STATEMENT OF RICHARD L. DAY, SENIOR VICE PRESIDENT FOR OPERATIONS, AIR TRAFFIC ORGANIZATION, FEDERAL AVIATION ADMINISTRATION, ON AVIATION SAFETY: THE HUDSON RIVER MIDAIR COLLISION AND THE SAFETY OF AIR OPERATIONS IN CONGESTED AIRSPACE, BEFORE THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, SUBCOMMITTEE ON AVIATION OPERATIONS, SAFETY, AND SECURITY, SEPTEMBER 15, 2009.

Chairman Dorgan, Senator DeMint, and Members of the Subcommittee:

Thank you for inviting me here today to discuss the very sad events of August 8, 2009, and what FAA is doing to create a safer operating environment over the Hudson River. Everyone at FAA grieves with the families over the loss of life that occurred that day. When such events do occur, we redouble our efforts to make the skies safer. My colleagues at FAA and throughout the aviation industry approach this work with seriousness and urgency.

Since the investigation of the accident remains under the formal processes of the National Transportation Safety Board (NTSB), I will not be commenting on the specifics of the accident. I will, however, share with you the immediate actions we have taken, as well as discuss some of our longer-range plans to improve safety.

The FAA's first action was taken on August 11. We issued a Notice to Airmen (NOTAM) that reiterated our recommended best practices for conduct of flight in the airspace of the Hudson River corridor. New York airspace is very restricted by a large volume of "Class B" airspace, which is designed to provide positive protection of airliners using LaGuardia, John F. Kennedy International, and Newark Liberty

International Airports. All aircraft within Class B airspace must be under positive control by air traffic controllers.

There are areas known as "VFR flyways," where we permit aircraft operating under Visual Flight Rules (VFR) to fly within a defined corridor and below certain altitudes without being under positive air traffic control. These VFR flyways use "see and be seen rules," where pilots are responsible for maintaining safe distance from other aircraft. In New York, this VFR flyway is commonly called the "exclusion area," which has existed in some form since 1971, and is bounded by the Hudson River and has a ceiling of either 1,100 feet or 1,500 feet. (See Figures 1.)

The August 11 NOTAM reiterated long-recommended practices for this VFR flyway, including speed limitations (not exceeding 140 knots) and taking precautionary measures (turning on anti-collision, position/navigation, and/or landing lights and self-announcing their position on the Hudson River frequency for all other aircraft to hear).

We recognized this was only the first step to assess and enhance the safety of Visual Flight in this area. On August 14, 2009, we chartered a New York Airspace Task Force to review the current procedures for Hudson River operations, specifically with regard to safety of flight, operations, and regulatory compliance and make recommendations to Administrator Babbitt no later than August 28 – just two weeks later. The Task Force consisted of FAA air traffic and aviation safety experts, as well as air traffic controllers representing the National Air Traffic Controllers Association (NATCA) who work in this area. We also had input from key stakeholders – such as Helicopter Association

International, the Aircraft Owners and Pilots Association, and the Port Authority of New York/New Jersey. The group delivered these recommendations to Administrator Babbitt on time on August 28. We thank the Task Force members for their efforts, particularly given the short timeline. Because we believe that their recommendations will enhance the safety of this airspace, we intend to implement their recommendations via expedited rulemaking and revised letters of agreement with the area airports and operators.

The Task Force recommended eight specific safety and operational enhancements that would restructure the airspace, mandate pilot operating rules, create a new entry point into the Hudson River airspace from Teterboro, and standardize New York area charts and maps. They also recommended developing new training for pilots, air traffic controllers, and helicopter operators so they will be fully trained and ready for implementation of the new rules. One of the most significant changes would divide the airspace into altitude corridors that separate aircraft flying over the river from those operating to and from local heliports or seaplane bases. (See Figure 2.)

This new exclusionary zone would be comprised of three components:

- It would establish a uniform "floor" for the Class B airspace over the Hudson River at 1,300 feet, which would also serve as the "ceiling" for the exclusionary zone. This removes some confusing complexity that currently exists.

- Between 1,300-2,000 feet, aircraft will operate in the Class B airspace under visual flight rules but under positive air traffic control and communicate with controllers on the appropriate air traffic frequency.

- Below1,300 feet, aircraft must use a single common radio frequency. Mandatory routes for aircraft flying up and down the river will require them to favor the "right side" of the river (i.e. the east side for northbound traffic and the west side for southbound traffic) to provide horizontal separation as well.

