

Y4. J 89/2. Ex 7/3/pt. 3

CONTROL OF EXPLOSIVES

Administration and Execution of the Laws Pertaining to
the Control of Explosives

HEARINGS

BEFORE THE

SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY
ACT AND OTHER INTERNAL SECURITY LAWS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

PART 3

BUREAU OF EXPLOSIVES, ASSOCIATION OF
AMERICAN RAILROADS

JUNE 8, 1976

Printed for the use of the Committee on the Judiciary



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**SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE INTERNAL SECURITY
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RESOLUTION

Resolved, by the Internal Security Subcommittee of the Senate Committee on the Judiciary, That the testimony of Mr. Robert M. Graziano, Bureau of Explosives, Association of American Railroads, taken in executive session on June 8, 1976, be printed and made public.

JAMES O. EASTLAND,
Chairman.

Approved November 5, 1976.

CONTROL OF EXPLOSIVES

Administration and Execution of the Laws Pertaining to the Control of Explosives

TUESDAY, JUNE 8, 1976

U.S. SENATE,
SUBCOMMITTEE TO INVESTIGATE THE
ADMINISTRATION OF THE INTERNAL SECURITY ACT
AND OTHER INTERNAL SECURITY LAWS
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 11:08 a.m., in room 357, Russell Senate Office Building, Hon. Strom Thurmond presiding.

Also present: Richard L. Schultz, chief counsel; Robert J. Short, senior investigator.

Senator THURMOND. Mr. Graziano, do you swear that the testimony you are about to give this subcommittee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. GRAZIANO. I do.

Senator THURMOND. Thank you.

TESTIMONY OF R. M. GRAZIANO, DIRECTOR, BUREAU OF EXPLOSIVES, ASSOCIATION OF AMERICAN RAILROADS; ACCOMPANIED BY THOMAS A. PHEMISTER, ASSISTANT GENERAL COUNSEL, BUREAU OF EXPLOSIVES, ASSOCIATION OF AMERICAN RAILROADS

Mr. SCHULTZ. Would you state your full name, please?

Mr. GRAZIANO. Robert M. Graziano, Association of American Railroads, Bureau of Explosives, Washington, D.C.

Mr. SCHULTZ. How long have you been so employed, Mr. Graziano?

Mr. GRAZIANO. I have been the director of the Bureau of Explosives for 6 years.

Mr. SCHULTZ. And prior to that, did you have experience working with explosives?

Mr. GRAZIANO. Prior to that I was a special representative in the Bureau of Explosives, and prior to that I was an inspector for the Bureau of Explosives starting in 1968.

Mr. SCHULTZ. Would you tell us, please, what your bureau does in connection with explosives?

Mr. GRAZIANO. The primary responsibility of the Bureau of Explosives as it relates to explosives is twofold: First is what is known as the classification of explosives, which encompasses the field testing, labora-

tory testing, packaging recommendations, labeling requirements. The second operation principally is to insure that proper and adequate means concerning the blocking and bracing for transportation of explosives has taken place. To that extent we work with the military and the manufacturers to develop appropriate blocking and bracing procedures.

Mr. SCHULTZ. Before we get into the details of your responsibilities, describe for us, if you will, the organizational structure of your bureau.

Mr. GRAZIANO. The bureau of explosives is divided into essentially three functions—a laboratory function whose purpose is to test, classify and analyze hazardous materials, a field inspection function carried out throughout the United States and Canada to assure that shippers and carriers and manufacturers are complying with the hazardous materials regulations of the DOT and with what is known as the dangerous goods transportation for the Canadian Transport Commission.

The headquarters staff is composed of technically oriented people, as well as other staff functions such as the publication of tariffs and pamphlets and other information. It is concerned with a liaison with the appropriate industry committees within the Department of Transportation and other sources.

Mr. SCHULTZ. Well, I take it then that the function of the Bureau of Explosives is principally educational and advisory, as opposed to the enforcement of laws—the imposition of criminal and civil sanctions for violation of the regulations on explosives. Is that basically correct?

Mr. GRAZIANO. Yes; that is correct. We are not—as stated in the statute because we are not part of the Federal Government, we are forbidden from enforcing, in the terms in which you used it, the regulations. We cannot fine someone or impose a fine.

Mr. SCHULTZ. How many inspectors do you have?

Mr. GRAZIANO. We have three inspectors located in Canada—at Vancouver, Winnipeg, and Montreal. We have 14 inspectors located in the United States: Portland, San Francisco, Houston, Omaha, Chicago, St. Louis, New Orleans, Atlanta, Philadelphia, Pittsburgh, Cincinnati, Washington, D.C., Salt Lake City, and Kansas City.

That should be 14.

Mr. SCHULTZ. Tell us, if you will, how your inspectors are brought into play.

Mr. GRAZIANO. In terms of what?

Mr. SCHULTZ. Well, the title of inspector indicates that they conduct inspections, and my inquiry is, what do they inspect and when do they do it? Are they requested to be brought in by your membership, or do they have direction from your office as to what matters they inspect and when they inspect?

Mr. GRAZIANO. There are several ways that this can take place, and you've mentioned many of them. We can come in at the request of a member railroad or plant. I suppose I should define that for you.

By member plant, the Bureau of Explosives offers affiliate membership to shippers, container manufacturers, non-railroad-oriented, if you will, industry people. We will inspect their plant once a year for a fee. This fee is paid by that member plant or by the corporate headquarters.

We have at present some 500 member plants of the Bureau of Explosives. That's another way in which we can inspect.

We may inspect if we discover an incident or a violation occurring in the transportation of hazardous material. We may inspect at the request of a Government agency. We may inspect at the request of some State or local government agency.

So there are several ways in which an inspector can be brought to play in the inspection area.

Mr. SCHULTZ. Do your 14 inspectors at some time during the year conduct an inspection of all of your membership, whether or not they are directly connected with the rail business?

Mr. GRAZIANO. Yes.

Mr. SCHULTZ. What is the nature of the annual inspection of your membership?

Mr. GRAZIANO. Essentially, the inspection is to insure that the hazardous materials regulations as they relate to transportation are being complied with.

Mr. SCHULTZ. So, in effect, it is an in-house check for the benefit of your membership to preclude them from having problems which might result in criminal sanctions being imposed. Is that basically correct?

