would put the FAA next but, Mr.
19 Harris, would it be your desire to go last on each of the Panel
20 questions today or what's your preference?

21 MR. HARRIS: Yes, our preference would be to be the last
22 party for each of the Panels.

23 CHAIRMAN SUMWALT: Okay. Thank you. I do want to, as
24 mentioned, try that dual role of getting the information on the
25 record and also keeping things moving along. What I would like to

1 do is, and when the NTSB, when the Safety Board meets, and the
2 Board meets, we impose a five-minute rule. We've been going 10-
3 minute rounds. What I'd propose, actually the time is the same.
4 I would propose that we go to five-minute rounds today and we do
5 two rounds. I realize it's the same but it does have the effect
6 of -- I think you're welcome -- you still get 10 minutes but you
7 may find your question is actually asked by another party. So it
8 might keep things moving. So I'd like to try that this morning.
9 We will begin with HAI for the first of two five-minute rounds.

10 MR. ZUCCARO: Thank you, Mr. Chairman.

11 CHAIRMAN SUMWALT: Yes, sir.

12 PARTY QUESTIONS

13 MR. ZUCCARO: And thank you, gentlemen, for your
14 informative responses. Question to both of you, how much of an
15 issue or concern, if any, is operational control?

16 MR. PRATER: I feel very comfortable with operational
17 control in the large HEMS community. I can tell you that some of
18 the initiatives that our agency has actually instituted and
19 specifically with the operator that I oversee, they didn't wait
20 for regulatory requirements. They were way ahead and the
21 operational control center that was discussed by prior Panels, and
22 then the spokes of that wheel out to the communications center
23 that feed into that operation control center, state of the art
24 phenomenal.

25 MR. ZUCCARO: Mr. Gibbons.

1 MR. GIBBONS: I've actually, as far as operational
2 control, I've been pretty happy with my current operator. He
3 seems to be very forthright. It's not necessarily the norm. It's
4 been quite a few years. I've had experiences in my first office
5 in the FAA where I've had basically HEMS operators that were very
6 resistant to making any changes until finally they were forced.
7 So, you know, I'm sure, at least I hope a lot of the culture has
8 changed, but currently I'm in a position where they are pretty
9 well forward thinking and they take a proactive stance on it.

10 MR. ZUCCARO: Okay. Thank you. Mr. Prater, you noted
11 A021 and the revision that came out, in a favorable light, and as
12 you know, it was industry/FAA cooperative effort. Would you agree
13 with the thought that that issue and revision enhanced safety in
14 HEMS operations?

15 MR. PRATER: Absolutely.

16 MR. ZUCCARO: Mr. Gibbons.

17 MR. GIBBONS: Yes, it's definitely improving the safety
18 margins.

19 MR. ZUCCARO: Thanks. Mr. Gibbons, I noted that, like
20 everybody, you like to do more surveillance right along and get
21 familiar with the flights. Is some of that possibly constraint on
22 the scheduling and time available that you have and resources, you
23 know, is there an issue with the operators end of logistics that
24 doesn't facilitate more of that happening?

25 MR. GIBBONS: Well, I would definitely like to do that

1 to get more familiar with the actual operations, any specific
2 problems that may be involved with the HEMS operations. However,
3 this particular situation that I was talking to is the issue of
4 comp time. Sometimes, depending on your level of comp time, it
5 may be more sensitive or not and you could plan that, if possible,
6 plan that type of activity within the normal workday.

7 MR. ZUCCARO: Okay. Is it possible that maybe there's a
8 situation where absent the patient, do you ever have the
9 opportunity to just go out with the operator on an orientation
10 flight for the area to see the infrastructure in the facilities?
11 Just do a special flight, just to do an orientation flight.

12 MR. GIBBONS: Well, normally we wouldn't want to just
13 say, hey, will you gen up a flight for us because that, you know,
14 that does create extra expense for them and we're not trying to
15 create a burden, but if we could work out something in the normal
16 course of business, that would be ideal. I have not been the one
17 to conduct the check rides in the helicopter. So there's other
18 inspectors. There is another inspector in the office that's
19 familiar with the operations. He has gone out to, since I've been
20 assigned the operator, to actually conduct those rides. So he
21 sees how they're actually conducting operations in kind of a
22 training environment.

23 MR. ZUCCARO: Okay. Fair enough. Mr. Prater, when
24 there's request for technology to be applied to an operation,
25 let's say, I guess a good example, somebody wants to put in night

1 vision goggles, have you seen a constraint that the operator was
2 either delayed in doing that because of some issues within the
3 system in terms of the certification, the process, the ability to
4 train or do the check rides that might have slowed that down?

5 MR. PRATER: With respect to our agency?

6 MR. ZUCCARO: Yes.

7 MR. PRATER: Yes. We have come a long way specifically
8 with the operator that I oversee. Less than two years ago, I was
9 the only and then I was acting as the POI, was the only goggle
10 certificated person on the team. As I said here today, all the
11 pilots with the exception of our newest pilot who was hired in
12 December and shipped off to school in January, with a completion
13 date of by the end of summer for his goggle and everything, we
14 have the whole team up and current and qualified goggles. So
15 we've evolved. We've tried to match the operator's needs, haven't
16 done that successfully all the time but I'm very pleased to say
17 that we're working really hard to accommodate our operator.

18 MR. ZUCCARO: Okay. And just one final one for both
19 gentlemen. What's your perception of the availability of
20 helicopter trained and experienced inspectors that are available
21 to work with helicopter operators?

22 MR. GIBBONS: We've in desperate need of actually
23 helicopter trained inspectors.

24 MR. ZUCCARO: Mr. Prater.

25 MR. PRATER: The next Panel's going to talk more

1 specifically about that. I would tell you that --

2 MR. ZUCCARO: Okay.

3 MR. PRATER: -- the agency is on the cutting edge as
4 much as a Government agency can be, but they really have taken a
5 strong stance with trying to acquire more helicopter specific
6 trained inspectors. So there's some really exciting stuff that's
7 coming down the pike really quick with respect to helicopter only
8 aviation safety inspectors. So we're excited about that.

9 MR. ZUCCARO: Okay. Great. Thank you, gentleman.
10 Thank you, Mr. Chairman.

11 CHAIRMAN SUMWALT: Thank you, Mr. Zuccaro. PHPA.

12 MR. DUQUETTE: Thank you, Mr. Chairman. This is really
13 for both of you, gentlemen. What is your familiarity with like
14 the ASAP program and how you see your role when you're doing your
15 inspections with regards to the ASAP program?

16 MR. PRATER: Well, as an agency and personally myself
17 I'm very excited about the ASAP program. It's another tool in the
18 bag of tools that we use to impact safety in a positive vein. The
19 large HEMS community is embracing the ASAP program. As you heard
20 from previous Panels and Mr. Stockhausen from Air Method detailed,
21 we are in the ASAP stage with Air Methods and soon will hopefully
22 have the MOU side and we're progressing fairly rapidly. I think
23 it's a valuable tool for us to collect data and for the operator
24 to get some incentives from it, and in essence ultimately affect
25 safety.

1 MR. DUQUETTE: Mr. Gibbons.

2 MR. GIBBONS: Yes, I had the privilege of reviewing
3 American Eagles' ASAP program before it was approved. I think it
4 is definitely a valuable tool that not only aids us in
5 accomplishing our mission for aviation safety, but it gets the
6 operator involved, actively involved with what's going on, how are
7 they going to correct the problems that they're having with their
8 particular employees or companies, whether it's an employee basis
9 or whether it's a systematic problem, but it is definitely a
10 valuable tool that aids both the FAA and accomplishing their
11 mission of safety as well as getting the operator actively
12 involved with safety.

13 MR. DUQUETTE: Thank you. Given the fact that the EMS
14 community is a 24-hour operation, and also given the fact that you
15 already stated that they have a shortage of personnel, how much
16 time are you able to give towards night surveillance, to view the
17 night operations?

18 MR. PRATER: Our team goes out day and night. We
19 typically have a travel schedule that's just insane. So the guys
20 on the team, we alternate our schedules. So we do some night
21 surveillance. I don't know that we get 3:00 in the morning
22 surveillance. That might be something we look at later but for
23 budgetary constraints and really not even budgetary constraints,
24 just the travel schedule. Typically the guys will come in and
25 spend half a day in the office and go out and arrive at the

1 operator usually unannounced. Sometimes we do interface with the
2 operator, but we do inspections and spot inspections, base
3 inspections and typically we like to get that evening shift and
4 predominantly they switch like at 6:00 or 7:00 at night. So that
5 crew is on from 6:00 that night until 6:00 the next night. So we
6 like to get the later shifts and just talk to some of the folks
7 that you normally wouldn't see if you're only there banker's
8 hours, 8:00 to 5:00. So --

9 MR. DUQUETTE: Mr. Gibbons, do you have anything to add
10 to that?

11 MR. GIBBONS: Just typically we track it whether it's
12 off hour inspections rather than night. Every office has their
13 set hours. If it's outside that period of time, then it's
14 considered off hour inspections, and we have a goal that we've
15 been assigned, I believe it's by the Regional level, I'm not sure
16 exactly what level they want us to do, I believe 10 percent off
17 hour inspections, to catch not only daytime operations when
18 they're expecting the FAA but that we could show up at anytime.

19 MR. DUQUETTE: All right. This is for Mr. Prater. You
20 mentioned the fact that you were able to jump seat, if you will,
21 on some of these HEMS flights. Was there something in particular
22 that struck you when you participated on that flight?

23 MR. PRATER: I will say, you know, obviously it's been
24 addressed in other Panels, and that is even though we really
25 strive hard to device just being a carrier, from Point A to Point

1 B, obviously there's an emotional side to the HEMS community, and
2 I think that's been addressed, and that's something that's viable
3 and it has to be on the table, it has to be discussed, has to be
4 mitigated. And how we do that, I don't know. I can tell you that
5 it was very -- I'm a very compassionate person and most pilots
6 are, and so it was enlightening for me to sit there and, you know,
7 see a person or see that whole operation. So I think that's an
8 aspect I knew was there, but it was invaluable for me to be able
9 to experience firsthand.

10 MR. DUQUETTE: Mr. Gibbons, do you have anything on
11 that?

12 MR. GIBBONS: Not at this time, no.

13 MR. DUQUETTE: Thank you. And, Mr. Chairman, that's all
14 my questions.

15 CHAIRMAN SUMWALT: Thank you, Mr. Duquette. AAMS.

16 MS. KINKADE: Good morning, gentlemen. Mr. Prater, is
17 there ever a time an operator does not have an assigned POI?

18 MR. PRATER: I'll save that for the next Panel, but I
19 can generally say, yes, there's periods of time when, for whatever
20 reason, if Mr. Gibbons gets promoted and we're trying to backfill
21 that as an agency, typically what we do, and I'll give you my
22 specific example, I was blessed enough to be promoted to
23 supervisor for the team, and as an interim, we took one of the
24 guys that was well trained and well qualified to be the POI and
25 put him in a temporary position until we were able to bid the

1 position which is a lengthy process. And then once that new POI
2 obviously was here and on board, then that took care of the
3 problem.

4 MS. KINKADE: Thank you. Mr. Gibbons, you described
5 what you called a formal process of inspector enforcement. Does
6 an informal process exist?

7 MR. GIBBONS: No, basically we go through the same
8 process each time. There's just various tools available to us,
9 you know, basically the end result. There's a snap system process
10 which is a little bit quicker way, how to maybe give a person a
11 warning notice or as compared to the actual here's a letter of
12 investigation and you respond.

13 MR. PRATER: It's never good when the lawyer writes
14 something.

15 MR. GIBBONS: We do have an order which does cover how
16 we conduct the inspection and the enforcement process. So it's
17 not like we just decide ourselves, but we do have a process in the
18 order that's a few hundred pages long.

19 MS. KINKADE: Just a few hundred?

20 MR. GIBBONS: Yeah.

21 MS. KINKADE: Okay. What processes are in place to
22 standardize or provide education between inspector essentially to
23 ensure a consistency?

24 MR. GIBBONS: Go for it.

25 MR. PRATER: We have our basic indoctrination training

1 in Oklahoma City, Oklahoma. That's our academy. Throughout our
2 career, in seven years I have about five and a half pages of
3 training that I go to on an annual basis, upkeep basis. For
4 example, we try to match the operator with respect to the ASAP
5 program. I was fortunate enough to recently go to that school and
6 get valuable information. So as the operation that we're assigned
7 evolves, we try to match that. Night vision goggles is a perfect
8 example. Obviously if you're a POI of a 135 operator that's day
9 only and is not going to fly goggles, we, as an agency, wouldn't
10 expend those resources to send you to goggle school.

11 The key to all that is being prepared for when the
12 operator, and in this case, the HEMS community, moves very
13 rapidly. We as an agency have to react and traditionally that's
14 very hard for us to do. I'm very pleased to say that as I
15 detailed, we went from a team of 3 people less than 2 years to 25
16 positions, 24 of which are filled. That's light freaking speed
17 for the Government.

18 MS. KINKADE: Thank you. I have nothing further right
19 now.

20 CHAIRMAN SUMWALT: Thank you, Ms. Kinkade. And NEMSPA.

21 MR. SIZEMORE: Thank you, Mr. Chairman. Thank you,
22 Panel. A couple of questions and I'll throw these out. Mr.
23 Prater, if you'll take the first crack and it and, Mr. Gibbons, if
24 you have something to add to that.

25 You mentioned that you were looking for or you would

1 like to have more people helicopter oriented and principal
2 inspector positions. How much training do the inspectors get in
3 EMS type operations?

4 MR. PRATER: We normally pull up the experience and
5 training from the people from the pool prior to them being hired
6 by the FAA. Obviously we're looking for the higher end, higher
7 caliber, higher trained helicopter experience people when we hire
8 them. So that's a lot of base that we use. Once they get on
9 board with the FAA, we have FAA courses, helicopter courses, night
10 vision goggle courses. HEMS specific training comes in a variety
11 of formats. In the large HEMS community, we're fortunate to have
12 a cooperation with the operator. So we attend all their training,
13 sit in on their indoc, you know, go through, and that's obviously
14 part of the oversight but it also gives us some insight to the
15 HEMS specific environment.

16 As I said, I'm very fortunate with the operator that I
17 oversee, is extremely cooperative with letting our team members be
18 directly involved with their operation. We never try to hinder it
19 obviously but I've been very fortunate to be on several flights in
20 connection with routine missions. So --

21 MR. SIZEMORE: Okay. Thank you. Mr. Gibbons.

22 MR. GIBBONS: I agree with what he says. We do have the
23 opportunity of sitting through their training programs, not only
24 to make sure that they're compliant with the training program but,
25 of course, we'll also receive additional insights into the

1 company, how the HEMS operations are actually conducted. For
2 example, if I want to go to attend some kind of training, the
3 operator has been very willing to say, hey, we have a training
4 course starting at this time, generally within like a week or two
5 of whenever I've mentioned that but, yes, we've been very pleased
6 to have a good cooperative atmosphere with the company. I've been
7 invited to come by at anytime and sit through any of their
8 training to maybe learn more of the company as well as surveil
9 them.

10 MR. SIZEMORE: Okay. And a follow-on question to that.
11 If you have a question or something comes up, where do you go for
12 a subject matter expert to help answer that question.

13 MR. PRATER: We have a network within our agency with
14 other operators. We kind of all caucus, and we have that network
15 internally, and I'm not at all opposed to going to the industry
16 and obviously they do it every day and the guys and gals that do
17 it are the experts in the field, and they're very cooperative. So
18 I get a lot of my information from the operator.

19 MR. SIZEMORE: Okay.

20 MR. PRATER: As far as policy and guidance, obviously we
21 have a chain of command --

22 MR. SIZEMORE: All right.

23 MR. PRATER: -- and we go through that structure and it
24 all falls back here at Washington, D.C. but with generalized HEMS
25 specific questions, for clarification, absolutely I use the

1 operators as a resource.

2 MR. SIZEMORE: Okay. Anything to add?

3 MR. GIBBONS: I'd have to agree with that also.

4 MR. SIZEMORE: Is there an area or specific regulations
5 and stuff like that, that HEMS deals with that as unclear to an
6 operator or unclear to an inspector or anything like that that you
7 can think of? I guess to rephrase that, are there times when the
8 regulations may seem unclear to you, both the inspectors and to
9 the operators?

10 MR. PRATER: Well, ideally we try to provide the best,
11 most accurate oversight of an operation, in this case, large HEMS.
12 So first and foremost, if anybody on our team has clarification,
13 we go back to the people that wrote it and say, hey, what did you
14 mean by that. What was the scope and the intent of whatever the
15 specific event we're talking about. And that does happen
16 especially the way that things are written, it does happen, but in
17 that case, we clarify it internally. Then we go and interface
18 with the operator and make sure that they have a clear direction
19 as to what the intent is.

20 MR. SIZEMORE: Okay. Anything different?

21 MR. GIBBONS: A lot of time whenever say notices or
22 HBATs, things like that, they have a couple of paragraphs saying
23 here's the background, here's the basic intent. So we're able to
24 find out exactly what they want. Such as regulations, they have a
25 preamble that we could go to so that we find out what they were

1 intending to accomplish by this and that helps guide us through
2 exactly how we should interpret I'll say, even though interpret is
3 not the proper word, what we need to do. Of course, when you say,
4 if there's a legal question, a legal interpretation, we have to go
5 to counsel to get some kind of clarification.

6 MR. SIZEMORE: Okay. Thank you. Thank you, Mr.
7 Chairman.

8 CHAIRMAN SUMWALT: Thank you, Mr. Sizemore. Air
9 Methods.

10 MR. YALE: Thank you, sir. Mr. Prater, my questions
11 will be predominantly for you if that's all right. Are the
12 weather minimums outlined in the version of the op specs A021,
13 they're in place before the very recent change? Do we have higher
14 than those that are required by 135?

15 MR. PRATER: Absolutely.

16 MR. YALE: Okay. And then sort of following on with
17 that, how do the revised weather minimums in the recently issued
18 A021 compare with the current minimums in A021?

19 MR. PRATER: They've increased.

20 MR. YALE: So they've increased even more. And then
21 again in relation to 135, they're even higher.

22 MR. PRATER: But actually to answer your question more
23 directly, the 135 weather minimums are the absolute minimum
24 standards acceptable and I don't believe, and I think in earlier
25 Panels they were 74 operators, but I would be fairly safe to say

1 in my opinion that nobody follows those minimum weather
2 requirements. So we're just building on some of the things that
3 the operators have already taken on themselves and increased them
4 and now we have them on paper.

5 MR. YALE: Thank you. And I guess that was the point I
6 was trying to make. They were already higher than 135. We've now
7 made them even higher and agreed to that, correct?

8 MR. PRATER: Through cooperation with the industry.

9 MR. YALE: Right. And then are you aware of any
10 operators that are actually utilizing the A021 weather minimums
11 for all legs of flight including the 91 part operations, such as
12 training, maintenance and repositioning flights?

13 MR. PRATER: I think that's the intent of several
14 operators. Namely I believe your corporation uses 135
15 specifically weather minimums on all legs, and now that's the
16 intent of the new A021 revision.

17 MR. YALE: Thank you, sir. As a POI, is it part of your
18 responsibility to verify whether an operator is operating
19 appropriately under Part 91 or Part 135?

20 MR. PRATER: Could you repeat that question?

21 MR. YALE: Well, basically as the POI, is it part of
22 your general responsibilities to make sure and verify that the
23 operator is properly operating whether that be under 91 or 135?

24 MR. PRATER: Yes.

25 MR. YALE: Hopefully the question sequence will help

1 make some sense to what I'm asking. And then if a HEMS aircraft
2 only has personnel on board that are employees of the
3 certificateholder, would this flight be operated under Part 91 or
4 Part 135?

5 MR. PRATER: It depends.

6 MR. YALE: Okay.

7 MR. PRATER: It would really require some drilling down
8 in the specifics of each situation. I will tell you that it's a
9 very hot button issue, and I'm going to defer that to the next two
10 Panels.

11 MR. YALE: Okay. I'm going to just take that as my
12 answer then, and --

13 MR. PRATER: I think I saved you a few questions.

14 MR. YALE: You did. Thank you, sir.

15 CHAIRMAN SUMWALT: Thank you. I wasn't sure if you were
16 thanking him, Mr. Yale. CareFlite.

17 MR. DAUPHINAIS: Thank you, Mr. Chairman. This is for
18 both. I just have a couple of questions. Overall, in your
19 experience with your current certificates and your experience, 135
20 operators generally want to comply with the rules, regulations and
21 even best practices and suggestions as Mr. Gibbons suggested. Is
22 that your feel for the industry? I mean we're trying to be
23 compliant?

24 MR. PRATER: I would absolutely say I agree with that
25 wholeheartedly. I think as a general nature, just because of the

1 makeup of the HEMS industry and aviation in general, but
2 specifically this hearing in HEMS, yeah, it costs too much money
3 and it's just too liable to have incidents and accidents and such
4 as that nature. So predominantly everybody does want to follow
5 the rules.

6 MR. DAUPHINAIS: Do you have anything to add, Mr.
7 Gibbons?

8 MR. GIBBONS: I agree. Overall people do want to follow
9 the rules. There are a few exceptions out there and we need to
10 watch them very closely but in general, they do want to comply and
11 overall they do a pretty good job.

12 MR. DAUPHINAIS: So the target is the same. Safe
13 operations?

14 MR. PRATER: Absolutely.

15 MR. DAUPHINAIS: Right.

16 MR. PRATER: Safety.

17 MR. DAUPHINAIS: Would you both agree that technology,
18 at least in some cases, is starting to outpace the regulations?
19 In other words, do the regulations cover the pace at which current
20 technology's advancing?

21 MR. PRATER: I would say obviously we learned in our
22 earlier Panel about how cumbersome rulemaking is and how long it
23 takes. So inevitably, as fast as technology is moving, some of
24 the regulations are going to lack, but we work really hard through
25 other avenues, notices and other means to keep up with those

1 technology changes that the industry wants.

2 MR. DAUPHINAIS: So from your experience, can you -- I'm
3 trying to get a feel for, from your perspective, when new
4 technologies are coming out, LPD, WAS (ph.) approaches, HTAWS, I
5 mean all this stuff that's coming out, NVGs, and that the rules
6 don't specifically address, what is the process that you all go
7 through. The notice -- well, let me back up. Are notices
8 regulatory to the operator?

9 MR. PRATER: No.

10 MR. DAUPHINAIS: Okay. So how do we bridge that gap
11 from your perspective? And this question will probably go up to
12 the other panels also.

13 MR. PRATER: If you don't mind, Mr. Dauphinais, I will
14 defer that to the next Panel.

15 MR. DAUPHINAIS: Thank you. I have no other questions.

16 CHAIRMAN SUMWALT: Thank you, Mr. Dauphinais. FAA.

17 MR. HARRIS: Thank you, Mr. Chairman. Mr. Prater, we've
18 had earlier testimony during this hearing that spoke of issues
19 relative to competition and growth of the industry and could you,
20 the operator that you're assigned or that your unit is assigned to
21 oversee and that you used to oversee as the principal operations
22 inspector, has been involved in several business arrangements,
23 acquisitions, mergers, changes in growth. Are you familiar with
24 guidance and tools and process that the FAA has in place for
25 controlling the level of risk during those activities?

