

STATEMENT OF
THE HONORABLE JAMES L. OBERSTAR
OVERSIGHT AND INVESTIGATIONS HEARING ON
“CRITICAL LAPSES IN FAA SAFETY OVERSIGHT OF AIRLINES: ABUSES OF REGULATORY
‘PARTNERSHIP PROGRAMS’”
APRIL 3, 2008

Today’s hearing continues the Oversight and Investigations heritage of this Committee, established by my predecessor, Congressman John Blatnik, when he was appointed by Speaker Sam Rayburn in 1959 to head the Select Subcommittee on Investigation of the Federal-Aid Highway Program.

I myself continued this legacy as Chairman of the Subcommittee on Investigations and Oversight from 1985 through 1989, and as Chairman of the Subcommittee on Aviation from 1989 through 1995.

Aviation issues have been a major focus of this Committee’s oversight activities. Nearly one-half of the hearings I conducted as Chairman of the Investigations and Oversight Subcommittee dealt with aviation and aviation safety. One of the first hearings I chaired reviewed the case of the 1985 Galaxy Airlines crash, in which 93 people died. Other hearings looked at near mid-air collisions, and understaffing problems at air traffic control facilities. Our Subcommittee heard from whistleblowers— controllers, flight attendants, mechanics, pilots, and others— many of whom risked their jobs and livelihoods to tell their stories.

Those sources dried up during the next 12 years, as whistleblowers realized that little or nothing would come of their intervention, especially during the time of one-party rule in Washington.

When I won the Chairmanship of this Committee, I made it abundantly clear that vigorous and thorough oversight would once again be a primary activity of the Committee. And the whistleblowers have responded. Over the last 15 months, this Committee and its Subcommittees have engaged in several major investigations, including the Coast Guard's Deepwater program, rail safety, pilot medical records, and now, this aviation maintenance exposé.

Today's hearing continues this long history of in-depth investigations of the administration of the transportation and infrastructure programs we authorize. Many of these investigations have focused on whether the Executive Branch is adequately protecting the safety of those who work on transportation systems or use them.

We will again hear from whistleblowers, dedicated professionals who want to make air travel safer, and are willing to risk what is necessary to do so. They will present testimony that Southwest Airlines, with FAA complicity, allowed at least 117 of its aircraft to fly with passengers in violation of Federal Aviation

Regulations. The documents they presented to our Committee triggered an investigation that turned up the most serious lapse in safety I have been aware of at the FAA in the past 23 years

I fear that complacency may have set in at the highest levels of FAA management, reflecting a pendulum swing away from vigorous enforcement of compliance, toward a carrier-favorable, cozy relationship.

Meanwhile, more and more airline maintenance is being outsourced with less FAA and airline involvement, much of it to foreign repair stations.

I fully agree that it is impossible for FAA to hire enough inspectors to oversee every single, minute aspect of regulatory compliance given the size of the US commercial air fleet. FAA has about 3000 inspectors overseeing airline compliance, and I doubt even 50,000 would be enough to inspect every plane flying— this is a complicated and highly technical business. Therefore I believe that “partnership programs” with the airlines are a good thing, IF they are conducted under strict guidelines.

The Committee’s investigation uncovered a pattern of regulatory abuse and widespread regulatory lapses that allowed 117 aircraft to be operated in commercial

service despite being OUT OF COMPLIANCE with Airworthiness Directives and other mandatory inspections...so that Southwest could conveniently schedule them for inspection without disrupting their commercial schedule.

These overflight violations occurred after Southwest had self-disclosed to the FAA that it had discovered that these planes were not in compliance. The Southwest disclosure claimed that the violations ceased upon the date of disclosure, and by Federal law these aircraft should have been grounded until they were in compliance, but they continued to fly, with full knowledge of the FAA supervisor for maintenance at Southwest.

47 B-737 aircraft continued in service without a fuselage crack check required every 4,500 cycles after the aircraft reaches 35,000 cycles. The check is required because an Aloha Airlines jet lost an 18-foot section of its upper fuselage due to metal fatigue in 1988. One person died, seven more were injured.

The 47 aircraft conducted 1,451 flights, carrying an estimated 200,000 passengers.

These were just the flights that occurred after Southwest disclosed them, but they were actually out of compliance for nearly 30 months and according to FAA's

civil penalty letter sent to Southwest, they actually flew nearly 60,000 flights out of compliance.

The other 70 aircraft that did not receive rudder inspections were out of compliance for at least a year, and they also continued to fly past the Southwest disclosure—the number of flights is unknown, and they were not addressed in the FAA’s civil penalty announced March 6. These rudder inspections were required following two fatal accidents involving rudder malfunctions on B-737 aircraft. 25 people died in a crash involving a United Airlines 737 in 1991 at Colorado Springs, and 132 died a USAir crash at Aliquippa, Pennsylvania, in 1994.

