



**U.S. SENATE COMMITTEE ON
COMMERCE, SCIENCE & TRANSPORTATION**
Senator Maria Cantwell, Chair

U.S. Senator Maria Cantwell

**U.S Senate Committee on Commerce, Science, and Transportation
Hearing: Implementation and Oversight of the Aircraft Certification, Safety, and
Accountability Act**

Witness: Billy Nolen, Acting Administrator of the Federal Aviation Administration

March 8, 2023

Opening Statement

[VIDEO]

Senator Cantwell: Good Morning. The Senate Commerce Committee will come to order.

This morning we are having a hearing on the implementation of Aircraft Certification, Safety, and Accountability Act (ACSAA). We are joined by the Acting Administrator Billy Nolen. We appreciate you being here.

We are here today to measure the FAA's progress in implementing important safety reforms for aircraft accountability safety in the act that was passed, following two fatal crashes in Indonesia and Ethiopia that claimed the lives of 346 people.

I first want to welcome members of the inaugural class of the Samya Rose Stumo National Air Grant Fellowship Program. This program named after Samya Stumo – [who] was 24 -- lost her life in the March 10 accident crash of Ethiopian Airlines Flight 302, reminds us why we need an aviation technical workforce on the Hill and throughout Washington, D.C. These talented young, technical experts with aerospace backgrounds

will be assisting the FAA and Congress with meeting the complex technical challenges that we face in this field.

I also want to recognize the families who lost loved ones in the two 737 MAX crashes. This Friday, March 10, will be the four-year anniversary of the Ethiopian Airlines Flight 302 crash.

I cannot begin to imagine their sense of loss and I know that time has not eased their pain. But we are offering our sincere gratitude for your unwavering dedication to helping us on aviation safety reform.

Because of their support and critical input, the Aircraft Certification, Safety, and Accountability Act is now law.

Today we will hear from FAA Acting Administrator Billy Nolen about the FAA and what they've done to implement the 2020 aviation safety reform law – the Aircraft Certification, Safety, and Accountability Act (ACSAA).

I will note that we wanted to do this prior to us taking up the FAA authorization bill and wanted to get a good sense of exactly where we are on these issues before we dive into things that we also want to evaluate as part of a reauthorization.

We have seen near misses and incidents that remind us that aviation safety requires constant vigilance and constant effort, and although we haven't had a major U.S. crash in 14 years, we know we cannot assume that we have done everything as those MAX instances show us.

The FAA must work harder.

Three years ago, it was clear from the Committee's investigation into the Indonesian and Ethiopian crashes that our focus, technical workforce challenges, have to be top of mind at the FAA, particularly as it relates to automation and human factors.

The safety reform bill that we passed obviously made major changes in the FAA direct oversight of the ODA members, no interference with FAA personnel or their designees could happen, and that the FAA needed to build technical workforce to make sure that those safety implementations, as it relates to certification, were called out from the very beginning of the certification process and that we improve safety by implementing safety system management systems.

So today, Director Nolen, we are going to look to you to answer questions about that obviously our concern that the law is still being too slow in its implementation.

For example, the FAA has yet to complete a workforce review of aircraft certification staff to identify and address any shortfalls in the agency's expertise. This is foundational. Emerging aviation technologies and future advances will only continue to press the FAA.

So we need the best and most talented workforce.

The FAA must lead the world on safety. And the FAA must build that workforce that is going to help us lead around the globe.

Congress also put FAA back in charge in oversight and improving, and removing manufacturer's engineers on behalf of the FAA.

That means that they have the clear line of direction there.

This requires a clear course of correction with the FAA's system of delegation and we want to hear about that process. We've heard good reports, but we want to know that the FAA is continuing to back up these particular individuals.

The FAA has begun work in reforming and continuing to oversee manufacturers on these key issues. So, I plan to ask more questions about that.

In the Committee's Aviation Safety Whistleblower Report, employees identified concerns with the quality control at manufacturing facilities and within the supply chains. We need to know that FAA is fully using its compliance and oversight to make sure that we get at these issues.

Earlier this year, we called for the Department of Transportation Office of Inspector General to conduct an independent review of the FAA's implementation of safety reform bill. Their work is ongoing, and we will hold obviously the FAA accountable to what the IG report says.

So, there is still much work to do. We look forward to hearing from the Acting Administrator today and for continuing to get the safety job done at the FAA.

Q&A Round 1

[\[AUDIO\]](#) [\[VIDEO\]](#)

Senator Cantwell: Thank you Acting [Administrator] and prior to this, you were the head of the Aviation Safety Program, which was about 7,400 people at the FAA. Is that correct?

Acting Administrator Billy Nolen: That's correct.

Senator Cantwell: And some of this may have been involved with this, some of it isn't?

Acting Administrator Billy Nolen: That's correct.

Senator Cantwell: Okay. So on the certification, what concrete steps have been taken to investigate any alleged conflict of interest or pressures on the FAA staff?

Acting Administrator Billy Nolen: We've done a couple of things in that and thank you for the question, Chair Cantwell.