1 MR. PRATER: Yes, I am.

2 MR. HARRIS: And you've used those or perhaps you could
3 give us a very brief description of those.

4 MR. PRATER: We absolutely use those. There's several,
5 and some of them are actually outdated and had been superseded but
6 there's a lot of guidance out there as to acquisition, mergers.
7 It's mirrored after the 121 world because that's a preponderance
8 of what happens but now in the 135 world, as we know, the
9 corporation that I'm assigned oversight has absorbed several of
10 their companies and they continue to do that on a regular basis,
11 and we're getting more streamlined as every time that even
12 happens, particularly two large operators have been absorbed in
13 the last several years, and we went through a transition plan. We
14 issued A021, that's been addressed earlier, and we followed it.
15 And the key to all that is communication and making sure we have
16 that flow of information.

17 MR. HARRIS: Thank you very much. Mr. Gibbons, in your
18 situation, I think you earlier made a comment in your testimony
19 that you weren't qualified at the current time by currency to do
20 the required checks for your operator. You have access to other
21 resources within your office and the Region to accomplish those
22 checks, correct?

23 MR. GIBBONS: Yes, I do. If I can clarify that.

24 MR. HARRIS: Please do.

25 MR. GIBBONS: Yeah, it's strictly by currency. I am ATP

1 and instructor rated in helicopter, instrument instructor also,
2 but I do not maintain currency right now. I'm still waiting for a
3 class to go through so I could be completely qualified so to speak
4 for a position as a helicopter POI. But in the interim, what we
5 do is we have other inspectors available to us in this particular
6 case, the previous POI is still in our office and quite familiar
7 with the operator's procedures and he actually continues to
8 conduct the helicopter checks. They also have a couple C90 King
9 Airs. I am not turbine current. So I can't conduct those checks.
10 We have another inspector in the office that I use as a resource
11 to conduct those checks, and they're completely competent
12 inspectors. I trust their judgment, and they make the
13 recommendation, whether it's pass or fail, and we go from there.

14 MR. HARRIS: Very good. And actually that's not an
15 unwieldy situation. I mean there are many other circumstances in
16 which the principal inspector may not be qualified on every
17 aircraft that an operator flies and routinely makes available use
18 of national, regional and local resources as appropriate or even
19 aircrew program managers on a large certificate, not unlike the
20 one that you came from recently.

21 MR. GIBBONS: Exactly right. At American Eagle
22 Airlines, the POI, he was qualified in a Saab. He wasn't
23 qualified in the CRJ700 or the EMB. I was the specialist for the
24 CRJ700. So I was his tool to accomplish the job. It's that way
25 for every major airline. The POI is not able to conduct all the

1 checks. He has too many duties and responsibilities to actually
2 maintain his currency but he does need to be qualified in at least
3 one of their aircraft.

4 MR. HARRIS: And have access to the personnel who are
5 well qualified to do those checks, correct?

6 MR. GIBBONS: Absolutely. And if by change an office
7 doesn't have it, there is a regional resource that he could reach
8 out to, get somebody qualified someplace in the country to come
9 conduct the checks.

10 MR. HARRIS: Okay. And that just leads me to the last
11 relatively short question to Mr. Prater. In the case of, for
12 example, having a cabin safety inspector in your team, you don't
13 actually have one, do you?

14 MR. PRATER: No, sir, we do not.

15 MR. HARRIS: But you have access to those resources
16 within the agency at any point that you would need them. You
17 could go to the Regional Office and get that expertise --

18 MR. PRATER: Absolutely.

19 MR. HARRIS: -- brought into your equation, yes.

20 MR. PRATER: The HEMS community has flight attendants
21 and we would get a cabin safety inspector.

22 MR. HARRIS: Or just someone knowledgeable about cabin
23 safety in general.

24 MR. PRATER: Absolutely. We have that resource.

25 MR. HARRIS: Okay. Thank you very much, sir.

1 CHAIRMAN SUMWALT: Thank you, Mr. Harris, and we'll
2 begin a second round. I am trying to uphold my commitment of
3 getting us out by lunch and so I would encourage you, if you have
4 a question that's pertinent, please ask it. If there's a
5 possibility that that question could be asked appropriately of the
6 next Panel, I would encourage you to wait but we will begin with
7 the second round and HAI.

8 MR. ZUCCARO: Thank you, Mr. Chairman. Just one
9 question. Mr. Prater, is it accurate to say that each 135 HEMS
10 operator has a training program of some sort?

11 MR. PRATER: That is very safe to say. It's a
12 requirement.

13 MR. ZUCCARO: Okay. And that training program has
14 salient elements to it that address the issue of a pilot when they
15 first come with the company right through their career in terms of
16 currency and knowledge that they get, both ground and flight?

17 MR. PRATER: Initial, upgrade, transition, correct.

18 MR. ZUCCARO: And also differences between aircraft?

19 MR. PRATER: Differences, yes, sir.

20 MR. ZUCCARO: And the flight proficiency is checked
21 either on a six month or one-year basis as well as ground
22 training?

23 MR. PRATER: Depending on the platform.

24 MR. ZUCCARO: Okay. Thank you very much.

25 CHAIRMAN SUMWALT: Thank you, Mr. Zuccaro. PHPA.

1 MR. DUQUETTE: No questions.

2 CHAIRMAN SUMWALT: And PHPA has no further questions.
3 Thank you. AAMS.

4 MS. KINKADE: Mr. Gibbons, you mentioned on the first
5 round that for the most part in your experience, most HEMS
6 operators and programs are striving to meet all the requirements,
7 if not exceed but every once in a while you find an outlier out
8 there that requires some further attention. Can you elaborate a
9 little bit what that means, whether that's a formal or informal
10 process in terms of monitoring a program that you found to be
11 deficient in some way?

12 MR. GIBBONS: Okay. Repeat the question again.

13 MS. KINKADE: In the first round, I don't remember who
14 asked you, in your experience, most operators are meeting the
15 requirements, whether it's the NTSB requirements or the letter of
16 their ticket, but every once in a while you find an outlier that
17 wasn't quite meeting it and required some more observations, and I
18 was just wondering if you can elaborate a little bit more on what
19 that meant and entailed?

20 MR. GIBBONS: Okay. This particular situation that I'm
21 referring to, I don't really want to point fingers at the
22 particular organization because they may have changed. My
23 experience comes from actually mid to late nineties in my first
24 area. I had one operator that whenever there is a change that had
25 to be made to the training program, they wouldn't make the change

1 until finally they had the last qualified pilot available, and
2 then since they're going to run out of pilots to do anything,
3 that's when they'd make the change, but until then, no, they
4 wouldn't do that.

5 MS. KINKADE: Okay. Somebody just gave me a question.
6 I'm done. Thank you.

7 CHAIRMAN SUMWALT: Thank you. NEMSPA.

8 MR. SIZEMORE: Yes, sir. Thank you. Mr. Prater, you
9 mentioned that, and I'm looking at the way you said it here, that
10 it was a high consequence, high priority certificate. Can you
11 explain that a little bit?

12 MR. PRATER: Actually, sir, what I said was a high
13 consequence, critical success.

14 MR. SIZEMORE: Okay. Thank you. Can you explain that a
15 little bit?

16 MR. PRATER: Basically what that means is we have higher
17 emphasis on, and now obviously given the spike in accidents
18 unfortunately in 2008, we had a low for that year period. It's
19 very much tailored after a 121 management office oversight program
20 meaning that we have a lot of focus and attention dedicated to
21 HEMS, which specifically the large operator, 25 people on one
22 certificate, is very significant oversight in my opinion.

23 MR. SIZEMORE: Okay. And that was my next question. Is
24 that something that only pertains to a large operator or is that
25 something across the HEMS industry?

1 MR. PRATER: The next Panel's going to dive into that a
2 little more but I can tell you generally all HEMS operators,
3 whether they're one or whether they're over 300, are on our radar
4 and we're going to spend a lot more time resources emphasizing how
5 we're going to partner with industry and other agencies to effect
6 the safety of HEMS industry.

7 MR. SIZEMORE: Great. Thank you. That's all.

8 CHAIRMAN SUMWALT: Air Methods.

9 MR. YALE: No additional questions.

10 CHAIRMAN SUMWALT: Thank you. CareFlite.

11 MR. DAUPHINAIS: Thank you. I only have on question.
12 Let's frame this, in most of the accidents are weather related in
13 the industry and I have heard pilots say that they get in bad
14 weather, they're afraid of being violated if they go inadvertent
15 and all that stuff. Could you speak a little bit just for the
16 record? I mean what is that action that a pilot could expect if
17 he had to go inadvertent IMC? Is there any violation that the
18 pilot would expect?

19 CHAIRMAN SUMWALT: Well, generally speaking, every case,
20 every situation would have to be evaluated. We have protocol
21 procedures that we would follow. In a general sense, I think, you
22 know, I don't want to -- I assume what you're getting at is, you
23 know, do we arbitrarily violate? Of course not. We would expect
24 any pilot, whether it be HEMS in this case or any other aviation
25 entity, if they get into a situation, they're trained, they're

1 qualified. Hopefully they've been equipped properly and that they
2 would take the appropriate action necessary to facilitate a safe
3 flight. If they go inadvertent IMC, they need to do what they're
4 supposed to do and first and foremost is one of the other Panel
5 members said, fly the stinking aircraft, and then from there,
6 follow their procedures that they've been trained. So we have to
7 evaluate every situation. And if you're asking me that every time
8 a helicopter goes inadvertent IMC, is there a violation? We have
9 policies and procedures to follow. First and foremost, we're
10 going to gather all the facts and then we're going to take
11 appropriate action as we deem necessary to facilitate compliance.

12 MR. DAUPHINAIS: So it would be fair to characterize
13 that as any violation for a pilot who went inadvertent IMC, that
14 wouldn't be the normal process or outcome?

15 MR. PRATER: I think it would be very fair to say.
16 There would be extenuating circumstances.

17 MR. DAUPHINAIS: All right. Thank you very much.
18 That's all.

19 CHAIRMAN SUMWALT: Thank you. FAA.

20 MR. HARRIS: Mr. Prater, you indicated that your
21 certificate management team operations inspectors had a dramatic
22 increase in the number of qualified NVG inspectors within that
23 organization. I believe you indicated that your eighth inspector
24 would be qualified by the end of May or thereabouts. Is that
25 correct?

1 MR. PRATER: Yes, sir. Actually our seventh pilot.

2 MR. HARRIS: Seventh, I'm sorry. Okay. So that does a
3 couple of things. It provides the operator with faster turn
4 around on qualification which is good because it implements their
5 advanced program or their NVG program. But are there other
6 benefits to this? Does this give us more access to their
7 observing their training for example and their qualification
8 processes?

9 MR. PRATER: Absolutely. With an operator the size that
10 our team oversights and, you know, being the largest, there's, you
11 know, somewhere about 60 check airmen and that fluctuates but with
12 60 check airmen and as Mr. Bassett said over 1,000 pilots and
13 those numbers increase I think daily, it's a daunting task to have
14 that oversight. So the ability of all our inspectors to be
15 qualified and trained, not only goggles, but in all the other
16 avenues and helicopter specific training we're undergoing now,
17 it's invaluable. It gives us better oversight, gives us better
18 insight, and ultimately it provides better surveillance of the air
19 carrier that we're assigned.

20 MR. HARRIS: Thank you very much. No more questions.

21 CHAIRMAN SUMWALT: Thank you. Technical Panel.

22 MR. LATSON: The Technical Panel, no further questions,
23 Mr. Chairman.

24 CHAIRMAN SUMWALT: Thank you. Board of Inquiry,
25 Mr. Haueter.

1 BOARD OF INQUIRY QUESTIONS

2 MR. HAUETER: Just a few. Do either of your operators
3 outsource their maintenance?

4 MR. GIBBONS: I'm not a maintenance inspector. So I'd
5 have to ask -- I'm being told no.

6 MR. HAUETER: Okay.

7 MR. PRATER: Dr. Haueter, I'm not familiar with
8 specifics. I will tell you that within Air Methods, and I can
9 speak for Air Methods, they have a huge amount of, and I'm not a
10 maintenance inspector as well --

11 MR. HAUETER: Right. I understand.

12 MR. PRATER: -- but I do know that we have worked in
13 conjunction with Air Methods to certify satellite repair stations
14 through the country. It's a very aggressive platform or program,
15 and we're doing that now. They do have a lot of organic
16 maintenance facilities. I don't know what percentage they
17 outsource.

18 MR. HAUETER: Okay. Thank you. In your testimony, you
19 indicated that you both had what I would say would be adequate
20 overtime resources, allowing people to go out at night and
21 weekends, to do surveillance. Is that correct?

22 MR. PRATER: I applied overtime resources. I don't know
23 that my bosses are going to be happy to hear that, but we do have,
24 at this point, with the oversight of Air Methods, we have not been
25 hampered if you will, by any budgetary constraints.

1 MR. HAUETER: Then you can have people go out on
2 Saturday nights and things like that to do surveillance?

3 MR. PRATER: Yes. As Mr. Gibbons indicated, the minimum
4 acceptable standard that we've set for an agency is 10 percent of
5 what we call off hour, night and weekend surveillance. Our team
6 is currently running at 30 percent, night and weekend
7 surveillance. We think that's important. As I said earlier, you
8 get some new perspectives when you're out there late at night.
9 With the night vision goggle program, we see the folks, you know,
10 in the wee hours of the morning and we talk to them and we get to
11 look at all those issues that have been discussed in the earlier
12 Panels like fatigue and we experience ourselves. So --

13 MR. HAUETER: And also you indicate that you believe
14 your training budgets are adequate also for your folks?

15 MR. PRATER: I have to tell you personally with our team
16 it's been a phenomenal year. Typically an aviation safety
17 inspector without the emphasis of 121 or now HEMS, gets one flight
18 school course a year.

19 MR. HAUETER: Uh-huh.

20 MR. PRATER: For Mr. Gibbons and I, helicopter and
21 airplane rated, dual rated pilots, we get to alternate, one flight
22 course for fixed wing and then the next year rotary wing. We have
23 broken that mold this year with our team, and I'm very pleased to
24 say that the majority of my inspectors, pilot side, have had
25 several, I mean numerous schools this year aviation related. So

1 it's awesome.

2 MR. HAUETER: The reason I'm asking, this is rather
3 interesting that you're the first POI I've had who had adequate
4 resources. Everybody else complained about overtime and training.
5 Is this a relatively new change with the FAA or --

6 MR. PRATER: Yes.

7 MR. HAUETER: Thank you.

8 CHAIRMAN SUMWALT: Dr. Ellingstad.

9 DR. ELLINGSTAD: Just really quickly. Mr. Gibbons, you
10 had indicated that with respect to CareFlite's certificate, you
11 got a single principal inspector for POI, PMI, avionics inspector.

12 MR. GIBBONS: Uh-huh.

13 DR. ELLINGSTAD: And that each of them have I think you
14 said eight and up other certificate management responsibilities.
15 What are those other things that they're doing? What I'm trying
16 to get at is what sort of mixture of responsibilities?

17 MR. GIBBONS: Well, I really can't speak the PAI and the
18 PMI because even though we work together, a lot of these functions
19 don't interact, and they don't always have the same operators.

20 DR. ELLINGSTAD: Well, with respect to the POI then,
21 what other kinds of certificates?

22 MR. GIBBONS: Well, basically we have the agriculture
23 operations. You have external load operations. You have flight
24 schools, training centers that we have to work with. There's tour
25 operators out there, any kind of a reexamination, any kind of

1 complaints that come in regarding most anything other than air
2 carriers, major air carriers.

3 DR. ELLINGSTAD: Okay. They're aren't other HEMS
4 operators?

5 MR. GIBBONS: They may have more than one HEMS operator.
6 I don't know of anything that prohibits them from being assigned
7 more than one HEMS operator but --

8 DR. ELLINGSTAD: No, I'm not suggesting that there is a
9 restriction on that. I'm just trying to get an idea of how
10 specialized your folks can allow themselves to be. Thank you.

11 CHAIRMAN SUMWALT: Dr. Mayer.

12 DR. MAYER: Thank you. My colleagues appear to have
13 asked almost all of my questions. I have one question for Mr.
14 Prater. And my notes may not be accurate up here. So please
15 correct me if I got it wrong, but earlier in a discussion about
16 Part 135 weather minimums, you said that nobody follows those
17 minimums, and I just wanted to give you an opportunity to make
18 sure that you explain what you meant so that the record is clear
19 on that point.

20 MR. PRATER: In my opinion, with my experience with the
21 HEMS community and 135 operations, I'd feel very comfortable in
22 saying that as a rule, and I don't know, and I guess you could
23 pool the parties, but that would just be irresponsible. It would
24 just not be something that's normally accepted or the standard
25 that's set in the HEMS community.

1 DR. MAYER: That the HEMS community is -- it's not that
2 they're below the minimums. They're flying above the minimums?

3 MR. PRATER: Oh, absolutely.

4 DR. MAYER: I just wanted to make sure --

5 MR. PRATER: That is the minimum standards and nobody
6 follows it on their own.

7 DR. MAYER: Because they exceed it.

8 MR. PRATER: Correct.

9 DR. MAYER: Thank you. I just wanted to make sure it
10 was very clear on that point. Mr. Gibbons, Mr. Prater has
11 certainly described an organizational environment, whether it's
12 new or not within the FAA. He certainly described an
13 organizational environment where he has sufficient and perhaps
14 more than sufficient training resources, overtime, travel funds.
15 Is this consistent with your recent experience also within the
16 FAA?

17 MR. GIBBONS: In my opinion, I wish we had a few more
18 courses offered so we wouldn't have to wait quite as long for a
19 course, but what it boils down to, if something absolutely needs
20 to be done because of the importance, they will make sure that the
21 funds are there to accomplish whatever needs to happen.

22 DR. MAYER: And does that include promptly backfilling
23 when there are vacancies?

24 MR. GIBBONS: Sometimes they have difficulties in
25 backfilling. For example, at least in the air carrier unit that I

1 was at when we lost our supervisor, we went about seven or eight
2 months without an actual supervisor where we had an assistant
3 manager filling in as a supervisor.

4 DR. MAYER: Thank you very much.

5 CHAIRMAN SUMWALT: Thank you, Dr. Mayer. And, Ms. Ward.

6 MS. WARD: Thank you, Mr. Chairman. I just have a
7 couple of quick things. Mr. Dietz, if you could bring up Exhibit
8 12(d) please. I think Mr. Latson did some questioning, kind of
9 referred to it a little bit. This is the Notice 180056J, the
10 National Flight Standards Work Program Guidelines. Could you
11 bring up page 4? Okay. One back. Thank you. Are we able to
12 zoom in at all? That's excellent. No, wait. There we go. This
13 is going to break a rule that I told the Tech Panel not to do, but
14 I wanted to highlight here because we do have the POIs, is that
15 per the Flight Standard Work Functions, it says there are four
16 critical safety areas, to ensure an overall level of safety within
17 the aviation system. It says listed in the order of priority and
18 safety areas are surveillance, investigation, certification and
19 aviation education. Now if we go down to number 7 which is a
20 surveillance overview, that very last sentence says, "FAA
21 employees involved in surveillance activities are responsible to
22 determine on behalf of the public, the air operators and air
23 agencies, can provide service with the highest possible degree of
24 safety."

25 Now my question to both of you is, do you consider HTAWS

1 to add another layer of safety?

2 MR. PRATER: HTAWS is one of the many tools that will,
3 in my opinion, absolutely increase safety.

4 MS. WARD: What about enhance or synthetic vision? Do
5 you think that would be another layer of safety?

6 MR. PRATER: There's a numerous amount of tools that are
7 available that could, in fact, increase safety.

8 MS. WARD: Now I've got two more Panels that are coming
9 up that are going to talk about the regulation side, so I'm just
10 asking you on the POI side, your exposure doing your surveillance,
11 do you think that night vision goggles would be helpful for those
12 who do that type of --

13 MR. PRATER: Absolutely.

14 MS. WARD: Okay. What about having the SMS program?

15 MR. PRATER: Absolutely.

16 MS. WARD: What about TCAS?

17 MR. PRATER: I love it all.

18 MS. WARD: All right.

19 MR. GIBBONS: It all serves a purpose.

20 MS. WARD: Thank you. That's all I have, Mr. Chairman.

21 CHAIRMAN SUMWALT: Thank you. And I actually have no
22 questions. We are doing quite well. We're right where we should
23 be timewise. I want to thank the parties and the witnesses.
24 Thank you for your participation. Parties, thank you for
25 participation in keeping the questions relevant. We will take a

1 break and reconvene at 9:45.

2 (Off the record.)

3 (On the record.)

4 CHAIRMAN SUMWALT: We will come back to order. This
5 next Panel will regard FAA Flight Standards National Policy and
6 Regional Implementation. We will discuss FAA oversight, Part 135
7 versus Part 91, single pilots versus two pilots, pilot and medical
8 crew fatigue, duty time limitations for medical crew, weather
9 minimums and operational control.

10 Ms. Ward, please place under oath and qualify the
11 witnesses.

12 MS. WARD: Thank you, Mr. Chairman. Could the witnesses
13 please rise? Raise your right hand.

14 (Witnesses sworn.)

15 MS. WARD: Thank you. We'll start with Mr. Pratte.
16 Could you please state your name, your organization and your
17 title?

18 MR. PRATTE: My name is Dennis Pratte, and I'm the
19 manager of the FAA's 135 Air Carrier Operations Branch.

20 MS. WARD: Thank you. Mr. Pearson.

21 MR. PEARSON: My name is Bradley Pearson. I am the
22 manager, Flight Standards Division in FAA's Northwest Mountain
23 Region.

24 MS. WARD: Thank you. Mr. Chairman, these witnesses
25 have been qualified.

1 CHAIRMAN SUMWALT: Thank you, Mr. Ward. The Technical
2 Panel will be led by Mr. Jeff Guzzetti.

3 TECHNICAL PANEL QUESTIONS

4 MR. GUZZETTI: Thank you, Mr. Chairman. Our Technical
5 Panel consists of the same folks basically from the last session,
6 except for we have an addition of Dr. Jana Price and Mr. Ron
7 Price.

8 Thank you, gentlemen, for appearing today. You, in my
9 mind, represent the Headquarters level guidance and leadership for
10 FSDO inspectors. So I'll start with you, Mr. Pratte. I know your
11 bio is in the package on the docket, but can you just give me a
12 thumbnail sketch of how long you've been with the FAA and what you
13 did before the FAA?

14 MR. PRATTE: Yes, I've been with the FAA for
15 approximately nine years now. I am an aviation safety inspector.
16 I have field experience, Regional Office experience, and also
17 Headquarters experience, working with developing policy and
18 procedures for both 121 and 135 air carrier operations. Prior to
19 that, I was a pilot, ATP qualified, primarily fixed wing aircraft
20 with limited helicopter experience but several thousand hours of
21 flight time.

22 MR. GUZZETTI: Thank you. And the office that you're in
23 now, how long have you been in the position that you've been in
24 now?

