UPDATE: THE FEDERAL AVIATION ADMINISTRATION'S CALL TO ACTION ON AIRLINE SAFETY AND PILOT TRAINING

(111–86)

HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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February 1, 2010

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Aviation

FROM: Subcommittee on Aviation Staff

SUBJECT: Hearing on "Update: The Federal Aviation Administration's Call to Action on Airline Safety and Pilot Training"

PURPOSE OF HEARING

The Subcommittee on Aviation will meet on Thursday, February 4, 2010, at 10:00 a.m., in room 2167 of the Rayburn House Office Building to receive testimony regarding an Update on the Federal Aviation Administration's (FAA) Call to Action on Airline Safety and Pilot Training.

BACKGROUND

On February 12, 2009, at about 10:17 p.m., a Colgan Air Inc., Bombardier Dash 8-Q400, N200WQ, d.b.a. Continental Connection Flight 3407, crashed during an instrument approach to runway 23 at the Buffalo-Niagara International Airport, Buffalo, New York (Flight 3407 was en route from Newark Liberty International Airport (EWR), New Jersey). The crash site was approximately five nautical miles northeast of the airport in Clarence Center, New York, and mostly confined to one residential house. The four crew members and 45 passengers were killed and the airplane was destroyed by impact forces and post-crash fire. There was one ground fatality.

The National Transportation Safety Board (NTSB) held a three-day public hearing on Flight 3407 from May 12-14, 2009, that focused on a number of areas including: 1) flight crew experience and training; 2) remedial training programs; 3) commuting policies and practices; 4) fatigue management; and 5) violations of sterile cockpit and the impact on situational awareness. The hearing identified the need to closely examine the regulations governing pilot training and rest requirements and the oversight necessary to ensure their compliance. This is a particular concern at regional carriers[1] since the last six fatal 14 C.F.R. part 121 (part 121)[2] accidents involved regional air

[1] Regional air carriers provide short- and medium-haul scheduled service generally connecting smaller communities with larger cities and hub airports. They typically operate turboprops and jets with between nine to 110 seats and partner with mainline air carriers for contract or pro-rate flying.

carriers. The NTSB has cited pilot performance as a factor in three of five of those accidents (not including Flight 3407). On February 2, 2010, the NTSB held a public Board meeting to finalize its accident report.

On June 10 and 11, 2009, both the Senate Aviation Operations, Safety, and Security Subcommittee and the House Aviation Subcommittee held hearings related to regional carrier safety. On June 15, 2009, FAA Administrator J. Randolph Babbitt announced an industry-wide Airline Safety and Pilot Training "Call to Action" to reduce risk at regional airlines while promoting best practices from major airlines and seeking industry voluntary compliance with a number of safety initiatives. On June 24, 2009, the FAA also published an Airline Safety Pilot Training Action Plan ("Call to Action" Action Plan) with several specific short-term and intermediate-term action items that include:

- The FAA establishing an Aviation Rulemaking Committee (ARC) charged with developing recommendations for a new FAA flight and duty time limits rule.
- A "Focused Inspection Initiative," whereby FAA inspectors would review airline procedures for identifying and tracking pilots who demonstrate a repetitive need for additional training. Moreover, inspectors would conduct additional inspections to validate that airlines' training and qualification programs meet regulatory standards in accordance with FAA guidance materials.
- The Department of Transportation (DOT) and FAA developing authority and processes to review agreements between major air carriers and their regional partners.
- The FAA developing and seeking industry comments regarding creating a range of pilot mentoring programs in which more experienced pilots will mentor junior pilots.
- Labor organizations establishing and supporting professional standards and ethics committees to develop peer audit and review procedures.

Also, on June 24, 2009, FAA Administrator Babbitt sent letters to all 101 part 121 air carriers (Note: three air carriers are no longer in business, so there are currently only 98 part 121 air carriers) and seven labor organizations requesting a written commitment to certain action items by July 31, 2009. Specifically, the Administrator's letter requested:

From Air Carriers	From Labor Organizations
1) That air carriers immediately implement a policy of asking pilot applicants for voluntary disclosure of FAA records, including notices of disapproval for evaluation events;	1) That labor organizations establish and support professional standards and ethics committees to develop peer audit and review procedures, and to elevate ethics and professional standards;
2) That air carriers who have not done so, establish Flight Operations Quality Assurance (FOQA)[3] and Aviation Safety Action Program (ASAP)[4] programs;	2) That labor organizations establish and publish a code of ethics that includes expectations for professional behavior, standards of conduct for professional appearance, and overall fitness to fly;

[2] Part 121 contains the rules that scheduled commercial air carriers fly under. Part 121 operators include major commercial air carriers flying under the strictest set of FAA operating regulations.
[3] FAA, Flight Operational Quality Assurance, Advisory Circular 120-82 (Mar. 12, 2004).
[4] FAA, Aviation Safety Action Program, Advisory Circular 120-66B (Nov. 15, 2002).

3) That air carriers who have contract provisions with regional, "feeder" partner companies seek specific and concrete ways to ensure that the partner carriers adopt and implement the most effective practices for safety.	3) That labor organizations support periodic safety risk management meetings between FAA and mainline and regional carriers to promote the most effective practices, including periodic analysis of FOQA and ASAP data with an emphasis on identifying enhancements to the training program.

On January 26, 2010, the FAA released its final report on the Call to Action entitled *Answering the Call to Action on Airline Safety and Pilot Training* ("Call to Action" Final Report). The FAA received responses from 80 air carriers (out of 98 total) for a response rate of 82 percent.[5] These carriers represent 99 percent of aircraft operating under part 121. In addition, all seven labor organizations responded positively to the Administrator's letter.[6] According to the FAA, the following air carriers did not respond to the Administrator's June 24, 2009, letter:[7]

List of Carriers That Did Not Respond to the Administrator's June 24, 2009 Letter[8][9]

AERO MICRONESIA INC
AIR TRANSPORT INTERNATIONAL LIMITED LIABILITY CO
AVIATION SERVICES LTD
CAPITAL CARGO INTERNATIONAL AIRLINES INC
CENTURION AIR CARGO INC
GEMINI AIR CARGO INC
LYNDEN AIR CARGO LLC
LYNX AIR INTERNATIONAL INC
MERIDIAN ASSOCIATES
NATIONAL AIR CARGO GROUP INC
NETJETS LARGE AIRCRAFT COMPANY LLC
PACE AIRLINES INC
PRESCOTT SUPPORT CO
PRIMARIS AIRLINES INC
RHOADES AVIATION INC
SKY KING INC
SKY LEASE I INC
SWIFT AIR LLC
TATONDUK OUTFITTERS LTD
TEM ENTERPRISES INC

Source: FAA

Overall, the response letters received by the FAA reflect increased commitment by carriers to establish voluntary ASAP and FOQA safety programs. Yet the Department of Transportation

[5] FAA, *Answering the Call to Action on Airline Safety and Pilot Training* (Jan. 2010) at 13.
[6] *Id.*, at 2.
[7] *Id.*, at Appendix 6, 3. While Ameristar Air Cargo In. and Caribbean Sun Airlines Inc. are listed as non respondents in the FAA's Call to Action Final Report, FAA officials acknowledge that the agency has received letters from these carriers.
[8] Operators noted in gray are those no longer holding a Part 121 operating certificate.
[9] Operators noted in BOLD did not respond to the FAA's Call to Action letter, but have an FAA-approved ASAP program in place.

Inspector General's (DOT IG) office, which conducted an independent review of the response letters received by the FAA, reports that in certain instances carrier commitments to establish these programs are open-ended, as the FAA did not impose, or even suggest, deadlines or milestones for carriers to establish these programs. In other specific instances, carrier commitments were vague or unclear.

The FAA also held 12 "Regional Safety Forums" throughout the country to discuss "Call to Action" safety initiatives, listen to stakeholder comments, and seek ideas for and commitments to related industry actions. The FAA invited air carrier Chief Executive Officers, chief pilots, directors of operation, and directors of safety for part 121 air carriers and 14 C.F.R. part 135 carriers (part 135)[10] with approved training programs; training center instructors, air carrier association representatives, labor organization representatives, and FAA operations inspectors to attend. To encourage open discussion, these events were closed to the press and the public. FAA officials, air carrier, and labor representatives have all indicated that these forums were well-attended. The FAA completed the last of these forums in Boston on August 27, 2009.

Nevertheless, other "Call to Action" and key related safety initiatives have experienced delays or have yet to be initiated. In fact, a statement from Administrator Babbitt that accompanied the "Call to Action" Final Report notes, "This report is a snapshot of our work, which is by no means finished. We will continue to aggressively push forward with these initiatives that we believe will raise the safety bar even higher."[11]

Status of FAA Safety Initiatives Related to the FAA's Call to Action

Fatigue: In July 2009, the FAA charted an ARC to develop recommendations for an FAA rule on pilot flight and duty time. The ARC met its September 1, 2009, deadline and provided the FAA with a broad framework for drafting a Notice of Proposed Rulemaking (NPRM) that the agency planned to publish by December 31, 2009. **The FAA now plans to publish an NPRM in April 2010**.
Crew Training: On January 12, 2009, the FAA issued an NPRM to overhaul crew training requirements. The public comment period originally scheduled to be closed in May 2009, was extended and closed August 10, 2009. The FAA received over 3,000 pages of comment that it must review. **The FAA now expects to issue a Supplemental Notice of Proposed Rulemaking (SNPRM) in April 2010** to incorporate some of the views provided and offer the public another opportunity for input on the revised document.
Airline Pilot Qualifications: In September 2009, Administrator Babbitt testified before the House Aviation Subcommittee that the FAA was preparing an Advanced Notice of Proposed Rulemaking (ANPRM) to strengthen the qualitative training requirements and possibly increase the flight hours needed to be an airline First Officer. **The FAA expects the ANPRM to be published in February 2010**.

[10] 14 C.F.R. § 135 refers to aircraft having a passenger-seat configuration of up to nine passenger seats (excluding crew) or having a payload capacity of up to 7,500 pounds. These rules generally apply to commercial on-demand charter air carriers.

[11] Statement by FAA Administrator Randy Babbitt on the Call to Action Final Report, FAA Washington Headquarters Press Release, (Jan. 26, 2010) http://www.faa.gov/news/press_releases/news_story.cfm?newsId=11123.

Training Program Review Guidance: Using results from initial elements of the its Focused Inspection Initiative, the FAA planned to, by July 31, 2009, develop a Training Program Review Guidance Safety Alert for Operators (SAFO)[12] to provide airlines guidance material on conducting comprehensive training program reviews. The FAA postponed the completion of the SAFO until December 31, 2009, to incorporate input from its Regional Safety Forums and allow for industry comment, **however the SAFO still has not been completed. The FAA now expects the SAFO, and an accompanying notice to its inspectors, to be ready for consultation with the industry by February 2010.**
Pilot Mentoring/Experience Transfer Programs: To address professional standards and flight discipline issues, the "Call to Action" Action Plan states that, by July 31, 2009, the FAA will develop and seek industry comments with respect to creating a range of mentoring programs (more recently dubbed "experience transfer" by the FAA) whereby highly experienced pilots will mentor junior pilots. While specific ideas were discussed during the Regional Safety Forums, **the DOT IG reports that no substantive progress has been made in this area.**
Review of Code Share Arrangements: In addition, the "Call to Action" Action Plan states that "DOT and FAA will develop the authority and processes to review agreements between air carriers and their regional partners. . .", presumably to review whether major airlines are requiring their regional partners to adopt the major airline's most effective safety practices. **The DOT and FAA are still considering whether to modify existing processes for granting economic and operating authorities to review code share arrangements.**
Pilot Records: The "Call to Action" Action Plan states that the FAA will amend Advisory Circular 120-68D, to recommend air carriers implement a policy of asking pilot applicants for voluntary disclosure of FAA records, including notices of disapproval for evaluation events. **The FAA has completed a draft Advisory Circular and anticipates publication by May 2010.**

I. Pilot Training and Qualifications

On January 12, 2009, the FAA issued an NPRM to overhaul specific crew training requirements.[13] According to the FAA, the January 2009 NPRM is the most comprehensive upgrade to FAA training requirements in 20 years and was drafted working with an ARC that included pilots, flight attendants, airlines, training centers, the FAA, and others.[14]

The proposal establishes new requirements for traditional air carrier training programs to ensure that safety-critical training is included. Some of the proposed training requirements include: training and evaluating flight crewmembers in a complete flight crew environment; the use of flight simulators for training, testing, and checking flight crewmembers; additional training and practice in the use of crew resource management (CRM)[15] principles; and training in a flight simulator with a complete flight crew. In addition, the FAA's January 2009 NPRM strengthens upset recovery

[12] SAFOs are information tools that the FAA uses to alert, educate and make recommendations to the aviation community.

[13] Qualification, Service and Use of Crewmembers and Aircraft Dispatchers, 74 Fed. Reg. 1280 (proposed Jan. 12, 2009) (to be codified at 14 C.F.R. pts. 65, 119,121 et al.).

[14] Hearing on Regional Air Carriers and Pilot Workforce Issues, Before the House or Representatives, Committee on Transportation & Infrastructure, Subcommittee on Aviation, (Statement of the Honorable J. Randolph Babbitt, Administrator, Federal Aviation Administration) (June 11, 2009) at 6.

[15] CRM focuses on improving communications between the pilots and crew, while taking into account human factors, hardware, and information. CRM also focuses on situation awareness, communication skills, teamwork, task allocation, and decision making within a comprehensive framework of standard operating procedures with the goal of preventing accidents and dealing with stressful situations by improving performance through enhanced coordination.

training requirements by adding an "Upset Recognition and Recovery" section that sets out the awareness expected of each pilot and what actions each pilot will be expected to learn and be able to perform should an upset occur.

The public comment period originally scheduled to be closed in May 2009, was extended and closed an August 10, 2009. The FAA received over 3,000 pages of comments, including opposition from the airline industry groups. Some comments stated that the FAA failed to disclose performance data used to develop the NPRM, and that the FAA used statistically invalid data. The Air Transport Association (ATA) expressed concern that the proposed regulations could adversely impact voluntary alternative Advanced Qualification Programs (AQP)[16] training programs that enable airlines to customize their crew training programs based on their actual operating environments. To address these comments, the FAA is conducting technical and accident analyses, and is revising its regulatory evaluation (i.e., cost-benefit analysis).

The FAA plans to review comments, and issue a SNPRM in April 2010 to incorporate some of the views provided and offer the public another opportunity for input on the revised document.

Moreover, in September 2009, Administrator Babbitt testified before the House Aviation Subcommittee that the FAA was preparing an ANPRM to strengthen qualitative training and experience (e.g., "experience in areas such as the multi-pilot environment, exposure to icing, high altitude operations and other areas common to commercial air carrier operations"[17]) and possibly increase the flight hours required to be an airline First Officer (currently a minimum of 250 flight hours are required). The FAA expects the ANPRM to be published in February 2010.

II. Fatigue

Under current FAA rules, pilots and airlines are responsible for ensuring that pilot flight time limitations are not exceeded. FAA regulations impose an eight-hour limit for a pilot flight time during a 24-hour period, provided the pilot has had at least eight continuous hours of rest during that same 24-hour period. If a pilot's actual rest is less than nine hours in the 24-hour period, the next rest period must be lengthened to provide for the appropriate compensatory rest. Pilots must be relieved of duty for at least 24 consecutive hours during any seven consecutive days. The rules do not address the amount of time pilots can be on duty (standby time) or flight time that results from operational delays.[18]

- Pilots flying domestic part 121 operations may fly up to 30 hours in any seven consecutive days (actual flight time), 100 hours per calendar month (actual flight time), and 1,000 hours per calendar year (actual flight time).

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[16] AQP is a voluntary alternative to the training requirements of parts 121 and 135. AQP training is scenario-based, often using actual accident or incident events. It attempts to judge cognitive skills in addition to flight skills and is specific to make, model, and series of aircraft. AQP training must produce an equivalent or higher level of safety than traditional training. FAA, Advanced Qualification Program, Advisory Circular 120-54A (Jun. 23, 2006).

[17] Hearing on the Federal Aviation Administration's Call to Action on Airline Safety and Pilot Training, Before the House of Representatives, Committee on Transportation & Infrastructure, Subcommittee on Aviation, (Statement of the Honorable J. Randolph Babbitt, Administrator, Federal Aviation Administration) (Sep. 23, 2009) at 7.

[18] Airline rules may be stricter than FAA regulations, for example, if the issue is part of a collective bargaining agreement.

- Pilots flying domestic part 135 operations may fly up to 34 hours in any seven consecutive days (actual flight time), 120 hours per calendar month (actual flight time), and 1,200 hours per calendar year (actual flight time).

According to the NTSB, over the past 15 years, fatigue has been linked to more than 250 fatalities in air carrier accidents. There are currently two open aviation recommendations concerning pilot fatigue. The NTSB has recommended that FAA revise current flight and duty limitations to take into consideration the latest research findings in fatigue and sleep issues, as well as length of duty day, starting time, workload, and other factors; and develop and use a methodology that will continually assess the effectiveness of fatigue management systems implemented by operators.

In 1995, the FAA proposed to amend existing regulations to establish new duty period and flight time limitations, and rest requirements for flight crewmembers in parts 121 and 135. This rulemaking was based on recommendations from an ARC. It included a 14-hour duty period, 10 hours of rest, increased flight time to 10 hours, and addressed other related issues. According to the FAA, the pilots commented that 10 hours of flight time was too long, and the operators believed 14 hours of duty time was too short. On November 23, 2009, the FAA withdrew the 1995 Flight Crewmember Duty Period Limitations, Flight Time Limitations and Rest Requirements NPRM, "because it is outdated and because it raised many significant issues that the agency needed to consider before proceeding with a final rule."[19]

On June 15, 2009, the FAA announced plans to establish an ARC charged with developing recommendations for a new FAA rule on pilot flight and duty time to incorporate recent scientific research about the factors that lead to fatigue. By July 15, FAA chartered an ARC consisting of representatives from FAA, industry and labor organizations. The ARC's meetings were not open to the public. The ARC had until September 1, 2009, to draft recommendations to the FAA, which would inform a new, science-based NPRM on pilot flight and duty time.

According to the ARC charter, its goal was to provide a forum for the U.S. aviation community to discuss current approaches to mitigate fatigue such as those found in international standards[20] and make specific recommendations on how the United States should modify its existing requirements. The charter also directed the ARC to "consider and address: a single approach to addressing fatigue that consolidates and replaces existing regulatory requirements for parts 121/135; current fatigue science and information on fatigue. . . and incorporation of fatigue risk management systems [FMRS]."[21]

While the ARC's report is not public, according to the *Wall Street Journal*, the ARC presented the Administrator with a flight time proposal that "envisions a sliding scale of between seven and eleven scheduled flight hours for pilots per day."[22] A pilot's duty time would be adjusted, but how is not yet clear. The article implied that pilots who have multiple takeoffs and landings a day would fly fewer hours than they do today, but pilots flying cross-country would be able to fly the return trip

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[19] Flight Crewmember Duty Period Limitation, Flight time Limitations and Rest Requirements; Withdrawal, 74 Fed. Reg. 61068 (Nov. 23, 2009).

[20] For example, the ICAO standard, the United Kingdom Civil Aviation Publication (CAP) 371 and European Aviation Safety Agency (EASA) Notice of Proposed Amendment.

[21] In addition to the flight and duty time NPRM, the FAA notes that it is also working with the International Civil Aviation Organization (ICAO) to develop a Fatigue Risk Management System (FRMS). FRMS represents a voluntary risk based approach to improve flight crew alertness whereby airlines would manage fatigue with input from all company personnel, including management, flight crewmembers, maintenance personnel, schedulers, and dispatchers.

[22] Andy Pasztor, *Pilots, Airlines Urge New Fatigue Rules*, the Wall Street Journal, Sep. 10, 2009, at A3.

the same day.[23] The ARC discussed the issue of pilot commuting, as well as the larger issue of fitness to fly, but did not make recommendations regarding pilot commuting.

The ARC met its September 1, 2009, deadline and provided the FAA with a broad framework for drafting a NPRM that the agency planned to publish by December 31, 2009. The FAA now plans to publish an NPRM in April 2010. The "Call to Action" Final Report states that the FAA is developing two Advisory Circulars to provide guidance on the use of FRMS and issues related to commuting.[24]

III. Voluntary Safety Programs: ASAP and FOQA

In the 1990's, the airline industry and the FAA reached consensus that regulatory oversight and compliance should be conducted in partnership with the industry. Under this approach, voluntary safety programs were created whereby airlines, pilots, maintenance personnel, and all other certificate holders are incentivized to disclose cases of noncompliance with FAA regulations that were not previously known. In these programs, safety issues are to be resolved through corrective action rather than through punishment or discipline. Airlines, unions, and the FAA have emphasized the importance of these voluntary programs, through the "Call to Action."

The ASAP is a voluntary program that allows airline (and repair station) employees to report safety information or an instance of noncompliance with FAA regulations. ASAP is designed to allow for the collection, analysis, and retention of safety data that may be critical to identifying potential precursors to accidents that would otherwise be unobtainable. ASAP is intended to develop corrective actions to prevent the recurrence of the same types of safety events. The program establishes guidelines as to whether an event is eligible for disclosure and inclusion in the program. FOQA is a voluntary program that routinely collects and analyzes flight data gathered during aircraft operations. The data is then used by the air carrier to detect issues that occur outside of standard operating procedures.

