SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Full Committee
FAA Nomination Hearing
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REPUBLICAN QUESTIONS FOR THE RECORD
Michael Whitaker

COVER PAGE

RANKING MEMBER TED CRUZ (R-TX)

Mask and Vaccine Mandates

1. The COVID-19 pandemic resulted in a mask mandate for public transportation, and a draconian vaccine mandate that the Biden Administration imposed on employees of airlines by exploiting their government contracts. Does the FAA's statutory authority extend to public health, or is it instead focused on the safety of the traveling public? If FAA's statutory authority extends to public health issues (vaccine, masks, or otherwise), please cite to the specific statute.

Answer: The FAA's statutory authority does not extend to public health issues. My understanding is that the FAA did not itself direct a mask requirement to airlines but the agency did adhere to Federal public health directives.

Commercial Space

1. There are several commercial space companies working to bring space vehicles to market. From an economic and national security perspective, it is important to encourage such innovation. But these space companies are navigating a complicated web of government agencies with shared and, at times, overlapping jurisdiction.

    a. How would you make the licensing and permitting review processes more transparent for applicants?

Answer: If confirmed, I would work with our Office of Commercial Space and Chief Counsel's office to communicate transparency is a priority and determine what steps may be possible.

    b. Do you agree the FAA needs to identify inefficiencies and update its procedures to improve its licensing and permitting process?

Answer: I always believe it's important to root out inefficiencies and improve procedures so long as it will not decrease safety. To your point, the commercial space industry is growing rapidly and it is important that the FAA carry out its oversight and regulatory functions in a thoughtful manner that allows for safe growth in this industry.

    c. Will you commit to working with Congress and industry to identify and implement changes in an expedient manner?

Answer: If confirmed, I will commit to working with Congress and industry and implement any necessary changes consistent with safety in an expedient manner.

2. Given emerging entrants to the National Airspace System (NAS), what work is being done to modernize the tools used to manage the NAS to better integrate all users?

Answer: If confirmed I will need to work with leadership across the relevant Lines of Business and Staff Offices to be briefed on the status of that work but I know things like the Space Data Integrator is an example of the kind of tool the agency uses to facilitate safe operations while minimizing impacts to legacy users of the NAS. That overall idea – to facilitate new entrant operations while supporting legacy users of the system is one that I would adhere to.

3. What FAA resources are currently dedicated to space launch and reentry licensing?

    a. What resources are dedicated to non-licensing activity (*e.g.*, orbital debris rulemaking, human spaceflight regulations, etc.)?

Answer: If confirmed I would need to seek detailed information from the FAA's budget team and relevant program offices and I would be happy to follow up with your staff to provide this information.

Use of Airspace

1. Commercial space launches, UAS operations, and, eventually, advanced air mobility require significant coordination by air traffic control and other stakeholders involved in maintaining a safe NAS. Should new users contribute financially to the system? If so, how?

Answer: If confirmed, I would want to work with our budget team, relevant program offices and seek input from the agency's Management Advisory Council (MAC) on this topic. The aviation system has traditionally relied on recipients of services to pay into the system to support that work and understanding we see an expanded number and type of users this is an important question.

Contract Tower Program

1. One of FAA's most successful government-industry partnerships is the FAA Contract Tower Program. 262 airports are in the program, including 26 in Texas. Contract towers, which account for approximately one-third of all tower operations, are important for maintaining and developing air service at smaller airports. What measures can the FAA and the industry take together to address staffing shortages at contract towers?

Answer: If confirmed, one of the first things I would do is sit down with the Air Traffic Organization to discuss this issue. During my confirmation process I heard from a number of Members about adequate staffing levels not just at FAA-owned towers but at contract towers

as well. These towers provide a critical service throughout the country and I want to see them continue to be successful.

Parts Manufacturer Approval (PMA)

1. The Parts Manufacturer Approval (PMA) process is important to maintaining a robust and competitive supplier base for aircraft around the world. If confirmed, do you commit to strengthening the PMA process and making the process more efficient?

Answer: If confirmed, I would work with our Aviation Safety Office team to determine if there are ways we can support an efficient process while ensuring that any parts going onto an FAA type certified vehicle are safe and appropriate.

SENATOR DEB FISCHER (R-NE)

1. Statistics that show that in offices like the Aircraft Certification Office, FAA has experienced dramatic turnover in recent years and they have many new employees who started at the agency during the pandemic. I expect these employees have been hindered in their ability to experience the kind of training, mentoring, and collaboration that integrates them into the agency because of this remote/virtual work experience. How would you address the need for in-office time, training, and collaboration to help ensure employee success and FAA meets its mission to advance safety and innovation in the U.S. and globally?

Answer: If confirmed, I would work with agency leadership, our labor unions, Department of Transportation leadership and across the agency's workforce to quickly establish the right balance of in-office presence and I would be happy to keep the committee updated on that work.

2. FAA and industry have been collaborating on an important initiative - Eliminate Aviation Gasoline Lead Emissions (EAGLE) - that aims to eliminate the use of leaded aviation fuels for piston-engine aircraft in the U.S. by the end of 2030 or sooner without adversely impacting the safe and efficient operation of the existing GA fleet. Are you aware of this initiative and will you continue to support it, if confirmed?

Answer: I am aware of this important initiative and I will support it, if confirmed.

3. In the Senate FAA reauthorization bill, I worked on an amendment that requires the agency to leverage existing technology to create a secure portal for tracking the status of these applications. This tracking portal is crucial, as without this data, neither the industry nor the FAA cannot effectively allocate resources or make certain deadlines are being met. As FAA Administrator, how would you implement this provision from the reauthorization bill, and do you believe that it would improve how the agency tracks applications?