25 MR. PRATTE: About a year and a half now.

1 MR. GUZZETTI: Okay.

2 MR. PRATTE: And I manage several helicopter subject
3 matter experts with HEMS experience.

4 MR. GUZZETTI: Okay. Great. And how is your office
5 involved in the past year and a half, since you've been there, how
6 has it been involved with HEMS guidance and policy? Is your
7 office basically the originator of much of that policy?

8 MR. PRATTE: I would say so. Since day one, since I
9 started the position, we have interacted with the HEMS community.
10 We've put out several documents and not just advisory but rules of
11 specific applicability that changes a lot of the operations in the
12 HEMS community, and we've coordinated much of this guidance and
13 the specific requirements that we developed with the HEMS
14 community, the associations and so forth.

15 MR. GUZZETTI: Okay. And what prompts your office to
16 put out this guidance? How are you made aware of the need for
17 guidance?

18 MR. PRATTE: It comes from several areas. One, NTSB
19 recommendations, other places. We receive recommendations from
20 our field inspectors. They're called FAA safety recommendations.
21 We look at that. They're our eyes and ears in the fields. So we
22 pay close attention to those documents that we receive. Let's
23 see.

24 MR. GUZZETTI: Well, that's fine.

25 MR. PRATTE: It comes from various sources. Operators

1 can make recommendations to the FAA, associations can make
2 recommendations. There are procedures in Part 11 for folks to
3 make recommendations to us concerning different regulatory and
4 policy changes.

5 MR. GUZZETTI: Can you kind of laundry list the
6 different types of publications that the FAA can put out for
7 guidance? There's been several mentioned over the course of the
8 last few days, Advisory Circulars, notices, orders, INFOs, Safe-Os
9 (ph.), op specs. Can you just provide a very quick overview of
10 these different types of publications and who their audience is
11 and why they're put out in that format?

12 MR. PRATTE: Well, we have Advisory Circulars, and
13 there's basically two types of Advisory Circulars. One would
14 provide an operator with guidance to comply with the rule and it's
15 not one way but it provides an example of one possible solution
16 for complying with the rule. Others are just advisory in nature
17 about a particular subject. We have notices. Notices are
18 basically an advanced update to an order that we may publish ahead
19 of the normal cycle for updates for our internal orders. Orders
20 are specific internal FAA documents to direct FAA personnel. So
21 it's an internal document solely. INFOs, that's an acronym for
22 Information for Operators. It provides best practices, just
23 guidance information, and they're specific to operators. On the
24 other hand, we have Safe-Os which is a safety alert for operators.
25 It's guidance information to operators, and it provides safety

1 related information. Op specs, that's a rule of specific
2 applicability. They're issued to specific operators and they
3 pertain to a specific subject.

4 MR. GUZZETTI: Okay. Advisory Circulars, you say they
5 provide one means of compliance, but not necessarily the only
6 means. Are they regulatory or not? Are they just advisory?

7 MR. PRATTE: Advisory Circulars are not regulatory.

8 MR. GUZZETTI: Okay. And I'll talk a little bit more
9 about op specs here in a moment. I know in the last two, three
10 years, you and then your predecessor, who I believe was Mr. Harris
11 was leading that office, put out several HEMS publications and
12 notices. I guess the list is probably too long to laundry list,
13 but can you just provide an overview of the different types of
14 things that you have put out specifically related to HEMS and why,
15 what prompted your office to put out that guidance?

16 MR. PRATTE: Okay. Well, back in 2005, the FAA noticed
17 that there was a spike in HEMS related accidents, and they created
18 a HEMS taskforce, and this group evaluated all the accidents from
19 1998 to 2004 I believe was the timeframe, and what they identified
20 through this analysis was three primary area of concern and it was
21 the inadvertent IMC encounters, loss of control an CFIT which
22 predominantly happened in night operations. So to counteract
23 these issues, the FAA proactively went out and issued Notice 8,293
24 which was applicable specifically to HEMS operations, and what it
25 did was it provided additional surveillance to the HEMS operators

1 as well as created geographic inspections for those who have bases
2 outside the normal geographic FSDO boundaries, and that was issued
3 in February of 2005.

4 In August of 2005, we used Notice 8,301 which addressed
5 risk assessment. In that Notice, which was also later rolled into
6 our handbook order, Order 8900.1, it directed companies to adopt a
7 risk assessment program. Notice 8,307, we issued in September of
8 2005 and that addressed special emphasis inspections for HEMS
9 operators. It required 16 specific HEMS inspections that were
10 both operation and airworthiness related. In February 2006, we
11 issued Notice 8,317 which provided guidance for 142 training
12 centers that were conducting HEMS training, and it required them,
13 when they revised their training program to address risk
14 assessment, loss of control and CFIT, lighting conditions to
15 include flat light issues and various other minor details but it
16 was applicable to simulator training centers.

17 MR. GUZZETTI: There's no need to go through, I'm sure
18 there's a lot more.

19 MR. PRATTE: Yeah, about six or seven more notices.

20 MR. GUZZETTI: And I know much of that has been entered
21 as exhibits in the docket. I appreciate that. In a lot of these
22 exhibits or these guidance documents, like the training program
23 and even A021 in the notices, is it accurate to say that this is
24 guidance from FAA Headquarters to inspectors to insure that
25 operators incorporate these things into their flight operations?

1 Is that fair?

2 MR. PRATTE: In certain situations, yes.

3 MR. GUZZETTI: And the vehicle by which to do that is
4 typically is to put it into the individual operator's operations
5 specifications.

6 MR. PRATTE: It's a case-by-case basis. It depends on
7 the subject matter. Sometimes it's operations specifications.
8 Other times it's training program revisions.

9 MR. GUZZETTI: And training program is an approved
10 document that an operator has to get approved by the FAA for their
11 operation. Is that correct?

12 MR. PRATTE: That's correct.

13 MR. GUZZETTI: And same with an operations
14 specification. That is basically an agreement between the FAA and
15 the operator to say you shall operate your individual organization
16 as per the specifications. Is that correct?

17 MR. PRATTE: That's correct.

18 MR. GUZZETTI: If a -- just a follow on to the questions
19 I asked to the Panel before, if an inspector discovers that the
20 operation was not being conducted in accordance with the op specs,
21 or if an operator says, you know, we're just not going to
22 incorporate these things that your notice says, does the inspector
23 have the authority to not agree to the op specs or does the
24 inspector have the authority to, if they do agree to the op specs,
25 but then later on the operator isn't in compliance with it, can

1 the inspector initiate enforcement action of some sort? Is there
2 a stick there?

3 MR. PRATTE: If an operator doesn't comply with their op
4 specs, the FAA can, depending on the severity of the situation,
5 issue a civil penalty against the pilot or the company or both.

6 MR. GUZZETTI: Okay. Can you tell me the range of
7 sanctions that can occur in that regard?

8 MR. PRATTE: That's spelled out in Order 2153(b).

9 MR. GUZZETTI: And is it -- can you give me a thumbnail
10 sketch? Is it anywhere from a letter of warning all the way up to
11 certificate revocation in some cases?

12 MR. PRATTE: I'd have you refer to the order.

13 MR. GUZZETTI: Okay. Since we're talking about op
14 specs, I know that the FAA recently released A021 and A050 which
15 is nicely summarized and appendicized in Exhibit 12(b), which we
16 don't need to bring up, Notice 9800.56 --

17 MR. PRATTE: 8900.

18 MR. GUZZETTI: -- 8900, excuse me, when this first came
19 out as a NPRM, did you receive comments from industry and
20 operators and associations?

21 MR. PRATTE: First of all, before we issued that op
22 spec, the proposed amendment to the op spec, we had a couple of
23 meetings where we participated. One was with the Association of
24 Air Medical Services. The other was with Helicopter Association
25 International, where we brought in industry, discussed the

1 proposed changes to hear the comments, so we could work
2 collaboratively with everyone to minimize any unintended
3 consequences. Once we felt we had a pretty decent document, we
4 went ahead and published it in the Federal Register for comment.
5 I believe that was mid-November timeframe, November 14th or 15th.
6 It was out for public comment for 30 days. December 15th, the
7 public comment period closed and then the FAA published their
8 disposition of comments on January 23rd at the same time that we
9 released the new op spec. Pretty much all the comments we
10 received were favorable. There were a couple of minor technical
11 corrections that were suggested which we adopted.

12 MR. GUZZETTI: Okay. And based from those comments, did
13 you -- it appears that the FAA allowed differences in weather
14 minimums if the operator had HTAWS installed or were utilizing
15 night vision devices. Is that correct?

16 MR. PRATTE: Yes, the FAA recognizes the benefit of TAWS
17 and night vision goggles. So we did try to incentivize that
18 equipment and provide different weather minima.

19 MR. GUZZETTI: And they also indicated a preflight
20 planning requirement was added to require the pilot to determine
21 the minimum safe altitudes and to evaluate the terrain and
22 obstacles. How would a FAA inspector check for that to insure
23 that that was being done?

24 MR. PRATTE: Well, we're not going to oversee every
25 specific flight. What we do is we insure that the process is

1 correct, and that the process is included in a pilot's training
2 program. The pilots are trained and evaluated on that new process
3 and to insure the correct outcome. The new requirement requires a
4 deliberate preflight planning action on the pilot and that he
5 establishes a minimum en route altitude, and that he deliberately
6 identifies the highest obstacle along his planned route of flight.

7 MR. GUZZETTI: Okay. Mr. Pearson, I'd like to bring you
8 into the conversation. What is your position with the FAA again?

9 MR. PEARSON: I'm the Division Manager of the Northwest
10 Mountain Region's Flight Standards Division.

11 MR. GUZZETTI: Okay. So in a sense you oversee or are
12 insured that the FSDOs assigned to your region are doing things
13 correctly?

14 MR. PEARSON: That's part of it. Probably the way I
15 would say it that I'm the official accountable for the execution
16 of the programs that are developed in Headquarters. Mr. Pratte
17 mentioned some of them. We have 14 field offices in Northwest
18 Mountain Region. We have about 450 employees. I also have a
19 small Regional staff, both a technical branch component as well as
20 a resource management branch component.

21 MR. GUZZETTI: Okay. And the previous Panel, Mr.
22 Prater, did an excellent job of describing how a certificate
23 management office was formed for large HEMS operators. I think
24 it's for 25 ships or more. Is that correct? Where the FAA kicks
25 in a certificate management office.

1 MR. PEARSON: Well, not so much kicks in a certificate
2 management office. The 25 dedicated ships for a HEMS operation is
3 the point at which FAA considers that to be a large HEMS operator.
4 The significance of that is largely in terms of ensuring that we
5 resource that particular certificate management team, the acronym,
6 CMT, well enough so that the FAA's assured that in our work, we
7 have adequate resources applied. When we first did this project,
8 to determine the resources needed for the large HEMS operators,
9 what we found was that in looking at the 70 plus HEMS operators
10 back at actually the end of calendar year 2005, the project went
11 on into early calendar year 2006, but what we found is that there
12 were 8 large HEMS operators that were carrying virtually all of
13 the patients. Today there are now 7 large HEMS operators, and
14 that's as a result of consolidations, and they have about 80
15 percent of the ships. There are 678 dedicated ships to the 7
16 largest HEMS operators. So there are about 80 percent of the
17 ships dedicated to the large operators. So that's the condition
18 today, and we do resource those large HEMS CMTs well so that the
19 FAA can do a very good job in its safety assurance function.

20 MR. GUZZETTI: Okay. So all seven of those operators
21 have a certificate management office-like structure?

22 MR. PEARSON: They have a CMT structure and they are
23 within a FSDO. They aren't a standalone certificate management
24 office.

25 MR. GUZZETTI: Like a 212.

1 MR. PEARSON: I know this is a nuance but there's --

2 MR. GUZZETTI: No, thank you. It was touched upon
3 briefly at the last Panel, but a lot of these large operators, and
4 even ones that don't meet the 25 ship threshold, have bases all
5 over away from the center FSDO, and are you comfortable with the
6 geographic inspection of those one-ship, two-ship bases that are
7 scattered far away from the main FSDO or the main company's base?

8 MR. PEARSON: Well, for the Flight Standards role, I'm
9 satisfied that we're doing adequate surveillance. I guess the
10 proof is in the data, and in the instance of Air Methods, for
11 example, and they have a large number of bases around the country,
12 I think that's been referenced already, in excess of 250 I
13 believe, last calendar year, that is '08, we saw about 230 of
14 those bases doing surveillance. There were a total surveillance
15 number of activities for Air Methods in around the 1300 number for
16 calendar year '08. Of that 1300, 500, actually a little bit more
17 than that, of those activities were done by people that are not in
18 Denver FSDO or at the CMT that Mr. Prater referred to. So it's
19 other FSDOs under the FAA's geographic concept that are helping do
20 the work.

21 With the large HEMS CMTs, and we have seven of those
22 now, it's not uncommon for those inspectors to travel out to the
23 bases as well. They're funded for, there are enough inspectors
24 that they can do that. It's a very similar model that is used in
25 the 121 certificate management business inside of FAA.

1 MR. GUZZETTI: Okay. And we heard from Mr. Prater that
2 he feels that the training and overtime budgets and travel budgets
3 are adequate. Do you also agree with that opinion for the seven,
4 generally for the folks in your Region that surveil HEMS?

5 MR. PEARSON: Well, I only have one large CMT, and our
6 particular CMT is well resourced and we stay very connected to
7 that CMT so that we could refresh resources. There are other CMTs
8 in other Regions as well, that have large HEMS operators.

9 MR. GUZZETTI: For the inspectors in your Region that, I
10 know Mr. Gibbons is not in your Region, but those types of
11 inspectors that surveil a smaller operator, do you feel they also
12 have adequate -- that there's enough inspectors to handle the
13 workload of surveilling the handful of small operators?

14 MR. PEARSON: Yes. Northwest Mountain Region has a
15 total, including Air Methods, of 15 HEMS operators. So we have
16 quite a few of them. Other than Air Methods, most of them are
17 relatively small. I would characterize that we have ample
18 resources. Certainly there's a variation at times that principal
19 inspector experience where their level of work might become a
20 little bit high and we have to make adjustments, but as a general
21 answer, we have ample resources.

22 MR. GUZZETTI: Okay. And can you just briefly discuss
23 the nexus between the Headquarters, the Region and the FSDOs, how
24 guidance is handed down and how the communications go up and down
25 the chain? What role does the Region play in that regard?

1 MR. PEARSON: Well, again we're the accountable
2 organization to make certain that the programs developed in
3 Headquarters are executed. So that's my accountability. That's
4 what I need to get done. The programs themselves in terms of
5 physical movement actually move at light speed through our
6 computer system right to the inspector's computer when new
7 guidance is issued. This is under an automation system we have at
8 Flight Standards. So I see it at the same as the inspector that's
9 going to do the work sees it, and we do have in our quality
10 system, in our particular Region, a SOP that we use so that we can
11 pulse whether or not the inspectors are keeping up with the work
12 that's coming from Headquarters on things such as notices and so
13 forth, but that it how it works.

14 If there are problems with the guidance, that is maybe
15 the guidance is not clear or perhaps the guidance is inadequate
16 and it falls short of what needs to be done, then we give that
17 feedback to the appropriate office in Headquarters. If it
18 happened to be with any of the notices that Mr. Pratte referenced,
19 we would give it to Mr. Pratte.

20 MR. GUZZETTI: Okay. Sometimes the public and the press
21 have a sense that the FAA has the authority to, well, that it's
22 easy to revoke a certificate of an operator or if there's a small
23 mistake or an infraction or an accident even, that, you know, the
24 question is asked why is the operator allowed to operate
25 afterwards. In your view, does the Region get involved in

1 certificate actions like revocations or suspensions and is that
2 something that can happen overnight or is there a process involved
3 with that?

4 MR. PEARSON: Whether they happen quickly or they happen
5 slowly, there's a lot of process that's involved. It begins with
6 a very thorough investigation. We have a number of controls in
7 place within FAA, not just within flight standards before we take
8 certificate action to insure that it's the position that the
9 agency is satisfied, is correct and, yes, if certain safety issues
10 are at a level that concerns Flight Standards enough, we can take
11 action quickly. That is definitely the exception though. That
12 does not happen very often.

13 MR. GUZZETTI: Okay. Mr. Pratte, there's been some
14 discussion about the HEMS weather tool that a lot of the operators
15 in their testimony indicated is a very, it's an excellent FAA
16 hosted tool for HEMS operators to utilize when conducting weather
17 evaluations, but there were some criticisms in regard to it not
18 being an official weather site. They can't use it as official
19 weather for their operations. Why is it not deemed official by
20 the FAA?

21 MR. PRATTE: Well, there was some experimental
22 information that was built into this tool, and it's been beta
23 tested and we're actively working to make it an official tool.
24 Right now I don't have a timeline on it but we are actively
25 engaged with the appropriate divisions in the FAA to see that

1 through.

2 MR. GUZZETTI: Thank you. What is your view of the use
3 of flight training devices and simulators to improve safety for
4 HEMS operators, Mr. Pratte?

5 MR. PRATTE: Well, I think the FAA encourages
6 simulation, advanced simulation where feasible. In a 121
7 environment, I think it works great. When it comes to 135
8 operations, however, it may not be economically feasible for the
9 smaller 135 operators. If we would try to mandate advanced
10 simulation right now, it's my understanding there's only seven
11 level D helicopter simulators in the U.S. So there's issues of
12 availability, and there's also issues with cost, and the smaller
13 one, two-ship operators may not be able to afford advanced
14 simulation thereby forcing him out of business and reducing this
15 critical service to the remote communities.

16 MR. GUZZETTI: Okay. Are there any specific
17 requirements for HEMS operators for training or was that something
18 that's delineated in each individual operator's approved training
19 program?

20 MR. PRATTE: I'm sorry. Can you say that again?

21 MR. GUZZETTI: Are there any specific FAA requirements
22 for HEMS simulator training or is that delineated in an individual
23 operator's op specs or approved training program? Are you aware
24 of any FAA regulations or requirements --

25 MR. PRATTE: FAA regulations for specific HEMS training?

1 MR. GUZZETTI: Yes.

2 MR. PRATTE: I'm not aware of any.

3 MR. GUZZETTI: Okay.

4 MR. PRATTE: I would add though we don't consider HEMS
5 to be different from any on-demand operator. The regs are very
6 specific for on-demand Part 135 operations, what the minimum
7 training is required for the pilot, flight crew members and crew
8 members. So with that said, there's plenty of regulatory guidance
9 out there.

10 MR. GUZZETTI: I understand but there's been some
11 testimony indicating that HEMS, while it is a 135 operation, it's
12 also very unique in that these helicopters fly routinely at night
13 in adverse weather conditions or adverse situations, unapproved
14 landing sites. Do you have any comments about the adequacy of
15 135 --

16 MR. PRATTE: I think our regulations pertaining to on-
17 demand operations is sufficient. Again, we have training
18 requirements, currency requirements and so forth for on-demand
19 operators. They have an aeronautical decision to make. The
20 pilot-in-command makes that decision and the regulations are
21 sufficient.

22 MR. GUZZETTI: Okay. In regards to the NTSB
23 recommendations that were issued in 2005, I wanted to just get
24 your comments on each of them. The first one was to require all
25 EMS operators to comply with 135 op specs during the conduct of

1 all flights with medical personnel on board, even the positioning
2 flights. In response, the FAA indicated that you put out the A021
3 which in your view addresses the weather conditions, but there's
4 been no movement in terms of the flight and duty times, and as a
5 result recently, and this as per Exhibit 12(o), which is the most
6 recent NTSB correspondence back to the FAA, that's been classified
7 as unacceptable response. In that vein, in the Panel on Flight
8 Ops, we learned that medical crew members frequently perform
9 duties that contribute to flight safety. In light of this, has
10 the FAA considered expanding it's 135 duty hour regulations to
11 apply to medical crews on EMS flights?

12 MR. PRATTE: Well, as far as flight and duty pertaining
13 to medical crew members, no, we haven't. We don't believe that
14 they're performing safety essential functions. We do have
15 guidance out there for super numeraries which would address this
16 issue. Also, something to recognize is that many of the medical
17 crew members are not employees of the operator which would cause
18 much difficulty in trying to regulate that from an operator's
19 perspective or the FAA's perspective.

20 MR. GUZZETTI: You mean -- in what way? Why? You say
21 when the medical crew is not employees of the operator, does that
22 make them passengers you mean, or --

23 MR. PRATTE: It really depends on the type of operation
24 and the specific circumstances. Some cases it would make them a
25 passenger and they would operate under 135. Other times they

1 could be a crew member with specific duties assigned where they
2 would allow them to operate under Part 91.

3 MR. GUZZETTI: Okay. What types of efforts is the FAA
4 taking to address fatigue among EMS pilots? I know that 135 has
5 flight and duty time for pilots but not specifically for HEMS
6 pilots. Is the FAA considering that aspect of fatigue for those
7 types of pilots?

8 MR. PRATTE: Well, the FAA just completed a major
9 fatigue symposium where we had participants from all over the U.S.
10 and around the world attend the symposium and once we review the
11 data and we finish with our study, we'll make a general rule
12 that's applicable to all pilots. Fatigue is something that's not
13 specific to HEMS. It's specific to all pilots and once we have
14 the data, we'll make a data-drive decision and we'll address the
15 issue at that time.

16 MR. GUZZETTI: Thank you. The next recommendation was
17 A0613 where we recommended that the FAA require HEMS operators,
18 EMS operators to develop and implement flight risk evaluation
19 programs. I know that you issued a notice and it's got flight
20 risk assessment in there, but we asked for a requirement such as
21 an op spec, and we continue to investigate accidents involving a
22 lack of flight risks. We note that the FAA hasn't widely put
23 those in op specs and made it a requirement. So that's currently
24 open unacceptable response. Can you comment on the FAA's action
25 in this regard?

1 MR. PRATTE: Well, regarding operational risk
2 assessment, you don't have to have a regulation to make it a
3 requirement. What we've done is we've created the guidance. It
4 was issued in a notice, later rolled into our handbook 8900.1. It
5 provided several examples of risk assessment programs, and right
6 now through the voluntary compliance, we're in excess of it looks
7 like 94 percent in compliance with the risk assessment programs.
8 And by adopting those programs in the pilot's training program, it
9 thereby becomes a requirement for the operator and the pilot to
10 follow. So there is a regulatory catch to it once it becomes an
11 approved training program.

12 MR. GUZZETTI: And you say 94 percent of all HEMS
13 operators have voluntarily incorporated this?

14 MR. PRATTE: Yes.

15 MR. GUZZETTI: Okay. The next one, require EMS
16 operators to use formalized dispatch. Actually, I'll skip that
17 because the Board indicated that's an open acceptable response.
18 The next one is TAWS and, of course, the Board at the most wanted
19 meeting in October was very passionate about expressing their
20 concern about the length of time it's taken for the FAA to develop
21 TSO and the length of time it's going to take to develop a
22 regulation for this. Can you comment on the delays involved and
23 what action's been taken to address this recommendation?

24 MR. PRATTE: Well, again, as was mentioned in earlier
25 Panels, we had to establish a standard. We did that through the

1 RTCA. They created the minimum operational performance standards.
2 Once we had the standard, we created the TSO. Now the TSO is
3 available for manufacturers to develop to, but at the same time,
4 there was nothing to prevent operators from adopting HTAWS since
5 they've been available on the market.