ASAP and FOQA are established by signing a Memorandum of Understanding (MOU) between the air carrier, the labor organization, and the FAA, which outlines the program's procedures and terms. Information from these programs is protected from disclosure by 49 U.S.C. § 40123 and 14 C.F.R. part 193. In 2007, the NTSB recommended that FAA strongly encourage and assist all part 121 regional air carriers to implement ASAP and FOQA.[25]

As part of the Call to Action, FAA Administrator Babbitt wrote to part 121 air carriers urging all air carriers who have not yet done so to establish FOQA and ASAP programs, and to develop data analysis processes to ensure effective use of this information. The table below summarizes the responses received related to FOQA and ASAP:[26]

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[23] According to the FAA, it is possible under existing regulations to fly cross-country and return the same day, depending on variables such as type of operation, crew augmentation, and amount of flight hours.
[24] FAA, *supra.* note 5 at 9.
[25] Safety Recommendations A-07-1 through -11, Letter from Chairman Mark V. Rosenker, NTSB, to the Honorable Marion C. Blakey, Administrator, FAA (Jan. 23, 2007).
[26] FAA, *supra.* note 5 at 14.

Air carriers that have both FOQA and ASAP	22
Air carriers that have ASAP and intend to have FOQA	28
Air carriers that have ASAP and do not intend to have FOQA	10[27]
Air carriers that do not have FOQA and ASAP but intend to establish one or both	19
Air carriers that do not have FOQA and ASAP and do not intend to establish programs	3

Source: FAA

In total, 78 carriers (out of 98 total – 80 percent) have or intend to implement ASAP (60 have ASAP; 18 intend to implement ASAP). These carriers represent 98 percent of the aircraft flying in part 121 operations. In addition, 61 carriers (out of 98 total – 62 percent) have or intend to implement FOQA (22 have FOQA; 39 intend to implement FOQA). These carriers represent 94 percent of the aircraft flying in part 121.

Yet the DOT IG's office, which conducted an independent review of the response letters received by the FAA, reports that in certain instances, carrier commitments to establish these programs are open-ended, as the FAA did not impose, or even suggest, deadlines or milestones for carriers to establish these programs. In four instances, carrier commitments were vague or unclear, referencing "in house" or "internal" FOQA programs – possibly indicating reliance on programs that have not been approved by the FAA. Regardless, in cases where carriers have committed to establishing an ASAP or FOQA program, either by a date certain or not, the DOT IG notes that the FAA has not yet developed a process to verify that carriers have followed through on their commitments, and therefore recommends that the FAA develop such a process. FAA officials respond by stating that the agency already has the ability to track the establishment of ASAP and FOQA programs through the approval process at FAA headquarters.

IV. Labor Organizations, Pilot Professionalism and Mentoring

The issue of pilot professionalism surfaced during the NTSB's Flight 3407 investigation when the cockpit voice recorder (CVR) transcript of the last minutes of the Colgan flight revealed non-essential conversation between the accident flight crew when sterile cockpit procedures[28] should have been in effect.

Ever since the issuance of the Call to Action, FAA Administrator Babbitt, himself a former airline pilot, has, in speeches, cited a lack of professionalism as a factor negatively affecting safety standards within the aviation industry and has called for greater professionalism in the workplace across the industry and FAA. As part of the "Call to Action," FAA Administrator Babbitt wrote to seven labor organizations urging them to establish professional standards and ethics committees to develop peer audit and review procedures, publish a code of ethics, and support safety risk management meetings. According to the FAA, all seven labor organizations responded to the Administrator's letter favorably. In addition, the "Call to Action" Final Report states that the FAA will host a gathering of pilot labor organizations in February, and then again in March 2010 to develop actionable guidelines on cockpit discipline and pilot professionalism.

[27] This number includes data from two air carriers who did not respond, but who have an approved ASAP with the FAA. *Id.*
[28] 14 C.F.R. § 121.542.

To address professional standards and flight discipline issues, the "Call to Action" Action Plan stated that, by July 31, 2009, the FAA will develop and seek industry comments with respect to creating a range of mentoring programs (more recently dubbed "experience transfer" by the FAA) whereby highly experienced pilots will mentor junior pilots. According to the FAA, specific ideas that have been discussed at Regional Safety Forums include:

- Establishing Joint Strategic Councils within a "family" of carriers (mainline and regional partner(s)). This approach could lead to individual as well as corporate mentoring relationships.
- Using Professional Standards Committee Safety Conferences to provide opportunities for two-way mentoring.
- Exploring mentoring possibilities between air carriers and university aviation programs.

Nevertheless, the DOT IG reports that the FAA has made no substantive progress with regard to developing mentoring/experience transfer programs. FAA officials acknowledge more can be done in this area, and the agency plans to engage pilot labor organizations on the subject in early March 2010.

V. Pilot Records

Part of a pilot's training includes "check rides." A check ride is a portion of an aircraft pilot's certification examination, or an endorsement for additional flight privileges, where the candidate being examined flies an aircraft with a FAA Designated Pilot Examiner to demonstrate expertise in the skills that are required for the certification. At the end of the check ride, the pilot either passes or fails. Air carrier access to pilot records surfaced during the NTSB's Flight 3407 investigation when it was revealed that the Captain of the accident aircraft did not disclose all of his failed check rides on his employment application with Colgan.[29]

Under the Pilot Records Improvement Act of 1996 (PRIA) (P.L. 104-264), air carriers must obtain the last five years' performance and disciplinary records for a prospective pilot from their previous employer. These records include information regarding initial and recurrent training, qualifications, proficiency, or professional competence including comments and evaluations made by a check airman (i.e., a person qualified and permitted to conduct flight checks).

PRIA also requires carriers to obtain records for a pilot from the FAA. FAA records regarding pilot certification are protected by the Privacy Act of 1974. However, PRIA requires carriers to obtain a limited waiver from prospective pilots allowing for the release of information concerning their current airman certificate and associated type ratings and limitations, current airman medical certificates, including any limitations, and summaries of closed FAA legal enforcement actions resulting in a finding by the FAA Administrator of a violation that was not subsequently overturned.

Although PRIA does not require carriers to obtain a release from prospective pilots for the entirety of the pilot's airman certification file, including notices of disapproval for flight checks for certificates and ratings, FAA guidance suggests to potential employers that they may find this additional information helpful in evaluating the pilot (Advisory Circular 120-68D). To obtain this additional information, a carrier must obtain a Privacy Act waiver from the pilot-applicant.

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[29] Public Hearing in the Matter of the Colgan Air, Inc. Flight 3407, Bombardier DHC8-400, N200WQ Clarence Center, New York, February 12, 2009 (May 12, 2009) (Statement of Hearing Officer Lorenda Ward, NTSB) at 19.

Administrator Babbitt's June 24, 2009, letter to air carriers asked that "air carriers immediately implement a policy of asking pilot applicants for voluntary disclosure of FAA records, including notices of disapproval for evaluation events." Fifty-three of the 80 air carriers that responded to the Administrator's letter reported that they already require full disclosure of a pilot applicant's record. Another 15 operators stated that they intend to implement this policy.[30]

The "Call to Action" Action Plan also states that the FAA will also amend Advisory Circular 120-68D, to recommend that air carriers implement a policy of asking pilot applicants to voluntarily disclose their FAA records. FAA officials state that the FAA has completed a draft of the revised Advisory Circular, that it is being circulated for internal coordination and legal review, and that it should be published by May 2010.

On October 14, 2009, bipartisan legislation H.R. 3371, the "Airline Safety and Pilot Training Improvement Act of 2009" was approved by the House 409 – 11. H.R. 3371 creates a Pilot Records Database, within 90 days, to provide airlines with fast, electronic access to a pilot's comprehensive record. Information included in the database will include pilot's licenses, aircraft ratings, check rides, Notices of Disapproval, and other flight proficiency tests. FAA will maintain the database and airlines will be able to access the database for hiring purposes only.

VI. Focused Inspection Initiative

As a result of a December 2003 Federal Express crash at Memphis involving a pilot that failed numerous proficiency checks, the NTSB recommended requiring all part 121 air carriers to establish programs for flight crewmembers who have demonstrated performance deficiencies or experienced failures in the training environment. In 2006, the FAA responded by issuing SAFO 06015, which recommended that all part 121 carriers identify pilots with training deficiencies, such as multiple failed check rides, and implement remedial monitoring and training programs. Failure to implement a remedial training program surfaced during the NTSB's Flight 3407 investigation when Colgan's FAA principal operating inspector testified before NTSB in May that Colgan had not implemented SAFO 06015.[31]

The FAA's Focused Inspection Initiative has two parts. First, pursuant to a June 24, 2009, notice,[32] FAA inspectors were directed to, by July 15, 2009, meet with part 121 air carrier directors of operations, directors of safety, and company officials responsible for flight crewmember training and qualification programs to ascertain each carrier's ability to identify, track, and manage low-time flight crewmembers, and those who have failed evaluation events or demonstrated a repetitive need for additional training. Inspectors were also to determine at these meetings if the carrier adopted a SAFO 06015 remedial training program.

At the time FAA published this notice, there were 99 part 121 air carriers. Of those, 14 had AQP and were exempt from the requirements of the notice. FAA inspectors held the meetings required by the notice with the remaining 85 air carriers. Seventy-six carriers (including the 14 AQP carriers) have systems to comply with remedial training requirements. An additional 15 carriers have

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[30] FAA, *supra*. note 5 at 13.

[31] Public Hearing in the Matter of the Colgan Air, Inc. Flight 3407, Bombardier DHC8-400, N200WQ, Clarence Center, New York, February 12, 2009, (Statement of Douglas Lundgren, FAA, POI for Colgan Air, Inc. NTSB) (May 13, 2009) at 481.

[32] Focused Program Review of Air Carrier Flight Crewmember Training, Qualification and Management, N 8900.78 (June 24, 2009).

some parts of a remedial training system. Eight carriers lacked any component of a remedial training system and have received additional scrutiny from the FAA.[33]

The second part of the FAA initiative required that FAA inspectors will, by September, 30, 2009, conduct additional inspections to validate that each carrier's training and qualification programs meet regulatory standards in accordance with FAA guidance materials, including, among other items:

- Reviewing the entire performance history of any pilot in question;
- Providing remedial training as necessary; and
- Providing additional oversight by the certificate holder to ensure that performance deficiencies are effectively addressed and corrected.

Using results from initial elements of the focused inspection initiative, the FAA planned to, by July 31, 2009, develop a Training Program Review Guidance SAFO to provide guidance material to airlines on conducting a comprehensive training program review. This guidance was to describe the training program review in the context of a safety management system (SMS)[34] and its role in a corporate safety culture.

However, the FAA postponed development of the SAFO for two reasons. First, the "Call to Action" Action Plan indicates that FAA will use the results of FAA's Focused Inspection Initiative in developing the SAFO. Although FAA inspectors completed the first part by July 15, 2009, the second part (which calls for a more in-depth review of training) was not completed until September 30, 2009. Second, the FAA found that the initial July 15 timeframe would not allow it to incorporate suggestions and ideas developed in FAA's Regional Safety Forums into the SAFO. Therefore the FAA postponed the completion of the SAFO until December 31, 2009, however the SAFO still has not been completed. The FAA now expects to complete the SAFO, and an accompanying notice to its inspectors, to be ready for consultation with the industry by February 2010.

VII. Regional and Mainline Carrier Contract Provisions

As the major airlines continue to cut their capacity in response to the current economic downturn, regional airline operations constitute an increasingly important proportion of operations. Today, regional flights represent one half of the total scheduled flights across the country, and regional airlines provide the only scheduled airline service to more than 450 communities. Additionally, regional airlines provide passenger air service to communities without sufficient demand to attract mainline service. In the wake of the Flight 3407 tragedy, some have questioned the role and responsibility of major airlines in ensuring that their regional partners are using the best safety practices used by the majors.

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[33] FAA, *supra*. note 5 at 1.

[34] SMS is essentially a risk management approach to managing safety oversight. It provides the organizational framework to support a strong safety culture within an organization. SMS uses the tools of monitoring, assessment, corrective action, identification of problems/risks, and auditing. The ICAO has defined SMS as a "systematic approach to managing safety, including the necessary organizational structures, accountabilities, policies, and procedures." In 2007, the NTSB recommended that all carriers should integrate an SMS program into their safety oversight systems. ICAO established a January 2009 deadline for nations to adopt an SMS mandate. In July 2009, the FAA issued an ANPRM on SMS to solicit comments to help it establish an ARC and a potential rulemaking on SMS.

In Administrator Babbitt's June 24 letter to air carriers, the FAA requested that "those carriers who have contract provisions with regional, feeder partner companies seek specific and concrete ways to ensure that the partner carriers adopt and implement the most effective practices for safety. For those regional carriers that implement FOQA and ASAP programs, we ask that major airlines have periodic meetings with their feeder airlines to review the data and to constantly emphasize their shared safety philosophy." According to FAA, 33 carriers (out of 98) have indicated that they have held, or intend to hold, meetings with regional partners with respect to FOQA, ASAP, and best practices. Some specific examples outlined the letters include:

- Entering contract agreements that permit safety audits by the major airline of the regional partner, as well as review of the partner carrier's ASAP/FOQA data;
- Hosting regular meetings of the safety departments of the major air carrier and all regional partner air carriers;
- Major airlines requiring regional partners to implement ASAP, FOQA, International Airline Transport Association (IATA) Operational Safety Audit (IOSA) and Department of Defense (DOD) programs and standards.

Moreover, FAA officials also note that recently, the ATA's Safety Council invited directors of safety from both the National Air Carrier Association (NACA) and the Regional Airline Association (RAA) to attend the quarterly ATA Safety Council meetings and to share in all professional discussions.

In addition, the "Call to Action" Action Plan states that DOT and FAA will develop the authority and processes to review agreements between air carriers and their regional partners. FAA officials note that 14 C.F.R. part 119 requires the FAA to evaluate an applicant for an air carrier certificate to determine it has adequate financial resources and is properly and adequately equipped to conduct a safe operation. Part 119 also permits the FAA to amend an existing operating certificate if safety in air commerce and the public interest require it. Additionally, part 119 requires an air carrier to hold operations specifications that identify kinds of operations authorized, as well as any other item the Administrator determines necessary. According to the Call to Action Final Report, DOT and FAA are still considering whether to modify existing processes for granting economic and operating authorities to review code share arrangements.[35]

WITNESSES

The Honorable J. Randolph Babbitt
Administrator
Federal Aviation Administration

The Honorable Calvin L. Scovel, III
Inspector General
U.S. Department of Transportation

[35] FAA, *supra* note 5 at 14.

UPDATE: THE FEDERAL AVIATION ADMINISTRATION'S CALL TO ACTION ON AIRLINE SAFETY AND PILOT TRAINING

Thursday, February 4, 2010

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AVIATION,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC.

The Subcommittee met, pursuant to call, at 10:00 a.m., in Room 2167, Rayburn House Office Building, Hon. Jerry F. Costello [Chairman of the Subcommittee] presiding.

Mr. COSTELLO. The Committee will come to order.

The Chair will ask all Members, staff, and everyone to turn electronic devices off or on vibrate.

The Subcommittee is meeting today to receive an update on the Federal Aviation Administration's Call to Action on airline safety and pilot training.

I will try and give a brief statement, and then we will call on the Ranking Member, Mr. Petri, for his statement or any remarks that he may have, and then we will go to our witnesses.

Let me say that we expect to be called to the floor of the House for a vote in about 15 or 20 minutes, so I will try and be brief. The important thing is that we hear from the Administrator and General Scovel.

I welcome everyone to the Aviation Subcommittee hearing today for an update on the FAA Call to Action on airline safety and pilot training. I would like to especially thank and welcome the family members of Flight 3407, some of whom are with us here today.

Two days ago, the NTSB determined the probable cause of the crash of a regional airline near Buffalo, New York, occurring almost a year ago. The crash is considered one of the most significant accidents in recent years because it revealed a gap in the level of safety between major airlines and regional carriers.

I want to commend the board for doing an outstanding job. I am hopeful that their safety recommendations to the FAA, many of which are included in our bipartisan legislation, H.R. 3371, the "Airline Safety and Pilot Training Improvement Act of 2009," approved overwhelmingly by the House last October, will encourage the FAA and the airline industry to act quickly to improve pilot training standards, address pilot professionalism, fatigue, remedial training, pilot records, and stall training.

After this Subcommittee held a hearing on regional air carriers and pilot workforce issues on June 11, 2009, Department of Trans-

portation Secretary Ray LaHood and FAA Administrator Babbitt initiated an airline safety and pilot training Call to Action to gather information from the airlines and labor organizations to ascertain industry best practices and seek voluntary compliance with a number of safety programs.

Last September, this Subcommittee held a hearing on the Call to Action. I praise the FAA's quick reaction to the Colgan tragedy and the lapses in regional carrier safety that it revealed. I put the FAA on notice then that I would hold a follow-up hearing to examine the Call to Action final report. And today's hearing will be an opportunity for Administrator Babbitt to provide this Subcommittee with an update and to hear from the Department of Transportation inspector general on his assessment of the FAA's progress.

Administrator Babbitt, in the Call to Action final report, acknowledged that, and I quote, ″This is a snapshot of our work, which is by no means finished. We will continue to aggressively push forward with these initiatives that we believe will raise the safety bar even higher,″ end of quote.

We want to work with you, Administrator Babbitt, to achieve these goals you have set forth. And I believe the real measure of the agency's success will be whether it can successfully drive its safety initiatives to a timely conclusion.

I respect and appreciate the FAA's determination since our last hearing in September to set aggressive deadlines to develop key safety initiatives. My concern is not simply that the FAA is a few months behind on any one rule. I am concerned that these delays stem from historic patterns of industry opposition to any form of regulation and that key safety reforms have not been implemented nearly a year after 50 people died on Flight 3407, despite promises of swift action from the FAA.

As I have said before, I believe that unless this Subcommittee and Congress pursue aggressive oversight or unless legislative mandates are in place, the time it takes for the FAA to address the most critical safety issues raised by the accident is far too long. That is why we introduced H.R. 3371, to address many of these issues raised in the Call to Action.

I want to discuss the status of several key FAA safety initiatives discussed in the Call to Action final report.

First, in 1995, the FAA proposed a fatigue rule based on the recommendations of an aviation rulemaking committee. We have waited 15 years and we are still waiting for a final rule. Last year, the FAA withdrew the 1995 proposal, formed another ARC, and planned to publish another fatigue proposal by the end of 2009. Yet we are now being told that the FAA's date to publish a rule has already slipped to the spring of 2010.

Second, in January of 2009, the FAA published a proposal to overhaul crew training regulations that included increased use of flight simulators and stronger upset recovery training requirements, something that the NTSB has recommended and that we have mandated in H.R. 3371.

Administrator Babbitt, you testified before this Subcommittee last June that the FAA's proposal was, quote, ″the most comprehensive upgrade to FAA training requirements in 20 years,″ end

of quote. After extending the comment period, the FAA received 3,000 pages of comment and now plans to revise and republish its proposal in the spring.

Finally, the Call to Action plan states that the DOT and the FAA review co-chair arrangements between air carriers and their regional partners. This is particularly important given that the majority of air travelers are unaware when they purchase a ticket from a main line airline that they may actually fly on a regional airline. In fact, the NTSB expressed the need to look more closely at safety issues surrounding co-chair arrangements during its February 2, 2010, meeting on the Colgan final accident report. Chairman Oberstar and I have requested that the Department of Transportation's inspector general conduct a review of domestic co-chair relationships.

There have also been positive developments resulting from the FAA's Call to Action that we should not ignore. For example, more airlines appear to be willing to adopt voluntary safety best practices, like establishing flight operations quality assurance programs. However, the FAA and this Subcommittee will need to follow up in the coming months to see if carriers actually follow through on their commitments that they have made.

In addition, the FAA published an advanced notice of proposed rulemaking yesterday to strengthen the training requirements and the flight hours necessary to be an airline first officer.

I will continue to keep my commitment to exercise aggressive oversight to strengthen airline safety and pilot training qualification standards. I assure the families of Flight 3407, those who are with us today and those who could not be here today, and the American people that we will continue to push for the provisions of H.R. 3371 that requires the first officer to hold an Airline Transport Pilot certificate, in addition to receiving training to function effectively in an air carrier operational environment, and know how to fly in adverse weather conditions, including icing.

Before I recognize Mr. Petri for his opening statement or his remarks, I ask unanimous consent to allow 2 weeks for all Members to revise and extend their remarks and to permit the submission of additional statements and materials by Members and witnesses.

Without objection, so ordered.

Mr. COSTELLO. The Chair now recognizes the Ranking Member of the Subcommittee for his opening statement or comments, Mr. Petri.

Mr. PETRI. Thank you very much, Mr. Chairman. I would like to thank you for scheduling this important follow-up hearing to our 2009 hearings on air carrier safety and the FAA's Call to Action issued following the tragic Colgan 3407 accident almost 1 year ago.

While statistically the U.S. commercial aviation system is very safe, there is obviously always room for improvement. With today's hearing, we continue our focus on the common goal of improving our safety record.

As the families of the victims of Colgan Flight 3407 remind us, we can and must do everything in our power to ensure that what happened on the day they lost their loved ones never happens again. I believe we are all committed to that shared goal.

In the aftermath of the Colgan accident, this Subcommittee explored many issues related to the safety of the airline system, with special emphasis on regional air carriers. In addition, Mr. Costello, Mr. Mica, Mr. Oberstar, and I introduced the bipartisan H.R. 3371, the ″Airline Safety and Pilot Training Improvement Act of 2009,″ to address the critical safety issues considered at our hearings. H.R. 3371 was approved by the House of Representatives on October 14th last year, and similar provisions have been included in the Senate Commerce Committee's FAA reauthorization package.