- Coordination of traffic and handoffs between Air Traffic Controllers at the Teterboro tower, Newark tower, and radar control will be improved.

The new rules will mandate that pilots use two specific radio frequencies – one for the Hudson River and the other for the East River. It mandates speeds of 140 knots or less and the use of anti-collision lights and landing lights in the VFR routes. The rules would also require pilots to announce their position when they reach various points up and down the river. Pilots would also be required to have charts available in the aircraft and to be familiar with and comply with the airspace rules.

The FAA also intends to propose standardized procedures for fixed-wing aircraft leaving Teterboro to enter either the Class B airspace or the exclusionary zone. The proposal would require that before an aircraft planning to enter the Class B airspace takes off, Teterboro controllers would request approval from the Newark tower for the aircraft to climb to 1,500 feet. Aircraft from Teterboro that want to enter the VFR flyway would be

directed by air traffic control to fly a special route over the George Washington Bridge, which would allow them to enter the Hudson River airspace in a much less congested area.

The FAA expects the expedited rulemaking covering these issues to be completed, and have all pilot and controller training completed in time for publication of new charts and new rules by November 19th.

The effort with New York airspace has wider implications for the national airspace system. As we implement these changes in the New York airspace and have an opportunity to analyze their effectiveness, the FAA intends to examine the other major metropolitan areas and congested corridors for similar airspace and operational risks to see if such procedures would be appropriate elsewhere. We expect this larger effort to carry well into next year.

Mr. Chairman, Senator DeMint, Members of the Subcommittee, this concludes my prepared remarks. I look forward to answering any questions that you may have.

**Figure 1 – Side View of Current Airspace and Operations**

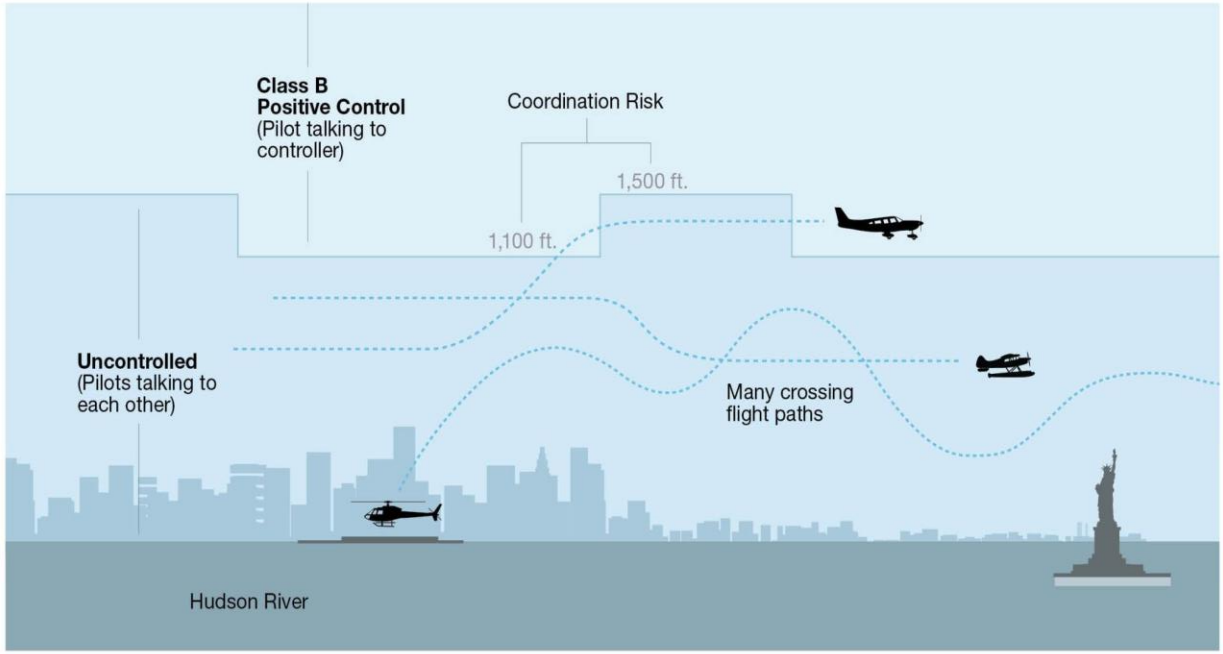

**Figure 2 – Side View of Proposed Changes**