6 MR. GUZZETTI: I understand that but would you agree
7 that the FAA hasn't had that big stick to ensure that everybody is
8 installing HTAWS right now as a hard requirement?

9 MR. PRATTE: I think we all realize there's benefits
10 with HTAWS and just like there's benefits with night vision
11 goggles and some of the other enhancements, but is it appropriate
12 for every operator? I don't know that it is, and so just to make
13 a broad, broad statement saying we should require it for all
14 operations is inappropriate. You need to look at each operation,
15 identify the risk and mitigate the risk appropriately.

16 MR. GUZZETTI: In the area of night vision goggles, do
17 you see challenges with the FAA in providing enough manpower to
18 certify night vision goggle training programs and to insure that
19 there's enough FAA folks to quickly integrate and approve night
20 vision goggle training for HEMS operators? Are there enough
21 inspectors for that?

22 MR. PRATTE: Right now I believe we have 15 NVG
23 qualified inspectors. However, one of the things we're doing to
24 build on that experience and that qualification level, is we are
25 working to develop a helicopter specific ASI, and I believe that

1 this year, we will start hiring helicopter aviation safety
2 inspectors, and as part of their initial training, they will go
3 through a NVG course. So as they come out of the school, they
4 will be qualified in NVGs.

5 MR. GUZZETTI: Okay. And last couple of questions to
6 each of you. Mr. Pratte, do you think there are enough inspectors
7 overall within the FAA to ensure that there's adequate
8 surveillance of all the HEMS operations?

9 MR. PRATTE: Currently the way the work programs are
10 designed, yes, we do have enough. Obviously more is always
11 better, but we do have enough to adequately surveil all the HEMS
12 operators.

13 MR. GUZZETTI: And, Mr. Pearson, how do you respond to
14 that question for your Region?

15 MR. PEARSON: Well, in our Region, as I said, we have
16 ample resources. Obviously if I'm given more resources, the swath
17 that we're able to cut in doing our safety assurance work becomes
18 wider. What was just referred to in terms of our new hire
19 program, of being able to hire helicopter only operations
20 inspectors, that is a big gain for us in Flight Standards. It
21 actually emanates from the effort when we studied large HEMS
22 operators. The reason this is such a big gain for us is we're now
23 going to be able to hire folks that have very, very current
24 leading edge experience from industry, and as he also pointed out
25 in the indoctrination course that we give our new inspectors,

1 these inspectors will be given the one-week NVG course so that
2 they're qualified by formal training to do NVG checks. So we're
3 going to expand the population from 15 inspectors that are
4 currently NVG qualified, most of whom are current to be able to do
5 the job functions, to a much bigger number. The new hire program
6 for these new inspectors should begin toward the end of March,
7 just a month and a half away, and the prototype for the indoc
8 class that I referred to is currently slated in April.

9 So there's some very good things happening in terms of
10 really increasing the bench strength across Flight Standards with
11 helicopter talent, and it will help the service as a whole. You
12 know, it's not just HEMS we're talking about here. In Northwest
13 Mountain Region, we have 101 air carriers that have helicopter op
14 specs. Fifteen of them happen to be HEMS carriers.

15 So it's a much bigger picture than what we're discussing
16 here. So there are going to be a lot of benefits from this, and
17 it is going to be I think something that helps industry as well.

18 MR. GUZZETTI: Thank you. A final question. The NTSB
19 recently released a probable cause on a HEMS accident, not in your
20 Region, in which a contributing factor was cited as the FAA's
21 failure to provide sufficient oversight of the operator to ensure
22 they were comply with their own risk assessment program. Now
23 that's the Board opinion. It might not be yours, but in that
24 light, what can the FAA do to ensure that FAA surveillance of a
25 HEMS operator is sufficient to prevent that type of -- what the

1 Board indicated as an oversight in deficiency?

2 MR. PEARSON: Well, there are at least a couple of
3 things. First of all, just as we will not permit an aircraft to
4 operate without required Part 119 directors. The same goes inside
5 the FAA for principal inspectors, and we should always have
6 principal inspectors assigned to the certificate. So that's the
7 starting point. The management responsibility beyond doing that
8 is to ensure that the CMT strength for whatever type operation
9 we're looking at, is adequate for us to do our safety assurance
10 role as the safety regulators. So that's the second item. And
11 the third item is for the management of the office, as well as the
12 principal inspectors, to pay attention to whether or not they're
13 executing the surveillance that's needed for us to make the safety
14 assurance determinations that we are mandated to do. So those
15 would be the things I would outline.

16 MR. GUZZETTI: Thank you very much. Mr. Chairman, I
17 have no further questions.

18 CHAIRMAN SUMWALT: Thank you, Mr. Guzzetti. We will now
19 turn to the parties and PHPA.

20 PARTY QUESTIONS

21 MR. DUQUETTE: Thank you, Mr. Chairman. I hate to
22 belabor the point or keep bringing it up. We're talking about
23 vertical clearance keeps coming up or has been testified several
24 times, but I have also received several e-mails and the question
25 that comes up is, well, fine, we understand about the vertical

1 clearance, but nothing's really been said about the lateral
2 clearance. Obviously it went from Point A to Point B. You have a
3 tower that's in the way, and if you're obviously going to go over
4 it, you have that obstacle clearance. What is the distance or
5 obstacle clearance the pilot must maintain laterally?

6 CHAIRMAN SUMWALT: Before you answer that question, let
7 me -- why don't we on this round, let's do the same thing we did
8 in the last one, two rounds of five minutes. Is that acceptable?
9 Let's plan that.

10 MR. DUQUETTE: Yes, Mr. Chairman.

11 MR. PRATTE: When we had our initial draft of the A021,
12 the draft proposed amendment to the op spec, we did have a lateral
13 distance specified but one of the issues came up is if we have a
14 more refined specific system in our aircraft that would allow us
15 to maneuver closer to that object, they should be able to receive
16 credit and we agreed. So rather than saying you must avoid it by
17 five miles, that may not be applicable for somebody that's
18 operating with GPS accuracy in a terminal mode and it would allow
19 them to get closer.

20 So what we've said and what we've provided guidance to
21 our inspectors is that you work with each individual operator on a
22 case-by-case basis, determine their method of en route navigation,
23 judge the errors associated with their en route navigation, and
24 make the appropriate requirements in their training programs.

25 MR. DUQUETTE: Okay. So it will vary based on the

1 equipment and how they, in fact, navigate?

2 MR. PRATTE: That's correct.

3 MR. DUQUETTE: My next question comes to NOTAMs. As a
4 pilot, you go out and fly, you prepare for a flight, you check all
5 your local NOTAMs, if you're going IFR, your FDC NOTAMs and
6 typically it will list items such as hazards to flights such as
7 unlit towers, cranes, and the city of an airport. Are hospitals
8 and hospital pads part of the NOTAM system?

9 MR. PRATTE: I'm going to have to get back with you on
10 that one.

11 MR. DUQUETTE: Okay. I believe they're not, and maybe
12 that's something we could consider is maybe start making hospitals
13 part of the NOTAM system because currently what's happening is if
14 you have an aircraft or a crew that normally operates in the
15 vicinity of a hospital, they're going to be aware of that
16 particular hazard to that location, but you've got aircraft that
17 are coming in on occasion and they may not. Of course, it still
18 falls on the pilot-in-command to call that hospital and get the
19 information that he needs to make that safe flight, but maybe that
20 would be something that could help in the process. So would you
21 have any other comments on that?

22 MR. PRATTE: Taking it under consideration, I'll have to
23 get back with you on that.

24 MR. DUQUETTE: Thank you. And that's all the questions
25 I have.

1 CHAIRMAN SUMWALT: Thank you, Mr. Duquette. AAMS?

2 MS. KINKADE: Thank you. Good morning. Mr. Pratte, you
3 described the A021 op spec change revised the weather minimums.
4 That change does apply to all legs. Is that correct?

5 MR. PRATTE: With a few exceptions. We did have -- pull
6 that up just a second please. There's a few exceptions. For
7 maintenance test flights, flights with company personnel that
8 weren't associated with a medical transport leg and then initial
9 and recurrent training flights but for the most part, if it was a
10 HEMS related flight, the legs associated, the pre and post-legs
11 would be incorporated in the A021 weather requirements.

12 MS. KINKADE: Great. Thank you. Can you describe the
13 MOU between the FAA and the NTSB about classification of HEMS
14 accidents? And how does this MOU affect accident reporting in
15 HEMS?

16 MR. PRATTE: I'd defer that question to the NTSB. The
17 NTSB is the one that makes the classification for the particular
18 accident.

19 MS. KINKADE: All right. I'm picking on you a little
20 bit longer. Mr. Pratte, can you tell us the number of air carrier
21 certificateholders with op specs authorizing HEMS operations?

22 MR. PRATTE: I believe it's at 74.

23 MS. KINKADE: And we've heard testimony and statements
24 over the past two days regarding public service operators that
25 perform HEMS operations under operating rules other than

1 commercial operating rules, FAR Part 135. Can you tell us the
2 number of public operators in the U.S. that hold air carrier
3 certificates under the FAR Part 135 with op specs that permit HEMS
4 operations?

5 MR. PRATTE: Okay. Just to clarify, you're looking for
6 public entities that hold or state or local governments that hold
7 a 135 certificate.

8 MS. KINKADE: Yes.

9 MR. PRATTE: Okay. I believe that's six.

10 MS. KINKADE: And one more. With regard to public
11 operators not holding air carrier certificates, does the FAA
12 provide any regulatory oversight to those HEMS operations?

13 MR. GUZZETTI: Mr. Chairman, I just wanted to indicate
14 that the use -- I'll be probing the use of public aircraft in the
15 next session with Mr. Allen, and I don't think that was on the
16 list for this witness.

17 CHAIRMAN SUMWALT: Okay. Thank you.

18 MR. PRATTE: Yeah, I'll pass it to the next witness.

19 MS. KINKADE: All right. We'll stop there for now.

20 CHAIRMAN SUMWALT: For the record, Dr. Dodd, is there a
21 memorandum of understanding between the NTSB and the FAA
22 concerning the classification of HEMS accidents?

23 DR. DODD: At this point, I don't believe we have a MOU
24 on that particular topic.

25 CHAIRMAN SUMWALT: Because it was --

1 MR. GUZZETTI: Actually we do but it's not dedicated to
2 HEMS operations. It is a MOU between the FAA and the NTSB dated I
3 think 1991 --

4 MR. PRATTE: '92.

5 MR. GUZZETTI: -- '92, in which it stipulates the type
6 of ways that the NTSB will code its accidents, and 1 of the
7 bullets in there, out of maybe 20 or 30 different bullets, talks
8 about how the NTSB would code in its database whether or not a
9 Part 91 positioning flight should be Part 91 or Part 135. It's
10 really more of a data coding protocol and not so much as an
11 operational judgment.

12 CHAIRMAN SUMWALT: Thank you. In my opening statement,
13 and we're using up your time, Ms. Kinkade. No, I'm just kidding.
14 In my opening statement the other day, I did mention that we had
15 gone back as an agency and come up with new classification
16 criteria for the coding of HEMS accidents or EMS accidents.

17 MR. GUZZETTI: That's correct. We hope that the recent
18 justification has -- will supersede the confusion that has existed
19 in that regard.

20 CHAIRMAN SUMWALT: Great. Is this slide being
21 projected, that's in front of me? I can read it if not but I
22 don't know if it can be projected, but the classification that we
23 came up with, in anticipation of this hearing was a HEMS accident
24 is -- an EMS accident is one where the aircraft flight involved an
25 aircraft dedicated to air medical operations configured for such

1 operations and piloted by a dedicated EMS flight crew. So there
2 is no memorandum of understanding between the Safety Board and the
3 FAA concerning these criteria right here.

4 MR. GUZZETTI: Not yet, but we do intend on putting that
5 in writing in a memorandum of understanding.

6 CHAIRMAN SUMWALT: Okay. Thank you. Thank you very
7 much. And good point, and I'm glad we could clarify that. Thank
8 you. And no more questions from you?

9 MS. KINKADE: No.

10 CHAIRMAN SUMWALT: Okay, next round. NEMSPA.

11 MR. SIZEMORE: Thank you, Mr. Chairman. Thank you,
12 Panel. For Mr. Pratte, in the definitions, Chapter 1 I believe it
13 is, the specifications of crew members, it gives a definition of
14 that, correct?

15 MR. PRATTE: That's correct.

16 MR. SIZEMORE: Is there any place that defines other
17 positions such as medical crew members?

18 MR. PRATTE: Specifically medical crew members, no.

19 MR. SIZEMORE: Okay. And you talked a little bit about
20 safety sensitive positions. In regards to the fact that they are
21 part of the safety enhancements that HEMS probably can use under
22 NVGs and things like that, is there a crossover in there, in your
23 opinion, as far as those safety sensitive positions?

24 MR. PRATTE: Can you clarify the question? I'm not sure
25 I understand what you're asking.

1 MR. SIZEMORE: I mean under those operations, would they
2 be considered safety sensitive individuals or is it still --

3 MR. PRATTE: No.

4 MR. SIZEMORE: Okay. In previous testimony, the Panel
5 before you, we heard a little bit about high consequence
6 operators. Can you --

7 MR. PEARSON: In Northwest Mountain Region, we have a
8 term, it's called critical success, high consequence certificates.
9 It's a way of denoting certificates that are prioritized above
10 others when it comes to resource allocation. Of course, when
11 we're talking about air carriers, all air carriers have the duty
12 to operate at the highest possible level of safety in the public
13 interest. So it's not as though a small carrier is considered
14 less important or not to deliver that standard, and that's what he
15 was referring to. So it's a Northwest Mountain acronym. We have
16 an acronym. The term is critical success, high consequence.

17 MR. SIZEMORE: So that's that Region only that would use
18 that?

19 MR. PEARSON: Right, and it's applied in our Region to
20 our nine Part 121 carriers, to two very large maintenance
21 providers and to the Air Methods CMT.

22 MR. SIZEMORE: Okay. Can you tell me, is there any
23 additional resource or additional funding or anything like that,
24 that would go along with that designation?

25 MR. PEARSON: There is in the context that as we look at

1 our resources and we look at our mission, and we look, for
2 example, at the 280 carriers, I'll just talk about air carriers
3 right now, plus the 9 Part 121 carriers we have, we're going to
4 distribute our energy, that would be our resources, to the
5 critical success, high consequence certificates in ample form so
6 that we've got surety, so that I'm convinced we have surety that
7 we're going to achieve our mission there. So there is in that
8 context.

9 MR. SIZEMORE: Okay. Thank you. Mr. Chairman, I think
10 that's all for now.

11 CHAIRMAN SUMWALT: Thank you, Mr. Sizemore. Air
12 Methods.

13 MR. YALE: Thank you, Mr. Chairman. I have a few
14 questions here. Mr. Pratte, you were previously asked if there
15 are HEMS specific training required by the regulations. Aren't
16 the HEMS operators also required to train to operational specific
17 training requirements?

18 MR. PRATTE: Specific to their operations.

19 MR. YALE: Okay.

20 MR. PRATTE: Their training program should outline their
21 operations, and they should train appropriately.

22 MR. YALE: And, Mr. Pearson, has the FAA evaluated the
23 CMO type structure for the large operators and sort of at what
24 level?

25 MR. PEARSON: Are you referring to the large HEMS CMTs?

1 MR. YALE: Yes. The idea of conversion to a CMO type
2 structure.

3 MR. PEARSON: No. In Northwest Mountain Region, we have
4 not done such an evaluation, nor am I aware of one that has been
5 done.

6 MR. YALE: Okay. Thank you. I'm really going to try
7 to, if I can, ask what obviously we've already been sort of asked
8 and somewhat answered but not answered if I can, because I want to
9 try to make a slightly different point and I would actually ask
10 the Chairman's indulgence for a second because you may need to
11 step into the answer on this.

12 CHAIRMAN SUMWALT: Thank you.

13 MR. YALE: One of the things that continues to confuse
14 us a little bit is this issue of how these have been categorized.
15 Now I understand from the slide that was just put up, that we've
16 now talked about how we're going to categorize for statistical
17 purposes a HEMS accident, but our concern is, is the -- there's
18 been this sort of statement that more of the accidents happened
19 under Part 91 than under Part 135. As an operator that operates
20 to the same standards, weather minimums, et cetera, in all legs
21 associated with something that would qualify by what the slide had
22 as a HEMS flight, is it possible that we have a confusion in the
23 way that we're characterizing this as sort of those legs which are
24 being operated under a lower standard? Am I making at least
25 clarify in what it is I'm trying to ask? And if I may, maybe a

1 little but farther. As a result of the MOU and the classification
2 then that's been used for statistical purposes as 91 or 135, we
3 believe that accidents that have happened that are classified as
4 91 actually are part of our 135 operation and our 135 flights.

5 MR. PRATTE: And I'm not going to get into the
6 classification of accidents. Again, that's the Board's
7 responsibility. So I'm not going to entertain questions on that.

8 MR. YALE: Okay. Well, if I can then, Mr. Chairman, has
9 at least the nature of my question helped to clarify what it is
10 that we're concerned about?

11 CHAIRMAN SUMWALT: I believe so and, of course, I will
12 say that they're here to talk about the FAA National Policy and
13 Regional Implementation, whereas the Safety Board is the official
14 census keeper of accident data. So I appreciate the question and
15 I think that we will look into that to make sure that we are
16 consistently classifying these accidents according to what flight
17 rules they're actually under. Thank you.

18 MR. YALE: Okay. And then one last question for Mr.
19 Pratte, if I may. I noticed you've said that HEMS operators are
20 regulated and they're on demand. Part 135 air carriers aren't --
21 I'm sorry, yeah. Aren't there HEMS specific operator
22 specifications contained in additional requirements for HEMS
23 industry?

24 MR. PRATTE: And again, regulations and op specs are
25 different. Op specs are rules of specific applicability to

1 specific operators on a specific issue. And so we do have op
2 specs that address certain situations for HEMS.

3 MR. YALE: Okay. And you had mentioned a little bit
4 earlier that medical or actually it had been mentioned the medical
5 crew not being employees of the operator. You had referred to
6 that as the difficulty in being able to deal with this. Again
7 just sort of making a statement to clarify fact, we've got issues
8 with the fact that it is not the operator's employees. We've got
9 issues with unions who we have no control over negotiation ability
10 with state rules that are beyond our ability because these are not
11 actual aviation crew members that we're talking about. You would
12 find it very difficult to impose duty time, rest cycle, drug
13 testing, et cetera, type of things on those employees. Is that
14 correct? Or those parties?

15 MR. PRATTE: yes.

16 MR. YALE: Thanks. No further questions.

17 CHAIRMAN SUMWALT: Thank you, Mr. Yale. CareFlite.

18 MR. DAUPHINAIS: Thank you. One of the -- Mr. Pratte,
19 I'm speaking to. One of the other changes or additions to A021
20 was consideration for IFR operations. Yesterday we had a
21 declarative statement from a sworn witness that IFR was not the
22 answer. Is it a valid intervention?

23 MR. PRATTE: I think there's benefits to IFR operations,
24 yes, but I think a VFR operation can be just as safe, provided you
25 assess all the risks and you mitigate the risks appropriately.

1 MR. DAUPHINAIS: And I don't agree with that. And I
2 guess this is for Mr. Pearson. You have multiple FSDOs and large
3 and small HEMS operators. I assume there's some difference in the
4 way you allocate the funds and the complexity of those operations.
5 You said that no one operator is more important than the other.
6 Can you discuss that just a little bit further?

7 MR. PEARSON: Well, let me put that latter portion of
8 your question into context. Of course, it starts with you
9 operators, and you do have the duty to operate at the highest
10 possible level of safety in the public interest. We in FAA do
11 sampling. We try to target our surveillance for those things that
12 are going to give us the biggest yield, and in the smaller
13 certificates, we do less of that than we do with the very large
14 certificate.

15 MR. DAUPHINAIS: Based on the need of the operator?

16 MR. PEARSON: Based on the needs of the FAA to obtain
17 information. Maybe we're saying the same but differently.

18 MR. DAUPHINAIS: Well, I'm not on your side of the
19 table.

20 MR. PEARSON: Yes.

21 MR. DAUPHINAIS: Give me one second please. We have no
22 further questions.

23 CHAIRMAN SUMWALT: Thank you, Mr. Dauphinais. And HAI.

24 MR. ZUCCARO: Thank you, Mr. Chairman. Mr. Pearson, you
25 indicated you had numerous field offices within your authority,

1 and I'm just wondering, how's the situation in terms of
2 standardization among the field offices and application and
3 interpretation of the regulations and what's your sense of that?

4 MR. PEARSON: Well, I don't think we're perfect. I'll
5 start with that, and I do think we're getting better. The Flight
6 Standards Information Management System, FSIMS which I believe is
7 available online, has moved us I think in a good direction, toward
8 more standardization. We have better protocols for how our
9 guidance is developed in Headquarters. We have training. We
10 train our people a great deal beyond just flight courses. We have
11 many media in the Region as well as nationally that are used to
12 communicate, to try to standardize our people, but our work is
13 complex. Your work is complex. We all know that and
14 unfortunately we aren't perfectly standardized. We do appreciate,
15 I know it sounds somewhat worn out, but we do appreciate it when
16 you tell us when we're not. We are probably not as far as you
17 want us to be when we are given that information in terms of
18 rectifying problems, but we are trying to get better at that
19 because it's important for all of us.

20 MR. ZUCCARO: Thank you for the answer. Mr. Pratte,
21 there's been conversation about A021 and I think we've established
22 that it appears that the operators, HEMS operators have to comply
23 with 135 standards and that through A021, the standards, in fact,
24 have been increased for that particular operation and it has
25 enhanced safety. And is it correct to say that you and your

1 office were the representatives of the FAA that were involved in
2 that process with the industry to bring about this enhancement of
3 safety in HEMS?

4 MR. PRATTE: Sure. Yes.

5 MR. ZUCCARO: Okay. You're familiar with the CAS (ph.)
6 system, that the airlines scheduled 121 operators --

7 MR. PRATTE: Yes.

8 MR. ZUCCARO: And that was a data-driven analysis,
9 safety initiative in which the FAA actively participated and the
10 results of that recently were noted that the airlines had two
11 years, the last two years without a fatality, within a scheduled
12 121 air carrier?

13 MR. PRATTE: Yes.

14 MR. ZUCCARO: Okay. And you were present for Chairman
15 Sumwalt's acknowledgement of that issue and that the fact that the
16 121 air carriers were performing at that level, and that some
17 lessons might be learned from their performance and the things
18 that they've done in scheduled air carrier service by the
19 helicopter community?

20 MR. PRATTE: Yes.

21 MR. ZUCCARO: Okay. What I'm leading up to is that
22 you're certainly intimate with the International Helicopter Safety
23 Team.

24 MR. PRATTE: Yes, I am.

25 MR. ZUCCARO: And that initiative was, in fact, started

1 three years ago and was an effort to take one of the lessons
2 learned by the 121 air carriers and apply it to the helicopter
3 community?

4 MR. PRATTE: Yes, it is.

5 MR. ZUCCARO: And the FAA has, in fact, committed
6 numerous resources so that we can take that lesson and try to
7 apply it and achieve the same level of success by reducing the
8 accident rate, and that is the sole mission of the initiative?