Mr. GRAZIANO. I think that is a fair statement, Mr. Schultz, and I think that the success of the program is directly related to the fact that when the Bureau of Explosives' inspector, who is a nongovernmental inspector and whom these plants choose to have take out a membership with the Bureau of Explosives, can rely on their technical expertise in this area, for as you know, the original regulations were written by us. In fact, these regulations, almost as they exist today, were written by the bureau of explosives with the help of industry.

The fact that we can educate and instruct the employees of the shipper in the proper application of regulations is of tremendous benefit to these people.

Mr. SCHULTZ. If your inspectors find a deviation or a situation that is not in compliance with the existing regulations, do you have a requirement to either go back and insure that they have corrected the situation, or do you have a requirement that you report your findings to either the Department of Transportation or the ATF or some other agency involved in explosives?

Mr. GRAZIANO. Essentially, when a bureau inspector completes his investigation, he discusses that report with the responsible party from that plant, advises him of the deviations that he has found, and prepares a report.

That report goes to the plant manager with whom he discussed the report orally at the time that he made the inspection, and also it goes to the headquarters of the organization.

In addition, that inspector's report comes in to the headquarters staff. The headquarters staff reviews the report and forwards a copy to either the headquarters of that organization or back to the highest responsible officer within that plant, to advise him that our inspector has found these errors and that the report is being given to him for his guidance and correction.

Mr. SCHULTZ. Do you, as director of the Bureau of Explosives, get any report, and do you follow up to insure that the deviation noted by the inspector has been in fact corrected?

Mr. GRAZIANO. Yes.

Mr. SCHULTZ. And do you keep a statistical record of these reports?

Mr. GRAZIANO. No. The inspections, yes; the corrections, no. No statistical records exist.

Mr. SCHULTZ. Could you give us some idea of the number of—I hate to use the word “violations”—deviations from the existing regulations that the inspectors find each year?

Mr. GRAZIANO. The word “violations” doesn’t cause me any discomfort and is the proper term to use.

Mr. SCHULTZ. Well, I was thinking since you really lack enforcement power, “violations” may be a bit strong, but if you’re happy with it, we will use the term.

Mr. GRAZIANO. No; it is indeed a violation, and—would you come back to that point?

Mr. SCHULTZ. Yes. My question is, could you give us a figure of the number of violations determined by your inspectors over the last year?

Mr. GRAZIANO. No; that would be impossible. I couldn’t even hazard a guess.

Mr. SCHULTZ. In addition to the yearly inspections performed for your members, what other inspections do your 14 inspectors handle?

Mr. GRAZIANO. We inspect other shipper facilities which are not members. We would inspect carrier facilities. For example, rail carriers, terminals, stations.

Mr. SCHULTZ. When would you do this? At their request?

Mr. GRAZIANO. No.

Mr. SCHULTZ. What authority do you have to go in and conduct these inspections?

Mr. GRAZIANO. Well, there are three authorities laid down in these regulations. One is contained in the law, section 834(e) of Public Law 86-710.

The other is contained in section 173.1 and section 173.3 of title 49, Code of Federal Regulations, as well as 174.500. And what that essentially says is that the Bureau of Explosives is given the right and has the authority to inspect manufacturing, shipper facilities, and other locations with a view in mind to determining what regulations will, within the best practical limit, be applicable or recommended.

It also says that we will inspect these facilities to assure that they’re in compliance with the hazardous materials regulations.

Mr. SCHULTZ. Do you provide advance notice to these groups that your inspectors are about to come in and inspect their facilities?

Mr. GRAZIANO. On some occasions it’s beneficial to arrange to have our inspectors make an appointment with these people. On some occasions, this is not done.

Mr. SCHULTZ. Can you tell the subcommittee how many of these groups there are that you inspect periodically and the nature of the facilities?

Mr. GRAZIANO. Well, we have obviously rail carriers, shippers, and shippers are essentially manufacturers of hazardous materials of all types.

Mr. SCHULTZ. What’s the total number, what’s the magnitude of this inspection?

Mr. GRAZIANO. The magnitude of the inspection job?

Mr. SCHULTZ. Are you talking about 500 installations?

Mr. GRAZIANO. Oh, no, substantially more than that. I think that in kind of a round term, perhaps ballpark figure, it would run several thousand.

If you consider all of the carrier modes—air, water, rail, highway—if you consider the shipper manufacturing plants, warehouse plants, distribution facilities, it's a pretty substantial number of places.

Mr. SCHULTZ. Are these inspections conducted periodically and on a scheduled basis or just as needed?

It would seem to me that for 14 inspectors, you have a lot of work to do.

Mr. GRAZIANO. The member plants, obviously, as we've said earlier, receive an inspection once a year. Beyond that, inspections are normally conducted where a violation is discovered in transportation and the way that's discovered is by visiting one of the carrier facilities. A violation may be as small as an abbreviation of a material by a shipper, which is not permitted. We bring that to his attention. Or it may be discovery of a leak in transportation.

Mr. SCHULTZ. What is the focus of the inspection? Is it primarily safety?

Mr. GRAZIANO. Yes. These are our safety regulations [indicating].

Mr. SCHULTZ. Is there any direct focus on the control of explosives, which is really the focus of our inquiry?

Mr. GRAZIANO. Would you please elaborate on that?

Mr. SCHULTZ. I will define control. Control from the standpoint of our inquiry is programs, procedures which would serve to keep explosives from the hands of those who, number one, are not entitled to have them and who, secondly, once they get them, are disposed toward using explosives for illicit purposes.

Mr. GRAZIANO. Well, in that context, I don't think that our organization, the Bureau of Explosives, specifically has anything to offer with respect to the control measure as you've defined it.

Our focus is safety and the compliance with these regulations [indicating].

These regulations, to my knowledge, don't speak to the kind of issue that you've addressed.

Mr. PHEMISTER. Peripherally, if I can interrupt a minute, it seems to me that a properly blocked and braced shipment, one that would tend to make its transit securely, or you know, without falling out of the car, would be peripherally involved in control.

Mr. SCHULTZ. Well, I agree. I think that the compliance with the safety regulations inure to the benefit of the control of explosives. Tangentially, you achieve several things by handling explosives correctly and safely; in other words, the packaging and preparation and safe transportation, are types of control.

Mr. GRAZIANO. I don't think that was the focus of your question.

Mr. PHEMISTER. But the other area in which control may be involved is that by insuring correct identification of the commodity on the shipment paper, if a derailment happens, whatever local enforcement authorities there are can learn what's on that train, what's in the truck, and take whatever security measures are called for because of the presence of that commodity. And that, other than assigning rates to

commodities, the identification of them is very important, the proper identification in the event you do have a derailment or a crash with a highway truck.