At roughly the same time, the FAA launched a Call to Action on air carrier safety. I thank the administrator for joining us this morning and look forward to his update on the progress of the wide-ranging initiatives included in his plan.

At Tuesday's Transportation Safety Board hearing on the Colgan accident, the board approved recommendations to the FAA regarding many of the issues explored during our hearings, including strategies to prevent flight crew monitoring failures, pilot professionalism, fatigue, remedial training, access to pilot records, stall training, and airspeed selection procedures.

In addition, the NTSB's probable cause determination for the Colgan accident approved by the board on Tuesday included among the contributing factors to the accident the flight crew's failure to adhere to sterile cockpit procedures. In fact, in four of the last six regional carrier accidents, pilot performance and unprofessional behavior have been listed as contributory factors.

I applaud Administrator Babbitt for demanding a higher level of professionalism from all those involved in aviation, including airline pilots. As the safety regulator for the industry and a former airline pilot himself, Administrator Babbitt understands not only the trust passengers quite literally place into pilots' hands but also the responsibility pilots must be ever mindful of while on duty. I look forward to hearing from the administrator what specific actions the FAA, airlines, and the pilots' unions are taking to improve peer auditing and professional conduct.

In addition, I am interested in updates from the FAA about the ongoing regulatory efforts at the FAA to address pilot training, record availability, and fatigue. Finally, I am also interested in what improvements can be put in place to improve air carrier hiring practices and training oversight.

Since the FAA's Call to Action began last summer, the Office of the Inspector General has been reviewing the agency's effort, and I look forward to Inspector General Scovel's assessment of efforts thus far on the part of the FAA, airlines, and unions, as well as continuing oversight of long-term commitments made during the Call to Action process.

Lastly, I would like to note the dedicated efforts of the families of Colgan Flight 3407. The families' efforts have helped this Committee to address key safety issues, and I urge our Senate colleagues to pass its FAA's reauthorization bill so we may finalize these improvements and send a final bill to the President.

I thank the witnesses for their participation, and yield back what time I might have. Mr. Graves was hoping to say something for a minute.

Mr. COSTELLO. Do you want to yield to Mr. Graves?

Mr. PETRI. I would yield to Mr. Graves.

Mr. GRAVES. Thank you, Mr. Chairman.

I appreciate this hearing quite a little bit, and I want to thank FAA Administrator Babbitt for being here, and the inspector general too.

But in October of last year, we did pass H.R. 3371, which is the ″Airline Safety and Pilot Training Improvement Act.″ While I recognize this legislation moves in the direction of improving pilot training standards, I couldn't support it at the time.

Specifically, my concerns lie with the 1,500-hour minimum flight requirement for 3371 that establishes the issuance of an Airline Pilot Transport certificate for all crew members. Currently, only the captain is required to hold that ATP certificate, not the copilot.

I know all too well that pilot training is a complex process and focuses on the quality of pilot education and training as opposed to the overall flight hours, and I believe it is a more reasonable approach. With that said, I am not opposed to increasing the minimum number of flight hours, but I think we have serious concerns with the 1,500 hours. I think it is simply too much.

And, look, folks, just so you understand where I am coming from, and I am not trying to diminish in any way the losses that we have had out here, but myself, I am a 2,000-hour commercial pilot, and I have flown with all classes of pilots out there in high-performance aircraft. And I know military pilots who have 500 hours that I want to put my kids in a plane with, and I know commercial pilots that only have 500 hours that I trust my kids with. But I also know military pilots who have 2,000 hours, and I wouldn't put my kids in a plane with them for anything, and I know commercial pilots who have over 2,000 hours that I wouldn't put my kids in a plane with.

This is about quality of training; it is not quantity of training. And we need to take a serious look at that. Just requiring 1,500 hours and an ATP certificate doesn't mean you are a fantastic pilot when it comes to some of the complex things that you get into when you are flying an aircraft, icing being one of those main factors that obviously played a big part in the accident that took place.

Again, I understand where we are going with this, but I think it is the wrong direction. And I am a perfect example of exactly what is wrong with the process. Again, it is quality of hours, and it is the person in the cockpit is who we need to be looking at, not the number of hours. That is the wrong approach. I want to make sure that the aircraft and airlines and our skies and the ground are just as safe as we can possibly get it, and that is the reason we need to change this focus a little bit.

Mr. Chairman, I appreciate the opportunity. I thank you for having this hearing. I think it is a very important hearing to the overall safety of the public out there. And I appreciate your letting me make a few comments.

Mr. COSTELLO. The Chair thanks the gentleman from Missouri.

And let me just state for the record—and we will get into these issues in a little bit. I just want to be clear that H.R. 3371 does not just deal with the number of hours in order to be either in the

first seat or the first officer. It does far more than that, and we will get into that later.

The Chair now recognizes the gentleman from Iowa, Mr. Boswell.

Mr. BOSWELL. Thank you, Mr. Chairman. I would prefer to wait for Q&A, but the way the schedule is today, I may not be able to be here for that. But I want to make a couple of comments.

First, thank you for doing this. I think Mr. Graves made some good points that I agree with. I think he is saying don't knee-jerk, and I don't think you are going to. We have discussed, we went to—we flew together and talked and so on, and I think you are on the right track.

I think we have to leave flex room here. I don't want to push, for example, general aviation back because of us going too far too fast and so on. We have to walk through this, and I think that is what you intend to do.

And, depending on how they accumulate the experience, we all know, it makes a lot of difference. You know, the 250-hour commercial pilot, if he went right through a program and, you know, did everything one right after the other, he is pretty darned proficient versus a person who it maybe took him 2 or 3 years. And there is a difference. I mean, there is. I used to be an IP, and I am sure you did too. It makes a difference.

And so, as we think about how we get these folks safer and more proficient and so on, why, somehow, if you can, if you can have some flexibility in there because of the way they obtain the experience. You know, Mr. Chairman, it may take 850 hours for some situations, or it may be more. Who knows? But then, in other situations, if this is tailored where they can be intensified and follow right through day after day and then go right out into the field and start executing and using that, it makes a big difference. So I would hope that somehow you can keep that flexibility in there. And I think you can; I think it can be done.

So, you are heading the right way. I read some of your statements there, and I think that you are on the right track, and this is good. The public wants it. I want it. The Chairman wants it. We all want it. So, thank you very much.

Mr. COSTELLO. The Chair thanks the gentleman from Iowa.

Let me inform Members and our witnesses that we have been called for votes. We have 13 minutes left in the vote. What I intend to do is to recognize Ms. Titus from Nevada and Mr. DeFazio from Oregon for brief statements, and then we will break. We will go to the floor to vote, and then we will come back and go right to our witnesses.

So I would ask Members other than Ms. Titus and Mr. DeFazio to enter their statements into the record.

And, Mr. Graves, your statement that you have given us will be put into the record as well.

Mr. COSTELLO. The Chair now recognizes Ms. Titus.

Ms. TITUS. Well, thank you very much, Mr. Chairman. I would just like to begin by saying how pleased I am to be able to join this important Subcommittee.

Tourism is a critical part of southern Nevada's economy, and ensuring safe and efficient travel at McCarran Airport and around the country is just critical to our tourism industry and to our local

economy, and that is why it is important for me to serve on this Committee. So I look forward to working with our Members to ensure that civil aviation is safe and that the aviation community in Las Vegas has the resources that it needs to shuttle tourists and visitors. We like them coming to Las Vegas, back and forth.

Today's hearing is critical as we work to reassure these travelers the Federal Government is doing everything possible to enhance aviation safety. The Colgan Air accident last year brought to light some of the flaws that exist in aviation safety. And I appreciate that the FAA has detailed these flaws in its Call to Action plan on airline safety and pilot training.

So I am looking forward to hearing from the witnesses as we address the issues of pilot flight time and fatigue, pilot training, professionalism, and safety, so that we can do all we can to protect the public and assure them that that is, indeed, the case.

So I would thank our witnesses for being here today, and I look forward to coming back and hearing what you have to say that the FAA is doing along these lines.

And I thank you, Mr. Chairman, for this opportunity.

Mr. COSTELLO. I thank the gentlelady from Nevada.

I now recognize the gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to have an administration and an FAA that is acting in the spirit of the law that was amended after the tragic crash in Florida a number of years ago during the Clinton administration.

Prior to that, I had been arguing for more than a decade that the FAA could not both regulate in the public interest and assure safety and promote the industry. Unfortunately, even after that horrible accident and I got the law changed finally, there are some within the agency who still think it is their duty and there are some in Congress who think it is their duty to promote the industry. No, we are here, first off, to assure safety, and then, secondly, we want to have a healthy industry that is safe.

And, just hearing the earlier comments regarding quality versus number of hours, I have been raising the concern since, you know, the early 1990s that I don't believe that you can provide, no matter how high the quality is, an adequate amount of training for a commercial pilot in difficult conditions with the minimums we have today. And there are a heck of a lot of carriers who believe that, too, because they won't hire someone with that number of hours. But there are the low budget carriers, which drive the industry down to the lowest common denominator of operators who will hire pilots with the bare minimum of training. And there are those who will defend that practice. It has to end.

You know, I still don't believe, as I said then, that to be a manicurist in Oregon requires twice as many hours of training as the current minimum training requirement to be a pilot. So I don't want to hear people say, ″Oh, well, we just can't mandate higher minimum hours. We just want to look at quality.″ No, it is hours and quality. And quality will come with more hours and comprehensive well-thought-out training.

So I am fully in support of what the Chairman has proposed and where it seems the Administrator is headed. But we are going to

continue to push to make sure we get there, because we know there is tremendous pushback from the industry. I mean, even those who will only hire pilots with an extra number of hours of training have a little farm team out there, which is the low-budget carriers, and then some of the big carriers like the low-budget carriers because they drive against their competition of people who are trying to provide higher-quality regional air service.

And we should never have another tragic event like we had, I mean, you know, that crash of Colgan Air. I mean, what kind of training could a pilot have with a stall warning, you know, to pull the nose up? You know, that is beyond belief.

So we have to fix these problems, and it is going to take both more hours and better quality. And I support any efforts that will get us there. And they are going to cost something, but what I always say is I have never met someone at 40,000 feet who is thrilled that they saved a dollar on their ticket because their pilot up front is just learning how to fly.

Thank you very much, Mr. Chairman.

Mr. COSTELLO. I thank the gentleman, and the gentleman's point is well-taken. And the point that I made, that our bill, H.R. 3371, just does not deal with increased number of hours. It deals with comprehensive preemployment screening and a lot of other things. So I appreciate the gentleman's comments.

We have five votes on the floor right now, so I would ask our witnesses and everyone else that wants to come back to return to the room by 11:10, if you want to get a cup of coffee. And we will resume the hearing at that point and go directly to the testimony of Administrator Babbitt and General Scovel.

So, at this time, the Subcommittee is in recess until 11:10.

Mr. COSTELLO. The Subcommittee will come to order. The Chair again welcomes Administrator Babbitt and also General Scovel to the Subcommittee hearing today.

Administrator Babbitt, let me say that I am frustrated, as are family members and others, with the time that it is taking to move forward with some of the provisions on our bill, H.R. 3371, and the time that it has taken the FAA to work through the process. Now, having said that, let me say that I have worked with a number of administrators over the past 21 years, and I spoke to an organization this morning that said I believe that we have an administrator now that is trying to move the agency forward and to do the right thing.

I hope that in your testimony, which I have had a chance to review, that you will address some of the issues as to why it is taking the time that it is taking, and to talk a little bit about where we go from here.

So with that the Chair now recognizes Administrator Babbitt.

TESTIMONIES OF HON. J. RANDOLPH BABBITT, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION; AND HON CALVIN SCOVEL, III, INSPECTOR GENERAL, UNITED STATES DEPARTMENT OF TRANSPORTATION

Mr. BABBITT. Well, thank you, Chairman Costello, Congressman Petri and Members of the Subcommittee. First, I appreciate your confidence and your opening statement. I also would like to thank

you for inviting me here today to provide you with an update on the FAA's call to action on airline safety and pilot training. Given the recent NTSB hearing on the Colgan accident and this being the 1-year anniversary of that tragedy, this gathering is especially timely.

One of the misconceptions that I would like to address this morning is that the FAA's actions are either ineffective or insufficient. I really believe this is a disservice to the hard-working safety professionals who have been working tirelessly on these as well as other safety issues.

Obviously, since I have become the administrator, I have seen firsthand how dedicated the FAA workforce actually is. I have also spent quite a bit of time trying to figure out what I can oh do to promote a better, more accurate understanding of what we do and the safety impact that it actually has.

I am well aware that there is always room for improvement as well, but the vehemence of the criticism the FAA receives does not comport with the safety statistics. I believe that one reason for this misconception is that the FAA seems to be measured primarily by how long it takes us to issue and finalize rulemakings. And while I appreciate the importance of regulation, the rulemaking process is a deliberative one, and that, by definition, can take quite a bit of time. I think the criticism also fails to take into account the many other tools that the FAA has that result often in relatively immediate safety improvements.

When Secretary LaHood and announced the call to action last year, one of the repeated criticisms that I heard was that we were not compelling action, we were requesting voluntary action. I think I attempted to make clear at that point, we were working to build a consensus on what should be done to improve safety and professionalism and ask the industry and all the professionals to work together to get it done as soon as possible.

I explained at that time that requesting voluntary action was, in my opinion, the fastest way to move forward, and I wanted the most immediate results that I could get. I also told the Committee that I thought the best approach for receiving faster results was to achieve consensus and move forward on those wherever possible.

I sensed some skepticism at that time and I continue to get complaints that we failed to live up to our initial goals. But, again, I am concerned that no one is taking into account the benefits that we actually have achieved and the progress that we have made as detailed in our final report.

Chairman Oberstar charged me to use my bully pulpit, if you would, to influence actions of the industry, and that is exactly what I tried to do. In the aftermath of the call to action, the FAA initiated a two-part focused inspection of air carrier flight crew member training, qualification and management practices. FAA inspectors observed 2,419 training and check events during the evaluation.

At the start of the evaluation, 76 carriers had systems that complied with remedial training requirements, 15 carriers had some component of remedial training and 8 carriers didn't have any remedial training provisions whatsoever. Those that lacked any component of remedial training were identified by us as having greater risk, and, therefore, they warranted additional scrutiny.

Today, seven months after the call to action, all carriers that were evaluated have some component of remedial training. With respect to FOQA, 11 FOQA programs have been approved since July of 2009 and one application is currently pending.

Similarly, three of the carriers that did not have any ASAP reporting programs, now have an ASAP for at least one employee group in place, and four other carriers have established additional ASAP programs for additional employee groups.

We also asked air carriers to meet with their smaller partner airlines to exchange safety practices and to encourage the adoption of best practices. FAA is encouraging the carriers, they are doing it and we are encouraging them to continue to meet with their partner airlines periodically, and to ensure a continuous exchange of information. As I sit here today, I am pleased to tell you this is currently happening now at all scheduled airline carriers that have regional partners.

In addition, the ATA Safety Council has now included the safety directors from the National Air Carriers Association, as well as the Regional Airline Association in their quarterly meetings.

There are many other examples of recent accomplishments that I hope to mention during the course of this hearing, but I would like to announce the agency's advanced notice of proposed rulemaking on crew training requirements, which was posted on the Federal Register's Web site this morning. I look forward to hearing from the industry and the public on the range of issues that we need to consider as we move forward.

As I have stated repeatedly, there is a difference in my mind between knowing that a pilot has been exposed to all critical situations during targeted training versus assuming that simply flying more hours automatically will provide that exposure.

Unlike some things in life, safety is not a game. It doesn't have a goal line. We reach one goal only to set out for a new one. Safety professionals do not cross a goal line and claim victory. We are forever searching ways, new ways, to advance safety through technical and procedural improvements, as well as through a continued emphasis on professionalism.

And just because the final report on the call to action is issued, doesn't mean that our efforts will stop. No one should assume that. They shouldn't even assume they will slow down. I have been very gratified with the response that I have received to this effort, and I think the collective efforts of the FAA, the airlines, the labor unions involved and, of course, our friends here in Congress will continue to work together, and I am certain that it will result in implementing advance best practices, transferring of pilot experience and achieving an overall improvement in airline safety.

Mr. Chairman, this concludes my remarks, and I would be happy to answer any questions that you or the Committee may have.

Mr. COSTELLO. Thank you, Administrator Babbitt.

Mr. COSTELLO. The Chair now recognize the Inspector General for the Department of Transportation, General Scovel.

Mr. SCOVEL. Mr. Chairman, Ranking Member Petri, Members of the Subcommittee. Thank you for inviting me here today to discuss the status of FAA's efforts to improve air carrier safety. After last

year's Colgan accident, FAA took swift action by creating its call-to-action plan.

FAA has made progress in implementing the plan's 10 initiatives, including holding safety forums across the country. However, progress has been slow in implementing initiatives with the greatest potential to improve safety, specifically those related to pilot fatigue, training and professionalism, and efforts to strengthen air carriers voluntary safety programs. My testimony today focuses on concerns related to these initiatives.

To address concerns about pilot fatigue, FAA established a special rulemaking committee to propose new crew rest requirements. The committee met its September 2009 deadline. However, FAA missed its milestone to issue an NPRM by December 2009 and now plans to issue it this spring. However, if past is prologue, the new rule could be years in the making. Numerous attempts to update these requirements, which were last modified in the 1980s, have failed due to disagreements among FAA airlines and pilot unions.

FAA is facing similar challenges with revising crew training requirements. FAA issued an NPRM on the new requirements over a year ago and received over 3,000 pages of comments. FAA now plans to issue a supplemental notice in the very near future.

At the same time, FAA's reviews of air carriers' flight crew training and qualification programs lacked the rigor needed to assess effectiveness. We questioned the thoroughness of these reviews because FAA did not provide specific criteria to inspectors, many of whom had never assessed remedial training programs for pilots.

FAA surveillance questions also raised concerns, as a number we're not relevant to many air carriers' operations. Moreover, some questions were not comprehensive enough to detect flaws in training programs. For example, while inspectors observed more than 2,400 pilot evaluation and training events, there were no questions on whether pilots completed the evaluations successfully, a key measure of a training program's effectiveness.

FAA has also been slow to address concerns regarding a lack of pilot professionalism, an issue raised by NTSB in four of the last six fatal accidents involving regional airlines. To better ensure pilots adhere to professional standards and flight discipline, FAA plans to implement a mentoring program. However, FAA has not specified how or when it will accomplish this. While professionalism cannot be mandated, FAA can take actions such as expediting training and fatigue rulemakings and facilitating communication between mainline and regional air carriers that would directly impact pilot performance.

Another key goal of FAA's call to action is to expand regional carrier participation in voluntary safety efforts in areas such as pilot records and voluntary safety programs. While FAA requested commitments from air carriers, its progress toward completing this initiative has been mixed. Specifically, 80 carriers responded to FAA's request for safety improvements, but many were vague as to the actions they plan to take and their timelines, and 14 did not commit to expand their pilot record review during the hiring process.

With regard to FOQA and ASAP, the most important voluntary safety programs, 22 carriers responded that they did not plan to implement FOQA, and 8 stated they would not implement ASAP.

While cost, equipment availability, and fleet size present significant obstacles for smaller regional air carriers to implement voluntary safety programs, FAA has not presented any plans to encourage carriers to establish these important safety programs.

Further, FAA failed to follow up with carriers to ensure their planned actions will effectively meet safety goals or that the carriers will set completion milestones. FAA also did not follow up with those carriers that submitted vague responses or no response at all. Yet, FAA concluded this initiative achieved its intended outcome.

Before closing, I would like to note other critical safety concerns highlighted during hearings after the Colgan crash but not addressed in the call to action plan. These include pilot domicile, differences in pilot training and hiring, and pilot experience and pay. These issues present significant challenges for FAA, Congress, and industry stakeholders in determining the nature and extent of actions needed.

At the request of Congress, we are reviewing the potential impact these issues have on pilot safety and plan to report our findings later this year.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you or Members of the Subcommittee may have.

Mr. COSTELLO. Thank you, General Scovel.

Mr. COSTELLO. Let me ask you to elaborate on one of the final points you made. You indicate in your testimony that while FAA received written responses from 80 of the 98 carriers, many were only partial commitments or no commitment at all. In addition, we found many carriers responses were either vague and lacked detail as to actions and timelines or stated that they did not intend to take any action.

I guess, Mr. Scovel, before I ask you to elaborate, I would ask Administrator Babbitt to respond.

Mr. BABBITT. Yes, sir. I think we need to be cautious with the numbers that we are talking about. That 82 percent represents 99 percent of all the passengers carried in this country.

Also, FOQA is a program for gathering data, comparing it across a fleet and looking for trends. That is the purpose of FOQA. If you have only one or two aircraft in a fleet, bluntly speaking, the logbooks provide that trend for you. You don't need to gather data.

And so what we have seen of the experience of the carriers not participating, it is for the most part people who have small fleets or older airplanes that simply don't have the capability to provide that data in a digital format to be gathered.

Mr. COSTELLO. Would you agree with that, General Scovel?

Mr. SCOVEL. Mr. Chairman, I will acknowledge the validity of Mr. Babbitt's statement that FAA's air carrier commitment initiative covers the majority of aircraft in operation in the country today. Our point has to do mainly with FAA's lack of a follow-up effort in response to the air carrier commitments. What the administrator had asked for was that all recipients of his request respond to him.

And of the 80 who responded, our analysis showed with respect to the most important aspects of that request, pilot records, 14 car-

riers either didn't commit or submitted letters that did not state their intention on this issue. One carrier stated that it already had a rigorous pilot selection process, and another carrier stated that it complied with PRIA, which, in fact, was not the subject of the Administrator's request.