9 MR. PRATTE: That's correct. In fact, the FAA has added
10 to the Administrator's flight plan to support and has endorsed the
11 efforts of the IHST.

12 MR. ZUCCARO: Okay. Thank you. Those are all the
13 questions I have.

14 CHAIRMAN SUMWALT: Thank you, Mr. Zuccaro. We'll go for
15 a second round and PHPA.

16 MR. DUQUETTE: We have no further questions, Mr.
17 Chairman.

18 CHAIRMAN SUMWALT: Thank you, Mr. Duquette. AAMS.

19 MS. KINKADE: We have no further questions, Mr.
20 Chairman.

21 CHAIRMAN SUMWALT: You know what? I'm sitting here
22 looking at the tables and we've left out I apologize. We're still
23 in the first round. I'll turn now to --

24 MR. HARRIS: I'll make a deal with you. We'll let you
25 go through the follow-up rounds and I get 10 minutes.

1 CHAIRMAN SUMWALT: Would you like 10 minutes now? You
2 may have it.

3 MR. HARRIS: Well, at the end, after everybody else.
4 You've already started the follow-up round.

5 CHAIRMAN SUMWALT: All right.

6 MR. HARRIS: Let's continue that.

7 CHAIRMAN SUMWALT: So go through the follow up and we
8 can work it just as I said earlier, we're in the follow-up round
9 now. Thank you. AAMS.

10 MS. KINKADE: We have no further questions.

11 CHAIRMAN SUMWALT: Thank you. NEMSPA.

12 MR. SIZEMORE: Mr. Pratte, you indicated that about 94
13 percent of the operators have voluntarily embarked on much of the
14 technology and suggestions the NTSB had made. A little bit more
15 specifically on that risk assessment program, can you give me an
16 overview of how you feel that program is working?

17 MR. PRATTE: Well, since we adopted risk assessment
18 concepts back in I guess around 2005, more and more of the
19 operators have adopted a formal risk assessment program but Part
20 119 requires that the management personnel have some sort of
21 method of assessing risk and mitigating it, whether it be in a
22 formal risk assessment program or other means, and I think through
23 the accident numbers, over the past 5 years, there's been an
24 increased safety awareness in the operations that have driven down
25 the accidents. The trend is going down although we did have a

1 spike this past year, but over the past five years, the trend is
2 decreasing.

3 MR. SIZEMORE: Okay. And a follow-on question to that,
4 a little bit more specifically. Do you feel like voluntary
5 compliance is an acceptable means of accomplishing the ends that
6 are alluded to in those recommendations?

7 MR. PRATTE: Well, the formal risk assessment program,
8 again we've got 94 percent compliance. I think that shows a
9 process that works but again as far as risk assessment in its
10 entirety is concerned, the regulations do have a requirement that
11 risk is identified and mitigated in some form or fashion.

12 MR. SIZEMORE: Okay. Thank you. That's all the
13 questions we have.

14 CHAIRMAN SUMWALT: Thank you, Mr. Sizemore. Air
15 Methods.

16 MR. YALE: No additional questions, sir.

17 CHAIRMAN SUMWALT: CareFlite.

18 MR. DAUPHINAIS: Mr. Pratte, in light of the accidents
19 we've already had and I already asked you the IFR question, do you
20 believe the night vision goggles is a good intervention for CFIT,
21 VFR CFIT accidents?

22 MR. PRATTE: I think it's similar to the previous
23 answer. In certain circumstances, I believe that it will enhance
24 safety, but again it's a case-by-case, operator-by-operator basis.

25 MR. DAUPHINAIS: So there's no silver bullet?

1 MR. PRATTE: That's correct.

2 MR. DAUPHINAIS: All right. We heard testified
3 yesterday about the inability of the aircraft manufacturers to
4 process aircraft with the night vision goggle dashboards,
5 lighting, and all that stuff. Is there anything that your office,
6 and I realize your limited scope with in the FAA, that can help
7 change some of that process to streamline it?

8 MR. PRATTE: That's outside my duties and
9 responsibilities.

10 MR. DAUPHINAIS: Had to ask.

11 MR. PRATTE: All right.

12 MR. DAUPHINAIS: In light of the PHPA's question and
13 some of the other, we've kind of been talking about it. Currently
14 the airport improvement program does not allow use of funds for
15 private heliports and that's the only way we get into these
16 hospitals. Would the FAA support trying to change --

17 MR. PRATTE: I would say that's for the next person.

18 MR. DAUPHINAIS: Okay. I've got it. We have no further
19 questions.

20 MR. PRATTE: Thank you.

21 CHAIRMAN SUMWALT: Thank you. Mr. Zuccaro, does HAI
22 have a follow-up?

23 MR. ZUCCARO: No follow-up questions.

24 CHAIRMAN SUMWALT: Thank you. FAA, you have 10 minutes.
25 Thank you.

1 MR. HARRIS: The good new is, sir, I don't believe it's
2 going to take 10 minutes. Mr. Pratte, the Technical Panel
3 correctly noted that the FAA did not include all aspects of Part
4 135 in A021 for those portions of flight assignments in which
5 medical personnel were being carried, and certainly that is with
6 the recommendation A06012 was provided to the FAA from the Board
7 recommends. Why did the FAA focus on weather and flight planning
8 in the most recent revision of A021 and why was the focus so
9 heavily on weather on previous versions of A021?

10 MR. PRATTE: Well, looking at the accidents, that was
11 generally the cause of the accident, inadvertent IMC, loss of
12 control, CFIT, so forth. So what we did is we tried to identify
13 what was the most important parts of 135, what can we do to
14 improve upon the op spec and address the issue there. If you try
15 to incorporate all of 135, there's too many unintended
16 consequences with that, and it's not feasible to just adopt 135
17 for what used to be a Part 91 and I guess today is still a Part 91
18 leg.

19 MR. HARRIS: Thank you very much. And although the
20 Technical Panel did not ask, you issued or the FAA issued Notice
21 8900.63, validation of HEMS safety initiatives and one of those
22 requirements within the notice as I understand it was to query
23 principal operations inspectors to determine if their assigned
24 carriers were utilizing an operational control center which we
25 would equate to a formalized dispatch system very similar to that

1 required or recommended in NTSB Recommendation A06014. Do you
2 have any data on the level of adoption of operational control
3 centers?

4 MR. PRATTE: Right now 89 percent of the HEMS operators
5 are using some form of operational control center.

6 MR. HARRIS: And is it generally the consensus that the
7 cutoff point at which an operational control center might be
8 developed and used by a 135 HEMS operator is substantially driven
9 by the complexity of the operation size and the scope of the
10 operation? For example, in our operational control guidance, did
11 we require an operations control center for operational control?

12 MR. PRATTE: Well, an operational control center needs
13 to be scalable to the type of operation.

14 MR. HARRIS: Okay. Thank you very much. Mr. Pearson,
15 you were involved in the development of the study for staffing
16 standards for large HEMS operators. When was that initiated?

17 MR. PEARSON: I began that with the workgroup at the end
18 of calendar year '05.

19 MR. HARRIS: And how was that directed? Was that
20 something that you decided to do on your own or was there higher
21 direction?

22 MR. PEARSON: I suggested that the workgroup be put
23 together and Mr. Allen, Deputy Director of Flight Standards at the
24 time, thought it was a good idea, and he told me to go forth and
25 to keep him informed.

1 MR. HARRIS: Very good. Thank you, sir. Could you
2 describe the process of that effort, again the amount of time,
3 relatively general detail?

4 MR. PEARSON: Certainly. It was a workgroup comprised
5 of approximately 20 people, people from Headquarters that were
6 developing guidance for HEMS operations. We had some AEG,
7 aircraft evaluation group talent from Southwest Region. That's
8 our helicopter aircraft evaluation group down there. They had a
9 lot of expertise, and also line inspectors that had experience in
10 HEMS operations and were also principal inspectors or had been.
11 As I mentioned, it numbered about 20. I believe I said that. We
12 had several telecons. We looked at data. We finally met in Fort
13 Worth and ultimately we arrived at staffing values for the CMTs
14 based largely on the expertise of the line inspectors in terms of
15 what they said that they needed. We actually came up with two
16 tiers of staffing for the large HEMS operators. Remember, there
17 were eight back in '06 when we finished the study.

18 The larger of the group were to get 11 inspectors. The
19 smaller of the large were to get six. Because of staffing
20 constraints, we reduced that by 30 percent, and consequently the
21 large ones at the time ended up with 8 dedicated inspectors, the
22 smaller ones ended up with 4 dedicated inspectors.

23 Now there's some things here that happened that really
24 were pretty unique at the time. I'm using the word dedicated
25 inspectors. In other words, this is the only certificate those

1 inspectors were going to work. That was part of the concept. We
2 also realized that we needed to pay the principal inspectors more
3 money if we were going to get the quality of inspector with the
4 experience that we needed to do a good job at this, and also to
5 keep stability in those CMTs and not have principal inspectors
6 that were rotating through frequently. So we promoted the
7 principal inspectors to what we call the FG-14 grade.

8 The last thing that we did, and this was more in the
9 area of risk management and associated with system safety, is we
10 decided that these particular CMTs needed to be able to apply
11 their expertise as they interpreted risk and so we let them
12 operate under what we call the SEP program and Mr. Prater referred
13 to that. That's the Surveillance and Evaluation Program. It's a
14 system safety based program. It's structured. It has tools. Our
15 automation system produces safety reports to support the
16 inspectors that use it, but it gave the line inspectors, the CMTs,
17 the maximum latitude to target resources where they thought they
18 needed to be targeted. So in a nutshell, that's what the project
19 amounted to.

20 It's been refreshed, that is the operators have been
21 refreshed. We now have a new entrant into the large category. It
22 happens to be Med Trans. We've also adjusted the staffing,
23 depending on the dynamics that are occurring in the industry. For
24 example, Air Methods in '06, at the CMT level, had a designated
25 staffing of eight. Because of the very rapid growth that occurred

1 at Air Methods, the inspectors at Denver recommended 25 positions
2 total and we were able to get that authorized staffing. So that's
3 the context of how we approached this particular project.

4 MR. HARRIS: And in a dynamic industry like this one, in
5 order to provide adequate FAA oversight, you have to have that
6 kind of a feedback loop, don't you, where you can continuously
7 evaluate the requirements?

8 MR. PEARSON: No doubt.

9 MR. HARRIS: Thank you very much. Thank you,
10 Mr. Chairman.

11 CHAIRMAN SUMWALT: Thank you, Mr. Harris. Technical
12 Panel.

13 MR. GUZZETTI: The Technical Panel has no further
14 questions.

15 CHAIRMAN SUMWALT: Thank you. Turning to the Board of
16 Inquiry, and Mr. Haueter.

17 BOARD OF INQUIRY QUESTIONS

18 MR. HAUETER: Mr. Pratte, you mentioned the fatigue
19 study. Do you have any idea when that might be completed?

20 MR. PRATTE: I don't have a timeline on that, no.

21 MR. HAUETER: Do you know whether it will include the
22 various aspects of pilot fatigue in terms of long range flight
23 versus HEMS type flights or how that will be put together?

24 MR. PRATTE: It's my understanding they're looking at
25 all aspects of fatigue, but we have a separate group that's doing

1 that. I'm not specifically involved in that study.

2 MR. HAUETER: Okay. Then you mentioned that if there
3 were paramedics or nurses on board who were not employees of the
4 company, they are, in fact, passengers. Is that what you said?

5 MR. PRATTE: It depends on the situation. If they're
6 assigned duties, they could be a crew member. If they're not, and
7 they're not employees of the company, then likely it would be a
8 135 operation, but there's other circumstances as well. You'd
9 have to look at it with all the information.

10 MR. HAUETER: I guess that's what I was getting at. If
11 they don't have a duty at the time, taking care of a passenger,
12 and they're a passenger, wouldn't that be a 135?

13 MR. PRATTE: I think there's a compensation component
14 they have to look at as well. If there's compensation being
15 received for that particular leg, then possibly it would be a 135
16 leg.

17 MR. HAUETER: But I guess why isn't there compensation
18 received for all the flight legs, I mean if you're coming back
19 from dropping off a passenger or a patient or going to get one,
20 that's part of the same mission. So wouldn't that count as being
21 compensated for?

22 MR. PRATTE: One moment please. I think we'll work with
23 the Board on that, and we'll have our General Counsel's office
24 provide some interpretations.

25 MR. HAUETER: Okay. What about in cases where the

1 operator's receiving a flat monthly rate? Wouldn't all those
2 operations be then 135?

3 MR. PRATTE: I guess -- again, there's too many issues
4 involved there. I mean if the flight is cancelled and they don't
5 receive compensation for the flight, then it could be a Part 91
6 flight. Again, I'll defer to our General Counsel's office for any
7 sort of legal interpretations determining whether it's a 135 or 91
8 flight.

9 MR. HAUETER: Okay. We look forward to receiving that.
10 Thank you.

11 CHAIRMAN SUMWALT: Thank you, Mr. Haueter. Dr.
12 Ellingstad.

13 DR. ELLINGSTAD: Thank you. I'd just like to probe a
14 little bit on some of the issues that I think Mr. Yale raised.
15 Mr. Pratte, are you familiar with Part 136 which I believe is
16 titled Commercial Air Tours and National Park Air Tour Management?

17 MR. PRATTE: Yes.

18 DR. ELLINGSTAD: And why was it created?

19 MR. PRATTE: To provide additional requirements for the
20 air tour industry, for those operators that are considered
21 commercial air tour operators.

22 DR. ELLINGSTAD: And this again is a part of the
23 industry that had been involved with flying both under 135 and
24 Part 91 and perhaps even some 121. Is that correct?

25 MR. PRATTE: That's correct.

1 DR. ELLINGSTAD: Do you see advantages in terms of sort
2 of cleaning up some of the confusions in terms of taking that kind
3 of an approach?

4 MR. PRATTE: It really depends on the complexity of the
5 changes. In some instances, we can incorporate changes in the
6 current regulatory structure. Other times we create appendices or
7 we create whole new parts.

8 DR. ELLINGSTAD: Has 136 been an effective and a
9 reasonable approach to that segment of the industry?

10 MR. PRATTE: In certain situations.

11 DR. ELLINGSTAD: Has it failed in others?

12 MR. PRATTE: It's probably too new to evaluate.

13 DR. ELLINGSTAD: That's always a good answer. What I'm
14 trying to get at, has the FAA considered that as an approach to
15 addressing this very unique segment of a commercial flying
16 operation, and is it considering that as a reasonable and a
17 responsible alternative?

18 MR. PRATTE: Well, I can say that the FAA is seriously
19 considering rulemaking efforts that are consistent with many of
20 the changes you've seen over the past year as well as consistent
21 with many of the Board's recommendations. However, where it's
22 most appropriate to place any possible rulemaking initiatives,
23 that's still to come, to be determined.

24 DR. ELLINGSTAD: Okay. Thank you. I guess that's as
25 explicit a response as I'm going to get. You have a good career

1 in diplomacy.

2 CHAIRMAN SUMWALT: Thank you, Dr. Ellingstad. Dr.
3 Mayer.

4 DR. MAYER: I don't have any questions.

5 CHAIRMAN SUMWALT: Ms. Ward.

6 MS. WARD: Yes, I do. I would like to bring up Exhibit
7 12(p). Mr. Pratte, you had said that you didn't consider that the
8 HEMS operations to be any different than any of the other Part 135
9 on-demand carrier operations. Could we go to page 3? Thank you.
10 This is a chart, I think that works right there, that the FAA has
11 developed, and I think you guys entered this as an exhibit for our
12 hearing. It may have been referred to in one of the presentations
13 very loosey on the first day. Could you just kind of talk us
14 through it, the very top one? Are you able to see it?

15 MR. PRATTE: Okay.

16 MS. WARD: I'll help you.

17 MR. PRATTE: Yeah, it's kind of hard to see from here.

18 MS. WARD: You mentioned that the accident rates went
19 down I think in '07 but then they spiked up again. Looking at
20 this chart, the way I interpret it, and you can correct me if I'm
21 wrong, is it looks like the HEMS fatal accident rate is higher
22 than the rotorcraft fatal rate total and also above the Part 135
23 rotorcraft fail rate.

24 MR. PRATTE: In that small timeframe, and I think most
25 statisticians will tell you that you can't judge the trend with

1 one year's data. You have to look at the entire spectrum there of
2 '04 to '08, and just as we don't take credit for the one year of
3 fatal accident free operations, in '07, and because we haven't
4 been able to clearly identify what caused the accidents in '08, we
5 think that our safety initiatives over the long run are having a
6 positive effect.

7 MS. WARD: I agree. The safety initiatives are
8 improving but I was looking at the 135 part. Does it look like to
9 you that the 135 accidents overall are lower than those for HEMS?

10 MR. PRATTE: It appears that, and I believe the dashed
11 line are projected rates. They are not confirmed rates because
12 the data, it take a little bit of time to get the data in through
13 the GA survey. So those are projected numbers. Those aren't
14 confirmed numbers. So until I have that, I really can't comment
15 on it.

16 MS. WARD: Okay. We've been talking about the op specs,
17 A021 and then also this particular exhibit which I think is Notice
18 8900.56, once again you stated that Part 135 operations were all
19 the same. How many of the Part 135 operations utilize night
20 vision goggles?

21 MR. PRATTE: I believe we're at 30 percent.

22 MS. WARD: What is that percentage as far as HEMS?

23 MR. PRATTE: I'm sorry. Let me clarify that. I believe
24 it's 30 percent for the HEMS operators with night vision goggle
25 technology.

1 MS. WARD: But of the other carriers, of Part 135
2 carriers, does anybody else use night vision goggles?

3 MR. PRATTE: Not that I'm aware of.

4 MS. WARD: How many of the other 135 carriers are doing
5 risk assessments?

6 MR. PRATTE: Well, having a formal risk assessment
7 program, we haven't sampled. So I couldn't give you an exact
8 number but as I stated earlier, Part 119 requires that there be
9 some sort of method of identifying and mitigating risks. The
10 required management personnel have to be able to judge and
11 determine that their operations are safe, and in order to do that,
12 you have to have some sort of risk assessment or risk
13 identification and mitigation program.

14 MS. WARD: How many of the other Part 135 operations
15 have different weather minimums?

16 MR. PRATTE: I have to take some time to think about it.
17 135 is so diverse, there's so many unique operations in 135, that
18 I'd have to look at it and give you an answer at a later time.

19 MS. WARD: Okay. Last question is how many of the other
20 Part 135 operators have to worry about obstacle avoidance that's
21 specifically written in?

22 MR. PRATTE: Well, I think all operators have to worry
23 about obstacle avoidance. There's a preflight planning
24 requirement in just Part 91 in general aviation, that it's not
25 specific to 135 or 121 or 91. It says all pilots have to know

1 everything about their flight and operate in a safe manner.

2 MS. WARD: I agree. It goes back to basic airmanship.

3 MR. PRATTE: Correct.

4 MS. WARD: Thank you.

5 CHAIRMAN SUMWALT: Thank you, Ms. Ward. I think this
6 Panel has given us a greater insight into the FAA processes, and I
7 look very much forward to our final Panel this morning. I have no
8 questions. Let's reconvene at 11:30.

9 (Off the record.)

10 (On the record.)

11 CHAIRMAN SUMWALT: We will reconvene. Our final Panel
12 looks lonely over there but our final Panel is on FAA Aviation
13 Safety Policy, and we will discuss issues such as FAA efforts on
14 HEMS safety, the rulemaking process, future plans and policy
15 related to public use aircraft.

16 Ms. Ward, would you please place under oath and qualify
17 our witness?

18 MS. WARD: Thank you, Mr. Chairman. Could the witness
19 please rise? Raise your right hand.

20 (Witnesses sworn.)

21 MS. WARD: Thank you. Mr. Allen, could you please state
22 your full name, your title and the organization that you work for.

23 MR. ALLEN: My name is John Allen, and I'm the Director
24 of the FAA Flight Standards Service.

25 MS. WARD: Thank you. Mr. Chairman, this witness has

1 been qualified.

2 CHAIRMAN SUMWALT: Thank you, Ms. Ward. And
3 Mr. Guzzetti will be leading this Panel and I don't know, you've
4 got that microphone, there you go. We're all deaf in here. So --
5 Thank you.

6 TECHNICAL PANEL QUESTIONS

7 MR. GUZZETTI: Thank you, Mr. Chairman. The Tech Panel
8 remains the same as the last one. So I'll dispense with the
9 introductions on the first row here.

10 Mr. Allen, thank you for joining us this morning.
11 You're the final witness, and your biography that was in the
12 handouts and in the exhibits was given short -- in our hearing
13 materials, and that was my fault. I was so busy prepping for
14 this, I didn't get it in, in time. So can you please give us a
15 very short biography of your flight experience and your education
16 and how long you've been with the FAA?

17 MR. ALLEN: Thank you, Mr. Guzzetti, and I don't stand
18 on pretense. So that's okay. I started over 30 years ago, a
19 bachelor's degree in computer and informational sciences from the
20 University of Florida, Go Gators, and then after that, I entered
21 the Air Force. I was an instructor with the Air Force, in
22 undergraduate pilot training for 3 years, and then went to C141s
23 and proud to say I had 20 straight years of flying the same 141
24 over 4800 hours and some of it flying air evac missions worldwide.
25 Seventeen years ago, I joined the FAA as an aviation safety

1 inspector, operations, working on programs such as the advanced
2 qualification program, inserting human factors into training and
3 looking at scenario-based training and checking. And then from
4 there, I moved onto the Assistant Division Manager, for
5 certification standardization and surveillance division, AFS900,
6 and then about eight years ago, a little over eight years ago, I
7 became the Deputy Director of Flight Standards Service and enjoyed
8 that position until just recently.

9 Along the way, I received master's degree in
10 aeronautical technology from Arizona State University and I'm
11 still involved with the military and also still flying the
12 Citation XL out in National Airport, stay abreast of the NAS.

13 MR. GUZZETTI: Okay. Thank you. In the position you
14 have now, you are the Director of the FAA's Flight Standards
15 Service. Is that correct?

16 MR. ALLEN: That's correct.

17 MR. GUZZETTI: What does that entail? What's your
18 oversight entail in terms of the FAA's inspector force? How many
19 inspectors? How many offices?

20 MR. ALLEN: Well, we have over 108. When I say 108,
21 there's many offices but actually field offices and whatnot,
22 there's over 108, actually worldwide. We have some
23 internationally. As far as inspectors, over 3600 inspectors, over
24 4800 personnel within the Flight Standards Service. We're
25 responsible for the certification, the surveillance, certificate

1 management, and also starting the enforcement in relation to civil
2 operations.

3 MR. GUZZETTI: Okay. And you're basically in charge of
4 all of that activity that you just mentioned.

5 MR. ALLEN: That's correct.

6 MR. GUZZETTI: Before I get into specific questions in
7 the specific areas that you've been called to testify on, can you
8 please provide an overview, from your perspective, of the FAA's
9 efforts in regards to the recent spate of HEMS accidents that's
10 prompted the Safety Board to hold this hearing, as well as the
11 FAA's past, present and future efforts to improve HEMS safety.

