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**BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE AND
TRANSPORTATION – SUBCOMMITTEE ON AVIATION OPERATIONS,
SAFETY, AND SECURITY**

**ON
AVIATION SAFETY OVERSIGHT**

APRIL 10, 2008

Chairman Rockefeller, Senator Hutchison and members of the subcommittee, thank you for inviting PASS to testify on Federal Aviation Administration (FAA) aviation safety oversight. The Professional Aviation Safety Specialists, AFL-CIO (PASS) represents 11,000 FAA employees, including approximately 2,900 Flight Standards field aviation safety inspectors located in 110 field offices in the United States as well as three international offices in Germany, the United Kingdom and Singapore. FAA safety inspectors are responsible for certification, education, oversight, surveillance and enforcement of the entire aviation system, including air operator and air carrier certificates, repair station certificates, aircraft airworthiness, pilots, mechanics, flight instructors and designees.

A recent high-profile incident in which Southwest Airlines was allowed to continue flying several planes despite being in violation of an FAA Airworthiness Directive (AD) has drawn significant attention to the FAA's ability to provide aviation safety oversight. The fact that FAA employees had to seek help outside the agency in order to get these safety concerns addressed is an unfortunate indication of the overall culture at the agency. PASS and the FAA aviation safety inspector workforce we represent have serious concerns regarding the FAA's ability to fully and properly oversee aviation safety. Through the following testimony, PASS will outline significant challenges encountered by the inspector workforce, including the FAA's over reliance on a computer-based system, the excessively close relationship between the FAA and airlines, misuse of FAA "partnership programs," oversight of outsourced maintenance, oversight of foreign repair stations and the critical need for increased inspector staffing.

Air Transportation Oversight System (ATOS)

The Air Transportation Oversight System (ATOS) was developed in 1998 as a "system safety" approach to oversight of the air carrier industry aimed at ensuring airlines comply with FAA safety requirements to control risk and prevent accidents. The creation of ATOS was a direct result of the 1996 ValuJet accident, in which it was discovered that outsourced maintenance was a causal factor. In theory, ATOS allows potential problems to be identified before they result in an incident or accident. The FAA's guidance on ATOS requires that a surveillance plan be implemented for each airline and standardizes the inspection and certification processes through automation tools.

While prioritizing workload based on levels of risk and attempting to manage that workload through automated tasks are valid concepts, there are several problems with ATOS that prevent the agency from benefiting from the system. Of primary concern is the fact that ATOS is limiting a vital aspect of the inspection process: visual, hands-on inspections actually performed by an FAA inspector. PASS believes that the FAA is relying too heavily on a data-driven system, due in part to the diminishing number of safety inspectors. In other words, by transitioning to ATOS without an adequate number of inspectors, the FAA is increasing its reliance on limited data rather than a combination of visual inspections and statistical analysis to catch safety problems. Yet, FAA analysts have shared with PASS that they do not believe that there is enough statistical data to properly determine risk.

Throughout its implementation, several industry groups and government bodies have expressed concern about ATOS. In 2002 and 2005, the Department of Transportation Inspector General

(IG) identified system-wide problems with ATOS. Among the issues discovered included lack of inspector training on the system, incomplete inspections in recognized risk areas, inadequate data and not placing inspectors where they were most needed. The IG recommended that the FAA strengthen national oversight and accountability of ATOS. According to the IG, the FAA has yet to fully address these recommendations.¹

According to inspectors, prior to ATOS, they developed their own yearly surveillance plan with the ability to keep it fluid in order to address daily concerns or changes as they developed. The inspector spent most of his or her time at the airline or maintenance facility, meaning more surveillance was done on the actual operations and maintenance performed. Today, inspectors tell us that the fundamental flaw of ATOS is that they are not performing enough hands-on surveillance. Without actual visual inspections, inspectors are not able to validate the data provided by the airline and generate new data to input into the system. Moreover, when inspectors perform on-site visits, their presence alone serves as a deterrent. Unfortunately, the agency has restructured ATOS so there are fewer inspectors in the field and even eliminated the majority of remotely sited inspectors nationwide. Therefore, despite the increasing use of regional carriers and so much work being outsourced globally, the FAA appears focused on keeping its inspectors in a few central locations rather than where the actual work is taking place.