Answer: I am not certain what kinds of applications are being referenced here but I do understand that stakeholders have had concerns about certification applications in terms of timelines and transparency. If confirmed, I will work with the agency's Aviation Safety Office leadership who I understand agree that concrete improvements have to be made in the near term. The ability to track applications seems like a reasonable policy and I would be happy to work with you on that.

4. The FAA met its target to hire new air traffic controllers this year, with Congress authorizing the additional hiring of 1,800 controllers by fiscal 2025. If confirmed, how will you ensure that the agency meets its hiring goal each year?

Answer: If confirmed, ensuring controller hiring and training will be a priority and one I would pursue collaboratively. I will work closely with our Air Traffic Organization, our labor partners and our budget team to ensure the agency takes a strategic approach that aligns resources for hiring and training.

SENATOR DAN SULLIVAN (R-AK)

FAA Alaska Safety Initiative

1. Will you support the FAA Alaska Aviation Safety Initiative (FAASI) process and prioritization of the recommendations of the FAASI into the FAA budget?

Answer: If confirmed, I will support the FAASI process and will seek resources to execute on its recommendations.

Safety Briefing

As discussed during your hearing, a 2020 report issued by the National Transportation Safety Board (NTSB) called for the FAA to take a more comprehensive approach to improving aviation safety in Alaska.

The NTSB report points to a recent 10-year period where the total accident rate in Alaska was 2.35 times higher than the rest of the United States. During the same period, the fatal accident rate in Alaska was 1.34 times higher.

The last Senate confirmed Administrator, Steve Dickson, required staff to report to him personally every time there was an aviation accident in my state.

1. Will you commit to do the same?

Answer: If confirmed, I commit to do the same.

Improve Availability and Reliability of Communications, Surveillance, Navigation Systems, and Weather Equipment

The remote, mountainous terrain of Alaska presents technical challenges for the FAA with installing and maintaining a robust Communications, Navigation, Surveillance system. In the FAA's own words from the 2021 FAA Alaska Aviation Safety Initiative (FAASI), "Maintaining the extensive Alaska National Airspace System (NAS) infrastructure, which consists of a mixture of old and new components, is a daunting task for FAA engineers and technicians."

Further, we are constantly fielding reports of weather and communications infrastructure being down, with difficulty sourcing parts often being the cause that can lead to delays for months.

1. Will you commit to implementing mitigation methods to improve the availability and reliability of communications, surveillance, navigation systems, and weather observation systems and weather cameras?

Answer: If confirmed, I commit to working with leadership in our Air Traffic Organization on the issue of availability and reliability of parts in Alaska to find ways to improve on the agency's current performance.

Compliance Philosophy

The Compliance Program was introduced in 2015 when you were still FAA Deputy Administrator. It helped usher in a new approach to oversight, one built around transparency and collaboration. As part of the Aircraft Certification, Safety, and Accountability Act, this Committee took steps to establish a body to oversee the use and effectiveness of that Program.

4. Can you share your approach to compliance and your thoughts on the important differences between this approach and enforcement-first compliance?

Answer: In aviation as a regulator it is important to maintain an atmosphere of data sharing and transparency in order to be able to see trends and adjust or mitigate accordingly, which I understand the compliance philosophy is meant to contribute to. As you know, ACSAA directed FAA to establish an Executive Council to oversee the use and effectiveness of compliance philosophy across the agency. I understand the Council is stood up and if confirmed, I would look forward to ensuring its effectiveness to ensure safety throughout the NAS.

Airport Improvement Program (AIP) Flexibility

The Airport Improvement Program is critical to keeping our airport system functioning and open, and yet, one-size-fits all guidance documents for eligible expenditures is undermining the effectiveness of the program and in many instances is creating dramatic safety implications.

FAA has policy that is resulting in shorter runways throughout my state. In order to be eligible to reconstruct a runway using federal funds, the FAA requires that the airport must have received 500 operations per year from an aircraft that needs that size of runway. This is forcing the State, who manages over 240 airports, to fold to the federal policy and rebuild airports to the shorter lengths.

This is not tenable in a state where in many locations fuel oil for heat is flown in twice per year, requiring greater runway length and safety areas. Reducing runway length will at minimum restrict the ability to deliver heating fuel and gasoline where other options for transport are unavailable.

This also limits the ability to get freight, mail, and basic goods into the community – and surrounding communities. When runways are shortened the community is limited from acting as a hub for other surrounding communities. 121 operators are unable to get into hubs as the shortened runways limit the amount of lift length.

Adequate runway length is needed to support aircraft necessary to support critical health needs of a community, remote fuel deliveries, and firefighting response. This has dramatic safety implications, as not only is the runway itself shrinking, but the runway lighting shrinks along with it.

This limitation is also crippling the ability of the State to develop new Airports for Economic Development, including runways for the Wasilla Airport, the Gulkana Airport, and the proposed

new airport near the Denali National Park, as the rules do not allow you to expand or build airports to meet new demands unless it has already been served by larger aircraft.

1. Do you think it is good policy to incentivize the shortening of runways in areas that have complete dependency on air travel, and are in locations with challenging weather, and often lack communications and navigational aids?

Answer: Promoting policies that balance safety and the reality of Alaska's unique environment is critical. Maintaining safe operations will be my focus throughout my tenure and if confirmed, I look forward to a partnership with you to work toward that shared goal to include matters like this one.

2. Will you support efforts to allow the State of Alaska to expand the flexibilities of the Airport Improvement Program for needs in Alaska, including but not limited to runway length?

Answer: If confirmed, I would be happy to work with you on this matter and others that present challenges in Alaska's unique environment. I will work with you and our Office of Airports on the policies that affect federal investment in Alaska's airports to determine if new eligibilities are needed or if there are existing authorities that may be leveraged.

ADS-B

Alaska has historically been a testbed for avionics that have provided efficiency and safety benefits to the entire National Airspace System.