We have reason to believe there may have been more such violations, since there is strong evidence of systemic flaws in Southwest’s Airworthiness Directive management systems. A required Airworthiness Directive Safety Attributes Inspection at Southwest, due in 2004, was not conducted until 2007, three years overdue.

This investigation, however, is not just about improper activities by one airline and one FAA supervisor in the office directly overseeing that airline. It raises serious questions about whether higher officials in FAA are carrying out their safety responsibilities for the entire industry.

Over at least a 3-year period prior to the overflights mentioned above, the Director of the Regional Flight Standards Division, which oversees the offices supervising Southwest, American, American Eagle, Continental and other operators located in that region, was sent 38 e-mails expressing concerns of inspectors that Southwest was not keeping adequate records of its compliance with airworthiness directives and required maintenance inspections. Nothing was done, and as a consequence neither Southwest nor FAA detected the airline's failure to conduct required fuselage inspections for 30 months. The inspectors raising these issues were never given the dignity of any kind of answer.

On May 3, 2007, a hotline complaint went to FAA headquarters about what had occurred at Southwest, and that the FAA supervisor of maintenance had allowed the fuselage inspection overflights. This was just a few weeks after the incidents were discovered by the whistleblowers. It remains unclear exactly when the Associate Administrator for Aviation Safety became aware of the issue, but it is likely that it was very shortly after.

There was an internal FAA headquarters investigation. It was marked "closed" on July 12 2007. However, this should have set off major alarms at the top of the agency, and led to a much broader investigation of: 1) why this had occurred at

Southwest; 2) the compliance problems going back more than 3 years; 3) whether Southwest had failed to take other required actions; and 4) whether there was a record keeping system in place to prevent these problems in the future. Most importantly, it should have alerted FAA management to the need for investigations of other FAA offices overseeing other carriers to be sure they did not show a similar pattern of abuse of regulatory partnership programs.

So far as we know, no compliance audits were undertaken by FAA at Southwest until October, 2007 when FAA learned that this committee was conducting an investigation. Most disturbing, it was not until March 13, 2008 an entire year later, that FAA finally did initiate compliance audits nationwide and did indeed learn of other problems at Southwest and at other airlines supervised by other regional offices.

There is also the question of when the FAA Administrator and Deputy Administrator were notified of these problems, and what they have done about them. We are told that when Aviation Subcommittee Chairman Jerry Costello and I sent a letter to Acting Administrator Bobby Sturgell on October 5, 2007 to request FAA records on these issues, the Acting Administrator was unaware of the matter. We also know that FAA inspectors implicated in these cases are continuing to serve as FAA inspectors.

FAA needs to rethink its relationship with the airlines and the other aviation entities which it regulates. I was shocked to learn that in its mission statement for aviation safety, FAA has a “vision” of “being responsive to our customers and accountable to the public.” This suggests that FAA regards the airlines and other companies it regulates as its “customers.” This approach is seriously misguided. The “customers” of FAA safety programs are the persons who fly on the airplanes FAA regulates. FAA’s bedrock responsibility is to ensure that these “customers” travel safely.

FAA needs to clean house, from the top down, and take corrective action. It needs to hire more inspectors, and give them a safety mission.

Congress should enact legislation to establish a long “post-service” cooling off period for FAA inspectors before they are allowed to go to work for the airlines.

I also believe that FAA should take a serious look at routinely rotating inspectors between airline oversight offices as at least a partial countermeasure to a “cozy relationship” developing between the regulators and the regulated.

Above all, FAA senior management MUST also develop a better way to monitor local airline oversight offices, to avoid another major lapse in compliance such as those at Southwest.

Reports of the shocking lapse at Southwest have sent chills through the airline industry and the regulatory offices at FAA. The airlines and the agency all scrambled to review maintenance records and bring fleets into compliance. American, United, U.S. Airways, and Delta, as well as Southwest, have all grounded planes and cancelled flights in the past four weeks due to this special review. Just yesterday, United grounded its fleet of 52 Boeing 777 widebody airliners, due to an inspection lapse.

I believe it is no mere coincidence that this audit began just after news of our investigation became public, and just prior to us holding this hearing.

Thank goodness that this is all happening BEFORE a fatal accident, which is as it should be, NOT AFTER a tragedy.

Doubtless some will argue that these compliance violations offered no serious threat to the flying public. No crash happened, no one died. But that is an irresponsible argument. It would be consistent with the “tombstone mentality” that I have been fighting in FAA and other agencies my entire career.

The fundamental reason our air transportation industry is so safe today is that we have, historically, been OBSESSIVE about compliance with the Federal Aviation Regulations. We insist on wide margins of safety. Non-compliance with these regulations erodes these margins, and makes air travel less safe.

In this hearing we will look beyond the specific violations turned up by our investigation and the FAA's recently completed safety audit. We will examine the regulatory culture that allowed these violations to occur, and seek answers as to how compliance with Federal air safety regulations can be assured in the future.

In the past, many of our hearings have led to important reforms that have enhanced transportation policy. I hope that is the case with today's hearing as well.

I look forward to the testimony of our witnesses.