In the wake of Southwest Airlines' noncompliance disclosure, the effectiveness of ATOS was called into question once again. Southwest Airlines is an ATOS carrier and has been since the inception of ATOS in 1998. How effective is the FAA's ATOS process in identifying and managing risk if Southwest Airlines was able to become so lax in its AD compliance? In fact, ATOS inspectors are supposed to examine airlines' systems every five years to ensure compliance, yet Southwest's AD system had not been examined since 1999.² PASS believes that one of the main reasons ATOS is not working as intended is because it has not been properly resourced and supported by the FAA. It is a mistake for the FAA to rely on incomplete data, the majority of which is provided by the airlines, and limited visual inspections to determine risk.

With attention focused on AD compliance, the FAA issued Notice N8900.36 on March 13, 2008, directing a two-phased audit of Part 121 air carrier compliance with ADs in order to reassure the flying public that the Southwest incident was not a system-wide issue. In phase 1 of the audit, which was due March 28, inspectors sampled 10 ADs for each of the air carriers' fleets. Phase 2 of the audit, which is due June 30, will sample additional ADs to total 10 percent of the ADs applicable to the air carriers' fleets. While the original notice instructed inspectors to perform a visual inspection of the aircraft along with verification of records, the FAA released a broadcast message that FAA inspectors should only perform a records check due to the two-week time constraint for completion of Phase 1. In other words, the aircraft and/or its components were not required to be inspected. On April 2, the FAA released results from the first phase of the audits claiming a 99 percent rate of airline compliance with ADs.

However, without FAA surveillance of an aircraft, the aircraft's physical AD compliance status is unknown despite what the records may indicate. While the FAA has hailed the first results of

¹ Department of Transportation Inspector General, *Actions Needed to Strengthen FAA's Safety Oversight and Use of Partnership Programs*, CC-2008-046 (Washington, D.C.: April 3, 2008), pp. 3-4.

² *Id.*, p. 13.

the audit as an indication that the overall program is working, PASS has serious concerns as to the validity of any results collected through this directive and whether a records check on so small a sampling of aircraft data will render meaningful results or assurance of compliance. Furthermore, PASS has learned that many inspectors were told to perform “easy” checks during this audit—items that would not require a considerable amount of time or result in many problems. One inspector told PASS that the airline he was responsible for checking was actually warned of which ADs would be checked a full five days before the FAA reviewed them.

The IG recommendation for increased national oversight of ATOS, including a process to track field office inspections to ensure that they are conducted in a timely manner,³ is an important step forward in addressing some of the major issues that prevent the agency from benefiting from the system. However, without enough people—FAA inspectors who are trained to see and hear things not quantifiable through any database—any adjustments to the process will have little or no impact.

FAA Culture Impedes Work of Safety Inspectors

The culture at the FAA has devolved into one in which the employees are criticized for their actions, questioned on their expert opinions and made to feel as if they are the only ones fighting for the safety of the system. As stated earlier, the creation of ATOS was the FAA’s answer to providing reassurance in the wake of the ValuJet accident. National Transportation Safety Board (NTSB) hearings on the accident reveal that at least one employee expressed repeated concerns as to the safety of ValuJet prior to the accident, going so far as to file a report suggesting the FAA intensify its surveillance of the airline by increasing the number of inspectors assigned to the carrier. However, that report was ignored and not passed along to higher levels of management. During the hearing, it was indicated that the environment at the FAA was one in which the comments and observations of subordinates were regularly dismissed by those at the top. The lack of change in the culture at the FAA is striking. Although ATOS may have been conceived with the best intentions, it obviously does not address the underlying problems that continue to plague the agency.

“Cozy” Relationships Between FAA Management and Airlines

A 1996 act of Congress eliminated a portion of the FAA’s “dual mandate” that directed the agency to promote air travel.⁴ Although legislation describing the FAA’s mandate now instructs the agency to focus on maintaining and enhancing safety, there remains pressure from FAA management to promote the aviation industry even if it is at the sacrifice of safety enforcement. In fact, PASS has learned of numerous instances in which, due to collaboration between the FAA and industry, FAA safety inspectors were prevented from moving forward with enforcement actions after identifying a violation of the Federal Aviation Regulations. As a result, the role of inspector as safety enforcer is becoming increasingly overshadowed and inspectors are being pressured by FAA management not to pursue enforcement actions or to severely censor their evaluations.