The Capstone Project was a joint industry and FAA research and development effort to improve aviation safety and efficiency in Alaska. Under Capstone, the FAA provided avionics equipment for aircraft and the supporting ground infrastructure. The Capstone Project operated from 1998 to 2006, and it demonstrated a 47% reduction in the aviation accident rate of Capstone avionics equipped aircraft compared to non-equipped aircraft in parts of the state that did not receive ground based equipment and equipped aircraft.

Our high accident rate is made up of a lot of Controlled Flight Into Terrain accidents and mid-air collisions – the type of accidents that this technology can prevent.

Alaska laid the groundwork for the nationwide deployment of ADS-B (or Automatic Dependent Surveillance-Broadcast) that is now providing our national airspace system with efficiency through satellite-based navigation and aircraft tracking. According to the FAA, ADS-B is transforming all segments of aviation by offering real-time precision, shared situational awareness, and advanced applications for pilots and controllers alike.

Real-time ADS-B is now the preferred method of surveillance for air traffic control in the NAS, and general aviation is safer with ADS-B traffic, weather, and flight-information services.

ADS-B improves safety and efficiency in the air and on runways, reduces costs, and lessens harmful effects on the environment. In fact, a recent study cited by the Aircraft Owners and Pilots Association found that ADS-B equipage reduces fatal accidents by 89 percent. (Collins, Mike. *Study Shows Accidents Less Likely with ADS-B In*. AOPA, April 18, 2019).

The NextGen system is now a multibillion-dollar program, primarily through FAA's Facilities & Equipment account. Meanwhile, the majority of my state is without coverage and the airspace is not classed to require coverage – even in some congested airspace, such as Bethel.

Section 321 of the FAA Reauthorization Act of 2018 (P.L. 115-254) directed FAA to conduct an evaluation of providing additional ADS-B ground-based transmitters along major flight routes in Alaska. In October 2019, aviation industry groups wrote to the FAA Surveillance and Broadcast Services program office supporting this initiative and urging additional investment in ADS-B ground stations to establish a Minimum Operational Network for ADS-B coverage in Alaska. They shared analysis supporting the Section 321 mandate that identified an additional 23 locations. I was pleased to see in the FAASI that the FAA will accelerate the deployment of ground based equipment for some of our high trafficked areas, and was pleased to hear of the FAA plans to add five sites in 2023.

1. If confirmed, would you support the deployment of a minimum of an additional 23 ADS-B ground-based transmitters, as identified by the users of our NAS?

Answer: If confirmed, I will work with your office, the Alaska Regional Administrator and relevant program offices to understand the agency's deployment plan currently and determine if adjustments need to be made. I would be happy to keep you informed of those conversations.

Given that the majority of Alaska's airspace is not classified, the true safety benefits of additional ground based equipment remains to be dependent on the rate of private equipage of aircraft. While it is of obvious value for aircraft to improve situational awareness through ADS-B equipage, I caution that any large scale airspace reclassification would cripple mobility in my state, not be embraced by some pilots, and would be an unfunded mandate. However, the need for equipage remains.

2. Given the safety benefits of ADS-B, what additional measures can FAA take to incentivize further ADS-B equipage?

Answer: If confirmed, I would be happy to work with you on this. During my tenure as Deputy Administrator the agency did administer an incentive program to help defer the costs of equipage so I have seen how that can work and understand the point that these capabilities are safety enhancing for pilots.

3. The FAA previously ran an ADS-B Rebate program. If confirmed, would you consider restarting the ADS-B Out Rebate program - with greater incentives - to assist with improved equipage rates and further enhancing the safety of the National Airspace System?

Answer: If confirmed, I would be happy consider the feasibility of this idea and keep you apprised on that matter.

4. Other technologies exist, such as TABS (or Traffic Awareness Beacon System), that can also bring about enhanced safety through improved traffic awareness. These technologies provide important alternatives to ADS-B for gliders, balloons and aircraft without electrical systems. If confirmed, would you consider taking measures to make these technologies more widely available in order to enhance the safety of the National Airspace System?

Answer: If confirmed, I would consult with leadership of our relevant program offices and can keep you apprised.

Instrument Flight Approaches – Section 322

Section 322 of the FAA Reauthorization Act of 2018 allows air carriers operating under Part 135 to carry out operations and instrument approaches in Alaska at destination airports without approved meteorological (METAR) observation data if area forecasts supplemented by noncertified local weather observations (including cameras and human observers) are available and an alternate airport with weather reporting is specified. As recognized and promoted by FAA, flying under IFR offers a higher level of safety and predictability to air service.

The value of this language was echoed by the NTSB in the February 2020 report on the safety of Part 135 operations in Alaska.

> "The longstanding effort to increase instrument flight rules (IFR) operations in Alaska is another area that continues to meet with obstacles. The director of operations for an Alaska carrier stated that despite the increased availability of instrument approaches, the inability to comply with current FAA flight standards that are required throughout the United States, such as weather reporting requirements and terminal instrument procedures, render the approaches unusable for many operators. A possible remedy would be to adjust the FAA's flight standards for Alaska to accommodate its unique aviation environment, which is a risk management decision requiring extensive knowledge of the environment; yet such an adjustment has yet to even be evaluated."

The Advisory Circular (135-45) to provide guidance on Section 322 undermined congressional intent by requiring unrealistic weather sources for locations in Alaska, including the requirement that carriers hire staff in the remote destination airports to launch balloons to determine a ceiling. This is unworkable in Alaska, and defeats the point of the law.

1. If confirmed, will you revisit the guidance associated with Section 322 to ensure operators are able to benefit from the greater flexibility and safety benefits provided by congress for conducting flight operations using alternative weather data sources?

Answer: If confirmed, I will discuss this with our Aviation Safety Office leadership to understand why the guidance proceeded as written and determine if there are ways either

through that document or other means to get at the underlying issue of making IFR procedures more broadly available in Alaska.

