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BEFORE THE
HOUSE SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT
REGARDING AIR TAXI OPERATORS
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Mr. Chairman and Members of the Subcommittee, I appreciate the opportunity to appear before you today to discuss the GAO report on the Department's oversight of the air taxi industry. My colleagues from the FAA have already discussed the safety inspection side of this issue; I would like to review the economic regulatory requirements administered by the Office of the Secretary (OST).

Before discussing the functions of the Department of Transportation with regard to air taxi regulation, I would like to take a moment to put the air taxi safety record in the context of all of the modes of transportation we at the Department deal with. During the decade of the 1980's, the United States averaged 46,500 transportation fatalities per year. Motor vehicles and bicycles accounted for 97 percent of these deaths. Aviation resulted in 1,255 deaths per year and, as you can imagine, general aviation was responsible for the vast bulk, or 76 percent, of these fatalities. Thus, commercial aviation, which includes air taxis, averaged 260 deaths per year, or about one-half of one percent of all transportation-related deaths.

Air taxis averaged 74 deaths per year in the 1980's, less than two-tenths of one percent of all transportation-related deaths. These figures, when converted into fatalities per unit of output, are the highest for commercial aviation. This is what one would expect since the large airlines and bigger commuter carriers operate more sophisticated equipment into bigger airports with more experienced flight crews. In addition, the statistics used to illustrate aviation safety, both by GAO in its study and by others generally, are accident rates based on aircraft hours flown. Since air taxis operate many more takeoffs and landings per hour flown than do airlines, and since the majority of accidents occur during these phases of flight, the hour-based statistics will always put these small operators in a less favorable light. Unfortunately, statistics on air taxi departures are not available so we cannot do a comparison of accidents per takeoff and landing.

One last observation on data is that, across all of the modes, our safety statistics are showing an improvement in travel safety, and air taxis are part of that trend. Air taxi accident rates are declining as are the rates for the more accident-prone general aviation sector. Air taxi accidents declined from 157 in 1981 to 84 in 1991, the lowest number of such accidents since the NTSB began compiling air taxi records in 1975.

I would now like to give you some background on our requirements for various types of air carriers, including air taxis.

Under the Federal Aviation Act, anyone who wants to provide air transportation service as an air carrier must first obtain two separate authorizations from the Department:

"operational" authority from the FAA in the form of an Air Carrier Certificate and "economic" authority from OST. Depending on the type of operation to be performed and the size of aircraft to be used, the issuance of this economic authority may or may not require a determination of a company's fitness to operate.

Basically, there are three classes of air carriers. First, there are certificated carriers, who may operate any size aircraft carrying passengers or cargo in scheduled or charter service. At present there are 140 such air carriers in the United States. Second, there are commuter air carriers, who provide scheduled passenger service and who may only use aircraft with up to 60 seats, but are otherwise unrestricted as to where or how frequently they may operate. At this time, there are about 100 commuter carriers. Third, there are about 2,900 air taxi operators. These carriers may operate passenger or cargo service without geographic restriction using aircraft with no more than 60 seats or 18,000 pounds payload; they may not, however, operate scheduled passenger service of more than four times a week in any individual market.

Our economic oversight varies for each of these classes.

The certificated carriers are governed by section 401 of the Federal Aviation Act, which prescribes that a certificate may be issued only after a finding by OST that the applicant is "fit, willing, and able" to perform the service it proposes.

For commuter carriers, the Airline Deregulation Act of 1978 established a new regulatory framework. Until then, these carriers had been exempt from the fitness requirement. Under deregulation, however, Congress envisioned that certificated carriers would elect to exit many small or medium-sized points and would be replaced by the smaller commuter air

carriers. Because of this anticipated increased role by commuters, the Deregulation Act added new section 419(c)(2) which, for the first time, imposed a fitness requirement on commuter air carriers similar to that imposed on the larger certificated carriers.

While Congress decided in 1978 to subject commuters to fitness reviews, it did not extend the fitness requirement to air taxi operators. In fact, it amended the provisions of section 416 of the Act to specifically exempt air taxis from the certification and fitness requirements of section 401--as long as they met minimum insurance requirements--while increasing the permissible size limit for air taxi aircraft. Under current OST rules, in order to obtain economic authority, an air taxi operator is required to register with the Department, a simple procedure which consists of completing a form containing basic information on the company--name, address, type of service provided, aircraft operated, FAA certificate number--and providing evidence of current insurance coverage that meets liability minimums set by the Department. Registration of air taxi operators is an inexpensive procedure and can be accomplished in a matter of minutes.