Mr. GRAZIANO. Now there is, of course, in these regulations [indicating], the section 174.590, which deals with the change of seals on cars of explosives which have been opened by an investigator—might be FBI, it might be railroad police—when a problem is suspected.

When I say that, I mean the car has come off, the wheels have come off its rail or the car is involved in an overspeed impact, or the car seal or hasp may be cut.

There is a provision in here which says that if the seals are changed and the car is inspected and then the person doing that must note on the shipping document what changes have been made and who made it and what date.

Mr. SCHULTZ. And would this information be reported to the Bureau of Explosives?

Mr. GRAZIANO. No; it would not. It has—I should clarify by saying that on occasion we receive reports like that but it's not a requirement of the regulations that they notify the Bureau of Explosives of that.

Mr. PHEMISTER. It travels with the shipping paper, doesn't it?

Mr. GRAZIANO. Yes, to the destination.

Mr. SCHULTZ. Would a part of your inspection be the review of these documents to insure that such notations have been properly recorded?

Mr. GRAZIANO. When they are found that way, yes.

Mr. SCHULTZ. Are thefts of explosives from interstate shipment reported to the Bureau of Explosives?

Mr. GRAZIANO. I'm not familiar with that terminology, notice of thefts. The Department of Defense—

Mr. SCHULTZ. Well, if the seal is broken on a truck or train and if in fact some explosives are taken, are you notified of this theft or loss?

Mr. GRAZIANO. No, no.

Mr. SCHULTZ. So your inquiry or interest would extend only to the proper recording of the fact of a seal being broken, that is, the procedural aspects of this fact being recorded on the shipping documents?

Mr. GRAZIANO. Right, right.

Mr. SCHULTZ. What recourse would the Bureau of Explosives have if one of your inspectors was denied access to a terminal or shipping facility where he intended to conduct an inspection?

Mr. GRAZIANO. I think that would depend on the type of facility or shipment.

For example, if we were inspecting that facility because of a serious violation of the regulations which might be overloading of a tank car or overloading of drums or mishandling by the shipper, we could report to the carrier that the shipper is not complying with the regulations and therefore the carrier should not accept the shipment.

That's one recourse.

Another recourse would be to point out to the shipper that the regulations require that he open his facility to the Bureau of Explosives and that we do have this permission granted in the regulations to investigate or inspect his facility for such violations.

I'm just trying to recall if we've ever been denied access, and I can't recall any time. I think one of the basic reasons that we're not denied access is that people to whom we would direct the focus of our activity

realize that our activity is not going to end up in a punitive, criminal, or civil penalty.

Mr. SCHULTZ. You really have no direct or indirect guidance or control from a governmental agency, do you?

Mr. GRAZIANO. Would you clarify that a little bit?

Mr. SCHULTZ. Is the guidance and control that you receive from the American Association of Railroads?

Mr. GRAZIANO. Guidance and control, as I interpret it and understand it, would come from the compliance with these regulations. These are our guidance in terms of dealing with the hazardous materials regulations and safety and transportation relating to those regulations. The control is placed on by the DOT. However, there is no official or even unofficial control exercised by the DOT over the Bureau of Explosives.

Mr. SCHULTZ. There is no assessment made to see whether or not the Bureau of explosives is properly discharging its responsibilities by the DOT?

Mr. GRAZIANO. That's correct.

Mr. SCHULTZ. Do you furnish any reports to the Department of Transportation?

Mr. GRAZIANO. No.

Mr. SCHULTZ. Does the Bureau of Explosives prepare and disseminate an annual report of their activities?

Mr. GRAZIANO. Prior to 1970, yes. We have not since 1970.

Mr. SCHULTZ. To whom was the annual report disseminated?

Mr. GRAZIANO. It was sent to the Interstate Commerce Commission at the time. If you recall, prior to the Transportation Act of 1967, the Office of Hazardous Materials Operations of the Department of Transportation was founded in the Interstate Commerce Commission. The Interstate Commerce Commission had a very small staff group who prepared the regulations at the request of the Bureau of Explosives.

So prior to 1967, essentially the only organization functioning in the area of hazardous materials was the Bureau of Explosives. With the creation of the Office of Hazardous Materials Operations, they have begun to exercise their legislative mandate and thereby take over those functions which were being performed by the Bureau of Explosives. The annual report was sent to anyone who requested it. All members of the Bureau of Explosives including shipping members would receive an annual report. The Interstate Commerce Commission also received an annual report.

Mr. SCHULTZ. Do your constituent members receive any kind of reports from the Bureau of Explosives on a regular basis?

Mr. GRAZIANO. On a regular basis? No, not on a regular basis.

Mr. SCHULTZ. They do, however, receive a written report concerning the inspections?

Mr. GRAZIANO. Yes, they do.

Mr. SCHULTZ. Does the Bureau of Explosives conduct any inspection in connection with the trucking industry?

Mr. GRAZIANO. Only to the extent that the trucking industry interfaces with the railroad industry in the transportation by trailer on a flatcar.

Mr. SCHULTZ. So I take it then that once the explosive has been transferred to the truck itself, your jurisdiction, if you will, or responsibility ends?

Mr. GRAZIANO. Now when you say transferred to the truck, do you mean that the shipper loads the truck and then the trucker moves it to the destination? Is that what you're referring to?

Mr. SCHULTZ. Yes. Once the explosive is physically located on a semitruck, at that point you have no jurisdiction or responsibility in connection with the shipment of the explosive?

Mr. GRAZIANO. Right. As I said, only insofar as the trucking industry interfaces with the railroad industry in the transportation of explosives where a motor vehicle is shipped on a TOFC—if you're familiar with a trailer on a flatcar—it's essentially a truck body loaded by a shipper at a plant, hauled by a motor carrier or a contract carrier to the railroad to a terminal facility where it is loaded on a flatcar, transported by the railroad on that flatcar to another intermediate destination and then hauled, taken off the flatcar and hauled to the destination by a motor carrier or contractor for the railroad.

And when that situation happens, we are very much concerned and very much aware. In the situation, as I understood it, where a shipper would load a motor vehicle and a motor carrier would transport that to destination, we would have no interest, we would have no jurisdiction.

Mr. SCHULTZ. Is the piggyback method the primary method for explosives being transported by the trucking industry?