One carrier, most interestingly, remarked to us when my team was on site at their location, that while they appreciated the FAA's desire to expand pilot records review for utility during the hiring process, they wondered why FAA purged records of accidents and incidents at the 5-year mark, because that carrier thought that that information might be valuable to it in making hiring decisions.

Now we realize that there may be statutory or regulatory requirements to purge records at designated intervals, but recognizing that carriers may be hungry for that information, we would encourage the agency to do what it could to honor their request.

With regard to voluntary safety programs, FOQA being one, 25 of the 80 carriers responded to the agency that they did not plan to implement or they gave a nonspecific response. Again, given the importance of FOQA to aviation safety, acknowledging that NTSB just this week recommended that FAA mandate the implementation of FOQA in all carriers we would expect the agency to follow up with those carriers that submitted insufficient responses.

With respect to ASAP, 11 carriers signaled to the administrator that they did not plan to implement it or submitted nonspecific responses. Again, ASAP has been held up by FAA as a key cornerstone of aviation safety and its record among the major carriers has been quite good. We would expect the agency to follow up, even down to the smallest carrier, in an attempt to further increase every aspect of aviation safety.

Finally, with regard to contract provisions, and this was the question that the administrator asked, does the carrier have procedures in place to ensure that regional and main line carriers are sharing best safety practices? Fifteen carriers either did not respond or submitted unclear responses. Again, we would hope that the agency would follow up.

Mr. COSTELLO. You know, just a few weeks ago, I heard an interview, someone interviewing President Obama, and he was asked to grade himself on his first year in office. Let me ask you to grade the FAA. You have talked about the positive things, some negative things, some challenges, what grade would you give the FAA at this point on the call to action?

Mr. SCOVEL. On the call to action, sir, as our statement makes clear, we would regard it with mixed success. If you were to press me for an actual grade, and I have resisted that in hearings in the past, I would have to tell you, sir, that I would grade it incomplete.

I certainly wouldn't grade it pass/fail at this point because, as Mr. Babbitt has acknowledged, very much needs to be done. I couldn't rate it an A, a B, or even a C. I would have to give it incomplete at this point. I do want to acknowledge that the FAA under Mr. Babbitt's leadership has signaled an intent to engage on two of the most important initiatives and that is the rulemaking having to do with fatigue and the rulemaking having to do with crew training.

On fatigue, sir, we are in a fix. As you pointed out in your opening statement, we are working now under a rule that was promulgated in 1985 based on medical science that is even older than that. Since that rule was issued, much medical research has been done by FAA itself and by NASA at the request of the Congress and funded accordingly. Yet the current rule doesn't incorporate that.

Despite the effort in 1995, which met vociferous resistance from the industry, FAA, in the intervening years, 15 years until Mr. Babbitt arrived, chose not to engage on this front. I give great credit to Mr. Babbitt for signaling publicly in the call to action that he is going to press home on fatigue and crew training requirements.

That said, as our statement makes clear, we would take issue with how FAA designed, implemented, and followed through on a number of its initiatives to include attention to the professionalism matter, the initiative attempted to do that through mentoring. Second, the air carrier commitment to its most effective safety practices, I discussed that in the last question, sir, and finally on the focused inspection initiative which yielded, we think, some important information for the agency but because of flaws in the design and implementation, and specifically some lack of guidance to inspectors who were designated to carry it out, lost some of its impact. So for those reasons, sir, I would have to give it an incomplete grade at this point, recognizing that there is room to improve and time to do so.

Mr. COSTELLO. I thank you. The Chair now recognizes the Ranking Member, Mr. Petri.

Mr. PETRI. Thank you very much, Mr. Chairman, I think Inspector Scovel in his testimony made reference to the fact that in four of the last six fatal accidents, there was a lack of pilot professionalism and performance that was cited as a contributory factor, and I would like to ask Administrator Babbitt, what is in the works to deal with that problem?

Mr. BABBITT. Thank you. As I stated in my testimony, in our call to action, one of the things we did, we had 12 meetings around the country that were well attended. And from those we also called in both the air carriers themselves as well as pilots unions. I have already had one meeting just with the leadership of the pilot unions representing about 95 percent of all the commercial pilots in this country. We are scheduled for another meeting next week.

I do appreciate the concern, that some of these things are moving less quickly than some would like, but I would have to remind everybody that the industry didn't get to this state where we see serious gaps in professionalism and in the cockpit overnight. It took years and it is going to take years to bring it back.

And I am pleased to tell you that I have had a wonderful response. I could cite, and if you would like, I would submit for the record. I received a report from the Air Line Pilots Association that they have now done a university outreach program.

I have with me here, a publication by the Independent Pilots Association, the pilots that fly for UPS. This is a special publication issue devoted entirely to professionalism. On the back is the code of professionalism. This was never printed or circulated before this.

Several of the carriers have done this. I have been asked to submit pieces on professionalism to several different individual pilot unions. So I would say we have gotten their attention and I would say they are taking very, very proactive actions, working with us and working with their companies. So I am actually very pleased.

And, to be candid, it is difficult for me to understand why people can't see some of the positive, actions that are resulting from this.

Mr. PETRI. Well, I certainly would agree that we need to be focusing on and working hard for years to maintain professional standards in the cockpit, but I hope it doesn't take years to achieve those standards because people are going to be flying in meantime, and we want them to be flying under professional conditions.

Mr. BABBITT. In addition, if I may, the carriers have indicated, several of them, that they are working with their pilot groups to revise the transition training when a pilot goes from being a senior first officer to a captain, and refresher training for captains, to reinforce professionalism. It is their duty, it is their obligation, and it is something you see in a lot of places. Sometimes people just have to be reminded and the training revised to put it in front and center of them. And I am pleased to see both carriers and their pilots recognizing that and working together to help achieve overall safety.

Mr. PETRI. General Scovel, we have been wrestling with the area of sterile cockpit rules here. The violation of those rules have been a notable factor in both the Lexington and Buffalo accidents and have prompted the National Transportation Safety Board to recommend the FAA take action to prevent further violations of those rules.

What specific steps might be taken to step up enforcement of sterile cockpit conditions?

Mr. SCOVEL. You raise a very interesting point, Mr. Petri, because while it is often said that professionalism cannot be mandated—and I fully agree with that—it is a concept. When you take apart that concept and recognize that there are discrete behaviors, whether they relate to fitness for duty, training, the obligation to behave professionally in the cockpit, those discrete behaviors can be regulated, not to say that they always should be.

Sometimes the voluntary or consensus method is the way to go, and those should always be impressed and reinforced, but sometimes enforcement methods should be in place. I am not in a position now, because I don't have a body of work, frankly, on which to speak, but I would say that we have instances that are common knowledge where we can say that—some enforcement methods have been put in place.

For instance, a professional pilot will not report to work under the influence of alcohol. Do we rely on the judgment of that individual to sustain that standard? No, we have got a bottle the throttle rule.

The professional pilot doesn't report for work overly fatigued. Again, do we rely on individual initiative or judgment? No. For the benefit of that pilot and his or her employer, we have crew rest requirements.

There are a number of other actions. When we get to sterile cockpit, that is going to be a tough one. NTSB, in its Colgan report just

this week, tried to address these points when it recommended workload management training, leadership training, and a complete FAA-required ban by the carriers on personal electronic devices in the cockpit. Those are the kinds of enforcement reactions that can occasionally be necessary.

I would urge this analytical framework, if we were contemplating enforcement, what is the nature of the problem? What is the extent of the problem? What is the danger to safety if the problem continues? What alternatives are there to address it. Disadvantages and advantages to those alternatives? My office, GAO, and a few others in government, can help this Committee and the Secretary identify those, and it becomes a policy question thereafter.

Mr. COSTELLO. I thank you. Mr. Petri had to go to vote in another Committee. He will return very shortly. Let me just comment, and then I will call on other Members to ask questions.

Administrator Babbitt, you indicated that we didn't get where we are overnight, and it may take years to bring it back. I understand we didn't get where we are overnight, but I don't agree that it is going to take years to get it back, and that is one of the reasons why we introduced H.R. 3371, because of our fear that it would take so long through the rulemaking process to address some of these issues.

And we are not just talking about the ATP, the requirement for additional hours, it is both the qualitative training and experience needed to be a pilot, and you have covered that many times. But in our legislation we provide comprehensive preemployment screening, pilots, including assessment of skills, aptitude, airmanship, suitability for functioning, the airline's operational environment.

We raised the minimum requirement, of course, to the ATP, which there is some agreement on, but there are a number of other things that pilots must receive training, function effectively in an air carrier operational environment, adverse weather conditions, including icing, high-altitude operations and multi-pilot crew. Those are things that need to be addressed, and that should not take years to bring us back.

That is why we acted so quickly to introduce this legislation after this tragedy. That is why we did it in a bipartisan way and passed it through the Committee and through the House of Representatives.

Unfortunately, it has been pending in the other body, like many other things, and we hope that very shortly they will take this legislation up too so that we can hammer out whatever differences we may have and come up with a bill that addresses many of the needs that need to be addressed sooner rather than later, and I think you agree with that.

With that, the Chair now recognizes the gentlewoman from Nevada, Ms. Titus— Ms. Titus went to vote in another Committee, I am told, so she will return.

The Chair recognizes the gentleman from Michigan, Mr. Schauer.

Mr. SCHAUER. Thank you, Mr. Chairman, very much. Thank you, gentlemen, for testifying. I have two very distinct and different questions and the first one I would ask, Mr. Babbitt, if you could take just a short amount of time to address. My district, and Battle Creek, Michigan, is the home of Western Michigan University Col-

lege of Aviation, I think the finest university-based pilot training program.

How are the call to actions recommendations integrated into university pilot training programs, and will today's notice of proposed rulemaking provide them an opportunity to offer alternatives, and you can both respond to that briefly, if you would light like.

Mr. BABBITT. Yes, sir. To answer, number one, as I indicated, several of the pilot associations have started an outreach so that you can begin to train young pilots on the value of professionalism and have living examples right in the classroom doing guest-speaking appearances, helping with the curriculum. I know several of the pilot organizations are part of a board that sets curriculum. And so we have encouraged that, and I am pleased to see that they are actually engaging in that.

Second, the proposed rulemaking that we have out, the advance notice, certainly recognizes the variance. And I would note here for the record that we were discussing this prior to the point in time when people began to focus on this. I was concerned, myself, that a commercial pilot's license was not sufficient training or previous qualifications. Having a lot of light shown from this accident and others I felt we needed to improve.

So we have tripled the number of hours in our advance notice of proposed rulemaking, I think we are seeking comments on 750 hours, and we added a number of very key elements so that a pilot would be trained with today is high fidelity simulations, and the schools can teach the academic side of it. The pilots today come out with training and academic exposure to management of energy.

These are large machines, hundreds of thousands of pounds. And stopping them on a runway requires some knowledge of how you manage all of this energy. All of these things are in the curriculum. We have not ruled out anything. Perhaps one of the solutions is more time or more training interchangeably, but we certainly offer and welcome the academic community to comment for us.

Mr. SCHAUER. Thank you. I appreciate that.

Being from Michigan, as you know, we nearly had a terrible tragedy over Detroit on Christmas. I know our time is very limited. And your testimony talks about accidents and airline safety. There are other serious threats involving airplanes in the air and on the ground.

And there has been a great deal of media attention continuing in my State on what happened. I don't think we know yet, but I wonder if you could at least comment briefly on the FAA's jurisdiction over this type of incident in the air and on the ground and the protocols involved, including on the ground—I am sure you have been following that—and whether you can comment as to whether those were followed in the air and on the ground.

Mr. BABBITT. Yes, sir. You are referring to the flight with the attempted terrorist.

Mr. SCHAUER. Flight 253.

Mr. BABBITT. Flight 253. Yes, sir, we, of course, obviously, controlled that flight through air traffic control procedures, the controllers. The aircraft landed. They indicated they had a problem. There was a communication gap between the cabin and the flight deck crew. The flight deck crew reported that they had someone

who had attempted to set firecrackers off. So it didn't elevate to anyone, whether it was the cockpit or air traffic control, to anything of great seriousness at that point.

However, it began to escalate, and if you follow the timeline, we have a very robust system set up with Homeland Security, the Transportation Security Administration. All of those procedures were tracked, followed. We isolated the airplane as soon as it was known to us what we were dealing with.

We also then began very quickly to expand notification. Using our communication system, the domestic events network, we reached out to all of the carriers in the country, explained to them what was going on, and set up procedures so that either we or they could contact their crews to put them on alert of the situation as it developed.

Mr. SCHAUER. Thank you. Within the jurisdiction of this Committee, I look forward to further opportunities to talk about that. And I know there are multiple agencies with multiple jurisdictions. The Chairman has been very helpful. We immediately had a closed briefing on the matter involving a number of agencies. But it is of grave concern. I thank God there wasn't a loss of life in that situation, and hopefully this will be another incident that we can learn from.

Thank you, Mr. Chairman.

Mr. COSTELLO. The Chair thanks the gentleman from Michigan and now recognizes the gentlelady from West Virginia, Ms. Capito.

Mrs. CAPITO. Thank you, Mr. Chairman.

I thank the gentlemen for their testimony.

As we know, it has been a year. And I have met with many of the family members who are here today who have suffered a tragic loss, and are moved by their effort to make the skies safer. So we join with them, and I certainly hope that we can push the Senate to pass this bipartisan "Airline Safety and Pilot Training Improvement Act."

First of all, I would like to say, Administrator Babbitt, I am from West Virginia, and I would like to thank you and your agency's cooperation. As you know, last month, a U.S. Airways flight overran the runway, which you don't want to do in West Virginia because we are situated on the top of a mountain. We had 30 passengers and three crew members. But because our airport had an EMAS, which is an Engineered Material Arresting System, a new technology, that halted the plane on the ramp and saved a lot of lives and a lot of injuries. And I know that the FAA has helped with us in getting the rapid rebuild of that system at our airports. So thank you for that.

Two things I would like to ask about: the commuting thing that we talked. We learned in the tragic accident the commuting times of the pilots. One, in particular, was very lengthy and questionable, leading to fatigue. You mentioned commuting, but is it possible to quantify the possible hazards of commuting? And how are you facing this and how are you interfacing this with the conversation I had with my regional air crew members on Monday, that this is going to be an issue that is going to be very difficult for them as they try to hold their job and live in different areas?

So, a response.

Mr. BABBITT. Well, the primary focus that we have is on crews being rested. We want every crew to show up for work both mentally and physically prepared to go to work. And that is without exception. That is the charge, that is the challenge, and it is our responsibility, a shared responsibility with the crews, to make certain that happens.

There has been some focus on the fact that pilots do commute, and that happens. Different carriers handle it different ways. We are literally on the brink. We have discussed a little bit of the delay issue. It took somewhat longer, not dramatically longer. I sat in this very chair in 1992 and testified on this very subject for the Airline Pilots Association, so I appreciate how long it has taken. But we are talking about a delay that is measured in weeks, not years, so we are very close.

And our proposal, our notice of proposed rulemaking, will include a provision where we will seek comment on, what do people believe is the appropriate thing? How can we limit this? I can give you lots of letters that I have received on both sides of this argument. It is a serious issue. But we are focused on fatigue and management of fatigue and recognition of fatigue. And we have several ideas as to how to deal with that.

Mrs. CAPITO. Well, I certainly think—you know, I applaud you for that. I would like it sooner than later. And the fatigue issue, I am certain it is hard to quantify. Certainly, individuals have different levels of, you know, sustainability with certain hours of sleep.

The other question that came up repeatedly in the last hearing that we had was, were the major carriers mentoring with the regionals, more seasoned pilots helping the younger pilots, pairing them. I think we had testimony from numerous people who said the best way to learn after you attain that license is to have somebody right next to you that can show you the ropes and help you meet the difficulties of any kind of situation that you might be in.

Is a mentoring program really going to come off here? And is it going to be a situation—this is what I fear. It is going to be a situation that the main carriers who have the more seasoned pilots, the pilots will say, ″I will mentor, but it is going to cost another extra—I want to be compensated for mentoring. You know, this isn't something I am going to voluntarily do.″

What is your perspective on that and also on the pilot pairing? Either one. Administrator?

Mr. BABBITT. Sure. The mentoring is a natural event over the course of a normal airline. You get hired, you spend a number of years flying as copilot, you learn a lot of things. And that is part of the mentoring process. That is where the experience is built up.

One of the things that we are trying to do——

Mrs. CAPITO. If I can interrupt for just a second, the plane I was on on Monday, I don't know who was mentoring who in the cockpit there. They both looked like my 25-year-old children, quite frankly.

Mr. BABBITT. Well, the model I described for you is a traditional airline that has been around for a long time and has senior pilots to mentor the younger pilots.

One of the concerns today is, quite often, a new airline will form in order to provide service for another carrier, and every pilot at

the airline is new. And, therefore, how do we ensure that these pilots have had that exposure?

Well, we know they meet the regulatory requirements. All of them do. So we have asked the carriers—and I am very pleased to say that they are all engaging in this. Many carriers in this country today, main line carriers that carry passengers, now have a program to exchange information among their flight ops people with the leadership and the union representatives of the other carrier that feeds them as their regional partner.

We want to see how that develops. Is that providing the information transfer that we are looking for? Are there other curriculum courses? Should we introduce this into recurrent training? All of these are areas, but we all recognize the need for it. It is a question of how best to deliver it. We have certainly better academic tools today. We have high-fidelity simulation today. We have science today that we did not have.

So we are going to try to find the best ways to achieve these goals and work with everyone to do that.

Mrs. CAPITO. Thank you.

Mr. COSTELLO. The Chair thanks the gentlelady and now recognizes the gentlelady from Nevada, Ms. Titus.

Ms. TITUS. Thank you, Mr. Chairman.

I would like to continue the line of questioning that the Chairman started.

Mr. Babbitt, I appreciate your comment that the fastest way to implement a safety improvement program is for it to be done voluntarily. But, at the same time, I share the inspector general's concerns that, when that was the case, that some airlines, a lot of them regional airlines, either didn't respond or responded in some kind of vague way. So I haven't really heard from you what you plan to do next, either through the carrot or the stick, to get these other airlines to establish these safety programs.

And, second, I know that many times a program is just written and put on the shelf. Do you have any kind of timeline or any plans to follow up with those airlines that did submit programs to see that they really are being implemented?

Mr. BABBITT. That is a very good point. And, yes, ma'am, we have. First off, remember that we pressed this into service very quickly. We wanted a very rapid amount of focused attention on everybody in the industry. We wanted to get their attention.

I think, again, a misconception might be that we were going to go out and evaluate all of their programs, and that is not what we asked to be done. We asked to confirm the existence of programs. The follow-on will now be to go back. Now that everyone is confirming that, yes, okay, we are going to have these programs, the follow-on is to now go back and say, ″Well, how refined is this program? Are you just filling a square for us, or are you actually developing a program?″ And we can see some of these programs are very robust; some of them aren't. We will have to go back with our inspectors.

Remember what we asked these inspectors, again, to do was to confirm that there was, in fact, a program, and they did that. We asked them to look at some of the programs. Some of the elements of what we were asked to look at simply don't exist. So, yes, we

did get some answers that said this was not applicable or not observable because they may not do that particular maneuver at that carrier. So, yes, we got some vague answers and things, but you need to put them in the context of what our inspectors were looking at.

I will put something else in context for you. We use a system of calculated risk. I was part of a review team that went out and reviewed the risk management that we use in this country to ensure the safe levels. And so, you know, we focus on areas. If someone didn't have a program, we put them on notice: You are going to have focused attention. If you don't have a program, you are going to be subjected to future scrutiny from us. And, of course, that is the stick. They usually say, ″Well, you know what? Maybe it is a better idea that we get a program.″ And that is exactly what we want to inspire.

Ms. TITUS. I would just ask the inspector general to comment on that, if you have any suggestions or you think that is going to be adequate, or a timeline on which we need to do this.

Mr. SCOVEL. Thank you, Ms. Titus. I appreciate the opportunity.

I would commend FAA, under Mr. Babbitt's leadership, for pursuing remedial training programs.

I would like to remind the Committee that remedial training programs were first suggested in guidance from FAA to the aviation industry in 2006. It was suggested, it was put on record as guidance at that point. It wasn't mandated.

Yet, under the urgency of the Call to Action initiative—which, again, I give credit to Mr. Babbitt for initiating—it was discovered that a sizable number of airlines at that point didn't yet have remedial training programs. They do now. So they have certainly checked the box, to use Mr. Babbitt's phrase. They have something on the shelf, to use your phrase.

And we would encourage FAA diligently to follow up sooner rather than later in evaluating the effectiveness of those programs. And the guidance that FAA headquarters provides to its inspectors in the field will be absolutely key.

Ms. TITUS. Thank you.

Mr. COSTELLO. The Chair thanks the gentlelady and now recognizes the gentleman from Missouri, Mr. Graves.

Mr. GRAVES. Thank you, Mr. Chairman.

Mr. Chairman, I wanted to kind of clarify what I was stating earlier, because I still believe this is about quality of training and not quantity of training.

I heard two comments that this isn't just about the number of hours, and I agree with that because we have other things in here, obviously, high-altitude training, weather training, besides being an ATP. But being an ATP, that is the biggest limiting factor here, because it takes 1,500 hours.

And, all due respect to the statement that was made earlier, a combat veteran who has 300 hours in a plane and all the training in the world isn't just learning how to fly. They are a very qualified individual. And I do not want to limit this to folks that only have 1,500 hours with an ATP certificate. Getting an ATP certificate doesn't make you a good pilot. What makes you a good pilot is a whole lot of other things that are out there.

