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# **PROFESSIONAL AVIATION SAFETY SPECIALISTS**

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

**ON  
REAUTHORIZATION OF THE FEDERAL AVIATION  
ADMINISTRATION (FAA): PERSPECTIVES OF AVIATION  
STAKEHOLDERS**

**MAY 13, 2009**

Chairman Dorgan, Senator DeMint and members of the subcommittee, thank you for inviting PASS to testify today on the reauthorization of the Federal Aviation Administration (FAA). The Professional Aviation Safety Specialists, AFL-CIO (PASS) represents approximately 11,000 Federal Aviation Administration (FAA) employees in five bargaining units throughout the United States and in several foreign locations. The largest PASS bargaining unit is the Air Traffic Organization Technical Operations unit, consisting of technical employees (systems specialists, electronics technicians and computer specialists) who install, maintain, repair and certify the radar, navigation, communication automation and environmental systems making up the air traffic control system. The Flight Standards and Manufacturing Inspector units consist primarily of aviation safety inspectors responsible for inspecting every aspect of the commercial and general aviation industries. Additionally, PASS represents flight inspection pilots, procedures development specialists and airborne technicians in Aviation System Standards, examiners in the FAA's Civil Aviation Registry, and support staff.

Reauthorization of the FAA is essential to ensuring that the agency has the ability to provide proper oversight of the aviation industry and guarantee the safe modernization of the air traffic control system. PASS appreciates the opportunity to present our views on issues vital to aviation safety, including technician and inspector staffing, FAA operation and modernization, and safety oversight. In addition, PASS is hopeful that FAA reauthorization legislation will assist in improving labor-management relations at the FAA by repairing the contract negotiations impasse process within the agency, which will help improve productivity and ensure that the FAA has the very best men and women working together to protect the safety of our aviation system.

## **Contract Negotiations**

Over the past several years, labor-management relations within the FAA have been largely dysfunctional. By taking advantage of ambiguities in the current law covering FAA labor negotiations, the FAA has steadfastly refused to bargain in good faith with PASS and other FAA unions. This has resulted in low employee morale, stressful working conditions and overwhelming tension between labor and management—all of which impact the productivity of FAA employees and the efficiency of the aviation system. Ensuring a fair contract negotiations process at the FAA is of utmost importance to PASS and all unions representing FAA employees.

It was recently announced that the Obama administration will appoint a team of mediators to assist in resolving the contract dispute between the FAA and the National Air Traffic Controllers Association (NATCA). PASS supports these efforts and is encouraged to see NATCA and the FAA returning to the bargaining table. However, this turn of events does not change the fact that the contract negotiations process at the FAA remains broken. The goodwill of the current administration is permitting the FAA and NATCA to meet again in an attempt to resolve their dispute, but FAA unions still have no legal means of resolving bargaining disputes. Legislative language is needed to ensure that FAA employees who have chosen to be represented by a union have the same basic right as every other union member in our country—the right to real collective bargaining.

The status of contract negotiations between PASS and the FAA highlights the need to fix the contract negotiations process at the FAA. Contract negotiations are at impasse with four of PASS's five bargaining units, representing approximately 4,000 employees in the Flight Standards, Aviation System Standards, Aviation Registry and Manufacturing Inspector District Office bargaining units. Negotiations over new contracts for these employees have been at impasse for *over six years*. In PASS's largest bargaining unit, Technical Operations, the FAA showed little interest in reaching a mutual agreement with PASS. As a result, when the agency's final proposal was submitted for a vote, 98 percent of respondents rejected it. It is unclear when the negotiations process will begin again due to pending legal proceedings initiated and unnecessarily prolonged by the FAA.

It is obvious that legislative language is needed in order to correct the contract negotiations process at the FAA. PASS supports including language in the FAA reauthorization legislation clarifying that the Federal Service Impasses Panel has jurisdiction over the FAA and that binding arbitration before an impartial board of arbitrators is the appropriate method of resolving bargaining impasses such as those currently facing PASS and other FAA unions.