Instrument Approach Procedures – Advanced RNP

As we discussed in our meeting and at your nominations hearing, I need FAA to retract and amend guidance that was issued that would prohibit 135 operators in Alaska from using currently approved instrument approach procedures.

Alaska is renowned for high rate of accidents in poor weather. In 2019, several Southeast-based air carriers created specific instrument approach procedures at their own expense, and FAA approved these procedures—known as Advanced RNP (A-RNP) instrument approach procedures—to mitigate the hazard posed by controlled flight into terrain (CFIT) accidents. Since implementation, these procedures have been highly effective in mitigating CFIT accidents.

FAA's new guidance memorandum inappropriately requires that aircraft have to be equipped with avionics equipment that is unachievable by Part 135 operators, and do not reflect the scaled risk-based regulatory environment for 135 operations.

The FAA memorandum will result in our operators using less safe, visual operations, rather than the instrument approaches that were developed by the operators, and approved by FAA, to avoid controlled flight into terrain (CFIT) accidents.

As a testament to their safety, Secretary Buttigieg was able to fly these active A-RNP procedures during his trip to Alaska in August.

1. I have requested that the FAA retract and amend the guidance document that was issued that would prohibit most of our air taxis in Alaska from using these procedures, and that the FAA initiate this process prior to confirmation. I ask that you see this through to completion once you are confirmed.

Answer: If confirmed, I will talk with leadership in our Aviation Safety Office to ensure a complete understanding of the rationale behind the FAA memo. It would be premature to commit to a given path until I get more detail about the matter but I do commit to keeping you apprised as these conversations occur.

SENATOR MARSHA BLACKBURN (R-TN)

1. There is a concerning trend with foreign regulators not honoring the letter and spirit of the reciprocal certification recognition for aircraft parts and systems despite the Bilateral Aviation Safety Agreements the U.S. has in place.

   What steps will you take to address this and how can the FAA Reauthorization better support enforcement and reciprocity?

Answer: If confirmed, I will work with other civil aviation authorities (CAAs) and through the International Civil Aviation Organization (ICAO) to emphasize the importance of each country's adherence to our respective Bilateral Aviation Safety Agreements. It is important that CAA's – including the FAA – are free to insist on additional review when a legitimate safety need exists but to your point it is unacceptable to have extended timeframes become a routine practice. As Administrator I have an important voice and I will work with our Aviation Safety Office leadership to communicate a strong message on this topic.

2. I'm concerned there is a major issue surrounding some aviation employees using their credentials and privileges to smuggle narcotics through airports and on airplanes.

   What is your plan to work with TSA to counter these illegal operations?

Answer: If confirmed, I can ensure the agency offers assistance to TSA. The credentials and privileges are governed by TSA processes and requirements but if there is a place TSA feels the FAA can be helpful we will stand ready.

3. Bilateral agreements make certain the FAA's path for certification is accepted and ensures U.S. products can be sold and operated globally. However, with the emergence of powered-lift aircraft, the FAA has very limited bilateral agreements in place for this category.

   To guarantee U.S. leadership in the next generation of civil aviation, what steps will you take to ensure the FAA efficiently establishes bilateral agreements for powered-lift aircraft?

Answer: If confirmed, I will establish strong relationships with my counterparts at foreign Civil Aviation Authorities as the U.S. and others move toward certification and operating standards for this industry. Ensuring safety while establishing the framework for this industry is a priority and I will work domestically and internationally toward progress as the first powered lift vehicle nears type certification.

4. Will you commit to holding FAA accountable to meeting prescribed timelines as efficiently and expeditiously as practicable, and taking efforts to expedite the NEPA process? How will you accomplish this?

Answer: If confirmed, I will hold FAA accountable to meeting prescribed statutory timelines including those associated with NEPA and the Administrative Procedures Act as efficiently and expeditiously as practicable. Ensuring necessary resources is a piece and encouraging new ways to work through projects is another piece. While there are a lot of unique operations coming down the pike not everything needs to be considered a matter of first impression which is a concept I think the agency has acknowledged in recent months and which I would want to continue to emphasize, consistent with safety.

5. If confirmed, what safeguards would you put in place to ensure American tax dollars do not go to Chinese drones?

Answer: I understand your office has crafted legislation which bans federal funds being used for these purposes with an allowance for the FAA to complete R&D needed to support UAS integration, including the security aspects of UAS integration. If enacted, I will ensure implementation of your legislation.

6. What do you anticipate the FAA's role will be in the siting, construction, maintenance, and operation of vertiports for Urban Air Mobility purposes?

Answer: I would expect the FAA to establish the requirements of vertiports to ensure safe operation of the different types of vehicles that may operate on it. I understand testing and research to support those standards is ongoing. Regarding operation of vertiports, I believe the conversation around whether those will be largely privately or publicly owned and operated by either a vendor or an entity like an airport authority is ongoing.

7. The *Safe Skies Act* would apply the passenger flight and duty time rules to all-cargo carriers – circumventing the FAA's own analysis and safety data to make this change. We have heard previous FAA Administrators acknowledge that FAA has looked at this issue in depth over the past decade and they see no additional risk on the part of cargo operation. Contrary to some allegations, all-cargo airlines are fully subject to FAA fatigue rules under Part 121 and must submit a Fatigue Risk Management Plan for approval by the FAA.

    a. Haven't cargo carriers made significant advancements in fatigue management programs and tools to address the needs of their operations?

Answer: If confirmed I will engage our Aviation Safety Office regarding the most recent advancements and what they see in this space both in terms of the role of Fatigue Risk Management Plans and the role of Part 121 operator's required Safety Management Systems to mitigate issues associated with fatigue.

b. Isn't it true that FAA has carefully analyzed changing the rest rules 3 times and found virtually zero benefit in applying the passenger fatigue rules of Part 117 to all-cargo carriers?