We need to be concentrating more on hiring practices with some of the airlines and weeding some of these folks out that do not belong in the cockpit. And every person in this room who is a pilot knows there are people in the cockpit today who do not belong there, and I don't want them commanding an aircraft that I have my family on, even if they have an ATP certificate and have had high-altitude training and icing training and severe weather training and everything else.

But there are also people out there who have had 500 hours or 750 hours who have been trained in some very capable schools, who are military trained, who are very qualified to sit in the right seat and move along through the process.

But I understand what we are talking about here, and I know it isn't just about the number of hours. But the fact of the matter is, that is a huge limiting factor on the folks out there who we should have in the cockpit as that backup person, as that right-seater.

Now, as far as a question—that was a statement, obviously—I am curious—and I think, Mr. Babbitt, you gave me the answer, too. Obviously, just a commercial certificate isn't enough, and you mentioned that. Number of hours, total number of hours, though, I think you mentioned 750. Did you throw that out, or is that actually a recommendation?

Mr. BABBITT. In our advance notice, I believe that is the number we put in. That is three times the amount of time. But with that goes a requirement to have a number of training elements and academic requirements. So it is not just accruing 250 times three. It is accruing more flight time and accruing a portfolio of education, exposure, high-fidelity training.

If I could, I will give you an example. In 1974, I was a fairly young—imagine that—copilot for Eastern Air Lines, and we merged with an airline called CariBair. And Caribair flew exclusively out of San Juan, Puerto Rico, all through the Caribbean, as you might guess from the name. They integrated into our seniority list, and I began to fly with the CariBair pilots. They were excellent pilots. I flew with 25-year veterans. But I was surprised, when I first went to New York with a CariBair pilot who had never seen snowfall on an airplane. Twenty-five years of experience, 15,000 hours, the pilot wasn't trained for the mission.

Conversely, we began to fly in their operations. My entire life, I had flown the east coast—a lot of weather, a lot of approaches. And, suddenly, we are in a day VFR, unradar-controlled environment. I was not trained for that mission either. I had plenty of time, but this is what I am trying to shed light on. Just accruing the hours doesn't necessarily assure us that you have been exposed to these things. And I would tell you, the simplest thing I could say is, sure, 1,500 hours. Let's just move on, 1,500. I don't believe that. I believe that we need more than the 1,500. I am not ruling out 1,500. I believe people need more training elements, and we need to know that they have received them, not that we think they received them just because they had a lot of flight time.

Mr. GRAVES. Thank you, Mr. Chairman.

Mr. COSTELLO. The Chair thanks the gentleman and now recognizes the gentlelady from California, Ms. Richardson.

Ms. RICHARDSON. Thank you, Mr. Chairman.

First of all, I would like to commend Mr. Babbitt. I think, from the time when you came in, you acknowledged the long delays that were clearly not your responsibility and your fault; however, you took the responsibility for them and committed to begin work immediately.

And I have been here now a little less than 3 years, and that is the most glowing recommendation I have ever heard from Mr. Scovel. And I am sure he didn't intend it as a recommendation, I understand that. But I think the comments acknowledge at least some of the initial work that needed to be done.

In light of that, however, Mr. Scovel, in his testimony, has said very specifically that the FAA has not implemented key rulemakings on new crew fatigue and training requirements. The FAA's special investigations of air carrier training programs were ineffectively designed and implemented. And then the other key one that I wanted to highlight that he noted is that the FAA has missed its milestone for establishing programs to improve pilot professionalism.

And although you have talked about some delays, I think, for the American flying public, tolerance is not acceptable, and it is not okay to say that we are doing better. We have to fix it, and we have to fix it now.

So, Mr. Babbitt, what would be your response to Mr. Scovel's testimony?

Mr. BABBITT. Well, first, I have a great deal of respect for the general, and I have a great deal of respect for their observations. I find them very helpful. Obviously, I can't watch everything that the FAA does. I have my own goals, and we try to do things, and I appreciate that they can put some bright lights on some things that we haven't done so well. And we take those things that they suggest to us very seriously. So I appreciate——

Ms. RICHARDSON. But do you agree with them?

Mr. BABBITT. Let me take the fatigue as an example. I came to the FAA 4 months after this accident happened. I have been here 7-1/2, 8 months. In that 8 months, we have promulgated four rules. I have outlined a number of things that we have done. And I have really tried to convince people, or at least shed some light on, in that 8 months, we are going to release a rule here in another month.

Now, this is a very deliberative process. Rulemaking is a deliberative process. Making legislation is a deliberative process. The work that NTSB does—this accident happened a year ago. It took a year to have the hearing. It is a deliberative process. I appreciate what they go through.

Ms. RICHARDSON. Mr. Babbitt, I apologize. Being a relatively new Member, I only have 2-1/2 minutes. And my question is, do you agree with Mr. Scovel's assessments?

And although things do take a while, I will also tell you that, as a new Member, I sat, as many of my colleagues did, when we got a call from Secretary Paulson and Bernanke, who were saying the sky was crumbling and we had to react and we had to react in 2 days. So sometimes, depending upon the issue, the reaction has to be different.

So do you or do you not agree with the testimony of Mr. Scovel, which is not just limited to rulemaking? And now I have a minute and 47 seconds.

Mr. BABBITT. All right. In 15 seconds, I get an A-plus on milestones for professionalism. Training, I get an incomplete. And I get a B on fatigue.

Ms. RICHARDSON. But do you agree with his assessment in that area?

Mr. BABBITT. I agree with some of his assessments, yes, I do.

Ms. RICHARDSON. Okay. We look forward to your immediate reaction to them. And I would say I would rather see you come to us and be creative and think out of the box and maybe have to figure out how we can do things differently. Because I think the confidence of the American public is reducing every day that we delay, and I think there is room for us to think creatively and do it differently. And I would look forward to helping you.

Thank you, sir.

Mr. BABBITT. Thank you very much. I appreciate that.

Mr. COSTELLO. I thank the gentlelady and now recognize the gentleman from Ohio, Mr. Boccieri.

Mr. BOCCIERI. Thank you, Mr. Chairman.

Thank you, Mr. Babbitt and Mr. Scovel, for attending this hearing today.

Mr. Babbitt, I have spoken to you offline a number of times, and I appreciate the professionalism that you are bringing to the agency and your sense of urgency to tackle some of these big issues that should have been addressed decades before your arrival here before this Committee today. And I want to just stress some things that I think are very key to this discussion that we are having right now.

Number one, we are talking about pilot experience, and we are talking about something that is even proposed in the NPRMs by the FAA: to train like you fly and fly like you train. These were very experienced pilots, by some measure—5,600 hours between them—but even the best pilots, who have hundreds of thousands of hours, if they climb into an airplane and they are not trained on the safety procedures and the safety equipment in that airplane, I don't care who they are, they are going to have trouble recognizing and implementing recovery procedures.

And, in fact, the NTSB report suggests the Q400 check pilots interviewed demonstrated instruction of the aircraft pusher system is not even part of the training syllabus at Colgan Air. In 1991, 2002, 2004, 2005, 2006, 2007, the captain of this airplane failed his check rides—incomplete, lack of remedial training. This was a tragic accident, but it was completely avoidable, in my opinion.

Since 1973, the NTSB has been required and asking the FAA to implement procedures that advises the training and stall recovery should go beyond the approach to a stall to include stall training/recovery from a full stall condition. The NTSB has further said that these are open and unacceptable responses by the FAA.

Now, all this happened before you got there, but the inspector general just reported that, over the last year, a year later, the FAA has not finalized the rule for training requirements as established in the Call to Action.

Since 1973, the NTSB has had a Call to Action. In the last year, nothing has happened, even though in October this Congress and the United States House of Representatives passed a resolution suggesting that they will recognize and avoid a stall of an aircraft, and it will require simulation.

So I want to know why, after a year, after decades, we are not having any movement with respect to this, sir.

Mr. BABBITT. Well, it is a very valid question. If I can take you through the timeline, a year ago January the new proposed rules that cover training were submitted and comments were taken. The volume of comments was absolutely incredible. Three thousand pages of observations came in. And they ranged from training procedures, better ideas, questions about what we were proposing, lack of technical capability to actually do them.

Simulators don't necessarily do everything that an airplane can do. And so, if you ask someone to do this in a simulator and the simulator is not capable of doing that, then someone would raise their hand and say, "Well, we can't do that because the simulator won't replicate it." However, we are on the verge of—today's high-fidelity simulation actually can. And I know you are a seasoned pilot yourself. We wouldn't put people in a real airplane in harm's way.

I have actually done a full stall in a 777. It is one of the most violent maneuvers, I think, I have ever been in in an airplane, number one. And, number two, it damages the airplane. I mean, you wouldn't ever sell that airplane after you have full-stalled it, it is so big.

But that doesn't mean we can't simulate it, and that is what this rule proposes. A supplemental will be going out, and I look forward to having that out also this spring and put this to bed.

Mr. BOCCIERI. We need to put it to bed after decades and decades of nonaction by the FAA with respect to this.

In fact, the NTSB has said that the issues in the Colgan investigation are not new ones or unique to regional airlines. And, in fact, when they further pressed Colgan as to why they didn't even have the safety features of this airplane as part of their curriculum, they suggested the FAA didn't require it.

So, where we have seen these regional airlines who are now doing more take-offs and landings than our large airlines around the country, where they have met and exceeded them in the past, they are now shooting for the minimums. And I find this completely unacceptable when the minimums don't include in any of the training syllabuses a requirement for understanding and recognizing and recovering with the safety features that are on the airplane.

So the Congress is moving. I expect the FAA to move, too, sir. And you have done a good job of moving and shaking and showing this sense of urgency. But it is very clear in here that this will be part of simulation, and we are not going to rest until this is now passed. So I look forward to further Committee hearings where we press this.

Thank you, Mr. Chairman.

Mr. COSTELLO. I thank the gentleman.

And the Chair now recognizes the gentleman from California, Mr. Garamendi.

Mr. GARAMENDI. Thank you.

Being exceedingly new to this job, just 3 months, I understand your situation. But when I looked at your name, I thought perhaps I had gone back to where I was in the mid-1990s with Secretary Babbitt, when I was his Deputy Secretary.

We did a lot of rulemaking at that time, and it is a process that can be exceedingly slow. Have you set out a definitive timeline?

Mr. BABBITT. With regard to the fatigue rule, yes, sir. And I will offer you the same apology that I offered this Committee. We set a timeline. I asked for a timeline that we would have a rule out by the end of 2009. I was overly ambitious, and we ran into some technical issues.

It is an incredibly complex rule. For the first time, we are going to take science into consideration. We are taking input from both managements that run the carriers as well as the pilots themselves and the various unions involved.

So it took us longer, and we do plan to have it out this spring, which will be 8 months from when I indicated we would try it.

Mr. GARAMENDI. I am really not surprised. My own experience at writing rules is that the unanticipated is guaranteed to happen, and the delays will always be more than you anticipate.

Therefore, my question goes to the legislation that this Committee has passed, that the House has passed and is now in the Senate. Do you support that legislation?

Mr. BABBITT. I do. If you go through and look at the elements that we tried to advance, we certainly took, a great deal of guidance from the legislation. We felt that we could, perhaps, move these things along.

I understand that legislation itself is a deliberative process. And if we could be moving these things in parallel, I expressed privately to the Chairman I would love to say, you know, ″We just passed all these things, and the FAA got them done. Thank you.″ I would love for that to happen. So we are working pretty robustly——

Mr. GARAMENDI. So you do support the legislation publicly and in the Senate?

Mr. BABBITT. Well, I haven't been asked by the Senate, but, yes, sir, we support the goals that you have set forth here, yes.

Mr. GARAMENDI. Do you support the legislation then? You do support the legislation?

Mr. BABBITT. Yes, sir, I do.

Mr. GARAMENDI. Very good. I think you may find that, as slow as the Senate is, it may be faster than the regulatory process.

Mr. BABBITT. Well, what is interesting, I think everybody, certainly the inspector general, who I have a great deal of respect for, this Committee, everybody, we all have the same goal. We all want to improve safety.

The NTSB can be critical of us from time to time, but I respect that. We need that attention. But I would note, when we talk about deliberative process, I just got a set of recommendations 2 weeks ago on my desk from the NTSB from an accident that happened 3 years ago. It is a deliberative process for them, too. I just got the recommendations from a 3-year-old accident.

So all of us have this process. We would love to move it faster. I think we all share the common goal of safety.

Mr. GARAMENDI. Well, there are some elements in all of these issues that are common and agreed to and for which there is relevant information readily available now. Those might move ahead while others that have unknowns and need additional information may be left out for a later time.

Are you considering that process as you go through your rulemaking proposals?

Mr. BABBITT. Yes, sir. And I would love to talk to you when we have more time, and I would be happy to. But one of the things that we have tried to do was take and use, in Chairman Oberstar's words, the bully pulpit to get people to do things voluntarily with a lot of pressure and with a lot of visibility. I published the names of every carrier who didn't respond to us. We made them public. You would turn us down at your risk if you chose not to comply.

So we did as much as we could do voluntarily because we could do that quickly, and then put many of the things that we are trying to do with regulation or with the help of your legislation in place. But we wanted to get as much as we could done on a voluntary basis because it resulted in immediate action.

Mr. GARAMENDI. My point, more than that, is, in my experience in writing regulations, sometimes it is better to separate issues and to write one set of regulations for things that can be done immediately for which there is knowledge and information and then hold the other piece. Sometimes, if you wait for the last piece, there are going to be a lot of dead people.

Thank you.

Mr. COSTELLO. The Chair thanks the gentleman and now recognizes the gentleman from Oregon, Mr. DeFazio.

Mr. DEFAZIO. Thank you, Mr. Chairman.

Mr. Scovel, in your testimony where you were talking about the special inspections, the air carrier training programs were ineffectively designed and implemented, I find some disturbing elements in there. And I would like you to expand on them a little bit, and then I will ask Administrator Babbitt to respond.

We were talking about responses. It says, ″FAA headquarters only captures 'no' responses in any roll-up analysis of carriers' compliance. A true evaluation of an air carrier training program should have included a review of the program's effectiveness, not just compliance with requirements,″ i.e., we checked the boxes, but, you know, did it take, did it work, did we get the desired result?

What sort of measures should there be? How would we get to measuring the effectiveness? How would the FAA do that? And why don't they do it?

Mr. SCOVEL. Sir, we have a project under way at the request of the Congress to assess FAA's determination of the validity of training programs. And we intend to follow up on that point.

On this key one, I will note two aspects. The first goes to a point that Mr. Boccieri raised earlier, and that is the poor-performing pilot and the pilot in the Colgan crash who repeatedly failed certain training evaluations. The direction to FAA inspectors in the field in phase 1 of this focused inspection initiative was to assess

how carriers are able to identify, track, and manage low-time pilots and poor-performing pilots.

FAA issued specific guidance to its inspectors in the field on how to define a low-time pilot. FAA didn't issue any guidance to inspectors on how they should identify whether carriers were properly following poor-performing pilots. As a result, when my team went out to the field, we found disparate approaches between inspectors at different locations. How did one team identify poor performers? How did the other? It calls into question the validity of that part of this initiative at this point.

Mr. DEFAZIO. Well, in fact, I think you said elsewhere that, in the regional airlines, few of them have an automated system to track poor performance and/or prevent pairing of two poor-performance pilots. Is that correct?

Mr. SCOVEL. That is true for scheduling purposes, yes, sir.

Mr. DEFAZIO. And are there requirements coming along that are going to make them establish systems since some of our regional airlines, the better ones, have figured out how to do that? Why do we allow these other substandard programs to continue?

Administrator Babbitt, can you respond to that?

Mr. BABBITT. Yes, sir. One of the things——

Mr. DEFAZIO. I would assume Colgan probably falls in the category of not having that program.

Mr. BABBITT. And you are absolutely right.

We have a safety advisory for flight operations that addresses this and it gives them the basics of this. But what our——

Mr. DEFAZIO. It recommends or requires?

Mr. BABBITT. The Call to Action, at that point in time, which was, you know, me 6 weeks on the job, the Call to Action was to go out and find out who has these programs and who doesn't have them. Just find the existence of the programs, and put scrutiny on those who don't. The good news is they now have all begun to move that direction.

And I mentioned earlier in testimony—you might not have been in here—that our next phase of this is to now go back and evaluate the actual program. What are the elements you are tracking? And let us make certain that we have a good, solid program in place, and we will audit that.

But the good news is now they all have a program. How robust it is remains to be seen.

Mr. DEFAZIO. Okay. So, I mean, that doesn't give me tremendous confidence. I mean, it is an improvement, but we need some sort of reportable metrics for how many pilots they have identified that have performances problems. You know, there should be some sort of requirement, it seems to me, as to what steps they are taking or have taken with those pilots in order to give them remedial training or perhaps to curtail their duty or only pair them as copilots or, to track, what sort of steps they are taking actively once they have identified problem people.

It seems to me there should be some burden on the airlines: Identify these people, track them, and report to us what you have and what you are doing about it. Are you envisioning that?

Mr. BABBITT. Yes, sir. I couldn't agree with you more.

One of the things that we have said all along, is that I think part of what will come of this in time is increased responsibility on behalf of the carriers. Yes, in this case, we have identified some errors that pilots made. But there is an obligation on the carriers to make certain that they have the quality training, that the tools are out there. And it is our obligation to make certain that they provide the highest standard we possibly can. So it is a burden on all of us.

Mr. DEFAZIO. And I would go a little further. And I am not sure what you mean by ″carriers.″ In this case, we have a contract carrier for a major airline. I would say the responsibility goes to both the contract carrier and to the major airline. There should be some responsibility, instead of going for the lowest bidder there should be some responsibility for them to determine that this lowest bidder is actually a qualified bidder. And I don't think we have that kind of system now, except for the market-based system where people say, "Oh, gee, they lost, they have a crummy regional carrier. I think I will stay away from that airline."

Mr. BABBITT. Right. And I appreciate and we have certainly gotten a lot of comment and dialogue on that issue.

I do think, when we talk about, you know, the carriage rights and those types of things, we are on the safety side. Those agreements made between commercial operations are probably at a higher level of the Department of Transportation.

Mr. DEFAZIO. Right, but at least notification. I mean we have fought over this for years. It is like you think you have bought a ticket on Continental, but actually, you are flying this leg with Colgan.

Mr. BABBITT. Right.

Mr. DEFAZIO. At least that level of disclosure, I think, would be useful. And perhaps I don't know whether that is within the jurisdiction of the FAA directly or whether that comes from some other part of——

Mr. BABBITT. There is a requirement, but the requirement is rather small and often after the fact, where, when you arrive at the gate, they are obliged to tell you with notification that it is being operated by——

Mr. DEFAZIO. Yeah, it is a little late at that point, you know.

Mr. BABBITT. Yes, sir. Yes, sir.

Mr. DEFAZIO. I mean, you are kind of far—, I think the original idea was people would be notified at the time of booking. Isn't that correct, Mr. Chairman?

And so I guess we need to figure out a way to translate that. Because I want to advantage and benefit those regional carriers that are doing better and not allow them to be out-competed and dragged down by the ones who aren't. And that is the system we have today: Lowest common denominator rules. That is a problem I have had with both the RTA and the big association, the ATA. And I have said that to a number of their directors over the years. You do not benefit your high-performing airlines by representing the lowest-value people in your organization. I know you want their dues, but these other people—we need to be bringing them up, not dragging other people down.

The current system drags other people down, and we have to fix that problem. Part of that is why we are arguing over hours and training and so that they can't shortcut there, but part of it goes to some of these other things which are—, there has to be some chain of responsibility here.

Thank you, Mr. Chairman.

Mr. COSTELLO. The Chair thanks you.

And you are correct in your assumption about the bill that we have passed out of the House. It does two things. Number one, there is a provision that says truth in advertising, and it mandates that the Internet Web sites that sell airline tickets disclose to the purchaser on the first page of the Web site the air carrier that operates each segment of the flight. And we also make them print it on the ticket, as well.

So the Chair thanks the gentleman and now recognizes the gentlelady from Texas.

Ms. JOHNSON. Thank you very much, Mr. Chairman. And I apologize for being late, but Dr. Ehlers and I have been running between Committees.

I would like to ask unanimous consent to put my opening remarks in the record.

Mr. COSTELLO. Without objection.

Ms. JOHNSON. And, Administrator Babbitt, I know that your hands are probably full, but keep in mind that people are increasingly concerned about flying, and yet we don't want to see that stop.

Could you tell me what your review entails when you review the crew member training, the qualifications, and management practices?

Mr. BABBITT. Sure. One of the areas that we are very focused on and we are actually working with Congress and this Committee on is to remove the possibility that someone in the hiring process doesn't have—or someone who is responsible for the hiring, for the acquisition of a new pilot, that that person, he or she, has a complete record of this pilot's history. And that would include the pilot's military history, their history within the FAA, their history at other air carriers.

We realized, unfortunately, through tragedies, that that wasn't always the case. And we passed PRIA, which is the Pilot Records Improvement Act, which gives the carriers that. But we left an unintended consequence there that the pilot has to, because of privacy issues, the pilot has to give people the permission to do that.

And so we are trying to work through this so that there should be one place where you can say, "I am about to hire this pilot. I would like to know their entire record." We have uniform traffic violations. If I got a speeding ticket in Texas and I got another one in Virginia, it is going to show up. And that is what we want to see here.