We've done a couple of things. Certainly, one of the first things we did for the agency itself was stood up a voluntary safety reporting program for AVS employees.

We've undertaken a cultural survey, which was completed late last year, and I've received those results as Acting Administrator. We're going through those results now to ensure what the climate of our aviation, our AVS principally, our inspectors are engineers on that side.

We've also published a policy on not interfering with ODA unit members. And we're increasing the number of human factor specialists within AVS. So we've got a body of work, we certainly got a ways to go to make sure we've got that the AVS complement where we want it to be.

But what I can say is that we, to date as of today, we've got 7,489 people and within AVS. We plan to take that to 7,775 by the end of this fiscal year. And we're moving to ensure we've got the kind of competencies and skill sets we need to go forward.

Senator Cantwell: Congress created new civil penalties in this area for interference. Has FAA taken any action enforcement related to that?

Acting Administrator Billy Nolen: I get a regular report from our Office of Audits and Investigation. To date, I [am] not aware we've done a civil penalty, but I can tell you that I sit down on regular basis and review every case that comes through our whistleblower office.

Senator Cantwell: Do you think there are further steps that need to be taken?

Acting Administrator Billy Nolen: I think as we continue to reinforce safety culture, as I mentioned in my opening remarks around safety management system, we must continue to do everything to make sure that we have absolutely a culture of transparency, communication, and cooperation across all lines of business within the agency.

Senator Cantwell: So, you've entered rulemaking now, is that correct?

Acting Administrator Billy Nolen: Yes, ma'am, we have.

Senator Cantwell: And so, what will that entail, in implementing a [safety management] system?

Acting Administrator Billy Nolen: So, for safety management system, so as we go through this, let me just say one of the things we've already done as of last year, we now have the final rule of SMS for airports.

We realized the entirety as an ecosystem, and while a lot of the focus has been on Boeing, and rightfully so, we're looking across the totality of the industry to make sure that as a safety management system.

I can tell you, firsthand, having lived in that world for a lot of my professional career, that a very robust safety management system will give you the kind of regulatory compliance and the ability to stare into risk and provide meaningful corrective actions. I've seen that work firsthand.

Senator Cantwell: When will this be fully implemented at Boeing as a manufacturer or [at] other manufacturers?

Acting Administrator Billy Nolen: So Boeing and all the major manufacturers in the U.S. currently have accepted voluntary SMSs. And they are in work....

Senator Cantwell: One that is overseen by the FAA?

Acting Administrator Billy Nolen: Yes, ma'am.

I can tell you, matter of fact I was just at Boeing last month, and our people have complete access to not only to all of their production system, and that's almost on an ongoing daily basis.

So we are seeing the work from their SMS, and not only theirs, but others as well. But it would be better for us to make sure that this is the rule of law so that it applies to the entire industry.

Senator Cantwell: So when will that be implemented?

Acting Administrator Billy Nolen: We expect the [final rule] will be done by this year. And we'll then work to get that to a final rule.

Senator Cantwell: Okay. I'll have more questions on this.

Q&A Round 2

[\[AUDIO\]](#) [\[VIDEO\]](#)

Senator Cantwell: Mr. Nolen, I think we have one more colleague on their way. But in the meantime, I wanted to ask you about Service Difficulty Reports.

Acting Administrator Billy Nolen: Yes Ma'am.

Senator Cantwell: You know, the underlying safety legislation said we want better trend lines. We want a trend report every year on what are the emerging trends to be concerned about, and your safety Service Difficulty Reports are already a system in place.

But what do you see? Any concerning trend lines, particularly about the MAX, or any other planes in the marketplace today?

Acting Administrator Billy Nolen: Well, thank you, Senator Cantwell, Chair Cantwell for the question.

I do have access to all the Service Difficulty Reports. I'm not seeing, personally, any trend that sort of gives me pause or gives me you know, sort of raises any red flags.

What I do expect, and what will be to all of our benefit, is as we see SMSs mature a net level of transparency.

If I can just speak briefly on my own history, you know, I've many times where I was flying and I make a write up, goes into the logbook, goes to maintenance, they run it through their process. The difference we see today is that as the maturity of SMS has ticked up, we're starting to see better trending. We have that level of oversight.

For example, if you're at an airline, you've got a principal maintenance inspector, you've got a principal avionics inspector, these are our leaders in the field who are working many cases on a daily basis, or certainly on a weekly basis, with the airlines that they oversee about everything that's happening with their maintenance program. So it is a part of that.

Senator Cantwell: How can the public get access to, if not the actual report, some analysis of 'this is what we got this week?' Or 'these are the issues?'

Acting Administrator Billy Nolen: Yes Ma'am. Some of those, as you are aware of may have proprietary information, but we have some we've been very responsible for some that have had a FOIA request, where there may be times where we may have to do some redactions, and we work on those. Our goal is to be as forthcoming.