Mr. GRAZIANO. I would say not. I would say that there are a goodly number of motor carriers who are registered with the Commission to transport explosives solely by motor carrier and do so.

Mr. SCHULTZ. And would these carriers pick up the explosives directly from the manufacturer and take them to a terminal or a destination?

Mr. GRAZIANO. To a destination.

Mr. SCHULTZ. And that's wholly outside of your jurisdictional responsibilities?

Mr. GRAZIANO. Correct.

Mr. SCHULTZ. In the course of your inspections, have you ever found it necessary to refer or are you allowed to refer a violation to the FBI, the Department of Transportation or any other agency?

The question is twofold: Are you allowed to make this referral, No. 1; and have you found it necessary to do so, is the second part?

Mr. GRAZIANO. I know of nothing that would prohibit us from making that referral. The second question, have we found it necessary—on one occasion I can recall when a car blew up in California—

Mr. SCHULTZ. When you say car, you're referring to a railroad car?

Mr. GRAZIANO. Right, and it was improperly—everything. The shipper did not load it right. There wasn't anything about that shipment that was proper. The DOT was involved in it and I had several conversations with the DOT suggesting that they should look at that shipper's facility because he had not in any way complied with DOT regulations.

I believe they have done so. I don't know whether it's an ongoing investigation or whether the investigation has been terminated, but certainly we would cooperate with them.

Mr. SCHULTZ. So if you do come across a flagrant violation, you would have no hesitancy to call this to the attention of someone who does have the—

Mr. GRAZIANO. The regulatory authority to act where we felt that we could not effect correction and the violation was so serious as to impair transportation or injure, impair the safe movement of materials, and perhaps provide injury or death, absolutely.

Mr. SCHULTZ. Does your Bureau of Explosives keep any statistics relating to the number of injuries or property damage which result from the faulty or incorrect handling of explosives while in transit?

Mr. GRAZIANO. A statistical summary or analysis is not maintained for that purpose or in that regard. Each case is handled on a case-by-case basis.

However, there is one record that we've been following for over 50 years. As you may know, the whole reason for the creation of the Bureau of Explosives in 1905 was due to several serious and disastrous explosions of explosives in rail transportation in the early 1900's. The Senate under Senator Elkins at that time sponsored a bill which would allow for the creation of a private organization within the railroad industry to deal with the problem of explosives by rail.

That was the creation and formation of the Bureau of Explosives. The Bureau of Explosives worked with the manufacturers of explosives and the packagers of explosives, and to my knowledge, it has been over 55 years since there has been a death due to the transportation of explosives by rail.

Prior to that, the record would so indicate there were many deaths, injuries, loss of dollars due to the transportation of explosives.

Mr. SCHULTZ. That's a very impressive statistic. I would conclude that you relate this directly to the work of the Bureau of Explosives.

Mr. GRAZIANO. I can draw no other conclusion.

Mr. SCHULTZ. Well, that's interesting because I was just going to ask you whether or not you thought the concept of the Bureau of Explosives is perhaps antiquated and that you needed some regulatory power to enforce the regulations that you inspect.

Mr. GRAZIANO. We have been, without that regulatory power, I think historically successful with respect to gaining compliance with hazardous materials regulations.

Now when you talk about compliance, you must talk in many focuses. If a shipper mislabels or uses an old label on a package instead of a new label which is required, that's a violation, but none so serious that you can't easily correct.

If a shipper applies four placards to a car and one of the placards is a little faded, that's a violation. But again, it's not so serious that it can't be easily corrected.

Most people that we come in contact with in the hazardous materials area are abundantly aware of the need to have, to comply with the regulations, to have good regulations that will insure safety.

Some shippers, as some people, are stubborn and don't want to, you know, do it their own way. They won't listen. In those cases it makes it very difficult for us to carry out our chore in the manner in which we are used to doing it. However, those cases are, to the best of our knowledge, few and far between. Most people are willing to comply and will, when you explain it to them that these are safety regulations, make an attempt and an effort.

There are several companies, as you may know, who are, because of several things that have happened in the past few years overly—more concerned about hazardous materials transportation.

And in fact, if you look at the history of the transportation of hazardous materials, in the early 1900's, the only materials that we were able to identify were explosives, black powder, dynamite, TNT, sulfuric acid, nitric acid, and we have grown to the extent that there are thousands of hazardous materials both in the transportation environment and manufacturing environment. The water that you drink, the clothes that you wear, all are generated by hazardous materials.

So it is pervasive in our industry—

Mr. SCHULTZ. The great change in the fertilizer industry is probably one.

Mr. GRAZIANO. Look at chlorine. Until 1920, it was unheard of. Today there are roughly 50,000 carloads of chlorine shipped on the Nation's railways and in the 50 years that we've been transporting chlorine there have been a few accidents, which is what we expected. There has been one death related to the transportation of chlorine in 55 years. That death was unfortunate but it was due to the fact that the person could not get out of the way. It happened in a small rural town in Louisiana, and a man, his wife, and about 11 kids, and they left—

That is the only death in the transportation of chlorine. In 1920 when they were first identified, whole industries have grown up, the vinylchloride industry, the LP gas industry, as you mentioned, the fertilizer industry, and you can go on and on.

Mr. SCHULTZ. With these items coming into being, the fertilizers, the chlorine gas, who made the determination that these materials were in fact hazardous?

Was this determination made by the Bureau of Explosives?

Mr. GRAZIANO. Essentially, yes.

Mr. SCHULTZ. And how was this determination made?

Mr. GRAZIANO. It's done in a variety of ways. Firstly, a shipper, as he manufactures the new material, has some awareness of the ingredients which he puts into the material or after he has prepared laboratory samples of the material, decides that some of the materials can fall within a range of being hazardous. Either they're toxic or they're flammable or explosive or whatever.

He then, after that determination is made, may run some laboratory tests on his own; that is, in his laboratory or a reputable laboratory suitable for that purpose, and then he would communicate—previous to 1967, he would communicate with the Bureau of Explosives and say, I have a material which has the following characteristics. At that point the Bureau of Explosives would say to him, send us a sample so that we can determine at our laboratory what we think the hazards of the product are, whether they're explosive, flammable, oxidizing, poisonous, or what have you. We would then make a determination of the type of hazard involved and recommend a classification to the manufacturer.

These regulations contain a section in which the shipper is required to properly classify his material with one exception, and that exception is explosives. Explosives must be classified by the Bureau of Explosives.

