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DEPARTMENT OF TRANSPORTATION REPORT SUBSTANTIATES WHISTLEBLOWER'S ALLEGATIONS THAT FAA'S FAILURE TO ISSUE AIRWORTHINESS DIRECTIVES LEFT UNSAFE CONDITIONS UNRESOLVED FOR YEARS

FOR IMMEDIATE RELEASE

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WASHINGTON, DC/December 28, 2010 – Today the U.S. Office of Special Counsel (OSC) transmitted to the President and Congress a Department of Transportation (DOT) report responding to a whistleblower's allegations that the Federal Aviation Administration (FAA) failed to ensure that Airworthiness Directives (ADs) were issued in a timely manner. ADs are rules that FAA issues to address unsafe conditions that exist in aircraft products and are likely to exist or develop in other products of the same type design. The whistleblower, Patrick Massie, an Aerospace Engineer assigned to FAA's Rotorcraft Directorate (Directorate), alleged that systemic deficiencies in the process for developing and publishing ADs resulted in significant and potentially dangerous delays, in some cases for years, in resolving unsafe conditions in helicopters.

The report and supplemental report submitted to OSC by Secretary of Transportation Ray LaHood substantiated Mr. Massie's allegations. The report confirms that the "Directorate's failure to issue ADs has resulted in unsafe conditions that have been left unresolved for years." Pursuant to FAA timeliness goals, the Directorate is supposed to issue Emergency ADs (EADs) and Immediately Adopted Rules (IARs), for unsafe conditions warranting expeditious action, within 30 days. Standard ADs using Notices of Proposed Rulemaking (NPRMs) are to be issued within 365 days. The investigation revealed that as of December 31, 2009, the Directorate had a substantial backlog of un-issued ADs that had exceeded these goals. Three ADs had been open for approximately seven years.

The investigation also substantiated Mr. Massie's allegation that the Directorate delayed corrective action of unsafe conditions by changing two ADs from IARs to NPRMs and assigning new identification numbers after the Directorate failed to timely issue the IARs. Both ADs were prompted by emergency ADs issued by the European Aviation Safety Agency (EASA). The investigation could not establish that changing them from IARs to NPRMs was justified. The report concludes that these actions resulted in further confusion in tracking the ADs and gave the appearance that management was attempting to mask the lack of timeliness. The investigation also confirmed the allegation that the Directorate did not establish recommended timeliness standards for carrying out the AD process, which would have allowed the Directorate to identify and address systemic deficiencies that contributed to the failure to timely process ADs.

In response to the findings, FAA Administrator J. Randolph Babbitt pledged to implement corrective action, including but not limited to the following: an AD Process Action Team was established to reduce the backlog and develop improvements for the AD process; the oldest ADs have been issued; performance

issues of the employees identified as contributing to delays have been addressed through counseling and/or disciplinary action; the Directorate is using a revised metric to measure AD timeliness and will implement an automated AD tracking tool; and FAA will form a group to define the necessary steps for tracking AD timeliness and developing a standardized AD process.

OSC determined that the agency's report contains all of the information required by statute and the findings appear reasonable.

The U.S. Office of Special Counsel (OSC) is an independent investigative and prosecutorial agency and operates a secure channel for disclosures of whistleblower complaints. Its primary mission is to safeguard the merit system in federal employment by protecting federal employees and applicants from prohibited personnel practices, especially retaliation for whistleblowing. OSC also has jurisdiction over the Hatch Act and the Uniformed Services Employment and Reemployment Rights Act. For more information please visit our web site at www.osc.gov or call 1 (800) 872-9855.