Answer: I believe it is true that when the FAA has considered this matter in the context of rulemaking the agency did not extend rest requirements beyond Part 121 operators. I would need to verify that it has been 3 separate times but would be happy to get that additional context to share with your office.

c. Is it true there has never been an all-cargo accident where NTSB found fatigue as a factor that Part 117 would have prevented?

Answer: I am not aware of such an accident but if confirmed I can verify and share with your office.

8. We need to address the designated pilot examiner shortage. Pilot test applicants are waiting 6-12 weeks in order to secure a wide selection of practical tests.

   Could you please outline your strategy for addressing the process of providing timely airman testing which impacts the pilot shortage and advancing the DPE appointment process to ensure a steady supply of qualified examiners?

Answer: If confirmed, I will work with our Aviation Safety Office regarding the agency's cadre of designated pilot examiners. I understand the agency received a number of recommendations and reforms after the 2018 reauthorization which they began actioning on but I would start with understanding where the agency is on those recommendations.

9. 40% of aviation technician school graduates do not take the exam necessary to receive FAA mechanic certification- access to FAA-designated examiners is one of the largest barriers to student testing. The agency has proposed expansion of its Organization Designation Authorization program to include examiner delegations. Those efforts have been "in work" since 2018 and still, there is no relief in sight.

   What would you do to address this bottleneck in the airman certification process that threatens to hinder our joint efforts to address the aviation mechanic shortage?

Answer: If confirmed, I would work with our Aviation Safety Office leadership on this matter. During the confirmation process I have heard from stakeholders that they have concern about the timelines associated with airman certification. I understand the agency has agreed with the broader concern and has initiated action to address it which I will continue to prioritize.

SENATOR TODD YOUNG (R-IN)

1. For nearly 30 years, the FAA has successfully utilized Advisory or Rulemaking Committees to effectively engage with the public and industry experts to advance significant safety rulemakings. The FAA is currently looking at changes to the certification process through an update to the Changed Product Rule that will be wide ranging across aviation products, including general aviation, helicopters, transport category airplanes and engines. Historically, the Changed Product Rule has been the mechanism to make changes to aircraft design, from technology upgrades for improvements to safety and sustainability to new interior configurations for passenger comfort and entertainment. Currently, FAA is coordinating with foreign regulators in a working group established in 2021 (ACSAA-directed) and has not yet engaged in an advisory process for consultation with industry experts as have other regulators. Foreign regulators, including the European Union Aviation Safety Agency, Brazil's National Civil Aviation Agency, Transport Canada's Civil Aviation Directorate, and the Civil Aviation Authority of China are discussing this critical certification process with their industry stakeholders.

   If confirmed, do you commit to establishing an appropriate advisory or rulemaking committee to engage with aviation stakeholders on considerations to update FAA certification process and requirements for changed products?

Answer: If confirmed, I will ensure the agency fully complies with the directives of ACSAA as well as all statutory requirements surrounding rulemaking. I believe there was a public meeting held on this matter earlier this year but if confirmed I will talk with our Aviation Safety Office on the path forward with respect to the Changed Product Rule.

SENATOR TED BUDD (R-NC)

1. I appreciate your responses to Senators Klobuchar and Fischer supporting the contract tower program. North Carolina has six contract towers, serving Coastal Carolina Regional Airport in New Bern, Smith Reynolds Airport in Winston-Salem, Concord-Padgett Regional Airport, Albert J. Ellis Airport in Richlands, Hickory Regional Airport, and Kinston Regional Jetport, also known as Stallings Field, in Lenoir County. Can you go into further detail on the benefits you believe the contract towers program delivers to the aviation community?

Answer: The Federal Contract Tower Program enables lower activity airports that would not otherwise have FAA air traffic control services. The program also helps connect smaller airports and rural communities to the national air transportation system.

2. I also appreciate your support for the BasicMed program. In the six years since FAA implemented the program, a growing list of popular destinations for general aviation pilots have recognized BasicMed's equivalent safety standards. These include Mexico, the Bahamas, and the Dominican Republic. However, pilots flying under BasicMed cannot operate in Canadian airspace. This prohibition applies even when transiting their airspace without landing, such as to/from Alaska and between the Northeast and Great Lakes states. Will you make it a priority to engage other countries and ICAO to promote greater acceptance of BasicMed for both transiting flights and flights within foreign countries?

Answer: I will work with our Office of Aviation Safety and Office of Policy, International Affairs, and Environment to address operations in Canadian airspace by pilots that have completed the BasicMed program.

3. Remote Air Traffic Control Towers provide enhanced services and safety, including better vision in low visibility conditions, the ability to predict conflicts and determine if an aircraft is off the runway, and more efficient and resilient operations. They are also more adaptable when airport construction projects and new infrastructure create blind spots. These facilities can be built and maintained in a fraction of the time and cost of traditional brick and mortar towers. NAV CANADA, for example, is in the final stages of procurement to ultimately replace 80 brick and mortar towers with remote/digital systems as they recognize the operational benefits and much lower costs. Although remote towers have been researched by the FAA for more than 16 years, FAA does not have a pathway to certify this technology. The FAA recently imposed testing requirements that led the manufacturer of Leesburg Executive Airport's remote tower to shut down operations.

    a. Mr. Whitaker, do you see the value of remote towers as a means to provide air traffic control services in the national airspace system?

Answer: The safe and reliable use of remote towers is something I believe the agency should continue to research and work in good faith with remote tower operators to determine if there are systems that can meet safety and reliability standards that pilots, crew and passengers count on.

b. Since remote towers can be located on or off airport, such as in existing buildings, do you believe it is sustainable to continue to build and replace costly brick and mortar towers with more brick and mortar towers?

Answer: I think the agency should continue its research and work to determine if there are systems that can meet safety and reliability standards that pilots, crew and passengers count on, and this research should include the appropriate facilities to house remote towers.

c. Section 161 of the FAA Reauthorization Act of 2018 directed FAA to establish a pilot program to operate remote towers at five airports. That program has not been fully implemented. Will you commit to promptly implementing this program and any remote tower programs included in the next FAA Reauthorization Act?