There has been a recent change which took place in May of this year which allows ERDA—Energy Research and Development—to classify explosives. It also permits the Department of Defense to classify its explosives.

But prior to 1967, and subsequent intervening amendments to these regulations, the Bureau of Explosives was the only organization in the United States that could classify explosives.

Mr. SCHULTZ. How were these changes made? By regulation or by statute?

Mr. GRAZIANO. Yes; regulation.

Mr. SCHULTZ. Are ERDA and DOD now doing something you previously did or has the state of the art changed and they're now doing something that relates to a new development not contemplated in your assigned responsibilities?

Mr. GRAZIANO. I'm not quite sure—

Mr. SCHULTZ. Well, was something taken away from the Bureau of Explosives by this grant of authority for ERDA and DOD to classify explosives?

Mr. GRAZIANO. Not that I'm aware of. It permitted DOD—the Department of Defense—to classify explosives which were highly sensitive without coming to the Bureau of Explosives.

To that extent they have taken away that option.

Mr. SCHULTZ. So it's not a duplicated procedure. They merely isolated a segment of their interest, whether it's ERDA or DOD for which they would be responsible?

Mr. GRAZIANO. To some extent, yes, because we still have the situation where on occasion the Department of Defense and the manufacturer of the product may disagree on what is the proper classification or segments within the Department of Defense disagree as to what the classification of a product may be and they would turn to us for our opinion.

Mr. SCHULTZ. Is the determination of the Bureau of Explosives final?

Mr. GRAZIANO. We have been overturned recently by the Department of Transportation. The Department of Transportation's Office of Hazardous Materials Operations has seen fit to change, I believe, one classification on us.

Mr. SCHULTZ. Relating to what?

Mr. GRAZIANO. Relating to explosives.

Mr. SCHULTZ. So the final appeal then is to the Department of Transportation?

Mr. GRAZIANO. It's unclear to me, Mr. Schultz, as to exactly how that works. The shipper or manufacturer of an explosive item is required to come to us for classification and proper identification of the material, as well as the packaging requirements. We offer him the said items and he is then required to file that report with the Department of Transportation.

Exactly what the operation of the Department of Transportation, OHMO, is at that point I am not sure.

Mr. SCHULTZ. In the instance that you just mentioned you stated that your classification was overturned by the Department of Transportation.

When that occurs, do you then adopt their classification for education and advice to your membership?

Mr. GRAZIANO. No, sir.

Mr. SCHULTZ. You do not?

Mr. GRAZIANO. If they make a determination contrary to the determination that we have made, they obviously, as the final regulatory authority, have the final say.

That does not mean that we concur.

Mr. SCHULTZ. But whether or not you concur, if your mission is to assist in the carrying out or the compliance of these regulations, are you not then required to revise your standards consistent with the findings of DOT and so advise your inspectors and your membership?

Mr. GRAZIANO. I think our obligation is to advise our client, the shipper or manufacturer, of the ruling of the Department of Transportation.

Mr. SCHULTZ. But then you would not incorporate this difference into your inspection procedures to insure that they are not in violation of regulations?

Mr. GRAZIANO. We would not in any way be in conflict with what the DOT regulations or their interpretations state.

Mr. SCHULTZ. Maybe this is the key. Are your classifications in this particular case more stringent than that classification decided by the Department of Transportation?

Mr. GRAZIANO. In that particular case, I'm only recollecting, I don't know whether we were more stringent or not.

I can't answer that question.

Mr. SCHULTZ. I have just a little bit of a problem here because—as I understand your responsibility—the responsibility of the Bureau of Explosives to determine and classify what materials are in fact explosives—there is an added requirement that a manufacturer seek such a classification when he's in the area of manufacturing and transporting such products. And it would appear from your testimony that, if not satisfied with the classification of the Bureau of Explosives, there is an appeal procedure which the manufacturer can exercise leading him to the Department of Transportation. And this is where I get lost. Who controls and what obligation does the Bureau of Explosives have to insure that this aspect of the regulation is complied with?

Mr. GRAZIANO. Well, I don't think it's such a great mystery and I'll try and unravel it.

The obligation, as stated in these regulations, is for the Bureau of Explosives, not the Federal Government, to classify the material. It specifically states that. The requirement also states that the Department of Transportation must be furnished a copy of the laboratory report and the classification.

It does not state in here that the Department of Transportation will review that laboratory report and classification and then offer advice on it. It merely says we will receive the report. You are required to file it with us.

Now if the Department of Transportation reverses our classification, I would suggest that they have to do that on some stated basis. Either they've tested the material or they've got factual proof that the material does not meet our classification or there is some good, sound technical reason, not merely because they believe that the material should be reclassified to something else. And for the DOT then to offer a classification to the shipper or manufacturer, they should be in a position to substantiate that classification either by test, as we have, or by analysis. And whatever the DOT puts out with respect to a legal interpretation or a legal classification of a material, we are obligated to abide by it just as everyone else is.

Mr. SCHULTZ. So there is no inconsistency. You would abide by the classification and findings?

Mr. GRAZIANO. We must.

Mr. SCHULTZ. Oh, I see. I thought you said, no, you would not.

Mr. GRAZIANO. Well, we must abide by it. We may not necessarily agree with it or we may not concur.

Mr. SCHULTZ. I thought that you said that you would not abide by it. That's all.

Is there a governmental agency which has the jurisdiction of determining what materials are hazardous and/or explosive materials?

Mr. GRAZIANO. Well, my answer to that is, I think that there are several agencies on the scene. As to exactly what their responsibility is, I'm not sure. I'm thinking of the group at OSHA. I'm thinking of the group at EPA, ERDA, with respect to radioactive materials. I just don't know what their role is, and therefore, I don't think I can successfully respond to your question as to what Government agency has jurisdiction over the classification. I'm not aware of any.

Mr. SCHULTZ. You're not aware of any Government agency that has the responsibility and the jurisdiction to determine what materials are hazardous or explosive?

Mr. GRAZIANO. No.

Mr. SCHULTZ. Do you think that there is a need for such a governmental responsibility?

Mr. GRAZIANO. I've got mixed emotions about that answer.

Mr. SCHULTZ. The Bureau of Explosives' responsibilities and interests are quite broad, surprisingly broad, to me, just reading some of the materials. The focus of your responsibility is primarily the railroads.

So I ask the question whether or not there should be legislation to make the determination of what materials are hazardous and explosive.