³ Id., p. 16.

⁴ Public Law 104-264, Section 401: Elimination of Dual Mandate.

There are many examples in which FAA management has “looked the other way” rather than seriously contemplating the safety inspector’s professional opinion and taking immediate steps to ensure that the airline was in compliance with FAA regulations. One recent high-profile example in which safety violations were detected at an airline illustrates the FAA’s cultural flaw all too clearly. In September 2007, the IG released a report on an incident involving a safety inspector for Northwest Airlines who, after identifying safety problems with the airline, was prevented from further access to the carrier and reassigned to administrative duties. After a thorough investigation, the IG determined that many of the inspector’s findings were legitimate and that the FAA appeared to focus on “discounting the validity of the complaints rather than determining whether there were conditions...that needed correction.”⁵ The IG warned that a “potential negative consequence of FAA’s handling of this safety recommendation is that other inspectors may be discouraged from bringing safety issues to FAA’s attention.”⁶ PASS fully concurs with the IG’s assessment. In fact, many safety inspectors with whom we spoke were hesitant even to discuss similar situations with the union in preparation for this testimony for fear that their managers would find out and put them under investigation or otherwise “make work a nightmare.”

Furthermore, PASS has learned of instances in which FAA management has urged or actually required inspectors to alter their information in FAA databases in order to diminish the seriousness of the inspectors’ findings. Recently, two grievances were filed by inspectors involving incidents in which inspectors working at the Northwest Airlines certificate management office (CMO) were forced to change information they had entered into the ATOS database by their front-line managers. According to FAA policy, when there is a difference of opinion concerning critical assessment data captured in an FAA database, all information is supposed to be elevated to the principal inspector so that he or she has the necessary data in order to assess the safety risk. In one instance, however, management demanded a more generic version of the data that did not reflect as negatively on the airline to replace the inspector’s actual findings. In another case, an inspector, after documenting observations of noncompliance, was told to change responses in the ATOS database. When the inspector refused, believing that this would significantly affect the quality of the safety information, the inspector was admonished. A recent change to FAA policy will allow FAA managers access to the system and permit them to alter the data without forcing the inspector to make the changes. Management will be required to identify the author of the change and provide the reporting inspector with a copy of the change. Although this will certainly limit the demand placed on inspectors to conform to management pressure, this process still has the potential to impact the safety of the system.

Consider the following additional examples in which the disturbingly close relationship between FAA management and industry is highlighted:

- In 2003, an inspector assigned to Continental Airlines discovered that over 4,000 life vests had not been overhauled by a certificated repair station in accordance with the component maintenance manual. The inspector’s supervisor did not want to have the airline replace the life vests and, according to the inspector, went so far as to accuse the inspector of wanting to bankrupt the carrier. FAA management allowed the airline to continue operating with these

⁵ Department of Transportation Inspector General, *Actions Taken to Address Allegations of Unsafe Maintenance Practices at Northwest Airlines*, AV-2007-080 (Washington, D.C.: September 28, 2007), p. 7.

⁶ Id.

“un-airworthy” life vests for several weeks. Only after the persistent efforts of the inspector did a higher level of management insist the life vests be replaced immediately.

- In October 2007, a safety inspector assigned to American Eagle in Fort Worth uncovered training and operational issues the inspector believed should be addressed by the agency. The inspector wrote 11 letters on issues ranging from handbook compliance to regulatory compliance and sent them to the principal inspector assigned to the American Eagle CMO operations unit, who then sent them on to the unit supervisor. In November 2007 and again in January 2008, the inspector asked the unit supervisor about the status of the letters. On both occasions, the unit supervisor, who is a former employee of the carrier, responded that sending all the letters at once would overwhelm the carrier. After details regarding upcoming hearings were released, the inspector was informed that the unit supervisor had told the principal inspector to send the letters to the carrier.
- In 2007, inspectors assigned to the Hawaiian Airlines certificate were advised that they could no longer perform inspections on aircraft in service when the flight turnaround time is only an hour and a half. When a plane is in service and sitting at the gate on the “ramp,” it is considered an excellent time to inspect the carrier to validate the airline’s assertion that the aircraft is ready for passenger-carrying service, especially since most of these aircraft will be flying over water for extended periods. An email from management emphasized that the airline had expressed concerns due to delays caused by these inspections and that “on-time performance is a high priority item for Hawaiian.” Inspectors have been directed not to conduct detailed inspections of an aircraft during “quick” turnaround in order for the inspectors to “be less apt to cause a disruption.” The email specifically states that this change in procedure is to enhance the working relationship between the FAA and the airline.