12 MR. ALLEN: Thank you, Mr. Guzzetti. I appreciate this
13 opportunity. Thank you so very much for focusing attention on
14 medical transport using helicopters. I appreciate the opportunity
15 to testify before you, Mr. Chairman, and also before the Board of
16 Inquiry. Before I continue though, I must say publicly that as
17 the FAA's lead official for Flight Safety Standards and a veteran
18 pilot, with more than 4800 hours, I am first and foremost
19 concerned with the human toll that aviation accidents leave in
20 their wake. My heart goes out to the families whose lives have
21 been touched by these tragedies. The accidents and fatalities
22 that bring us here today are no abstract numbers on a chart or a
23 trend line. These are people in great distress who rely on the
24 pilots, emergency service providers and the FAA for safety
25 enhancements to save lives. From where I stand, even one accident

1 is one too many. Our goal, as always, is safe flight. With that
2 said, you have my firm commitment that we are taking steps to
3 enhance the safety of emergency transportation services.

4 To put this context in issue, there are more than 830
5 air medical transportation helicopters in service. The vast
6 majority of these helicopter operators are overwhelmingly safe.
7 Indeed, there is a lengthy list of those who not only have
8 experienced a fatality during medical transport, but they also
9 have an unblemished accident record, flying for years without a
10 single accident. The bottom line is that we are working with the
11 NTSB to close the loop on an industry that is safe but not as safe
12 as it could be.

13 Mr. Chairman, we share your concerns and are working
14 diligently to enhance the level of safety. As you know, these
15 operations take place in critical environments and as such are
16 dependent on the pilot's judgment at all times especially when
17 weather or other conditions put flight delay or cancellation on
18 the table.

19 In my 30 years of experience in aviation, the first rule
20 never changes. The pilot-in-command makes the call on go or no
21 go. That's the linchpin of a safe system. The pilot must have
22 the fortitude to postpone a flight when necessary, and I think you
23 know this, sir, that there's an aviation adage that bears
24 repeating. There are old pilots and there are bold pilots but
25 there are no old bold pilots. To me, bold pilots are those who

1 routinely take unnecessary risks, who become complacent or worse,
2 cavalier or who fly impaired by a fatigue or illness. By that
3 same token, the operator must create a safety culture, an
4 environment that promotes and supports the safety decisions and
5 good judgment exercised by the pilots.

6 The accident numbers show that we must intensify our
7 efforts. As a result of a FAA industry task force created in
8 2004, several air medical transport safety initiatives were put in
9 place. Because of these safety initiatives, the period from 2004
10 through 2007, showed a drastic reduction in helicopter air medical
11 transport fatal accidents.

12 Therefore, the FAA did not pursue any new regulations in
13 this area. We believe the existing regulatory structure is safe.
14 The numbers prove it. However, the upper trend in 2008 has
15 prompted a more aggressive response to this problem. It is
16 important to remember that rulemaking is but one tool we use to
17 advance safety. We have also used other tools of voluntary
18 acceptance. We have chartered a new taskforce with industry to
19 create and implement safety initiatives designed to mitigate
20 hazards and medical transport. We brought together the
21 association of air medical services, HAI, the National EMS Pilot
22 Association and industry operators to set the stage for the
23 implementation of several additional safety programs.

24 Recently, we revised operations specifications with the
25 HEMS community, support to the increased use of weather minimums.

1 We asked for advice on the appropriate guidance for the use of
2 night vision goggles as this technology evolves. Industry and
3 Government agreed that both of these were the right approach.
4 We also set a typical standard order in place for terrain
5 awareness technology for helicopters, HTAWS. We've provided
6 incentives for operators to be equipped for night vision goggles
7 and the terrain awareness technology.

8 In closing, I must emphasize that technology alone does
9 not and cannot solve the problem. As you know, we routinely seek
10 voluntary compliance on safety advances while we are considering
11 rulemaking as a dual prong approach to safety enhancement, but all
12 of this is hinged on the establishment of a safety culture. A
13 safety culture is the indispensable context for enabling
14 technology.

15 When a management team establishes a corporate culture
16 that supports the decision making skills of the pilots and treats
17 each flight as a safe passenger transportation and not as an
18 emergency evacuation mission, the risk of an accident is reduced
19 dramatically. This is the example we need to hold up to the
20 entire industry. Plainly, this is a call for leadership from the
21 pilot, from the medical industry, from the operators and from the
22 FAA. You have my commitment to lead by example. Thank you, and
23 this is the only prepared text that I'll give. The rest of it
24 will be impromptu and thank you for indulging me.

25 CHAIRMAN SUMWALT: General Allen, I'd like to, since you

1 addressed me, I would like to thank you for being here and for
2 your personal commitment as well as that of the FAA, and it was an
3 opening statement and as we said in the prehearing conference last
4 week, we had three opening statements at the beginning and for the
5 most part, the remainder of the witnesses would not provide
6 opening statements. However, as I did say at the prehearing
7 conference, since the FAA is the regulator, at their request, I
8 did grant them the ability and permission to conduct an opening
9 statement and I appreciate your coming and delivering that. And
10 I've always been amazed that those who have the greatest to brag
11 about have the shortest bios, and you can look at my bio, and I
12 think I've got like three pages or something, and then I look at
13 yours, and there's three sentences. But I guess really when it
14 ends with he is a brigadier general in the Air Force Reserve, you
15 don't need to say a lot more than that.

16 MR. ALLEN: Thank you, sir. I appreciate that.

17 CHAIRMAN SUMWALT: Thank you. And we do have an error,
18 and it says he is in charge of 3400 FAA inspectors. Well, in the
19 one I'm looking at, is that correct? 3400 FAA inspectors across
20 the country?

21 MR. ALLEN: I'd say it's more than that, sir. It's
22 closer to probably 3600 but then obviously FAA professionals
23 really incorporate over 4800 because I view not only inspectors
24 but all the other folks working for us.

25 CHAIRMAN SUMWALT: Right. Thanks for that

1 clarification. Mr. Guzzetti, I turn it back over to you. Thank
2 you.

3 MS. WARD: For the record, can we have the statement be
4 provided to us so we can enter it as an exhibit?

5 MR. ALLEN: It's fine by me.

6 MR. GUZZETTI: I have no problem with that.

7 CHAIRMAN SUMWALT: And it certainly will be made part of
8 the record by virtue of the fact that the Court Reporter is
9 transcribing it.

10 MS. WARD: Right. It will be in the transcript but I
11 think we should also have it an exhibit.

12 CHAIRMAN SUMWALT: Thank you very much.

13 MS. WARD: It will be Exhibit 12(r).

14 (Whereupon, the document referred to
15 as FAA Aviation Safety Policy
16 Exhibit 12(r) was marked for
17 identification.)

18 CHAIRMAN SUMWALT: Exhibit 12(r), that will be accepted.
19 Thank you.

20 MS. WARD: Thank you.

21 (Whereupon, the document referred to
22 as FAA Aviation Safety Policy
23 Exhibit 12(r) was received into
24 evidence.)

25 MR. GUZZETTI: Thank you. Mr. Allen, I think you and I

1 spoke and I'm going to address you as Mr. Allen rather than
2 General Allen.

3 MR. ALLEN: That's fine. Thank you. I appreciate that.

4 MR. GUZZETTI: I'd like to get into some specifics of
5 the issues and some of the testimony that was given. The first
6 aspect is, there's been lots of testimony. Several witnesses over
7 the past few days, testified that they believed the low level
8 airspace structure is not conducive to HEMS operations and that
9 ADSB would help significantly. Can you comment on these views
10 about the low level structure and how helicopters operate and
11 provide us a status of the FAA's efforts to implement ADSB?

12 MR. ALLEN: Yes. I believe that we're making great
13 strides, of ADSB in particularly, starting with the Capstone
14 Program in Alaska and also demonstrating it in South Florida,
15 we've found to be a very valuable tool for mitigating conflicts in
16 the national airspace system. We have also done quite a bit in
17 the Gulf of Mexico region, providing infrastructure on the
18 platforms to provide 100 percent coverage for surveillance and
19 also for communication dramatically increasing the safe operation
20 for helicopter operations in the Gulf of Mexico area. And, our
21 plans are to expand it nationwide. I believe the goal is around
22 2013 which I think when you're making a major infrastructural
23 change, that's quite a substantive change and one that deserves a
24 lot of commitment and a lot of resources.

25 So we have a lot of faith that that will dramatically

1 increase the safety for operations. I know that we have also
2 funded operations in the Dallas/Fort Worth area I believe for
3 CareFlite in terms of grants for developing approaches, the
4 special approaches into hospitals and whatnot. And so we do think
5 it's a very, very important focus for us to develop that
6 infrastructure for safe navigation for the helicopter community.

7 MR. GUZZETTI: Okay. Thank you. There has also been
8 testimony regarding the lack of adequate an accurate flight hour
9 and operational data for the HEMS industry. As you know,
10 currently the FAA survey is the only means to gather data for non-
11 scheduled Part 135 operations and general aviation, while Part 91
12 and Scheduled 135 enjoy requirements for reporting. So it's
13 pretty firm to get a rate on those. Why doesn't the FAA require
14 reporting for the HEMS industry specifically is the specific
15 question?

16 MR. ALLEN: It gets problematic. When we embark on
17 rulemaking efforts and whatnot, there's several folks that we have
18 to answer to and to buy in their confidence and agreement, and it
19 is usually historically been a problem but where we try to acquire
20 data from a community, it gets to be a problem of our success in
21 getting that through as a requirement.

22 I must say though that it might be something because we
23 are always working towards acquiring information that relates to
24 direct safety issues. There are other offices within the
25 Department of Transportation that this type of function might be

1 better placed such as possibly the Bureau of Transportation
2 Statistics, for an example.

3 I've got to also say that with my inspectors, to borrow
4 a term from caveman and cavewoman days that I want them to be more
5 hunters than gatherers. So I'd rather them to be more hunters for
6 risk and hazards than gatherers of data, and so it's a problem. I
7 understand the frustration of not having that data but I like to
8 think that as we move forward, toward SMS and whatnot, then we
9 become more data guided and have more information based on data,
10 that we'll get to that point.

11 MR. GUZZETTI: Okay. A quick question regarding your
12 3600 inspectors, and I know not all of those are ops inspectors.
13 I think that's divided up into operations, maintenance and
14 avionics.

15 MR. ALLEN: Maintenance and avionics.

16 MR. GUZZETTI: Do you believe that there's enough
17 operators inspectors in the FAA to conduct adequate surveillance
18 of HEMS operations?

19 MR. ALLEN: Yes, I do. Now if I was offered more, would
20 I take them? Yes, I would, but I've got to tell you, as evidenced
21 by the Panel preceding me, I'm very proud, very proud of the
22 inspectors that we have and all of the safety professionals in the
23 FAA. They're very compassionate, they're very passionate folks
24 who work diligently at night, on weekends, in the weather for
25 safety. And we hopefully give them the tools to be as efficient

1 as they can, but our work is defined not on number of aircraft or
2 number of pilots or maintenance folks, it's based on change, and
3 this industry is going through rapid change. So to say I have
4 enough now, yes, I think that the rates and the oversight show
5 that, but all industries are going through rapid change and for me
6 to address the safety issues of the future, it would always be
7 nice to have more inspectors and more safety professionals.

8 MR. GUZZETTI: Thank you. The next series of questions
9 is going to address kind of a unique niche within HEMS but it's
10 also a very hot button issue now, and I'm not going to bring up
11 the exhibit on the display, but Exhibit 12(1), which is FAA Notice
12 8900.1, which addresses public flights, on the first session of
13 this hearing, in day one, we discussed various EMS models, one of
14 which was public aircraft. There's several operators like Fairfax
15 County, Miami-Dade County, the Maryland State Police, that are
16 funded by the Government and operated by the state or a county.
17 For public aircraft operations, can the operator employ standards
18 that are far more restrictive and conservative than the basic
19 standards of Part 135?

20 MR. ALLEN: Yes, they can and actually because they're
21 public, they can also put into place different standards. Some
22 might consider to be less standards but as I understand public
23 operators, they operate for the benefit of their constituency
24 under different circumstances possibly, and so therefore are not
25 constrained by full civil requirements. They could put in place

1 requirements that are different than what we normally require in
2 civil regulations.

3 MR. GUZZETTI: Okay. Well, then it's also possible that
4 -- well, I guess before I ask that question, do public aircraft
5 operators hold a Part 135 FAA operating certificate?

6 MR. ALLEN: Strict public aircraft, no, they don't.

7 MR. GUZZETTI: And so that would mean that there is no,
8 in those case, there is no FAA surveillance as defined by a work
9 program with required items of inspection?

10 MR. ALLEN: That's correct. And it's important because
11 I staff, train and budget to do my inherent Government
12 responsibility of oversight of civil aircraft, civil operators,
13 and it's important to define which is public and which is civil
14 because it's important for those other sponsoring government
15 agencies to staff, budget and train to uphold their
16 responsibilities of safety oversight of their public aircraft.
17 It's important to delineate which are public and which are civil
18 so that we can each uphold our responsibilities accordingly.

19 If I were expected to look in other areas such as those
20 might be defined public, I would be doing a disservice because I'd
21 be stretching my resources too thin and not doing my
22 responsibility with civil operators.

23 MR. GUZZETTI: Well, then it's possible then, in fact,
24 probable, that a peer public aircraft operation may never undergo
25 any surveillance activity by the FAA because it's outside of the

1 FAA's purview.

2 MR. ALLEN: That's correct. But, you know, we are not a
3 community of safety professionals to ourselves. I mean we do talk
4 with one another. We do talk to other state agencies. Our
5 inspectors are out there, and if they see something that looks to
6 be unsafe, or we have a lot of other competitors who are
7 commercial of nature who are concerned. We do talk and we then do
8 provide information to state agencies if there's something that
9 we're concerned about but we don't have the responsibility of
10 doing the oversight of a public operator, that's true.

11 MR. GUZZETTI: Well, some of the confusion comes into
12 play because I believe that the Exhibit 12(1), it specifically
13 stipulates that EMS is not an inherently governmental function
14 because it can be conducted by other commercial activities. Yet,
15 there are some EMS helicopter operators that are purely operated
16 by the state or the county that the FAA seems to acknowledge as a
17 public operation and therefore gets no FAA surveillance. Can you
18 articulate the conflict there?

19 MR. ALLEN: Well, I'm not sure I'd classify it as a
20 conflict because Congress has set forth statutory language to
21 define what is civil and what is public. Granted I know that
22 there is a lot of energy about it as far as interpretation of any
23 statute of law, and especially this one. So therefore when an
24 issue is brought up to us, as to whether an operation is civil or
25 public, then we have to look at in with counsel to determine some

1 key things, not least of which is compensation or hire, and that
2 would maybe depend -- it might direct us as to whether it's civil
3 or whether it's public, but we don't do it alone. We're not
4 qualified to do that because there are so many different varies
5 and so many nuances to how a flight could be construed as civil or
6 public. Then it does take coordination between ourselves and with
7 counsel to determine which category it would fall into.

8 MR. GUZZETTI: So you're saying that each case would
9 have to be evaluated on a case-by-case basis.

10 MR. ALLEN: Yes, sir.

11 MR. GUZZETTI: Okay. The next issue I'd like to get
12 into is the issue of our previous NTSB recommendations, and I'm
13 not going to go into them specifically like I did with Mr. Dennis
14 Pratte, but again, Exhibit 12(o) has the NTSB's latest response to
15 the FAA's response to the four safety recommendations. Three out
16 of the four recommendations are currently classified as open,
17 unacceptable response, generally because the FAA in the Board's
18 opinion has not yet required things like terrain avoidance warning
19 systems, operating all legs under 135 and the flight risk
20 assessment. Can you comment on why you haven't required these
21 things yet and the challenges you face in rulemaking or op specs
22 to get them required?

23 MR. ALLEN: I can understand the frustration, and it's a
24 common frustration with the rulemaking process that folks feel
25 it's too long. Unfortunately I slept through my high school

1 civics class to understand it until I came here and I can fully
2 appreciate the complexities and the good government that takes
3 place when you do judicious rulemaking. When we do rulemaking, as
4 set forth by Congress and empowered by us by the Executive Branch,
5 it's a very deliberative process. We have to perfectly scope the
6 rule and we have to make sure that it incorporates all of the
7 requirements that we feel is necessary but then we have a
8 responsibility to go out to the public and to make sure that all
9 the public are heard, that all stakeholders are heard. As much as
10 you might think one rule might be a slam dunk, that everybody
11 would go for it, there's always somebody who has a different
12 opinion, and that's the great nature of this country where we let
13 everybody be heard. I myself have conducted personal public
14 hearings to make sure we acquire all the information, all the
15 perspective of all the folks.

16 We also do a rigorous analysis, analysis to understand
17 the impact on safety, also the impact on industry and the impact
18 on the public. I think it's good government to do so, but to do
19 that, takes a bit of time. Usually about two years on average but
20 it could stretch on longer depending on the rule in terms of how
21 much comments might be made. It could be thousands of comments.
22 So it's a very deliberative and judicious process because we don't
23 want to enable unintended consequences.

24 And so therefore it is a deliberative process but it's
25 good government and you don't want government reacting too quickly

1 so that we make sure that everybody is heard. And so therefore, I
2 know it's frustrating and that's why we use a two-pronged approach
3 as I mentioned in my opening statements, that we rely very heavily
4 on voluntary measures to do two things. One, to promote safety
5 before we could possibly get a regulation out and as well we get a
6 lot of data and a lot of information and actually prime the pump
7 by having industry try out things and start down that path of
8 setting in their infrastructure and their business models so when
9 the regulation comes forward, then it's not as intrusive and not
10 as difficult on them.

11 And so it's better instead of using a stick to beat them
12 over the head for a regulation, is to bring them into it and to
13 provide the carrots that's necessary for good safety leadership.

14 MR. GUZZETTI: Okay. I suspect that part of what you
15 said might be utilized for the next couple of questions.

16 MR. ALLEN: I was hoping that.

17 MR. GUZZETTI: The Board in it's 2005 study did not make
18 a recommendation to the FAA regarding requirements for HEMS
19 operators to utilize night vision goggles.

20 MR. ALLEN: Uh-huh.

21 MR. GUZZETTI: But that was then. Given the testimony
22 that we've heard here, what is your view about the required use of
23 night vision goggles in HEMS?

24 MR. ALLEN: It's just like all technology. When we
25 scope it out and we look at it, I know we've already authorized

1 the development as well as the use of night vision goggles and
2 they provide a significant safety benefit. As previously
3 testified to, it depends on the operator. It depends on the
4 operation. It depends on the training, very, very important and
5 the address of human factors to the use of that technology, and so
6 we have to be very careful on the broad application of a
7 technology and how we can apply it. I would be very much in favor
8 of addressing night vision goggles intelligently and carefully in
9 terms of a possible rulemaking project, but it's something that we
10 would be very interested in.

11 MR. GUZZETTI: Same question in regards to flight
12 recorders. Technology is now advanced to have cheaper, lighter
13 flight recorders. The Safety Board recently came out with
14 recommendations based from the Phoenix mid-air collision Board
15 meeting last week. We had long standing NTSB recommendations for
16 flight recorders. I think we can agree that they do help solve
17 accidents. What are your thoughts on why the FAA hasn't yet
18 required these?

19 MR. ALLEN: Again, if you require them, you always get a
20 little pushback because they're expensive or had been expensive
21 previously. But like we've seen, technology is improving, and so
22 it's a moving target and I think that we have a really excellent
23 opportunity here to address this new technology that is of lighter
24 weight. In fact, we've been working to provide the requirements
25 for these devices, that could provide valuable information, not

1 only to you but to us as well. And so we're very supportive of
2 those. We're glad that the cost is coming down. I know that
3 industry is very interested in that, and so by striking that right
4 balance of providing better information for safety insight, as
5 well as making it responsible in terms of cost to the industry, I
6 think that we have a pretty good situation here that we would
7 definitely want to address here in the not too distant future.

8 MR. GUZZETTI: Another specific issue and then I'll end
9 up with some questions regarding rulemaking. The specific issue
10 involves fatigue. The previous Panel alluded to the FAA symposium
11 on fatigue. There's been a lot of discussion here and testimony
12 regarding pilot fatigue and flight nurse and flight paramedic crew
13 rest. Can you comment on the FAA's efforts in this area
14 especially based out of the symposium? Is the FAA studying the
15 issue of fatigue and are you considering additional guidance or
16 rulemaking in that area?

17 MR. ALLEN: Yes, as was testified earlier, we had the
18 conference which I personally participated in. I think it was an
19 excellent event to bring to light this very, very significant
20 issue. As I said in my statement, it's problematic for pilots to
21 fly who are impaired by fatigue. I, being one admittedly from
22 time to time, especially flying during Desert Storm. And so it
23 does bear research, and the conference was to bring up all the
24 idea and to illuminate all the research and more importantly, all
25 of the science that is going into this. And that's where we have

1 to go, and this is the leadership we're trying to provide, is to
2 come to a consensus on the type of science that can be employed so
3 that we can come out with some better guidance as to what is the
4 appropriate flight rest and duty cycles for different aspects of
5 the industry.

6 On the surface, it looks like in the past, we have tried
7 to do so with broad-brushing regulation and found it to be very,
8 very sensitive with industry, and we really didn't get anywhere to
9 making any substantive changes. But in the interest of safety,
10 we're taking a different approach and looking at these from a
11 different flight-by-flight process. If you look at circadian
12 rhythm, the direction you fly, when you take off, when you land,
13 physiological issues. There's a lot of variables to the flight
14 rest and duty or fatigue equation, and so we have to address them,
15 apply science and maybe come up with some better guidance in the
16 future based on the type of flight and the type of industry, the
17 type of operation. Those are the things we're looking at.

18 So we do intend to provide enhanced guidance but the big
19 factor is to base it on science.

20 MR. GUZZETTI: Okay. Now the last series of questions,
21 I'd like to talk about rules and other ideas out there. Are you
22 aware of draft legislative efforts on Capitol Hill to legislate
23 items that the NTSB recommended in regard to HEMS? And if you are
24 aware of them, do you have any comments on them?

25 MR. ALLEN: Yes, I am aware of them. And, you know, the

1 safety legislation is defined by Congress, and as a public servant
2 and all of my colleagues, we stand ready to implement them and to
3 enforce them but given our experience in defining regulations and
4 guidance, we also stand ready if asked, to advise and provide
5 guidance to Congress to help them draft that legislation if asked.

6 MR. GUZZETTI: Okay. So do you care to comment on
7 whether you support or don't support or have any concerns
8 regarding the current draft legislation?

9 MR. ALLEN: It's the will of the people, and I'm a
10 public servant, and I will do as I am supposed to do.

11 MR. GUZZETTI: Thank you. I'll just ask this point
12 blank. Is the FAA, as was alluded to at the last Panel, is the
13 FAA considering rulemaking specifically for HEMS?

14 MR. ALLEN: Yes, we are considering it. We have a team
15 put together and I have to commend the Chairman because I think
16 that this type of hearing provides us impetus or sense of urgency
17 and also brings out all the aspects, but it's a big task for us in
18 providing rulemaking, to scope it intelligently. What are the
19 salient aspects that we have to include in good rulemaking. So,
20 yes, we are very, very much considering, and we appreciate the
21 information that will come from this hearing to help us in that
22 endeavor.

