



U. S. House of Representatives
Committee on Transportation and Infrastructure

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SUMMARY OF SUBJECT MATTER

TO: Republican Members of the Committee on Transportation and Infrastructure

FROM: Republican Aviation Subcommittee and Oversight and Investigation Staff,
Committee on Transportation and Infrastructure

SUBJECT: Minority Views – Full Committee Investigation and Oversight Hearing on FAA
Safety Oversight of Airlines, April 3, 2008, 10:00 AM, 2167 Rayburn.

PURPOSE OF HEARING

The Federal Aviation Administration's (FAA) primary mission is to oversee the safety and efficiency of the National Airspace System (NAS). By far, the most important role of the FAA is safety oversight, including airline maintenance oversight. The Office of Aviation Safety within the FAA is responsible for safety oversight. There are roughly 6,800 employees within the Office of Aviation Safety, including some 3,600 FAA aviation safety inspectors. This workforce oversees approximately 19,000 aircraft, including about 7,000 aircraft that make up the U.S. commercial airline fleet; over 500,000 pilots and approximately 5,000 repair stations.

In August 2007, the Majority Investigations and Oversight staff began an investigation into allegations of improper oversight at the FAA's Southwest Airlines Certificate Management Office (SWA CMO) in Dallas, Texas.

Minority staff was not asked to participate and only became aware of the investigation on January 30, 2008 following publication of an article in BusinessWeek. The oversight investigation was conducted by the Majority staff. Minority staff had no role in the conduct of the Committee's investigation.

On February 4, 2008, following a review of whistleblower allegations by the U.S. Office of Special Counsel, the Secretary of Transportation referred the matter to the DOT Office of Inspector General (OIG) for investigation.

The OIG began its formal investigation at that time, looking into allegations related to the SWA CMO, as well as conducting a broader investigation into FAA's national airline maintenance oversight program.

While the OIG has completed its investigation of the SWA CMO, they have not fully completed their review of the FAA's national airline maintenance oversight program. Therefore, Minority staff believes it is premature to reach any conclusion about a pattern of regulatory abuse, as stated in the Majority's Subject Matter Memo (SMM).

Additionally, the Majority's SMM references anonymous FAA safety inspector interviews that were conducted by Majority oversight investigators only. Minority staff has no separate knowledge of the veracity of the allegations cited from these anonymous sources.

Although not involved in the investigation that prompted the hearing, given the grave nature of the allegations, Minority share the Majority's safety concerns and look forward to a productive discussion on how best we can improve the safety inspection process.

FAA PARTNERSHIP PROGRAMS

The Majority's SMM stated that, in the 1990's, the industry and the FAA reached consensus that regulatory oversight should be conducted in collaboration with the industry. It was believed that airlines, pilots, maintenance personnel, and all other certificate holders should be provided with incentives for coming forward and disclosing cases of non-compliance that were not previously known to the FAA.

As an incentive the FAA follows a policy of agreeing to forgo proceeding with civil penalty actions, in certain well-defined situations, in exchange for self-disclosure. The partnership programs operate under very strict guidelines and are not intended to replace traditional civil penalty enforcement actions. There are two major partnership programs:

Voluntary Disclosure Reporting Program (VDRP)

According to the FAA, VDRP allows airlines and their employees to voluntarily disclose violations discovered by the airline before the violation is found by the FAA. If an airline voluntarily submits information about a violation, there are no penalties placed against it (with some limitations.)

Aviation Safety Action Program (ASAP)

According to the FAA, ASAP provides a way for employees of air carriers and domestic repair stations to identify and report safety issues to management and to the FAA, without fear that the FAA will use reports to take legal enforcement action against them, or that companies will use the information to take disciplinary action. ASAP is designed to encourage participation by employees, such as pilots, mechanics, flight attendants, and dispatchers.

The FAA may use ASAP reports for legal enforcement purposes where there appears to be criminal activity, substance abuse, controlled substances, alcohol, or intentional falsification.

SUMMARY OF FACTS

On March 15, 2007, Southwest Airlines (SWA) notified the FAA of a voluntary disclosure of a potential non-compliance with the Airworthiness Directive (AD) related to aging aircraft skin cracks and that up to 100 aircraft were overdue for the required inspection. SWA submitted its formal VDRP application on March 19, 2007 on a total of 47 aircraft. These aircraft were brought into compliance by March 23, 2007. However, the FAA's SWA CMO and the airline failed to ground these aircraft between March 15th and March 23rd. SWA continued to fly the aircraft in passenger revenue service in direct violation of the AD and Federal Regulations. The FAA SWA CMO management closed the VDRP on April 10, 2007.

According to the FAA, several internal investigations were conducted between May and October 2007. In November 2007, FAA Headquarters reopened the VDRP. On March 6, 2008, the FAA initiated action to seek a \$10.2 million civil penalty against Southwest for allegedly operating 46 airplanes without conducting mandatory checks for fuselage cracking.

Around the same time, it came to light that SWA may have overflowed a required maintenance manual check on the standby rudder power control unit. This matter is currently under review by the FAA.

On March 18, 2008, the FAA directed aviation inspectors to reconfirm that all commercial carriers operating within the United States have complied with all airworthiness directives. An initial review was completed on March 28, 2008 and the full audit should be completed no later than June 30, 2008.

ANALYSIS

The events at the FAA's SWA CMO, as well as other airlines, raise several issues related to the FAA's oversight of U.S. commercial airline maintenance, including concerns related to AD compliance oversight. Additionally, it appears the FAA's mechanisms to allow inspectors to report problems up the chain of command must be reviewed and revamped.

Finally, concerns have been raised about the proper balance between collaboration and oversight under the FAA's partnership programs. The FAA must find a way to ensure that the pendulum never swings too far in one direction and that proper balance is maintained; open communication and collaboration with proper oversight and enforcement.

Possible Recommendations:

- Establishing a "cooling-off" period for inspectors leaving the FAA to eliminate any appearance of impropriety.
- Allowing more flexibility to move FAA's inspectors and supervisors around various Certificate Management Offices – rotate inspectors and supervisors.
- Establish better mechanisms to report issues up the chain of command within the FAA
- Ensuring better record-keeping at the airlines.
- Inspector workforce modeling – with a large percentage of inspectors expected to retire in the next 5 to 10 years, we must ensure proper staffing levels.
- Additional recommendations are likely to be made.

WITNESSES

PANEL I

Mr. Charalambe (Bobby) Boutris

Aviation Safety Inspector and Boeing 737-700 Partial Program Manager for aircraft maintenance
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PANEL II

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