What I think for the Committee, we can continue to work to see how we can get you the information you need in terms of trends that we may be seeing in the NAS. But just specifically to this, there's nothing in what I am seeing today that says there's a trend on a MAX or a seven, an eight, etc.

Senator Cantwell: I would like to work with you I want more transparency here. I don't want people to believe that there's something out there that they don't have access to or information that they don't have.

And if you are reviewing that, which obviously the FAA, that's a key charge of the safety group that you had been running, is to make sure that that information is disseminated or that we follow whatever information is there.

But I think some of this is either leaking out or people are hearing about it and there's no way to resolve this issue about is there something there or is there not something there. And I feel like we need to figure out some way to give the public some more transparency here.

Acting Administrator Billy Nolen: I couldn't agree more. It is sort of like this, you know with this safety summit that we're doing. We've got a couple of events, but a day in the NAS, 45,000 flights a day, nearly a billion enplanements a year.

So you said overall, the system is resilient. But we never take that for granted. So if there's a dot to be connected, we'll look to see can we connect them and if they're not, we'll say that.

Q&A Round 3 and Closing Remarks

[\[AUDIO\]](#) [\[VIDEO\]](#)

Senator Cantwell: We will be having a series of four different hearings as it relates to the FAA reauthorization and we will certainly include this as a topic.

I think workforce will be a very big topic in general, as you can see for many of our colleagues who asked questions today. And obviously, we not only want the right positions authorized, but we want them appropriated, and we want a full FAA, and we want the commercial sector to have the pilots that they need. So I predict this will be a very big part of the discussion.

Mr. Nolen, I wanted to ask for the record about gray beards. So I'm going to send something to you because I really want a technical answer here about what has been established in response to the law.

Just to be clear, we said after the MCAS system, how is it that the FAA -- you know, we were having a lot of discussion here this morning about what's the right leadership at the FAA? I would definitely say the issue of regulatory capture was a very big issue in us writing the safety bill and making sure that people reported to the FAA and the FAA felt responsible.

Acting Administrator Billy Nolen: Yes Ma'am.

Senator Cantwell: So one of the issues is the fact that we you were supposed to hire Gray Beards, sophisticated people who are working to understand the technology at the beginning of the certification process.

Acting Administrator Billy Nolen: Yes Ma'am.

Senator Cantwell: So I understand that you have done that, but that you are doing it by segmentation? Is that correct?

Acting Administrator Billy Nolen: That is correct, Chair Cantwell.

We've hired, we're at 14 CSTAs, Chief Scientists and Technical Assistance, and we're looking to hire an additional four. We have four Senior Technical Advisors.

But this is one we just have to continue to stare into to make sure do we have it right? Not only for today, but as we stare into tomorrow, right? As this new novel.

So we're committed to it and like so with this 14 and another four, we got 18 with the plan to hire for more.

Senator Cantwell: But these are people that you think represent this sophistication on the technology side of today's certification process?

Acting Administrator Billy Nolen: Yes, ma'am.

Senator Cantwell: Okay, and you have the funding for that? Give me some examples of people who were missing before, but now are part of the team.

Acting Administrator Billy Nolen: As you look at that across these sorts of competencies, right. And when we think about certification, and when we think about the changes, as we think about the evolution of technology, what I know that you're very passionate about, this is the kind of skill sets we want.

As we move forward, you know, again, I've gone out and I've flown the MAX 10 simulator. I've been to Airbus and flown the A380. I've gone the Embraer and flown their newest airplane. Making sure we get it right and making sure that our technical experts, as we go through the whole design and certification process, which we've got the level if there is something someone needs to press to test, let's make sure we got that right.

That's the kind of expertise that we're looking for. So we continue to work at it.

Senator Cantwell: Well, for us it's making sure that in the beginning of the certification process or anywhere during the certification process that another MCAS isn't projected as part of a system if people don't understand it. That's the key.

Acting Administrator Billy Nolen: Yes Ma'am.

Senator Cantwell: And so you feel like that this group that you now have, on the technical side, is providing that level of technical expertise up and down?

Acting Administrator Billy Nolen: I do indeed, having spent time with our folks, not only in Seattle and in there, but also on the [certification] side that sit with our team.

I will say it is our expectation now, and I think I commend the Congress for this, right, as part of the act, that we're getting all of this information and make sure that we've got it all up front. That we understand at the very outset of either design for new type design or an amended type design, that information is there.

What we are seeing vis-à-vis these systems safety analysis that our team are now doing, this again giving us a better degree of transparency there, and we're going through those very purposely to make sure we get it right. That we don't have a repeat.

Senator Cantwell: Yeah well, we'll give you some additional questions for the record as it relates to the details on that because we really want to understand how it's functioning within the FAA. We just want to make sure that we understand how it's been set up and what oversight it has by each type of certificate process. We think it's a very important aspect of the certification.

Okay, well, that seems to complete our hearing this morning. It will remain open for four weeks until April 5th. Any senators who'd like to submit questions for the record should

do so in the next two weeks by March 22nd. And we ask that you have your responses by April 5th. Thank you and we're adjourned.