## **ATO Technical Operations**

### ***Staffing and Training***

The largest PASS bargaining unit is the Air Traffic Organization (ATO) Technical Operations unit, consisting of employees who install, maintain, repair and certify the radar, navigation, environmental, automation and communication systems making up the air traffic control system. PASS believes that insufficient technical staffing continues to be a major problem at numerous facilities throughout the country, and an increasing attrition rate among the most experienced technical personnel in these safety-sensitive positions is worsening the critical staffing crisis. For the vast majority of time over the past several years, the FAA has been below its required minimum safe number of 6,100 technical employees. In fact, some facilities are staffed at less than half of what the facility's workload generates. The technical workforce understaffing is further exacerbated by the agency's inability and unwillingness to accurately determine the right number of employees and job skills needed to safely and efficiently maintain the National Airspace System (NAS). Currently, the FAA does not have a staffing standard or model that can accurately determine the number of FAA technicians needed and the training required to maintain its current system while also introducing new technology, systems and equipment as the FAA transitions to the Next Generation Air Transportation System (NextGen).

It is widely acknowledged that the FAA must continue to maintain existing systems as it transitions to NextGen; yet, the agency is failing to do so. In a recent report, the Government Accountability Office (GAO) noted that "more and longer unscheduled outages of existing ATC equipment and ancillary support systems indicate more frequent system failures."<sup>1</sup> In fact, in a 2007 report, the GAO focused on the duration of unscheduled outages, citing an increase from an average of 21 hours in 2001 to about 40 hours in 2006 as a potential sign that "maintenance and

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<sup>1</sup> Government Accountability Office, *FAA Reauthorization Issues are Critical to System Transformation and Operations*, GAO-09-377T (Washington, D.C.: February 11, 2009), p. 1.

troubleshooting activities are requiring more effort and longer periods of time.”<sup>2</sup> PASS believes these numbers reflect both a shortage of staffing and are the result of changes to the FAA’s maintenance philosophy. When multiple systems require maintenance, insufficient staffing forces the agency to allow some outages to go unanswered until a technician is available. Additionally, the FAA’s shift from a proactive maintenance approach to a “fix on fail” scheme degrades the agency’s ability to respond to system failures. In the past, FAA technicians performed preventive maintenance and periodic certification of systems and equipment, which allowed them to find potential problems before they became actual outages. This not only kept systems in much better working order, but it also ensured a high level of technical proficiency for the FAA workforce. More and more, FAA technicians are seeing their proficiency reduced at the same time that failures are becoming increasingly compounded and severe due to the FAA’s abandonment of its proactive, preventive maintenance approach. With no changes by the FAA, these problems will continue to grow, resulting in an unacceptable increase in failures in the future. The GAO has emphasized that it will be critical for the FAA to ensure the safety and efficiency of the legacy ATC systems and recommended implementing a “robust preventive and regular maintenance strategy and to support the skilled personnel that will be required to implement the strategy.”<sup>3</sup>

PASS is aware that a continued debate over the number of employees that the FAA needs to maintain the NAS safely and efficiently diverts attention away from more critical issues that must be addressed as the agency moves forward. For that reason, PASS is strongly in favor of requiring the FAA to develop and use a staffing model that takes into account the agency’s current and future needs with regard to technical staffing. Establishing and implementing such a model would ensure that the FAA’s request for technical staffing and training is based on the agency’s actual needs rather than budgetary goals set by the Office of Management Budget.

PASS requests that language be included in the FAA reauthorization legislation directing the National Academy of Sciences to examine the staffing needs of the technical workforce and the GAO to conduct a study of technical training. In today’s changing aviation environment, it is critical that there is a staffing standard in place for the FAA technical workforce and that the FAA is required to abide by that standard to help ensure that it has an adequate number of professionally trained technical employees to maintain both the current and future air traffic control system.

### ***Involvement in FAA Modernization***

In the past, PASS was actively involved in many of the FAA’s efforts to develop and modernize the NAS. The input provided by PASS bargaining unit members was invaluable, resulting in safer systems, smoother deployment and less cost. Despite the obvious benefits of involving the employees who use and operate the systems in the development of those systems, about six years ago, the FAA abruptly eliminated PASS’s participation. As the FAA continues to modernize the

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<sup>2</sup> Government Accountability Office, *Next Generation Air Transportation System: Progress and Challenges in Planning and Implementing the Transformation of the National Airspace System*, GAO-07-649T (Washington, D.C.: March 22, 2007), pp. 10 – 11.

<sup>3</sup> Government Accountability Office, *FAA Reauthorization Issues are Critical to System Transformation and Operations*, GAO-09-377T (Washington, D.C.: February 11, 2009), p. 2.

system, it is critical that the men and women responsible for maintaining, certifying and protecting this country's aviation system be meaningfully involved at every point in the process.