In contrast, in order to find a carrier fit, we perform a thorough examination to determine (1) that an applicant has a competent management team with sufficient business and aviation experience to operate the proposed service; (2) that it has a reasonable understanding of the costs involved in starting its proposed service and a plausible plan for raising the necessary capital to commence those services; and (3) that the applicant, its owners, and its key personnel have a satisfactory history of complying with laws and regulations. We must also be able to establish that the applicant is owned and controlled by U.S. citizens.

Initial fitness determinations are, of course, based on a set of facts at a specific period in time. However, the law also imposes a continuing fitness obligation for air carriers. Once a company is found fit, there is nothing to preclude it from making changes in its operations, management team, or ownership. A company that presented a reasonable service plan and evidence of sufficient financial resources to conduct those services may subsequently make poor business decisions, not generate the traffic it had anticipated, or incur higher costs than expected, causing it to suffer financially. The Department's fitness staff monitors these changes to ensure that carriers that have been found fit initially remain so. Frequently, carriers are asked to file additional information with the Department to establish their continuing fitness.

You have asked us to comment on two matters: first, "whether the exemption of air taxis from the certification and economic fitness review required by the Department of Transportation is appropriate in view of the historically poorer safety record of air taxis as compared to [certificated] air carriers and commuters;" and, second, GAO's recommendation "that the Secretary study the extent to which air taxi operators' financial distress and poor compliance attitude contribute to safety violations."

We believe that the air taxi exemption is still appropriate, primarily for two reasons. First, there has been a substantial and steady improvement in the air taxi accident record in the past ten years. According to NTSB statistics, the 1991 air taxi accident rate (2.57 accidents per 100,000 aircraft hours flown) was less than half that reported in 1981 (5.42 accidents per 100,000 aircraft hours flown). As the FAA has already noted, it has also undertaken a number of steps to improve its inspection program with respect to this class of carrier.

Second, requiring air taxis to undergo fitness reviews would impose a substantial burden on these very small air carriers and would be a barrier to entry. There are now 2,900 air taxi operators registered with the Department. Each year approximately 350 new air taxis register with the Department and at least that number go out of business. Almost 40 percent of these companies operate with only one aircraft; over 75 percent operate with fewer than 5 aircraft.

In order to perform a meaningful assessment of a company's fitness, we must require the applicant to submit fairly comprehensive information, including resumes on all key personnel, historical and projected financial performance, ownership data, details on related companies, and compliance data on the applicant itself, each owner, each member of the management team, and all related companies. We estimate that, on average, it takes a commuter applicant 60 person hours to prepare and prosecute a fitness application through the Department, and typical elapsed processing time by the Department is three months.

When the fitness requirement for commuter carriers was adopted after the passage of the Deregulation Act, there were approximately 320 commuters registered with the Civil Aeronautics Board that had to be found fit. While our records in this area are no longer complete, it appears that fewer than 250 of those carriers actually underwent a fitness review; the remainder--one-fourth of the commuter industry--chose to cease operations or relegate themselves to on-demand air taxi authority in lieu of having to be found fit. We would expect a far greater fallout of air taxi operators who are typically very small and rely on other activity, such as fixed base operations, fuel concessions, aircraft rentals, or flight schools for their livelihood.

With respect to GAO's second recommendation, frankly, I have little hope that a study of the financial condition and compliance disposition of the air taxi industry as they relate to safety would be successful.

Air taxi operators are typically privately held companies that maintain very basic, unsophisticated records. The Department has not subjected them to uniform accounting or reporting systems. In short, what little data we have on these carriers' financial, traffic, compliance, ownership, or management history would not be very reliable.

Further, as the GAO report notes, a number of studies have been undertaken in the past in an attempt to determine whether there is a link between the financial condition of any air carrier and its safety record. These studies, which have generally focused on the larger air carriers where a substantial amount of financial, traffic, and safety data are available, have been inconclusive.

It would also seem unnecessary to attempt a statistical study of the compliance disposition of the air taxi industry as it relates to safety violations. Air taxis, such as those referenced in the GAO study that have had such serious disregard for safety compliance as to result in emergency revocation actions by the FAA, likely have gone out of business and would not be available for study.

At the same time, I want to be clear that we accept the premise that financial distress and, more importantly, a poor compliance attitude may, in fact, contribute to safety problems. This is a premise on which our fitness program is based. However, as with all regulatory questions, Congress has previously addressed whether the benefits that may be

gained from administering airline fitness requirements are commensurate with the costs imposed by such oversight. I believe Congress was correct in its conclusions with respect to all three classes of carriers.

I would now be happy to answer questions from the Subcommittee.
