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BEFORE THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,  
SUBCOMMITTEE ON AVIATION  
CONCERNING REAUTHORIZATION OF THE NATIONAL TRANSPORTATION SAFETY  
BOARD

June 11, 1986

Mr. Chairman and Members of the Subcommittee:

The Department of Transportation is appearing before the Subcommittee today to address our record of responses to the safety recommendations made to us by the National Transportation Safety Board. This statement will also address our role in the appointment of members to the National Transportation Safety Board and other boards, agencies, and entities that are involved in transportation matters, including transportation safety.

DEPARTMENT RESPONSE TO NTSB SAFETY RECOMMENDATIONS

As you know, the NTSB was originally established as a semi-independent unit within the Department of Transportation. The "Independent Safety Board Act of 1974" then established the Board as a separate entity, headed by five Presidential appointees, but the Board is still closely related to the Department in its activities. The NTSB and DOT cooperate on a wide range of transportation safety activities, including joint investigations of transportation accidents and sharing of research, data, and information.

It is our policy at the Department to cooperate fully with the Board in its work, and to carefully consider and respond to every recommendation received from the Board. We believe that the Board also seeks to cooperate to the maximum extent with the Department. At the same time, both DOT and the NTSB have carefully respected the separate statutory roles of the two bodies, and neither has sought to interfere in the internal deliberations of the other. The positive working relationship that has been developed between DOT and the NTSB has furthered our joint mission of improving transportation safety, without in any way affecting the separate roles of the two bodies.

The Department of Transportation has established a systematic process for responding to NTSB recommendations quickly and consistently with the requirements of section 307 of the Independent Safety Board Act of 1974, as amended. I would be pleased to make available for the record a copy of the DOT Order 2000.1B governing our procedures. We also report to Congress annually on the disposition of each recommendation made to the Secretary, and our report for last year was forwarded to you February 7, 1986. NTSB keeps Congress apprised of the responsiveness of each mode in its annual reports, and the modes all report their activities on NTSB matters annually to our Policy Office.

The Department frequently adopts NTSB recommendations, or

variations thereof. Where we differ with NTSB recommendations, it is only after our experts have fully analysed the issues and reached differing conclusions on the most effective approach to safety. Where complexity would be added to a safety system under the Board's recommendation, for example, we must carefully weigh whether the advantage of the new requirement outweighs the possible detriment from adding a new and more complex procedure. Also, the Department must make sure its actions comply with applicable statutory authority.

Because of this Subcommittee's close monitoring of the FAA's safety program, in particular a series of recent regulatory initiatives, I know you will not be surprised by the degree to which the NTSB's recommendations have played a strong, positive role in aviation safety advances. The series of ongoing cabin safety rulemakings are an excellent example, involving floor level exit markings, flammability of seating materials, and smoke detectors and fire extinguishers in lavatories. This Subcommittee's close attention to these rulemakings has also played an important role.

The FAA does not, of course, always agree with every NTSB recommendation, nor do the FAA's alternative responses to meet the concern always satisfy the NTSB. In such a case, the NTSB may consider the matter "open" and awaiting action or it may be filed as "closed - unacceptable action". Recommendations from 1977 to mandate shoulder harness restraints in all general aviation

aircraft remain "open", for example, although the FAA has mandated that all newly manufactured general aviation aircraft be so equipped. At issue is retrofitting aircraft already in service, a very expensive requirement that we have not, to date, found justified. We are still studying the issue, however.

As to the general status of recommendations to FAA, nearly 2,000 recommendations have been made since tabulation of them began in the mid 1960's. Our records indicate almost 1,600 are marked "closed" by the NTSB, with about 15% rated as "unacceptable action". A recommendation remains "open" for an average of three years, and FAA has 368 pending at this time. Only 11 of those involve a case where we have indicated to the NTSB that we do not plan to undertake the recommended action.

I would like to conclude in this area by stressing the Department's commitment to being responsive to the NTSB. The 3-person Special Accident Investigation Branch in the FAA Aviation Safety Office commits about 80% of its time to coordinating followup to the NTSB recommendations. They try to respond just as quickly as feasible to the NTSB's specific proposals. In the case of "runway incursion" recommendations made just over two weeks ago, for example, FAA has acted within 3 days on the recommendation to disseminate information, taken an alternate action to the NTSB recommendation for O'Hare, and will defer action on the more comprehensive study of conditions at all other airports with intersecting runways for 30 days while FAA evaluates its new procedures already implemented at O'Hare.

The other modal administrations of the Department also have mechanisms in place to ensure responsiveness to NTSB recommendations. These have taken on greater importance with the stress that Chairman Burnett has placed on the non-aviation modes and their safety records. Railroad safety is a very good example, where the FRA has changed its surveillance philosophy to focus on more in-depth, system assessments of an average of three carriers each year -- company-wide reviews of rail operating practices, training programs, equipment, and internal accountability procedures.

This system has proven its effectiveness. FRA statistics indicate that last year was, by any measure, the safest in the history of the railroad industry, and this is a trend. Since 1979, railroad accident rates have dropped 53.1 percent, employee fatalities are down 54.5 percent, on-the-job injuries have fallen 50.1 percent, and grade-crossing accident rates are down 26.6 percent. FRA expects that the recently issued alcohol/drug rule will also have a significant impact, a rulemaking advance that the NTSB has vigorously advocated.

#### PARTICIPATION IN PRESIDENTIAL NOMINATION PROCESS

The 1974 Act provides that members of the NTSB are appointed by the President, with the advice and consent of the Senate. In developing nominations to the Board, the White House receives recommendations from various sources, including transportation

business, labor, and safety organizations, members of Congress, and private citizens. It is my understanding that the White House encourages broad input for all Presidentially appointed positions, including Safety Board members, to help identify well-qualified candidates for those positions.

Many individuals, including members of Congress, have also offered their recommendations to the Secretary of Transportation on candidates for the NTSB and other transportation-related boards and commissions, in recognition of the Secretary's position as the principal policy-maker within the Executive Branch on transportation matters. These recommendations have been received by Secretary Dole and her predecessors, and it is my understanding that each Secretary has kept the White House informed of such recommendations, along with any additional views that he or she may have on those subjects.

The Secretary, of course, regularly consults with the White House on a wide range of transportation matters. We believe such active participation by the Secretary at the highest level of the Executive Branch is both useful and appropriate, in view of her statutory responsibility to "exercise leadership in transportation matters . . . [and to] provide leadership in the development of transportation policies and programs . . . ." (49 United States Code § 301).

There is no formal approval mechanism or other process for DOT's involvement, however, and DOT's occasional participation is characterized by informality. Because the General Counsel's Office keeps track of transportation-related statutes, we frequently serve as the informal focus of this activity within the Department and can advise DOT officials as to which positions in the transportation area call for Presidential appointment, and which positions are vacant.

This holds true for Presidential appointments to economic regulatory agencies such as the Interstate Commerce Commission and Federal Maritime Commission, safety boards and commissions such as the NTSB and the National Highway Safety Advisory Committee, and other transportation entities involving Presidential appointments, such as AMTRAK.

This completes my statement, Mr. Chairman. I would be pleased to respond to any questions you or the members of the Subcommittee may have.