Moreover, even if an enforcement action initiated by an FAA safety inspector makes it through all the procedural steps and results in a civil penalty, a process that can take up to several years, these fines or penalties are often dramatically reduced. A 2005 report by the Government Accountability Office (GAO) stated that from FY 1993 through 2003, there was a “52 percent reduction in the civil monetary penalties assessed from a total of \$334 million to \$162 million.”⁷ Inspectors have told PASS, and the GAO report has confirmed, that the lessening of penalties for present violations has severely reduced the prevention of future violations. In other words, if punishment for violating safety regulations is not appropriately strict, penalizing an airline will have little or no impact on future actions.

One case involving an FAA safety inspector working for the United Airlines CMO illustrates this prevalent practice of reducing the amount of civil penalties assessed on an airline found to be in violation. In 2003, the inspector discovered a significant problem with improper accomplishment of work under an FAA AD on the United Boeing 777 aircraft. The AD required that “each back-up generator must be serviced by different individuals before any subsequent flight.” The inspector found that the air carrier had been systematically performing dual servicing contrary to the AD for years. As a result, an EIR was filed. The EIR sanctioning guidelines provided for a recommended civil penalty of \$500,000, but the office manager would not endorse the EIR with

⁷ Government Accountability Office, *Aviation Safety: FAA’s Safety Oversight System Is Effective but Could Benefit from Better Evaluation of Its Programs’ Performance*, GAO-06-266T (Washington, D.C.: November 17, 2005), p. 12.

that proposed amount. The office manager eventually approved the EIR with a proposed civil penalty of \$195,000. The informal hearing regarding the case was held in December 2007, and the proposed sanction after the hearing was \$32,000. The final amount appears to be a civil penalty of \$28,000. In addition, while gathering records for the EIR, the inspector discovered falsification of records. Despite the efforts of the inspector, there was never any consequence to the falsification issue.

Customer Service Initiative (CSI)

In 2003, FAA Aviation Safety Associate Administrator Nick Sabatini unveiled his Customer Service Initiative (CSI) program in order to allow certificate holders to “request reconsideration of a decision made by an Aviation Safety office.”⁸ The guidance on the initiative reads similar to what one may expect to encounter in any service-based industry where the emphasis is on satisfying the customer. In PASS’s view, the FAA should be focused on protecting aviation safety and treating the flying public as the most important customer rather than satisfying the aviation industry. The CSI allows airlines to ask for review on any inspector’s decision made in the regulatory or certification process. However, the FAA is permitting air carriers to use the CSI to make customer complaints and remove an inspector simply for doing his or her job. In essence, the CSI program finds the inspector guilty without a trial, granting the airlines an almost effortless way to clean the slate, as well as sending a disturbing message to any other inspector assigned to the carrier that if they attempt to hold the carrier accountable, they may be removed from the assignment or face other repercussions.

PASS is aware of many incidents in which FAA management has allowed an air carrier to exploit the CSI process after an inspector attempted to hold the airline accountable. In some cases, air carriers have even requested that their certificate be transferred to another Flight Standards District Office (FSDO). Consider the following examples:

- In 2005, an inspector working at the Northwest Airlines CMO in Minnesota detected a problem with the airline’s use of temporary workers who were not properly trained and familiar with the airline’s maintenance operation. The inspector repeatedly related concerns that the airline’s use of temporary workers who were not competent or properly trained could jeopardize the continued operation of the airline. In response to these findings, the airline contacted the FAA manager at the CMO and accused the inspector of harassment. Without conducting a proper investigation, the FAA removed the inspector from the certificate. When the agency refused to address the system issues regarding the use of temporary maintenance workers, the inspector was forced to file a safety recommendation. This safety recommendation was ignored, compelling the inspector to elevate the issue to Congress and the Inspector General due to serious safety concerns regarding the operation of the airline.
- In 2005, a major helicopter company performing an external lift operation in the FAA field office district of Fort Worth, Texas, was found in noncompliance with the company’s FAA-approved altitude restrictions and congested area limitations. The reporting inspector had proposed severe sanctions against the pilot and operator, and a letter was sent to the operator