Answer: I will work with the leadership of the Office of NextGen, Air Traffic Organization, and Office of Airports to determine the status of implementation of the FAA Reauthorization Act of 2018 and identify any challenges in meeting the intent of the law.

4. In the past few years, FAA has taken controversial positions in enforcement actions that have effectively changed how the Federal Aviation Regulations are interpreted. This "regulation by enforcement" is concerning to the aviation community that depends on a stable and dependable regulatory system. Some examples include (1) FAA redefining "flight training" such that all experimental aircraft owners, pilots, and their flight instructors must obtain a letter of deviation authority to give or receive flight training; and (2) narrowing the interpretation of 14 C.F.R. § 91.119 to effectively ban inspection passes for off-airport landings. In response, Congress had to step in to address both of these errant interpretations. Legislative fixes were included in the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Pub. L. 117–263) and Securing Growth and Robust Leadership in American Aviation Act (as passed by the House of Representatives on July 20, 2023), respectively. Will you commit to using notice and comment rulemaking under the Administrative Procedure Act (5 U.S.C. § 553) to amend regulations instead of reinterpreting regulations through enforcement actions?

Answer: If confirmed, I will ensure that regulatory changes comply with the Administrative Procedure Act and other federal laws.

5. As you will recall from your time as Chief NextGen Officer, one of the NextGen program's goals is direct routing and more efficient arrival and approach procedures. Such procedures save time and reduce fuel burn. An additional way to achieve these goals is direct routing through inactive special use airspace. Section 1085 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Pub. L. 116–283) required FAA to, no later than July 1, 2021, coordinate with the Secretary of Defense to enable the automated public dissemination of information on the real-time

status of special use airspace. This provision has yet to be fully implemented. Will you commit to expeditiously implementing this law?

Answer: If confirmed, I will work with the Air Traffic Organization to implement this and other special airspace use programs as directed by Congress.

6. In your previous tenure at FAA, the agency took a big step forward in performance-based standards in aircraft design and product certification. This allowed safety-enhancing technology—particularly avionics—to be installed in general aviation aircraft. However, some of these benefits could only be realized in newly manufactured aircraft. According to the FAA, the average general aviation aircraft is more than 50 years old. Because many of these aircraft are personally owned, cost is a major factor when choosing to upgrade technology in the cockpit. What can the FAA do to make it easier for these aircraft to upgrade to cost-effective and safety-enhancing modern avionics?

Answer: In order to make it easier and more cost-effective for general aviation aircraft to upgrade safety-enhancing modern avionics, the FAA will need to work closely with stakeholders and manufacturers to provide certainty so that manufacturers will invest and lower prices. Another option would be grant programs directed at general aviation.

7. During your time as Chief NextGen Officer, you oversaw implementation of the ADS-B equipage mandate. The ADS-B mandate was first announced in 2007 and became effective in 2020. This mandate required an ADS-B Out transponder on aircraft operating in Class A, B, and C airspace and above 10,000 feet. The ADS-B mandate covers nearly the same airspace that has required a Mode C transponder dating back to a 1975 mandate. At present, three years after the ADS-B mandate became effective, some are arguing to expand the ADS-B mandate to airspace that has never required an ADS-B or Mode C transponder. This proposal is meant to facilitate new entrants into the National Airspace System.

    a. The FAA gave the aviation industry 13 years to come into compliance with the ADS-B mandate. If FAA expands the airspace that requires an ADS-B transponder, will you commit to giving the aviation industry ample time to comply with such a mandate?

Answer: I think we can learn a lot from the collaborative work that FAA did with industry to address compliance with the ADS-B mandate. If confirmed, I will ensure that the FAA works collaboratively with industry to identify reachable deadlines while not compromising safety.

    b. The ADS-B mandate's compliance cost was drastically reduced when companies produced innovative products that met the mandate's requirements without invasive (and expensive) aircraft modifications. Whether or not FAA expands the airspace that requires an ADS-B transponder, will you explore innovative products that can further reduce the cost of ADS-B equipage, such as those conceived of in section 226 of Securing Growth and Robust Leadership in

American Aviation Act (as passed by the House of Representatives on July 20, 2023)?

Answer: As the FAA integrates new entrants into the airspace, if confirmed, I will explore innovative products that can reduce the cost of ADS-B equipage while meeting safety certification standards.

c. If enacted into law, will you commit to expeditiously implementing the provision passed by the House of Representatives as section 226 of Securing Growth and Robust Leadership in American Aviation Act?

Answer: I will need to work with FAA leadership to better understand this particular provision, but the FAA will do its best to expeditiously implement any provisions from the House FAA reauthorization that are ultimately signed into law.

8. Section 383 of the FAA Reauthorization Act of 2018 (codified at 49 U.S.C. § 44810) requires FAA to coordinate with other federal agencies to detect and mitigate risks from unauthorized unmanned aircraft system (UAS) operations near airports. Despite having this authority since 2018, the FAA has not created the mandatory plan nor initiated the required interagency coordination. This February, the FAA took the first step of creating this plan and operationalizing this coordination by establishing the Aviation Rulemaking Committee required by subsection (b)(3). Other federal departments and agencies have publicly commented on how this slow proceeding has impeded their ability to exercise their authorities to detect, track, or mitigate UAS.

    a. Will you commit to fully and promptly implementing 49 U.S.C. § 44810?

Answer: I will commit to implementing 49 U.S.C. 44810 and, once confirmed, I would be happy to provide you with an update on the current status of implementation.

b. Subsection (b)(1) requires a plan "for the certification, permitting, authorizing, or allowing of the deployment of technologies or systems for the detection and mitigation of unmanned aircraft systems." How will you ensure the plan considers the benefits of critical emerging technologies in the counter UAS industry?