Implementation of additional NextGen systems must include stakeholder participation—especially FAA technicians who are extremely knowledgeable of every aspect of the NAS and how each system affects every other system. At a 2008 hearing before the House Committee on Science and Technology, the GAO emphasized the importance of involving FAA stakeholders, such as FAA technicians, in the implementation of any new project, stressing that stakeholders will play a key role in implementing NextGen. The GAO specifically stated that FAA technicians are not playing a large enough role. “Although air traffic controllers and technicians will be responsible for a major part of the installation, operations, and maintenance of the systems that NextGen will comprise, our work has shown that these stakeholders have not fully participated in the development of NextGen. Insufficient participation on the part of these employees could delay the certification and integration of new systems and result in increased costs, as we have seen in previous ATC [air traffic control] modernization efforts.”<sup>4</sup>

PASS acknowledges that the FAA's decision to halt the collaborative efforts with its unions regarding FAA modernization was a direct result of the agency's unfortunate labor-relations policy under the previous administration. While PASS has once again started to become involved in modernization projects, the process presently relies on the goodwill of the administration rather than common sense and historical fact, making it essential that language be included in the FAA reauthorization legislation requiring the FAA to collaborate with its unions in the planning, development and deployment of air traffic control modernization projects. This will ensure the safe and efficient modernization of the system.

### ***Consolidation and Realignment of FAA Facilities***

PASS has serious reservations regarding the FAA's consolidation and realignment of facilities and believes that it is imperative that all stakeholders are involved in order to ensure the safety of the system. The GAO has expressed concern with the FAA's process, stating that “any such consolidations must be handled through a process that solicits and considers stakeholder input throughout, and fully considers the safety implications of any proposed facility closures or consolidations.”<sup>5</sup>

While the FAA emphasizes the money-saving aspects of consolidation, all aspects of the process and impacts of any actions must be considered prior to making a decision. For instance, in some cases, the consolidation of a facility does not necessarily mean the consolidation or relocation of the associated work. In these instances, consolidation may mean only increasing the distance between employees and the work as equipment and systems are maintained by employees located at other facilities. Furthermore, the understaffing of the technical workforce makes this

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<sup>4</sup> Government Accountability Office, *Next Generation Air Transportation System: Status of Key Issues Associated with the Transition to NextGen*, GAO-08-1154T (Washington, D.C.: September 11, 2008), p. 7.

<sup>5</sup> Government Accountability Office, *Next Generation Air Transportation System: Progress and Challenges in Planning and Implementing the Transformation of the National Airspace System*, GAO-07-649T (Washington, D.C.: March 22, 2007), p. 12.

situation even more dangerous and a lack of proper staffing at consolidated facilities would place even more stress on the aviation system.

Clearly, FAA technicians represented by PASS would have a unique view into the impact of any closures or consolidations. In order to preserve a primary focus on safety, it is imperative that stakeholders are involved in every aspect of the consolidation process. PASS supports including language in the FAA reauthorization legislation putting forth a process where stakeholders, including PASS, are involved with any decisions related to the closing or consolidating of FAA facilities and that safety of the aviation system is always the primary goal.

## **Privatization**

### ***Elimination of Certification***

Certification is the process in which a certified FAA technician checks and tests systems or pieces of equipment on a periodic basis in order to ensure that they can safely remain in or be returned to service and not negatively impact any aspect of the NAS. The FAA's certification process has been successful for decades and is a key element in maintaining the safest and most efficient air transportation system in the world.

Despite the success of its certification program, the agency is making radical changes to its policy that PASS and the FAA technicians it represents believe will impact the safety of our aviation system. For years, the criteria established by FAA policy for determining which NAS systems and services require certification stated, "NAS systems, subsystems, and services directly affecting the flying public shall be certified."<sup>6</sup> However, in a drastic change, effective September 28, 2007, the agency changed its policy to read, "*FAA owned* NAS systems, subsystems, and services directly affecting the flying public shall be certified" (emphasis added).<sup>7</sup> In other words, the FAA has not only changed its criteria to allow systems and services to be deployed without requiring certification, it has changed the policy to actually *prevent* certification of systems it does not own.