⁸ Federal Aviation Administration. *Customer Service Appeals & Petitions* [updated August 3, 2005; cited February 2008]. Available from www.faa.gov/about/office_org/field_offices/fsdo/cs_initiative.

detailing the proposed civil penalties. The operator complained about the sanctions and the enforcement actions were dismissed. The FAA responded by prohibiting inspectors in Fort Worth from performing any future surveillance on the operator when it operates in their district.

Due to the repeated misuse of the CSI program, PASS recommends that the program be suspended until there can be an independent review of the program in order to ensure that it is being used properly and achieving intended results.

Voluntary Disclosure Reporting Program (VDRP)

FAA management has allowed the culture at the agency to degenerate into one in which satisfying airlines has priority over aviation safety. In fact, FAA management is allowing airlines to use FAA safety programs to avoid enforcement action. The misuse of these partnership programs not only reduces the essential aviation safety inspector role to a mere nuisance, diminishing their credibility with the airline they are charged with overseeing, it forces inspectors to work in an environment where their expert warnings are often ignored or severely downgraded—a dangerously negligent approach to aviation safety.

The Voluntary Disclosure Reporting Program (VDRP) allows certificate holders operating under Title 14 of the Code of Federal Regulations to disclose voluntarily to the FAA apparent violations of certain regulations. As a result of airlines self-disclosing a violation and presenting a plan for a “comprehensive fix” of the problem, entities will receive a letter of correction instead of a civil penalty. According to the FAA, this policy is intended to “encourage compliance with FAA regulations, foster safe operating practices, and promote the development of internal evaluation programs.”⁹ However, in order for the VDRP to operate successfully, several steps must be rigorously enforced by the FAA, which is often not the case.

At a minimum, the FAA should enforce its requirement that the air carrier “promptly” disclose the violation upon its own detection and immediately terminate the improper conduct. According to the order, “In evaluating whether an apparent violation is covered by this policy, the responsible inspector will ensure...[the entity] has notified the FAA of the apparent violation *immediately* after detecting it *before* the agency has learned of it by other means”¹⁰ (emphasis added). Furthermore, aside from specific exceptions, FAA policy states that the FAA “will not forgo legal enforcement action if [the entity] informs the FAA of the apparent violation during, or in anticipation of, an FAA investigation/inspection or in association with an accident or incident.”¹¹

The policy makes it clear that once an FAA safety inspector finds a safety violation, that discovery should result in an enforcement action—the airline is not supposed to be given a chance to self-disclose at that point. If an inspector finds an apparent violation, it should be considered a significant event and should be treated accordingly. The important and safety-

⁹ FAA Order 8900.1 – *Flight Standards Information Management System (FSIMS)*, Volume 11: Flight Standards Programs, Chapter 1: Voluntary Disclosure Reporting Program.

¹⁰ *Id.*

¹¹ *Id.*

critical work of FAA safety inspectors must be taken seriously and their findings must be given proper attention and merit.

Regardless of the explicit directions in the FAA policy, the intense focus of FAA managers on maintaining a positive relationship with the airlines is resulting in serious abuse of the VDRP. The IG has expressed belief that the FAA “relies too heavily on self-disclosures and promotes a pattern of excessive leniency at the expense of effective oversight and appropriate enforcement.”¹² PASS has learned of many cases that validate this concern in which inspectors find safety violations but are being directed by their front-line managers to hold off on enforcement to allow the airline to self-disclose the item. For example, in 2006, an FAA safety inspector assigned to conduct oversight of a major air carrier in the Southern region discovered problems when reviewing modifications made to a Boeing 737.¹³ The inspector discovered that the problems applied to several aircraft and promptly notified the principal inspector and operator. When following up on the incident the next week, the inspector discovered that the airline had been allowed to self-disclose the problem despite the FAA safety inspector discovering the problem first. According to inspectors in the field, this abuse of the self-disclosure process occurs frequently, negating the purpose of the program and raising the chance that safety risks will not be captured appropriately.