If someone has had a problem—the problem we have seen is they say, "Oh, well, they failed one check ride. That is not so bad." If they failed one in the military, if they failed two in front of the FAA, if they failed two more at their last carrier, that is a trend, and that is what we need to be able to put light on.

Ms. JOHNSON. Thank you. Now, do you focus strictly on pilots?

Mr. BABBITT. These bills, yes, ma'am, this is focused on pilot hiring.

Ms. JOHNSON. Because other crew members should have some training standards, as well.

Mr. BABBITT. Uh-huh.

Ms. JOHNSON. Mr. Scovel, you have made the statement that you cannot regulate professionalism, and you are exactly right. But what action, if any, can FAA and the industry take to address the key safety concerns?

Mr. SCOVEL. Ms. Johnson, thank you.

I think my oral statement was that we cannot ″mandate″ professionalism; my written statement says ″regulate.″ There is a little bit of difference there. And to draw that distinction more finely, I think that certain key aspects of professional behavior can be regulated and, on occasion, should be.

Mr. Babbitt has outlined a voluntary approach, a consensus-building approach, to enhance professionalism across the aviation industry through all pilots, and we certainly endorse that. We would urge the agency, as well, when significant safety problems are identified in the professionalism area, that regulation be considered truly as a tool in the toolkit rather than exclusive reliance on a consensus or voluntary approach.

Ms. JOHNSON. Thank you very much.

Thank you, Mr. Chairman.

Mr. COSTELLO. The Chair thanks the gentlelady, and it is good to see you back with us.

The Chair now recognizes the gentleman from Michigan, Dr. Ehlers.

Mr. EHLERS. Thank you, Mr. Chairman. And I apologize, as the gentlewoman from Texas has. We were both in another Committee, and I also had a markup going on.

I did want to comment on something that disturbed me very much. I read most of the transcript, all of the important parts of the Colgan incident, and I was just exclusively astounded and dismayed at the lack of professionalism that was displayed in the transcript. I think that is a very key factor.

Now, I am familiar with some pilots who have gone to probably the best aviation school in the country, perhaps in the world. And I won't name it because I will get in trouble with everyone else. But I am just very impressed at the knowledge that this person has and the ability. And this person did fly in the industry for some time and left for various reasons. But when talking to this person about it, you know, he was just astounded that anyone would be allowed in the cockpit that displayed the lack of professionalism and the lack of confidence that the Colgan pilots did.

The question I think we have to worry about is, how do you teach professionalism? I am not sure you can. How do you communicate it? I think you can do that by example.

And perhaps the best way is that the right-seat person trains with excellent pilots in the left seat who have exhibited a teaching ability, a teaching skill, even if they are not part of the same particular airline, but usually airlines are related. So perhaps a commuter airline candidate would fly with some of the larger planes

for a brief time and just observe what the experienced and well-trained pilots do.

And, for example, we know the current administrator of the FAA was in the Airline Pilots Association, and I have talked to him about the good old days when I used to be able to fly in the cockpit, as the rest of our Committee was. And it was just so clear the incredible professionalism of the average pilot in the airline industry.

And, perhaps, maybe the candidates for positions have to ride for half a year in the jump-seat of a large jet and watch how carefully and thoughtfully the experienced pilots operate and the professionalism that they have. I don't think you can teach professionalism in a class. You can teach responsibility and then give them the opportunity to work directly or to observe directly well-trained pilots who have been in the business a long time. I think that would certainly do a lot more than requiring more hours would, because if a pilot is not well-trained, you can require more hours but they will just practice the same bad habits.

So, having rambled for a bit, I would just appreciate the comments of either of our witnesses on the points I have raised and potential solution I have offered.

Mr. Babbitt?

Mr. BABBITT. Dr. Ehlers, thank you very much. I share your views.

One thing I would like to clear up. We have made a lot of observations. Right now, today, over this country, we are going to have about 50,000 flights. That will mean tens of thousands of airline pilots are going to be flying those flights. The men and women who do this day-in and day-out are going to carry 2 million people, and they are incredibly professional. We got to see a very bad exposure that resulted in a tragedy from a less than professional crew. But so many of the crews do conduct themselves professionally.

And my goal in this strive for professionalism is to put it in front of them to make everybody in the cockpit aware that, when we have a sterile cockpit violation, there are two people in a conversation. Otherwise, it would be a monologue. And what I want is, when one person violates the sterile cockpit rule, the other person says, ″Excuse me, we are below 10,000, we will conduct this on the ground,″ or, ″Let's finish this climb. We will talk about this when we get out of the sterile environment.″ Somebody has to be reminded.

And what we have had is, in some cases, lapses like we have seen. And it has put the bright light on it. I think we can do a lot with training. I think we can do a lot by simply bringing it to their attention. You used a phrase I like, and that is, you know, you repeat bad habits. You know, practice just makes permanent. What we want is to practice the right thing and show people the right procedures and the right way to be a professional in the cockpit, and that is what these programs are trying do today.

And I think we are going to bear fruit with it. I see a lot of interest in it. I know myself, we didn't have to ride for half a year, but we had to ride for about a half a month when I was a new pilot. We had to just sit in the jump-seat and watch the crew for our first half a month on the line, watch a crew. Today, they have initial operating experience; they actually sit in the seat.

But, we can find what works better and enhance them and expand on them. But I completely agree with you.

Mr. EHLERS. Mr. Scovel?

Mr. SCOVEL. I would agree with Mr. Babbitt on this point: mentoring, leadership by example. I think all of us in our professional lives can look back, no matter what our field is, and recognize the value that that kind of experience has brought to us in enhancing our own professionalism.

I think the NTSB's point, however, is also a good one, in its report on the Colgan crash released just the day before yesterday. And that is that specific aspects of behavior, like leadership training, like workload management, ought to be required by mandate in carriers' training programs.

Key, too, I think is the fact that we are victims today of all the many potentially distracting electronic devices that are available to us. And most unfortunately in the Colgan crash, there is evidence that the first officer had been text-messaging when she should have been observing the sterile cockpit rule.

Now, she wasn't called on it by her pilot, but if there were a rule banning such devices from the flight deck, as NTSB has recommended now, perhaps she would have followed that rule. Again, no guarantees, but as part of a rule, as part of training, as part of follow-up by a diligent pilot, maybe that particular aspect of the Colgan crash wouldn't have happened or been recorded.

Mr. EHLERS. Yes. Although, given the transcript I read, I am not sure it would have helped that much.

But let me just say, what I was trying to get at when talking about having observed pilots, I don't think it would help much for a Colgan pilot to observe another Colgan pilot if there is a problem there already. I am talking about having them observe a pilot who has 5,000 hours or something and knows the rules very well and follows them.

And most anyone who is in charge of the pilots would know who is best at that, who is not a grumpy pilot and wouldn't, sort of, snarl at the newcomers, but who would be very friendly and enjoy teaching, et cetera. It wouldn't be too hard to identify those, and I think that would be a real plus.

Thank you. I yield back.

Mr. COSTELLO. You yield back. The Chair thanks the gentleman and now recognizes the Ranking Member, Mr. Petri.

Mr. PETRI. Thank you, Mr. Chairman.

I just wanted to ask a question of General Scovel, following up on a concern expressed by Mr. DeFazio and others about how you have a competitive industry under a lot of economic pressure and, yet, have a framework that protects and ensures safety, rather than people being put under increasing pressure to cut corners. And the result is what we all fear, and that is that we have an increase in accidents and loss of life.

And the industry, itself, has kind of a hierarchal relationship. There are the international carriers and the national carriers, and then there are the people who subcontract sometimes with one, sometimes with more than one carrier, to provide regional service and so on.

Should we be building on that and relying on the major carriers to regulate the regionals? Or should we be making sure the Federal Government regulates everyone and maybe also regulates the way they contract with each other? I mean, do you have some comment on how we can deal with this hierarchal situation and the pressure it is putting on some of the performances of the regionals?

Mr. SCOVEL. Mr. Petri, a tough question. Let me take a stab at it.

First off, we have to acknowledge that, by statute, FAA's primary mission is aviation safety. So that reach must extend throughout the aviation carriers that are under the jurisdiction of the FAA.

The Committee may recall that, about 10 years ago, at the Congress's request, my office did work concerning the responsibilities of U.S. carriers with regard to their international code-share partners. At that point, the concern was, again, that there were safety lapses, and U.S. carriers had no role or no responsibility in seeing that those were mitigated. The rules have changed now, and U.S. carriers do, indeed, have an obligation to at least audit the safety programs and the training programs, the maintenance programs of their international code-share partners.

And that is a model that I think may have led to Chairman Oberstar's and Chairman Costello's request to my office yesterday that we examine, on the domestic market, whether U.S. mainline carriers should have such a relationship with their domestic regional partners as well. We just got the request yesterday. We will certainly turn to it most expeditiously. We hope to have some information and data that will be helpful to the Committee as it considers that point.

Mr. PETRI. Well, it is complicated because sometimes it is not just one carrier, and it may be an additional safety, but you couldn't think it could be a primary delegation of oversight or whatever. I don't know. You are going to have to respond to that question.

But this is a concern, whether there should be one regulator or there should be multiple regulators, some hierarchy of regulation. We really would appreciate your thoughts on how we should be making sure we get to the highest common denominator rather than this flight to the bottom that we all fear in a competitive economic environment.

Mr. SCOVEL. I understand. And we will do our best to bring you that information, Mr. Petri.

Mr. COSTELLO. The Chair thanks the Ranking Member.

And let me thank you, General Scovel, for your good work, as always. You have testified before this Subcommittee many times, and we give you plenty of work to do. And I can assure you that we will continue to do that, as we sent our latest request in to you yesterday.

Administrator Babbitt, let me commend you. I said earlier I know that there are people, including myself, who get frustrated because of the process and the time that it takes to get something done. But, as I said earlier, I have dealt with a number of administrators since I have been on this Subcommittee, and you have acted very quickly. And, given the fact that the bureaucracy is as it is, you have had some success because of your action. We are seeing

the airlines voluntarily do some things that they should have been doing on their own before. And we trust that you will follow up, as we will, as this Subcommittee will, to make certain that what the airlines have agreed to do they will, in fact, follow up on and carry out.

Let me also say that, in spite of your best efforts, it is going to take legislation to address some of these issues. That is why we introduced our legislation. You and I have met several times about a number of issues in the legislation. I am pleased that you stated today your support for the legislation, and I would hope that, as I said, the Senate will act so that we can move forward and actually pass some legislation, get to conference, and get it to the President. So I appreciate your support, and we trust that you will continue to work with us to perfect any legislation that we might bring through the Congress.

To the families, let me say again: Thank you for being here today. We appreciate your continued support. We appreciate the fact that you take time out of your lives to be here to push this legislation and to push us, not only the agency, the FAA, but the Congress into action. And I would encourage you, as well, to contact your United States Senators to encourage them to address the airline pilot and safety issues that we have put in our bill and to stress the importance that they need to act so that we can, in fact, move legislation and into law.

So let me again thank you, Mr. Scovel, Administrator Babbitt, for being here.

And that concludes this hearing. The Subcommittee stands adjourned.

[Whereupon, at 12:56 p.m., the Subcommittee was adjourned.]

Russ Carnahan

OPENING STATEMENT OF
THE HONORABLE RUSS CARNAHAN (MO-03)
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE
AVIATION SUBCOMMITTEE

Hearing on
Reauthorization of the National Transportation Safety Board
Wednesday, January 27, 2010

Chairman Costello and Ranking Member Petri, I want to thank you for holding this important hearing on the Reauthorization of the National Transportation Safety Board (NTSB).

The NTSB is charged with the vitally important task of investigating civil aviation and significant transportation accidents. These investigations provide critical information about the cause of the accident and actions that can be taken to prevent future accidents. The work of this agency is crucial in the ongoing efforts to make all modes of transportation safer in the United States.

As the Committee works on the reauthorization of the NTSB, one place where I believe there are critical reforms that can be made is to the party process. While I fully understand how important the Party Process is to successful NTSB investigations I am deeply concerned that the family members of loved ones killed or injured in an aviation accident may be routinely put at a disadvantage because of the privileged early accident information available to those granted "party" status. I know that the party system is essential to the NTSB investigative process, as it leverages the knowledge of others but it is also clear to me that more could and should be done to protect the rights of family members and strengthen the integrity of an investigation.

Specifically, the Rand Corporation in their 2000 report on the NTSB identified that during the course of an investigation it is commonplace for party representatives to be debriefed by their attorneys during the initial working phases of an investigation and insurance representatives arrive on the scene quickly after the start of an investigation offering assistance and cooperation, and more importantly obtain almost immediate access to the crash site, which is not available to any other party or claimant. I believe this type of access must be eliminated as it is having a corrosive effect on the NTSB investigative process. Procedures must be in place that gives confidence to the family members that the integrity of the investigation is not being compromised at its earliest stages. It must be reinforced to Party Participants that they are being granted the privilege of assisting the NTSB solely for purpose of safety and not to get a head start on liability issues.

In closing, I want to thank the Honorable Deborah Hersman and Dr. Gerald Dillingham for joining us today and look forward to hearing their testimony and I want to particularly thank Chairman Hersman for the understanding and the leadership on this issue as I know you are committed to keeping the NTSB the world leader in transportation accident investigation. As the Committee continues its work on reauthorization of the NTSB, I look forward to working with all my colleagues to ensure the NTSB has the resources as well as the reforms needed to continue to advance the safety of transportation in the United States.

STATEMENT OF
THE HONORABLE JERRY F. COSTELLO
SUBCOMMITTEE ON AVIATION
UPDATE ON THE FEDERAL AVIATION ADMINISTRATION'S CALL TO ACTION ON AIRLINE SAFETY AND PILOT TRAINING
FEBRUARY 4, 2010

- I welcome everyone to the Aviation Subcommittee hearing for an Update on the Federal Aviation Administration's (FAA) Call to Action on Airline Safety and Pilot Training. I would like to especially welcome the family members of Flight 3407, some of whom are with us today.

- Two days ago the National Transportation Safety Board (NTSB) determined the probable cause of the crash of a regional airliner near Buffalo, New York occurring almost a year ago. The crash is considered one of the most significant accidents in recent years because it revealed a gap in the level of safety between major airlines and the regional carriers. I want to commend the

Board for doing an outstanding job. I am hopeful their safety recommendations to the Federal Aviation Administration (FAA), many of which are included in our bipartisan legislation, H.R. 3371, the "Airline Safety and Pilot Training Improvement Act of 2009", approved overwhelming by the House last October, will encourage the FAA and the airline industry to act quickly to improve pilot training standards, address pilot professionalism, fatigue, remedial training, pilot records, and stall training.

- After this Subcommittee held a hearing on "Regional Air Carriers and Pilot Workforce Issues" on June 11, 2009, Department of Transportation Secretary LaHood and FAA Administrator Babbitt initiated an Airline Safety and Pilot Training "Call to Action" to gather information from the airlines and labor organizations to ascertain industry best

practices and seek voluntary compliance with a number of safety programs.

- Last September this Subcommittee held a hearing on the "Call to Action" I praised the FAA's quick reaction to the Colgan tragedy and the lapses in regional carrier safety that it revealed. I put the FAA on notice that I wanted to hold a follow up hearing to examine the "Call to Action" final report and today's hearing will be an opportunity for Administrator Babbitt to provide this Subcommittee with an update and to hear from the Department of Transportation Inspector General on his assessment of the FAA's progress.

- Administrator Babbitt, in the "Call to Action" final report, acknowledged that, and I quote, *"this is a snapshot of our work, which is by no means finished. We will continue to aggressively push*

forward with these initiatives that we believe will raise the safety bar even higher." We want to work with you to achieve the goals you have set forth and I believe the real measure of the agency's success will be whether it can successfully drive its safety initiatives to a timely conclusion.

- I respect and appreciate the FAA's determination since our last hearing in September to set aggressive deadlines to develop key safety initiatives. My concern is not simply that the FAA is a few months behind on any one rule. I am concerned that these delays stem from historic patterns of industry opposition to any form of regulation; and that key safety reforms have not been implemented nearly a year after 50 people died on Flight 3407, despite promises of swift action from the FAA. As I have said before, I believe that unless congressional intervention or legislative mandates are in place, the time it takes the FAA to

address the most critical safety issues raised by the accident is too long. That is why we introduced H.R. 3371 to addresses many of the issues raised in the "Call to Action".

- I want to discuss the status of several key FAA safety initiatives discussed in the "Call to Action" final report. First, in 1995, the FAA proposed a fatigue rule based on the recommendations of an Aviation Rulemaking Committee (ARC). We have waited 15 years and we are still waiting for a final rule. Last year, the FAA withdrew the 1995 proposal, formed another ARC, and planned to publish another fatigue proposal by the end of 2009. Yet, we are now being told that the FAA's date to publish a rule has already slipped to Spring of 2010.

- Second, in January 2009, the FAA published a proposal to overhaul crew training regulations that included increased use of flight simulators and stronger upset recovery training requirements – something that the NTSB has recommended and that we have mandated in H.R. 3371. Administrator Babbitt, you testified before this Subcommittee last June that the FAA's proposal was, "the most comprehensive upgrade to FAA training requirements in 20 years." After extending the comment period, the FAA received 3,000 pages of comment, and now plans to revise and republish its proposal in the spring.

- Finally, the "Call to Action" Plan states that DOT and FAA review code share arrangements between air carriers and their regional partners. This is particularly important given that the majority of air travelers are unaware when they purchase a ticket from a mainline airline that they may actually fly on a regional

airline. In fact, the NTSB expressed the need to look more closely at safety issues surrounding code share arrangements during its February 2, 2010, meeting on the Colgan final accident report. Chairman Oberstar and I have requested the Department of Transportation Inspector General to conduct a review of domestic code share relationships.

- There have also been positive developments resulting from the FAA's Call to Action that we should not ignore. For example, more airlines appear to be willing to adopt voluntary safety best practices, like establishing Flight Operations Quality Assurance programs. However, the FAA and this Subcommittee will need to follow up in the coming months to see if carriers have actually followed through on the commitments they have made. In addition, the FAA published an Advanced Notice of

Proposed Rulemaking yesterday to strengthen the training requirements and the flight hours necessary to be an airline first officer.

- I will continue to keep my commitment to exercise aggressive oversight to strengthen airline safety and pilot training qualification standards. I want to assure the Families of Flight 3407 and the American public that we will continue to push for the provision in H.R. 3371 that requires the First Officer to hold an Airline Transport Pilot's certificate, in addition to receiving training to function effectively in an air carrier operational environment and know how to fly in adverse weather conditions, including icing.

- Before I recognize Mr. Petri for his opening statement, I ask unanimous consent to allow 2 weeks for all Members to revise and extend their remarks and to permit the submission of additional statements and materials by Members and witnesses. Without objection, so ordered.

SENIOR DEMOCRATIC WHIP

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STATEMENT OF CONGRESSWOMAN EDDIE BERNICE JOHNSON

Subcommittee on Aviation

Hearing on the

Federal Aviation Administration's Call to Action on

Airline Safety and Pilot Training

February 4, 2010

Chairman Costello, thank you for holding this hearing today. Aviation safety oversight is one of the core responsibilities of this Subcommittee and I commend you for your focus on ensuring that the FAA, the airlines, pilots and inspectors all do their part to meet and maintain high safety standards.

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I was also pleased when last summer FAA Administrator Babbitt issued an aviation industry Airline Safety and Pilot Training "Call to Action" to reduce risks, promote best practices, and seek voluntary compliance with several safety initiatives.

Last month we learned that the industry's response rate to this "Call to Action" letter was a commendable 82 percent. Unfortunately, we also learned from the Department of Transportation Inspector General, which conducted its own review of the industry's responses, that some airlines left their commitment to meeting this "Call to Action" open-ended.

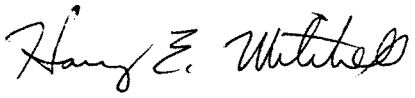
I would urge the FAA to revisit its "Call to Action" and include deadlines or at least milestones for airlines to meet these critical safety recommendations."

I also appreciate Administrator Babbitt's candor in recognizing that the FAA's work on the "Call to Action" is "by no means finished" and that he will "continue to aggressively push forward" on these safety priorities.

In the weeks and months ahead my staff and I look forward to reviewing proposed rule-makings on pilot fatigue; crew training; and airline pilot qualifications, as well as progress on issues such as the voluntary disclosure of FAA records; regional airlines' adoption of the most effective safety programs; pilot mentoring programs; and guidance for the review of crew training programs.

Mr. Chairman, I look forward to continuing to work with you on these and other critical transportation safety initiatives.

Thank you.



Statement of Rep. Harry Mitchell
House Transportation and Infrastructure Committee
Subcommittee on Aviation
2/4/10

--Thank you Mr. Chairman.

--All of us were surprised and deeply saddened by the crash of Colgan Air Flight 3407 near Buffalo, New York.

-- The National Transportation Safety Board's (NTSB) investigation raised some deeply disturbing questions, especially in the area of crew fatigue.

--According to NTSB, Captain Renslow flew from his home in Lutz, Florida to Newark, New Jersey before beginning a two-day trip the next day. First Officer Shaw commuted overnight via two flights from her home near Seattle.

--A related issue also emerged: crew salaries.

--At Colgan, Captain Renslow was paid approximately $65,500 a year, and First Officer Shaw was paid approximately $23,900 a year. By contrast, it has been reported that pilots working for major carriers flying large jets earn about $125,000 a year.

--According to at least one news report, a former Colgan Airline pilot has described a practice by some pilots in which as many of nine of them share a small, two-bedroom apartment called a "crash pad".