Answer: My understanding is that the FAA has established the UAS Detection and Mitigation Systems Aviation Rulemaking Committee that includes stakeholders from government and industry, The FAA and its partner agencies are actively reviewing emerging technologies and I will ensure this continues.

9. Despite the FAA's primary authority to regulate the use of United States airspace, *see* 49 U.S.C. § 40103, other federal agencies have asserted the power to regulate airspace. Some agencies, such as the National Oceanic and Atmospheric Administration, have prohibited all flights over certain National Marine Sanctuaries. Others, such as the National Parks Service (NPS), have prohibited operating an unmanned aircraft system on lands and waters administered by NPS, including National Parks, National Monuments,

National Recreation Areas. Congress has not granted either agency the authority to regulate aircraft or the airspace above managed lands. Mr. Whitaker, do you believe that the FAA should be the lead federal agency in regulating the use of and restrictions in United States airspace?

Answer: The FAA regulates and is responsible for providing safe and efficient air navigation services to 29.4 million miles of airspace. The FAA will continue to be the lead federal agency in accordance with federal law.

10. Since 1973, Federal law has required federally funded public use airports to charge fair and reasonable prices for aeronautical services. 49 U.S.C. § 40116(e) (also called the "Anti Head Tax Act of 1973"). Furthermore, Airport Improvement Program (AIP) Grant Assurance #22 requires participating airports and fixed-base operators to "[c]harge reasonable, and not unjustly discriminatory, prices for each unit or service." FEDERAL AVIATION ADMINISTRATION, ASSURANCES: AIRPORT SPONSORS 10–11 (May 2022), available at https://www.faa.gov/sites/faa.gov/files/airports/new_england/airport_compliance/assurances-airport-sponsors-2022-05.pdf; *see also* 49 U.S.C. § 47152(2). However, FAA has failed to closely monitor this grant assurance requirement and has said it will decline to investigate violations unless an airport is accumulating excessive surplus revenue. FEDERAL AVIATION ADMINISTRATION, AIRPORT COMPLIANCE MANUAL, ORDER 5190.6B p. 17-3 (2022), available at https://www.faa.gov/documentLibrary/media/Order/Order-5190-6B-Change2-rev.pdf ("The FAA will not ordinarily investigate the reasonableness of a general aviation airport's fees absent evidence of a progressive accumulation of surplus aeronautical revenues."). This policy has led Congress to create specific enforcement mechanisms (such as 49 U.S.C. § 47129, which applies to air carriers) in previous FAA Reauthorization acts. I have introduced legislation to create an alternate solution for general aviation pilots to access airports that have high parking fees. *See* General Aviation Airport Access Act, S. 1847, 118th Cong. (2023). Mr. Whitaker, what will be your approach to enforcing the requirements in current law—including the Anti Head Tax Act and AIP Grant Assurances—that require fair and reasonable fees for aeronautical services?

Answer: I will work with leadership in the Office of Airports to assess this issue and find a way to address allegations of unfair or unreasonable fees for aeronautical services.

11. 100LL is the only widely available and approved fuel for piston engine aircraft. The aviation industry is working expeditiously to meet a 2030 goal to eliminate leaded aviation fuel by developing a drop-in replacement for 100LL. However, a drop-in replacement that does not require a supplemental type certificate is not yet widely commercially available. Further, the unleaded fuels that are commercially available have not been approved for all engines, particularly high compression engine models. Despite the lack of a fleet-wide replacement, airports are beginning to ban 100LL. A 100LL ban at Reid-Hillview Airport (KRHV) has already contributed to a serious airplane crash due to fuel exhaustion. Mr. Whitaker, in the transition to an unleaded aviation fuel, will you commit to making decisions based on safety rather than political concerns?

Answer: The FAA is committed to transitioning remaining aviation users to unleaded aviation fuel. Safety will always be my priority, and that is why the Eliminate Aviation Gasoline Lead Emissions (EAGLE) initiative launched by the FAA and industry is so important to the safe transition from leaded fuel to unleaded fuel in general aviation.

SENATOR J.D. VANCE (R-OH)

Appalachian AAM

The advanced air mobility industry is ready to expand operational testing of these new aircraft and related technologies beyond small, isolated pieces of airspace. There is an opportunity to test this technology along the Ohio and West Virginia borders.

I have heard from many constituents that are interested in developing the Advanced Air Mobility Appalachian Corridor in Ohio and West Virginia. This corridor would create a real-life operational environment where local, state and industry partners work together to address critical issues such as creating and maintaining connectivity in remote or mountainous regions; addressing the challenges of crossing a state border with certain UAS's and their supporting technologies; and discerning local and state policy and community acceptance implications of those larger, multi-state operations.

The planning, testing, and execution of AAM operations is too great of a challenge for the FAA to solve alone and addressing future testing in a piecemeal fashion, without imagining the full operational challenges of multi-state operations, is really going to impede AAM integration. Industry has told me that the FAA is constantly saying… "we want to hear from industry, we want industry to assist in the development of safety data…".

1. How do you anticipate bringing industry together with local and state governments to advance execution of AAM operations? Would you be supportive of developing an AAM testing corridor in Appalachia where the terrain would allow the true operational limits of AAM to best tested?

Answer: The FAA will need to work across lines of business to bring the right stakeholders from industry and state, local, and Tribal governments to prepare for the execution of AAM operations. I will need to work with the leaders of the Office of NextGen, Office of Airports, Office of Aviation Safety, and the Air Traffic Organization to identify testing coordinators beyond the FAA's William J. Hughes Technical Center, but a testing corridor in Appalachia could be well-suited to this type of purpose.

eVTOL Developments

I understand that you currently work at an eVOTL OEM. As I am sure you are aware, eVOTLs are a hot topic in Ohio right now after Joby's announcement that they will manufacture air taxis in Dayton. As in most emerging industries, the speed at which eVOTL innovation takes place in the private sector set is faster than the development of a regulatory framework. The FAA has been facing this situation for several years and the challenges are growing.