Mr. GRAZIANO. I look at it as presenting this kind of a problem. If you look at OSHA and its determination of what material is flammable, they say a flammable material is any material that has a flash point in a closed cup of 140° F. That's their determination for purposes in the work area and storage. The Consumer Products Safety Commission by law was given the definition of a flammable liquid as any material which has a temperature of a flashpoint whose temperature is 80° F. or more, open cup. The Coast Guard, a segment of the Department of Transportation, by law had the definition of a flammable liquid as a material with an 80° F. open cup test method. The DOT, Federal Rail, Federal Highway, and Air, prior to the advent of a procedural rulemaking called HM-102, used flammable liquid, 80° F. open cup flashpoint. The OSHA adopted an NFPA, National Fire Protection Association, standard which was 140° F. closed cup.

There was at one time, I should say, one group with a "national regulation" or determination of a flashpoint. As a consequence, the Coast Guard in Public Law 9633 had its jurisdiction revoked, and they consequently have 100° flashpoint closed cup.

Mr. SCHULTZ. How did they arrive at that finding?

Mr. GRAZIANO. That's the great mystery. The DOT Office of Hazardous Materials Operations, in one of its early rulemaking proce-

dures, HM-3, decided that the flashpoint of materials should be raised because the ambient temperature at any given time in the United States was about 100°. Industry proceeded to say, you guys just don't know what you're talking about. They decided in their infinite wisdom that they would go back and review it. They did. They came up with a rulemaking called HM-42. HM-42 not only said, look, we need a flashpoint of 100°, but we need to create a new category called combustible materials who have a flashpoint of 100° to 200°.

Again, the great mystery is. I don't know where that came from. After that rulemaking they decided in HM-67 that they needed to change the flashpoint test method from open cup to closed cup. Open cup test method most closely approximates the conditions that you will find in transportation, and after all, that's what the Department of Transportation is about.

They proceeded to define the material as 100° closed cup. They got into such a soup on that one because of the types of methods that they were using, unclear, unsound, and quite frankly, unfounded, that they decided that HM-102 was their salvation. And that rulemaking said, well, we've got seven different methods of determining a flashpoint of a material. Any one of these methods is acceptable for a particular type of material, whether it's viscous or not viscous. But if you're going to use the closed cup method and you're going to raise the flashpoint from 80° to 100°, you're going to create a new category of combustible materials.

Despite the protests and objections of industry, it became a fact of life.

So here you have a manufacturer saying, look, OSHA, CPSC, Coast Guard, DOT, and now somebody else is on the scene—we've got this variety of confusion, but let's look at it very, very carefully.

DOT regulates for transportation purposes and, if you're asking should there be somebody to regulate or to suggest what an explosive is or what a hazardous material is for transportation, very definitely. Should somebody be looking at this same kind of a thing, what an explosive is or what a hazardous material is, or CPSC, which is home use, or OSHA, which is working and storage place. They can't seem to get their act together because they're addressing different functions. They're addressing different conditions.

So to try and establish a central core agency that would define it for everyone may on the face of it be a panacea and it may be the thing to do. But I can't help but think that if you're going to define it in terms of OSHA or in terms of the CPSC, this segment here, DOT or somebody else is going to be shunted aside and not receive its fair due because there are differing conditions for transportation than there are for manufacturers and than there are for end use.

Mr. SCHULTZ. In the example you just gave, what input did the Bureau of Explosives have in relation to these various findings?

Mr. GRAZIANO. We recommended very strongly that they not adopt the 100° flashpoint and that they not adopt the category called combustible materials. We gave them very sound reasons why. They couldn't come up with a good reason to go to that. That was one of the most significant rulemakings ever undertaken by the Office of Hazardous Materials, HM-3, and I suggest that if you're interested in pursuing how the regulatory process works, that that is a beautiful case.

Mr. SCHULTZ. Is it your testimony that the varying and differing flashpoint findings which were promulgated were arbitrary and capricious findings, that there was no laboratory testing done?

Mr. GRAZIANO. Simply because you test a material in the laboratory doesn't give it credence in terms of deciding whether the flashpoint of the material should be 140° F. There are flashpoints of materials that are -140°, +580°. But what is the problem you are trying to address—safety of the people in transportation? If that's so, then what are the transportation conditions that require you to identify particular materials that are hazardous in transportation?

Mr. SCHULTZ. Well, of course, they apparently all agree that it was a hazardous material. The difference then was the manner in which it should be handled, based on their flashpoint findings. So I'm back to my original question, should there be a governmental agency which determines whether or not materials are hazardous or explosive? Let's leave aside for a minute the question of how they would be transported.

Mr. GRAZIANO. According to what criteria—end use, manufacture, or transportation?

Mr. SCHULTZ. Well, essential use—it's got to be handled, doesn't it?

Mr. GRAZIANO. Transportation or the manufacture of the material?

Mr. SCHULTZ. Manufacture and handling of the material.

Mr. GRAZIANO. I would like to think about that a little bit. I have some problems with that. They relate to this.

As you may know, Occupational Safety and Health Administration addresses materials which are hazardous to the workmen, worker or employee, at the time of their manufacture. And that exposure, if I can use that term, is a chronic exposure. It's not an acute exposure. In transportation, the exposure is acute. We like to think that we get our products from point A to point B in less than 3 years, 5 years, 20 years, whatever the exposure might be. Therefore, what's hazardous to a worker at the time of manufacture may not be hazardous to a transportation environment.

Mr. SCHULTZ. We're, perhaps, a little bit afield of the focus of our subcommittee inquiry.

But in looking into the administration and execution of the laws pertaining to the control of explosives, it is relevant to know what an explosive is.

And I guess I was probably the most surprised to find out that though the Bureau of Alcohol, Tobacco, and Firearms has the principal responsibility for the control of explosives, they apparently do not make a finding as to what constitutes an explosive. I say "apparently" because it's not entirely clear in my mind at this point but that's what led us to the Bureau of Explosives, and the reason we solicited your help with our inquiry.

Again, we do recognize that you are primarily concerned about the safety of explosives.

Mr. GRAZIANO. That's right.

Mr. SCHULTZ. And your activities relate to the voluntary compliance, if you will, of the regulations.

Is there an overlap by the Department of Transportation or the Bureau of Alcohol, Tobacco, and Firearms by their inspectors or investigators to the work that's conducted by your inspectors? Is there any overlap, duplicitous inspections conducted?

