

STATEMENT OF JONATHAN HOWE, DEPUTY DIRECTOR, NORTHWEST REGION,
FEDERAL AVIATION ADMINISTRATION, BEFORE THE HOUSE GOVERNMENT
OPERATIONS COMMITTEE, SUBCOMMITTEE ON GOVERNMENT ACTIVITIES AND
TRANSPORTATION, CONCERNING THE RELATIONSHIP BETWEEN FAA AND
OSHA. AUGUST 16, 1980.

Mr. Chairman and Members of the Subcommittee:

You have asked me to appear before you today to discuss the relationship between the FAA and OSHA in fostering worker safety and health in the aviation work environment. As you know, until recently I served as Deputy Chief Counsel for the FAA, in which capacity I was involved in a variety of matters concerning the respective jurisdictions of FAA and OSHA.

Since the enactment of the Occupational Safety and Health Act in 1970, jurisdictional issues between OSHA and FAA have inevitably arisen over the application of Section 4(b)(1) of the Act which states, in pertinent part, that the Act does not apply "to working conditions of employees with respect to which other Federal agencies . . . exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health."

Because of the FAA's air safety mission and the pervasive regulatory scheme we have in place concerning aircraft design and operations, we have asserted full jurisdiction over health and safety requirements of aircraft in flight. In furtherance

of those obligations over the years, we have promulgated a variety of OSHA-type regulations, among which are regulations concerning ventilation, carbon monoxide levels, ozone exposure, and crewmember safety provisions concerning lower deck galleys, alarms, signs, elevators, interphones, and escape routes. We will continue to promulgate such regulations as needs are identified. Though we assert regulatory jurisdiction over aircraft in flight, that does not mean we will ignore the expertise which OSHA has concerning worker health and safety. To the contrary, where OSHA has prescribed safe exposure levels for such things as ozone, we intend to continue to rely upon their expertise.

As far as aircraft on the ground, the lines between FAA and OSHA are less clear. As was explained to the Subcommittee staff, the FAA is responsible under the Federal Aviation Act of 1958 for aircraft maintenance practices for purposes of promoting safety. We have exercised this authority through regulations which require airline maintenance personnel to develop maintenance manuals which prescribe maintenance techniques and procedures acceptable to the FAA. I would add that in accordance with FAR 121.135(a) we require that these manuals "include instructions and information necessary to allow the personnel concerned to perform their duties and

responsibilities with a high degree of safety." We do not intend to abdicate our jurisdiction over the maintenance practices of the carriers because of the clear relationship between how maintenance is performed and the airworthiness of an aircraft. Nevertheless, we recognize fully that OSHA may be in a position to make positive contributions to the health and safety of mechanics and others performing maintenance on aircraft. With that in mind, the question becomes one of how to meld the responsibilities of the two agencies so that aviation safety needs are met along with the health and safety of workers.

The answer to that question has not been easy. In the past, OSHA and FAA have attempted to work out a mutually acceptable memorandum of understanding, delineating areas of responsibility and jurisdiction. Those efforts were unsuccessful. More recently, we have met on several occasions with OSHA in an attempt to find ways we can work together to promote worker safety. We have made substantial progress toward that end. Rather than continuing to work towards the lengthy and perhaps unattainable goal of developing an all-encompassing, formal memorandum of understanding, we have agreed to work cooperatively on a case-by-case basis to solve worker safety issues which arise. In this manner, the expertise of the two agencies can be applied productively

towards problem solving while permitting an individualized assessment to be made of aviation safety needs which must be taken into account.

In closing, Mr. Chairman, I would like to make one point clear. FAA staff members recently met with members of your staff. During that meeting, your staff raised concerns about safety practices called for in airline maintenance manuals. Since that meeting, we have informed OSHA that we would be pleased for them to review all airline maintenance manuals that have been approved by the FAA. Should OSHA find areas where it believes safety practices could be bolstered, we will give full consideration toward requiring the airline to change its procedures.

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