

STATEMENT OF THE HONORABLE LANGHORNE M. BOND, FEDERAL AVIATION ADMINISTRATOR, BEFORE THE HOUSE PUBLIC WORKS AND TRANSPORTATION COMMITTEE, SUBCOMMITTEE ON OVERSIGHT AND REVIEW, CONCERNING COMMUTER AIRLINE SAFETY, FEBRUARY 29, 1980.

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to appear before you today on the subject of commuter airline safety. We welcome the Subcommittee's continuing interest in promoting aviation safety, and seek your views on ways that the safety record of the commuters can be improved. Improving the commuter safety record has been one of my main priorities since first taking office, and it has occupied much of my time ever since.

The commuters' safety record, though improved somewhat in the last six months or so, has not been good. Not only does it not stand up well to the record compiled by the trunk air carriers but it is not in any way comparable to the record achieved by the local service carriers which provide the kind of short-haul service most nearly like that offered by the commuters. Though it may be possible to explain away some of the differences in the safety records, and I have certainly heard a number of justifications offered, I don't think we can afford to accept those excuses. It's important that we not lose sight of one plain and simple fact-- under any set of rational guidelines,

the safety record compiled by the commuters is not acceptable. You will find attached to my prepared statement a brief statistical breakdown of that safety record.

I should mention that we recently analyzed the 180 commuter accidents which occurred from 1975 through 1978. That study showed that a clear majority - nearly 57% - of commuter accidents resulted from pilot error; such things as inadequate pre-flight planning, fuel mismanagement and the like. Roughly 21.5% of accidents were attributed to mechanical failures; almost 11% to errors of non-pilot personnel associated with areas such as maintenance, operations production-design; the remaining 11% were attributed to a variety of other factors such as weather and midair collisions. I believe you will find our commuter safety program - providing increased surveillance, more stringent operating regulations, tougher enforcement, and improved equipment - is well designed to prevent the kind of accidents we've experienced in the past.

the need to significantly improve the safety record of the commuters is brought home to us all when we look at the tremendous growth that has been experienced in the commuter industry. Much of that recent growth can be attributed to the

economic deregulation of the airline industry. But, even before the Airline Deregulation Act, the commuters were taking on increasing importance in our national air transportation system.

Recognizing the prominent role the commuters were going to play in our system, and the pressing need to do something about their safety record, one of the first issues I addressed as Administrator was to revamp the operating regulations for the commuter carriers. That effort, which I am told was the biggest regulatory undertaking in the FAA's history, resulted in a new Part 135 of the Federal Aviation Regulations. This action has bolstered significantly the rules under which the commuters operate, strengthening such areas as equipment requirements, pilot proficiency, and maintenance programs. Final certification of the commuters under these stringent requirements was completed a little less than three months ago, so it's still too early to see their full impact, but I assure you they will go far toward helping the commuters achieve a level of safety approximating that of the certificated airlines.

Issuing rules, though, is only part of the equation. They don't do a bit of good unless they're followed. For that reason, a key aspect of the implementation of these new rules

is a one-year program of intensified surveillance of all phases of the commuters' operations to see that the rules are fully complied with. During the period July 1 to December 31, 1979, for the 280 passenger-carrying commuters certificated under new Part 135, we accomplished the following actions under our surveillance program: 1775 proficiency checks of pilots-in-command; 288 reviews of ground and flight training; 1087 en route inspections; 198 reviews of operators' Approved Weight and Balance Programs; 1577 ramp inspections of aircraft; 723 spot inspections of aircraft; and 130 reviews of operators' maintenance training. These statistics take on added meaning when you consider that a number of the commuters were not certificated under the new rules until the latter part of this six month period, and thus were not covered by the special surveillance program for much of the six-month period. This kind of close scrutiny will continue for each operator for at least one full year after its certification under the new rules. There is nothing magic about the one year life of the program, though. To the contrary, the program will remain in effect until I am satisfied things are much improved.

I also determined that there was a need to do something about the design standards the aircraft operated by the commuters meet.