Curiously, the criteria used by the FAA to determine which NAS systems, subsystems and services must be certified remains the same. Certification is required if the system or service meets any one of the following criteria:

- (1) Provide moment-by-moment positional information to pilots or air traffic control operations personnel during aircraft operations.
- (2) Provide necessary communication or communication control among pilots and air traffic control operations personnel during the above aircraft operations.
- (3) Provide decision support information that directly affects aircraft heading, altitude, routing, control, or conflict awareness.

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<sup>6</sup> FAA Order 6000.15D – *General Maintenance Handbook for National Airspace System (NAS) Facilities*, dated July 23, 2004.

<sup>7</sup> FAA Order 6000.15E – *General Maintenance Handbook for National Airspace System (NAS) Facilities*, dated September 28, 2007.

(4) Provide essential meteorological information for takeoff and landing aircraft at airports.

(5) Provide short term, long term, continuous, and conditioned power to NAS systems requiring certification located at a Service Delivery Point (SDP).<sup>8</sup>

The FAA recognizes that its certification criteria are valid; it simply precludes its use on systems or services that it privatizes.

The biggest obstacle the FAA has traditionally faced when wanting to outsource portions of the NAS has been its certification program. When systems require certification, technicians must be trained to a sufficient level in order to be able to judge whether a system is functioning as intended. If the agency must train its technicians, it makes no sense to pay a vendor to perform maintenance. Although certification was intended to provide an absolute safety net for NAS operations, many in the FAA's acquisition workforce, as well as most senior FAA officials, merely view certification as something preventing large-scale privatization of the NAS.

By altering its policy to specify that only *FAA owned* systems, subsystems and services shall be certified, the FAA abandons its ability to provide the highest level of safety oversight to the flying American public. In fact, this change goes against the very definition of certification contained in FAA Order 6000.15:

Certification is a quality control method used by the ATO to ensure NAS facilities are providing their advertised service. The ATO employee's independent discretionary judgment about the provision of advertised services, the need to separate profit motivations from operational decisions, and the desire to minimize liability, make the regulatory function of certification and oversight of the NAS an inherently governmental function.<sup>9</sup>

PASS believes this drastic change to the certification program is an extremely risky endeavor with the potential to threaten the safety of NAS modernization. For instance, the Automatic Dependent Surveillance–Broadcast (ADS-B) is a digital alternative to radar that allows aircraft to transmit their exact position, direction of flight and speed to ground stations and other aircraft. The system has been deemed “the future of air traffic control”<sup>10</sup> by the FAA and is expected to be the basis of NextGen. However, since the FAA will not own the ADS-B hardware, software or infrastructure, the system will not be certified by FAA employees. Instead, the FAA will entrust responsibility for the safe operation of ADS-B entirely to private contractors. The Department of Transportation Inspector General (IG) has expressed concern that as a result the FAA “could find itself in a situation where it knows very little about the system that is expected to be the foundation of NextGen” and encouraged the agency to “take steps to ensure it effectively addresses this risk.”<sup>11</sup> It must be emphasized that this interpretation of the agency's

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<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Federal Aviation Administration, “Fact Sheet: Automatic Dependent Surveillance–Broadcast (ADS-B),” June 21, 2007.

<sup>11</sup> Department of Transportation Inspector General, *Challenges Facing the Implementation of FAA's Automatic Dependent Surveillance–Broadcast Program*, CC-2007-100 (Washington, D.C.: October 17, 2007), pp. 2–3.

certification criteria would apply not only to ADS-B but also to any system that is not owned by the FAA.

While the FAA transitions to NextGen, it is critical that new and current systems are properly maintained and certified and that products and systems owned by a third party are held to the same certification standards as FAA systems and equipment. As such, PASS proposes that language be added to the FAA reauthorization legislation making it clear that the FAA will make no distinction between public or privately owned equipment, systems or services used in the NAS when determining certification requirements.

### ***Airport Takeover of Navigation Facilities***

Under the previous administration, there was an effort to establish a pilot program for airport takeover of air navigation facilities that would allow the FAA to permit public or private sponsors to assume ownership and responsibility for maintenance and operations of runway lighting, navigational aid systems (navaids) and weather equipment. PASS is extremely concerned with this pilot program or any similar program that would allow these public or private sponsors to maintain and operate systems and equipment currently the responsibility of FAA employees. Consider the following:

- Although the FAA claims that ownership and responsibility for maintenance and operations of navaids and weather equipment is currently split between the FAA and the airport, in reality, the vast majority of airports rely on highly skilled FAA technicians to maintain and operate the systems and equipment.
- FAA technicians are specifically trained to address the intricate details of this work and should be the only people trusted with this responsibility.
- If the airport authority was unsuccessful in its attempt to assume or continue responsibility for airport maintenance and operations, including lack of funding or the ability to find quality staff, the FAA would be unable to resume those duties, leaving the airport's viability at risk.