Mr. GRAZIANO. The only thing I know about AFT is that it's the Bureau of Alcohol, Tobacco, and Firearms.

Mr. PHEMISTER. It's ATF.

Mr. GRAZIANO. You see—don't confuse me.

I really don't know what the inspectors do, how they operate, what their function is. I know nothing about that.

Mr. SCHULTZ. So your bureau has no day-to-day contact in the field or at any level with BATF?

Mr. GRAZIANO. Not that I'm aware of. I may find that we have more in common. Apparently we do. I really don't know what their function is.

Mr. SCHULTZ. Do you know or are you aware that a representative of your organization attended any meetings relating to the tagging of explosives?

Mr. GRAZIANO. It's entirely possible. With 35 people in the organization, I don't keep tabs on each and every one of them. It's possible.

Mr. SCHULTZ. The tagging of explosives, of course, is concerned with being able to identify the presence of an explosive in a room, an airplane—

Mr. GRAZIANO. We don't transport explosives by air.

Mr. SCHULTZ. A car or this type of thing. I'm talking about the hazard aspect, or the other end of it, the second part of it, is the ability to identify it once an explosion has occurred, and I was just wondering whether you have participated or your laboratory people have participated in the study of this possibility.

Mr. GRAZIANO. It's entirely possible that our laboratory people have participated in conferences or discussions with the Alcohol, Tobacco, and Firearms people, excluding my knowledge.

The manner in which these regulations require explosives to be identified are the use of labels, which I'm sure you're aware that there are labels which identify material as an explosive either class A, B, or C. There are also markings on boxes that are required to be placed there by the shipper, explosives, high explosives, propellant explosives, handle carefully, keep fire away.

Mr. SCHULTZ. And these are universal regulations for all transportation?

Mr. GRAZIANO. That's correct.

Mr. SCHULTZ. Whether or not they're within your responsibility?

Mr. GRAZIANO. That's correct.

Mr. SCHULTZ. Is there another organization similar to yours that handles the, or assists the, trucking membership to see that they're in compliance with the regulations?

Mr. GRAZIANO. I'm glad you asked that question. There is not.

The railroad industry is the only carrier mode that enjoys the services and abilities of an organization like the Bureau of Explosives. The trucking industry, to my knowledge, has committees. The Domestic and International Air Transport Association uses the services of the Bureau of Explosives as their technical experts in the carriage of hazardous materials. I'm not aware of any organization operated by the waterway carriers that deal with these materials. The railroad industry is the only one.

Mr. SCHULTZ. Who then has responsibility and fills the void for the airlines and the trucking industry for the service that you perform for the rail industry, if you know?

Mr. GRAZIANO. They don't have anything. The DOT inspectors, the Federal highway inspectors, do visit shippers and carriers, the trucking carriers, to assure that they're complying with the various regulations. But there is no functional group that I am aware of that acts as does the Bureau of Explosives for any other mode.

Mr. SCHULTZ. Mr. Graziano, describe for us, if you will, the technical facilities that you have in your laboratory. Where is the laboratory located?

Mr. GRAZIANO. The laboratory is located in building 817, the Raritan River Center in Edison, N.J. It is staffed by four people, a chief chemist, a chemist, a laboratory technician, and a maintenance man. The laboratory is a functional working laboratory. It is not a clean-room type of laboratory. It is housed in a building on the old Raritan River Center in which we have test ovens, we have chemical analysis materials which enable us to test the materials. We also have a 2½-acre test site in which we physically set off explosives, small samples, to determine the types of classifications that should be ascribed to certain materials.

We have an approved magazine for the storage of small samples of explosives.

Mr. SCHULTZ. To whom do you make your services available?

Mr. GRAZIANO. To anyone who asks.

Mr. SCHULTZ. And are your services provided on a fee basis?

Mr. GRAZIANO. Yes, they are. The fee is arranged so that it covers the expenses of operating the laboratory.

Mr. SCHULTZ. Does the Federal Government take advantage of using your laboratory facilities?

Mr. GRAZIANO. On occasion.

Mr. SCHULTZ. To your knowledge does the Department of Transportation have their own laboratory facility for the purpose of examining explosives?

Mr. GRAZIANO. They do not.

Mr. SCHULTZ. Does the Bureau of Alcohol, Tobacco, and Firearms have a laboratory that they—

Mr. GRAZIANO. I have no idea.

Mr. SCHULTZ. Up until May of this year had you conducted laboratory examinations for the Department of Defense?

Mr. GRAZIANO. Yes, we had. We would either conduct an examination at our facility or we would go to a depot and as you know, military depots have test sites. We would witness conducting of tests at their test sites.

It could go either way. We have done both.

Mr. SCHULTZ. I suppose the reason for going to the military site would be they would have an extremely secure facility of which to protect the nature of their armaments.

Mr. GRAZIANO. Sometimes it's that and obviously, we don't have the kind of a test site in which you could set off a 500-pound bomb.

Mr. SCHULTZ. It would be a bit disruptive to New Jersey.

Well, let me ask you this. Do you have any recommendations for the subcommittee pertaining to either the examination of explosives or the enforcement of regulations which would pertain to the control of explosives? That's the focus of our inquiry, keeping explosives out of the hands of terrorists and/or other criminal activists.

Mr. GRAZIANO. Well, since that's not really my area of expertise, I think I'd be a bit foolish in trying to make a recommendation in that area.

Mr. SCHULTZ. I understand. I wasn't trying to put you on the spot but I thought perhaps from your years of experience relating to the safety aspects which, in effect, is a type of control, you might have some judgment or recommendation that would be beneficial to the subcommittee in its inquiry.

Mr. GRAZIANO. I can't think of anything at the moment.

I should say that the transportation of explosives generally is pretty well watched after by people that are concerned and are aware of it. I think they take a good deal of precaution in preparing the shipments and assuring that they have done everything they reasonably can to get the shipment there.

Mr. SCHULTZ. There is, of course, a certain amount of self-interest in staying alive while handling explosives.

Mr. GRAZIANO. You know that makes the people who handle hazardous materials some of the safest people in the world.

Mr. SCHULTZ. I'm sure it does.

Mr. SHORT. You stated the DOT had no lab for classifying and testing explosives. Now the one time when they reversed your decision on classification, do you know how they made that determination?

Mr. GRAZIANO. No; I don't. I do know that they did not test the material. It was a decision made on advice that they had received—from what source I don't know, but on advice and it was not done by testing the material.