1. As FAA Administrator, what could you do to ensure that the FAA better keeps pace with innovation? What specific steps would you take? Also, Congress has given the FAA broad discretion to make rules and policies on eVTOL rollout. What is the holdup?

Answer: Once confirmed, I will work with leadership across lines of business, and in particular with the Office of Aviation Safety and Office of NextGen, to determine the current status and next steps in certification and operation of these vehicles. At the same time, the FAA will need to work with eVTOL OEMs, many of whom are new to aviation, to ensure that the OEMs understand the safety and certification requirements of the FAA.

It is my understanding that the FAA is in the middle of rulemaking for the operations of eVTOL's, specifically for the powered-lift category. In April 2022, the FAA changed the categorization of eVTOL aircraft from "airplane" to "powered-lift." However, unlike the "airplane" category, the "powered-lift" category does not have operation rules, and as such, civil powered-lift aircraft are *not* current participants of the NAS. Recognizing the impacts of this change, the FAA promised to complete its rulemaking quickly (i.e., by December 2024) and include a practical path forward for powered-lift aircraft and their operations.

The FAA's work on an SFAR for powered-lift operations is due by December 2024. While the timely publication is vital to our nation's ability to be the leader in this technology, ensuring the language includes a practical path forward for operations is equally important.

2. What steps will you take to ensure the timely integration of powered-lift aircraft into the National Airspace System (NAS) and ensure a practical path forward on rulemaking?

Answer: Finalizing the initial operational regulatory framework to support near term operations and integration into the National Air Space without disruption to legacy users of the system. Certification of these new vehicles is occurring using the existing certification framework and I know Congress has been explicit in its direction that the agency resource this effort in a way to facilitate certification of the first vehicle by December 2024. Critically, in the context of both certification of the vehicle and all aspects of the operation, the FAA must provide robust oversight and demand adherence to safety standards consistent with the agency's longstanding commitment to "one level of safety."

737-MAX-8 Oversight

In March, I raised questions with Acting Administrator Nolen about the 737-MAX-8 continuing to have issues with trim stabilizers despite being recertified by the FAA in 2020. At the time, Acting Administrator Nolen said that he did not want to prejudice the situation without looking into it. The Agency recently followed up with my office arguing that the issues were the result of failed breakers and relays and that the stabilizer trim issues were not "considered a safety of flight issue." It is my understanding that the 737-Max issues go beyond breakers and relays, so much so that Southwest Airlines and American Airlines replaced the stab trim motors on their aircraft after the incidents I raised with Acting Administrator Nolen.

What's more, a thorough review of the FAA's Service Difficulty Reporting (SDR) database showed that Alaska Airlines—who fly 53 737-MAX airplanes—submitted at least 1,230 reports on MAX airplanes that they began flying in 2021. Of the 10 Airbus A321 neo airplanes flown by Alaska Airlines, the company has only filed 25 reports.

1. Can you provide an update on what the agency is doing to ensure the FAA is overseeing issues with the 737-MAX-8?

Answer: If confirmed, I will meet with leadership in the Aviation Safety Office to get a full description of the monitoring and oversight the agency is doing on the 737-8 and commit to make adjustments if needed.

2. Can you assure me that the MAX is categorically safe, given the number of SDR reports and recent incidents?

Answer: The FAA determined the safety threshold for recertification was met, but I understand the interest in the reports associated with the performance of the aircraft. While I do not have direct knowledge of all the reports and incidents, if confirmed I would review those reports and I come into this position insisting on thorough and uncompromising oversight.

SENATOR SHELLEY MOORE CAPITO (R-WV)

ATC Staffing Solutions

The U.S. is currently experiencing an air traffic controller shortage that threatens to continue shrinking the capacity of flights in our airspace. The FAA recently requested that air carriers continue to fly 10% fewer flights to and from the New York metropolitan area and related DC airports because of the controller shortage.

Secretary Buttigieg indicated the FAA is understaffed by roughly 3,000 controllers. A key constraint on FAA's ability to hire more than 1,800 controllers annually is that there is a limit on how many controllers can be trained at the FAA's only training facility in the country. Plus, there this 3,000 number does not include either the number of those that washout before completing all of the requirements or the annual retirements.

This means it could take the FAA at least 6 years to reach what we might consider an adequate staffing level of certified controllers.

1. As a supplement to maximizing the Academy, would you commit to reassessing and better utilizing the College Training Initiative (CTI) program, which has existed for decades?

Answer: In order to address the air traffic controller shortage, we will need to review all options. Once confirmed, I will meet with leadership from the Air Traffic Organization about ways to leverage the CTI program.

2. Do you have other thoughts to address the controller shortage?

Answer: I think we will need to look at all stages of the air traffic controller hiring, training, and staffing process and consider all options. We also need to ensure there are enough supervisors in air traffic control facilities. This will take working with leadership in the Air Traffic Organization, Human Resource Management, the Office of Finance Management, and labor partners.

NextGen Implementation

I know that in your previous tenure at FAA you were focused on implementing newer technology through the NextGen program or "NeverGen" as some have called it. While I know the ADS-B system is a big improvement the implementation has been delayed and delayed for all new technologies. I know that the program was meant to take years and years, but is has faced challenges.

1. What ways would you try to speed up NextGen and are there ways that costs could stay within forecasted estimates?

Answer: The early foundational investments allow us to continue to add new efficiencies into that system and new technologies to make it easier to control traffic. It was originally designed as a 2010 to 2025 program, and it's largely completed. Some of the programs will run beyond that. Our next immediate task will be to plan for what comes after NextGen and the types of technologies we will need to integrate new entrants into the national airspace safely and efficiently.