As one of the largest and most intricate networks in the world, the NAS cannot be safely divided into individual components, just as the work of those responsible for maintaining it cannot be contracted out as independent functions. PASS believes that this pilot program is aimed at privatizing aspects of the NAS, which would only succeed in threatening the safety of this country's aviation system. As such, PASS believes that the FAA should not be permitted to launch a pilot program aimed at allowing airport takeover of air navigation facilities.

### **Aviation System Standards (AVN)**

Flight procedures and flight inspection employees in Aviation System Standards (AVN) are charged with developing, evaluating, certifying by flight inspection and maintaining the 18,000 instrument flight landing and takeoff procedures for every major and municipal instrument-capable airport across the country. The development, flight inspection and maintenance of flight procedures involves strict compliance with a complex series of computations, measurements and modeling standards.

Current administration regulations and directives provide for third-party development of special-use operational and approach procedures. These special-use procedures, which can also be labeled non-public, are not fully integrated into the NAS. However, in the last year, the FAA has started contracting out the development of public use procedures, specifically Required Navigation Performance (RNP) approach procedures at Bradley International, Windsor Locks, Connecticut, and Savannah/Hilton Head International, Savannah, Georgia. The development, evaluation, certification and maintenance of public-use RNP procedures and all other public-use procedures have always been performed and fully integrated into the NAS by highly trained and skilled professionals in AVN who have never missed a performance or production goal set forth by the FAA. PASS believes this safety-critical work to be inherently governmental.

In the past, there has been a move to accelerate through outsourcing the development and implementation of RNP procedures, which PASS has criticized since it allowed for third-party performance of safety-critical work. Recently, the FAA has stated that it does not see the need to implement an acceleration of the development of RNP procedures and revealed that the FAA has the production capacity to meet existing implementation demand by reallocating resources to meet production goals. Furthermore, the FAA stated that expanding the authority for use of third parties does not necessarily result in an increased ability to implement RNP or any other Performance-Based Navigation procedures. As such, PASS believes that language to increase the number of RNP procedures and to expand the contracting out of this inherently governmental work should not be included in the FAA reauthorization legislation.

## **Aviation Safety**

### ***Inspector Staffing***

PASS represents approximately 3,100 Flight Standards field aviation safety inspectors and 150 Manufacturing Inspection District Office aviation safety inspectors who are responsible for certification, education, oversight, surveillance and enforcement of the entire aviation system. PASS is extremely concerned about staffing of the FAA inspector workforce. Inspector staffing levels are not adequate to meet growing industry demands and ensure the safety of the aviation system, and nearly half of FAA inspectors are eligible to retire over the next several years. Insufficient inspector staffing combined with the evolving aviation industry places an incredible workload on the inspector workforce, which has already resulted in missed or cancelled inspections due to lack of staffing. 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), the increasing number of aviation manufacturers 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.

Without a doubt, the state of the inspector workforce must be closely monitored as the aviation industry continues to evolve. PASS supports including language in the FAA reauthorization legislation directing the FAA to increase the number of inspectors and support staff and authorizing specific funding to increase safety-critical staffing. Furthermore, PASS suggests

adding language specifically directing the FAA to increase staffing according to the results of the development of the inspector staffing model.

### ***Aviation Safety Oversight***

Following last year's Southwest incident, the results of an audit released by the IG and information revealed during hearings before Congress, there was an increased focus on improving and increasing FAA safety oversight. PASS believes language should be included in this year's FAA reauthorization bill in order to ensure proper and safe oversight of the aviation industry. Specifically, PASS believes the following elements should be included in the legislation:

**Modification of Customer Service Initiative (CSI):** The advertised intent of the CSI was to allow certificate holders to request reconsideration of a decision made by an aviation safety inspector. Within this document as well as other statements of policy, the FAA refers to air carriers or other entities regulated by the agency as "customers." In PASS's view, the FAA should be focused on protecting aviation safety and treating the flying public as the most important customer. Therefore, PASS suggests including language in the FAA reauthorization bill modifying the CSI program in order to make clear that the flying public are the customers. In addition, PASS requests that language be added to establish a workgroup, which includes the exclusive collective bargaining representative of aviation safety inspectors, to review the CSI and make any necessary changes in order to ensure that it is being used appropriately.