23 MR. GUZZETTI: Are you at liberty to cite areas in HEMS
24 operations that you're rulemaking considerations will address?

25 MR. ALLEN: Yes, sir. Things that have been brought up

1 here germane to you alls concerns such as risk assessment and
2 dispatch, HTAWS, use of radar altimeters and I'll also throw in
3 there training. I'm concerned as I've been looking into this and
4 as being a pilot, the maturation of our helicopter pilots and then
5 being directed or trained in VMC conditions or VFR flying and then
6 maybe not having the skill set once they inadvertently enter IMC.
7 So I'd like to look to the future of leveraging technology and
8 flight training devices so they're affordable and very robust
9 training devices that we could use to enhance the basic skills of
10 helicopter pilots as we robust them outside of just HEMS. I mean
11 we're looking at the maturation of the helicopter pilots and
12 giving better focus on their basic skills as we grow them and
13 hopefully relieving some of the risk and hazards that we're
14 talking about today.

15 So those are some of the things that we are exploring
16 and considering in this rulemaking effort.

17 MR. GUZZETTI: I attended and some of the Tech Panel
18 attended a meeting that the FAA held in July. It was a HEMS
19 safety meeting. In that meeting it was kicked off by Mr. Sabatini
20 who is now I know gone. He indicated in that meeting that
21 basically there's going to be joint industry/government efforts
22 that are going to be needed to solve the issues, and he indicated
23 there's something going on with these accidents but he indicated
24 that he needed to be proactive without more regulation. He made
25 that clear. Now the FAA is indicating that they are considering

1 rulemaking. What's changed between the July meeting and today?

2 MR. ALLEN: I don't think -- by the way, Mr. Sabatini is
3 still alive. He's just no longer employed by FAA. But nothing's
4 changed. As I said before, we have the dual process, you know,
5 that rulemaking is not the only tool we have and quite frankly we
6 can be more responsive to safety issues by addressing process,
7 policy and training and the implementation of new technologies
8 even before we can initiate rulemaking.

9 So the sense of urgency we have, yes, and so to bring
10 out all of our tools, yes, we did, and so nothing has changed but
11 when you bring out these tools, and as evidenced by the latest
12 survey and to find out how, and kudos to the industry, by adopting
13 voluntarily these issues. So you say, okay, great. We're at a
14 higher level. So would rulemaking benefit by codifying that
15 higher level. So as time goes on and there are new entrants, we
16 don't have any slippage back down and that's a good thing.

17 Nothing's changed but we're looking. This says a
18 layered approach into implementing technology and training using
19 rulemaking but before that, using these voluntary programs as part
20 of that, advancing the safety equation.

21 MR. GUZZETTI: Thank you, Mr. Allen. And, Mr. Chairman,
22 I have no further questions.

23 MR. ALLEN: Thank you, Mr. Guzzetti.

24 CHAIRMAN SUMWALT: Thank you very much, Mr. Guzzetti,
25 and we will now turn to the Parties, and first will be AAMS.

1 PARTY QUESTIONS

2 MS. KINKADE: Thank you, Mr. Allen. You've answered
3 actually quite a few of the questions that have been funneled my
4 way.

5 MR. ALLEN: Good.

6 CHAIRMAN SUMWALT: And once again, let's go with the two
7 rounds, five minutes each. Thank you.

8 MS. KINKADE: Right now it looks like I just have one
9 question. Is there a way for the Government to support both
10 equipage and infrastructure? I haven't quite heard a lot of talk
11 about infrastructure improvement in HEMS?

12 MR. ALLEN: There is. I think there are cases out there
13 where, in fact, we have funded equipage and infrastructure
14 changes. In fact, it will be interesting to see how much -- we
15 have with this new Administration talking about, you know, the
16 stimulus package and working towards infrastructure and we're
17 looking very favorably at what can we do in that realm to improve.
18 So, you're right. It is a combined thing of equipage and
19 infrastructure changes. It just depends on how much budget there
20 is available to do that.

21 MS. KINKADE: Thank you, sir. Thank you, Mr. Chairman.

22 CHAIRMAN SUMWALT: Thank you, Ms. Kinkade. And NEMSPA.

23 MR. SIZEMORE: Yes, thank you, Mr. Chairman. Thank you,
24 Mr. Allen. You talked a little bit about scientific-based,
25 research supported regulation. Is that the direction of the

1 future?

2 MR. ALLEN: Right, and I'm not sure it's going to be
3 regulation. I mean it's a little early to tell. Right now I
4 think the first shot would be guidance based on science, and then
5 looking at how can we do and what we're always looking to do, is
6 performance-based regulations versus prescriptive regulation. I
7 think that's where we get in trouble with flight rest and duty in
8 the past, being prescriptive instead of performance based, and to
9 do that, we have to have it based on science. That's what we're
10 looking toward for the future.

11 MR. SIZEMORE: And are you looking for that to go
12 proactive versus reactive?

13 MR. ALLEN: Proactive.

14 MR. SIZEMORE: Thank you.

15 MR. ALLEN: Uh-huh.

16 MR. SIZEMORE: That's all, Mr. Chairman.

17 CHAIRMAN SUMWALT: Thank you, Mr. Sizemore. Air
18 Methods.

19 MR. YALE: Mr. Allen, the last Panel, standardization
20 within the FAA was discussed. What is the plan to standardize the
21 interpretations of rule, guidelines, et cetera, between the FSDOs
22 and the Regions and sort of an estimate of how long before the
23 industry will actually see that standardization?

24 MR. ALLEN: I wouldn't look at that as an end goal. I
25 look at it as an evolutionary process that we will always have to

1 work on. The plan to do that though, as Mr. Pearson brought
2 earlier, the first shot was the implementation, it was called
3 FSIMS, 8900.1. We had four disparate handbooks that were directed
4 to our different types of inspectors that actually conflicted with
5 one another. And we're also not electronic based. And so our
6 inspectors have to have pretty big arms to carry all of that
7 guidance out with them to the field and it wasn't realistic, and
8 it wasn't using the latest in technology.

9 So the first step was to bring them altogether and to
10 put them on electronic medium. And, in fact, we're now in the
11 process of providing tablets to our inspectors with cell cards so
12 that they can have ready access to the latest guidance that they
13 have out there.

14 We had problems in the past, not only with loss of
15 notices but with loss of handbook bulletins, and it got
16 unmanageable. So by cleaning up our guidance, providing it on an
17 electronic medium, and we're still having to prove it. I mean
18 this was a new effort as of this last year, putting it on
19 electronic medium, but we have found that you do something of that
20 magnitude, you have some things that are left off. We need to
21 improve the search mechanism, many things. I have an ongoing team
22 making that more robust. That's number one.

23 Number two, it's a human thing that if you're not looked
24 at every so often, you interpy (ph.), you know, a physic term,
25 kind of hits in and you kind of fall back and you kind of let

1 things slide a little bit. So we've instituted and we already
2 have done audits of our own offices to see, okay, do you employ
3 the national standards, you know, are you doing, you know, what's
4 prescribed in the FSIMS.

5 Those two things I think will bring us a long way toward
6 standardization, and we're always robusting our training and
7 robusting our management staff because I believe that a lot of our
8 managers have too many employees and we're working for five more
9 managers, so they have more personnel engagement and so that we
10 can tend to a lot of interrater reliability, if you will,
11 standardization of our workforce in terms of what national policy
12 and improve our communication. Those are all the things that
13 we're working on to do that but I don't know that we'll ever reach
14 the end goal of perfect standardization but I believe we'll go a
15 long way toward it.

16 MR. YALE: Thank you. A couple of questions that
17 relates to this government civil piece as far as the aircraft goes
18 if you will. You say that the FAA has safety authority over civil
19 aircraft. Is that correct?

20 MR. ALLEN: That's correct.

21 MR. YALE: So, you know, does the law require that the
22 FAA exercise safety oversight over government operators of civil
23 aircraft?

24 MR. ALLEN: I'd have to go back and think over the law
25 as it's current -- the government operators of civil aircraft.

1 Yes, if there's a civil aircraft, we have a responsibility because
2 it's got an airworthiness certificate and it's registered. Then
3 we do have a responsibility, and we have guidance in our work
4 programs. If it's an airworthiness type of aircraft, in terms of
5 ramp inspections and things like that, then, yes, we would have
6 responsibility.

7 Any way that it might be civil, whether it's a
8 government that's operating, any way that it is civil, whether it
9 be airworthiness in terms of maintenance and certification or an
10 operation, we have responsibility.

11 MR. YALE: Okay. Thank you very much, sir.

12 MR. ALLEN: Sure.

13 MR. YALE: Those are my questions, Mr. Chairman.

14 CHAIRMAN SUMWALT: Thank you, Yale. And CareFlite.

15 MR. DAUPHINAIS: Thank you, Mr. Chairman. Thank you,
16 Mr. Allen. I want to try this question again. I'll watch for
17 your counsel to lean forward towards you.

18 MR. ALLEN: Watch my lips move. We'll see.

19 MR. DAUPHINAIS: You brought up the point on technology,
20 and I had made the request for an answer from Mr. Pratte about, I
21 believe it was Mr. Pratte, about technology, outpacing the
22 regulations, and you mentioned you had other avenues to keep up.

23 MR. ALLEN: Uh-huh.

24 MR. DAUPHINAIS: I would encourage you to do that and
25 share so we know those paths. Would the FAA's support bring the

1 considerable influence your department's had to bear for increase
2 in AWAS. I mean how can you help us in those areas that are
3 outside of your direct control? Weather reporting, getting them
4 into the NWS, those things.

5 MR. ALLEN: Yeah, we're -- Mr. Sabatini, who is still
6 with us, really made a big point about integration but it was not
7 only within AVS, but we have responsibility to integration in the
8 FAA with air traffic, with airports, and we understand that. I've
9 worked very closely with Barry Davis and, for instance, in air
10 traffic. When it comes to NOTAMs, and the issue is brought up
11 about NOTAMs, and it's nice to get to a point where we're going to
12 have what's called digital NOTAMs. It's very, very much of a
13 problem especially overseas to try to read through three pages of
14 NOTAMs to find out what the missed approach procedure is when
15 you're coming into say Frankfurt or something like that. So maybe
16 if it comes up, you know, on your flight plan profile or on your
17 plan profile, that you can see it and not have to read something,
18 I mean we're working with them to enhance safety not within just
19 say the Flight Standards realm or the AVS realm, but we're also
20 working with our colleagues in air traffic, and also in airports
21 to facilitate an overarching benefit to safety. And I believe
22 that's the intent of Next Gen.

23 MR. DAUPHINAIS: And I would agree on the intent of Next
24 Gen. It's just not here yet and we're facing the issues today.

25 MR. ALLEN: You are exactly right, and like I said, a

1 long time ago I was a programmer and a database developer and the
2 need and requests always outpaced the capability, and so we always
3 have to work toward it and do it. And that's why going through
4 voluntary measures as we do helps us to at least try to catch up,
5 but we're always falling behind as you surmised in the regulatory
6 realm because it takes time based on our government
7 responsibilities.

8 MR. DAUPHINAIS: Okay. I believe that's all. Thank you
9 very much.

10 MR. ALLEN: Yes, sir.

11 CHAIRMAN SUMWALT: Thank you, Mr. Dauphinais. And HAI.

12 MR. ZUCCARO: Thank you, Mr. Chairman. Good morning,
13 Mr. Allen.

14 MR. ALLEN: Good morning.

15 MR. ZUCCARO: I took note of the fact that you had
16 mentioned relative to the maturation of helicopter pilots in the
17 industry, and we've also been discussing 121 air carrier and their
18 safety initiatives and records. And a good portion of that is
19 when you take a look at that model, they currently operate from
20 certificated airports in a structured IFR environment. We don't
21 have that obviously.

22 MR. ALLEN: Uh-uh.

23 MR. ZUCCARO: And if we could, which we'd like to strive
24 towards, get there, it would certainly require an infrastructure
25 of facilities, you know, that would match or equal that level, as

1 well as the infrastructure necessary in a seamlessly transition
2 from VFR to IFR in both directions on departures and approaches.

3 MR. ALLEN: Uh-huh.

4 MR. ZUCCARO: And we are very anxious to pursue that and
5 develop that as getting ourselves up to, you know, that particular
6 status but that is a lacking point that we have limited control
7 over. What's your vision for that and where do you see that going
8 as we move forward?

9 MR. ALLEN: It's outside my league probably. I can't
10 speak for airports which that would fall under. I can only speak
11 to the folks who work for me, working on the procedural
12 requirements and our input on the new technology such as ADSB and
13 facilitating those aspects of future air navigation. And as you
14 know, it's always a balance of how much funds do we have, how many
15 people do we have, and we have to base our funding and our efforts
16 on risk and prioritize our abilities within those constraints. So
17 I hear you and, in fact, I know that we have worked closely in
18 developing approaches into hospital areas, knowing that they are
19 private and so that's problematic in terms of what we can do. I
20 know we're working on TERPS criteria. It'll be out shortly, and
21 we've developed I think over 300 special approaches into
22 helicopter pads on hospitals.

23 So we're going to work very, very hard on that, and I
24 understand your concern and we are working with airports, and even
25 though I'm not a Next Gen expert, I've got to believe that, you

1 know, taking the entire environment into context under Next Gen
2 should be the right thing to do, that the helicopter environment
3 is as significant as a fixed wing environment, and we have to
4 address all those concerns, but we have to balance it on
5 resources.

6 MR. ZUCCARO: Okay. Thank you. Those are my questions,
7 Mr. Chairman.

8 CHAIRMAN SUMWALT: Thank you, Mr. Zuccaro. PHPA?

9 MR. DUQUETTE: Thank you, Mr. Chairman. For the last
10 several days, we've been talking about HEMS operations in the U.S.
11 And, our organization actually represents pilots not only in this
12 country but internationally also. So my question is basically in
13 this direction. What has ICAO made as far as recommendations for
14 HEMS operations? Have they done anything that you're aware of,
15 sir?

16 MR. ALLEN: You've got me on that one. I really don't
17 know what ICAO has done. I haven't studied that to be honest with
18 you. I refer to my staff who are probably better experts at that.
19 I really don't know.

20 MR. DUQUETTE: Thank you.

21 MR. ALLEN: Sure.

22 MR. DUQUETTE: And, Mr. Chairman, that's all the
23 questions I have.

24 CHAIRMAN SUMWALT: Thank you, Mr. Duquette, and we'll
25 start for the second round. FAA, you will continue to be last,

1 but you'll get 10 minutes at the end if that's your preference.

2 MR. HARRIS: That works for me, sir. Thank you.

3 CHAIRMAN SUMWALT: Great. Thank you. So for the second
4 round, AAMS?

5 MS. KINKADE: We have no further questions.

6 CHAIRMAN SUMWALT: Thank you. NEMSPA?

7 MR. SIZEMORE: No further questions.

8 CHAIRMAN SUMWALT: Air Methods.

9 MR. YALE: No further questions.

10 CHAIRMAN SUMWALT: CareFlite.

11 MR. DAUPHINAIS: No questions.

12 CHAIRMAN SUMWALT: HAI?

13 MR. ZUCCARO: No further questions.

14 CHAIRMAN SUMWALT: PHPA.

15 MR. DUQUETTE: No further questions.

16 CHAIRMAN SUMWALT: Thank you. The FAA, 10 minutes.

17 MR. HARRIS: Thank you. And again, the good news is I
18 don't believe we're going to use that full time, sir. Mr. Allen,
19 as a pilot instructor in the Air Force and with your training
20 program experience involving advanced qualification programs, or
21 AQP and now in your role as the Director of Flight Standards, what
22 are your observations on the role of flight training in supporting
23 safety and, in particular, sir, could I ask you to direct your
24 comments possibly to flight training devices in the simulator
25 implementation?

1 MR. ALLEN: As you know, it's a passion of mine and I
2 think it's something we need to serious look at and harness
3 technology. We've seen visual systems and simulators improve
4 drastically, and we've seen a fidelity of these devices improved
5 dramatically, and I am very interested in seeing them expand and
6 proliferate.

7 To do so, I know that there's a cost. So therefore
8 instead of always relying on the six degree of freedom simulator,
9 I would like to actually explore the use of flight training
10 devices that aren't requiring motion for training and checking.
11 That might have some seed motion but a lot less expensive and able
12 to expand so that our pilots can get the training early on to grow
13 them and to get away more from the procedural but let's get more
14 into the human factors and the cognitive skills area and how well
15 our aircrews addressing emergency scenarios. Are they reacting
16 appropriately to give themselves time? Are they then analyzing
17 the situation and taking appropriate action?

18 Case in point is inadvertent entry into IMC. Do they
19 have the skills at least to fly the aircraft, get themselves out
20 of it and then give them time to address the situation and come
21 back safely. I think a perfect example of that is the water
22 landing on the Hudson. That captain had excellent training, AQP
23 training, an excellent airman. I think someone mentioned before,
24 we really need to get to training airmanship. And that employs
25 not only procedural training but also the cognitive training, the

1 human factors, and I think that can be facilitated in simulation
2 devices, and what I don't want is folks to be hindered by thinking
3 they always have to go to a six degree of flight simulator but
4 that it can be facilitated by flight training devices.

5 Now I do understand though if you have a new person who
6 needs to have that sense of motion, then you have to probably
7 balance it with some actual helicopter flying or a level C or D
8 simulator but that's something of passion. In looking at training
9 in a new way, not just in what things they can do, but how are
10 they working up here? It's not so much as good hands as good
11 head, and do you understand, do you have the situational awareness
12 and decision making by using good workload management in planning
13 and communication and team building and all those other markers
14 that we look at in human factors, and really set up scenarios.
15 What's your task saturation point and back it off of that and
16 things like that, so that they learn about themselves as well as
17 their capabilities. Those are the kinds of things I want to
18 explore not only the helicopter arena but in the fixed wing as
19 well.

20 MR. HARRIS: Thank you, sir. In the hearing, the past
21 several days, we've heard of several different technologies, all
22 of which you're aware of from your oversight of the Flight
23 Standards Service itself and your participation in the development
24 of some of the policies that have been develop relative to
25 helicopter EMS. Some of these technologies include things like

1 helicopter TAWS which you've addressed, night vision goggles, IFR
2 operations, and then there's also been discussion of standards,
3 things like our operations specifications A021. And then also
4 some discussion of safety management systems and safety culture.
5 And there seems to be a lot of things on the table. Can you give
6 us a sense of your perspective as the leader of Flight Standards
7 as to how these cards might be stacked and brought into a
8 reasonable hand?

9 MR. ALLEN: Right. As I touched on earlier, it needs to
10 be a layered approach. To just go and to just throw in a new
11 technology and hope it works is not responsible. That you have to
12 put in the infrastructure of a safety culture. You have to put in
13 your training mechanism. So that they can leverage the technology
14 appropriately. And so before you do that, you can go on a one-on-
15 one basis through your operations specifications and make the
16 adjustments and let folks come into compliance with the operations
17 specification intelligently so that it can introduce this
18 technology, introduce it with the training and the right corporate
19 culture to exact the benefits, the safety benefits that we want
20 out of that technology, and you do it for another and you do it
21 for another and you do it for another and that long term is what
22 really benefits the safety equation.

23 We have a long history of doing that with the use of
24 radios and VORs, with weather radar, and many, many other
25 technologies that have preceded the ones we're talking about

1 today. So it's a layered approach, not technology alone, but the
2 other infrastructural pieces that have to come along with it.

3 MR. HARRIS: Thank you, sir. My last question has to do
4 with the subject of public aircraft and I just want to clarify.
5 The FAA's responsibility relative to public aircraft are driven by
6 what?

7 MR. ALLEN: By statute of law.

8 MR. HARRIS: They're not a decision on the part of the
9 FAA to decide that we will or will not oversee public aircraft?

10 MR. ALLEN: No, there's not.

11 MR. HARRIS: And, in fact, even in the case of a public
12 aircraft, could you comment on the responsibility relative to
13 navigation in the National Airspace System?

14 MR. ALLEN: Good point that I might have missed before.
15 Thank you. There is still a responsibility by public aircraft and
16 operators of public aircraft to abide by the navigation
17 requirements in Part 91 by operating in the NAS. That is not
18 abrogated because you have to mix public aircraft with civil
19 aircraft and therefore there are rules of the road that they must
20 adhere to.

21 MR. HARRIS: Thank you very much, sir. And that
22 concludes our questions.

23 MR. ALLEN: Thank you.

24 CHAIRMAN SUMWALT: Thank you, Mr. Harris. Technical
25 Panel follow up?

1 MR. GUZZETTI: No, sir. The Technical Panel has no
2 further questions.

3 CHAIRMAN SUMWALT: Thank you. We turn now to the Board
4 of Inquiry. Mr. Haueter.

5 BOARD OF INQUIRY QUESTIONS

6 MR. HAUETER: Thank you. Good afternoon, Mr. Allen.

7 MR. ALLEN: Hi.

8 MR. HAUETER: I was quite impressed that your previous
9 staff implied they had ample resources, lots of training and
10 overtime money. I'm kind of curious. With the FAA's budget,
11 where's the other groups suffering so they can have all this money
12 and resources?

13 MR. ALLEN: Well, sir, I can assure you they're not
14 paying executives -- bonuses or anything like that, and we don't
15 enjoy a budget that's beyond our means but I must say that Mr.
16 Sabatini put in place a policy that we would not bring on
17 certificateholders unless we can pay for our folks, we can pay for
18 their travel and pay for their training, so that those inspectors
19 and those safety professionals we have on board are given the
20 resources to do their job. I have to answer a lot of
21 Congressionals every day about those who want to get into the NAS
22 and operate the NAS that we cannot accommodate. We will bring
23 them on only after we have not only the resources to certificate
24 them but we also have the resources to do the certificate
25 management and the oversight and the enforcement, and so therefore

1 it's important.

2 Now do we do it perfectly? Thank goodness with
3 leadership like Brad Pearson and others, that we're giving these
4 gentlemen the resources that they deserve and probably deserve
5 more but in all area, I would offer if you brought some other
6 inspectors, there are some out there that will say I'm
7 understaffed, I don't have enough training. We're working to fix
8 that across the board. We have made some advancements and
9 improvements over the past year but we do so by regulating, if you
10 will, who we allowed to bring in so that we don't overextend
11 ourselves.

12 Granted, in the past, we probably overextended ourselves
13 and so, yes, you're doing great in quantity but as far as quality,
14 you're cutting yourself short. So that was a big philosophical
15 change we made over the last three or four years and I think this
16 is a result of it.

17 MR. HAUETER: Thank you.

18 CHAIRMAN SUMWALT: Dr. Ellingstad.

19 DR. ELLINGSTAD: Yes, I'd like to follow-up on a number
20 of areas that Mr. Guzzetti had started. Let's begin with the
21 consideration of the FAA's position with respect to fatigue. You
22 had indicated that your intent was to provide enhanced guidance
23 based on science.

24 MR. ALLEN: Uh-huh.

25 DR. ELLINGSTAD: First of all, with respect to that

1 science, is there some specific program of research that you're
2 intending to undertake beyond what's been done over the last 20
3 years or so?

