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United States Senate

COMMITTEE ON COMMERCE, SCIENCE,
AND TRANSPORTATION

WASHINGTON, DC 20510-6125

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August 7, 2020

The Honorable Elaine L. Chao
Secretary
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

Dear Secretary Chao:

The Federal Aviation Administration (“FAA”) recently announced two proposed civil penalties totaling \$1.25 million against The Boeing Company. The FAA alleges that Boeing failed to properly perform approved functions under the Organization Designation Authorization (“ODA”) program and exerted undue pressure on ODA unit members at its South Carolina facility. The issue of undue pressure in the ODA program, and the need for the FAA to conduct more vigorous oversight, is well documented. The Safety Culture Assessment Report made public today shows widespread concern within the agency of undue pressure. The FAA’s response, the proposed civil penalty action and plans for a voluntary reporting system, fails to adequately address the issue of undue pressure.

I am calling on the U.S. Department of Transportation (“DOT”) and FAA to support the return to direct oversight of designees as previously structured with Designated Engineering Representatives. Additionally, the results of the survey show a systemic and troubling pattern of behavior by FAA managers, which is impacting aviation safety. I call upon you to address these systemic management issues expeditiously.

During the course of its oversight activities, the Senate Committee on Commerce, Science, and Transportation has identified numerous failings that led to the Lion Air JT610 and Ethiopian Air Flight 302 crashes that killed 346 people, including the need to clarify and increase FAA’s oversight and authority under the ODA program. In their investigations, the Joint Authorities Technical Review (“JATR”) and the U.S. Department of Transportation’s Special Committee to Review the FAA’s Certification Process (“the Special Committee”) recommend strengthening lines of communication and oversight between the FAA and ODA unit members.

The U.S. Department of Transportation Inspector General (“OIG”) has also laid out flaws with the FAA’s certification of the Boeing 737 MAX aircraft. The OIG’s report documented numerous FAA investigations and civil penalties stemming from failures in the certification process, including identified concerns about undue pressure on ODA personnel at multiple Boeing facilities. The OIG observed that despite FAA’s subsequent oversight, all the identified issues were not yet resolved. And now, the FAA is proposing to address these problems with civil penalties.

The Safety Culture Assessment Report also shows that Office of Aviation Safety (“AVS”) senior leadership fails to back-up front-line workers. These employees fear retribution and that fear prevents them from reporting safety issues. Moreover, FAA employees feel that there is a lack of action and feedback in response to reported safety concerns. Among the many problems with FAA’s safety culture, leaders were not being held accountable for safety-related decisions. Within AVS, the Aircraft Certification Service was the worst performing office on these metrics.

Among the key findings of the Safety Culture Assessment Report is that external pressure from industry is strong and how senior leadership responds to this pressure leads to employee distrust. Employees and managers shared that there is an “unwritten code” to be more “liberal-minded” when assessing safety risks, and there is pressure to find win-win solutions that benefit industry. When industry complains to FAA senior leadership about front-line employees that are perceived as “getting in their way,” senior leadership makes decisions to accommodate industry objectives, like meeting timelines and managing costs.

The FAA’s proposed civil penalty and the agency’s plan for a new voluntary reporting program are insufficient. The agency must fully acknowledge and address the underlying problems with the certification process and delegation that led to repeated instances of undue pressure. Instead of defending the status quo, the FAA should take immediate action to enhance agency oversight of the ODA program.

It is time to correct flaws in the FAA certification process. This is why I have introduced, along with Chairman Roger Wicker, S. 3969, *The Aircraft Safety and Certification Reform Act of 2020*, which makes clear FAA’s oversight and authority over the aircraft certification process, including fundamental reform of the ODA program. The bill establishes direct FAA oversight of ODA unit members and ensures uninterrupted communication between these designees and the agency. The FAA must remain in the driver’s seat when it comes to certification, and employees. Safety, not business decisions, should lead the way. FAA management should stand behind its frontline technical staff, and not cave to external pressure.

Sincerely,



Maria Cantwell
Ranking Member

CC: Stephen Dickson, Administrator, Federal Aviation Administration