Furthermore, the VDRP guidance does not penalize an airline for self-disclosing the same item repeatedly as long as it is determined that a “comprehensive fix was satisfactorily completed and followed.”¹⁴ While it is possible that a comprehensive fix was not successful, thus causing a repeat occurrence, this is something that should be determined prior to the case being considered closed. Allowing unlimited disclosure of the same issue further undermines the credibility of the program. In fact, the IG stated that “a partnership program that does not ensure carriers correct underlying problems is less like to achieve safety benefits.” Airlines are businesses with a focus on profit and, while safety is no doubt a priority, there must be government surveillance and accountability to ensure that profit does not overshadow the safe operation of the carrier.

PASS concurs with the IG’s assessment that the FAA must implement a secondary review of self-disclosures before they are accepted and that guidance for the VDRP instruct the inspector to fully review the carrier’s proposed solution for the reported problem and document that review prior to accepting the self-disclosure.¹⁵ In addition, PASS is concerned that the VDRP database is not being monitored on a local, regional or national level to identify trends that may impact several airlines. If this analysis is not being performed, PASS suggests that the FAA take action to ensure that the VDRP database is examined on an ongoing basis in order to identify and address widespread risks as well as determine whether the program is achieving the desired results.

¹² Department of Transportation Inspector General, *Actions Needed to Strengthen FAA’s Safety Oversight and Use of Partnership Programs*, CC-2008-046 (Washington, D.C.: April 3, 2008), p. 3.

¹³ Due to fear of retaliation, the inspector would not permit PASS to disclose the identity of the air carrier.

¹⁴ FAA Order 8900.1 – *Flight Standards Information Management System (FSIMS)*, Volume 11: Flight Standards Programs, Chapter 1: Voluntary Disclosure Reporting Program.

¹⁵ Department of Transportation Inspector General, *Actions Needed to Strengthen FAA’s Safety Oversight and Use of Partnership Programs*, CC-2008-046 (Washington, D.C.: April 3, 2008), p. 21.

Oversight of Foreign Repair Stations

Another problem on which this committee has focused attention is airlines increasing their reliance on outsourced maintenance work performed at facilities within this country and abroad. Whereas much of this work was once done at the air carrier's facility, according to the IG, air carriers' use of outsourced repair stations has grown from 37 percent of air carriers' maintenance costs in 1996 to 62 percent in 2005, or nearly \$3.4 billion of the \$5.5 billion spent on maintenance. During the first three quarters of 2006, the amount of outsourced maintenance had already increased to 64 percent.¹⁶

A large portion of this work is being performed at facilities in foreign locations, and many inspectors say that they are not confident with the level of oversight of foreign repair stations and that serious safety issues are not being addressed. The regulations governing foreign repair stations have also been called into question. For example, as opposed to domestic airline or repair station employees, workers at contract foreign repair stations are not required to pass drug and alcohol tests. There also continues to be major concerns regarding security at these facilities, with many of the repair stations lacking any security standards. If a foreign repair station wants to work on U.S.-registered aircraft or any aircraft that operate in this country, those repair stations should be required to meet the same safety standards as domestic repair stations.

Another concern is that the FAA continues to expand the use of bilateral agreements with foreign countries to oversee repair of U.S. carriers. The Bilateral Aviation Safety Agreement (BASA) with Maintenance Implementation Procedures (MIPs) allows foreign authorities to provide oversight of the work performed at repair facilities without any involvement from FAA inspectors. This eliminates the need for the inspector to travel to the repair station at all and entrusts responsibility entirely to a foreign entity. According to the IG, however, foreign authorities do not provide the FAA with sufficient information on what was inspected, the problems discovered and how these problems were addressed. The IG has recently stated that despite some additional efforts, the concern remains that the "FAA is still not regularly visiting the facilities in the countries where agreements exist with other aviation authorities."¹⁷ The IG cited an example in which FAA inspectors for one air carrier had not visited a major foreign engine repair facility even though the repair station had performed maintenance on 39 (74 percent) of the 53 engines repaired for the air carrier. Furthermore, FAA inspectors had not conducted any spot inspections of this facility in five years.¹⁸

In order to ensure that the work performed at foreign repair stations meets FAA and air carrier standards, PASS believes that all certificated foreign repair stations should be inspected at least twice a year by an FAA inspector and all workers working on U.S. aircraft should be drug and alcohol tested. In addition, the increasing use of foreign repair stations has been drawing even more attention to the inspector staffing problem. Clearly, the inspector workforce must be expanded in order to meet the demands required by work performed on U.S. aircraft overseas.