Mr. SHORT. Do you recall what the material was in question?

Mr. GRAZIANO. I don't. I'm sure that they would have a record of it, though.

Mr. SHORT. You also stated that at your lab in New Jersey that you had an approved magazine, explosive storage magazine.

Who inspects that magazine?

Mr. GRAZIANO. I don't know.

Mr. SHORT. Is it inspected?

Mr. GRAZIANO. I can't even answer that. I assume that if it meets the requirements of protecting explosives for storage—I really can't answer that with any degree of reliability.

Mr. SCHULTZ. I wonder if you would be willing to provide to the subcommittee a response to that question after reviewing that matter with the person in charge. In fact, let's make the question more specific.

How many times has that magazine been inspected in the last 2 years and by whom was the inspection conducted? If you could just provide that to us in a letter, it would be appreciated.

Mr. GRAZIANO. Sure.

[Mr. Graziano subsequently supplied the information that the facilities and magazine were last inspected by Mr. Bobinyec, a New Jersey State inspector, and ATF district inspector, Mr. R. Peters, about February 25, 1976, and November 26, 1975, respectively. He also supplied the following data pertinent to the magazine.]

STATE OF NEW JERSEY

	Permit No.	Maximum quantity of explosives to be stored	Expiration date
Magazine:			
Class 1.....	7425	100#.....	Feb. 28, 1977
Class 4.....	7426	400 EBC.....	Do.
Permit to use explosives—user:			
W. S. Chang.....	4723	Sept. 31, 1976
Carl C. T. Chen.....	4723	Feb. 28, 1977
Department of Treasury/ATF—permit for use of explosives: high explosives.	143000147	Sept. 9, 1976

Mr. SHORT. Now CFR regulation. No. 49, states that, in case of a rail wreck in which nitroglycerin is involved—

Mr. GRAZIANO. It's a forbidden explosive.

Mr. SHORT. Right, a forbidden explosive, in other words it calls for you to supervise the cleaning of that material. If it's a member railroad, fine. If it's a nonmember, do you still go in and supervise?

Mr. GRAZIANO. The regulations don't say whether it's a nonmember or not.

Mr. SHORT. If the regulations don't specify between member and nonmember—

Mr. GRAZIANO. As a matter of fact, we have that responsibility with respect to everything that's in these regulations which says that the Bureau of Explosives will do thus and so. There are some 215 of those type statements in these regulations and irrespective of whether they're a member or a nonmember, we do that.

Mr. SHORT. So you're not reimbursed then for nonmembers? That's a gratis operation.

Mr. GRAZIANO. Yes.

Mr. SCHULTZ. As a practical matter, though, I shouldn't say all but in most, in some of those provisions, it is "or the Bureau of Explosives."

Mr. SHORT. "Carrier or."

Mr. SCHULTZ. The principal carrier or—

Mr. GRAZIANO. That's only found in one section, in 174.500.

Mr. SCHULTZ. I stand corrected.

Mr. GRAZIANO. It says the manufacturer or the shipper, the methods of packaging and storing and so forth must be open to the initial—inspection of the initial carrier or the Bureau of Explosives.

Mr. SHORT. Supervised by the chief of the bureau. I don't know who the chief is.

Mr. GRAZIANO. And neither do I.

Mr. SCHULTZ. But also the specific example that Mr. Short brought up, the superintending of—

Mr. GRAZIANO. The superintending of the mopping up and cleaning up.

Mr. SCHULTZ. Doesn't that also say mopping up or cleaning up?

Mr. GRAZIANO. I don't believe so. I believe that's the Bureau of Explosives' responsibility.

Also, that regulation was written with the thought in mind many years ago, as you know, that TNT or dynamite were the type of explosives manufactured and shipped. If you were to allow those materials to sit around for any length of time, the nitroglycerin would begin to seep out.

I don't think there are two manufacturers in the United States still making TNT or dynamite today.

Mr. SHORT. Right. I think that was written specifically because as I recall; it said to wash down with sodium carbonate, which would neutralize nitroglycerin.

One of the inspectional services that you offer is to military installations. Now do you arbitrarily go to a military installation to inspect?

Mr. GRAZIANO. Yes.

Mr. SHORT. How do you determine what areas are to be inspected?

Mr. GRAZIANO. Only those areas in which hazardous materials are being loaded into transport vehicles for transportation by rail.

We're not interested in secret formulations. We're not interested in whether they've got 500 or 400 people on the line manufacturing devices.

What we're interested in is how is that device packaged for transportation, how is it marked and labeled? Is it properly classified and shipped and is it properly loaded into the transport vehicle to assure safe transportation?

That's the extent of the type of investigation or inspection.

Mr. SHORT. Are you notified prior to loading by a military installation that a certain shipment is to be made? If not, how do you know that a shipment will take place?

Mr. GRAZIANO. On occasion, where a shipment might be, or for example, there's one moving very shortly that we've been in on for some time now. It's a rocket motor that they're moving out of Bacchus, Utah, down to Cape Kennedy and it's an oversized load and it's an overweight load.

They have come to us to assure that everything is A-OK before they move that rocket motor from Bacchus to Cape Kennedy. It'll move by a special train service because of the size of the load and the weight of the load.

So in that instance, in that context, we were notified. But for example, we know that atomic weapons move, but we're not notified that atomic weapons move.

This is handled mostly between the military and the Atomic Energy Commission and the carrier involved under special transport.

Mr. SCHULTZ. And the carrier is not required to notify the Bureau of Explosives?

Mr. GRAZIANO. Not required to notify the bureau, no.

Mr. SHORT. That's all.

Mr. SCHULTZ. I don't know how much your 14 inspectors are paid, but it would appear from your testimony that they are earning their money.

Mr. GRAZIANO. You may be assured we're all earning our money—at no cost to the Government, I might add.

Mr. SCHULTZ. That's probably the brightest thing we've heard.

Mr. SHORT. I don't think that anyone that's come before us has made that comment anyway.

Senator THURMOND. Mr. Graziano, we appreciate your appearance before the subcommittee today and believe that your testimony will be very helpful. Thank you.

At this time I would like to accept, for the record, the material that Mr. Graziano will mail to us, subject to review.

If there is no further business, the subcommittee stands adjourned, subject to call from the chairman.

[Whereupon, at 12:41 p.m., the subcommittee adjourned, subject to the call of the Chair.]

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