--I am pleased that the Federal Aviation Administration (FAA) issued a Call to Action plan to address pilot workforce issues, including pilot fatigue.

--However, I am disappointed by the pace of related proceedings.

--Specifically, I am disappointed that the FAA was unable to issue a Notice of Proposed Rulemaking (NPRM) on crew rest requirements in December 2009 as planned. I understand that the FAA now plans to publish the NPRM in April.

--Similarly, I am disappointed by the pace of efforts to address crew training requirements. According to the Department of Transportation's Inspector General, the FAA issued an NPRM more than a year ago. However, due to the volume of comments received, the FAA will have to issue a supplemental NPRM this spring.

--While, of course, it is critical for us to get these rules right – and not just quick – I believe that the FAA needs to move as quickly as possible to achieve whatever safety improvements are necessary.

--The flying public has a right to expect that when they purchase a ticket on a commercial carrier, regional or otherwise, that flight will be safe.

--I look forward to hearing from today's witnesses.

--At this time I yield back.

James L. Oberstar

OPENING STATEMENT OF THE
HONORABLE JAMES L. OBERSTAR
BEFORE THE HOUSE AVIATION SUBCOMMITTEE
UPDATE: THE FEDERAL AVIATION ADMINISTRATION'S CALL TO ACTION
ON AIRLINE SAFETY AND PILOT TRAINING
FEBRUARY 4, 2010

Thank you, Chairman Costello and Ranking Member Petri for calling this important hearing to update the Subcommittee on the Federal Aviation Administration's (FAA) Call to Action on Airline Safety and Pilot Training. In the early 1990s, labor and industry voiced their concerns to me regarding the disparity in the Federal Aviation Regulations between part 121 passenger carrier and part 135 commuter carrier operations. These concerns followed a spate of accidents involving commuter aircraft operating under part 135. On February 9, 1994, as Chairman of the Aviation Subcommittee, I held a hearing to determine whether FAA safety regulations should be modified to establish a single standard for all scheduled operations, regardless of size. Later that year and again in early 1995, I introduced legislation to require the FAA to establish "one level of safety"—that is, to apply its safety standards uniformly to all air carrier operations, without regard to the seating or payload capacity of the aircraft involved.

On December 20, 1995, the FAA issued a final rule to establish "one level of safety," requiring scheduled commuter air carriers to operate under the more stringent part 121 air carrier regulations. But the crash of Colgan Flight 3407 serves as a reminder that we must maintain constant vigilance over airline safety. We must

ensure that there is "one level of safety" in actual operations, as well as in regulatory requirements.

At the outset, I want to extol the efforts of the National Transportation Safety Board (NTSB), which finalized its accident report on Flight 3407 two days ago. The Board did exceptional work here. It has heightened awareness and focused attention on the areas of pilot training, fatigue, commuting and professional standards. This Subcommittee took heed, and drafted comprehensive safety legislation – H.R. 3371, the "Airline Safety and Pilot Training Improvement Act of 2009" - enacting several longstanding NTSB recommendations, which passed the House last October by 409 to 11. The FAA reauthorization must be passed this year so that we can enact these safety reforms into law.

Mr. Chairman, the Obama Administration has paid a good deal of attention to the dire financial condition of the airline industry, which has cumulative net losses of $55.6 billion for 2001 through 2008. Domestic capacity is now at 1998 levels, and capacity projected for the first half of 2010 is down about 11 percent from three years earlier. In 2002, the average cost of a gallon of jet fuel for U.S. airlines was less than 71 cents. In 2008, that figure had jumped to $2.98 cents per gallon, a 419 percent increase.

Looking forward, we must clearly be mindful of the financial condition of the aviation industry. But I would remind everyone that the opening line of the Federal Aviation Act of 1958 states that "maintaining **safety** is the highest priority." The industry's poor financial condition and management-labor conflicts have always, in the past, enlisted *stronger* oversight and *greater* scrutiny of airline safety practices from the FAA to ensure that airlines were not cutting corners on safety. However, we cannot let the industry's mantra of "first, do no harm" – referring to the economic impact of new regulations - intimidate FAA career professionals from the rigorous oversight of safety in the interest of the traveling public or delay new rules that will raise the safety bar.

As we witnessed in our regional carrier safety hearings last year, the economic downturn has placed enormous pressures on airlines to cut costs. Airlines have limited ability to control the cost of fuel or the cost of aircraft. But they do control what they pay pilots, how they train pilots, the cost of training, and when pilots can fly.

Competitive cost concerns have caused major airlines to cut their own domestic capacity and outsource air transport service. In many cases, such services are outsourced to the lowest bidder - to smaller, lower-cost regional airlines. As a result, pilots with decades of experience have been laid off from the major

carriers, but cannot afford to work for a regional carrier because they are faced with starting over as a First Officer making less than $25,000 a year. The economics and incentives to outsource to cheaper contractors must not be allowed to outweigh the value of having experienced, well-trained and well-rested pilots in the cockpit. On Tuesday, the NTSB expressed a need to look more closely at these code-sharing arrangements, and Chairman Costello and I have asked Inspector General Scovel to look more closely at this issue.

Certainly the FAA reacted quickly to the Colgan accident. As result of the FAA's Airline Safety and Pilot Training Call to Action, more carriers appear willing to implement voluntary safety best practices like the Flight Operational Quality Assurance (FOQA) program.[1] However, I am also concerned that the FAA has missed milestones on issuing new crew rest and training rules and establishing pilot mentoring programs; and that these holdups may be indicative of entrenched industry behavior patterns of "deny, decry and delay" on any form of new regulation.

Fatigue is one of the most critical issues facing pilots today, especially in this economic downturn and with the air carriers' emphasis on increasing productivity and driving down labor costs. Working long hours on an irregular schedule can have a

[1] FOQA is a voluntary program whereby airlines collect and analyze flight data gathered during aircraft operations. The data is then used by the air carrier to detect issues that occur outside of standard operating procedures.

detrimental effect on a pilot's decision-making abilities. Well-rested pilots are critical to aviation safety. It is time to refocus our efforts and press the FAA to resolve these very significant and complex flight and duty issues. As I have repeatedly said: "Fatigue" does not show up in autopsies! Our nation's pilots must be provided adequate rest to perform their critical safety functions.

In 1995, the FAA proposed a fatigue rule based on the recommendations of an Aviation Rulemaking Committee (ARC). We have waited 15 years for a new rule. Last year, the FAA withdrew the 1995 proposal, formed another ARC, and planned to publish another fatigue proposal by the end of 2009. Yet, the FAA's date to publish a rule has already slipped to Spring of 2010. H.R. 3371 requires the FAA to complete the flight and duty time rule in one year, and directs the National Academy of Sciences to study the impact of pilot commuting on fatigue and provide preliminary results to the FAA after four months to be considered as part of the flight and duty time rulemaking.

In January 2009, the FAA published the most comprehensive upgrade to FAA crew training requirements in 20 years, which was also drafted working with an ARC. After extending the comment period, the FAA received 3,000 pages of comment, and

now plans to revise and republish its proposal in the Spring. H.R. 3371 requires that the FAA issue a final crew training rule within two years.

Thank you again, Mr. Chairman, for holding this hearing. I look forward to hearing from our witnesses.

CONGRESSWOMAN LAURA RICHARDSON (CA-37)

COMMITTEE ON TRANSPORTATION
SUBCOMMITTEE ON AVIATION

HEARING:
"Update: The Federal Aviation Administration's Call to Action on Airline Safety and Pilot Training"

THURSDAY, FEBRUARY 4, 2010
10:00 A.M.
2167 RAYBURN

Mr. Chairman, thank you for convening the hearing today on the Federal Aviation Administration's call to action on airline safety and pilot training. I would also like to thank the witnesses for taking the time to appear before the Committee.

I am especially invested in this subject; as a representative of the 37th district of California, my district includes two airports, and is a few miles from the Los Angeles International Airport, one of the largest in the world. I am pleased that the Subcommittee is again reviewing this

issue so we can better understand the actions the Federal Aviation Administration is taking in regard to airline safety and pilot training.

The topic of this hearing is an issue that has come before this Committee and further escalated by news recently. In fact, a USA Today article published Tuesday, February 2nd, reported the results of a six-month investigation: millions of passengers were on at least 65,000 U.S. flights over the last six years that should not have taken off because planes weren't properly maintained.

For the airline industry to succeed in these economic hard times, we need the flying public to trust the FAA to perform adequate oversight, the carriers to conform to regulations, and the mechanics to perform proper maintenance on the planes. I am pleased that the FAA is

actively investigating this problem, but I am sure we can all agree the time for action is now without further delay.

I look forward to hearing from our distinguished witnesses as to their thoughts on these many recommendations to improve airline safety and pilot training. With air traffic increasing every day, it is the responsibility and oversight of this Subcommittee to ensure that these aircraft are operating under safe conditions.

Thank you again, Mr. Chairman, for convening this hearing. I yield back the balance of my time.

STATEMENT OF THE HONORABLE RANDOLPH BABBITT, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE, SUBCOMMITTEE ON AVIATION ON AN UPDATE: THE AGENCY'S CALL TO ACTION ON AIRLINE SAFETY AND PILOT TRAINING. FEBRUARY 4, 2010.

Chairman Costello, Ranking Member Petri, Members of the Subcommittee:

Thank you for inviting me here today to provide you with an update on the Federal Aviation Administration's (FAA's) Call to Action on airline safety and pilot training. There is no question that the FAA's job is to ensure that we have the safest aviation system in the world. The aviation safety record in the United States reflects the dedication of safety-minded aviation professionals in all parts of our industry, including the FAA's inspector workforce. In an agency dedicated to aviation safety, any failure in the system, especially one that causes loss of life, is keenly felt. When accidents do happen, they reveal risks, including the tragic Colgan Air accident. Consequently, it is incumbent on all parties in the system to identify the risks in order to eliminate or mitigate them. As I noted when I appeared before you in September, history has shown that we are able to implement safety improvements far more quickly and effectively when the FAA, industry, and labor work together on agreed upon solutions. The fastest way to implement a solution is for it to be done voluntarily, and that is what the Call to Action was intended to facilitate. On January 27, the FAA issued a report that describes the progress made toward fulfilling commitments made in the Call to Action, and offers recommendations for additional steps to enhance aviation safety. So, I would like to run down the issues I identified in September and let you know where we stand on them.

Pilot Flight Time, Rest and Fatigue: When I was last here I told you that the aviation rulemaking committee (ARC) I convened for the purpose of making recommendations on flight time, rest and fatigue, consisting of representatives from the FAA, industry and labor organizations, provided me with recommendations for a science-based approach to fatigue management in early September. While I was extremely pleased with the product provided to me, the ARC did not reach a consensus agreement on all areas and was not charged with doing any type of economic analysis. Consequently, in spite of my direction for a very aggressive timeline in which to develop a Notice of Proposed Rulemaking (NPRM), my hope that a rulemaking proposal could have been issued by the end of last year did not happen. The complexities involved with these issues are part of the reason why the FAA has struggled to finalize proposed regulations on fatigue and duty time that were issued in the mid-1990s. However, with my continued emphasis on this topic, we hope to issue an NPRM this spring. Although this is slightly later that I originally hoped, it is still an extremely expedited schedule and I can assure you the FAA team working on this is committed to meeting the target.

One of the issues contributing to fatigue that I know is of interest to many Members of Congress is that of pilots who commute by air to their job. I would like to acknowledge some of the emails and letters I have been receiving on the issue of commuting from pilots who choose to commute by air to their job. As you can imagine, those pilots who commute responsibly are understandably concerned that they could be forced to relocate because of the irresponsible actions of a few. Should some sort of hard and fast commuting rule be imposed, it could result in families being separated, people being

forced to sell homes at a loss, or even people being forced to violate child custody agreements. I understand that, to people not familiar with the airline industry, the issue of living in one city and working hundreds of miles away in another does not make sense. But in the airline industry, this is not only a common practice, it is one airline employees have come to rely on. So I want to emphasize these issues are complex and, depending on how they are addressed, could have significant impacts on people's lives.

Focused Inspection Initiative: From June 24, 2009 to September 30, 2009, FAA inspectors conducted a two-part, focused review of air carrier flight crewmember training, qualification, and management practices. The FAA inspected 85 air carriers to determine if they had systems to provide remedial training for pilots. The FAA did not inspect the 14 carriers that have FAA-approved Advanced Qualification Programs (AQP) because AQP includes such a system. Seventy-six air carriers, including AQP carriers, have systems to comply with remedial training requirements. An additional 15 air carriers had some part of a remedial training system. There were eight air carriers that lacked any component of a remedial training program that received additional scrutiny and have since instituted some component of a remedial training system. Consequently, currently all carriers have some component of a remedial training program. The FAA inspectors observed 2,419 training and checking events during its evaluation.

Training Program Review Guidance: The FAA issued a rulemaking proposal in January 2009 to enhance training programs by requiring the use of simulation devices for pilots. More than 3,000 pages of comments were received. The FAA is now developing

a supplemental proposal that will be issued in the coming months to allow the public to comment on the revisions that were made based on the comments that were submitted.

Based on the information from last summer's inspections, the FAA is drafting a Safety Alert for Operators (SAFO) with guidance material on how to conduct a comprehensive training program review in the context of a safety management system (SMS). A complementary Notice to FAA inspectors will provide guidance on how to conduct surveillance. SMS aims to integrate modern safety risk management and safety assurance concepts into repeatable, proactive systems. SMS programs emphasize safety management as a fundamental business process in the same manner as other aspects of business management. Now that we have completed our data evaluation, we are on track to meet our goal of having both guidance documents ready for internal coordination by the end of February.

Obtain Air Carriers' Commitment to Most Effective Practices: To solidify oral commitments made at the Call to Action, I sent a letter to all part 121 operators and their unions and requested written commitments to adhere to the highest professional standards. Many airlines are now taking steps to ensure that their smaller partner airlines adopt the larger airline's most effective safety practices. The Air Transport Association's Safety Council is now including safety directors from the National Air Carrier Association and the Regional Airline Association in their quarterly meetings. The agency is encouraging periodic meetings of the larger airlines and those with whom they have contract agreements with to review flight operations quality assurance (FOQA) and Aviation Safety Action Program (ASAP) data and to emphasize a shared safety

philosophy. I am pleased to report that all 33 carriers we asked to make this commitment have either held or plan to hold meetings with their contract partner airlines.

In addition I am pleased to say that since July 2009, after the Call to Action, the FAA approved 11 new FOQA programs, with another application pending. Also, as of last July, there were only three air carriers that had no ASAP program for any employee group. Those three carriers have now established ASAP programs. Four more air carriers have established new ASAP programs for additional employee groups. All of this supports the contention that the Call to Action did make a difference.

Professionalism and Mentoring: In February, the FAA will host a forum for labor organizations to further develop and improve professionalism and transfer of pilot experience. In the interim, these organizations have answered the Call to Action and support the establishment or professional standards and ethics committees, a code of ethics, and safety risk management meetings between the FAA and major and regional air carriers. I very much believe that the transfer of pilot experience is an important way to raise professional standards and improve cockpit discipline. We plan to ask pilot employee organizations to further explore some of the ideas raised in initial discussions, such as establishing joint strategic councils within a "family of carriers." This approach could lead to individual, as well as corporate mentoring relationships. The use of professional standards committee safety conferences could provide opportunities for two-way mentoring – an important reminder that good ideas are not unique to larger, mainline carriers. Another concept to explore is mentoring possibilities between air carriers and university aviation programs.

Crew Training Requirements: One of the things that the Call Action has shone a light on is the issue of varying pilot experience. I am attempting to address this issue with an Advanced Notice of Proposed Rulemaking (ANPRM) in which we can consider possible alternative requirements, such as an endorsement on a commercial license to indicate specific qualifications. I know some people are suggesting that simply increasing the minimum number of hours required for a pilot to fly in commercial aviation is appropriate. As I have stated repeatedly, I do not believe that simply raising quantity – the total number of hours of flying time or experience – without regard to the quality and nature of that time and experience – is an appropriate method by which to improve a pilot's proficiency in commercial operations. The ANPRM will request public comment on other options. For example, a newly-certificated commercial pilot might be limited to certain activities until he or she could accumulate the type of experience deemed potentially necessary to serve as a first officer for an air carrier. We are looking at ways to enhance the existing process for pilot certification to identify discrete areas where an individual pilot receives and successfully completes training, thus establishing operational experience in areas such as the multi-pilot environment, exposure to icing, high altitude operations and other areas common to commercial air carrier operations. We view this option as being more targeted than merely increasing the number of total flight hours required, because it will be obvious to the carrier what skills an individual pilot has. There is a difference between knowing a pilot has been exposed to all critical situations during training versus assuming that simply flying more hours automatically provides that exposure. I expect the ANPRM to be posted on the Federal Register's website today.

On a related note, a former military pilot wrote a letter to the Washington Post in December on this issue. In his letter, this pilot describes his military training and how, after only 162 flight hours, he was landing his plane on an aircraft carrier. While this is certainly an extreme example, his point is valid. Based on his training and experience, his qualifications at 1,500 hours were significantly different than a pilot who received a non-military, more traditional training experience. This type of difference should be factored in to any regulatory training modification.

Pilot Records: While Congress is working to amend the Pilot Records Improvement Act of 1996 and the FAA amends its guidance to airlines, I have asked that air carriers immediately implement a policy of asking pilot applicants to voluntarily disclose FAA records, including notices of disapproval for evaluation events. The airlines agreed to use this best practice for pilot record checks to allow for a more expansive review of records created over the course a pilot's career. The expanded review would include all the records the FAA maintains on pilots in addition to the records airlines already receive from past employers. Of the 80 air carriers that responded to the FAA on this issue, 53 air carriers, or 66%, reported that they already require full disclosure of a pilot applicant's FAA records. Another 15% reported that they plan to implement the same policy.

As I stated when I appeared before you in September, and as I have stated repeatedly in my conversations, both public and private, the core of many of the issues facing the air carrier industry today is professionalism. It is the duty of the flight crew to arrive for work rested and ready to perform their jobs, regardless of whether they live down the street from the airport or a thousand miles away. Professionalism is not something we

can regulate, but it is something we can encourage and urge pilots and flight crews to aspire to. I think the conversations we have been having, in part because of the Call to Action, are helpful in emphasizing the importance of professionalism in aviation safety.

In conclusion, I want to say that while the Call to Action initiatives have been a major focus for me since joining the safety professionals at the FAA, their impressive work has been ongoing for years. Their work has resulted in eliminating fuel tank flammability, virtually eliminating commercial icing accidents, and drastically reducing the number of general aviation accidents in the state of Alaska, among many other things. Safety is at the core of the FAA's mission and we will always strive to make a safe system safer. Mr. Chairman, Congressman Petri, Members of the Subcommittee, this concludes my prepared remarks. I would be happy to answer any questions that you might have.

Before the Committee on Transportation and Infrastructure
Subcommittee on Aviation
United States House of Representatives

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Progress and Challenges With FAA's Call to Action for Airline Safety

Statement of
The Honorable Calvin L. Scovel III
Inspector General
U.S. Department of Transportation

Mr. Chairman, Ranking Member Petri, and Members of the Subcommittee:

We appreciate the opportunity to testify today on the status of the Federal Aviation Administration's (FAA) Airline Safety and Pilot Training Action Plan (Call to Action Plàn) to improve airline safety and pilot training industry-wide. FAA announced its plan after hearings regarding the Colgan Air accident last February. While the Colgan crash has not called into question the overall safety of air travel, the hearings highlighted differences between mainline and regional air carriers' operations and safety records—a significant concern as regional carriers have been involved in the last six fatal, commercial accidents. The FAA's Call to Action plan focuses on reducing risks at air carriers; promoting best practices from mainline to regional carriers; and seeking industry compliance with safety initiatives involving pilot training, fatigue management, and pilot professionalism. Today, I would like to discuss three areas: (1) FAA's progress in implementing Call to Action initiatives, (2) FAA's role in strengthening air carriers' voluntary safety efforts, and (3) other critical pilot safety issues that emerged after the Colgan accident.

IN SUMMARY

Under the FAA Administrator's leadership, FAA took swift action by creating the Call to Action plan to refocus and accelerate industry efforts to address pilot workforce issues and strengthen voluntary safety programs. However, progress has been limited in implementing initiatives with the greatest potential to improve safety, such as issuing new rules governing crew rest and training. FAA also has not followed up to ensure air carriers' Call to Action commitments effectively meet planned safety goals. Finally, other critical issues emerged after the Colgan accident that remain unaddressed, such as potential correlations between aviation accidents and pilot experience and compensation. We have ongoing work on these issues and will keep this Subcommittee apprised of our findings.

BACKGROUND

Human factors impacting pilot performance have been on the National Transportation Safety Board's (NTSB) list of needed safety improvements for the last 20 years.[1] For example, according to the NTSB, fatigue has been associated with air carrier accidents resulting in 250 fatalities over the last 16 years. Although the NTSB has identified this issue as an area of concern for all air carriers, it is particularly critical at regional carriers. The NTSB has cited pilot performance or fatigue as potential factors in four of the last six fatal Part 121[2] accidents involving regional carriers—including the crash of Colgan flight 3407 on February 12, 2009, that resulted in 50 fatalities.

[1] The NTSB's Most Wanted List of Transportation Safety Improvements, created in 1990.

[2] 14 CFR § 121, Operating Requirements: Domestic, Flag, and Supplemental Operations. These carriers operate larger aircraft with primarily scheduled flights.