¹⁶ Department of Transportation Inspector General, *Aviation Safety: FAA's Oversight of Outsourced Maintenance Facilities*, CC-2007-035 (Washington, D.C.: March 29, 2007), p. 1.

¹⁷ *Id.*, p. 9.

¹⁸ *Id.*

Use of Non-Certificated Repair Facilities

With airlines increasing their use of outsourced maintenance work, there has been a significant increase in the use of non-certificated repair stations. “Non-certificated” means that the repair facility does not possess a certificate issued by the FAA to operate under Federal Aviation Regulation Part 145 and is therefore not subject to direct FAA oversight. A certificated repair station meets the standards as outlined in the Federal Aviation Regulation and is therefore subject to direct FAA oversight to ensure that it continues to meet those same standards. The differences in regulatory requirements and standards at the two facilities are extremely troubling. For example, in an FAA-certificated repair station, it is required that there be designated supervisors and inspectors and a training program. These items are not required at non-certificated repair facilities.

Effective oversight of non-certificated repair facilities gained attention in the aftermath of the January 2003 Air Midwest crash in Charlotte, N.C. The National Transportation Safety Board determined that incorrect rigging of the elevator system by a contractor contributed to the accident and pointed to “lack of oversight” by Air Midwest and the FAA.¹⁹ The airline contracted out the work to an FAA-certificated repair station, which then subcontracted to a non-certificated repair facility. Under federal regulations, the airline is ultimately responsible for ensuring that the work is performed in accordance with FAA standards and requirements.

According to the IG, the FAA does not know how many non-certificated maintenance facilities air carriers currently use, but the IG identified “over 1,400 non-certificated repair facilities performing maintenance and more than 100 of these facilities were located in foreign countries.”²⁰ The IG also discovered that there are no limitations to the amount of maintenance work non-certificated facilities can provide, and that these facilities are performing far more work than minor services, including much of the same type of work FAA-certificated repair stations perform, such as repairing parts used to measure airspeed, removing and replacing jet engines, and replacing flight control motors. Some of these non-certificated facilities are even performing critical preventative maintenance.

Despite the fact that these facilities are performing safety-critical work, FAA oversight is practically nonexistent. In other words, these facilities are performing work pivotal to aviation safety with no guarantee that it is being done in line with FAA and air carrier standards. It is obvious that there must be changes made regarding air carriers’ use of non-certificated repair facilities. As such, PASS believes that all air carrier maintenance work (substantial, regularly scheduled or required inspections items) should only be performed by an FAA-certificated repair station.

¹⁹ National Transportation Safety Board, *Loss of Pitch Control During Takeoff, Air Midwest Flight 5481, Raytheon (Beechcraft) 1900D, N233YV, Charlotte, North Carolina, January 8, 2003*, Aircraft Accident Report NTSB/AAR-04/01 (Washington, D.C.: 2004), p. x.

²⁰ Department of Transportation Inspector General, *Aviation Safety: FAA’s Oversight of Outsourced Maintenance Facilities*, CC-2007-035 (Washington, D.C.: March 29, 2007), p.13.

FAA Must Ensure Adequate Inspector Staffing

PASS is extremely concerned about staffing of the FAA safety inspector workforce. Whereas decades ago, FAA safety inspectors were regularly on location performing visual inspections, the agency has undergone dramatic changes and inspectors now report spending more than 70 percent of their time at their desks. The FAA has shifted its focus to a risk-based, data-driven system due to the decreasing number of FAA aviation safety inspectors. With the increased outsourcing of maintenance work in this country and abroad, growing number of aging aircraft, the emergence of new trends in aviation (such as very light jets, unmanned aircraft and regional carriers) and the expansion of the FAA's designee programs—all of which require additional inspector oversight—it is imperative that there are enough inspectors in place to monitor the safety of the system.