4 MR. ALLEN: Well, I'm aware of the research that we have
5 sponsored within AFS 200, Air Transportation Division. We do have
6 -- there is a set of scientists looking at this fatigue issue.
7 Albeit I would admit that there's still some subjectivity to it,
8 but the latest efforts that we have seen, and we're not really
9 going to get to any one particular scientist, we're looking at all
10 the science so that we can bring folks together and that was I
11 think a direction of the conference that we had, to bring folks
12 together to get some type of consensus that we could hold up to
13 give us appropriate guidance as we move forward in giving more
14 guidance to industry and maybe some day we would consider
15 rulemaking that all could accept and that we could move forward
16 with.

17 So to answer your question, I don't know of any one
18 particular scientist or scientific method. I know there is a
19 model that several scientists agree with as the standard model
20 that we're using, and it seems to have gained acceptance, but
21 beyond that, I believe there is still some disagreement on the
22 actual variables that are used in that model.

23 DR. ELLINGSTAD: Okay. The Board, of course, has been
24 encouraging the FAA and others to adopt scientifically-based hours
25 of service and other kinds of countermeasures to fatigue, and I

1 believe the last time you engaged in a rulemaking activity was in
2 1995.

3 MR. ALLEN: Yes, sir.

4 DR. ELLINGSTAD: And that's still is -- I guess it has
5 been abandoned now. Is there some expectation coming out of that
6 last summer's seminar of some further activity? Having attended
7 that, I don't remember hearing of any specifics about that.

8 MR. ALLEN: Yes, sir. There is an intent to capitalize
9 on that and first, it's to start out with guidance and then to
10 assess the maturity of the science as to the appropriateness of
11 moving forward.

12 DR. ELLINGSTAD: And what would be the nature and the
13 specificity of that guidance? Would you expect to provide
14 specific sorts of guidance to the HEMS community for example?

15 MR. ALLEN: It could be in the nature of an Advisory
16 Circular, something like that, in terms of guidance.

17 DR. ELLINGSTAD: You would expect to move down that path
18 as opposed to making any revisions to the now quite dated time and
19 duty requirements?

20 MR. ALLEN: Yes, sir. Of course, I think that's
21 appropriate because I think the HEMS community is a little unique,
22 you know, they have 12 on, 12 off, less than 8 hours operation.
23 With a situation, unlike fixed aircraft, understandably if they
24 are napping and all of sudden they get the call to get up and get
25 going, then that's a little bit different situation in terms of

1 operating with a clear head and what we have really specified for
2 fixed wing. So we have to be careful I believe in what kind of
3 guidance we would provide for the future.

4 DR. ELLINGSTAD: Okay. You did, however, I think in
5 response to one of Mr. Guzzetti's questions indicate that there
6 was at least some consideration of a HEMS rulemaking activity.

7 MR. ALLEN: Yes, that's correct.

8 DR. ELLINGSTAD: Okay. I had asked Mr. Pratte earlier
9 about what his opinion of the Part 136 rulemaking is with another
10 segment of this industry, and I'd like to ask you whether that is
11 the kind of an approach that you might consider responsible for
12 this unique and important commercial segment of the aviation
13 community?

14 MR. ALLEN: Sir, it's something we could consider
15 although we haven't considered. I personally worked on the air
16 tours rule myself and Part 136 at first was really looked in terms
17 of our relationship to the Department of Interior and Parks for
18 oversight for tour operators, and so it had that uniqueness and
19 that's what the -- for the specificity of a different part, under
20 Part 136.

21 For Part 135, just as there are under Part 121, there
22 are different types of operations with different and unique
23 operating environments and uses of technology and whatnot, that we
24 addressed through operations specifications and other things, to
25 address the uniqueness of almost each and every certificateholder.

1 And so I, on the top of my head, still can't see any difference
2 there even for Part 135 with HEMS. I think that we have the
3 regulatory infrastructure to address the unique attributes of the
4 HEMS community.

5 DR. ELLINGSTAD: I guess what I was going to ask there,
6 you were sort of leading, that there were so many things within
7 135 and I was going to ask if that's too broad a cookie cutter for
8 this and perhaps some other segments.

9 MR. ALLEN: Well, sir, I think we have potential as we
10 move towards safety management systems where we put the
11 responsibility of safety insurance on the industry to be
12 transparent with data, transparent with their auditing processes,
13 transparent with their level of safety culture, transparent with
14 their ability to identify and mitigate hazards and risks, to give
15 us an appropriate comfort level. I don't know that the actual
16 regulatory framework they would fall into would be as germane as
17 them showing, regardless of the type of operation they had, the
18 appropriate level of safety and management of safety and
19 leadership of safety that they would maintain. So right now at
20 this juncture, I would say I believe that the regulatory structure
21 of 135 as we move toward SMS is sufficient, but everything's on
22 the table, sir. We never sit back and rest on our laurels and say
23 the pass is good enough. We're always being introspective and
24 looking to the future to see if we can't do it a better way.

25 DR. ELLINGSTAD: Okay. Finally, am I correct in

1 interpreting from your responses that the FAA has little
2 enthusiasm either for increased data reporting requirements in
3 terms of the exposure data down to a per departure level or toward
4 requiring recorders in this segment of the industry?

5 MR. ALLEN: No, sir. We always have enthusiasm. For
6 this data acquisition and accumulation of data, my statement
7 earlier was that though it's not our primary focus, that there are
8 other agencies, other offices that could attend to that as well or
9 better than we can. We do think that data is important. Don't
10 get me wrong. I'm not minimizing the importance of gathering data
11 but more importantly getting information, and we believe that that
12 is one of the foundational attributes of SMS, is to acquire this
13 data provided by industry so that we can turn it into information
14 to give us the understanding and situational awareness of the
15 safety disposition of industry.

16 DR. ELLINGSTAD: I would suggest to you, sir, that both
17 of those areas, the data reporting and the record requirements,
18 figure very prominently in an effective SMS system as well as the
19 other purposes that they have been recommended for.

20 MR. ALLEN: I totally agree with you, sir.

21 DR. ELLINGSTAD: Thank you.

22 CHAIRMAN SUMWALT: Thank you, Dr. Ellingstad. Dr.
23 Mayer.

24 DR. MAYER: Thank you. Just a couple of topical areas.
25 I certainly understand that the FAA does not provide regulatory

1 oversight for public use HEMS programs --

2 MR. ALLEN: Right.

3 DR. MAYER: -- and that your testimony is that that's
4 not simply a decision the FAA has made. It's a matter of statute.

5 MR. ALLEN: Yes, sir.

6 DR. MAYER: It's a decision that has been made for you
7 essentially. But I'm wondering, you mentioned earlier that the
8 FAA has competitors and I presume you were probably thinking of
9 trade groups or professional organizations. I'm just wondering if
10 you were aware of any other organizations that are providing any
11 degree of oversight, maybe not regulatory oversight, but any sort
12 of oversight for these public use programs?

13 MR. ALLEN: Right. I hope I didn't misstate, anybody
14 who oversees safety is not a competitor but is a colleague. So I
15 don't look at it as be a competitor when it comes to safety.

16 DR. MAYER: I certainly didn't hear it as a negative.

17 MR. ALLEN: Okay. Good. I didn't mean that. While
18 there is FlightSafety International, there are other organizations
19 that do their IOS (ph.) inspections. There are other things out
20 there that do provide us information on the safety disposition of
21 air carriers and of other companies that are engaged in aviation.
22 And also when it comes to public aircraft, we expect the state, I
23 mean it's not ours to expect, but because the state or the other
24 Federal Government agency who is sponsoring the public aircraft
25 venture has a safety oversight infrastructure. I personally

1 enjoyed, when in the Air Force, which is a public aircraft
2 operation, has a very robust safety program, and we worked
3 together. We're working together on FOQA and what they call MFOQA
4 and looking at how can we combine information to learn from them.
5 They have a very vibrant bird, they call it BASH, bird assessment
6 program, where they can determine how many bird ingestions they've
7 had and they have a deer one as well for deer strikes believe it
8 or not. We can learn a lot from the data they have and vice
9 versa. And so we're having those discussions.

10 So I don't view them as competitors as you've
11 acknowledged but we do work with those who have safety oversight
12 programs for public aircraft operations.

13 DR. MAYER: I hope those deer strikes are not occurring
14 at altitude.

15 MR. ALLEN: No.

16 DR. MAYER: The Air Force, of course, has a very large
17 flight program whereas state, local governments and other federal
18 agencies probably have significantly smaller programs. Those
19 programs might be in need of assistance in the ways the Air Force
20 might not be able to. Does the FAA partner with state and local
21 government or other federal agencies to provide any sort of
22 guidance, not necessarily oversight, but guidance, assistance,
23 best practices and the like?

24 MR. ALLEN: Yes, we do. I mean a part of our charter is
25 not only to oversee and certify but also to promote safety, and we

1 do that through many facets and it is with all partners, and not
2 just those who are sponsors of public aircraft but it's also
3 associations and industry, that we feel that it's our requirement
4 to lead along with industry and others, and so wherever we can, to
5 raise the visibility and focus on safety, we do that and we reach
6 out to all types of organizations and agencies.

7 DR. MAYER: Are you aware of any specific outreach or
8 cooperative efforts with respect to public use HEMS?

9 MR. ALLEN: Except with the military, none come to mind
10 as far as a state level or local level. I have heard, I know, of
11 that occurring but I can't give you specifics at this point.

12 DR. MAYER: But you don't know of any statutory
13 prohibition against such a cooperation --

14 MR. ALLEN: No.

15 DR. MAYER: -- or cooperative effort?

16 MR. ALLEN: No.

17 DR. MAYER: Thank you. I wanted to ask just on a
18 different topic. We've heard some testimony today that the FAA
19 often employs a deliberate rulemaking process, that admittedly is
20 not speedy and some aspect of it not being speedy is intentional.

21 MR. ALLEN: Right.

22 DR. MAYER: On the other hand, we also heard, and I'm
23 afraid I don't remember exactly the specific issue this was being
24 cited for, but we heard earlier testimony that the voluntary
25 compliance program had received 94 percent support from operators,

1 which admittedly, 94 percent is great. However, accidents being
2 rare events, the Safety Board tends to be concerned about those
3 who don't comply with voluntary programs only because it doesn't
4 take much leverage to have an accident unfortunately.

5 MR. ALLEN: True.

6 DR. MAYER: So I guess I wanted to ask you, short of
7 regulation, do you have any thoughts or comments about ways that
8 participate safety actions can be required without the full
9 regulatory process? I'm not looking to circumvent the regulatory
10 process, but often when we make safety recommendations, we are
11 looking for something that cuts across the whole spectrum, and I'
12 wondering if you have any thoughts about that?

13 MR. ALLEN: That's tough because if you're talking about
14 some type of capability to leverage someone to do something, my
15 experience in the FAA, when you get right down to it, they say
16 show me in the reg where I have to do this. So you have to have
17 that capability of enforcement, and that requires a rule to do
18 that. Even as much as we try, with guidance and conjoling and
19 whatever we can, at the end of the day if someone is not really
20 willing to step forward for whatever reason it might be, and we
21 need them to do something, and they don't want to do it, that's
22 where they'll get to. So it is problematic if it's not
23 incorporated in a rule where we have enforcement capability to do
24 things.

25 Now for public aircraft, we do have, when things are

1 violated, we have civil penalty capability and then also those are
2 certificated, certificate enforcement activities we can do but,
3 you know, if they don't want to do it, then we have to have a reg.

4 DR. MAYER: Yeah, I guess leverage might have been a
5 poor choice of words on my part because I certainly think that
6 most operators are interested in safety --

7 MR. ALLEN: True.

8 DR. MAYER: -- and I don't think we necessarily have to
9 force their hand in order to comply, but I guess I was looking for
10 whether there was anything in a continuum between voluntary
11 compliance and regulatory compliance. It doesn't really sound
12 like they're very many options.

13 MR. ALLEN: Maybe if I sat here for a while and thought,
14 I could come up with something but right now, in front of all
15 these people, I can't come up with anything. I've got to tell you
16 though, safety I find is better accomplished by having a carrot
17 than having a stick, and so we have a responsibility, if we can
18 find it, a way that it is palatable by industry, that they find
19 not only the obviously safety benefit but there's a business
20 benefit because they have to make money to stay in business, and
21 so that's a challenge we have and as long as we understand that
22 and work toward that, I think we'll be more effective in moving
23 forward the safety equation than always just relying on, you know,
24 put out a regulation and make folks meet it. So that's a trick I
25 -- technology there though again I think offers a lot of potential

1 to do that.

2 DR. MAYER: Thank you very much.

3 CHAIRMAN SUMWALT: Dr. Mayer, thank you. Ms. Ward.

4 MS. WARD: We've been talking a lot about people and
5 organizations doing their own self-regulating if you want to say,
6 and I don't have a question for Mr. Allen. I'm glad that he's
7 here but I would just like to end this with saying that we had
8 seatbelts that are installed in cars. They're there for us to
9 use, and it wasn't until the middle of I think the eighties when
10 they said, okay, well, let's start using seatbelts, and it wasn't
11 until recently I think we went to the click it or ticket.

12 So even though we may have folks who are voluntarily
13 putting these different safety equipment and put safety systems in
14 place, I think until we regulate it and force folks to do it,
15 that's when we're going to have the most safety benefit.

16 MR. ALLEN: I don't know if that's a question but --

17 MS. WARD: It wasn't. It was a statement.

18 MR. ALLEN: That's okay. But I'll give you an answer
19 anyway. But I also would argue that you can't regulate out poor
20 decision making and judgment. That, I think there's more than
21 just putting out a regulation. There's also the packaging, the
22 public awareness, you know, the other efforts you have to get
23 folks to be aware of it, and to help them understand the benefit
24 to them. It's a balance and a shared responsibility in getting
25 folks to do the right thing. Did that answer your non-question?

1 MS. WARD: Yeah, that did answer my non-question.

2 MR. ALLEN: Okay.

3 CHAIRMAN SUMWALT: All right. Well, again thank you for
4 being here and as a citizen, I do believe that regulations are not
5 always the answer. I mean after all, none of us want a heavy
6 handed government. I can't remember that far back but I think one
7 of the reasons this country was founded is that we wanted to get
8 away from a heavy handed government, and so we do want to make
9 sure that whatever rules and regulations and laws are there, don't
10 overly burden the citizens and I believe that.

11 So I believe that regulations aren't always the answer,
12 and I believe that when we can, voluntary compliance is a good
13 thing.

14 I also believe in a discriminating consumer. Many of
15 us, including myself, will go out to the airport this evening and
16 get on an airplane and go somewhere, and when we select the
17 airline that we want to travel on, we might look at factors such
18 as who has the lowest cost or who has the most convenient schedule
19 or who has the cleanest airplanes or food isn't an option anymore
20 but we could discriminate and make decisions based on which
21 service, which airline we wanted to fly on. But unfortunately, as
22 we all know, the HEMS patients, the people who are actually paying
23 through their insurance carriers or whatever, to ride on
24 helicopters don't have that capability generally speaking. They
25 cannot be a discriminating consumer. They can't make that choice.

1 But I believe that there are other ways that
2 discriminating decisions can be made, and we have to ask
3 ourselves, well, who is the consumer. Is it the person that's
4 actually being lifted on a stretcher and loaded in the helicopter
5 or is it the receiving hospital or is it the insurance companies
6 that are providing the reimbursement? Who is the consumer? And
7 those consumers can be discriminating. And, for example, an
8 insurance company can make the decision that we're not going to
9 reimburse somebody unless they meet these standards.

10 The hospitals could say we're not going to allow a
11 helicopter to land on our helipad unless it meets these standards.
12 The associations, HAI, AAMS, Air Medical Physicians Association,
13 Emergency Medical Physicians Association, these types of
14 associations can be discriminating. We're not going to put one of
15 our physicians on one of those helicopter unless it meets these
16 standards. Things change that way. The insurance underwriters,
17 the people that insure the aircraft and the operations can be
18 discriminating.

19 So I do believe that the Government is not always the
20 answer. But as you said just a minute ago, General Allen,
21 sometimes we can take the voluntary, we can take the carrot as far
22 as we can, and then you still need a rule, and I believe you just
23 said that. We need the power of a regulation for enforcement so
24 that those that can't be coaxed through other incentives, you have
25 the power of the regulation.

1 We saw a good case when Mr. Pratte testified that one of
2 the recommendations the Safety Board issued three years ago was
3 for flight risk assessment, and I believe Mr. Pratte testified
4 that 94 percent or roughly thereabouts, 94 percent of the HEMS
5 operators are complying with that. We would sure like to see 100
6 percent but I'm pleased frankly to hear that 94 percent are doing
7 that. So there's a case where, you know, voluntary compliance
8 works pretty well.

9 But on the other hand, we had another recommendation
10 that came out with that same batch, with that same group of four
11 recommendations, that called for TAWS, and as we heard from
12 testimony two days ago, and yesterday as well, that only about 28
13 to 30 percent of the HEMS operators currently have TAWS installed
14 and 1 of those, we've got about 200 aircraft with TAWS installed
15 and 1 of those accounting for about 50 of those aircraft is a
16 company right here. So we're finding that there's a lot of
17 carriers that aren't doing TAWS. The voluntary method of
18 compliance is not working.

19 So my question to you is, does it appear that the
20 voluntary compliance is working? What can we expect from the FAA
21 in terms of a rulemaking on TAWS since it appears that the
22 voluntary method isn't working so well? It is actually a
23 question.

24 MR. ALLEN: Yes, sir, it is, and a good one. And, I
25 know the \$1,000 question here. I guess we agree to disagree that

1 I do think that the voluntary programs are working although one
2 could call question to that based on the 2008 statistics.
3 However, as you know, sir, and not to appear trite, we are
4 considering rulemaking, and as I said, too, with your leadership,
5 by having this inquiry, by illuminating the issues and concerns,
6 on various concerns, the issues of the risk assessment and
7 dispatch, HTAWS, NVGs, training, all these things greater impetus
8 for us to evaluate and assess the applicability, the scope of a
9 rule. And, so, yes, sir, we already have a team put together. I
10 support that team, and we are actively considering a rulemaking
11 effort.

12 CHAIRMAN SUMWALT: Well, thank you. And as I said early
13 on, I do believe in voluntary standards, and as I said also, we
14 have seen cases as it related to those four recommendations that
15 at least one of them has high compliance based on voluntary
16 compliance, based on the statistics there, 94 percent. On the
17 other hand, voluntary compliance isn't working here so well. It
18 has been three years since the NTSB issued that recommendation,
19 and I don't believe that the rulemaking process has even started.

20 MR. ALLEN: It depends on what you define is is because
21 we have a lot of effort. These efforts we have in terms of
22 voluntary assessment are not wasted efforts. These are things, by
23 gathering data, by looking at the level of accommodation, by the
24 research that has just occurred in the last three years, would
25 contribute greatly to the definition of what the rulemaking effort

1 would be. And, also we have to look at the application of TAWS.
2 I have flown with TAWS for years, found them extremely beneficial
3 especially in the mountains of South America and in the Western
4 Pacific, but I also understand that helicopters fly a different
5 environment. I know that's all been looked at. That's all been
6 defined. We now have a TSO. So we're ready to move forward, and
7 we intend to do so.

8 CHAIRMAN SUMWALT: Excellent. We intend to do so, and
9 that what I wanted to hear. Thank you.

10 MR. ALLEN: Yes, sir.

11 CHAIRMAN SUMWALT: Thank you very much. Thank you.

12 Well, this brings us toward the conclusion of this very
13 important public hearing on helicopter emergency medical services,
14 and goal was to get you out by 1:00, and I think we're going to do
15 that thanks to all of the cooperation of everyone involved.

16 The docket for HEMS will remain open to receive
17 additional pertinent information concerning the issues presented,
18 and those wishing to make submissions to the docket may do so by
19 March 9th, that is four weeks from Monday, and they should be
20 addressed to the e-mail address shown here. That's HEMS@ntsb.gov.

21 Now what will happen after this hearing? Well, first of
22 all, I want you to understand that this hearing is not the be all
23 to end all. It's not that we're going to slam this gavel down,
24 everybody walk out of the room and say, well, we solved that.
25 This is just the very beginning. This is the beginning of the

1 change process from the perspective of the National Transportation
2 Safety Board to get relevant data, relevant facts, relevant
3 information, on the table so that our staff, our very competent
4 staff can take this information back, start pouring over the data,
5 seeing what information was gleaned from this hearing, so that
6 they can come back to the Board, to the full five-member Board,
7 with a proposal for an action plan for how we can most effectively
8 work to improve HEMS safety.

9 And I believe everyone in this room realizes there is no
10 one single magic bullet that's going to cure the problem. As Mr.
11 Allen said, it's going to be a layered approach. It will involve
12 many different layers combining together to improve the safety of
13 this industry.

14 I assure you that whatever we do at the NTSB, our
15 motivation is very simple. It's to work to find innovative ways
16 to improve HEMS safety.

17 The Board may, at its discretion, reopen the hearing in
18 order to gather additional information and make it part of the
19 public record. The record of this hearing, including the
20 transcript and all of the exhibits entered into the docket, may
21 become part of the Safety Board's public docket and will be
22 available on the NTSB's website at www.nts.gov. Additionally, an
23 executive summary of this hearing will be posted on our website in
24 several weeks.

25 On behalf of the National Transportation Safety Board, I

1 want to thank all of the witnesses who have participated this
2 week. I want to thank the Parties for your cooperation, not only
3 during this proceeding for the last four days, but all of the
4 preparation that has gone into this.

5 I really believe the questions brought forth by the
6 Parties were of high caliber, they were relevant, they were
7 pertinent, and they shed light on the most important issues facing
8 the HEMS industry. It really has been a great hearing. I hear
9 that from people in the audience. It has been a very good
10 hearing. I thank you for the cooperative spirit of the Parties
11 and the witnesses, specifically Air Methods, Mr. Yale, thank you
12 for you and Air Methods for your involvement; CareFlite, Mr.
13 Dauphinais for you and your colleagues; FAA, Mr. Harris, thank you
14 and your colleagues; HAI, Mr. Zuccaro, thank you very much; PHPA,
15 never did learn how to say your full name, but thank you Mr.
16 Duquette for all of your participation; Ms. Kinkade, all of you at
17 AAMS, thank you very much; Mr. Sizemore, thank you for your
18 involvement.

19 I want to thank the audience for your interest, for your
20 involvement, for caring, to help us, to support us, and I want to
21 thank the staff. I have been involved in this project since
22 September. The staff was working on it before then. It has been
23 an amazing effort. People have come together and worked very
24 hard. The Board of Inquiry, thank you very much.

25 Thank you all so much for your commitment to making this

1 hearing a success, and as a typical airline pilot, I'm proud to
2 say that we're coming into the gate just a minute or two early.

3 I declare this hearing to be adjourned. Thank you.

4 (Whereupon, at 12:58 p.m., the hearing in the above-
5 entitled matter was adjourned.)

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CERTIFICATE

This is to certify that the attached proceeding before the

NATIONAL TRANSPORTATION SAFETY BOARD

IN THE MATTER OF: PUBLIC HEARING ON EMS OPERATIONS

DOCKET NUMBER: SA-530

PLACE: Washington, D.C.

DATE: February 6, 2009

was held according to the record, and that this is the original, complete, true and accurate transcript which has been compared to the recording accomplished at the hearing.

Timothy J. Atkinson, Jr.
Official Reporter