**Post-Employment Restrictions for Flight Standards Inspectors:** PASS fully supports the establishment of a two-year cooling-off period for FAA inspectors or persons responsible for FAA inspectors before that individual can act as an agent or representative before the FAA of a certificate holder that they oversaw during their service with the FAA. In other lines of business, it has been proven that this type of respite is useful in preventing the formation of questionable relationships that favor one party over another. With regard to the FAA, these types of relationships can have a critical impact on the safety of the aviation system. As such, PASS believes including this directive in the FAA reauthorization bill would greatly benefit the oversight process.

**Assignment of Principal Supervisory Inspectors:** Principal supervisory inspectors directly interact with the air carrier and have the ability to assign work to aviation safety inspectors and the ultimate authority to make safety-critical decisions. It has been shown that the development of overly "cozy" relationships between the FAA and airlines can result in a breakdown of safety oversight. In fact, in its report, the IG specifically stated that supervisory inspectors should be rotated to ensure reliable air carrier oversight.<sup>12</sup> PASS believes language should be included in the FAA reauthorization legislation that would require the FAA to rotate supervisory principal inspectors between FAA air carrier oversight offices every five years.

**Headquarters Review of Air Transportation Oversight System (ATOS):** ATOS was developed in 1998 as a "system safety" approach to oversight of the air carrier industry aimed at

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<sup>12</sup> Department of Transportation Inspector General, *Review of FAA's Safety Oversight of Airlines and Use of Regulatory Partnership Programs*, AV-2008-057 (Washington, D.C.: June 30, 2008), p. 5.

ensuring airlines comply with FAA safety requirements to control risk and prevent accidents. 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. PASS believes that including language in the FAA reauthorization legislation implementing monthly reviews of the database by a team of employees will enhance the quality of statistical information generated and the overall use of the system. In addition, PASS supports the inclusion of language ensuring that the exclusive bargaining representative of aviation safety inspectors is a member of any such review team.

**Improved Voluntary Disclosure Reporting System:** 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. According to the FAA, this policy is intended to encourage compliance with FAA regulations; however, in order for the VDRP to operate successfully, several steps must be rigorously enforced by the FAA. The Southwest incident and other examinations into the process have revealed serious flaws within the system. In order to improve the VDRP system, PASS believes language should be included in the FAA reauthorization bill requiring a supervisor to review and approve all voluntary self-disclosures received by air carriers following the initial inspector paper review. In addition, PASS suggests Certificate Management Offices be required to report quarterly findings to their respective regional division managers. PASS also believes language should be included to clarify that during the verification and evaluation of the report, it is confirmed that the violation has not been previously reported by an inspector or self-disclosed by the carrier.

**National Review Team:** PASS supports the inclusion of language in the FAA reauthorization bill establishing a National Review Team that will report directly to the associate administrator for aviation safety and will be comprised of air carrier principal inspectors who will perform periodic and unannounced audits of air carrier operations, maintenance practices and procedures to evaluate air carrier oversight.

### ***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.<sup>13</sup> 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.”<sup>14</sup> 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 safety-critical 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 safety-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. PASS is in full support of including language in the FAA reauthorization language requiring that within three years all air carrier maintenance work (substantial, regularly scheduled or required inspection items) only be performed by an FAA-certificated repair station.

### ***Oversight of Foreign Repair Stations***

FAA aviation safety inspectors responsible for overseeing the certification and recertification of the work performed at foreign repair stations have concerns regarding the oversight of these facilities. Whereas much of this maintenance work was once done at the air carrier’s facility, according to the IG, major air carriers outsourced an average of 64 percent of their maintenance expenses in 2007, compared to 37 percent in 1996.<sup>15</sup> For the most recent report, the IG reviewed nine major air carriers. These carriers sent 71 percent of their heavy airframe maintenance checks—including performing complete teardowns of aircraft—to repair stations in 2007, up from 34 percent in 2003. Foreign repair stations performed 27 percent of outsourced heavy maintenance checks for these nine air carriers in 2007, up from 21 percent in 2003.<sup>16</sup>

FAA inspectors at international field offices are charged with certifying foreign repair stations and then recertifying them approximately every two years. In addition, FAA inspectors at certificate management offices in this country provide oversight of the maintenance work performed on their assigned air carriers at FAA-certificated foreign repair stations. However,

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<sup>13</sup> 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.