Making this situation even worse is the fact that nearly half of the inspector workforce will be eligible to retire in the next five years and many areas are already severely understaffed. Considering the recent Southwest incident, it is even more critical that the FAA have enough inspectors to ensure proper identification of airline safety violations and adequate follow-up. Unfortunately, in its FY 2009 budget request, the FAA has not requested any funding to hire additional Flight Standards aviation safety inspectors. Since it is critical that there are enough inspectors in place to adequately oversee the growing industry and ensure the safety of the aviation system, sufficient funds must be authorized to hire more inspectors.

Conclusion and Recommendations

Following the Southwest Airlines incident, the FAA, claiming that it was now “wide awake,” released a series of improvements to the agency's inspection program. The highlight of these improvements is the creation of the Safety Issues Reporting System (SIRS) to provide employees an “additional mechanism to raise safety concerns if they feel they are not receiving the necessary airing or response from supervisory and management personnel.”²¹ This hotline is in addition to hotlines already in existence that were used by FAA inspectors in the Southwest Airlines incident to no avail. Inspectors have told PASS that these hotlines serve no real purpose other than to bring negative attention to the inspector using the hotline. In fact, one inspector informed PASS that after not receiving an appropriate response from management, the inspector elevated concerns through one of these hotlines. The responsibility for responding to the hotline report was shifted through layers of management until it was directed back to the very same managers about whom the inspector had complained in the first place. The inspector, who did not conceal his identity when using the hotline, revealed that the problems never were adequately addressed.

Clearly, another hotline is not a solution to the pervasive problems at the FAA. The IG has stated that the FAA needs to make “immediate and comprehensive changes to its oversight of air carriers.”²² While a hotline may be immediate, it is in no way comprehensive. Another hotline is nothing more than lip-service to a field of aviation experts attempting to raise aviation safety

²¹ Federal Aviation Administration, “FAA Announces Improvements to Inspection Program,” April 2, 2008.

²² Department of Transportation Inspector General, *Actions Needed to Strengthen FAA's Safety Oversight and Use of Partnership Programs*, CC-2008-046 (Washington, D.C.: April 3, 2008), p 16.

issues that require immediate attention. It may indeed be necessary to create another avenue through which inspectors can express concerns, but this plan cannot be successful if it is another FAA project. PASS believes that any such program *must* be independent of the FAA if it is to succeed.

In addition, there is no doubt that the relationship between the FAA and the airline industry needs to change to ensure safety issues are given appropriate attention. PASS agrees with the concept of rotating managers in order to prevent these types of “cozy” relationships from developing. Those with the ultimate responsibility for oversight of FAA safety inspectors and the carrier should be the group that is rotated among facilities. As such, PASS recommends that a plan be executed to rotate all first- and second-level managers on a regular basis. This rotation will help to discourage management from becoming too closely connected with the airlines. While this rotation may be a good start, PASS also concurs with the U.S. Office of Special Counsel in that since “the culture of complacency and cover up goes very high in management circles” at the FAA, there needs to be “a serious discipline and shakeup of the FAA in order to send the proper message inside what appears to be a very insular organization...”²³

According to the FAA’s website, aviation safety inspectors are the “FAA’s on-site detectives.”²⁴ While this statement was once true, the FAA has become an agency where a limited inspector workforce facing a constantly increasing workload is prevented from pursuing safety concerns by a management culture focused on pleasing the industry. The FAA’s customers are the flying public, not the airlines, and its most critical role is to protect the safety of these customers. Safety is always the primary focus of the FAA safety inspector workforce—their contributions and the safety of the aviation system should never be anything but the agency’s top priority as well.

²³ U.S. Office of Special Counsel, *Statement of the Honorable Scott J. Bloch, Special Counsel, U.S. Office of Special Counsel* (Washington, D.C.: April 3, 2008), pp. 6–7.

²⁴ Federal Aviation Administration. *Aviation Safety Inspectors* [updated January 4, 2007; cited February 2008]. Available from www.faa.gov/about/office_org/headquarters_offices/ahr/jobs_careers/occupations/av_safety_insp.