Our existing Part 25 certification standards didn't really fit aircraft in the commuter size range and I concluded we needed something more stringent than the Part 23 standards. Therefore, we are developing new regulations for the certification of commuter-sized aircraft. These standards will be incorporated in Part 24 of the Federal Aviation Regulations and should lay the foundation for modernizing and improving the structural and mechanical integrity of the commuter fleet of the future. In so doing, the inherent safety of the aircraft used by the commuters will be enhanced.

With respect to the equipment used by the commuters, we have already guaranteed loans of \$20.9 million for 7 commuters this year for new equipment, and have in process 11 additional commuter requests for loan guarantees totalling \$38.3 million. I should also note that I'm encouraged to see some positive movement in the manufacturing industry to develop and build new commuter sized aircraft. Fairchild, for example, has announced plans to enter into a joint venture with Saab-Scania, a Swedish firm, to design, develop, and produce a new generation commuter aircraft for 30 passengers. Beech has under development a 19 passenger commuter aircraft, referred to as the Beech 1900, which is a stretched version of the Kingair 200. Further, they've announced that they are studying the development of a 30 passenger aircraft as a next step. Gulfstream has under

development a stretched version of their turboprop Gulfstream 1 which could carry up to 30-40 passengers in commuter service. Revitalizing the commuters' aircraft fleet will be a key step in improving the overall safety of the commuters.

In addition to seeking ways to strengthen the regulations governing the commuters, I have taken action to improve the FAA's internal processes. One major action was the creation of the position of Associate Administrator for Aviation Standards which provides central direction over many of our aviation safety programs, thus offering greater coordination of safety programs than in the past. With respect to commuters, responsibility at Headquarters has been moved from the division responsible for general aviation safety to the division concerned with airline operations. This was done in recognition of the fact that the commuters are operating as scheduled airlines and all those who carry passengers in scheduled service should be treated the same.

I believe all the Members of the Subcommittee are aware of the FAA's intensified enforcement program which I announced last March. We have put the entire aviation community, including the commuters, on notice that we will not accept laxity in following safety requirements, that we will not permit the public safety to be jeopardized by those who would seek to

maximize profits at the expense of safety. We have not hesitated to impose unprecedented civil penalties on those with unacceptable safety practices, nor to suspend or revoke their operator's certificate where warranted. Those efforts will continue. I intend to foster an environment in which the people, upon whom the public safety depends, expect to be held accountable for their actions. And the only way I know to do that is to hold them accountable.

I believe that the Congress fully expects the FAA to take firm action to deal with commuter safety. That message was sent to me in the Airline Deregulation Act of 1978 which spoke in terms of ensuring that all classes of air carriers provide the highest possible level of safe, reliable air transportation. I've interpreted that legislative mandate to apply to all facets of the commuters' operations, including security requirements. Responding to that mandate, and in recognition of the increasingly prominent role of the commuters which are using larger aircraft and assuming service formerly provided by the certificated carriers, we have recently proposed new security requirements for the commuters. The proposal envisions multilevel security requirements tailored to the different types of commuter passenger operations, and is intended to achieve degrees of security comparable to what is now provided passengers using the certificated carriers. That

regulatory proposal has evoked a lot of concern, including concern from some Members of Congress. I assure you that we expect to be reasonable in promulgating any final rules in this area.

An important way in which the Members of this Subcommittee can let it be known that they support a tough enforcement posture to promote aviation safety is to seek early action on a key legislative initiative of the Department of Transportation. That legislation, which has just been transmitted to the Congress by the Secretary, does two things that will go far towards promoting an increased concern for compliance with our safety rules. First, it would increase the maximum civil penalty for a violation of the Federal Aviation Act of 1958, or regulations issued thereunder, from \$1,000 to \$25,000. The present \$1,000 level has been in effect since 1938. What used to be a severe economic deterrent has now eroded to the point where it can easily be accepted by an operator as a "cost of doing business." Second, the legislation calls for criminal sanctions for violations of title VI of the Federal Aviation Act of 1958 or regulations issued thereunder. This would have the effect of providing criminal penalties for violations of the FAA's safety regulations, thus putting them on the same footing with the CAB's economic regulations which have had the added deterrent of criminal penalties for some time now. I

think all would agree with me that we should place no less emphasis on seeking compliance with safety regulations than we do on compliance with economic regulations. In fact, I would note that it was the Department of Justice that first brought the need for such criminal penalties to our attention. They became concerned when persons committing flagrant safety violations endangering human life could only be subjected to civil penalties, while the same kinds of dangerous activities in an automobile, for example, could be prosecuted criminally.