<sup>14</sup> 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.

<sup>15</sup> Department of Transportation Inspector General, *Air Carriers’ Outsourcing of Aircraft Maintenance*, AV-2008-090 (Washington, D.C.: September 30, 2008), p. 1.

<sup>16</sup> *Id.*

with the increasing amount of work being performed at FAA-certificated foreign repair stations, inspectors have expressed concern that safety issues are not being addressed. In order to ensure the safety of the work performed on U.S. aircraft at foreign repair stations, it is critical that FAA inspectors be permitted to physically inspect foreign repair stations at least twice a year.

PASS is aware of an agreement entered into by the United States and the European Community, which has raised concerns regarding the safety oversight of work performed at foreign repair stations by eliminating the role of the FAA inspector to certify and recertify FAA-certificated foreign repair stations. PASS believes that the agreement makes it even more imperative that language be included in the FAA reauthorization legislation allowing FAA inspectors to inspect FAA-certificated foreign repair stations at least twice a year. It is important to note that there is no language contained in the agreement that would prohibit the inspection of all FAA-certificated foreign repair stations at least twice a year by an FAA inspector. In fact, Article 15 of the agreement specifically states that nothing in the agreement shall limit the authority of a party to “determine, through its legislative, regulatory and administrative measures, the level of protection it considers appropriate for civil aviation safety.” Therefore, allowing these two FAA inspections would not in any way impact the terms of the agreement between the United States and the European Community.

The FAA should not have to rely entirely on data submitted by a foreign aviation authority but should be permitted the opportunity to validate the accuracy of such data through FAA inspections of the foreign repair stations. This is especially important when it has been revealed that information provided to the FAA by foreign entities is often found to be incomplete. In fact, according to the IG, foreign authorities do not always provide the FAA with sufficient information on what was inspected and the problems discovered. The IG revealed that inspection documents given to the FAA were found to be incomplete or incomprehensible in 14 out of 16 files (88 percent) examined by the IG. The IG even stated that at least one foreign authority representative said that “they did not feel it was necessary to review FAA-specific requirements when conducting repair inspections.”<sup>17</sup> The questions surrounding the information provided by foreign aviation authorities make it critical that FAA inspectors be permitted to inspect foreign repair stations at least twice per year.

There is also considerable concern over the regulations governing foreign repair stations. For example, as opposed to domestic airline or repair station employees, workers at foreign repair stations are not required to pass drug and alcohol tests. In addition, criminal background checks are not required at foreign repair stations. There also continues to be major concerns regarding security at these facilities, with many of the foreign repair stations lacking any security standards as opposed to those in this country. Domestic repair stations are also required to have at least one FAA-certificated individual at the facility in order to approve an airplane or part for return to service, while this is not a requirement at foreign repair stations.<sup>18</sup> If a foreign repair station wants to perform maintenance 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.

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<sup>17</sup> Department of Transportation Inspector General, *Review of Air Carriers' Use of Aircraft Repair Stations*, AV-2003-047 (Washington, D.C.: July 8, 2003), p. v.

<sup>18</sup> U.S. Code of Federal Regulations, Section 145.157.

Inspectors represented by PASS inform the union that they continue to find safety issues at both domestic and foreign repair stations. The difference, however, is that FAA inspectors are visiting domestic repair stations on a regular basis, which allows them to address issues in a timely manner. Furthermore, inspectors are even able to make unannounced visits to domestic repair stations. In order to ensure that the work performed at foreign repair stations meets FAA and air carrier standards, PASS believes that all FAA-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. Requiring two inspections of FAA-certificated foreign repair stations working on U.S. aircraft should be the minimum standard for this country to protect the work being performed by foreign repair stations. The union supports including such language in the FAA reauthorization legislation.

## **Conclusion**

The work of the highly trained and skilled employees represented by PASS is essential to protecting aviation safety and fulfilling the agency's mission. PASS and the bargaining unit employees we represent are hopeful that this committee will enact significant legislation that will promote positive labor-management relations, protect the work performed by FAA employees and ensure that safety of the aviation system is always the top priority.