FAA's Call to Action Plan, announced on June 24, 2009, consists of 10 short- and mid-term initiatives to enhance pilot performance and training, increase air carrier participation in voluntary safety programs, and expand pilot records review. FAA also set goals to develop new safety oversight guidance to its inspectors, issue rulemakings on pilot fatigue and training, conduct regional safety forums to discuss industry best practices, and develop programs addressing pilot professionalism. (See exhibit for table showing all 10 initiatives, their key goals, and Office of Inspector General analysis of their status.)

FAA'S PROGRESS IN IMPLEMENTING CALL TO ACTION INITIATIVES HAS BEEN MIXED

Last week, FAA issued a report on the status of the implementation of its Call to Action plan, which concluded that FAA is on track to successfully meet the Plan's milestones. While FAA has taken action on some of the initiatives over the last 7 months, such as holding regional safety forums, 8 of the 10 initiatives are either falling behind schedule or not meeting intended goals.[3] Of key concern are the missed milestones related to safety areas raised by NTSB and congressional hearings after the Colgan accident. Specifically, FAA has delayed issuing new rulemakings on crew rest and training requirements and establishing a program to improve pilot professionalism. Additionally, FAA's special inspections of air carrier pilot training programs were not effectively implemented, and FAA has not issued new safety oversight guidance to field offices.

FAA Has Not Implemented Key Rulemakings on New Crew Fatigue and Training Requirements

A key element in FAA's Call to Action plan is to issue new rules on crew rest requirements. The regulations, originally written in 1937, were last modified in 1985. According to numerous stakeholders, they are outdated, difficult to understand, and not scientifically based. Repeated attempts to revise the regulations have failed due to disagreements among FAA, airlines, and aviation trade associations. As part of the Call to Action in July 2009, FAA established a rulemaking committee to once again address the existing rules and make recommendations for revising them. The committee made substantial progress and met its September 2009 deadline to deliver a final report to FAA.

FAA planned to issue the Notice of Proposed Rulemaking (NPRM) by December 2009 but failed to meet that milestone. FAA now intends to issue the NPRM later this spring. However, there will be an extensive comment period after issuance, and in the past, these comments have led to significant debate. In 1995, FAA made a similar attempt to change rest requirements but had to withdraw the NPRM due to overwhelming industry opposition. While maintaining momentum on this initiative is

[3] While FAA missed the original deadline for another initiative, it has since been completed.

critical to the success of the Call to Action, FAA must ensure the new rule is comprehensive enough to adequately address pilot fatigue safety issues.

FAA is facing similar issues with its NPRM to revise crew training requirements. The proposed rule would establish new requirements for traditional air carrier safety training programs. For example, it would require training in a complete flight crew environment, flight simulator devices, and new special hazard practices for pilots and crew members. It would also require new practices in Crew Resource Management.[4] The rule would also simplify and modernize regulations associated with qualifications and training for aircraft dispatchers and crew. FAA issued the NPRM on January 12, 2009—6 months prior to FAA's Call to Action Plan. A year later, however, FAA still has not finalized the rule even though this was established as a goal in the Call to Action Plan. FAA received over 3,000 pages of comments on its training NPRM and has now determined that it will be necessary to develop a supplemental NPRM to address these concerns. FAA intends to issue the NPRM later this spring.

FAA's Special Inspections of Air Carrier Training Programs Were Ineffectively Designed and Implemented

Recognizing the urgency of proposals in the Call to Action, the FAA Administrator ordered inspectors to conduct a focused two-phase review of air carriers' flight crew training, qualifications, and management of training programs.

- **Phase 1:** By July 15, 2009, inspectors were to meet with the carriers' directors of operations, directors of safety, and company officials responsible for flight crewmember training and qualification programs. The purpose of these meetings was to determine if air carriers had implemented a previous FAA recommendation to track and manage crew members who have limited experience (low-time pilot), failed evaluations, or repeatedly demonstrated the need for additional training.
- **Phase 2:** By September 30, 2009, inspectors were required to validate that carriers' training and qualification programs met regulatory standards. This included ensuring the carrier reviewed the entire performance history of any pilot in question, provided any needed remedial training, and corrected performance deficiencies.

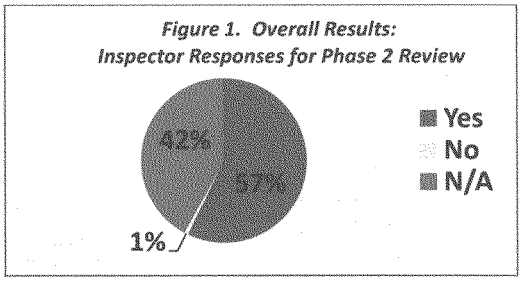
Generally, inspectors completed these reviews on time but criticized the lack of guidance from FAA Headquarters, the adequacy of surveillance questions, and the lack of communication from Headquarters on the overall results. For example, for Phase 1, FAA did not provide specific criteria to inspectors for identifying pilots with performance problems even though inspectors had never conducted this type of review before. As a result, the consistency and quality of those inspections may

[4] Crew Resource Management training focuses on leadership and decision making in the cockpit.

have varied. More importantly, the review identified more than 20 air carriers that had not fully implemented remedial training programs as previously recommended by FAA in 2006.

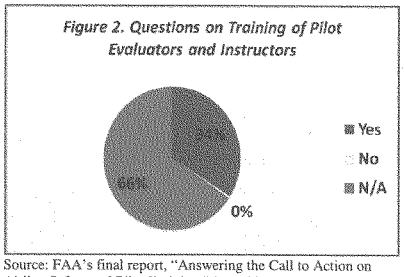
In addition, we are concerned that the surveillance questions during Phase 2 were not comprehensive enough to detect flaws in the carriers' training and qualifications programs. Although inspectors observed 2,419 pilot evaluation and training events during Phase 2, there were no questions on whether the pilots completed the evaluation successfully—a key measure of a training program's effectiveness. For example, at one carrier, an inspector confirmed that the training program met regulatory requirements; however, the inspector also noted that the captain crashed the simulator during a standard departure test. The check airman conducting the pilot's evaluation ultimately failed the pilot based on his poor performance. As a result, the "yes" response to this survey question did not flag the pilot's performance problems. Moreover, FAA Headquarters only captures "no" responses in any roll-up analysis of carriers' compliance. A true evaluation of an air carrier training program should have included a review of the program's effectiveness, not just compliance with requirements.

We are also concerned that many of FAA's surveillance questions were not relevant to actual air carrier operations since more than 40 percent of the responses for Phase 2 were recorded as "not applicable" (see figure 1).

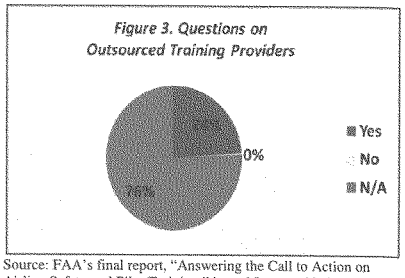


Source: FAA's final report, "Answering the Call to Action on Airline Safety and Pilot Training," issued January 2010

For some questions, this percentage was even higher. For example, "not applicable" responses to questions about carriers' pilot evaluators and instructors totaled about 66 percent. For questions about outsourced training, "not applicable" responses totaled about 76 percent (see figures 2 and 3).



Source: FAA's final report, "Answering the Call to Action on Airline Safety and Pilot Training," issued January 2010



Source: FAA's final report, "Answering the Call to Action on Airline Safety and Pilot Training," issued January 2010

Inspectors noted that the numerous "not applicable" responses were due in part to several questions requiring the inspector to verify training during in-flight tests; however, most of the training at regional air carriers is typically conducted using simulators. Moreover, while four of the five regional carriers we visited contract for flight simulator equipment, only one carrier contracted for instructors to perform the training. Therefore, only a few of these questions applied, demonstrating how little the questions developed by FAA Headquarters actually reflected an understanding of air carrier programs—much less evaluated their effectiveness. Further, FAA did not share the results of these reviews with the field inspectors until it issued the final report.

During our current audit on pilot training, we will also evaluate whether the carriers have a system in place to prevent poorly performing pilots from being paired with each other or with a low-time pilot since this could result in a scheduled flight being operated by two pilots who are in remedial training. Three of the five regional airlines we visited did not have an automated tool in their pilot monitoring programs to alert the scheduling department for crew pairings. This is an important watch area since FAA's special inspections found that 9 of the 85 carriers (11 percent) they reviewed did not have any component of a remedial training system in place.

In addition to performing focused inspections, FAA's Call to Action Plan included issuing new safety oversight guidance for inspectors through scenario-based training at an August 2009 All-Managers Conference. The training was intended to address issues raised by the DOT Secretary's Independent Review Team on Managing Risks in Civil Aviation.[5] For example, the team found remarkably varied regulatory approaches among inspection staff, which could drastically affect the consistency of decision making processes. The All-Managers workshop focused on managing contrasting regulatory views within the workforce, moderating extremes in

[5] The Independent Review Team was convened after serious safety issues were discovered with Southwest Airlines' maintenance program in 2008.

regulatory style, and optimizing the regulatory effectiveness and coherence across a diverse team of inspectors. However, the workshop was limited to managers and excluded field inspectors—the key group who had been identified as having inconsistent regulatory approaches. Therefore, at a minimum, the success of the workshop depended on the transfer of information from managers to their staff. We found, however, that this did not occur at all inspection offices. Further, FAA managers did not develop any new written guidance addressing this issue; yet, FAA considers this initiative complete. Lack of standardization in oversight has been a long-standing inspector workforce issue, and it is unlikely that a one-time seminar for managers only would fully address the problem. An essential key to gaining consistency among field inspectors is to provide standardized, written guidance that inspectors must follow.

FAA Missed Its Milestone for Establishing Programs To Improve Pilot Professionalism in the Cockpit

A lack of pilot professionalism has been cited as a safety concern in four of the last six fatal accidents involving regional airlines (see table 1 below). According to NTSB, crews violated "sterile cockpit" rules, requiring that pilots refrain from personal conversations during takeoffs or landings in the Colgan Air and the 2006 Comair accidents.

Table 1. Part 121 Accidents Involving Regional Carriers

Accident Date	Regional Carrier	Accident Site	Fatalities	Contributing Factors
12-Feb-09	***Colgan Air Inc*** (DBA Continental Connection)	Buffalo, NY	50	Pilot professionalism, training, and pilot fatigue issues.
27-Aug-06	***Comair Inc*** (DBA Delta Connection)	Lexington, KY	49	Pilot performance, non-pertinent conversation during taxi.
19-Dec-05	***Flying Boat Inc*** (DBA Chalks Ocean Airways)	Miami, FL	20	Deficiencies in the company's maintenance program.
19-Oct-04	***Corporate Airlines*** (now Regions Air)	Kirksville, MO	13	Pilots' non-pertinent conversation during the flight and fatigue.
14-Oct-04	***Pinnacle Airlines*** (DBA Northwest Airlink) repositioning flight	Jefferson City, MO	2	Pilots' deviation from standard operating procedures, and poor airmanship.
8-Jan-03	***Air Midwest*** (DBA US Airways Express)	Charlotte, NC	21	Deficiencies in company's oversight of outsourced maintenance.

*Doing Business As (DBA)
Source: OIG analysis of NTSB data

Crew fatigue and distracting conversations in the cockpit have also been noted as safety concerns in non-fatal incidents—for both mainline and regional air carriers. For example, a Northwest flight overflew its Minneapolis destination by more than 100 miles on October 21, 2009, because the pilots were purportedly talking and using their laptop computers. In 2008, on a GO! Airlines flight (subsidiary of Mesa Airlines), two pilots fell asleep during a mid-morning flight from Honolulu to Hilo, Hawaii.

FAA intended to develop flight crew mentoring programs by July 31, 2009. FAA hoped this would involve senior pilots working with junior pilots to address issues with professional standards and flight discipline. However, discussions with industry representatives highlighted the many challenges facing development of a mentoring program, such as obtaining personal commitments from multiple staff at multiple carriers. Because FAA could not overcome these challenges, it missed the milestone. FAA is currently planning to host a forum for air carrier employee organizations this year but has not developed a detailed, long-term plan to address this issue. While

pilot professionalism cannot be regulated, training and fatigue have a direct impact on pilot performance, and those factors can be regulated and improved by FAA.

FAA NEEDS TO TAKE ADDITIONAL ACTION TO STRENGTHEN AIR CARRIERS' VOLUNTARY SAFETY EFFORTS

FAA requested that Part 121 air carriers and their unions provide written confirmation of verbal commitments made at the June 15 Call to Action meeting to strengthen voluntary safety efforts. To facilitate this process, the FAA Administrator sent letters to 98 Part 121 carriers[6] requesting improvements in three critical safety areas: pilot records, contract provisions, and voluntary safety programs. While FAA received written responses from 80 of the 98 carriers (82 percent), many were only partial commitments or no commitment at all. Specifically, FAA requested carriers to do the following:

- **Pilot Records**—Implement a policy asking pilot applicants for voluntary disclosure of all FAA records, including notice of unsatisfactory evaluations. According to our analysis, 20 of the 80 carriers (25 percent) committed to expanding pilot records reviews during their hiring process and 46 carriers already had such programs. Conversely, seven carriers did not commit to a full disclosure policy and another seven did not state their intention on this issue. For example, one carrier stated it already had a "rigorous pilot selection process" but did not provide any description of its process. Another carrier stated it complied with PRIA,[7] which was not the information FAA requested.

- **Contract Provisions**—Seek specific and concrete ways to ensure that smaller airline partner carriers adopt and implement the larger company's most effective practices for safety. Of the 80 carriers that responded to FAA's letters, 29 stated this effort was not applicable to their operations because they did not have contract partners. Thirty-five carriers responded that they already had contract provisions in place. Only one carrier offered a new commitment in this area. The remaining 15 include carriers that either did not respond or submitted unclear responses.

- **Voluntary Safety Programs**—Establish a Flight Operational Quality Assurance (FOQA) program and Aviation Safety Action Program (ASAP)[8] and develop data analyses processes to use the information in improving the safety of their operations. As shown in table 2, many carriers already had FOQA or ASAP

[6] FAA actually sent letters to 101 air carriers; however, 3 air carriers ceased operations prior to FAA releasing its results.
[7] Pilot Records Improvement Act, Pub. L. No. 104-264 (1996).
[8] FOQA is a program for the routine collection and analysis of digital flight data generated during aircraft operations. The intent of FOQA is to provide greater insight into the flight operations environment. ASAP is a joint FAA and industry program intended to generate safety information through voluntary disclosure that may not be otherwise obtainable to identify precursors to accidents.

programs or were planning to implement them. However, several responded that they did not have either of these programs and had no plans to implement them.

Table 2. Air Carrier Commitments on Voluntary Safety Programs

Air Carrier Commitments	FOQA		ASAP	
Already Implemented	14	18%	50	63%
Plan to Implement	41	51%	19	24%
Do Not Plan to Implement	22	28%	8	10%
Non-Specific Response*	3	4%	3	4%

**Air carrier response received but no specific commitment made.*
Note: Percentages do not total 100 percent due to rounding.
Source: OIG analysis of Total Air Carrier Commitment Responses - 80 out of 98 letters sent to active certificates.

Obstacles such as cost, equipment availability, and fleet size make FOQA implementation on a wide-scale basis extremely challenging for some regional air carriers. For example, 12 carriers either said they did not have the money to implement FOQA programs or they were too small for such an endeavor. This is a significant concern since a key goal of the Call to Action was to expand smaller or regional carrier participation in these types of safety programs. FAA has not presented any plans to encourage smaller carriers to establish these important safety programs.

In addition, we found many carriers' responses were either vague and lacked detail as to actions needed and timelines or stated they did not intend to take any action. For example, regarding FOQA:

- Five carriers merely stated they already had internal FOQA programs without further elaboration.
- Another carrier stated they are "currently exploring the implementation of FOQA."
- One carrier stated it would finalize its efforts to develop internal methods and technologies to more effectively analyze this data.

Despite the lack of rigor in these commitments, FAA did not follow up on any responses, ascertain whether carriers' planned actions would effectively meet safety goals, set milestones for completing safety improvements, or follow up with carriers that did not respond at all to the request for written commitments. While air carriers' commitments to FAA are voluntary, these steps could better ensure that regional

carriers effectively participate in safety programs. Yet, FAA's final Call to Action report has concluded that this initiative achieved its intended outcome.

OTHER CRITICAL PILOT SAFETY ISSUES THAT EMERGED AFTER THE COLGAN ACCIDENT REMAIN LARGELY UNADDRESSED

Other critical issues highlighted during hearings after the Colgan crash have not been addressed in the Call to Action plan. While some are longstanding concerns regarding pilot performance, the hearings emphasized their overall impact on safety, particularly at regional carriers. These issues present significant challenges for FAA as well as policy makers and industry stakeholders in determining the nature and extent of actions needed. These include the following:

- **Pilot domicile:** Piloting is a highly mobile profession, and pilots' residences are often in locations that are hundreds of miles from their assigned operations base. Pilot domicile issues were identified during the NTSB investigation into the Colgan accident as both pilots had commuted hundreds of miles before reporting for duty. Despite the potential impact commuting distances could have on pilot fatigue, the air carriers we have visited thus far do not track this information, and FAA does not require carriers to have policies addressing pilot domicile issues. As a result, the potential safety impact or extensiveness of this issue is unknown.

- **Differences in pilot training and hiring:** Although regional and mainline air carriers are under the same regulations and oversight system, the Colgan crash highlighted differences between the hiring, training, and safety programs of most regional and mainline carriers. For example, mainline carriers typically hire more experienced pilots from the military, whereas regional airlines usually hire pilots with fewer flight hours from flight training schools and Part 135[9] or corporate business operators. Additionally, many mainline carriers use a more advanced training program that uses data-driven quality control processes, enabling carriers to refine training based on identified needs. In contrast, most regional carriers have a traditional training program based on pilots receiving a minimum number of hours, which does not require the same amount of data collection and analysis.

- **Pilot experience and pay:** Many stakeholders have expressed longstanding concerns regarding a possible relationship between aviation accidents and pilot experience. The NTSB raised concerns about the disparate experience levels of the two pilots in the Colgan accident. The NTSB also raised pilot pay as a potential

[9] 14 CFR § 135, On-Demand, Operating Requirements: Commuter and On Demand Operations and Rules Governing Persons On Board Such Aircraft. 14 CFR § 119, Certification: Air Carriers and Commercial Operators, and some of the requirements of Part 91 also pertain to on-demand operators and commercial air carriers. This group operates smaller aircraft that are configured for 30 passengers or less or under 7,500 pounds of payload. Most of these operators fly on-demand (i.e., at the request of their customers).

factor, but no known study has been conducted to determine if a correlation exists between pilot pay, experience, and accidents. We are currently reviewing these issues, and while there are data limitations due to the relatively small number of accidents and incomplete or inconsistent reports of data, we have identified some preliminary trends. For example, our analysis of pilot experience in the last 10 major Part 121 passenger accidents (4 mainline carriers and 6 regional carriers) that occurred since 2000 showed that the mainline pilots involved consistently had more total flight time than their regional counterparts, with the exception of 1 co-pilot. Our preliminary analysis of pay in both industries shows that mainline pilots are compensated more than their regional counterparts, and compensation is driven by seat position, seniority, and aircraft type.

We are continuing our reviews in each of these areas and expect to issue our results later this year.

CONCLUSION

FAA's primary mission is ensuring aviation safety, and FAA maintains that it ensures one level of safety for all air carriers—both regional and mainline. However, recent fatal accidents and the resulting scrutiny raise questions as to disparities in regional and mainline operations that could impact safety, particularly in terms of pilot training, fatigue, and professionalism. While FAA's Call to Action Plan is a good first step, FAA's progress in implementing initiatives has been slow. FAA must develop initiatives that address root causes of safety problems and implement a process to measure their progress and impact on safety. We are continuing our work on FAA's actions to implement the Plan and several other critical issues that emerged after the Colgan accident. We will keep this Subcommittee apprised of our findings.

That concludes my statement, Mr. Chairman. I would be happy to address any questions you or other Members of the Subcommittee may have.

EXHIBIT. FAA'S CALL TO ACTION INITIATIVES

Initiative	Milestone	OIG Analysis of Status
Fatigue Rulemaking	December 31, 2009	**Missed Milestone** FAA hopes to issue it this spring
Focused Inspection Initiative	Phase 1: July 15, 2009 Phase 2: September 30, 2009	**Phase 1 and 2 completed, but** questions were poorly designed and ineffectively implemented
Training Program Review	SAFO to be issued by July 31, 2009	**Missed Milestone** FAA hopes to issue it by February 2010
Air Carrier Commitment Letters	Send letters to all carriers by June 30, 2009	**Letters were sent on time, but** FAA has not followed up on air carrier commitments
Union Commitment Letters	Send letters to unions by June 30, 2009	**Letters were sent on time, but** FAA has not followed up on union commitments
Mentoring	Develop and seek industry comment on mentoring programs by July 31, 2009	**Missed Milestone** Meetings planned with air carriers and industry in 2010
Regional Safety Forums	Hold 10 safety forums across country by July 2009	**Milestone Met**
Crew Training Requirements	After August 10, 2009, FAA will review comments and promptly issue rule	**Milestone Delayed** FAA hopes to issue by this spring
Guidance to Inspectors on Safety Oversight	Hold All Managers Meeting by August 2009 and issue inspector guidance	**Missed Milestone--guidance** Held Managers Meeting but did not issue inspector guidance
Final Report	Issue report by December 31, 2009	**Missed Milestone--one month late** Report issued January 26, 2010

Summary :

Missed Milestones =	6
Met Milestones =	1
Met Milestone, but not intended outcome=	3

Source: OIG analysis of FAA's Call to Action document

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