Let me elaborate a little on this legislation. I believe it's important for the Congress to understand that the authority we are seeking to assess penalties up to \$25,000 is for what you would call the "worst case" scenarios. Under our current civil penalty scheme, providing a maximum \$1,000 penalty per violation, we typically do not impose penalties for the full amount authorized by law. In the vast majority of cases, a civil penalty of \$100 or \$200 is all that is warranted by the circumstances; in fact, in many cases we apply administrative sanctions, such as a letter of warning, rather than imposing a monetary penalty. We fully expect to continue that practice. But there arise situations in which an unscrupulous operator--I believe you're all aware of the circumstances in "Cockroach Corner"--will consciously balance the cost of complying with

our regulations with expected profits and make the choice that jeopardizes public safety. We have also found cases where air carriers have chosen to dispatch aircraft rather than making needed repairs.

At the same time as we seek increased civil penalty authority, we are proposing legislation that will make it easier and less awesome for most persons, against whom civil penalties are assessed, to challenge the FAA's actions. We are proposing in our bill that civil penalties under \$10,000 can be assessed by the FAA only after an opportunity for an informal conference. After that, the FAA's decision to seek a civil penalty can be appealed to the National Transportation Safety Board, in the same manner that certificate actions are handled today. Before the NTSB, the person against whom the civil penalty is assessed would be entitled to a full hearing by an administrative law judge. The decision of the administrative law judge could be appealed to the full Board, and thereafter to the courts of appeal. Today, civil penalty cases are tried before the U.S. district courts. It's apparent that for most a court trial is more costly and intimidating than an administrative hearing. Our proposal would change that situation, except for civil penalty actions above \$10,000 or in cases where specified,

additional circumstances are present such as the need to seek injunctive relief at the same time.

I'd like to discuss for a moment the criminal sanctions we are seeking. As I said before, these criminal sanctions would attach to violations of our safety regulations or the safety provisions in title VI of the Federal Aviation Act. The criminal sanctions would consist of a fine not to exceed \$25,000 or imprisonment not to exceed one year, or both. These criminal sanctions would apply only to those persons who are proven to have "knowingly and willfully" committed a violation. Frankly, as in the case of most criminal statutes, though, I expect it would be the exception that someone would be prosecuted under this new authority. But the possibility of a criminal penalty should give people pause, and should provide us with an added deterrent to complement the increased civil penalty authority. One kind of case that comes to mind where this penalty could effectively be applied is against those persons who manufacture and distribute "bogus" parts for aircraft.

Again, I want to emphasize that our legislative proposal is intended to meet the worst case situations that arise. No doubt there will be many in the aviation community who will

express their serious concerns about the legislation before you; but for the overwhelming majority of them there will be no change from the way they interact with the FAA today, except that they will be provided a simplified means of contesting civil penalties which may be assessed against them by the FAA. Thus, the legislation, rather than being detrimental to the aviation community at large, should prove beneficial. I can assure you that its enactment would prove beneficial to the safety of the travelling public.

In summary, Mr. Chairman, I want to again express my appreciation to the Subcommittee for calling this hearing to focus attention on the safety of the commuters. Commuter safety is a problem which merits our concentrated attention. The FAA has taken so far a number of positive steps to improve the safety record of the commuters, and we will continue to take whatever action is warranted. On that point, I should mention that, when a recent examination of commuter accidents revealed situations in which pilots had limited experience in the specific kinds of aircraft flown at the time of the accident, I promptly issued a rule to take effect without comment and public procedure to correct that deficiency. You have my assurance we will continue to take such decisive action to protect the public welfare.

We seek your continued support in working with the FAA not only to better the record of the commuters but to improve all facets of aviation safety.

Mr. Chairman, that completes my prepared statement. My associates and I would be pleased to respond to questions you may have at this time.